

ADDITIONAL AGENDA ITEMS
FLORIDA INLAND NAVIGATION DISTRICT
Board of Commissioners Meeting

9:00 a.m., Saturday, November 19, 2016

Hutchinson Island Marriott Beach Resort & Marina
555 NE Ocean Boulevard
Stuart (Martin County), Florida 34996-1620

Additional Agenda Item (19B).

Scope of Work, Fee Quote and Agreement for the Relocation of a Permanent Access Road Entrance at Maintenance Spoil Area (MSA) 641A, Palm Beach County, FL.

District staff have been negotiating with a contractor to re-locate an ingress/egress access at Maintenance Spoil Area (MSA) 641A in Delray Beach. Negotiations with a previous company failed to produce a viable project and staff is recommending that the Board approve the scope and fee quote from SLB General Contracting, LLC. Construction is expected to take less than one month and should be complete by January. The final as-built will also be reviewed by our Engineer, and all construction will be monitored.

(Please see back up pages A-2 to A-11)

RECOMMEND: Approval of a scope of work, fee quote in the amount of \$60,985.00 from SLB General Contracting, LLC, for the relocation and construction of a permanent access entrance at MSA 641A, Palm Beach County, FL.

Additional Agenda Item (19C).

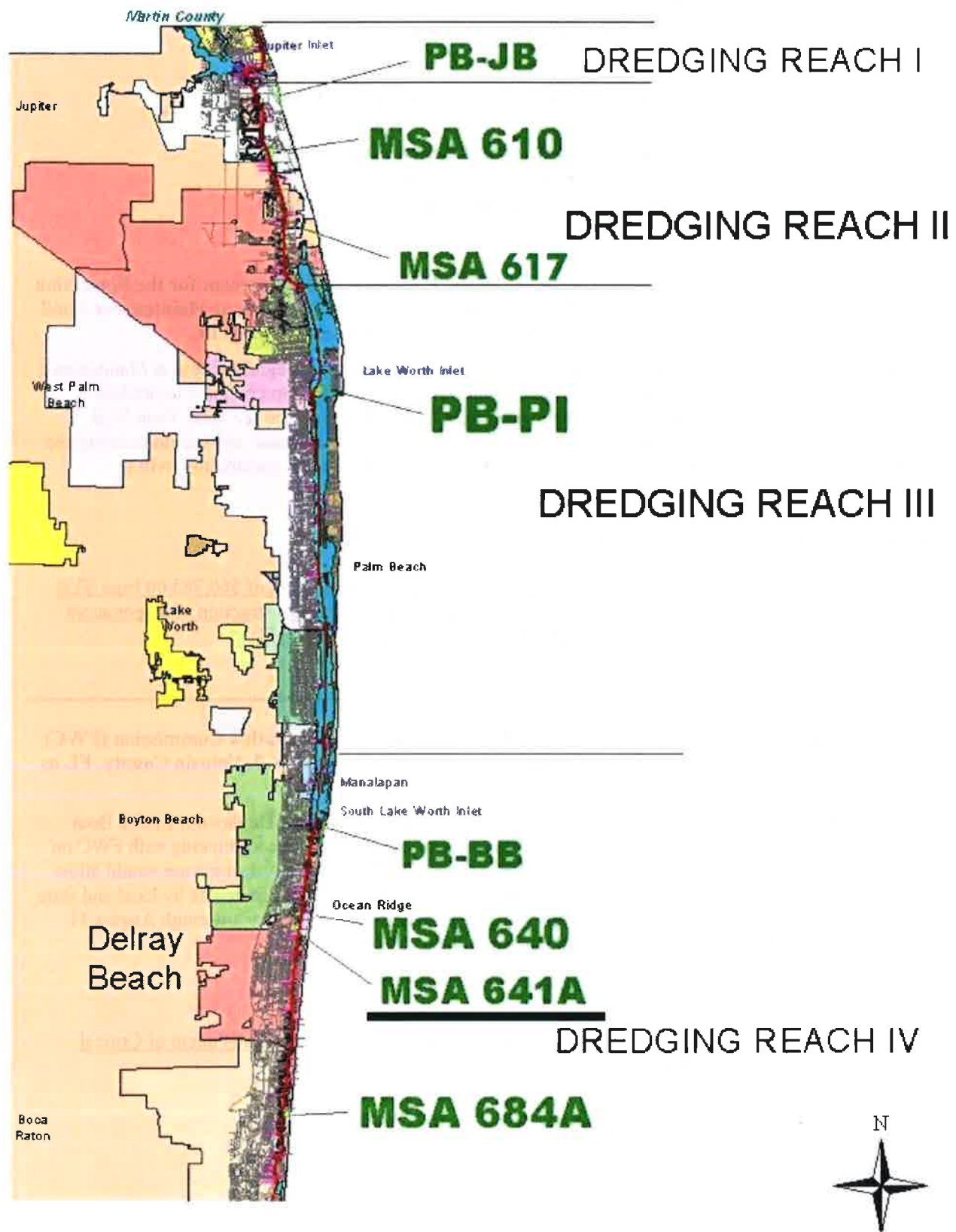
Florida Fish and Wildlife Conservation Commission (FWC) request to designate Spoil Island V-7, Volusia County, FL as a Critical Wildlife Area (CWA).

