

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
December 15, 2020

Attachments to the items below can be viewed at the following link:

<https://floridadep.gov/cab/cab/content/agendas>

Item 1 Minutes

Submittal of the Board of Trustees' Minutes from the September 22, 2020 Cabinet Meeting.

VOTING REQUIREMENT FOR APPROVAL: Two members, one of whom is the Governor, when four members are voting; or any two members, when three members are voting.

(See Attachment 1 at <https://floridadep.gov/cab/cab/content/agendas>)

RECOMMEND APPROVAL

Item 2 River Walk Marina Partners, LLC Recommended Consolidated Intent/ Lease Modification

REQUEST: Consideration of an application for a modification of a ten-year sovereignty submerged land lease to (a) increase the preempted area from 129,487 square feet to 331,168 square feet, more or less, for a commercial docking facility; and (b) increase overall slip number from 81 to 227 slips.

COUNTY: Brevard

VOTING REQUIREMENT FOR APPROVAL: Three votes

APPLICANT: River Walk Marina Partners, LLC
Lease No. 050000924
Application No. 0268899-007-EI

LOCATION: 705 S Harbor City Blvd.
Melbourne, Florida 32901

CONSIDERATION:

Lease Fee: \$51,564.85, representing (1) \$60,504.39 as the initial lease fee, computed at \$0.1827 foot, discounted 30 percent, because 90 percent of the slips are open to the public for rent on a first come, first served basis, pursuant to Rule 18- 21.011(1)(b)2., F.A.C.; and (2) \$9,211.78 as the one-time 25 percent surcharge payment for the additional lease area of 201,681 square feet, pursuant to Rule 18-21.011(1)(b)3., F.A.C. Sales tax and county discretionary sales surtax will be assessed pursuant to sections 212.031 and 212.054, F.S., if applicable. The lease fee shall be adjusted based on six percent of the annual income if it proves to be greater than the fee computed at the base rate, pursuant to Rule 18-21.011(1)(a)1, F.A.C.

Item 2 cont.

STAFF REMARKS: In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., this "Recommended Consolidated Notice" contains a recommendation for issuance of both the permit required under part IV of chapter 373, F.S., and the authorization to use sovereignty submerged lands under chapter(s) 253 and 258, F.S. The Board of Trustees is requested to act on those aspects of the activity which require authorization to use sovereignty submerged lands.

The project is required to demonstrate that it is “not contrary to the public interest,” pursuant to Rule 18-21.004(1)(a), F.A.C. The lessee has provided reasonable assurance that the proposal will maintain essentially natural conditions; will not significantly impact fish and wildlife and other natural resources, including public recreation and navigation; and will not interfere with the riparian rights of adjacent property owners.

Therefore, the Department of Environmental Protection (DEP) is of the opinion that the proposal is “not contrary to the public interest” and otherwise meets all applicable requirements for a proprietary authorization to use sovereignty submerged lands.

Background

The upland parcel associated with this project was created by filling the submerged bottom of the Indian River (Board of Trustees Deed 23521, November 6, 1963). In 1970, Jim Rathman Enterprises, Inc. built an 81-slip marina that preempted 129,487 square feet. This facility was later brought under lease (BOT #050000924) including an additional associated 250 dry slips in February 1987. Subsequent marina modifications and leases were permitted and authorized under delegation. By 2007, those marinas were destroyed by hurricanes. On December 5, 2006, the Board of Trustees approved a 308,995 square foot preempted area (combined BOT 050000924 and BOT 05156694) associated with permit number 026899-001 for 45 slips for powerboats and the installation of a perimeter breakwater. On July 12, 2011, a modification was issued (0268899-002) for a transfer of ownership, time extension and the lease was modified back to an 81-slip marina.

Project Detail

The applicant acquired the upland property in 2018 and is proposing to reconfigure the previously authorized 331-slip combined wet and dry slip commercial facility to a 227-wetslip facility. The applicant has removed the dry storage facility and is proposing upland construction of a commercial marina facility, restaurant, and hotel. The proposed facility is for recreational vessels with slips ranging in lengths from 30 to 50 feet with the ability to accommodate drafts no greater than 4.2 feet.

