

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: December 2, 2008 (X) Consent () Regular
() Workshop () Public Hearing

Department

Submitted By: Environmental Resources Management
Submitted For: Environmental Resources Management

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) receive and file Project Agreement No. PB-08-133 with the Florida Inland Navigation District (FIND) to reimburse up to \$559,575 for the construction of the Snook Islands Public Use Facility Project (Project);

B) approve Budget Transfer in the Metropolitan Planning Organization (MPO) Fund of \$100,000 (R2008-1507) from Transfer to the Capital Outlay Fund to Transfer to the Environmental Capital Projects Fund to consolidate the Project funding into the Environmental Capital Projects Fund;

C) approve Budget Amendment of \$438,500 in the Capital Outlay Fund to decrease the Transfer from the MPO Fund by \$100,000 and decrease the Transfer from the Natural Areas Fund by \$338,500 to consolidate the Project funding into the Environmental Capital Projects Fund;

D) approve Budget Transfer of \$338,500 in the Natural Areas Fund decreasing the Transfer to the Capital Outlay Fund to reduce Natural Areas Funding for the Project; and

E) approve Budget Amendment of \$659,575 in the Environmental Capital Projects Fund for the FIND Waterways Assistance Program Project Agreement PB-08-133 totaling \$559,575 and \$100,000 from the MPO (R2008-1507) to consolidate the Project funding into the Environmental Capital Projects Fund.

Summary: The County will receive \$559,575 to partially fund construction costs for the Project. Funding from the Natural Areas Fund is no longer needed because of the approval of grant applications submitted to FIND in May 2008. County matching funds of \$559,575 are required and already included in the budget. Grant funds must be expended by September 1, 2010. FIND may extend the project period for one (1) year. The bid process for the Project is scheduled to occur within the next 1-2 months and construction is scheduled to begin in the spring of 2009. Districts 2 & 3 (SF)

Background and Justification:

On May 20, 2008, the Board of County Commissioners (BCC) approved a Resolution for Assistance through Florida Inland Navigation District (FIND) Waterways Assistance Program authorizing the submission of a grant application for the Project.

(Continued on Page 3.)

Attachments:

1. Project Agreement PB-08-133
2. Budget Transfer (1360)
3. Budget Amendment (3900)
4. Budget Transfer (1226)
5. Budget Amendment (3654)

Recommended by: Richard E. Wainwright 11/13/08
 Department Director Date

Approved by: [Signature] 11/14/08

County Administrator

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Capital Expenditures	\$1,119,915	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	(\$559,575)	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	\$559,575	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? (Match) Yes _____ No X
 Budget Account No.: Fund _____ Department _____ Unit _____ Object _____
 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact

<u>Grant</u>		
FIND PB-08-133		\$559,575
	Grant Total	\$559,575
<u>County Match</u>		
Metro Planning Organization - R2008-1507 (1360)		\$100,000
25M GO 03 Bond, Parks & Cultural Facilities (3019-581-E455)		\$459,575
	County Match Total	\$559,575
	Total	\$1,119,150

C. Department Fiscal Review: *Jessica Kolb*

III. REVIEW COMMENTS

A. OFMB Fiscal and /or Contract Dev. and Control Comments:

Phillips 11-20-08
 OFMB *SS* 11/18/08 *A* 11/19/08 *CS* 11/24/08
John J. Jacob 11/20/08
 Contract Dev. and Control
E. Jones 11/20/08

B. Legal Sufficiency:

Thomas J. J.
 Assistant County Attorney

C. Other Department Review:

 Department Director

(Continued from Page 1)

The BCC also authorized the County Administrator or his designee to sign the project agreements, all future time extensions, task assignments, certifications and other forms associated with the project agreement, and necessary minor agreements that do not change the scope of work or terms and conditions of the agreements if any or all the grants are approved. FIND has approved the grant submission for the Project. Natural Areas Funding of \$338,500, appropriated on September 11, 2007 (R2007-1539) is no longer needed to complete the Snook Islands Public Use Facility. This item also consolidates project funding from the MPO for \$100,000, appropriated on September 9, 2008 with R2008-1507 for the Project from the Capital Outlay Fund to the Environmental Capital Projects Fund.

**FLORIDA INLAND NAVIGATION DISTRICT
PROJECT AGREEMENT**

PROJECT NO. PB-08-133

This PROJECT AGREEMENT made and entered into this 7th day of NOVEMBER, 2008 by and between the Florida Inland Navigation District (hereinafter the "DISTRICT"), and the Palm Beach County, (hereinafter the "PROJECT SPONSOR").

In consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. **PROJECT** - Subject to the provisions of this Agreement and Rule 66B-2 of the Florida Administrative Code (Exhibit "A"), the DISTRICT has determined to provide assistance funding to the PROJECT SPONSOR in furtherance of an approved project ("PROJECT") consisting of the Snook Islands Public Use Facilities. Said project is more specifically described in the PROJECT SPONSOR'S Waterways Assistance Application, which is on file at DISTRICT headquarters.

Any modifications to the PROJECT shall require advance notice to and the prior written approval of the DISTRICT.

2. **TERM** - The PROJECT SPONSOR shall not commence work on the PROJECT prior to the execution of this Agreement unless specifically authorized by the DISTRICT Board and shall complete the PROJECT and submit all required payment reimbursement information on or before September 1, 2010, unless the PROJECT period has been extended with the prior written approval of the DISTRICT. In no event, however, shall the PROJECT period extend beyond three (3) years from October 1, 2008. The PROJECT SPONSOR acknowledges there are no provisions to carry over the DISTRICT assistance funding under this Agreement beyond September 30, 2010, and that any extension of funding beyond this date shall be at the sole discretion of the DISTRICT.

Any request for extension of funding beyond the date set forth in the preceding paragraph shall require submittal by the PROJECT SPONSOR of a request for extension to the DISTRICT

no later than July 1, 2010. This request will then be considered by the DISTRICT Board, whose decision shall be final.

3. **ASSISTANCE AMOUNT** - The DISTRICT shall contribute no more than fifty percent (50%) of the PROJECT SPONSOR'S out-of-pocket costs for completion of this PROJECT ("PROJECT AMOUNT"). Payment of funds by the DISTRICT to the PROJECT SPONSOR (the "ASSISTANCE AMOUNT") will be on a reimbursement basis only, and only for those authorized PROJECT COSTS as shown in Exhibit B and meeting the requirements of Paragraph 5 below and shall not, in any event, exceed \$559,575.00.

4. **MATCHING FUNDS** - The PROJECT SPONSOR warrants and represents that it has the PROJECT SPONSOR Match Amount (the PROJECT AMOUNT less the ASSISTANCE AMOUNT) available for the completion of the PROJECT and shall, prior to the execution of this Agreement, have provided the DISTRICT with suitable evidence of the availability of such funds using DISTRICT Form #95-01 (Exhibit C), and including upon request, providing the DISTRICT with access to applicable books and records, financial statements, and bank statements.

5. **PROJECT COSTS** - To be eligible for reimbursement under the Project Agreement, PROJECT COSTS must be necessary and reasonable for the effective and efficient accomplishment of the PROJECT and must be directly allocable thereto. PROJECT COSTS are generally described in Exhibit B. PROJECT COSTS must be incurred and work performed within the PROJECT period, with the exception of pre-agreement costs, if any specifically identified in Paragraph 6 below, which are also eligible for reimbursement by the DISTRICT.

6. **PRE-AGREEMENT COSTS** - The DISTRICT and the PROJECT SPONSOR fully understand and agree that there shall be no reimbursement of funds by the DISTRICT for any obligation or expenditure made prior to the execution of this Project Agreement.

7. **REIMBURSEMENT PROCEDURES** - PROJECT COSTS shall be reported to the DISTRICT and summarized on the Payment Reimbursement Request Form (Form #90-14) attached as Exhibit D. Supporting documentation including bills and canceled payment vouchers for expenditures shall be provided to the DISTRICT by the PROJECT SPONSOR or LIAISON AGENT with any payment request. All records in support of the PROJECT COSTS included in payment requests shall be subject to review and approval by the DISTRICT or by an auditor selected by the DISTRICT. Audit expenses shall be borne by the PROJECT SPONSOR.

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Project funds may be released in installments, at the discretion of the DISTRICT, upon submittal of a payment request by the PROJECT SPONSOR or LIAISON AGENT. The DISTRICT shall retain ten percent (10%) of each installment payment until the completion of the PROJECT.

The following costs, if authorized in the attached Exhibit B shall be reimbursed only upon completion of the PROJECT to the reasonable satisfaction of the DISTRICT and in accordance with Exhibit A: personnel, equipment, project management, administration, inspection, and design, permitting, planning, engineering, and/or surveying costs.

The DISTRICT shall have the right to withhold any payment hereunder, either in whole or part, for non-compliance with the terms of this Agreement.