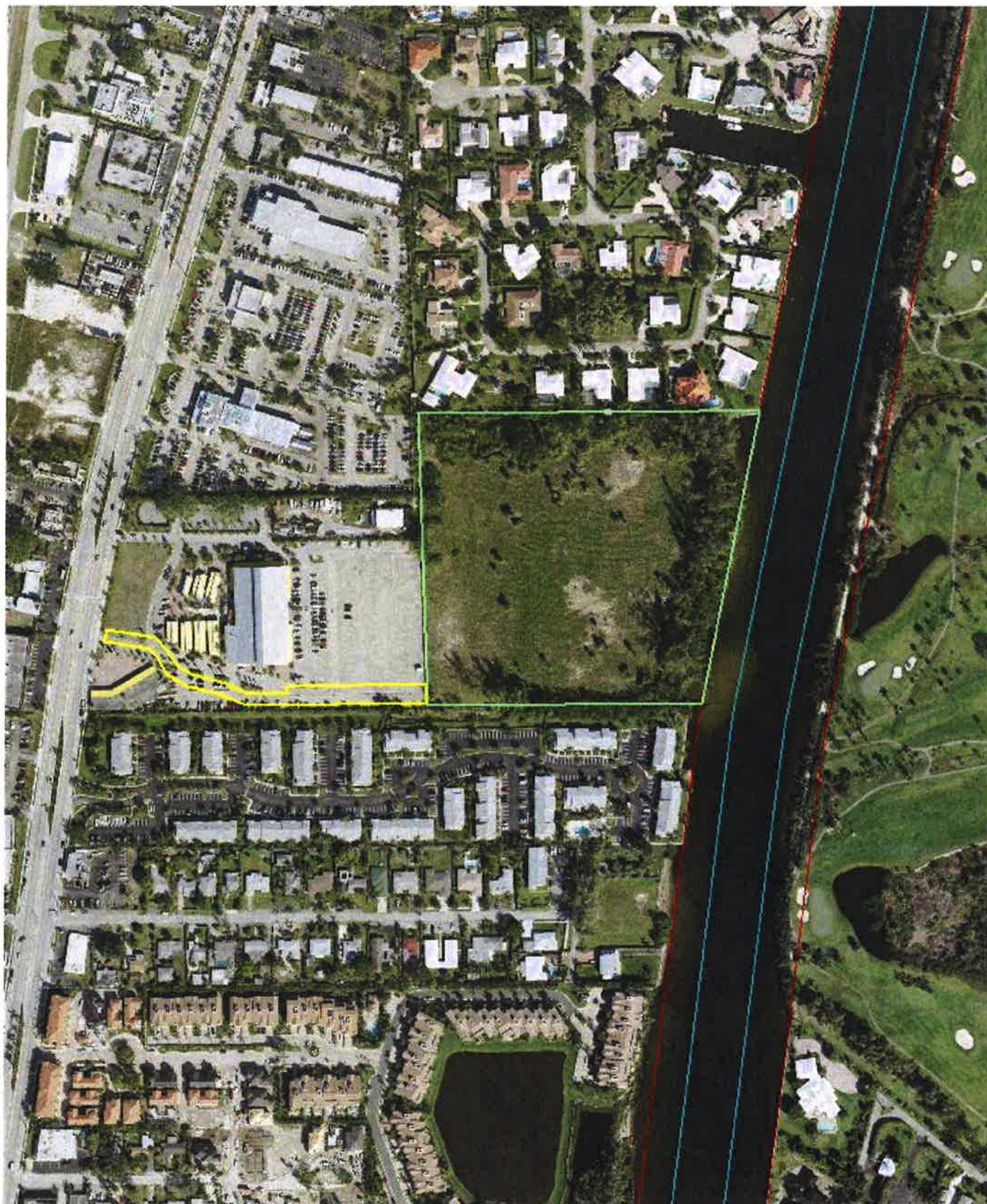
Spoil Island V-7 is located near the city of Port Orange, 200 feet south of the Dunlawton Bridge Boat Ramp, adjacent to the Intracoastal Waterway (IWW). District staff has been coordinating with FWC on the potential designation of V-7 as a Critical Wildlife Area (CWA). The CWA designation would allow for the establishment of a "no entry" buffer around the island that would be enforceable by local and state law enforcement. FWC is currently recommending a seasonal closure of January 1 through August 31 with a posted buffer around the island varying between 10 to 150 feet.

(Please see back up pages A-12 to A-20)

RECOMMEND: Approval of staff recommendations concerning the establishment of Critical Wildlife Area V-7, Volusia County, FL.

PALM BEACH COUNTY ICW DREDGING REACHES AND DREDGED MATERIAL MANAGEMENT AREAS





Findeas
FIND Owned
Channel
ICW Right-of-Way

MSA 641/641A





SLB General Contracting, L.L.C

904 Prosperity Farms Road, North Palm Beach, FL 33408
Phone: 561.627.1010 Fax 561.627.5111

Proposal

Florida Inland Navigation District
Attn: Mark Tamblyn
1314 Marchinski Road
Jupiter, FL 33458
Tel: 561.262.1101
mtamblyn@aicw.org

REVISD:
Date : November 9, 2016
Project: MSA 641A
Access Road Relocation

	<u>SCOPE OF WORK</u>	<u>QTY</u>	<u>UNITS</u>	<u>UNIT \$</u>	<u>TOTALS</u>
A	Survey and Testing				
1	Survey, Layout, and Asbuilts for our Scope of Work	1	Ls	4,890.00	4,890.00
B	Excavation and Fill				
1	Mobilization of equipment	1	Ls	3,125.00	3,125.00
2	Silt Fence -	200	Lf	2.10	420.00
3	Remove existing Rip Rap and Stockpile onsite for reinstallation, Remove existing Access Road and Culvert.	1	Ls	14,130.00	14,130.00
4	Grade channel for rip rap and place fill material for new access road	1	Ls	10,770.00	10,770.00
5	Relocate existing 30" ADS Pipe and form and pour new mitered end sections	1	Ls	10,060.00	10,060.00
6	Place existing Rip Rap, Filter Fabric, and #57 Stone	1	Ls	7,030.00	7,030.00
7	Place Base Rock on new access road	1	Ls	6,280.00	6,280.00
8	Sod along new access road stockpile area and disturbed area w Bahia Sod	1	Ls	4,280.00	4,280.00
				TOTAL:	\$60,985.00

Allowance: If necessary to be added through change order.