A submerged lands lease was approved by the Board of Trustees on December 5, 2006 which authorized the preemption of 308,995 square feet of sovereignty lands. However, this lease was subsequently divided, and the most recent lease modification was approved by the department under delegation on May 28, 2014 which authorizes the preemption of 129,487 square feet of sovereignty submerged lands for 81 slips.

Item 2 cont.

This lease modification was transferred to River Walk Marina Partners, LLC on June 29, 2018. The proposed lease modification under consideration is for a total of 331,168 square feet.

The project includes the removal of an existing boat ramp and the installation of an additional 31-foot seawall along the eastern shoreline. The project also includes the installation of riprap along the existing and expanded seawall.

The ERP application was submitted on December 4, 2019, which proposed 235 slips, a total of 47,055 square feet of overwater structure, and dredging to -7 feet mean low water (MLW). Following the request for elimination of reduction of impacts, the total number of slips was reduced to 227, the total overwater structure was reduced to 39,620 square feet, and all dredging proposals were eliminated from the project during the review period.

Noticing/Interested Parties

On October 30, 2020, the lease modification request was noticed to 144 property owners, within a 500-foot radius of the project, pursuant to Rule 18-21.004(1)(m), F.A.C. No objections were received by November 20, 2020, the end of the comment period.

(See Attachment 2, Pages 1-27)

RECOMMEND APPROVAL SUBJECT TO THE SPECIAL LEASE CONDITIONS AND PAYMENT OF \$51,564.85

Item 3 Platinum Center, LLC Purchase Agreement/ Florida Department of Highway Safety and Motor Vehicles' Florida Highway Patrol/ Designation

REQUEST: Consideration of (1) a purchase agreement to acquire approximately 2.57 acres for the benefit of the Florida Department of Highway Safety and Motor Vehicles' Florida Highway Patrol from Platinum Center, LLC; and (2) designate the Florida Highway Patrol as the manager of the property and improvements.

VOTING REQUIREMENT FOR APPROVAL: Two members, one of whom is the Governor, when four members are voting; or any two members, when three members are voting.

COUNTY: Orange

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Item 3 cont.

APPLICANT: The Florida Department of Highway Safety and Motor Vehicles

LOCATION: Section 18, Township 24 South, Range 29 East

CONSIDERATION: \$5,200,000

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<u>APPROVED VALUE</u>	<u>SELLER'S PURCHASE PRICE</u>	<u>TRUSTEES' PURCHASE PRICE</u>	<u>CLOSING DATE</u>
		<u>Marshall (07/21/20)</u>	<u>DeRango (07/21/20)</u>				
Platinum Center LLC	2.57	\$5,200,000	\$5,250,000	\$5,250,000	\$2,700,000*	\$5,200,000** (99%)	90 days after BOT approval

*Seller purchased the subject property in April 2011. The two-story 29,857 gross square foot office building was built in 2005.
 **\$174.16 per gross square foot

STAFF REMARKS: The subject property was negotiated by the Florida Department of Highway Safety and Motor Vehicles (DHSMV). Funds for the acquisition of the subject property were appropriated during the 2020 Legislative Session. This purchase agreement is being presented for the Board of Trustees' consideration at the request of DHSMV.

Project Description

During the 2019 Legislative Session, DHSMV received \$3,147,439 of Fixed Capital Outlay (FCO) funding for the design and construction of a roof replacement for the current facility occupied by Florida Highway Patrol (FHP) Troop D. This funding also provided an architectural and engineering assessment, testing, survey and design for major interior renovations.