8. **FINAL REIMBURSEMENT** - The PROJECT SPONSOR, upon completion of the PROJECT, shall submit to the DISTRICT a request for final reimbursement of the PROJECT AMOUNT less any prior installment payments. The Payment amounts previously retained by the DISTRICT shall be paid upon (1) receipt of the Final Audit report of expenses incurred on the PROJECT by the DISTRICT, (2) full completion of the PROJECT to the reasonable satisfaction of the DISTRICT, (3) submission of Project Completion Certification Form No. 90-13 (Exhibit E), and (4) submission of a photograph of the PROJECT showing the sign required by Paragraph 17. Unless otherwise determined by the DISTRICT, the final reimbursement check shall be presented by a DISTRICT representative to the PROJECT SPONSOR during a public commission meeting or public dedication ceremony for the PROJECT facility.

9. **RECORDS RETENTION** - The PROJECT SPONSOR shall retain all records supporting the PROJECT COSTS for three (3) years after the end of the fiscal year in which the Final Payment is released by the DISTRICT, except that such records shall be retained by the PROJECT SPONSOR until final resolution of matters resulting from any litigation, claim, or special audit that starts prior to the expiration of the three-year retention period.

10. **NONCOMPLIANCE** - The DISTRICT shall have the right to reimbursement, either in whole or part as it may determine, of the funds provided hereunder for noncompliance by the PROJECT SPONSOR with any of the terms of this Project Agreement. Upon notification from the DISTRICT, the PROJECT SPONSOR shall reimburse such funds directly to the DISTRICT. The provisions of this paragraph shall survive completion of the PROJECT.

11. **DISTRICT PROJECT MANAGER** - The Executive Director, or his designee, is hereby designated as the DISTRICT's Project Manager for the purpose of this Project Agreement and shall be responsible for monitoring performance of its terms and conditions and for approving all reimbursement requests prior to payment.

12. **SPONSOR'S LIAISON AGENT** - The PROJECT SPONSOR shall appoint a LIAISON AGENT, whose name and title shall be submitted to the DISTRICT upon execution of the Project Agreement, to act on behalf of the PROJECT SPONSOR relative to the provisions of the Project Agreement.

13. **STATUS REPORTS** - The PROJECT SPONSOR'S LIAISON AGENT shall submit to the DISTRICT project status reports during the PROJECT term. These Quarterly Reports are to be on Form #95-02 (Exhibit F). Project design drawings, engineering drawings, and a copy of the Project bid award construction item cost list will be submitted as available. Photographs shall be submitted when appropriate to reflect the work accomplished. NON-COMPLIANCE by the PROJECT SPONSOR with the reporting schedule in Exhibit G may result in revocation of this Agreement.

14. **LAWS** - The PROJECT SPONSOR agrees to obtain and to abide by all federal, state and local permits and all applicable laws and regulations in the development of the PROJECT. The PROJECT SPONSOR agrees that all PROJECT facilities shall be designed and constructed in compliance with state and federal statutory requirements for accessibility by handicapped persons as well as all other federal, state and local laws, rules and requirements.

15. **NON-DISCRIMINATION** - The PROJECT SPONSOR agrees that when completed, the PROJECT shall be readily accessible, on a non-exclusive basis, to the general public without regard to age, sex, race, physical handicap, or other condition, and without regard to residency of the user in another political subdivision. When such is required, adequate parking shall be made available by the PROJECT SPONSOR to accommodate vehicles for the number of persons for which the PROJECT is being developed.

16. **SITE DEDICATION** - The PROJECT SPONSOR also agrees that the PROJECT site shall be dedicated for the public use for a minimum period of twenty-five (25) years after completion of the PROJECT, such dedication to be in the form of a deed, lease, management agreement or other legally binding document. Any change in such dedication shall

require the prior approval of the DISTRICT. The PROJECT SPONSOR shall record evidence of such dedication within the Public Records of the County in which the PROJECT is located.

17. **ACKNOWLEDGMENT** – For construction projects, the PROJECT SPONSOR shall erect a permanent sign, approved by the DISTRICT, in a prominent location at the completed project which shall indicate that the DISTRICT contributed funds for the PROJECT. The wording of the sign required by this paragraph shall be approved by the DISTRICT's staff before construction and installation of said sign. This sign shall contain the DISTRICT logo (Exhibit H) unless otherwise stipulated by the DISTRICT. In the event that the PROJECT SPONSOR erects a temporary construction sign, it shall also indicate the DISTRICT's participation. For all other type projects, the PROJECT SPONSOR shall acknowledge the DISTRICT where feasible, in concurrence with the DISTRICT staff's recommendations.

18. **PROJECT MAINTENANCE** - When and where applicable, the PROJECT SPONSOR agrees to operate, maintain, and manage the PROJECT for the life of the PROJECT improvements and will pay all expenses required for such purposes. The PROJECT improvements shall be maintained in accordance with the standards of maintenance for other local facilities and in accordance with applicable health standards. PROJECT facilities and improvements shall be kept reasonably safe and in reasonable repair to prevent undue deterioration and to encourage public use. The PROJECT SPONSOR warrants and represents that it has full legal authority and financial ability to operate and maintain said PROJECT facilities and improvements.

19. **SOVEREIGN IMMUNITY** - Each party hereto agrees that it shall be solely responsible for the wrongful acts of its employees, contractors and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity under Section 768.28, Florida Statutes. The PROJECT SPONSOR acknowledges that the DISTRICT, its employees, commissioners and agents are solely providing funding assistance for the PROJECT and are not involved in the design, construction, operation or maintenance of the PROJECT.

20. **INSPECTIONS** - The DISTRICT reserves the right, upon reasonable request, to inspect said PROJECT and any and all records related thereto at any time.

21. **RIGHTS AND DUTIES** - The rights and duties arising under this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns, and shall, unless the context clearly requires otherwise, survive completion of the

PROJECT. The PROJECT SPONSOR may not assign this Agreement nor any interest hereunder without the express prior written consent of the DISTRICT.

22. **WAIVERS** - Waiver of a breach of any provision of this Agreement shall not be deemed a waiver of any other breach of the same or different provision.

23. **NOTICE** - Any notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing, postage paid, and shall be sent by certified mail, return receipt requested, to the DISTRICT or PROJECT SPONSOR at the addresses below. The notice shall be effective on the date indicated on the return receipt.

To the DISTRICT at:

Florida Inland Navigation District
1314 Marcinski Road
Jupiter, Florida 33477-9498

To the PROJECT SPONSOR at:

Palm Beach County
Attention: Director, Environmental Resources Management
2300 N. Jog Road, 4th Floor
West Palm Beach, FL 33411-2743

24. **NO JOINT VENTURE** - The DISTRICT's role with respect to the PROJECT is that of a funding assistance authority only and the DISTRICT is not, and shall not be considered to be, an agent, partner, or joint venturer with the PROJECT SPONSOR.

25. **GOVERNING LAW** - The validity, interpretation and performance of this Agreement shall be controlled and construed according to the laws of the State of Florida.

26. **TRANSFERENCE** - It is the intent of the DISTRICT to issue this funding assistance to the PROJECT SPONSOR who has made application for this assistance. In the event the PROJECT SPONSOR transfers ownership or management of the PROJECT to a party or parties not now a part of this document, other than another governmental entity that agrees to assume, in writing, PROJECTS SPONSOR'S obligation hereunder, the DISTRICT retains the right to full reimbursement from the PROJECT SPONSOR to the full extent of the funding assistance provided by the DISTRICT, including but not limited to any costs and reasonable

attorney's fees (regardless of whether litigation ensues) incurred by the DISTRICT in collecting said reimbursement.

27. **ENTIRE UNDERSTANDING** - This Agreement, including any exhibits made a part hereof, embodies the entire Agreement and understanding of the parties and supersedes all prior oral and written communications between them. The terms hereof may be modified only by a written amendment signed by both parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day, month and year aforesaid.

WITNESSES:

[Signature]
[Signature]

FLORIDA INLAND NAVIGATION DISTRICT

By: [Signature]
Director

DATE: 11/7/08

WITNESSES:

[Signature]
[Signature]

PROJECT SPONSOR

By: [Signature]
Title: Director, Env. Res Mgt

DATE: 11/6/08

EXHIBIT A

CHAPTER 66B-2 — WATERWAYS ASSISTANCE PROGRAM (2008)

- 66B-2.001 Purpose.
- 66B-2.002 Forms.
- 66B-2.003 Definitions.
- 66B-2.004 Policy.
- 66B-2.005 Funds Allocation.
- 66B-2.006 Application Process.
- 66B-2.0061 Disaster Relief Applications.
- 66B-2.007 Application Form. (Repealed)
- 66B-2.008 Project Eligibility.
- 66B-2.009 Project Administration.
- 66B-2.010 Project Agreement. (Repealed)
- 66B-2.011 Reimbursement.
- 66B-2.012 Accountability.
- 66B-2.013 Acknowledgement.
- 66B-2.014 Small-Scale Spoil Island Restoration and Enhancement Projects.
- 66B-2.015 Small-Scale Derelict Vessel Removal Projects.

66B-2.001 Purpose.