Repair existing asphalt parking lot	1	Ls	9,600.00	9,600.00
Density Testing - Earthwork, pipe backfill	1	Ls	5,750.00	5,750.00

NOTES

- 1 This proposal is based on plans by Taylor Engineering dated March 2016 sheets C-1 thru C-4
- 2 No engineering is included
- 3 No permit fees, permits, nor acquisitions fees for permits.
- 4 We have not included bonding
- 5 We have not included certified payroll or prevailing wages.
- 6 We have not included any imported rip rap or #57 stone. All aggregates to be re-installed.
- 7 Existing 30" pipe to be reused. No new pipe is included.
- 8 Clearing gate and fence modification is not included in this proposal.
- 9 We have included accessing the site from the existing parking lot of the apartments to the west of MSA 641a
- 10 We have only included layout and densities for our scope of work.
- 11 We have excluded watering and grow in of sod and seeded areas.
- 12 This proposal does not include any costs for meters, strainers, or temp. utilities.
- 13 This proposal pricing is good for 30 days from above date.

Thank you for allowing SLB General Contracting the opportunity to bid this project.
Please contact us with any questions regarding the above.

Respectfully,

SLB General Contracting

Accepted: _____

Date: _____

AGREEMENT

THIS AGREEMENT ("Agreement") is entered into as of the ____ day of November, 2016 ("Effective Date") between SLB GENERAL CONTRACTING, LLC, a limited liability company organized and existing under the laws of the State of Florida ("Contractor") and FLORIDA INLAND NAVIGATION DISTRICT, an independent special taxing district of the State of Florida ("District").

RECITALS

Whereas, District is the owner of real property located in the Town of Gulf Stream, Palm Beach County, Florida adjacent to the Intracoastal Waterway, known as Maintenance Spoil Area (MSA) 641 and more particularly described on Exhibit "A" ("Property"); and

Whereas, the Property has been developed with a dredge material management facility ("Facility"); and

Whereas, District has an access road easement (the "Easement") between the Property and US Highway No. 1, which is recorded in Official Records Book 27599, Page 1638 of the Public Records of Palm Beach County, Florida; and

Whereas, Owner desires to relocate the internal access road between the Facility and the easterly terminus of the Easement and install a new gate in the perimeter security fence (the "Project").

NOW, THEREFORE, Contractor and District, in consideration of the premises, the sum of Ten Dollars (\$10.00), and other good and valuable consideration, hereby agree as follows:

1. Incorporation of Recitals. The foregoing recitals are true, correct and incorporated into this Agreement by reference.
2. Construction of Project. Contractor shall construct the Project in conformity with the plans and specifications attached hereto as Exhibit "B" and made a part hereof by reference ("Construction Plans") in a good and workmanlike manner. Contractor shall commence construction ("Commencement Date") not later than thirty (30) days following the Effective Date and shall substantially complete the construction within thirty (30) days of the Commencement Date. Contractor shall perform the work on the Project in conformity with all applicable federal, state and local statutes, ordinances, codes and regulations. District represents that Project is exempt from permitting. Contractor shall coordinate with Mark Tamblyn, the District's Field Projects Coordinator, for access to the Property.
3. Compensation. The District shall pay Contractor the sum of \$60,985.00 (the "Contract Price") for the construction of the Project. Twenty percent (20%) of the

Contract Price is due and payable within ten (10) days after the Effective Date; thirty percent (30%) of the Contract Price is due and payable upon certification by Contractor that the Project is fifty percent (50%) complete; forty percent (40%) of the Contract Price is due and payable upon certification by Contractor that the Project is substantially complete; and the balance is due and payable upon completion of all punch list items.

4. Warranty. Contractor warrants that all materials used in the Project are new (unless otherwise specified) and meet the minimum specifications in the Plans. Contractor warrants the materials and workmanship of the Project against defects for a period of twelve (12) months following completion of all punch list items and acceptance of the Project by the District. The District shall provide a letter to Contractor confirming the date of acceptance of the Project.
5. Indemnification. Contractor agrees to indemnify and hold harmless the District, its commissioners, officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Owner.
6. Insurance. Contractor shall keep in force, with companies and in a form acceptable to District, at Contractor's expense, during the term of this Agreement and any extension or renewal thereof commercial general liability insurance and automobile liability insurance with a minimum One Million Dollars (\$1,000,000.00) combined single limit coverage of bodily injury, property damage or combination thereof. Contractor shall keep in force during the term of this Agreement statutorily required worker's compensation insurance. Except for worker's compensation insurance, District shall be an additional insured on all required liability policies. Contractor shall deliver proof of insurance to District prior to commencing any work on the Property.
7. Mechanics' or Materialmen's Liens. Contractor shall not cause any liens of mechanics, laborers or materialmen to stand against the Property for any labor or material furnished or claimed to have been furnished to Contractor in connection with any work of any character performed or claimed to have been performed on the Property, by or at the direction of Contractor. Contractor understands and agrees that the Property is government property and, as such, is exempt from mechanics' or materialmen's liens.
8. Licenses. Contractor represents that it currently holds the license or licenses necessary to perform the construction of the Project and shall continuously maintain such licenses in good standing throughout the duration of the Project. Further, Contractor agrees to employ only duly licensed subcontractors and sub-subcontractors on the Project.

