

**CITY OF VERO BEACH, FLORIDA
NOVEMBER 2, 2010 9:30 A.M.
REGULAR CITY COUNCIL MEETING
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

A G E N D A

1. CALL TO ORDER

- A. Roll Call
- B. Invocation – Pastor Shelly Satran/Our Savior Lutheran Church
- C. Pledge of Allegiance

2. PRELIMINARY MATTERS

- A. Agenda Additions, Deletions, and Adoption
- B. Proclamations
 - 1. Plaque to be given to Councilmember Tom White thanking him for his years of service to the City of Vero Beach
 - 2. Veterans Day
- C. Public Comment
- D. Adoption of Consent Agenda
 - 1. Regular City Council Minutes – October 19, 2010
 - 2. Regular City Council Minutes – October 5, 2010
 - 3. Renewal of Sovereignty Submerged Land Lease
 - 4. MacWilliam Park Boat Ramp Reconstruction Project Agreement for FIND Grant Property #IR-B-10-50 COVB Project #2010-05

(The matters listed on the consent agenda will be acted upon by the City Council in a single vote unless any Councilmember requests that any specific item be considered separately.)

3. PUBLIC HEARINGS

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

5. FIRST READINGS BY TITLE FOR ORDINANCES AND RESOLUTIONS THAT REQUIRE A FUTURE PUBLIC HEARING

6. CITY CLERK'S MATTERS

7. CITY MANAGER'S MATTERS

A) Report on Local Preference Ordinance

8. CITY ATTORNEY'S MATTERS

9. CITY COUNCIL MATTERS

- A. Old Business
- B. New Business

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

- A. Mayor Kevin Sawnick's Matters
 - 1. Correspondence
 - 2. Committee Reports
 - 3. Comments
- B. Vice Mayor Sabin Abell's Matters
 - 1. Correspondence
 - 2. Committee Reports
 - 3. Comments
- C. Councilmember Tom White's Matters
 - 1. Correspondence
 - 2. Committee Reports
 - 3. Comments
- D. Councilmember Brian Heady's Matters
 - 1. Correspondence
 - 2. Committee Reports
 - 3. Comments
- E. Councilmember Ken Daige's Matters
 - 1. Correspondence
 - 2. Committee Reports
 - 3. Comments

11. ADJOURNMENT

Council Meetings will be televised on Channel 13 and replayed.

This is a Public Meeting. Should any interested party seek to appeal any decision made by Council with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings and that, for such purpose he may need to ensure that a record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based. Anyone who needs a special accommodation for this meeting

may contact the City's Americans with Disabilities Act (ADA) Coordinator at 978-4920 at least 48 hours in advance of the meeting.

**CITY OF VERO BEACH, FLORIDA
NOVEMBER 2, 2010 9:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

1. CALL TO ORDER

A. Roll Call

Mayor Kevin Sawnick, present; Vice Mayor Sabin Abell, present; Councilmember Tom White, present; Councilmember Brian Heady, present and Councilmember Ken Daige, present **Also Present:** Monte Falls, Interim City Manager; Charlie Vitunac, City Attorney and Tammy Vock, City Clerk

B. Invocation

The invocation was given by Pastor Shelly Satran of Our Savior Lutheran Church.

C. Pledge of Allegiance

The audience and the Council joined in the Pledge of Allegiance to the flag.

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

Mrs. Tammy Vock, City Clerk, requested that item 7-B) be added on to the agenda under City Manager's Matters, which would be titled "Vero Beach Sports Village Minor League Baseball." She also requested that item 8-A) be added to the agenda under City Attorney's Matters, which would be titled "Update on Brian Heady Federal Lawsuit."

Mayor Sawnick made a motion to approve adding item 7-B) on to the agenda. Mr. Abell seconded the motion and it passed unanimously.

Mayor Sawnick made a motion to approve adding item 8-A) on to the agenda. Mr. White seconded the motion and it passed unanimously.

Mr. Heady asked if there was any backup for item 8-A).

Mr. Charles Vitunac, City Attorney, answered no. He stated that there is no action requested on item 8-A) and the outcome of the case was announced after the agenda had already closed.

Mr. Heady said that whether there is action requested or not, there has been a history of this Council not allowing things on the agenda without backup. He wanted the record to

show that this item was added to the agenda with Council approval and there is no backup provided.

Mayor Sawnick made a motion to adopt the agenda as amended. Mr. Daige seconded the motion and it passed unanimously.

B. Proclamations

1. Plaque to be given to Councilmember Tom White thanking him for his years of service to the City of Vero Beach

Councilmember White received a plaque thanking him for all his years of service to the City of Vero Beach.

2. Veterans Day

Mayor Sawnick read and presented the proclamation.

C. Public Comment

Mr. Kenneth Brandenburg, Vice President of the Original Town Neighborhood Association, read a prepared statement (please see attached). He had some concerns about the Go-Line bus “hub” in his neighborhood. He said that if the County moves the location to the new proposed location, it will not help their neighborhood because it is still within their boundaries.

Mr. White asked Mr. Monte Falls, Interim City Manager, to give an update on the Go-Line buses under City Manager’s Matters.

Council had no problems with Mr. Falls giving a report at this time.

Mr. Falls reported that staff sent a letter to the County Administrator regarding their concerns about the buses being parked there overnight. Last week the City received a temporary site plan for that location and the City would not approve overnight parking of buses in that location. The City has not received a preliminary site plan for the Veterans Services building site yet. They met with County staff and with the Senior Resources and discussed some alternative locations for the site. They (Senior Resources) are adamant that a location within the central area in Vero Beach is critical to making their routes work out. The City suggested some areas that were not in the City limits and were told that they would not work in routing of the buses. He noted that the City would continue to work with them on this.

Mr. Daige said that there were some comments that he would like to make after Public Input.

Mr. Heady said one of things that the City benefits from is being a hub and one of the things that this Council has voted on and voted in favor of is bringing a train into the City and again, expanding the hub idea. He understood that Original Town does not want this particular activity in their section of town, but it seemed to him that for a bus system to operate effectively it needs to be somewhat near the hub of the community and that would be in the City. With respect to the Veterans, unfortunately the older Veterans are becoming fewer and the younger Veterans are increasing in numbers because we keep making more Veterans in need of services because of what we do in the Middle East and other sections of the world. But, the comments on Veterans are interesting because those Veterans fought to protect everyone's rights and that is those who can afford private transportation and those who, unfortunately need to use public transportation. He was not necessarily opposed or in favor of the particular location, where it is now. But, moving it over to the Veterans building, he is in that building and he works with the Veterans and is there several days a week. He said from seeing the size of the operation where it currently is, that there is not enough room on the site where the Veterans building is, there is not enough room to accommodate the activity that is going on there now. Over at the County office building, behind what is now the Health Department and behind Building B (the Property Appraiser, Tax Assessor) on the back side, maybe that is an area they could look at that would not put it near any neighborhood. On the north side of that area is the relief canal and the Airport and it is only a few steps from where the central hub location is now. That is an area they might want to look at. Wherever they look at, one of the things that needs to be taken into consideration is there needs to be some facilities for people. He said that he has heard some problems from Original Town where they have had some difficulty. As far as foot traffic is concerned, the problems with foot traffic, foot traffic is one of the things they try to encourage, and the public transportation and foot traffic are overall helpful to the community and he understands the sidewalk problem that the gentleman talked about, but those are some thoughts.

Ms. Dorothy Mat, 2465 15th Avenue, said that she was probably the closest house to where the bus station is being proposed. She said that when they talk about no sidewalks, they mean that people are walking down the middle of the street. They are families with toddlers, babies in strollers, etc., that are going in between the traffic. She said that not having sidewalks is an issue. She said that their neighborhood has 66 homes and the reason people moved there is because they are small affordable homes. She asked everyone attending today's meeting who lives in Original Town to stand up. She thanked them all for attending today's meeting. She said that they need to preserve their neighborhood. She stated that when she moved there she was told that there was going to be a children's playground, which has not happened. She said that Mayor Sawnick and his generation represent the future of our City. She challenged Council to put together a Task Force of people to come up with an idea that is a win-win situation. She felt that they could preserve the oldest neighborhood in Vero Beach.

Mr. Heady asked to speak.

Mayor Sawnick said there were two more citizens who would like to speak.

Mr. Heady said so you are not going to allow me to speak to the remarks made by this speaker at this time.

Mayor Sawnick thought that the topic was about Original Town and it would be good to hear all of the speakers first.

Mr. Heady asked how the Mayor would know what they are going to speak on. He said it is Matters by the Public. He has comments for this speaker, Mr. Mayor.

Mayor Sawnick asked the next speaker to state her name and address for the record.

Mr. Heady said Mr. Mayor.

Mayor Sawnick told Mr. Heady after he lets the people speak then he could make his comments. He said that is his ruling at this time.

Mr. Heady appealed the Mayor's ruling.

Mayor Sawnick said at this point we are going to continue with Public Comment.

Mr. Heady asked are you going to allow an appeal of your ruling.

Mayor Sawnick asked Mr. Heady if he would like to make an appeal.

Mr. Heady said that he just did.

Mayor Sawnick asked is there a second to the appeal. There was no second to the appeal. He continued on with Public Comments.

Ms. Dorothy Will stated that she owns a duplex at 2458 15th Avenue. Shortly after she purchased the duplex someone tried to rape her in her home. She said it is a horrifying thing to have someone try to rape you in your own house. She then started the Crime Watch in Vero Beach. She said that they do not need any more problems in that area then what they have now. She wants to keep their neighborhood safe and she does not want those buses over there.

Mr. Heady had some questions.

Mayor Sawnick said they would continue with public comments.

Mr. Heady said that he had some questions.

Mayor Sawnick said Mr. Heady, we will wait until after public comments.