The architectural and engineering assessment was conducted, and a comprehensive report of the findings was forwarded to DHSMV for review at the end of October 2019. The assessment revealed multiple, major issues within the facility, concluding that the necessary renovations far exceeded what was financially responsible for DHSMV to pursue. DHSMV's Legislative Budget Request (LBR) was originally for \$5,000,000 in FCO funding to cover what was anticipated to be Phase I of the renovations and repairs to the DOT facility. However, with the assessment findings concluding nearly total reconstruction of the facility would be necessary, the 2020 LBR was amended to request \$5,950,000 to purchase a new facility and building upgrades for FHP Troop D's Headquarters. Section 100 of Chapter 2020-111, Laws of Florida, reverted the unexpended balance of the renovation funds (Line item 2700 of Chapter 2019-115, Laws of Florida) and appropriated \$5,950,000 for the purpose of negotiating the purchase of a facility for the Headquarters of Florida Highway Patrol Troop D.

Property Description

The subject property is located in Orlando's metropolitan area and is 19 miles southwest of the current FHP Troop D Headquarters, serving four counties along the I-4 corridor: Orange, Osceola, Lake and Seminole. In addition to the counties it serves, the subject property provides easy and quick access to many of FHP's main roadways, including the Florida Turnpike, Interstate 4, State Road 528 and U.S. Highway 441, allowing for a timely call response.

Item 3 cont.

The two-story 29,857 gross square foot office building would serve as headquarters for Troop D’s administration, a central location for field operations personnel, and storage of supplies and records. This location would house Troop D’s specialty sections, which include traffic homicide investigators, legal attorneys, and evidence. In addition to day-to-day operations, Troop D Headquarters hosts annual troop trainings, such as CPR/first aid, defensive tactics, taser recertification, and active shooter training. Two troop-wide meetings are facilitated in the building each year, as well as the Troop D Auxiliary monthly meetings, press conferences, and numerous law-enforcement events, which include community traffic safety team meetings, promotional ceremonies, evidence/property custodian meetings, physical abilities testing, and applicant processing.

The subject property provides a variety of space to meet troop needs, including specialized features, such as a call center and training rooms. In addition, the subject property comes fully furnished, which provides for an estimated cost savings of over \$285,000 in the purchasing of office furniture and equipment that would be needed for an unfurnished facility. These furnishings were considered personal property in the appraisal and no value was assessed or included in the valuation of the subject property.

Mortgages and Liens/Encumbrances

All mortgages and liens will be satisfied at the time of closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to the Department of Environmental Protection (DEP) the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, DEP staff will review, evaluate, and implement an appropriate resolution for these and any other title issues that arise prior to closing.

Closing Information

A title insurance commitment, a survey, and an environmental site assessment will be provided by the purchaser prior to closing.

Management

The subject parcel will be managed by FHP as Troop D headquarters, through lease to DHSMV.

Comprehensive Plan

This acquisition is consistent with section 187.201(15), F.S., the Land Use section of the State Comprehensive Plan.

(See Attachment 3, Pages 1-36)

RECOMMEND APPROVAL

Item 4 Washington Crossing, Inc. Option Agreement/ Survey Waiver/ Seven Runs Creek Final Phase Florida Forever Project

REQUEST: Consideration of (1) an option agreement to acquire approximately 628 acres within the Seven Runs Creek Final Phase Florida Forever project from Washington Crossing, LLC and (2) the authority to waive the survey requirement, pursuant to Rule 18-1.005, F.A.C.

VOTING REQUIREMENT FOR APPROVAL: Two members, one of whom is the Governor, when four members are voting; or any two members, when three members are voting.

COUNTY: Washington

LOCATION: Section 12 and 13, Township 01 South, Range 17 West

CONSIDERATION: \$2,100,000 (If U.S. Fish and Wildlife Service’s Recovery Land Acquisition grant funding is approved, the Board of Trustees’ consideration would be reduced as much as \$1,100,000. The Board of Trustees’ portion would be \$1,000,000 or 48 percent.)

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY Marr (4/21/2020)	APPROVED <u>VALUE</u>	SELLER’S PURCHASE <u>PRICE</u>	TRUSTEES’ PURCHASE <u>PRICE</u>	OPTION <u>DATE</u>
Washington Crossing LLC	628	\$2,200,000	\$2,200,000	\$2,000,005*	\$2,100,000** (95%)	120 days after BOT approval

*Seller purchased property in 2004

**\$3,343 per acre

STAFF REMARKS: The subject property is located within the Seven Runs Creek Final Phase Florida Forever project, ranked number 9 in the Florida Forever Less-Than-Fee project category, approved by the Board of Trustees on May 28, 2020. The project contains 7,398 acres, of which 7,157 acres have been acquired or are under agreement to be acquired.