9. Notices. Notices required or permitted to be given pursuant to the terms of this Agreement will be delivered in person or by facsimile transmission, (provided the original notice is delivered in person or by mail or delivery service as set forth herein) or sent by certified mail, return receipt requested, postage prepaid, by recognized contract carrier providing signed receipt for delivery, and will be deemed delivered upon receipt or refusal of delivery. Notices will be delivered at the following addresses, subject to the right of any party to change the address at which it is to receive notice by written notice to the other party:

To District:

Florida Inland Navigation District
1314 Marcinski Road
Jupiter, Florida 33477-9498
Attn: Executive Director
Telephone: (561) 627-3386
Facsimile: (561) 624-6480

To Contractor:

SLB GENERAL CONTRACTING, LLC
904 Prosperity Farms Road
North Palm Beach, FL 33408
Attention: _____
Phone: () ____ - ____
Fax: () ____ - ____

10. Integration and Severability. This Agreement and the attachments hereto set forth the entire understanding of District and Contractor with the respect to the matters which are the subject of this Agreement, superseding and/or incorporating all prior or contemporaneous oral or written agreements, and may be changed, modified, or amended only by an instrument in writing executed by the party against whom the enforcement of any such change, modification or amendment is sought.
11. Successors and Assigns. This Agreement will inure to the benefit of and be binding upon, and is intended solely for the benefit of, the parties hereto, and their respective heirs, personal representatives, successors, and assigns; and no third party will have any rights, privileges or other beneficial interests herein or hereunder. Notwithstanding the foregoing, Contractor shall not assign this Agreement without the prior written consent of District, which consent may be withheld in District's sole and absolute discretion.
12. Governing Law. This Agreement is governed by and will be construed in accordance with the laws of the State of Florida, and in the event of any litigation concerning the terms of this Agreement, proper venue thereof will be in Palm Beach County.

13. Attorneys' Fees. In the event this Agreement shall be the subject of litigation between the parties hereto for any reason whatsoever, the prevailing party in such litigation shall recover from the other party the costs of such action, including, but not limited to, reasonable attorneys' fees incurred in any and all mediation, arbitration, trial, appellate, post-judgment, bankruptcy and administrative proceedings.
14. Invalid Provisions. In the event any term or provision of this Agreement is held illegal, unenforceable or inoperative as a matter of law, the remaining terms and provisions will not be affected thereby, but will be valid and remain in force and effect, provided that the inoperative provisions are not essential to the interpretation or performance of this Agreement in accordance with the clear intent of the parties.
15. Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which will constitute the same instrument; and delivery of signatures transmitted by facsimile will be sufficient to bind the signing party.
16. No Waiver of Default. No waiver by a party of any breach of this Agreement or of any warranty or representation hereunder by the other party will be deemed to be a waiver of any other breach by such other party (whether preceding or succeeding and whether or not of the same or similar nature), and no acceptance of payment or performance by a party after any breach by the other party will be deemed to be a waiver of any breach of this Agreement or of any representation or warranty hereunder by such other party, whether or not the first party knows of such breach at the time it accepts such payment or performance. No failure or delay by a party to exercise any right it may have by reason of the default of the other party will operate as a waiver of default or modification of this Agreement or will prevent the exercise of any right by the first party while the other party continues so to be in default.
17. Jury Waiver. IN ANY CIVIL ACTION, COUNTERCLAIM OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF, CONCERNS, OR RELATES TO THIS AGREEMENT, AND ANY AND ALL TRANSACTIONS CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, TRIAL WILL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. ANY PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO OF THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL

REPRESENTATIONS TO OR BY ANY OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.

18. Time; Effective Date. Time is of the essence with respect to the payment of moneys and the performance of each and every obligation set forth in this Agreement. "Effective Date" means the first date upon which this Agreement has been executed by both District and Owner as set forth in the first grammatical paragraph of this Agreement.
19. Performance Subject to Appropriations. District's obligations hereunder are subject to appropriations by its Governing Board.

IN WITNESS WHEREOF the parties hereto have set their hands and seals as of the date first above written.

"District"
FLORIDA INLAND NAVIGATION DISTRICT

By: _____
Donald Cuzzo, Chair

"Contractor"
SLB GENERAL CONTRACTING, LLC

By: _____

Name: _____

Title: _____

Exhibit A

ORB 9441 591

1658h/8

Legal Description MSA 641A (FIND Property)

Being a part of the Southwest Quarter of the Southeast Quarter of the Southeast Quarter hereinafter noted as Tract No. 1 and a part of the Southeast Quarter of the Southwest Quarter of the Southeast Quarter, hereinafter noted as Tract No. 2 of Section 4, Township 46 South, Range 43 East, Palm Beach County, Florida, lying West of the Westerly Right-of-Way Line of the Intracoastal Waterway from Jacksonville to Miami, Florida, as that right-of-way line is shown on the plat recorded in Plat Book 17, at Page 14-B of the Public Records of said Palm Beach County, Florida, and more fully and particularly described as follows:

Tract No. 1 - Lying in the Southwest Quarter of the Southeast Quarter of the Southeast Quarter, Section 4, Township 46 South, Range 43 East.

Commencing at the Southeast corner of Section 4, Township 46 South, Range 43 East, as a point of reference; thence along the South boundary line of said Section 4, South 89° - 48' - 05" West, 1364.47 feet to an intersection with the Westerly right-of-way line of the hereinbefore mentioned Intracoastal Waterway; thence along said Westerly right-of-way line North 11° - 36' - 46" East, 73.05 feet to an intersection with the West line of the Southeast Quarter of the Southeast Quarter of said Section 4, to the Point of Beginning, identical with the Point of Beginning of a tract of land known as Maintenance Spoil Area 641 and recorded in Deed Book 506, at Page 92, of the said Public Records of Palm Beach County, Florida; thence along the West line of said Maintenance Spoil Area 641 identical with the West line of said Southeast Quarter of the Southwest Quarter of Section 4, Township 46 South, Range 43 East, North 01° - 38' 32" West, 616.56 feet to the North line of the Southwest Quarter of the Southeast Quarter of the Southeast Quarter of said Section 4; thence along said North line North 89° - 46' 14" East, 144.45 feet to the Westerly right-of-way line of the Intracoastal Waterway; thence along said Westerly Right-of-way line South 11° - 36' - 46" West, 629.82 feet to the Point of Beginning, containing 1.02 acres, more or less.