Mr. Heady said then you (Mayor Sawnick) are not going to allow me to ask questions of this speaker.

Mayor Sawnick said they just discussed that.

Mr. Heady appealed the Mayor's decision.

Mayor Sawnick asked for a second on the appeal. There was no second to the appeal.

Mrs. Anna Pease, 2436 17th Avenue, said on October 27, 2010 at 3:30 p.m. her husband received a telephone call from a neighbor stating that there was a very intoxicated man in their neighborhood going house to house. This man ended up passed out on her front porch. She said that he tried to get into their backyard and the Police were notified. She said that she is a stay at home mother with her daughter and she has a child in kindergarten. She happened to not be home the day that this occurred. She said that her goal and purpose in life is to protect her children. She does not feel safe in her home or in her neighborhood. She said that if she had been there that day and seen that man, they could only imagine the fear that a mother would have, not only for herself but for her children. She was present today asking them (City Council) to put themselves in her position and not to feel safe in their own home. She said that since the buses have been there, it has been disaster after disaster and nothing is being done about it. They try, as parents, to protect their children. She said that she does not feel safe allowing her children to go to the mailbox because of the constant traffic.

Mrs. Linda Hillman, 2315 18th Avenue, said now Council has heard from the rest of the neighborhood. She said that she urged them to come forward because this is a serious problem. The City in the past year approved and paid for a comprehensive plan for two neighborhoods. This plan is to preserve the neighborhoods. She heard Mr. Heady say that in order to have a bus system it has to be a hub. She said a hub is not on the outside of a wheel. It is in the center of the wheel. The current location is on the outside of this hub. If the buses provide transportation to the hub of Vero Beach place it back into the Downtown area, which is the hub of Vero Beach. The City did not want the buses there for a reason. With a child's playground there, it was proposing a problem. Parents did not feel safe going to Pocahontas Park. Thousands of dollars were spent to make that area safe. The City asked that the buses be moved and they were moved to the outside of the same neighborhood that abuts the Downtown area. If they are not approved to park buses at the temporary sight then why are they still there. She asked that everyone to please get these buses out of this neighborhood. That they find a way to stop the problem that these buses are creating and put the buses where they belong, at their own property. She said that bus stops are wonderful, but they don't have to be in one area of a residential neighborhood in order to transport people. She said that their neighborhood is not safe and it is not fair to not feel secure in their neighborhood.

Mr. Heady said that he had some questions.

Mayor Sawnick asked should the buses be parking there overnight.

Mr. Falls said that it is not approved by site plan.

Mayor Sawnick said then they can contact the County.

Mr. White said they need to send a letter stating that they do not need to park those buses there overnight.

Mr. Heady asked that the second speaker approach the dais.

Mayor Sawnick did not feel that was appropriate. He said that if she would like to approach the dais she can. He said that this is not an interrogation.

Mr. Heady said that people can't take time off and that is one of the reasons why he has been in favor of a night time and a day time meeting. He said that they need to schedule the meetings so that Council is available to all of the public. He felt that the morning and afternoon meetings accommodate that. He said that she made a comment about no representation and he would argue that she just talked to five elected officials (City Council) so she clearly does have representation. He said that the City Manager has been working on this and he is also on her payroll as well as all of the City Councilmembers. He felt that she does have representation.

Ms. Dorothy Mat said maybe they don't have communication.

Mr. Heady agreed that communication is a problem. He said that she mentioned people walking. He asked where are they walking from.

Ms. Mat said that they were coming from the other side of Route 60. She said that they are walking eight to twelve blocks.

Mr. Heady said if they knew where they were walking from they could possibly get a hold of the individual in charge of scheduling the routes and if they moved a couple of the stops, that might help.

Ms. Mat said strategically planning those stops would help tremendously. She did not think that they had any input into where the stops are placed.

Mr. Heady said that maybe they could get a survey from the people who are walking through the neighborhoods then put the stops closer to their homes, which would help with this situation.

Ms. Mat said that this is being lead by the Senior Resource Association. She said that she has never seen anyone over the age of 70 at that bus hub.

Mr. Heady had questions for the third speaker.

Mayor Sawnick did not think it was appropriate to be calling up people and asking them questions.

Mr. Heady said that he had questions for that speaker. It would have been a whole lot more effective use of time if he (the Mayor) had allowed him to talk to the speaker when they were at the dais, but the Mayor cuts him off on a regular basis and allows other Councilmembers at other times to ask speakers questions.

Mayor Sawnick asked if there were any objections from Council.

Mr. Daige said it is up to the speakers if they want to answer questions.

Mr. Heady said Ms. Will talked about a violent crime. He asked how long ago was that.

Ms. Dorothy Will answered about 30 years ago.

Mr. Heady asked Ms. Will if she knew what the crime rate is now verses what it was then.

Ms. Will did not know, but said that her daughter's home was broken into not too long ago.

Mr. Heady said that if you have one crime committed against you then the crime rate is very high. He said that he would see if he could get the City Manager find out if that kind of data is available as to the crime rate in particular neighborhoods.

Mr. Heady said that he has questions for Mrs. Hillman.

Mayor Sawnick said as long as Mrs. Hillman doesn't mind coming up to the dais. He still felt that it was inappropriate, but they would continue on since she was their last speaker.

Mr. Heady said that she talked about the current location as not being a hub. He asked for her definition of where the hub of the City ends (at what Street).

Mrs. Hillman said that she did not have an idea of where the hub would end, but the hub, just like on a wheel, is in the middle.

Mr. Heady said that he wanted to know if she had a definition. He said that clearly she was stating that this was not the hub, so he wanted to know if she had a definition of where the hub ended. He said that she talked about moving the location and asked if she any specific thoughts on where the new location should be.

Mrs. Hillman answered where it was before, in the downtown area.

Mr. Heady asked for an address.

Mrs. Hillman said it was located in the back of the Chamber of Commerce.

Mr. Heady asked so you think back by the Heritage Center and the Chamber of Commerce is where it belongs.

Mrs. Hillman answered yes.

Mr. Heady asked that is not too close to the neighborhood and would be acceptable.

Mrs. Hillman said that the traffic would not be walking through the neighborhood, they would not have the trash in their neighborhood, and they would not have people urinating on their lawns or alleyways. She said that she spoke to Council before about a child who was riding his bicycle and there was a man urinating in the alleyway in back of his home. She asked Mr. Heady would he like his granddaughter to watch a man urinate in the back of his house.

Mr. Heady said that he heard her comments before.

Mrs. Hillman said that he has not answered her question. She again asked Mr. Heady if he would he like his granddaughter to watch a man urinate in his back yard.

Mr. Heady said that he was answering her question before she interrupted. He said that she and the Mayor must be related because they have the same habits. He said the woman who spoke earlier addressed some of the problems as far as walking in the neighborhood. He felt that it would help if they could get the bus stops to where people are walking.

Mr. White commented that when a citizen or a taxpayer comes up to this podium with concerns to their elected official, they (City Council) sit here and listen. He said that they are the ones who have to do the research to find out what can be done to fix the problem. Not to sit there and interrogate them. When they do come up with a reasonable answer to the problem they will try to implement it. He appreciated everything that was said today. He said that he resides one neighborhood from Original Town and they see affects from it too. He sat on the Senior Resource's Board of Directors from 1998 to 2009 and he thought it was good to be able to transport low income people. But, it has gotten to the point where the Go-Line has become a major source of transportation for Indian River County. They need to come up with a reasonable plan. He said that the Train Station probably would not happen for another 10 or 15 years. He asked that they trust their Elected Officials to try to remedy this. They are aware of what is going on in their (Original Town) neighborhood and will try to help them as much as they can. He said that they will work hard to try to remedy this situation.

Mr. Abell asked what is the destination of the people walking through the neighborhood. He said that if they are using the present place where they are parking the buses as a terminal that should be stopped immediately. They should put the Police out there and stop this.

Mr. Daige went over the meetings that have occurred that he has been involved in (on file in the City Clerk's office). He said that this neighborhood has been very accommodating in waiting. He said that he was very familiar with the problems they are currently having. He was not going to tolerate the bus hub. It needs to get shut down now. He was not going to have their children in harm's way. The reason the hub was moved from the Pocahontas Park area was because of the safety of their children. They (Original Town Neighborhood) asked politely not to park the buses there. He said that he wanted to bring this up, as a motion right now, that the City Attorney and the City Manager figure out a way to stop this now. He said that the bus hub has to go. He said it appears that the best location is probably out at the Airport. It is not going to work in the location where it was previously. He said that they are not going to keep the Original Town neighborhood waiting another month, another year, etc. He said that they started asking for the County's help in April. He made a motion that within the next 24 hours that this is shut down and those buses can no longer be there. Mr. Abell seconded the motion.

Mayor Sawnick asked if they are operating legally is there anything the City can do.

Mr. Vitunac said that if they are operating legally they are not going to shut them down within 24 hours. The Planning and Development Director and the City Manager are already looking into ways to legally shut them down. He said that they would make this their highest priority. He noted that they would be speaking with the County after today's meeting and they would put this on the agenda.

Mr. Daige said that they did not ask the City for permission to park there in the first place. He said for the City Attorney and City Manager to figure it out and shut it down.

Mr. White said that this needs to be done legally and done correctly. He said that they could have them move buses to the County garage. He felt that they needed to start taking a firmer stand in protecting their (the City's) borders.

Mr. Abell suggested having Police surveillance. He said that until this gets properly taken care they could have increased Police surveillance and if the County does not want to share in that surveillance perhaps they can provide Sheriff vehicles equal to the number of Police vehicles that they think would do the job.

Mr. Daige was not interested in taking a long time with this. The buses are not supposed to be there and they need to be moved. It is all about taking care of our children.