Project Description

Seven Runs Creek Final Phase covers 7,398 acres in Walton and Washington Counties. The parcels border the Choctawhatchee River and Pine Log Creek for about 1.4 miles and .3 miles, respectively. It is a series of disjunct parcels that fill in gaps in the existing 53,505-acre Nokuse Plantation conservation area, all of them contiguous to conservation easements or existing state-owned lands.

Property Description

The subject property, purchased in 2004 for investment and future development purposes, is owned by Washington Crossing, LLC and is currently utilized as a hunting tract. It is located in Washington County and borders Pine Log State Forest (PLSF) to the west and Pine Log Creek to the North. The site does have improvements which include two cabin homes and two artesian wells. However, these improvements have no contributory value to the overall property value and were not included in the valuation of the subject property.

Item 4 cont.

The subject property was submitted as a boundary amendment to the Seven Runs Creek Final Phase Florida Forever project and was approved by the Board of Trustees as an addition to this project on May 28, 2020. It serves as a large connector parcel, nearly bringing together the boundaries of PLSF to other nearby state-owned lands and would enhance the wildlife connectivity across this portion of the Panhandle landscape. Natural features include stands of older growth longleaf pine, planted slash and sand pine, and native hardwoods, contained within primarily upland pine, upland mixed woodland, sandhill, and pine flatwoods communities.

Besides being an extension of the PLSF, the subject property will also be utilized by the Department of Agriculture and Consumer Services' Florida Forest Service to provide opportunities for other recreational activities such as boating, hiking, camping and hunting to include Operation Outdoor Freedom (OOF) events for disabled veterans. With expected funding from the United States Fish and Wildlife Services' Recovery Land Acquisition grant program, the property will also be managed for the benefit of rare, threatened, and/or endangered species, such as Gopher Tortoise, Florida Black Bear, Barbour's Map Turtle, Pine Snake and Pine Barrens Treefrog to name a few. The existing structures may be used for staff housing or to host OOF events.

Mortgages and Liens/Encumbrances

All mortgages and liens will be satisfied at the time of closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to DEP the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, DEP will review, evaluate, and implement an appropriate resolution for any title issues that arise prior to closing.

Survey Waiver

It is the opinion of DEP's Bureau of Survey and Mapping that the available boundary information is sufficient to protect the public's interest, and any additional benefit derived from a survey is minimal relative to cost. Therefore, a waiver of the requirement for a survey of this property is being requested, pursuant to Rule 18-1.005, F.A.C.

Closing Information

A title insurance commitment and an environmental site assessment will be provided by the buyer prior to closing.

Managing Agency

The subject property will be managed by the Department of Agriculture and Consumer Services' Florida Forest Service as part of the Pine Log State Forest.

Item 4 cont.

Comprehensive Plan

This acquisition is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands’ section of the State Comprehensive Plan.

(See Attachment 4, Pages 1-38)

RECOMMEND APPROVAL

Item 5 Alico, Inc. Option Agreement/ Devil’s Garden Florida Forever Project

REQUEST: Consideration of an option agreement to acquire approximately 5,804 acres within the Devil’s Garden Florida Forever project from Alico, Inc.

VOTING REQUIREMENT FOR APPROVAL: Two members, one of whom is the Governor, when four members are voting; or any two members, when three members are voting.

COUNTY: Hendry

LOCATION: Sections 2, 3, 10, 11, 14, 15, 22, 23, 26 and 27, Township 45 South, Range 31 East

CONSIDERATION: \$14,625,000

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<u>APPROVED</u> <u>VALUE</u>	<u>SELLER’S</u> <u>PURCHASE</u> <u>PRICE</u>	<u>TRUSTEES’</u> <u>PURCHASE</u> <u>PRICE</u>	<u>OPTION</u> <u>DATE</u>
		<u>String</u> <u>(12/12/19)</u>	<u>Holden</u> <u>(12/12/19)</u>				
Alico, Inc.	5,804	\$15,950,000	\$16,250,000	\$16,250,000	\$82,828,250*	\$14,625,000** (90%)	120 days after BOT approval

*Seller purchased 91,397.47 acres, including the subject property, in 1960.