Recognizing the importance and benefits of inland navigation channels and waterways, as well as noting problems associated with the construction, continued maintenance and use of these waterways, the Florida Legislature created s. 374.976, Florida Statutes. This law authorizes and empowers each inland navigation district to undertake programs intended to alleviate the problems associated with its waterways. The purpose of this rule is to set forth the District's policy and procedures for the implementation of an assistance program under s. 374.976, F.S., for local governments, member counties and navigation related districts within the District. This program will be known hereafter as the Florida Inland Navigation District's Waterways Assistance Program.

Specific Authority 374.976(2) FS.

Law Implemented 374.976(1) FS.

History — New 12-17-90, Formerly 16T-2.001.

66B-2.002 — Forms.

All forms for the administration of this program are available from the District office located at 1314 Marcinski Road, Jupiter, Florida 33477.

Specific Authority 374.976(2) FS.

Law Implemented 374.976(1) FS.

History — New 12-17-90, Formerly 16T-2.002.

66B-2.003 — Definitions.

The basic terms utilized in this rule are defined as follows:

- (1) "APPLICANT" means an eligible governmental agency submitting an application through this program.
- (2) "APPLICATION" means a project proposal with the required documentation.

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(3) "AUTHORIZED SUBMISSION PERIOD" means the established period for submitting applications to the District.

(4) "BEACH RENOURISHMENT" means the placement of sand on a beach for the nourishment, renourishment or restoration of a beach.

(5) "BOARD" means the Board of Commissioners of the Florida Inland Navigation District.

(6) "DISTRICT" means the Florida Inland Navigation District (FIND).

(7) "ELIGIBLE GOVERNMENTAL AGENCY" means member counties, local governments and navigation related districts within the taxing boundaries of the District.

(8) "ENVIRONMENTAL PERMITS" means those permits, proprietary authorizations, exemptions, or general permits for construction below mean high water line of a navigable waterway required and issued by or on behalf of the U.S. Army Corps of Engineers, the Florida Department of Environmental Protection, and the South Florida or the St. Johns River Water Management Districts or their successors.

(9) "EXECUTIVE DIRECTOR" means the Executive Director of the Florida Inland Navigation District.

(10) "LIAISON AGENT" means the contact person officially designated to act on behalf of the applicant or the project sponsor.

(11) "LOCAL GOVERNMENTS" means municipalities, cities, or consolidated county governments, which are located within the member counties.

(12) "MATCHING FUNDS" means those funds provided by the local sponsor to the project.

(13) "MEMBER COUNTY" means a county located within the taxing boundaries of the District which includes Nassau, Duval, St. Johns, Flagler, Volusia, Brevard, Indian River, St. Lucie, Martin, Palm Beach, Broward and Miami-Dade Counties.

(14) "NAVIGATION RELATED DISTRICTS" means port authorities, inlet districts or any other agency having legally authorized navigation related duties in waterways of the District.

(15) "PRE-AGREEMENT COSTS" means project costs approved by the District Board which have occurred prior to the execution of the project agreement.

(16) "PROGRAM" means the Florida Inland Navigation District Waterways Assistance Program.

(17) "PROGRAM FUNDS" means financial assistance awarded by the Board to a project for release to the project sponsor pursuant to the terms of the project agreement.

(18) "PROJECT" means a planned undertaking consisting of eligible program facilities, improvements or expenses for the use and benefit of the general public.

(19) "PROJECT AGREEMENT" means an executed contract between the District and a project sponsor setting forth mutual obligations regarding an approved project.

(20) PROJECT MAINTENANCE – means any usual action, activity, expense, replacement, adjustment or repair taken to retain a project or grant item in a serviceable, operational or normal condition, or the routine efforts and expenses necessary to restore it to serviceably or normal condition, including the routine recurring work required to keep the project or grant item in such condition that it may be continuously used at its original or designed capacity and efficiency for its intended purpose.

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(21) "PROJECT MANAGER" means the District employee who is responsible for monitoring the performance of the Project and compliance with the project agreement.

(22) "PROJECT PERIOD" means the approved time during which costs may be incurred and charged to the funded project.

(23) "PROJECT SPONSOR" means an eligible governmental agency receiving program funds pursuant to an approved application.

(24) "PUBLIC BUILDING" means a building or facility on government owned property that is owned or operated by a governmental entity, or operated by a third party operator. The building or facility must provide waterway related information, public meeting space, or educational services and be open to members of the public on a continual basis without discrimination.

(25) "PUBLIC MARINA" means a harbor complex used primarily for recreational boat mooring or storage, the services of which are open to the general public on a first come, first served basis without any qualifying requirements such as club membership, stock ownership, or differential in price.

(26) "PUBLICLY OWNED COMMERCIAL OR INDUSTRIAL WATERWAY ACCESS" means any publicly owned area specifically designed to be used for staging, launching, or off-loading by commercial or industrial waterway users on a first come, first served, short-term basis, to gain entry to or from the District's waterways to serve the infrastructure needs of the District's waterway users.

(27) "TRIM HEARING" means a public hearing required by Chapter 200, F.S., concerning the tax and budget of the District.

(28) "WATERWAYS" means the Atlantic Intracoastal Waterway, the Okeechobee Waterway, the Barge Canal in Brevard County west of the Port Canaveral Locks, those portions of the Dania Cut-Off Canal and the Hillsboro Canal east of the water control structures, all navigable natural rivers, bays, creeks or lagoons intersected by said waterways and all navigable natural creeks, rivers, bays or lagoons entering or extending from said waterways.

(29) "WATERWAY RELATED ENVIRONMENTAL EDUCATION" means an interdisciplinary holistic process by which the learner: develops an awareness of the natural and manmade environments of waterways; develops knowledge about how the environment of the waterways works; acquires knowledge about the technological, social, cultural, political, and economic relationships occurring in waterway related environmental issues; and, becomes motivated to apply action strategies to maintain balance between quality of life and quality of the environment of waterways.

Specific Authority 374.976(2) FS.

Law Implemented 374.976(1) FS.

History — New 12-17-90, Amended 9-2-92, 2-6-97, Formerly 16T-2.003, Amended 5-17-98, 3-21-01, 3-20-03, 3-3-04, 4-21-05, 4-24-06, 3-25-08.

66B-2.004 — Policy.

The following constitutes the policy of the District regarding the administration of the program:

(1) Financial Assistance Eligibility: Financial assistance, support and cooperation may be provided to eligible governmental agencies for approved projects as follows:

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(a) Member counties may be provided financial assistance, support or cooperation in planning, acquisition, development, construction, reconstruction, extension, improvement, operation or the maintenance of public navigation, public recreation, inlet management, environmental education, law enforcement and boating safety projects directly related to the waterways. Member counties may also be provided financial assistance, support, and cooperation in planning and carrying out beach renourishment and inlet management projects.

(b) Eligible local governments may also be provided financial assistance, support and cooperation in planning and carrying out public navigation, public recreation, inlet management, environmental education, law enforcement and boating safety projects directly related to the waterways. Eligible local governments may also be provided financial assistance, support and cooperation in planning and carrying out beach renourishment and inlet management projects.

(c) Navigation related districts may be provided with financial assistance to pay part of the costs of the planning and acquisition of dredge material management sites if the Board finds that the site is required for the long-range maintenance of the Atlantic Intracoastal Waterway channel. All such sites must meet the development and operational criteria established by the District through a long-range dredge material management plan for that county. Navigation related districts may also be provided with assistance for environmental mitigation projects associated with waterway improvement related activities and inlet management projects if the Board finds that the project benefits public navigation in the Atlantic Intracoastal Waterway. All navigation related districts shall contribute at least equal matching funds to any District financial assistance provided. Seaports may also be furnished assistance and support in planning and carrying out environmental mitigation projects. All seaport projects shall benefit publicly maintained channels and harbors. Each seaport shall contribute matching funds for funded projects.

(d) Eligible projects shall include public boat ramps and launching facilities, land acquisition for additional trailer parking at an existing boat ramp, and public boat docking and mooring facilities in man-made, navigable waterways contiguous to "waterways" as defined in Rule 66B-2.003, F.A.C.

(2) Notification: The District will notify by direct mail and/or advertised public notice all eligible governmental agencies of the program and the upcoming authorized submission period. Funding allocations to navigation related districts, member counties and local governments shall be based upon the proportional share of the District's ad valorem tax collections from each county.

(3) Project Approval: Approval of projects by the District shall be in accordance with these rules.

(4) Project Accessibility: Facilities or programs funded in whole or in part by program funds shall be made available to the general public of all of the member counties on a non-exclusive basis without regard to race, color, religion, age, sex or similar condition. Additionally, facilities funded in whole or in part by program funds, shall not require a paid membership for the general public of all of the member counties as a condition to use the facilities. User or entrance fees may be charged for the use of facilities funded in whole or in part by program funds, however such fees shall be reasonable and shall be the same for the general public of all of the member counties.

EXHIBIT A

(5) **Waterway Impacts:** All development projects must be designed so as not to impact navigation along the District's waterways through the placement of structures, attendant uses, or the necessity of a boating speed zone for safety purposes. Before applying for boating speed zone designation in District waterways because of a project funded by this program, the sponsor shall first receive approval from the Board. The Board will use the criteria found in Section 327.46(1), F.S., in determining whether to approve the proposed boating speed zone.