Tract No. 2 Lying in the Southeast Quarter of the Southwest Quarter of the Southeast Quarter, Section 4, Township 46 South,

FLORIDA INLAND NAVIGATION DISTRICT

21 November 2016



Via email to al@zomusa.com and Federal Express

MCA Delray Preserve Owner, LLC
c/o Andres Lozano
Development Manager
ZOM Florida, Inc.
200 E. Broward Blvd., Suite 1200
Fort Lauderdale, FL 33301

COMMISSIONERS

DONALD J. CUOZZO
CHAIR
MARTIN COUNTY

JON NETTS
VICE-CHAIR
FLAGLER COUNTY

SUSANNE McCABE
TREASURER
VOLUSIA COUNTY

DON DONALDSON
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MIAMI-DADE COUNTY

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INDIAN RIVER COUNTY

CHARLES C. ISIMINGER
PALM BEACH COUNTY

MICHAEL O'STEEN
DUVAL COUNTY

JERRY H. SANSOM
BREVARD COUNTY

LYNN A. WILLIAMS
NASSAU COUNTY


Re: Delray Preserve and Maintenance Spoil Area (MSA) 641

Dear Andres:

Please be advised that since ZOM's subsidiary and the legal owner of Delray Preserve, MCA Delray Preserve Owner, LLC has not executed and returned the proposed agreement for the construction of the access road and fence gate on MSA 641 (the "Proposed Agreement"), and is now conditioning its execution of the Proposed Agreement upon FIND's agreement to allow it to trim trees within MSA 641 (which FIND deems to be a counteroffer), FIND is hereby terminating the negotiations to enter into the Proposed Agreement. We reject the counteroffer and to the extent, if any, that there are any outstanding offers by FIND, FIND hereby withdraws them. FIND will obtain its own contractor to perform the work.

Even though the parties have been unable to reach an agreement on this work, we look forward to a long and cordial relationship as neighbors.

Sincerely,



Mark Crosley
Executive Director

MARK T. CROSLY
EXECUTIVE DIRECTOR

JANET ZIMMERMAN
ASSISTANT EXECUTIVE
DIRECTOR



FLORIDA INLAND NAVIGATION DISTRICT

TO: All FIND Commissioners, Executive Director
FROM: Janet Zimmerman, Assistant Executive Director
DATE: November 18, 2016
SUBJECT: FWC Designation of V-7 as Critical Wildlife Area

COMMISSIONERS

DONALD J. CUOZZO
CHAIR
MARTIN COUNTY

JON NETTS
VICE-CHAIR
FLAGLER COUNTY

SUSANNE McCABE
TREASURER
VOLUSIA COUNTY

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E. TYLER CHAPPELL
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MIAMI-DADE COUNTY

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INDIAN RIVER COUNTY

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DUVAL COUNTY

JERRY H. SANSOM
BREVARD COUNTY

LYNN A. WILLIAMS
NASSAU COUNTY

MARK T. CROSLEY
EXECUTIVE DIRECTOR

JANET ZIMMERMAN
ASSISTANT EXECUTIVE
DIRECTOR

Spoil Island V-7 has been identified by FWC as a regionally significant nesting area for brown pelicans. Staff has been coordinating with FWC on the potential designation of V-7 as a Critical Wildlife Area (CWA), which would allow for the establishment of a "no entry" buffer around the island that would be enforceable by local and state law enforcement. FWC is currently recommending a seasonal closure of January 1 through August 31, with a posted buffer around the island varying between 10-150 feet.

Staff concerns regarding a CWA designation include:

- Future impacts pertaining to maintenance operations for the Intracoastal Waterway (IWW),
- Loss or impact to perpetual easement rights,
- Concerns about navigation and boater safety (boat ramp and sign posts), and
- Overlap of the designated buffer with the IWW channel and right of way.

History of the Spoil Island:

Spoil Island V-7 is located near the city of Port Orange. This island is approximately 200 feet south of the Dunlawton Bridge and Dunlawton Bridge Boat Ramp, adjacent to the IWW. The substrate of this site consists of dredge spoil material from the original creation of the IWW. Currently, the entire island is approximately 1.2 acres in size. The southern portion of the island has approximately 0.5 acres of mangrove nesting habitat. A smaller patch of mangrove nesting habitat consisting of 0.1 acres is present on the northern portion of the island (Figure 2). V-7 falls under the management of the Florida Inland Navigation District (FIND).

There is an existing Grant of Easement (December 28th, 1938) for right-of-way purposes, including the perpetual right and easement to enter upon, excavate, cut away and remove any or all listed tracks, including V-7 (Tract 313). At their February 26, 1960 meeting, the FIND Board of Commissioners adopted a resolution approving an effort by the Florida Audubon Society to establish a wildlife sanctuary at Spoil Area MSA V-7 (Tract 313) in Volusia County as part of a pilot project. In the original resolution, FIND maintained the right to place spoil on the island as maintenance of the Intracoastal Waterway may require.

For discussion and recommendation:


Should the Board desire to proceed with the CWA designation, staff strongly suggest requiring the following conditions for approval:

- The establishment or existence of the CWA will not place any restrictions on dredging activities of the IWW or adjacent channels.
- FIND and USACE retain perpetual easement rights.
- The CWA will not impact or restrict Dunlawton boat ramp access, use or maintenance.
- Suggest seasonal closures of the island for the nesting occur between April 1 – August 31.
- Signage to be placed on existing posts or buoys will be designed and located to maximize boater and navigation safety. The Northeast boundary buffer should be buoyed or the sign post should be moved closer to the island for boater safety.
- Obtain concurrence for the CWA from the USACE Navigation and Real Estate sections.

Port Orange – Volusia County

Proposal at Public Hearing

- Posted buffer and boundary (red)
 - 50-150 feet
 - Year-round closure



Port Orange Rookery is in Volusia County and owned by the Florida Inland Navigation District. It is known for the large breeding colony of pelicans but snowy egrets, cormorants, great egrets, white ibis, great blue herons, American oystercatchers also breed there. The original proposal was for year round closure and a buffer that ranged from 50-150 feet.