Mr. Heady said that he had several comments regardless of Mr. Daige's instructions to staff that they have their marching orders. They may have Mr. Daige's marching orders, but that does not mean that they have the rest of the Council's marching orders. The strength of our Nation is not in our willingness or ability to engage in mob rule or majority. The real strength in our Nation is in our willingness and our ability to protect the minority. Before they react to a majority in the room and give marching orders for staff to take certain actions within 24 hours they need to know whether or not the actions they propose are legal and appropriate. He said there were a couple of good speakers.

The woman who spoke about the foot traffic, he felt that because of the debate and dialogue back and forth, they probably came to some reasoned conclusions as to what it is that they can do to end the problem. It seemed to him that was a more meaningful approach than just directing staff to do something within 24 hours, whatever that takes (fences, Police cars). He said that was just nonsense.

Mayor Sawnick clarified that the motion made was to direct staff to try to get the hub out of there as soon as possible (where they are parking the buses).

Mr. Heady asked the Mayor, are they amending the motion. He said that was not clarifying the motion because that is not what the motion is.

Mayor Sawnick asked Mr. Daige to restate his motion.

Mrs. Tammy Vock, City Clerk, stated that the motion was basically to shut it down within the next 24 hours and get the buses out of there.

Mr. Daige said that they may need more time to get the buses out of there. He amended his motion to take the time limit of 24 hours out and replace it with “as quick as possible.”

The motion passed 4-1 with Mr. Heady voting no.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – October 19, 2010**
- 2. Regular City Council Minutes – October 5, 2010**
- 3. Renewal of Sovereignty Submerged Land Lease**
- 4. MacWilliam Park Boat Ramp Reconstruction Project Agreement for FIND Grant Property #IR-B-10-50 COVB Project #2010-05**

Mr. White made a motion to adopt the consent agenda as presented. Mr. Abell seconded the motion and it passed unanimously.

At 10:38 a.m., Council took a five-minute break.

3. PUBLIC HEARINGS

None

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

None

5. FIRST READINGS BY TITLE FOR ORDINANCES AND RESOLUTIONS THAT REQUIRE A FUTURE PUBLIC HEARING

None

6. CITY CLERK'S MATTERS

None

7. CITY MANAGER'S MATTERS

*Please note: City Manager's Matters was heard after City Attorney's Matters.

A) Report on Local Preference Ordinance

Mr. John O'Brien, Purchasing Manager, was present for today's meeting to answer any questions Council may have on the report on the Local Preference Ordinance with Council (on file in the City Clerk's office).

Mayor Sawnick said that local preference really didn't help any local businesses.

Mr. O'Brien said that was correct. He said they had 14 bids, eleven were awarded bids on their own merits of being the low bidder. Not on the basis of the five percent preference.

Mayor Sawnick said having this on the books would not hurt anything. He said at some point it could help a local business down the road.

Mr. Daige liked having the Local Preference Ordinance on the books. He said that it helps local bidders. It also shows the outside bidders to keep their pencils sharpened. He didn't see any harm in keeping it. He felt they should continue with it.

Mr. Falls explained that this was an interim report for the first six months. After it has been on the books for one year staff would bring it back before Council and they would need to decide at that time if they want to leave it on the books or take it off.

B) Add on Item – Vero Beach Sports Village Minor League Baseball

Mr. Falls stated that Indian River County selected County Attorney, Alan Polackwich, to work with City staff to work out the details of the agreement with MiLB. He reported that he, Mr. Vitunac and Mr. Polackwich met several times last week. He felt that the agreement they have was more in what the City Council asked them to do before. He then went through the details that were different than what they discussed before (on file in the City Clerk's office), which were 1) they agreed to exchange deeds or interest in title for the property. There would not be a lease exchange. He felt that this was a big plus because it gives them some long term assurance that the City will always control the destiny of the parcel they own and the County will always control the parcel that they

own; 2) the City would have to insure that all the parking required for the MiLB site can be met on site; 3) the City would grant a revocable license to the County that would allow parking to continue on the parking property; 4) the City would grant a license to the County to allow parking on Airport Parcels 17 and 19 to be used for parking should the License be revoked on the "Parking Property"; 5) should the City revoke the license on the "Parking Property," the City would agree to grant to the County, an access easement across the City property for another means of access to the expansion property (clover leaf parcel); 6) the City and County would each have the right to use the pond on the expansion property for stormwater management and irrigation. Each would be able to use it for drainage for the 43rd Avenue roadway improvements and the 26th Street roadway improvements for stormwater management and 7) within reason, the County would attempt to retain the heart shape of the pond to the best of their ability. He noted that because of the benefits that this tentative agreement offers to MiLB for them to expand and the finality of the title transfer to the City and County, staff recommends approval. He asked for approval today and noted that the County Commission would be acting on it during their meeting, which is being held at this time.

Mayor Sawnick summarized that MiLB wants this agreement in order to build fields. The hold up from the County was because they wanted to make sure parking would be available for special events. This issue was solved by the exchange of deeds. He felt that this agreement would satisfy both the City and the County.

Mr. Daige asked if he was correct that the acreage that was originally purchased was 37.6 acres.

Mr. David Gay, Chief Surveyor, said it was close to 37 acres. He stated with the land swap the acreage would be 35.2 acres.

Mr. Falls reported that the difference in acreage was the amount of difference that was transferred because of the pond.

Mr. Daige referred to Airport Parcels 17 and 19. He asked if he was correct that they could park on these parcels for free.

Mr. Falls said that would be subject to whatever arrangement they make with the Airport.

Mr. Daige asked are Parcels 17 and 19 leased at this time.

Mr. Eric Menger, Airport Director, answered no.

Mr. Daige said that if MiLB needs to use those Parcels for parking, the City does not have to charge them.

Mr. Menger said that would be done on a case by case basis. Currently, if the property is to be used for a for profit venture then the Airport would charge a fee. If it is a non-for-profit venture then the Airport would not charge a fee.

Mr. Heady said there were several pages of maps and parking designs. He asked is there any financial analysis.

Mr. Falls answered no. He noted that as it stands right now, the only thing that they were doing was trading land value.

Mr. Heady asked would MiLB pay for any damage done to the fields that would occur if cars parked on those fields.

Mr. Falls answered yes.

Mr. Heady said then the City would not incur any liability because of the parking on the fields. He said that MiLB is saying that they need this for the benefit of their business plan. He asked Mr. Falls if he has seen any income advantage to them. He asked Mr. Falls if he knew what the value to MiLB is.

Mr. Falls answered no. He said that Mr. Craig Callan could not be present for today's meeting because he is at the County Commission meeting, but he did tell Mr. Falls that they feel like this would give them another tool to bring opportunities to Vero Beach.

Mr. Heady asked Mr. Falls if he knows if there has been any financial analysis as to what the benefit to the community would be by bringing in youth baseball.

Mr. Falls said just what Mr. Callan has shared with Council before, which was that they have received positive feedback from the Chamber of Commerce from the hotels and restaurants that when MiLB was up and running, they experienced increased business.

Mr. Heady said that for several weeks there has been back and forth communication between the City Attorney's office and the County Attorney's office. He asked Mr. Falls if he had any idea of the cost of the legal work that has been done.

Mr. Falls reported that the majority of the negotiations were between himself and Mr. Polackwich. The City Attorney did sit in, but they did not keep a tab on how many hours were spent.

Mr. Heady said so there were no time sheets or any tracking at all on the time spent on this. He said that the MiLB were the ones who came to the City requesting this. He said that since there was no tracking of the legal work that was done, he assumed that there would not be any charge to MiLB for the legal work that was involved by the County and/or by the City.

Mr. Falls said that he could not speak for the County, but he has not had any direction from the City Council to track their charges.

Mr. Heady said at this point there are no directions and therefore there is no charge unless Council changes that. He asked regarding the question equal value, has there been a dollar amount placed on either of these parcels.

Mr. Falls answered no.

Mr. Heady referred to the comment made by the Mayor that this would help with future plans of the City for the rectangular piece of property. He said that having been involved in land development over many years, sometimes rectangular pieces of property are more advantageous and sometimes flag lots are more advantageous. He did not know that he would automatically buy into a rectangular piece of property being more beneficial. He asked the Mayor to explain what future plans were in mind that makes a rectangular piece of property more advantageous.

Mayor Sawnick said it may or may not.

Mr. Heady said that he could not imagine parking causing any meaningful damage being done by parking cars on the Airport property, but he could on the ballfields. He said that liability is provided by non-profit. He said that for profit is paying for use of the field. He asked does the City then assume the cost of the liability since the for profit would be paying for it.

Mr. Menger answered no.

Mr. Heady asked then typically when they use that property for parking they would not only be paying a fee, but would also assume the liability.

Mr. Menger said that was correct.

Mr. Heady asked is there a set fee or is it based on their income.

Mr. Menger explained that the fee is based on the square footage.

Mr. Heady asked has there been any effort by the Airport prior to leasing the property for parking to do a survey and fill in any potential liability (holes).

Mr. Menger answered yes. He explained that would fill in the holes or put fencing around them.

Mr. Heady asked is the coverage typically \$1,000,000.

Mr. Menger answered yes.

Mr. Heady asked is that per incident.

Mr. Menger said it is total coverage. He thought that it was \$300,000 per incident, but he would need to check on that.

Mr. Abell said that the Attorneys were on salary. The exchange for MiLB was necessary because it has to do with their success or failure. The Airport parking is as it was before and the rental arrangements at the Airport are as they were before. He said that anyone that has been on the City Council for awhile would understand that.

Mayor Sawnick made a motion to approve the proposed deed swap with the listed amendments that were presented. Mr. White seconded the motion.