(6) **Project Maintenance:** The project sponsor shall be responsible for the operation, maintenance, and management of the project for the anticipated life of the project and shall be responsible for all expenses required for such purposes. The project shall be maintained in accordance with the standards of maintenance for other similar local facilities and in accordance with applicable health standards. Project facilities and improvements shall be kept reasonably safe and in reasonable repair to prevent undue deterioration and to encourage public use. The project sponsor shall have full legal authority and financial ability to operate and maintain the project facilities.

(7) **Public Information Availability:** Public information produced with assistance from this program shall not be copyrighted and shall be provided free of cost, except for the cost of reproduction, to the public.

(8) **Third-Party Project Operators:** Projects that are being operated by a third party shall have sufficient oversight by the eligible project sponsor as determined by the Board. Such oversight, at a minimum, will include a project liaison that is a staff member of the eligible project sponsor, and oversight of the operating hours and admission fees of the facility by the eligible project sponsor through a legal agreement. All third party projects shall be open to the public in accordance with this rule.

(9) **Non-compliance:** The District shall terminate a project agreement and demand return of program funds disbursed to the project sponsor for non-compliance with any of the terms of the project agreement or this rule, if such non-compliance calls into question the ability of the applicant to complete the project. Failure of a project sponsor to comply with the provisions of this rule or the project agreement shall result in the District declaring the project sponsor ineligible for further participation in the program until such time as compliance has been met to the satisfaction of the District.

Specific Authority 374.976(2) FS.

Law Implemented 374.976(1), (2) FS.

History — New 12-17-90, Amended 2-3-94, 2-6-97, Formerly 16T-2.004, Amended 5-18-98, 3-31-99, 5-25-00, 3-21-01, 7-30-02, 3-3-04, 4-21-05.

66B-2.005 — Funds Allocation.

The Board will allocate funding for this program based upon the District's overall goals, management policies, fiscal responsibilities and operational needs for the upcoming year. If funds are determined to be available for the program, the District will notify potential eligible governmental agencies of the availability of program funding. Applications will be reviewed by the Board utilizing District Forms No. 91-25 and 91-25 (a thru f) Waterways Assistance Program Application Evaluation and Rating Worksheet (effective date 4-24-06); and 93-25 and 93-25 (a, b and c) Waterways Assistance Program Navigation Districts Application Evaluation and Rating Worksheet (effective date 4-24-06), hereby incorporated by reference and available from the District office.

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(1) **Funding Assistance Availability:** In as much as the District has other fiscal responsibilities and operational needs, financial assistance to eligible government agencies shall not exceed an amount equal to eighty (80) percent of the proportional share of the District's ad valorem tax collections from each county in which such agencies are located. The District may make an exception to this funding limitation, if funds are determined to be available based upon the District's overall goals, management policies, fiscal responsibilities and operational needs, or in counties that are recovering from a state of emergency declared under Chapter 252, F.S.

2) **Project Funding Ratio:** All financial assistance and support to eligible governmental agencies shall require, at minimum, equal matching funds from the project sponsor, with the exception of public navigation projects that meet the provisions of subsection 66B-2.005(6), F.A.C., land acquisition projects in accordance with subsection 66B-2.005(6 3) and Rule 66B-2.008, and small-scale spoil island restoration and enhancement projects that meet the provisions of Rule 66B-2.014, F.A.C. Applicant's in-house costs are limited pursuant to paragraph 66B-2.007 8(1)(c), F.A.C. All financial assistance to seaports shall require equal matching funds. The District shall contribute no more than fifty (50) percent of the state share of the cost of an inlet project. The District shall not contribute funding to both the state and local shares of an inlet management project.

(3) **Pre-agreement Expenses:** The project sponsor shall not commence work on an approved project element prior to the execution of the project agreement unless authorized by the Board during the review and funding approval process. Board authorization of pre-agreement expenses will be given for the commencement of work prior to the execution of a project agreement if the Board determines that there is a benefit to the District, its waterways or its constituents. All project costs must be incurred and work performed within the project period as stipulated in the project agreement unless pre-agreement costs are approved by the Board. Pre-agreement expenses will be approved if they are consistent with the provisions of Rule 66B-2.008, F.A.C., and occur within the fiscal year of the grant application submission (October 1st to September 30th). Pre-agreement expenses, except for projects approved by the Board as multi-year projects, will be limited to fifty (50) percent of the project's total cost and if the expenses are eligible project expenses in accordance with this rule. Only one-half (1/2) or less of the approved pre-agreement expenses will be eligible for reimbursement funding from the District, except for projects approved by the Board as multi-year projects. The Board may waive the limitation on pre-agreement expenses for Small-Scale Derelict Vessel grants and land acquisition projects when the applicant demonstrates a direct need and benefit and the project is in accordance with the applicable provisions of Rule 66B-2.

(4) **Multi-Year Funding:** The construction phase of projects that are large scale, involve multiple phases, have a construction time line of one year or longer, or are requesting a significant amount of assistance funding in relation to the total assistance available for the county where the project is located, will be reviewed and approved by the District Board for a multiple year period subject to budgeting and allocation pursuant to the provisions of Chapter 200, F.S. The determination by the Board to provide assistance funding on a multi-year basis can be made at any time during the application review process.

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(5) **Seaport Funding Eligibility:** Financial assistance to seaports may exceed the proportional share of the District's ad valorem tax collections as set forth in subsection 66B-2.005(1), F.A.C., from the county in which such seaport is located if the seaport can demonstrate that a regional benefit occurs from the port's activities. Financial assistance to a seaport project that demonstrates a regional benefit shall not exceed an amount equal to (i) the proportional share of the District's ad valorem tax collections as set forth in subsection 66B-2.005(1), F.A.C., from the counties where the benefit is demonstrated less (ii) funding allocated in the same fiscal year to all other local government projects funded in those counties.

(6) **Inlet Management and Beach Renourishment:** Projects and project elements in the categories of inlet management and beach renourishment shall be subject to the following provisions. The District shall contribute no more than fifty percent of the local share of the cost of the project. The District shall not contribute funding to both the state and local shares of an inlet management or beach renourishment project. Funding for the construction phase of an inlet management or beach renourishment project may be approved by the District Board for a multiple year period subject to budgeting and allocation pursuant to the provisions of Chapter 200, F.S. Additionally the following provisions shall be met for inlet management or beach renourishment projects:

(a) **Inlet Management:** Inlet management projects shall benefit public navigation within the District and shall be consistent with Department of Environmental Protection approved inlet management plans and the statewide beach management plan pursuant to Section 161.161, F.S. Inlet management projects that are determined to be consistent with Department of Environmental Protection approved inlet management plans are declared to be a benefit to public navigation.

(b) **Beach Renourishment:** All projects in this category shall be consistent with the statewide beach management plan. Beach renourishment projects shall only include those beaches that have been adversely impacted by navigation inlets, navigation structures, navigation dredging, or a navigation project. The determination of beach areas that are adversely impacted by navigation for the purposes of this program shall be made by Department of Environmental Protection approved inlet management plans. If state funding is not provided for a beach project, public access with adequate parking must be available in accordance with Chapter 161, F.S.

(7) **Public Navigation:** Projects or project elements in the category of public navigation that will qualify for up to seventy-five percent (75%) program funds must provide public access to public launching, mooring or docking facilities. In addition, the following shall apply:

(a) **Navigation channel dredging:** The project sponsor must demonstrate that the source of channel sedimentation has been identified and is in the process of, or has been controlled, or that the frequency and amount of shoaling is such that dredging will provide an improvement to the channel that will last for twenty (20) years or more and therefore is more cost effective than identifying and correcting the cause of shoaling, or that the cost of identifying the source of channel sedimentation exceeds the cost of the dredging project.

(b) **Navigation channel lighting and markers** must be located on primary or secondary public navigation channels.

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All other public navigation projects or project elements will only qualify for up to fifty percent (50%) program funding.

(8) Land Acquisition: All land acquisition projects shall qualify for a maximum of twenty-five (25) percent program funding. All pre-agreement expenses for land acquisition must be completed within one-year of the date of application for funding.

Specific Authority 374.976(2) FS.

Law Implemented 374.976(1), (3) FS.

History — New 12-17-90, Amended 6-24-93, 9-5-96, 2-6-97, Formerly 16T-2.005, Amended 5-17-98, 8-26-99, 3-21-01, 7-30-02, 3-3-04, 4-21-05, 4-24-06, 3-25-08.

66B-2.006 — Application Process.

(1) Application Period: With the exception of eligible Disaster Relief Projects, eligible Small-Scale Spoil Island Restoration and Enhancement Project and eligible Small-Scale Derelict Vessel Applications, all applications for assistance through this program will be submitted during the authorized submission period which shall be established by vote of the Board at a scheduled meeting.