Port Orange –Volusia County

Proposal at Public Hearing

- Posted buffer and boundary (red)
 - 50-150 feet
 - Year-round closure

Revised Proposal

- Posted buffer and boundary (red)
 - 10-150 feet
 - Matches F.I.N.D. request
- January 1 – August 31



Proposed Boundary/Posted Buffer

NEW Establishment

Ownership: Florida Inland Navigation District

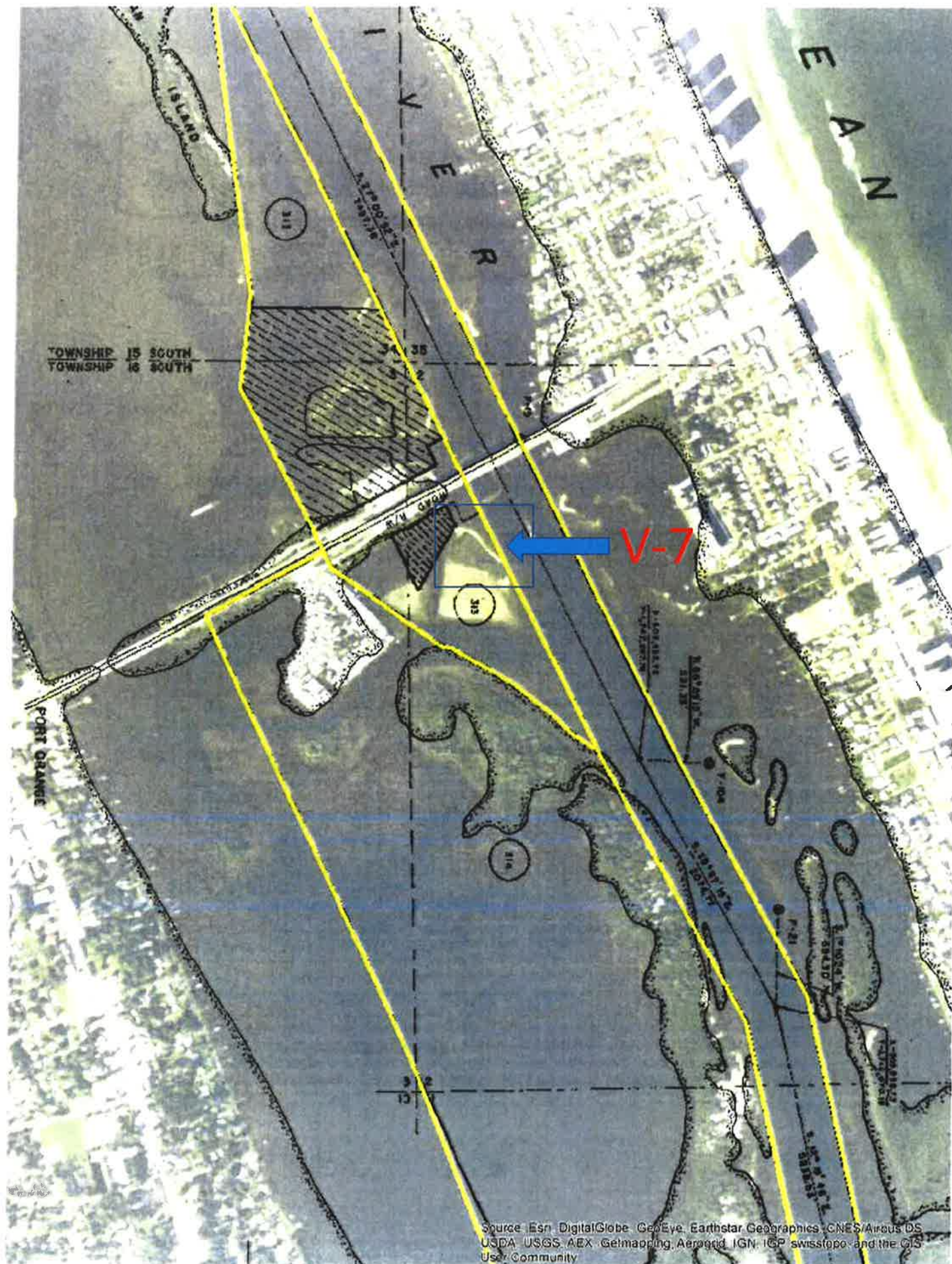
Birds: pelicans, snowy egret, cormorants, great egret, white ibis, great blue heron, American oystercatcher

Acreage: 1.86 acres uplands, 1.88 acres of water

Changes from original proposal:

- 1) Move north buffer to match existing signage ~25 feet off north shoreline, and proposal was also modified based on input from Florida Inland Navigation District (land owner) to avoid ICW right of way on the east side of the island.
- 2) Changed to seasonal closure after additional review of data.

Justification: The brown pelican is a Species of Special Concern, however during the 2010 status review it did not meet the criteria for listing as a Threatened species. It was noted that the species has declined outside of Florida, and threats still exist. The Species Action Plan for the brown pelican includes protection of nesting sites to maintain stable populations and prevent re-listing the species in the future. American oystercatchers, a state listed species with documented declines, use the less vegetated portions of the islands for nesting. Although the recommended buffer distance for this species is 300 feet, the location of the island next to the ICW makes this buffer too large for safe navigation and it has been modified for protection and navigation. Although not state listed, snowy egrets, great egrets, and great blue herons are all identified as Species of Greatest Conservation Need, and actions to protect the brown pelican and the American oystercatcher will also protect these species.