Mr. Heady said regarding the comment made that anyone being on Council for any length of time would understand. He said that he clearly has not been on City Council as long as the Vice Mayor, but he felt that the record was clear that he has paid attention to what goes on in the City long before the Vice Mayor lived in this community. He felt that what MiLB originally proposed, what they are doing out there now, they did so with the idea that they were going to be very successful. At the last opportunity Mr. Callan had to address the Council, one of the things he stated was that they can't be successful unless they get this from the City. Mr. Heady said in the proposal before them, there is a complete restructuring of the pond. He asked is there any costs.

Mr. Falls said the pond work would be done in conjunction with the A1A road widening. The shape of the pond really doesn't matter. It is the surface area that is important. He noted that the roadway projects were still under design and have not been bid yet.

Mr. Heady said the proposed fields would be at the taxpayer expense. He asked what are the costs to the taxpayers for construction of fields going be.

Mr. Falls did not have those figures. He said the MiLB is a tenant with the County and it was his understanding that as part of their contract they have a deal for a certain amount of capital improvements to be done on site.

Mr. Heady said there was no dollar in the original agreement. In the proposed agreement, what is going to happen is that they could say they were going to let the taxpayer pick up the tab. That is the way this proposal is currently set. He said that before he would vote on this, he would like to know what the cost is. When Mr. Callan was before them he did not give Council a number.

Mr. White added that he heard some figures from Mr. Callan a while ago, but it was under the capital improvement money that the County set aside for this.

Mr. Heady asked what is the dollar amount.

Mr. White thought that it was about \$750,000.

Mr. Heady said it was his understanding of the agreement that there was no dollar amount in the contract.

Mr. Falls said that if this agreement is approved by the City and the County, it would give MiLB and the County the opportunity to work out the details of what improvements would be built under the capital that was approved.

Mr. Daige said that when he spoke with Mr. Callan, he (Mr. Callan) did not want to approach the County or the City for any tax dollars. He felt that this was a good thing and very doable. He was in favor of the land swap. He said that there were a lot of people who were depending on this agreement to go through. He felt that this would help MiLB stay in Vero Beach. If this does not go through, it is going to make it difficult for MiLB. He said that he would like to see this happen.

Mr. White said that he liked the land swap.

Mr. Heady asked Mr. Daige if he had any idea of the dollar amount that was set aside.

Mr. Daige said that he did not have that figure.

Mayor Sawnick said that it was clear that they don't have the dollar amount. He noted that the County would have that information.

Mr. Heady asked Mr. Daige if he knows what the number is.

Mr. Daige said it is on file at the County.

Mr. Heady felt that it was outrageous when the Council is going to decide on something and one Councilmember says that there is money set aside, but won't tell the rest of the Council how many taxdollars are involved. He said that before they make any decision or any vote they should at least know how many dollars are involved.

The motion passed 4-1 with Mr. Heady voting no.

Mr. Falls publically thanked Mr. Polackwich for all of his hard work and noted that he was a pleasure to work with.

8. CITY ATTORNEY'S MATTERS

A) Update on Brian Heady Federal Lawsuit

This item was heard before City Manager's Matters.

**Please note: This section of the minutes were done verbatim at the request of Councilmember Heady.

Mr. Vitunac reported that Council hired an outside Attorney, Mr. Randy Brennan, because of the Florida Conflict rules. Mr. Brennan defended the City of Vero Beach in the Federal Law Suit that was filed by Mr. Heady. Within the past week a judgment was issued in favor of the City of Vero Beach thanks to Mr. Brennan's offices' legal work. He reported that Mr. Brennan was present for today's meeting to give an update and a report on the implications of that ruling.

Mr. Randy Brennan, Attorney, reported that he was the Attorney representing the City with regard to Mr. Heady's Federal Lawsuit. Mr. Heady's initial complaint was dismissed a few months ago. He explained that Judge Moore allowed Mr. Heady to file an amended complaint, which he did. The City, through his office, filed a motion to dismiss the amended complaint. He reported that Judge Moore ruled in favor of the City last week to dismiss the amended complaint. He reported that the dismissal was "with prejudice," which means that the lawsuit cannot be amended again. In fact, the Judge instructed the Clerk at the U.S. District Court to close the case. He reported that they had asked the Court to make a decision on Attorney's fees, which the Judge did not make a decision in the order. Therefore, they are currently looking to see if that issue is pending or if they should ask for Attorney's fees.

Mr. White asked Mr. Brennan, are they allowed to collect attorney fees. He said the taxpayers are out about \$25,000 to \$30,000 for this case.

Mr. Brennan said that's about rights.

Mr. White said you mentioned something about we can petition the Court and ask for reimbursement of these Attorney's fees from Mr. Heady.

Mr. Brennan said that's a possibility and that's what we need to look into further before he could give them a definitive opinion.

Mr. White told Mr. Vitunac that this needs to be looked at. He thinks they should go back and try to recoup the money that Mr. Heady took from the City taxpayer's coffers.

Mayor Sawnick said at a future Council meeting they will put that on the agenda and it can be discussed. We don't want to take any action right now because it was a late addition to the agenda.

Mr. White asked Mr. Vitunac if he could take any action on this.

Mr. Heady said make a motion that he absolutely could.

Mr. Vitunac explained that their normal procedure is that if there is going to be an action item that backup is provided so the Council can be informed. He suggested letting Mr. Brennan do the research and come back in two weeks with a recommendation whether to pursue the taxable interest against Mr. Heady or to give up on that issue and let the case die. He didn't want Council to take action today because Mr. Brennan is not ready.

Mr. White said okay, but he really did not want this pushed aside.

Mr. Brennan said that he would give Council an opinion about whether or not there is a basis for fees and what their likelihood of success is.

Mr. White said this isn't the first time. The City has spent a lot of money over the years on these lawsuits and complaints and they should start trying to recoup some of the money.

Mayor Sawnick asked if there were any further comments from Council.

Mr. Heady said yes sir, Mr. Mayor. It can't be amended, but can it be appealed. Is that an accurate statement?

Mr. Brennan said that he was not going to get into the procedural aspects of the lawsuit.

Mr. Heady said well you're telling the Council that it can't be amended and leading the Council to believe that it's an absolute end. You're Counsel on this case. You should know the simple answer to the question, can this be appealed?

Mr. Brennan said Mr. Heady, I know the answer to your question.

Mr. Heady said okay, and the answer is so the Council knows?

Mr. Brennan said the answer is, you are the litigant and I'm not going to answer that question.

Mr. Heady felt that the Council had the right to know. He told Mr. Brennan that he could not stand before City Council and lead them to believe something when it's not accurate. This case can be appealed. Isn't that accurate? He asked the City Attorney, can the decision be appealed? There is an appellate court. He asked can this be brought before the appellate court? So that Council understands and knows.

Mr. Vitunac felt that everyone understands that appeals are always mentioned after a case is lost. Whether you can appeal or not, that is between you and your legal advisor.

Mayor Sawnick thought that what Mr. Heady was asking is that if he wanted to, could he. Anyone can appeal anything.

Mr. Vitunac said anybody can appeal anything. He told Mr. Heady that he could try to appeal if he wanted to.

Mr. Heady thanked Mr. Vitunac for providing that information. The second comment he had is Mr. White said that he (Mr. Heady) took money from the City. He felt that those

were pretty strong words. He asked Mr. White was he saying that as a Councilmember or was he saying that personally.

Mr. White answered both. I'm saying that over the last 13 years being on this City Council you have filed frivolous lawsuit after lawsuit over those 13 years against the City of Vero Beach. You have lost every one of them. You caused an expense against me after the hurricanes, which total owed was \$6,000.

Mr. Heady said because you were stealing from the City.

Mr. White said woe, woe, woe. I ...

Mr. Heady said you were taking plywood from the City and you were not reimbursing the City for it.

Mr. White said to Mr. Heady, if you use the word "steal" one more time I will see you in court.

Mayor Sawnick said that Mr. White stated earlier, literally he did not steal money or take money.

Mr. Heady said that is not what he (Mr. White) said.

Mr. White said Mr. Heady.

Mr. Heady said that the Mayor can bang that gavel until hell freezes over. That's not what he said Mr. Mayor. That's what you're saying.

Mayor Sawnick said I know.

Mr. White said I said ...

Mayor Sawnick said spoken as a generalization and I don't want to get into back and forth of whose done what in the past and whatever, we need to move forward. So, at this time, and if there's a question ...

Mr. Heady said I still have a comment.

Mayor Sawnick said okay ...

Mr. Heady said your characterization of ...

Mayor Sawnick said Mr. Heady I'm not finished, but what I'd like to do, if you have a question of Mr. Brennan, not Mr. White at this time, unless Mr. White would like to respond in a way where it's appropriate. He said to make sure not to make accusations,

things that happened in the past or whatever. Let's be professional and courteous. Mr. Heady, you may continue.

Mr. Heady said Mr. White's comments are not less than professional. He gave his opinion that I took money from the City. He answered my question as to whether or not he was saying that in his personal capacity and/or in his capacity of a City Councilman and his answer to that was both. So you can categorize it any way you want. That doesn't change what the record is and the record speaks for itself.

Mr. White said and if you say the whole quote, I said from the City taxpayers and that's what I said. The taxpayers' money has to be used ...

Mr. Heady said you can have the City Clerk put verbatim in the minutes and I would ask the City Clerk ...

Mr. White said whatever your little heart desires.

Mayor Sawnick said okay, let's continue. I don't think there's any other questions from the Council for Mr. Brennan. We appreciate it and we will get back ...

Mr. White said good job by the way Randy. Thank you.

Mr. Brennan said thank you.

9. CITY COUNCIL MATTERS

A. Old Business

None.

B. New Business

None.

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Kevin Sawnick's Matters

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

Mayor Sawnick reported that he spoke at Imagine School last Friday and he attended the Mayor's Clean Up two Sunday's ago.