(2) Application Forms: Florida Inland Navigation District Waterways Assistance Program Project Application FIND Form Number 90-22 (effective date 4-24-06) and 93-22a, Project Information - Navigation Related Districts (effective date 4-24-06) are hereby incorporated by reference and available from the District office. With the exception of projects eligible under the Small-Scale Spoil Island Restoration and Enhancement program, and the Small-Scale Derelict Vessel program, all applications for financial assistance and support through this program from member counties and local governments shall be made on Form Number FIND 90-22 and shall include a detailed cost estimate submitted on FIND Form No. 90-25, Florida Inland Navigation District Assistance Program Project Cost Estimate, (effective date 4-24-06), hereby incorporated by reference and available from the District office. All applications for financial assistance and support through this program from navigation related districts shall be made on FIND Form Number 93-22 (effective date 4-24-06), hereby incorporated by reference and available from the District office, and shall include a detailed cost estimate submitted on FIND Form No. 90-25. In addition, all applicants shall submit a complete and detailed Project Timeline (FIND FORM No. 96-10) (effective date 04-15-07).

(3) Sponsor Resolution: The project sponsor shall approve the submission of an application by official resolution from its governing board or commission. Said resolution shall be made on FIND Form No. 90-21, Resolution for Assistance Under the Florida Inland Navigation District Waterways Assistance Program (effective date 10-14-92), hereby incorporated by reference and available from the District office.

(4) Attorney's Certification: If the application is for a project that is a land based development project the applicant shall submit an Attorney's Certification of Title, FIND Form Number 94-26 (effective date 5-25-00), hereby incorporated by reference and available from the District office.

(5) Application Review: Applications will be reviewed by the local FIND Commissioner before being submitted to the District office. Upon receipt in the District office, staff will review the applications for completeness of the informational requirements identified in the Application Checklist, FIND Form Number 90-26 (effective date 7-30-02) and for compliance with the eligibility requirements of this rule. When an application is determined by staff to be incomplete or ineligible, staff will

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immediately inform the applicant by mail. The applicant will then have until the date established by the Board in the application package to bring the application into compliance. If the applicant fails to provide a complete application in compliance with these rules, the application will not be considered for funding. In order to have a complete application, the applicant shall not only submit the forms required under Rule 66B-2.006, F.A.C., and any other information requirements identified in the Application Checklist (FIND Form Number 90-26), but such forms and other submitted information must be completely filled out, executed as applicable, and also establish compliance with Chapter 66B-2, F.A.C.

(6) **Interlocal Agreements:** Applications that the Board determines will directly benefit the maintenance of the Atlantic Intracoastal Waterway channel as documented by the District's long range dredged material management plans, will directly benefit the maintenance of the Okeechobee Waterway channel as documented by the District's long range dredged material management plan, will directly benefit the maintenance or improvement of District property, right-of-way or navigation interests, or have multiple funding partners including the Corps of Engineers as the project manager can qualify for project assistance through an interlocal agreement pursuant to Chapter 163, F.S., or Section 374.984(6)(a), F.S. District staff will identify these applications and present them to the Board for their determination as to funding. Interlocal agreement projects shall comply with all other provisions of this rule, except for pre-agreement expenses, permitting and property control requirements.

(7) **Application Presentations:** Applications determined to be complete and in compliance with this rule will be forwarded to the Board for review and then scheduled for presentation to the Board at a scheduled meeting of the Board. Applicants can decline to make a presentation to the Board by submitting a written request.

(8) **Application Evaluation and Rating Score:** Following the presentations, the Board will review the applications and evaluate them using the Waterways Assistance Program Application Evaluation and Rating Worksheets No. 91-25(a thru f) for Waterways Assistance Program applications, and 93-25 (a, b and c) Waterways Assistance Program Navigation Related Districts applications. The total points awarded to each application by the Commissioners will be averaged to determine an application's final rating score. The final rating score for each application must equal or exceed 35 points for the application to be considered for funding assistance. Reconsideration of any application with a final rating score of less than 35 points will only occur if the majority of the Commissioners evaluating the project rated the project equal to or exceeding 35 points and two-thirds of the Commissioners vote for reconsideration of the application. Only Applicants that are eligible under Rule 66B-2.0061 "Disaster Relief", shall complete FIND Form No. 91-25F Emergency Re-Construction (effective date 4-24-06).

(9) **Funding Determination:** The Board will hold a funding allocation meeting at which time the Board will determine the allocation of funds, if any, to each project and the projects will be ranked by overall average score to facilitate final funding decisions by the Board. Allocations will be based in part upon the cumulative score of the applications as calculated from the Project Evaluation and Rating Form. Allocations will also be based upon the specific needs of the individual counties.

Specific Authority 374.976(2) FS.

Law Implemented 374.976(1) FS.

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History — New 12-17-90, Amended 9-2-92, 6-24-93, 4-12-95, Formerly 16T-2.006, Amended 5-25-00, 3-21-01, 7-30-02, 3-20-03, 4-21-05, 4-24-06.

66B-2.0061 — Disaster Relief Applications.

Disaster Relief applications may be submitted to the District and considered by the Board at any time during the year to provide assistance to an eligible applicant for the removal of navigation obstructions and repair or replacement of waterway facilities damaged by a declared natural disaster. The District shall consider these applications in accordance with these rules.

Specific Authority 374.976(2) FS.

Law Implemented 374.976(1) FS.

History — New 6-24-93, Amended 2-6-97, Formerly 16T-2.0061, Amended 4-24-06.

66B-2.008 — Project Eligibility.

(1) **Eligible Projects:** Financial assistance and support through this program shall be used to plan or carry out public navigation, public recreation, environmental education, boating safety, acquisition and development of spoil sites publicly owned commercial/industrial waterway access directly related to the waterways, acquisition and development of public boat ramps, launching facilities and boat docking and mooring facilities, and inlet management, environmental mitigation and beach renourishment directly related to the waterways

(a) Program funds may be used for projects such as acquisition, planning, development, construction, reconstruction, extension, improvement, operation or maintenance of the following types of projects for public use on land and water. These project types will be arranged into a priority list each year by vote of the Board. The priority list will be distributed to applicants with the project application.

1. Public navigation channel dredging;
2. Public navigation aids and markers;
3. Inlet management projects that are a benefit to public navigation in the District;
4. Public shoreline stabilization;
5. Acquisition and development of publicly owned spoil disposal site and public commercial/industrial waterway access;
6. Waterway signs and buoys for safety, regulation or information;
7. Acquisition and development of public boat ramps and launching facilities;
8. Acquisition and development of public boat docking and mooring facilities;
9. Derelict Vessel Removal;
10. Waterways related environmental education programs and facilities;
11. Public fishing and viewing piers;
12. Public waterfront boardwalks;
13. Waterways boating safety programs and equipment;
14. Beach renourishment on beaches adversely impacted by navigation inlets, navigation structures, navigation dredging, or a navigation project; and
15. Other waterway related projects.

(b) **Ineligible Projects or Project Elements.** Project costs ineligible for program funding or matching funds will include: contingencies, miscellaneous, reoccurring personnel related costs, irrigation equipment, ball-courts, park and playground

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equipment, and any extraneous recreational amenities not directly related to the waterway such as the following:

1. Landscaping that does not provide shoreline stabilization or aquatic habitat;
2. Restrooms for non-waterway users;
3. Roadways providing access to non-waterway users;
4. Parking areas for non-waterway users;
5. Utilities for non-waterway related facilities;
6. Lighting for non-waterway related facilities;
7. Maintenance equipment;
8. Picnic shelters and furniture;
9. Vehicles to transport vessels;
10. Operational items such as fuel, oil, etc.;
11. Office space that is not incidental and necessary to the operation of the main eligible public building; and
12. Conceptual project planning, including: public surveys, opinion polls, public meetings, and organizational conferences.

(c) Project Elements with Eligibility Limits: Subject to approval by the Board of an itemized expense list:

1. The following project costs will be eligible for program funding or as matching funding if they are performed by an independent contractor:
 - a. Project management, administration and inspection;
 - b. Design, permitting, planning, engineering or surveying costs for completed construction project;
 - c. Restoration of sites disturbed during the construction of an approved project;
 - d. Equipment costs.

Before reimbursement is made by the District on any of the costs listed in subparagraph 1. above, a construction contract for the project, approved and executed by the project sponsor and project contractor must be submitted to the District.

2. Marine law enforcement and other vessels are eligible for a maximum of \$30,000 in initial District funding. All future replacement and maintenance costs of the vessel and related equipment will be the responsibility of the applicant.

3. Waterway related environmental education facility funding will be limited to those project elements directly related to the District's waterways.

(d) Phasing of Projects: Applications for eligible waterway projects will be submitted as a phased project where Phase I will include the design, engineering and permitting elements and Phase II will include the construction of the project. A description and cost estimate of the Phase II work shall be submitted along with the Phase I application for Board review. Applicants for construction projects that include elements that require state or federal environmental permits will demonstrate that all required environmental permitting and proprietary authorizations will be completed by the District's final TRIM hearing. This demonstration will be by the submission of the required environmental permit(s) or by the submission of a letter from the agency(s) stating that a permit is not required. Should the environmental permitting element of an application that has construction elements that require state or federal environmental permits not be completed by the District's final TRIM hearing, the construction portion of the project will not be considered for funding. The District will not deviate from the

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funding schedule, whereby funding decisions are completed at the final TRIM hearing, to accommodate any application deficiency.