**\$2,519.81 per acre.

STAFF REMARKS: The subject property is located within the Devil’s Garden Florida Forever project, ranked number 16 in the Critical Natural Lands project category, approved by the Board of Trustees on May 28, 2020. The project contains 82,995 acres, of which 33,690 acres have been acquired or are under agreement to be acquired.

Project Description

Devil’s Garden includes 82,995 acres in Hendry and Collier Counties. The project is named after a wetland slough in the eastern portion of the overall project. The central portion, the focus of this acquisition, is comprised of a mosaic of natural lands used primarily for cattle grazing.

Item 5 cont.

The connectivity of uplands and wetlands draining both to the north and south are important to protecting the state’s water resources. The natural systems of Fakahatchee Strand and Big Cypress National Preserve are dependent on the water supplied from this area, and a majority of the Devil’s Garden project lies within the Western Everglades Restoration project planning boundary.

A landscape connection with other conservation lands, including federal ownership, ensures longevity for a wide range of species including the Florida panther, and provides opportunities for wetlands and watershed protections.

Property Description

The 5,804-acre subject property shares its western boundary with the Okaloacoochee Slough Wildlife Management Area and its southern and eastern boundary with a United States Department of Agriculture Wetlands Reserve Program conservation easement. Serving as a primary and secondary zone for the federally endangered Florida panther, numerous records of panther use, as well as other rare and threatened plants and animals, have been noted throughout the subject property. Increasing the conservation land footprint, stretching from the Caloosahatchee River to Big Cypress National Wildlife Preserve, provides habitat critical to panther recovery and their long-term survival.

Preservation of the subject property will contribute to increased protection of Florida’s biodiversity at the species, natural community, and landscape levels; additionally, it will reduce potential nutrient impacts within the Caloosahatchee River Watershed and Western Everglades Basin; enhance the hydrologic connection of conservation land within the South Florida ecosystem; and provide additional recreational opportunities.

There is one hunt camp on the subject property. Any improvements associated with this camp are considered tenant improvements and were not included in the valuation of the subject property.

Mortgages and Liens/Encumbrances

All mortgages and liens will be satisfied at the time of closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to the Department of Environmental Protection (DEP) the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, DEP staff will review, evaluate, and implement an appropriate resolution for these and any other title issues that arise prior to closing.

Closing Information

A title insurance commitment, a survey, and an environmental site assessment will be provided by the purchaser prior to closing. Active hunting leases will be terminated by closing and the current tenant, with an active cattle lease on the property, will be issued a termination notice prior to closing.

Management

The subject parcel will be managed by the Florida Fish and Wildlife Conservation Commission as part of Okaloacoochee Slough Wildlife Management Area.

Item 5 cont.

Comprehensive Plan

This acquisition is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands' section of the State Comprehensive Plan.

(See Attachment 5, Pages 1-32)

RECOMMEND APPROVAL

Item 6 Manatee County Aquaculture Management Agreement

REQUEST: Approval to issue new, 0.036-acre and 0.133-acre, five-year sovereignty submerged land aquaculture management agreements to authorize use of the full water column for seaweed research and demonstration.

VOTING REQUIREMENT FOR APPROVAL: Three votes

LOCATION: Manatee County, Florida

APPLICANT: Marine Biological Laboratory

CONSIDERATION: Management agreement areas for public research institutions are fee waived, pursuant to Rule 18-21.022(8), F.A.C.

STAFF REMARKS:

The requested parcels are approximately 0.036 acres and 0.133 acres and are located off Anna Maria Key and Longboat Pass. The applicant is requesting authorization from the Board of Trustees, pursuant to section 253.68(1), F.S., for new aquaculture management agreements to conduct research on the culture of seaweed using the full water column.