B. Vice Mayor Sabin Abell's Matters

- 1. Correspondence**
- 2. Committee Reports**

3. Comments

Mr. Abell reported that he attended the Recreation Department's Halloween Parade and was the one who Emceed the winners of the costume contest. He thanked the Recreation Department for putting this on and noted that it was very well organized.

C. Councilmember Tom White's Matters

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

Mr. White gave an update on the Beach and Shores Commission meeting. He reported that there was a blog on TCPalm.com that was submitted by Mr. Larry Reisman regarding the City of Sarasota voting on whether or not to renew their franchise agreement with FP&L and Mr. David Letterman's ten reasons not to sign another 30-year contract with FP&L (on file in the City Clerk's office).

Mr. White commented that this was his last meeting and he was going to miss everyone. He said that 13 years is a long time and this has been his passion and desire over the years to do what he could for this community. He went over some things that have occurred over the years and some of the many Committees that he has served on. He mentioned the hurricanes that occurred in their City and the hard work done to bring back their City to normal operation. He said that the City has the most dedicated people working here. He reported that while on Council he worked hard in purchasing the Lost Tree Islands. He thanked the citizens of Vero Beach for allowing him to serve on the City Council.

D. Councilmember Brian Heady's Matters

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

Mr. Heady said that Mr. White made some comments regarding the City of Sarasota and possibly engaging and operating their own Power Plant because they could beat FP&L. Mr. Heady said it was his understanding that FP&L was the lowest utility provider in the State. He wished Sarasota a lot of luck and stated that maybe he should go and speak to their Council before they embark on such an endeavor. Regarding the City of Gainesville saving one-third on taxes, they haven't saved one-third on taxes, but rather they charged their City residents that tax in the electric bill. He said there is a difference between saving taxes and sticking it someplace else. The only way they can save taxes is by cutting their spending.

E. Councilmember Ken Daige's Matters

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

Mr. Daige read a prepared report on his activities (please see attached).

11. ADJOURNMENT

Mayor Sawnick made a motion to adjourn today's meeting at 11:51 a.m. Mr. Abell seconded the motion and it passed unanimously.

/tv

20-4)



City Council Agenda Item

(November 2, 2010)

TO: Mayor Kevin Sawnick
Vice Mayor Sabin Abell
Councilmember Tom White
Councilmember Brian Heady
Councilmember Ken Daige

FROM: Monte K. Falls, Interim City Manager *MK FALLS*
10/26

DATE: October 26, 2010

SUBJECT: **MacWilliam Park Boat Ramp Reconstruction**
Project Agreement for FIND Grant Property #IR-VB-10-50
COVB Project #2010-05

DEPARTMENT: Public Works

The following is requested as it relates to the above-referenced agenda item:

- Request Council review and approval based on the attached supporting documentation, which includes a recommendation, along with funding and pertinent background information.
 - Request Council review and possible action.
 - No action required. (Information only)
-



DEPARTMENTAL CORRESPONDENCE

TO: Monte K. Falls, Interim City Manager
DEPT: City Manager

FROM: Donald H. Dexter, Jr., Manager
DEPT: Public Works *DHD*

DATE: October 22, 2010

RE: **MacWilliam Park Boat Ramp Reconstruction
Project Agreement for FIND Grant Project # IR-VB-10-50
COVB Project #2010-05**

Recommendation:

- Place this item on the City Council's agenda for November 2, 2010;
- Approve the Project Agreement with the Florida Inland Navigation District (FIND) Waterway Assistance Program for improvements to MacWilliam Park boat ramps and docks.

Funding:

The City's 50% match is in the approved budget for 2010/2011 in account number 304.9900.541.610002.

Background:

In response to complaints regarding erosion at the end of the main (east) boat ramp at MacWilliam Park we placed a project in our 2010–2014 five-year capital improvement plan. That project was estimated at \$200,000 (\$100,000 sales tax revenues and \$100,000 grants) and was approved in the 2009/2010 annual budget. The City Council approved a resolution to apply for this grant on March 16, 2010.

In our discussions with the Florida Inland Navigation District (FIND) they recommended that we approach the project in 2 phases. Phase 1, which includes the referenced Project Agreement, includes the design and permitting which we estimate to cost \$30,000. Phase 2 will be for the reconstruction of the boat ramps and docks. Funding for Phase 2 would be applied for in the spring of 2011 with an expected construction start date after October 2011.

Approval of this Project Agreement will allow us to proceed with the design and permitting.

Cc: Steve Maillet, Finance Director

DHD:MKF/ntn



CITY OF VERO BEACH
AGENDA ROUTING SLIP

Date: October 21, 2010

For City Council Meeting on November 2, 2010

Originated by:
(Check one)

- City Council, motion adopted on: _____
- Council Member _____
- City Manager _____
- City Attorney _____
- City Clerk _____
- Public Works _____ Department

Person to Contact: Don Dexter
Telephone Number: X-4861

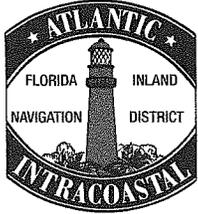
Brief Description: MacWilliam Park Boat Ramp Reconstruction Project Agreement

		<u>Initial/Date</u>
<u>Route for Signature to:</u> (Fill in Departments which should review this item.)	1. City Attorney's Office	<u>EW 10.21.10</u>
	2. _____ Dept.	_____
	3. _____ Dept.	_____
	4. _____ Dept.	_____
	5. _____ Dept.	_____
	6. _____ Dept.	_____
	7. _____ Dept.	_____
	8. City Manager's Office	_____

Return Completed
Agenda Item and
Slip to (check one):

- City Attorney's Office
- City Manager's Office

cc: Tammy K. Vock, City Clerk



FLORIDA INLAND NAVIGATION DISTRICT

October 5, 2010

COMMISSIONERS

JERRY H. SANSOM
CHAIR
BREVARD COUNTY

S. NORMAN BRAY
VICE-CHAIR
NASSAU COUNTY

DONN R. COLEE, JR.
TREASURER
PALM BEACH COUNTY

GAIL KAVANAGH
SECRETARY
ST. LUCIE COUNTY

BRUCE D. BARKETT
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T. SPENCER CROWLEY, III
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DAVID K. ROACH
EXECUTIVE DIRECTOR

MARK T. CROSLY
ASSISTANT EXECUTIVE DIRECTOR

Mr. Don Dexter
Public Works
City of Vero Beach
1053 20th Place
Vero Beach, FL 32960

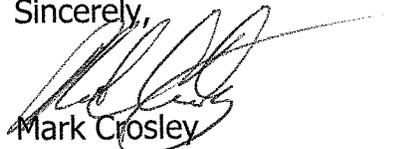
RE: MacWilliam Park Boat Ramp Reconstruction
Project # IR-VB-10-50

Dear Mr. Dexter:

Enclosed, for signature, are two original project agreements for your approved Waterways Assistance Program project for fiscal year 2010-2011. Once they have been executed, please return **both** originals to me for execution by the District. When returning the agreements, you **MUST include an executed Exhibit C, Matching Funds Form.** DO NOT SEPARATE THE ATTACHMENTS FROM THE AGREEMENT. Incomplete agreements will not be executed.

I will return one fully executed complete original agreement to you for your files. Please be sure to refer to the listed project number in all future correspondence and communication regarding this project. Should you have any questions please contact me.

Sincerely,


Mark Crosley
Assistant Executive Director

OCT 11 2010

RECEIVED

**FLORIDA INLAND NAVIGATION DISTRICT
PROJECT AGREEMENT**

PROJECT NO. IR-VB-10-50

This PROJECT AGREEMENT made and entered into this _____ day of _____, 20__ by and between the Florida Inland Navigation District (hereinafter the "DISTRICT"), and the City of Vero Beach, (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 "B"), the DISTRICT has determined to provide assistance funding to the PROJECT SPONSOR in furtherance of an approved project ("PROJECT") consisting of the MacWilliam Park Boat Ramp Reconstruction. 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 written advance notice and justification from the PROJECT SPONSOR 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, 2012**, unless the PROJECT period has been extended with the prior written approval of the DISTRICT. In no event other than a declared state of emergency that affects the project completion shall the PROJECT period extend beyond three (3) years from October 1, 2010. The PROJECT SPONSOR acknowledges this is the only provision to carry over the DISTRICT assistance funding under this Agreement beyond September 30, 2013, 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 dates set forth in the preceding paragraph shall require submittal by the PROJECT SPONSOR of a request for extension to the DISTRICT no later than 60 days prior to the original project agreement expiration. 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 \$15,000.00.

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, consistent with 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 unless previously delineated in Exhibit A, consistent with Exhibit B, and previously approved by the DISTRICT Board during the grant review process.

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.

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 A, shall be reimbursed only upon completion of the PROJECT to the reasonable satisfaction of the DISTRICT and in accordance with Exhibit B: personnel, equipment, project management, administration, inspection, and design, permitting, planning, engineering, and/or surveying costs. Assuming the PROJECT SPONSOR has otherwise fully complied with the requirements of the Agreement, reimbursement for all PROJECTS approved as Phase I projects will be made only upon commencement of construction of the PROJECT for which the Phase I planning, designing, engineering and/or permitting were directed, which may or may not involve further District funding. Procedures set forth below with respect to reimbursement by the District are subject to this requirement of commencement of construction.

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 or 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 proprietary authorizations, 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 prior to or

immediately following 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 such as the project entrance of 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 as 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 owned and operated by project sponsor, 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. **FEES** – Any fees charged for this PROJECT shall be reasonable and the same for the general public of all member counties. The PROJECT SPONSOR must demonstrate that a minimum of fifty percent (50%) of the PROJECT fees will be utilized for project maintenance and improvements throughout the anticipated 25-year life of a development project or the design life of other project types, as applicable

20. **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.

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

22. **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.

23. **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.