(2) **Property Control:** The site of a new proposed land-based development project, with the exception of those projects requesting Small-Scale Spoil Island Restoration and Enhancement funding, shall be dedicated for the public use for which the project was intended for a minimum period of 25 years after project completion. Such dedication shall be in the form of a deed, lease, management agreement or other legally binding document and shall be recorded in the public property records of the county in which the property is located. This property control requirement also applies to a project site owned by another governmental entity. The governmental entity that owns the project site may be joined as a co-applicant to meet this property control requirement. Existing land based development projects that are being repaired, replaced or modified must demonstrate that the project site has been dedicated for public use for at least 25 years with at least 10 years remaining on the dedication document. Property shall also be deemed dedicated for public use if:

(a) The property has been designated for the use for which the project is intended (even though there may have been no formal dedication) in a plat or map recorded prior to 1940, or

(b) The project sponsor demonstrates that it has had exclusive control over the property for the public use for which the project is intended for a period of at least 30 years prior to submission of the application, or

(c) There is no ongoing litigation challenging the designated use of the property as shown on the plat or map, nor has there been any judicial determination contrary to the use by the public for the use shown on the plat or map.

(3) **Permits:** The project sponsor is responsible for obtaining and abiding by any and all federal, state and local permits, laws, proprietary authorizations and regulations in the development of the project.

(4) **Public Marina Qualifications:** All public marina projects funded through this program shall include sewage pumpout facilities for vessels, unless the applicant can demonstrate that inclusion of such a facility is physically, operationally or economically impracticable. All public marina projects funded through this program shall have at least ten percent (10%) of their slips or mooring areas available for transient vessels. Program funds to public marina projects shall not be utilized for maintenance of the facilities if revenues generated by the facility are not exclusively allocated to the operation, maintenance and improvement of the public marina facility.

(5) **Final Decisions:** The Board will make all final decisions on the eligibility of a Project or specific project costs.

Specific Authority 374.976(2) FS.

Law Implemented 374.976(1) — (3) FS.

History — New 12-17-90, Amended 9-2-92, 6-24-93, 2-3-94, 4-12-95, 9-5-96, 2-6-97, Formerly 16T-2.008, Amended 5-17-98, 3-31-99, 5-25-00, 3-21-01, 7-30-02, 3-20-03, 3-3-04.

66B-2.009 — Project Administration.

The District will appoint a project manager who shall be responsible for monitoring the project and the project agreement. The project manager shall also be responsible for approving all reimbursement requests. The project sponsor shall appoint a liaison agent, who will be a member of the eligible applicant's staff, to act on its behalf in

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carrying out the terms of the project agreement. Administration of the project will be as follows:

(1) **Project Agreement:** For each funded project, the District and the project sponsor will enter into a project agreement, prior to the release of program funds, setting forth the mutual obligations of the parties concerning the project. The project agreement shall incorporate the applicable policies and procedures of the program as outlined in this rule. Project agreements will be for a two-year period with the possibility for one, one-year extension. Any request for a one-year extension of funding shall require submittal by the PROJECT SPONSOR of a request for extension to the DISTRICT no later than July of fiscal year two of the approved project. This request will then be considered by the DISTRICT Board, whose decision shall be final. In review of these requests, the Board will take into consideration the current status and progress of the project and the ability of the applicant to complete the project within one additional year.

(2) **Matching Funds:** The project sponsor shall clearly identify and enumerate the amount and source of the matching funds it will be using to match the program funds supplied by the District for an approved project. The project sponsor shall provide suitable evidence that it has the matching funds available at the time the project agreement is executed.

(3) **Agreement Modification:** All proposed changes to the project agreement must be submitted to the District in writing by the project sponsor accompanied by a statement of justification for the proposed changes. All project agreement amendments shall be approved by the District Board, except that the Executive Director may approve a minor project agreement amendment for a project within a county with the local District commissioner's concurrence. A minor project amendment shall not change the approved project's category nor result in a reallocation of more than 35% of the approved funding of the project among project elements. Project agreement amendments will not include a change to the approved project's location or a change in the approved project's purpose or project type. Agreed changes shall be evidenced by a formal amendment to the project agreement and shall be in compliance with these rules.

(4) **Project Reporting:** The liaison agent will submit quarterly reports to the project manager summarizing the work accomplished since the last report, problems encountered, percentage of project completion and other appropriate information. These reports shall continue throughout the length of the project period until completion of the project. The report shall be submitted on Form 95-02, "Assistance Program Project Quarterly Status Report," dated 7-30-02, hereby incorporated by reference and available at the District office.

(5) **Reimbursement Requests:** The liaison agent may submit periodic reimbursement requests during the project period in accordance with Rule 66B-2.011, F.A.C. The project manager will approve or disapprove all reimbursement requests. The final payment of program funds will be made upon certified completion of the project by the District.

(6) **Project Inspection:** Upon reasonable request, the project manager shall have the right to inspect the project and any and all records relating to the project.

(7) **Project Completion:** The project shall be completed within three (3) years of the date of the beginning of the District's first fiscal year for which the project was approved. If the completion of a project is impacted by a declared state of emergency and

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the Board waives this rule section, the extension of time granted shall not exceed one additional three (3) year period.

(8) Project Completion Requirements: Upon completion of the project, the liaison agent shall provide the following to the project manager:

(a) A Project Completion Certificate, FIND Form No. 90-13 (effective date 7-30-02), hereby incorporated by reference and available from the District office, which certifies that the project was completed in accordance with the project agreement and the final project plans.

(b) A final reimbursement request accompanied by all required billing statements and vouchers.

(c) Photograph(s) showing the installation of the sign required by Rule 66B-2.013, F.A.C.

(d) Photograph(s) of the completed project clearly showing the program improvements.

(9) Project Completion Review: The project manager will review the project completion package and will authorize or reject the final reimbursement payment which will include all retained funds from previous requests.

Specific Authority 374.976(2) FS.

Law Implemented 374.976(1) FS.

History — New 12-17-90, Formerly 16T-2.009, Amended 3-21-01, 7-30-02.

66B-2.011 — Reimbursement.

The District shall release program funds in accordance with the terms and conditions set forth in the project agreement. This release of program funds shall be on a reimbursement only basis. The District shall reimburse the project sponsor for project costs expended on the project in accordance with the project agreement. Project funds to be reimbursed will require the submission of a Reimbursement Request Form and required supporting documents, FIND Form No. 90-14 (effective date 7-30-02), hereby incorporated by reference and available from the District office.

(1) Authorized Expenditures: Project funds shall not be spent except as consistent with the project agreement cost estimate that was approved by the Board, which shall be an attachment to the project agreement. This cost estimate will establish the maximum funding assistance provided by the District and the percentage of funding provided by each party to the project. The District will pay the lesser of (a) the percentage total of project funding that the Board has agreed to fund, or (b) the maximum application funding assistance amount.

(2) Phase I Reimbursement: In accordance with these rules, reimbursement cannot be made on a Phase I application until a construction contract is executed by the applicant for the construction phase of the project. If the Phase I project is completed but a construction contract is not executed by the three (3) year project deadline, then the District shall only allow one (1) year from the Phase I project deadline to enter into the required construction contract before the Phase I funding is cancelled.

(3) Reimbursement Requests: All project costs shall be reported to the District and summarized on the Reimbursement Request Form. All requests for reimbursement shall include supporting documentation such as billing statements for work performed and cancelled payment vouchers for expenditures made.

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(4) **Retainage:** The District shall retain ten percent (10%) of all reimbursement payments until final certification of completion of the project. The District shall withhold any reimbursement payment, either in whole or part, for non-compliance with the terms of this agreement.

(5) **Check Presentations:** A District representative shall present the final reimbursement check to the project sponsor during a public commission meeting or public dedication ceremony for the project facility.

Specific Authority 374.976(2) FS.

Law Implemented 374.976(1) FS.

History — New 12-17-90, Amended 6-24-93, Formerly 16T-2.011, Amended 3-31-99, 7-30-02.

66B-2.012 — Accountability.

The following procedures shall govern the accountability of program funds:

(1) **Accounting:** Each project sponsor is responsible for maintaining an accounting system which meets generally accepted accounting principles and for maintaining such financial records as necessary to properly account for all program funds.

(2) **Quarterly Reports:** The project sponsor shall submit quarterly project status reports to FIND in accordance with subsection 66B-2.009(4), F.A.C.

(3) **Completion Certification:** All required final completion certification documents and materials as outlined in subsection 66B-2.009(8), F.A.C., of this rule shall be submitted to the District prior to final reimbursement of program funds.

(4) **Auditing:** All project records including project costs shall be available for review by the District or by an auditor selected by the District for 3 years after completion of the project. Any such audit expenses incurred shall be borne entirely by the project sponsor.