GRANT OF EASEMENTS

VOLUSIA

Jacksonville-Miami Intracoastal Waterway

STATE OF FLORIDA)
COUNTY OF VOLUSIA)

COPY

December 28th

1938

Recorded
Jan 11-1939
D.B. 278
P 255
Volusia Records

KNOW ALL MEN BY THESE PRESENTS that the Trustees of the Internal Improvement Fund of the State of Florida, for and in consideration of the benefits to accrue to them, and to the people of the State of Florida, in the added convenience for the use of the Intracoastal Waterway from Jacksonville to Miami, Florida, by the public and the people of the State of Florida, and the enhanced value that will result to the lands of the grantors as the result of the construction and maintenance of said Waterway, and in order to aid and facilitate the United States in the construction and maintenance of said Waterway, and other good and valuable consideration, and pursuant to the terms and provisions of Chapter 13669, Laws of Florida, 1929, and such other and further lawful authority vested in said Trustees of Internal Improvement Fund of the State of Florida, do hereby grant and convey to the United States of America, and its assigns, the following easement:

I. For right-of-way purposes, the perpetual right and easement to enter upon, excavate, cut away and remove any or all of the following described tracts of land in Volusia County, Florida:

a. In the open waters of the Halifax River, Five Hundred (500) in width, Two Hundred Fifty (250) feet each side of the center line of channel of the Intracoastal Waterway, said center line of channel being the same and identical as the center line of the Five Hundred (500) foot width right-of-way and extending from the Southerly line of Section Twenty-eight (28), Township Thirteen (13) South, Range Thirty-two (32) East, in the Northerly part of the Halifax River to the Southerly line of unsurveyed Section Twenty-four (24), Township Sixteen (16) South, Range Thirty-three (33) East, in the Southerly part of the Halifax River at the North end of the Ponce de Leon Relocation Cut, being more particularly described as follows:

Commencing at the Southeast corner of Section Twenty-eight (28), Township Thirteen (13) South, Range Thirty-two (32) East, as a point of reference thence: run South Eighty-eight (88) degrees, Nineteen (19) minutes, Nine (09) seconds West, along the Southerly boundary, and Southerly boundary projected, of said Section Twenty-eight (28), Six Hundred Ninety-three and Fifty-three hundredths (693.53) feet to a point on the center line of channel of the Intracoastal Waterway in the open waters of the Halifax River, as a point of beginning, said point being designated U.S. Engineer center line of channel station Thirty-one (31) plus Seventeen and Seventy-eight hundredths (17.78) Ormond Cut, and being distant from U.S. Engineer triangulation station "G-6" Three Thousand Three Hundred Forty-one and Ninety-three hundredths (3341.93) feet in a direction North Twenty-seven (27) degrees, Twenty (20) minutes, Thirty-eight (38) seconds East, from said triangulation station said point of beginning being also distant from U.S. Engineer triangulation station "G-6", Three Thousand Eight Hundred Sixty-one and Twelve hundredths (3861.12) feet in a direction South Sixty (60) degrees, Fifty-five (55) minutes, Fifty-six (56) seconds East, from said triangulation station, said U.S. Engineer triangulation station "G-6" being distant from U.S. Coast and Geodetic Survey first order triangulation station "Arona-2" Five Thousand Two Hundred Forty-one (5241) feet in a direction South Eighty (80) degrees, Twenty-five (25) minutes, Forty-four (44) seconds West, from said U.S. Coast and Geodetic triangulation station, aforesaid point of beginning being distant One Hundred Fifty-six and Ninety-five hundredths (156.95) feet in a direction South Eighty-eight (88) degrees, Nineteen (19) minutes, Nine (09) seconds West, from the Southerly boundary of the Five Hundred (500) foot width right-of-way of the Intracoastal

MINUTES OF MEETING OF BOARD OF COMMISSIONERS
OF FLORIDA INLAND NAVIGATION DISTRICT AT 9:30
A.M., FRIDAY, FEBRUARY 26, 1960, AT THE GEORGE
WASHINGTON HOTEL, WEST PALM BEACH, FLORIDA

13. Volusia County MSA-434-A et al - Audubon Society.

C. Russell Mason, Executive Director of Florida Audubon Society, then addressed the Board in connection with a letter dated January 27, 1960 to Colonel Schull regarding the designation of certain spoil areas in Volusia County as wildlife sanctuaries. After hearing Mr. Mason and considering his letter, the Board, by unanimous vote, adopted the following resolution submitted by Mr. Mason:

"The Florida Inland Navigation District approve the program of the Florida Audubon Society to establish wildlife sanctuaries and, that

Spoil Areas MSA V-7 (Tract 313) and MSA 434-A (Tract 314) in Volusia County be set up as a pilot project, under the designation of PORT ORANGE WILDLIFE SANCTUARY, Florida Inland Navigation District and Florida Audubon Society, cooperating, and that

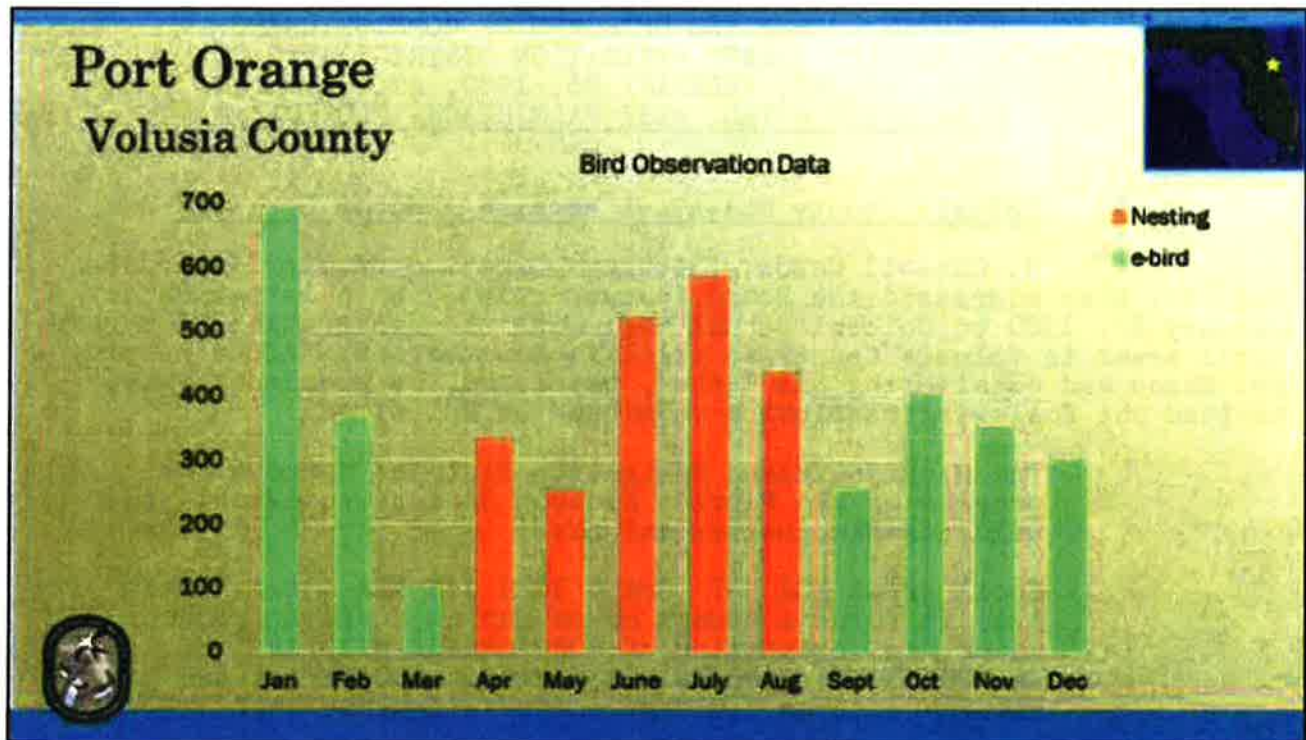
A proper and attractive sign be erected to that effect, and that the proper POSTED signs also be placed, and that