24. **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:

City of Vero Beach
Attention: , Public Works
1053 20th Place
Vero Beach, FL 32960

25. **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.

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

27. **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.

28. **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:

FLORIDA INLAND NAVIGATION DISTRICT

By: _____
Director

DATE: _____

WITNESSES:

PROJECT SPONSOR

By: _____

Title: _____

DATE: _____

CHAPTER 66B-2 — WATERWAYS ASSISTANCE PROGRAM (2010)

- 66B-2.001 Purpose.
- 66B-2.002 Forms.
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- 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 Section 374.976, F.S. 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 Section 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.

(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

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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 serviceable 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.

(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

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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, 4-15-07, 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:

(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, local and regional anchorage management, beach renourishment, public recreation, inlet management, environmental education, and boating safety projects directly related to the waterways.

(b) Eligible local governments may also be provided financial assistance, support and cooperation in planning and carrying out public navigation, local and regional anchorage

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management, beach renourishment, public recreation, inlet management, environmental education, and boating safety projects directly related to the waterways.

(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 waterway related access projects, 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 the acquisition and development of public boat ramps and launching facilities, including those 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.

(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

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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) Education Facilities and Programs: Waterways related environmental education facilities and programs sponsored by the District shall occur at specially designated environmental education facilities located adjacent and contiguous to the waterways. It is the District's intent to consolidate its environmental education efforts in the least number of facilities within an area that will adequately serve the education needs of that area of the District.

(8) 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.

(9) 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.

(10) 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.

(11) Fees: Any public project eligible for District program funds that charges a fee or will charge a fee must demonstrate that the facility will utilize 50% or greater of the collected funds for project maintenance and improvements throughout the anticipated 25-year life of a development project or the design life of other project types, as applicable.

Rulemaking 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, 4-1-09, 2-22-10.

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.

(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

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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 a minimum, equal matching funds from the project sponsor, with the exception of public navigation projects that meet the provisions of subsection 66B-2.005(7), F.A.C., land acquisition projects in accordance with subsection 66B-2.005(8) and Rule 66B-2.008, F.A.C., 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-2.008(1)(c), F.A.C. All financial assistance to seaports shall require equal matching funds. The District shall contribute no more than fifty percent (50%) of the local share of the cost of an inlet management or beach renourishment project. The District shall not contribute funding to both the state and local shares of an inlet management or beach renourishment 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 shall consider a waiver of 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 Chapter 66B-2, F.A.C.

(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.

(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

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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 navigation channel 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.

All other public navigation projects or project elements will only qualify for up to fifty percent (50%) program funding. Dredging that is associated or ancillary to another use (such as a boat ramp, marina or pier) will be prioritized according to the associated use.

(8) Land Acquisition: All land acquisition projects shall qualify for a maximum of

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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.

Rulemaking 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, 4-15-07, 3-25-08, 4-1-09.

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 that 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 4-15-07).

(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 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

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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, F.A.C., "Disaster Relief Applications", 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. 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, 4-15-07, 3-25-08.

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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 and anchorage management, public recreation, environmental education, boating safety, acquisition and development of spoil sites and 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, inlet management, environmental mitigation and beach renourishment.

(a) Program funds may be used for projects such as acquisition, planning, development, construction, reconstruction, extension, or improvement, 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 directly benefiting the District's waterway channels;
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, dredging, shoreline stabilization and development of public boat ramps and launching facilities;
8. Acquisition, dredging, shoreline stabilization 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 parks and boardwalks and associated improvements;
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 equipment, and any extraneous recreational amenities not directly related to the waterway

Exhibit B

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. Project maintenance and maintenance equipment;
8. Picnic shelters and furniture;
9. Vehicles to transport vessels; and
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 may 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.

(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

Exhibit B

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 and operation of the project. Applicants for construction projects that include elements that require state or federal environmental permits or proprietary authorizations will demonstrate that all required environmental permitting and authorizations will be completed by the District's final TRIM hearing. This demonstration will be by submission of the required environmental permit(s) and authorizations, or by submission of a letter from the agency(s) stating that a permit or authorization is not required. Should the environmental permitting element of an application that has construction elements requiring state or federal environmental permits or authorizations not be completed by the District's final TRIM hearing, the construction portion of the project will not be considered for funding. Whereby funding decisions are completed at the final TRIM hearing, the District will not deviate from the funding schedule to accommodate any application deficiency.

(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. Public marina dockage rates shall be within market comparison of the dockage rates of other area marinas. Program funds to public marina projects shall not be utilized for replacement of the facilities if revenues generated by the facility are not allocated to the operation, maintenance and improvement of the public marina facility in accordance with subsection 66B-2.004(10), F.A.C.

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

Rulemaking 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, 4-15-07, 3-25-08, 4-1-09, 2-22-10.

66B-2.009 — Project Administration.

The District will appoint a project manager who shall be responsible for monitoring

Exhibit B

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 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.

Exhibit B

If the completion of a project is impacted by a declared state of emergency and 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

Exhibit B

cancelled payment vouchers for expenditures made.

(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, at the entrance to the project site 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

Exhibit B

District's participation in the project shall be contained in the display.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History--New 12-17-90, Formerly 16T-2.013, Amended 2-22-10.

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.

Exhibit B

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:

(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 \$20,000.00 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 subsection 66B-2.005(3), F.A.C.

(5) The eligible applicant must provide the remaining matching funds for project completion. In no case shall the District's cost-share contribution exceed 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 Rule 66B-2.003, F.A.C.

(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 C

FLORIDA INLAND NAVIGATION DISTRICT

ASSISTANCE PROGRAM

Matching Funds Certification

Sponsor: City of Vero Beach

Project Title: MacWilliam Park Boat Ramp Reconstruction Project #: IR-VB-10-50

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 _____.*

Project Liaison Name: DM Dexter

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 C

FLORIDA INLAND NAVIGATION DISTRICT

ASSISTANCE PROGRAM

Matching Funds Certification

Sponsor: _____

Project Title: _____ Project #: _____

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 _____.*

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 D

FLORIDA INLAND NAVIGATION DISTRICT
ASSISTANCE PROGRAM
PAYMENT REIMBURSEMENT REQUEST FORM

PROJECT NAME: _____ PROJECT #: _____

PROJECT SPONSOR: _____ BILLING #: _____

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")	Vendor Name and Date	Check No. 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
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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/wapapp_pdf.jhtml?method=view&wapapp_pdf.id=1

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 2010 - Project Agreement Executed, Project Initiates.

DECEMBER 30, 2010 - First Quarterly Report Due.

MARCH 15, 2011 - Second Quarterly Report Due.

JUNE 30, 2011 - Third Quarterly Report Due.

SEPTEMBER 15, 2011 - Fourth Quarterly Report Due.

DECEMBER 30, 2011 - Fifth Quarterly Report Due.

MARCH 15, 2012 - Sixth Quarterly Report Due.

JUNE 30, 2012 - Seventh Quarterly Report Due.

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

SEPTEMBER 01, 2012 - Closeout paperwork due.

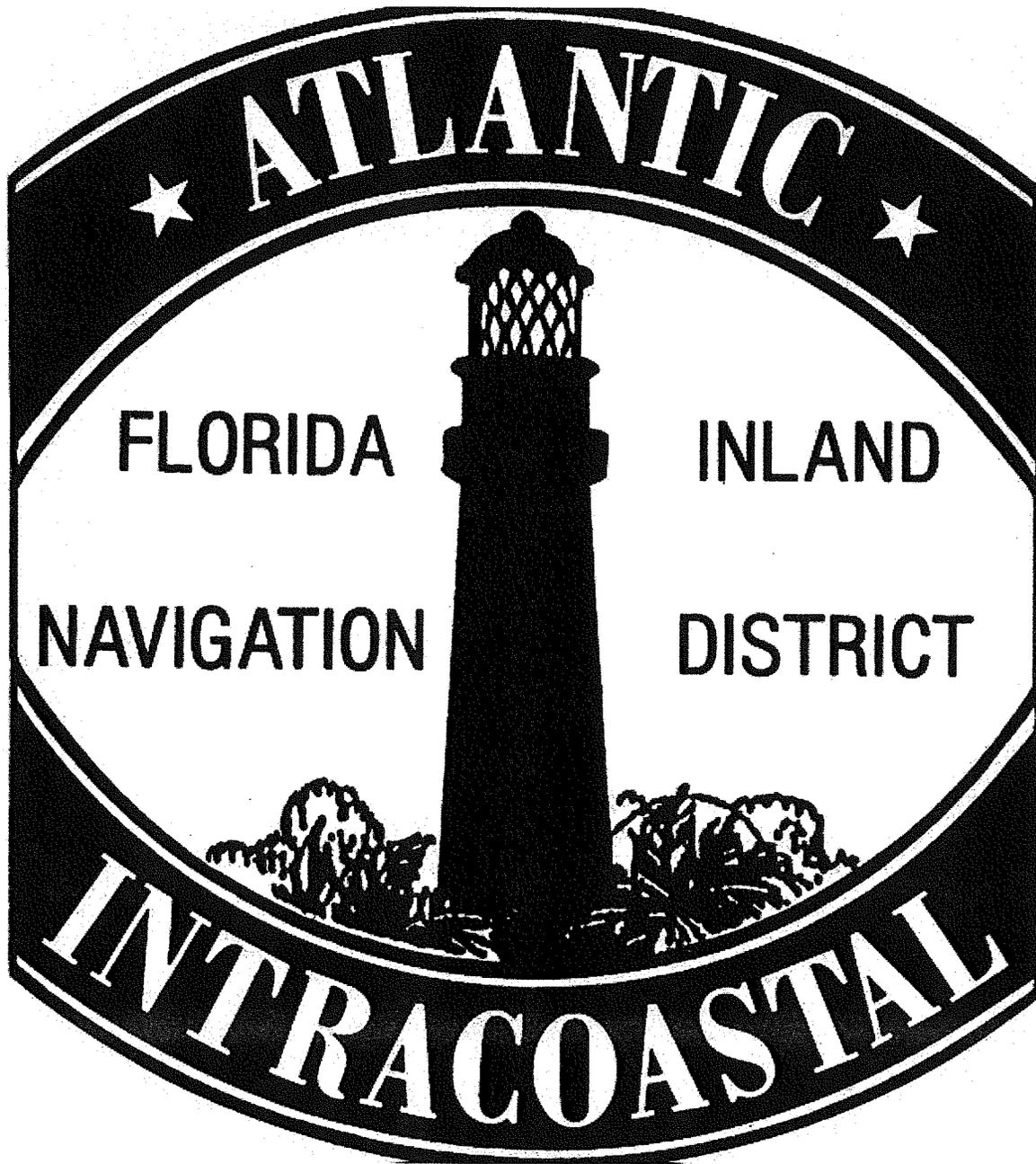
SEPTEMBER 30, 2012 - District finishes processing closeout paperwork, performs project inspection and submits final reimbursement check with check presentation to sponsor.