(5) **Project Records:** The project sponsor shall retain all records supporting project costs for three years after either the completion of the project or the final reimbursement payment, whichever is later, except that should any litigation, claim, or special audit arise before the expiration of the three year period, the project sponsor shall retain all records until the final resolution of such matters.

(6) **Repayment:** If it is found by any State, County, FIND, or independent audit that program funds have not been used in accordance with this rule and applicable laws, the project sponsor shall repay the misused program funds to the District.

Specific Authority 374.976(2) FS.

Law Implemented 374.976(1) FS.

History — New 12-17-90, Formerly 16T-2.012, Amended 7-30-02.

66B-2.013 — Acknowledgement.

The project sponsor shall erect a permanent sign, approved by the District, in a prominent location at the completed project which indicates the District's participation in the project. This sign shall contain the FIND logo. In the event that the project sponsor erects a temporary construction sign, this sign shall also recognize the District's participation. If the final product of the project is a report, study or other publication, the District's sponsorship of that publication shall be prominently indicated at the beginning of the publication. If the project results in an educational display, the District's logo and a statement of the District's participation in the project shall be contained in the display.

Specific Authority 374.976(2) FS.

Law Implemented 374.976(1) FS.

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History — New 12-17-90, Formerly 16T-2.013.

66B-2.014 — Small-Scale Spoil Island Restoration and Enhancement Projects.

Proposals shall be accepted for the restoration or enhancement of spoil islands and natural islands within the District's waterways for recreational, navigational, educational, and environmental purposes. The applicable provisions of this rule apply to these applications with the following additions or exceptions:

(1) Application Procedure — A Request for Proposals procedure will be used to request proposals for consideration. Proposals shall follow the format described in FIND Document #03-02, Call for Proposals — Small-Scale Spoil Island Restoration and Enhancement Program (effective date 7-30-02), hereby incorporated by reference and available from the District office. Proposals may be submitted to the District and considered by the Board at any time during the year.

(2) Matching Funds: Small-scale spoil island restoration and enhancement may qualify for up to ninety percent (90%) program funds. The applicant's ten percent (10%) matching funds may include in-kind contribution pursuant to paragraph 66B-2.014(4)(b), F.A.C.

(3) Eligibility: All proposals must meet the following eligibility criteria to be considered for funding.

(a) Management Plan Compliance: Projects shall be in compliance with the provisions of any Spoil Island Management Plans or other management plans that govern the Project site.

(b) Property Control: The Project Sponsor must have written property rights on the Project site to construct and maintain the Project for a minimum of five years. Such property rights can be in the form of a lease, interlocal agreement, use agreement or other legal form approved by the District.

(4) Funds Allocation: Funds shall be allocated pursuant to Rule 66B-2.005, F.A.C., subject to the exceptions identified in this rule, and with the following additions:

(a) The District shall fund a maximum of up to \$7,500 per project, not to exceed \$22,500 per County, per fiscal year.

(b) The Project Sponsor may contribute in-kind construction labor; such in-kind construction labor costs will not be counted by the District as exceeding \$10.00 per hour. No administrative costs can be incorporated into the Project as Project costs.

(c) The funding provided by the District shall only be allocated for specific Project expenses such as construction materials, plant materials, herbicides, etc. The funding provided by the District shall not be allocated for parties, food or beverages.

(5) Hold Harmless Waiver: All volunteers, who are not government employees, shall sign a hold harmless waiver Form No. 02-01 (New 7-30-02) as approved by the District and hereby incorporated by reference and available from the District office.

Specific Authority 374.976(2) FS.

Law Implemented 374.976(1) FS.

History — New 7-30-02, Amended 4-24-06.

66B-2.015 — Small-Scale Derelict Vessel Removal Projects.

Proposals shall be accepted for financial assistance for the removal of derelict vessels within the District's waterways. The applicable provisions of this rule apply to these applications with the following additions or exceptions:

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(1) Application Procedure — Applications shall be submitted on a completed FIND Form No. 05-01 (Small-Scale Derelict Vessel Removal Program) (effective date 4-24-06), and FIND Form No. 01-06 (Small-Scale Derelict Vessel Removal Program – Project Cost Estimate), (effective date 4-24-06), hereby incorporated by reference and available from the District office. Applications may be submitted to the District and considered by the Board at any time during the year.

(2) The District shall only fund applicants that have identified derelict vessels to be removed and have a current bid for removal for such vessels, or have completed the removal of such vessels within the 6 months preceding the application, subject to eligibility under these program rules.

(3) The program must be sponsored by an eligible government agency or not-for-profit organization.

(4) District funding shall be limited to \$20,000 per county, per year, provided on a reimbursement basis only. The limitation on pre-agreement expenses may be waived by the Board in accordance with Rule 66B-2.005(3).

(5) The eligible applicant must provide the remaining matching funds for project completion. In no case shall the District's cost-share contribution exceed 50% 75% of the total project costs. In-house project management or administration costs are not eligible costs or matching costs.

(6) The derelict vessel must be located in the District's Waterways, as defined in section 66B-2.003.

(7) The District shall be recognized when possible in all written, audio or video advertising and promotions as a participating sponsor of the program.

(8) The funding provided by the District shall only be allocated for removal of derelict vessels. The District is providing program reimbursement funds only and shall be held harmless with regards to the activities initiated by the applicant.

(9) The applicant shall be responsible for all maintenance, management, disposal and operating expenses associated with the program.

(10) Funds derived from the sale of any derelict vessels or vessel parts removed through this grant program must be reinvested into the applicant's derelict vessel removal program.

(11) The District Board shall make all final decisions concerning the provision of funding for this program.

Specific Authority 374.976(2) FS.

Law Implemented 374.976(1) FS.

History — New 4-24-06. Amended 4-15-07, 3-25-08.

Exhibit B

**FLORIDA INLAND NAVIGATION DISTRICT
ASSISTANCE PROGRAM**

PROJECT COST ESTIMATE

(See Rule Section 66B-2.005 & 2.008 for eligibility and funding ratios)

PROJECT TITLE: Snook Islands Public Use Facilities

APPLICANT: Palm Beach County Board of County Commissioners

Project Elements <i>(Please list the MAJOR project elements and provide a general cost break out for each one. For Phase I Projects, please list the major elements and products expected)</i>	Quantity Estimated Cost (Number and/or Footage)	Total Costs	Applicant's Cost	FIND Cost
<u>Construction Costs</u>				
Mobilization	N/A	\$60,000	\$60,000	\$0
Removal of Old Bridge Section (14 spans – 550' long)	N/A	\$225,000	\$225,000	\$0
Construction of a 578' boardwalk & 662' fishing pier (6' wide)	1240 lin. ft @\$510/lin. ft	\$632,400	\$139,825	\$492,575
15' x 15' Gazebo	@\$110/sq. ft.	\$24,750	\$24,750	\$0
2 Educational Kiosks	\$15,000 ea.	\$30,000	\$30,000	\$0
Construction of Boat Docks (3 Floating Docks 8' x 25')	(Dock--600 sq. ft.) @\$170/sq.ft.	\$102,000	\$0	\$22,000
(3 Boat Ramps 5' x 80')	@15,000 each	\$45,000	\$0	\$45,000
TOTALS =		\$ 1,119,150	\$ 559,575	\$ 559,575

***Other Project Costs**

*Design and Permitting	N/A	\$50,000	\$50,000	\$0
*Surveys, Engineering and Bid Process	N/A	\$50,000	\$50,000	\$0
*Project Management	N/A	\$60,000	\$60,000	\$0

Additional Costs \$160,000 \$160,000 \$0

* Work performed by ERM staff not included in the calculations for project costs.

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EXHIBIT C

FLORIDA INLAND NAVIGATION DISTRICT

ASSISTANCE PROGRAM

Matching Funds Certification

Sponsor: Palm Beach County - Department of Environmental Resources Mgmt.

Project Title: Snook Islands Public Use Facilities Project #: PB-08-133

I hereby certify that the above referenced project Sponsor, as of October 01, 20 , has the required matching funds for the accomplishment of the referenced project in accordance with the Waterways Assistance Program Project Agreement between the Florida Inland Navigation District and the Sponsor, dated October 2008.*

Project Liaison Name: Richard E. Walesky, Director

Project Liaison Signature: *Richard E. Walesky*

Date: 11/6/08

*S. 837.06 Florida Statutes, False official statements. - Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 F.S.