The Florida Audubon Society issue a Press Release similar to samples submitted, calling attention of the public to this Sanctuary, such Release to be mailed to newspapers and radio stations in Florida, and also be published in the magazine of the Society, The Florida Naturalist, such releases however, to be submitted to Colonel Herman W. Schull, Jr., General Manager, Florida Inland Navigation District, for correction and approval before release to the press or publication elsewhere, and

Provided that,

The Florida Audubon Society through its Sanctuary funds and the cooperation of its members, carry out the above procedures at its own expense, with no cost devolving upon the Florida Inland Navigation District, and that

No limitation be placed on the Inland Navigation District on the placing of further spoil on these islands set up as sanctuaries as the maintenance of the Intracoastal Waterway may require, though it may be possible through consultation with the Florida Audubon Society to avoid the placing of such spoil at a time which would result in destruction of the birds during their nesting season."



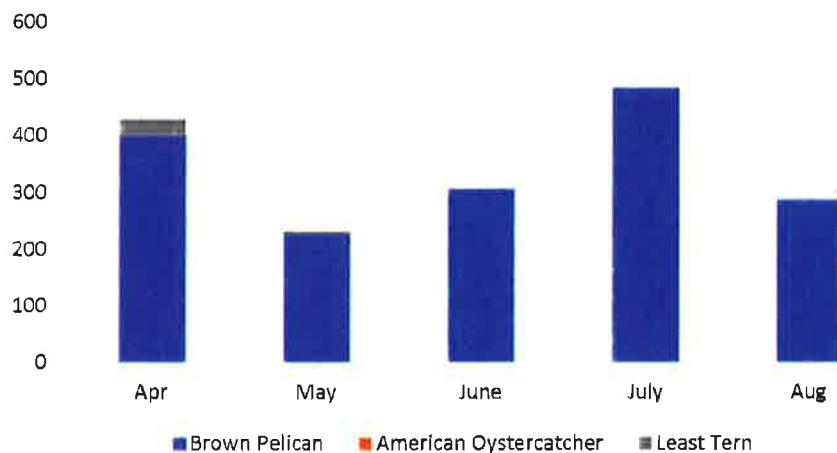
Nest counts for brown pelicans and American oystercatchers have been conducted since 2010 by Volusia County, Audubon, and volunteers and have been averaged in the above graph. Other nesting species not regularly monitored include the state listed little blue heron and tri-colored heron, snowy egret, great egret, and white ibis. The graph also depicts eBird observations of brown pelicans throughout the year – the high counts per month were graphed for this species. In addition to the data graphed above, data from the North American Migration Count, which was conducted in May and September each year between 1997-2007, indicate up to 3200 birds use the island during those periods .

Port Orange Bird Data

Peak annual counts of brown pelican nests, adults, and chicks from the Florida Shorebird Database

Year	2011	2012	2013	2014	2015
Nests	550	133	175	130	160
Adults	400	187	200	250	400
Chicks	330	No Data	236	198	218

2015 Nesting Data - Adults present



Non-Nesting Data

Spring Counts (May)											
Year	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Brown Pelican	300	460	465	550	470	700	900	580	750	800	420
Double-crested Cormorant	20	70	30	120	100	100	50	50	70	70	50
Great Egret	80	120	160	110	140	160	170		140	160	100
Snowy Egret	30	36	50	80	80	110	160	100	70	80	70
Little Blue Heron	20	30	30	30	40	40	40	50	40	40	40
Tricolored Heron	20	40	20	20	20	40	50	10	20	20	20
Cattle Egret	100	100	120	140	160	160	160	130	140	180	160
White Ibis (roosting only)	110	140	120	90	350	160	400	130	160	160	180
Total Individuals	2677	2994	2994	3140	3361	3472	3933	3054	3395	3516	3047

Fall Counts (September)											
Year	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Brown Pelican	450	480	100	750	no count	460	920	no count	980	1500	No data
Double-crested Cormorant	25	40	15	40	no count	10	120	no count	140	30	No data
Great Egret	30	25	40	45	no count	55	45	no count	75	55	No data
Snowy Egret	110	55	80	120	no count	180	65	no count	70	190	No data
Little Blue Heron	60	8	10	22	no count	35	20	no count	18	60	No data
Tricolored Heron	30	4	6	15	no count	18	6	no count	10	60	No data
Cattle Egret	450	900	1100	800	no count	950	1060	no count	620	350	No data
White Ibis	1100	850	1800	400	no count	750	600	no count	220	980	No data
Total Individuals	2255	2362	3151	2192	0	2458	2836	0	2133	3225	No Data

2015 Non-Nesting Data