***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

http://www.aicw.org/bids.jhtml?method=listByCat_id&bids.cat_id=4



7-A)



City Council Agenda Item (November 2, 2010)

TO: Mayor Kevin Sawnick
Vice Mayor Sabin Abell
Councilmember Tom White
Councilmember Brian Heady
Councilmember Ken Daige

FROM: Monte K. Falls, Interim City Manager *MK Falls 10/26*

DATE: October 26, 2010

SUBJECT: Report on Local Preference Ordinance

DEPARTMENT: Finance Department/Purchasing and Warehouse Operations Division

The following is requested as it relates to the above-referenced agenda item:

Request Council review and approval based on the attached supporting documentation, which includes a recommendation, along with funding and pertinent background information.

Request Council review and possible action.

No action required. (Information only)

DEPARTMENTAL CORRESPONDENCE

TO: Monte Falls, Interim City Manager

FROM: John O'Brien, Manager of Purchasing and Warehouse Operations *JOE 10/21/10*

SUBJECT: REPORT ON LOCAL PREFERENCE

DATE: October 21, 2010

On April 20, 2010 City Council passed a local preference ordinance which requires the Purchasing Division to provide a report to the city council on the effect of the ordinance and the results of the reciprocity with Indian River, Martin and St. Lucie Counties during the past six months.

The Purchasing Division issued fourteen (14) bids during this time, of which, nine (9) were awarded to local vendors (Indian River, St. Lucie and Martin County) however, in no case did the local preference ordinance influence any awards. The local vendors were awarded bids based on being the lowest most responsive bidder.

The following are the results of other agencies which have similar local preference ordinances and reciprocate with the City of Vero Beach:

- Indian River County had one bid in which the local preference was used in making an award. As a result, the County Commission has removed the ordinance.
- Martin County continues their local preference; however, they are not tracking their results.
- St. Lucie County had one bid in the last year in which their local preference rule was applicable.

Attached is table which identifies the bid title, number of responses and award result during the past six months for the City of Vero Beach.

By ordinance, within one year after the first bid awarded under this policy, the city council shall receive a similar report from the purchasing division and shall determine whether to continue or modify this policy. Nothing in the ordinance shall prevent the city council from taking action sooner to revise or remove this local preference policy.

Request the subject report be placed on the November 2, 2010 council agenda.

Attachment

LOCAL PREFERENCE SIX (6) MONTH REPORT

BID NAME	LOCAL BIDDER	NON-LOCAL BIDDER	AWARDED TO LOCAL FIRM City & County	AWARDED TO A NON-LOCAL FIRM City & State	LOCAL PREFERENCE ORDINANCE USED
CITRUS PARK VILLAGE WATER LINES	2	2	CRS - Ft Pierce St. Lucie County		NO
WTP LIFT STATION	2	0	T. Rose - Vero Beach - IR County		NO
19th ST. CULVERT REPLACEMENT	7	1	SPS - Vero Beach - IR County		NO
CRESTLAWN CEMETERY COLUMBARIUM	0	2		Brian Couture's Cemetery Lettering - Groveland, FL	NO
WWTP A/C	2	1	Colkitt - Vero Beach IR County		NO
REHAB RUNWAY 11R-29 AND TAXIWAY C	2	1		Dickerson Miami Fl	NO
DEBRIS REMOVAL	3	14		Unified Recovery - Baton Rouge, LA	NO
UNLEADED GASOLINE AND DIESEL FUEL - MARINA	3	5	Port Consolidated Ft. Pierce - St Lucie County		NO
DATE PALM DITCH- BAFFLE BOX	0	2		EcoSense - Merritt Island, FL	NO
W&S FIELD SRVS & MAINT. BLDG FIBER OPTIC INSTALL	2	2	Gerelcom - Port St. Lucie St. Lucie County		NO
PEBBLE QUICKLIME ANNUAL SUPPLY	0	2		Carmus Lime Pittsburgh, PA	NO
POWER PLANT UNIT 5 BATTERY ROOM A/C	2	0	Colkitt - Vero Beach IR County		NO
PEST CONTROL ANNUAL SUPPLY CONTRACT	4	1	VanWal - Port St. Lucie St. Lucie County		NO
READY MIX CONCRETE ANNUAL SUPPLY	2	0	Tarmac Amer - Vero Beach - IR County		NO

Sec. 2-352. Local preference in purchasing or contracting.

(a) *Definitions.*

Local business shall mean a business that meets all of the following criteria:

- (1) Has had a staffed and fixed office or distribution point, with a verifiable street address, located within Indian River, Martin, or St. Lucie Counties for at least one full calendar year immediately prior to the issuance of the request for competitive bids or request for proposals by the city. Post office boxes shall not be used or considered for the purpose of establishing a physical address; and
- (2) Has had, for at least 12 months immediately prior to the date of the advertisement for the particular good or service being solicited, a current "local business tax receipt" issued by the City of Vero Beach, Indian River, Martin, or St. Lucie Counties, if applicable; and
- (3) Holds any license or competency card required by Indian River County, if applicable, and;
- (4) If the contract is awarded, will be the person or entity in direct privity of contract with the City of Vero Beach and not as subcontractor, or any lower-tier subcontractor, material man, or supplier.

Non-local business means a bidder that is not a local business, as defined herein.

(b) *Certification.* Any person or entity claiming to be a local business, as defined herein, and desiring to receive local preference, shall complete and submit, together with all required attachments, a "local business certification form," in the form provided by the city and contained within the bid package accompanying a public notice/advertisement. Any bidder who fails to complete and submit the "local business certification form" together with all required attachments with the bid shall not be granted local preference consideration for the purposes of that specific contract award. The purchasing division shall determine if a person or entity meets the definition of a "local business."

(c) *Local preference in purchases by means of formal competitive bid.* In connection with any solicitation to which this section applies, local preference may be given to local businesses in the following manner:

- (1) When a qualified and responsive, non-local business submits the lowest price bid (herein, "apparent low bidder"), and the bid submitted by one or more qualified and responsive local businesses is equal to or within five percent of the price submitted by the apparent low bidder, then the local business with the apparent next-lowest qualified and responsive bid offer (herein, the "lowest local bidder") shall have the opportunity to submit an offer to match the price(s) offered by the apparent low bidder as follows:
 - a. The purchasing division shall invite, in writing, by e-mail, fax, or certified mail, the lowest local bidder to submit a written matching offer to the purchasing division (herein "invitation");
 - b. The lowest local bidder may, but shall not be obligated to, submit a written, faxed or e-mailed matching offer to the purchasing division within

- five business days after receipt of the invitation;
- c. If the lowest local bidder submits a written offer that matches the bid from the apparent low bidder, such written offer shall be accepted and the lowest local bidder shall be awarded the contract;
 - d. If the lowest local bidder submits a written offer that does not match the bid from the apparent low bidder, such written offer shall be rejected; and
 - e. Thereupon, the next successive lowest qualified and responsive local bidder, if and only if its bid is less than or within five percent of the apparent low bidder, will receive the invitation.
 - f. This cycle shall be repeated until there are no remaining local bidders less than or within five percent, then the award shall be made to the apparent low bidder.
- (2) If the lowest local bidder and successive next lowest local bidders do not respond, decline, or are unable to match the apparent low bidder bid price(s), then the award will be made to the apparent low bidder.
- (d) *Notice.* All solicitations that are subject to this section shall include the substance of this local preference ordinance and the "local business certification form."
- (e) *Exclusions and limitations.*
- (1) Waiver of local preference. The application of this section to a particular purchase or contract of the City of Vero Beach may be waived only prior to bid solicitation/advertisement and with the approval of the city council.
 - (2) The provisions of this section shall not apply where prohibited by federal law or Florida law, or under the conditions of any grant or other funding source.
 - (3) The provisions of this section shall not apply to contracts under the Consultants Competitive Negotiation Act (CCNA), F.S. § 287.055, as CCNA allows consideration of location in the evaluative process.
 - (4) The provisions of this section shall not apply to any procurement where the local nature of a business has been addressed through scoring criteria.
 - (5) The purchasing division shall be responsible for developing, implementing, and maintaining administrative procedures in support of this policy.
- (f) *Subsequent review and sunset provision.* On or about six months after the effective date of this ordinance [Ordinance No. 2010-15], the purchasing division will provide the city council with the results to date of this local preference policy and the status of regional reciprocity for Indian River County businesses by Martin and St. Lucie Counties. Within one year after the first bid awarded under this policy, the city council shall receive a similar report from the purchasing division and shall determine whether to continue or modify this policy. Nothing in this section shall prevent the city council from taking action sooner to revise or remove this local preference policy.