The applicant will be required to apply for an Aquaculture Certificate of Registration and comply with all Department of Agriculture and Consumer Services' (FDACS) Aquaculture Best Management Practices. The proposed management agreements will be subject to the terms and conditions applied to other aquaculture management agreements issued throughout the state.

Agency Review

FDACS has conducted a resource assessment and determined that the proposed management agreements and associated aquaculture activities will not result in adverse impacts to seagrasses, existing shellfish

Item 6 cont.

beds, natural reefs or other sensitive habitats. Additionally, FDACS has coordinated the review of the applications with the Florida Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, the Florida Department of State’s Division of Historical Resources, and the Manatee County Board of County Commissioners, pursuant to Rule 18-21.021, F.A.C.

Special Conditions

The proposed management agreements will be subject to the terms and conditions applied to other aquaculture management agreements issued throughout the state for the same purposes. The requirement to obtain a permit from the USCG for Private Aids to Navigation will be a special condition of the management agreements. The applicants have applied for and been issued a Letter of Permission from the United States Army Corps of Engineers for their proposed activities.

Public Interest

The proposed parcels are not in an aquatic preserve; therefore, the activity does not have to be found to be in the public interest. The projects are, however, required to demonstrate that they are “not contrary to the public interest,” pursuant to Article X, Section 11 of the Florida Constitution, chapter 253, F.S., and Rule 18-21.004(1)(a), F.A.C. Because the Legislature has declared aquaculture to be in the public interest, according to section 253.68(2)(a), F.S., FDACS is of the opinion that the activities meet the test of being “not contrary to the public interest” and otherwise meet all applicable requirements for a proprietary authorization to use sovereignty submerged lands.

Noticing

The proposed management agreements were noticed pursuant to section 253.70, F.S., and no objections were received.

Comprehensive Plan

A consideration of the status of any local government comprehensive plan was not made for this item. FDACS has determined that the proposed action is not subject to the local government planning process.

(See Attachment 6, Pages 1-33)

RECOMMEND APPROVAL

Item 7 Chapter 18-21, F.A.C., Notice of Proposed Rule Development

REQUEST: Consideration of a request to (1) publish a Notice of Rule Development for Rules 18-21.003, 18-21.021 and 18-21.022, Florida Administrative Code (F.A.C.).

Item 7 cont.

VOTING REQUIREMENT FOR APPROVAL: Two members, one of whom is the Governor, when four members are voting; or any two members, when three members are voting.

COUNTY: Statewide

APPLICANT: Florida Department of Agriculture and Consumer Services (FDACS)

STAFF REMARKS: In accordance with subsection 253.03(7), Florida Statutes (F.S.) FDACS requests the Board of Trustees approve a Notice of Rule Development to the following Rules:

18-21.003 Definitions

The terms “Aquaculture Restoration” and “Restoration Organization” are defined, and three terms are renumbered in order to be correctly alphabetized.

18-21.020 Aquacultural Activities.

Aquaculture Restoration is added as an activity eligible for a management agreement in Chapter 18-21.020(2)(c). Chapter 18-21.020(6)(a) and (b) is modified to allow Restoration Organizations, which may also operate adjunct commercial shellfish lease(s) or hatchery, to attain an aquaculture management agreement. Chapter 18-21.020(6)(e) is modified to provide an exemption from marking requirements for restoration aquaculture management agreement sites which only utilized the submerged bottoms and less than six inches of the water column. This exemption is important for providing enhanced security to the non-commercial, aquaculture products present on the lease site and will not impact navigational safety.

18-21.021 Applications for Aquacultural Activities.

Chapter 18-21.021(6)(e) is modified to exempt aquaculture products used for restoration purposes from being removed from the lease following termination or cancellation of the management agreement. While lessees are required to remove any improvements from the site following termination, the purpose of restoration activities is to establish populations of marine organisms which can proliferate in the area in the long-term. The removal of aquaculture products that are a result of restoration activities is therefore counterproductive to this purpose.

(See Attachment 7, Pages 1-4)

RECOMMEND APPROVAL