EXHIBIT D

FLORIDA INLAND NAVIGATION DISTRICT
ASSISTANCE PROGRAM
PAYMENT REIMBURSEMENT REQUEST FORM

PROJECT NAME: _____ PROJECT NO.: _____

PROJECT SPONSOR: _____ BILLING NO.: _____

Amount of Assistance		_____
All Funds Previously Requested	✍	_____
Balance Available	=	_____
Funds Requested		_____
Less Retainage (-10% unless final)	✍	_____
Check Amount	=	_____
Balance Available		_____
Less Check Amount	✍	_____
Balance Remaining	=	_____

SCHEDULE OF EXPENDITURES

Expense Description (Should correspond to Cost Estimate Sheet Categories in Exhibit "B")	Check No. Vendor Name and Date	Total Cost	Applicant Cost	FIND Cost
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EXHIBIT D (CONTINUED)

SCHEDULE OF EXPENDITURES

Expense Description (Should correspond to Cost Estimate Sheet Categories in Exhibit "B")	Vendor Name	Check No. and Date	Total Cost	Applicant Cost	FIND Cost
---	--------------------	-------------------------------	-----------------------	---------------------------	----------------------

Certification for Reimbursement: I certify that the above expenses were necessary and reasonable for the accomplishment of the approved project and that these expenses are in accordance with Exhibit "B" of the Project Agreement. *

Project Liaison

Date

*S. 837.06 Florida Statutes, False official statements. - Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 F.S.

EXHIBIT E
FLORIDA INLAND NAVIGATION DISTRICT
ASSISTANCE PROGRAM

Project Completion Certification

Sponsor: _____

Project Title: _____ Project #: _____

I hereby certify that the above referenced project was completed in accordance with the Assistance Program Project Agreement between the Florida Inland Navigation District and _____, dated _____, 20____, and that all funds were expended in accordance with Exhibit "B" and Paragraph 1 of the Project Agreement. *

Project Liaison Name: _____

Project Liaison Signature: _____

Date: _____

*S. 837.06 Florida Statutes, False official statements. - Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 F.S.

EXHIBIT F

**ASSISTANCE PROGRAM PROJECT
QUARTERLY STATUS REPORT**

<http://www.aicw.org/wap/wap.htm>

PROJECT NO. _____

PROJECT TITLE: _____

PROJECT SPONSOR: _____

REPORT PERIOD

Oct 1-DEC 15 ___ ; Dec 15-Mar 1 ___ ; Mar 1-June 15 ___ ; June 15-Sep 1 ___
Report Due: (Dec 30) (March 15) (June 30) (Sep 15)

WORK ACCOMPLISHED:

PROBLEMS ENCOUNTERED:

PERCENTAGE COMPLETION:

OTHER NOTABLE ITEMS:

EXHIBIT G

WATERWAYS ASSISTANCE PROJECT SCHEDULE

OCTOBER 2008 - Project Agreement Executed, Project Initiates.

DECEMBER 30, 2008 - First Quarterly Report Due.

MARCH 15, 2009 - Second Quarterly Report Due.

JUNE 30, 2009 - Third Quarterly Report Due.

SEPTEMBER 15, 2009 - Fourth Quarterly Report Due.

DECEMBER 30, 2009 - Fifth Quarterly Report Due.

MARCH 15, 2010 - Sixth Quarterly Report Due.

JUNE 30, 2010 - Seventh Quarterly Report Due.

NOTE: If project will not be completed and all close out paperwork submitted by September 1st, a request for an extension of the completion date of the project should be submitted with the quarterly report.

SEPTEMBER 01, 2010 - Closeout paperwork due.

SEPTEMBER 30, 2010 - District finishes processing closeout paperwork, performs project inspection and submits final reimbursement check to sponsor.

NOTE: Any modifications to the PROJECT shall require advance notice and prior written approval of the District. The appropriate timing for modifications to the project cost estimate, Exhibit B, would be after receipt of bids.

***NON-COMPLIANCE by the PROJECT SPONSOR with the reporting schedule in Exhibit B may result in revocation of this agreement pursuant to Paragraph 13 of the project agreement.**

EXHIBIT H



2009 - 0322

BGEX - 380 - 1027080000000000357

BGRV - 380 - 1027080000000000115

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA

BUDGET AMENDMENT
Fund 3900 Capital Outlay Fund

ACCOUNT NAME AND NUMBER	ORIGINAL	CURRENT	INCREASE	DECREASE	ADJUSTED ENCUMBERED		REMAINING
	BUDGET	BUDGET			BUDGET	/ Expended	
						10/27/2008	
<u>REVENUES</u>							
800-9100 Transfers	8033 Transfer Natural Areas Fund 1226	4,213,634	4,543,989	0	338,500	4,205,489	
381-E455 Transfers	8065 Transfer from MPO Fund 1360	0	100,000	0	100,000	0	
TOTAL RECEIPTS & BALANCES		44,382,203	43,140,726	0	438,500	42,702,226	
<u>EXPENDITURES</u>							
381-E455 Snook Islands Public Use Facility 6504-IOTB non Infrastructure		339,500	338,500	0	338,500	0	0
381-E455 Snook Islands Public Use Facility 6505-Design, Engineering and Mgmt		0	100,000	0	100,000	0	0
TOTAL APPROPRIATIONS & EXPENDITURES		44,382,203	43,140,726	0	438,500	42,702,226	

Environmental Resources

Management

INITIATING DEPARTMENT/DIVISION

Administration/Budget Department Approval

OFMB Department - Posted

Signatures & Dates

Richard E. Wolby 11/6/08
atwillhite 11-20-08

11/19/08

BY BOARD OF COUNTY COMMISSIONERS

AT MEETING OF

December 2, 2008

Deputy Clerk to the

Board of County Commissioners

36

2009 - 0323

BGEX -380-1027080000000000353

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA

BUDGET TRANSFER

Fund 1226 Natural Areas FundMetro Planning Organization

ACCOUNT NAME AND NUMBER	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	ENC/EXP 1/1/2008	REMAINING BALANCE
<u>Appropriations</u>							
<u>Reserve Natural Areas</u>							
380-3195 9909 -Reserve Improvement Prgm	1,276,494	946,139	338,500	0	1,284,639	0	1,284,639
<u>Transfers</u>							
820-3290 9207 - Transfer to Fund 3900	4,213,634	4,543,939	0	338,500	4,882,439	0	4,882,439
			338,500	338,500			

Signatures & Dates

BY BOARD OF COUNTY COMMISSIONERS

AT MEETING OF

December 2, 2008

Deputy Clerk to the

Board of County Commissioners

Metropolitan Planning Organization

INITIATING DEPARTMENT/DIVISION

Administration/Budget Department Approval

OFMB Department - Posted

Richard E. Walerby 11/6/08
atwillhite 11-20-08

A 11/19/08

2009 - 0324

BGEX - 380 - 10270800000000000348

BGRV - 380 - 10270800000000000113

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA

BUDGET AMENDMENT

Fund 3654 Environmental Capital Projects Fund

ACCOUNT NAME AND NUMBER	ORIGINAL	CURRENT	INCREASE	DECREASE	ADJUSTED ENCUMBERED	REMAINING
	BUDGET	BUDGET			BUDGET / Expended	
					10/27/2008	
<u>REVENUES</u>						
381-E455 Snook Islands Public Use Facility 3703 Grant Other Local Capital Phys Envir	0	0	559,575		559,575	
800-9100 Transfers 8065 Transfer from MPO Fund 1360	0	0	100,000	0	100,000	
TOTAL RECEIPTS & BALANCES	0	0	659,575	0	659,575	
<u>EXPENDITURES</u>						
381-E455 Snook Islands Public Use Facility 6504-IOTB Non Infrastructure	0	0	559,575	0	559,575	559,575
381-E455 Snook Islands Public Use Facility 6505-Design, Engineering and Mgmt	0	0	100,000	0	100,000	
TOTAL APPROPRIATIONS & EXPENDITURES	0	0	659,575	0	659,575	

Environmental Resources
Management

INITIATING DEPARTMENT/DIVISION
Administration/Budget Department Approval
OFMB Department - Posted

Signatures & Dates

Richard E. Umehly 11/6/08
Atwillwhite 11-20-08
11/19/08

BY BOARD OF COUNTY COMMISSIONERS
AT MEETING OF

December 2, 2008

Deputy Clerk to the
Board of County Commissioners

34

2009 -

0325

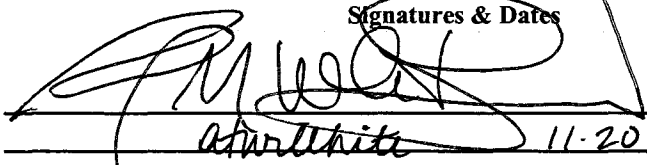
BGEX -380-1027080000000000352

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA

BUDGET TRANSFER
Fund 1360 Metro Planning Organization

ACCOUNT NAME AND NUMBER	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	ENC/EXP 10/27/2008	REMAINING BALANCE
Appropriations							
<u>PBC Water Taxi Facilities</u>							
820-5648 9207 - Transfer to Fund 3900	0	100,000	0	100,000	0	0	0
<u>PBC Water Taxi Facilities</u>							
820-5648 9367 - Transfer to Fund 3654	0	0	100,000	0	100,000	0	0
			100,000	100,000			

Metropolitan Planning Organization
INITIATING DEPARTMENT/DIVISION
Administration/Budget Department Approval
OFMB Department - Posted

Signatures & Dates

Adam White 11-20-08
11/18/08

BY BOARD OF COUNTY COMMISSIONERS
AT MEETING OF
December 2, 2008
Deputy Clerk to the
Board of County Commissioners

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