(Ord. No. 2010-15, § 1, 4-20-2010)

2D-3)



City Council Agenda Item (November 2, 2010)

TO: Mayor Kevin Sawnick
Vice Mayor Sabin Abell
Councilmember Tom White
Councilmember Brian Heady
Councilmember Ken Daige

FROM: Monte K. Falls, Interim City Manager *MK FALLS*
10/24

DATE: October 26, 2010

SUBJECT: Renewal of Sovereignty Submerged Land Lease

DEPARTMENT: Marina

The following is requested as it relates to the above-referenced agenda item:

Request Council review and approval based on the attached supporting documentation, which includes a recommendation, along with funding and pertinent background information.

Request Council review and possible action.

No action required. (Information only)

City Council Agenda Item

TO: Monte K. Falls, Interim City Manager

FROM: Tim Grabenbauer, Marina Director 

DATE: 10/21/10

SUBJECT: CONSENT AGENDA ITEM FOR REGULAR CITY COUNCIL MEETING
NOVEMBER 02, 2010 (RENEWAL OF SOVEREIGNTY SUBMERGED LAND LEASE)

RECOMMENDATION: Recommend renewal.

FUNDING: Lease fees waived, facility grandfathered. \$569.00 processing fee funded from account 451.4100.575.355002

BACKGROUND: The City's Marina facility at 3611 Rio Vista Blvd has 3 docks with 72 slips that are located upon State sovereign submerged lands. The State of Florida was given sovereign right to this submerged land in 1845 by virtue of statehood. All state lands are controlled by the Internal Improvement Trust Board which is made up of the Governor and Cabinet. Submerged lands are administered by the Department of Environmental Protection. Due to the age of our facility we were grandfathered in 1988 and lease fees are waived. If we were to not renew the lease the State would require us to remove our structures from their land.



CITY OF VERO BEACH
AGENDA ROUTING SLIP

Date: 10/20/2010

For City Council Meeting on November 2, 2010

Originated by: City Council, motion adopted on: _____
(Check one) Council Member _____

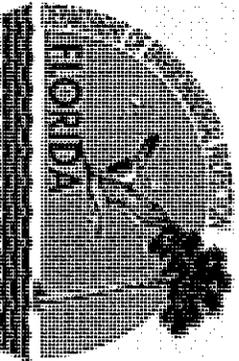
City Manager _____
 City Attorney _____
 City Clerk _____
 Marina _____ Department

Person to Contact: Tim Grabanbauer
Telephone Number: 4960
Brief Description: Submerged Land lease Renewal

			Initial/Date
<u>Route for Signature to:</u>	1.	City Attorney	Dept. _____ <u>TS</u> <u>10/20/10</u>
	2.	<u>Marina</u>	Dept. _____ <u>TS</u> <u>10/20/10</u>
(Fill in Departments which should review this item.)	3.	_____	Dept. _____
	4.	_____	Dept. _____
	5.	_____	Dept. _____
	6.	_____	Dept. _____
	7.	_____	Dept. _____
	8.	<u>City Manager</u>	Dept. _____

Return Completed City Attorney's Office
Agenda Item and Slip to (check one): City Manager's Office

cc: Tammy K. Vock, City Clerk



Florida Department of
Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Charlie Crist
Governor
Jeff Kotkamp
Lt. Governor
Mimi A. Drew
Secretary

October 14, 2010

City of Vero Beach, Florida
Mr. Tim Grabenbauer
3611 Rio Vista Boulevard
Vero Beach, Florida 32963

BOT File No.: 310221903
Lessee: City of Vero Beach, Florida

Dear Mr. Grabenbauer:

Enclosed is a lease renewal instrument, which requires acceptance by Mr. Kevin Sawmick by notarized signature as Mayor of the City of Vero Beach, Florida (two witnesses required). Pursuant to Chapter 695, Florida Statutes, the names of the person executing the instrument, the two witnesses, and the notary public must be legibly printed or typewritten directly below that person's signature.

Please execute and return the enclosed instrument/documents and any additional information requested within 30 days after receipt of this letter. Upon receipt and acceptance, we will transmit the lease instruments for final departmental execution. A fully executed instrument will be provided to you for recording in the county records where the facility is located.

Also enclosed is Invoice No. 54256 for \$569.00, the non-taxable instrument processing fee due on this account. The check should be made payable to the Department of Environmental Protection and mailed to Mail Station 125, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000. Please include BOT. File No. 310221903 on the check to ensure proper deposit. Payment is due within 30 days after receipt of this letter.

Please note that all annual lease fee invoices will include a six percent (6%) sales tax and the County Discretionary Sales Surtax unless the Lessee can claim exemption. If you are tax exempt, please return a copy of your Tax Exemption Certification for our records. Your Tax Exemption Certification is renewable and a current certification must be on file in our office for you to receive this exemption. Processing fees for renewals, assignments (name changes), and modifications are non-taxable. Do not add tax to any of these invoices. The tax will always be included on the invoice if applicable.

Your cooperation and assistance are appreciated. If you have any questions regarding this matter, please feel free to contact me at the letterhead address above (Mail Station No. 125) or at (850) 245-2720.

Sincerely,

Pratie J. Scott

Government Operations Consultant I
Bureau of Public Land Administration
Division of State Lands

/pjs

Enclosures (Submerged Land Lease Renewal and Invoice)
By federal express ground

RECEIVED
OCT 18 2010

BY: *Te*.....

This Instrument Prepared By:
Pattie J. Scott
Recurring Revenue Section
Bureau of Public Land Administration
3900 Commonwealth Boulevard
Mail Station No. 125
Tallahassee, Florida 32399

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
OF THE STATE OF FLORIDA

SOVEREIGNTY SUBMERGED LANDS FEE WAIVED LEASE RENEWAL

BOT FILE NO.: 310221903
PA NO.: _____

THIS LEASE is hereby issued by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, hereinafter referred to as the Lessor.

WITNESSETH: That for and in consideration of the faithful and timely performance of and compliance with all terms and conditions stated herein, the Lessor does hereby lease to City of Vero Beach, Florida, hereinafter referred to as the Lessee, the sovereignty lands described as follows:

A parcel of sovereignty submerged land in Section 31,
Township 32 South, Range 40 East in the Indian River,
Indian River County, containing 77,900 square feet, more or less,
as is more particularly described and shown on Attachment A,
dated March 1, 2002.

TO HAVE THE USE OF the hereinabove described premises from September 11, 2010, the effective date of this modified lease, through September 11, 2015, the expiration date of this modified lease. The terms and conditions on and for which this lease is granted are as follows:

1. USE OF PROPERTY: The Lessee is hereby authorized to operate a 79-slip commercial docking facility with a non-water dependent dock masters office/ship's store exclusively to be used for mooring of recreational vessels, in conjunction with an upland municipal marina and parking lot, with fueling facilities, with a sewage pumpout facility if it meets the regulatory requirements of the State of Florida Department of Environmental Protection or State of Florida Department of Health, whichever agency has jurisdiction, and with liveaboard as defined in paragraph 24, as shown and conditioned in Attachment A, and the State of Florida Department of Environmental Protection, Environmental Resource Permit No. 31-167502-001, dated September 11, 2000, incorporated herein and made a part of this lease by reference. All of the foregoing subject to the remaining conditions of this lease.

2. AGREEMENT TO EXTENT OF USE: This lease is given to the Lessee to use or occupy the leased premises only for those activities specified herein and as conditioned by the State of Florida Department of Environmental Protection, Environmental Resource Permit. The Lessee shall not (i) change or add to the approved use of the leased premises as defined herein (e.g., from commercial to multi-family residential, from temporary mooring to rental of wet slips, from rental of wet slips to contractual agreement with third party for docking of cruise ships, from rental of recreational pleasure craft to rental or temporary mooring of charter/tour boats, from loading/offloading commercial to rental of wet slips, etc.); (ii) change activities in any manner that may have an environmental impact that was not considered in the original authorization or regulatory permit; or (iii) change the type of use of the riparian uplands or as permitted by the Lessee's interest in the riparian upland property that is more particularly described in Attachment **B** without first obtaining a regulatory permit/modified permit, if applicable, the Lessor's written authorization in the form of a modified lease, the payment of additional fees, if applicable, and, if applicable, the removal of any structures which may no longer qualify for authorization under the modified lease. If at any time during the lease term this lease no longer satisfies the requirements of subparagraph 18-21.011(1)(b)7., Florida Administrative Code, for a fee waived lease, the Lessee shall be required to pay an annual lease fee in accordance with Rule 18-21.011, Florida Administrative Code, and if applicable, remove any structures which may no longer qualify for authorization under this lease.

3. EXAMINATION OF LESSEE'S RECORDS: The Lessor is hereby specifically authorized and empowered to examine, for the term of this lease including any renewals, plus three (3) additional years, at all reasonable hours, the books, records, contracts, and other documents confirming and pertaining to the computation of annual lease payments as specified in paragraph two (2) above.

4. MAINTENANCE OF LESSEE'S RECORDS: The Lessee shall maintain separate accounting records for: (i) gross revenue derived directly from the use of the leased premises, (ii) the gross revenue derived indirectly from the use of the leased premises, and (iii) all other gross revenue derived from the Lessee's operations on the riparian upland property. The Lessee shall secure, maintain and keep all records for the term of this lease and any renewals plus three (3) additional years. This period shall be extended for an additional two (2) years upon request for examination of all records and accounts for lease verification purposes by the Lessor.

5. PROPERTY RIGHTS: The Lessee shall make no claim of title or interest to said lands hereinbefore described by reason of the occupancy or use thereof, and all title and interest to said land hereinbefore described is vested in the Lessor. The Lessee is prohibited from including, or making any claim that purports to include, said lands described or the Lessee's leasehold interest in said lands into any form of private ownership, including but not limited to any form of condominium or cooperative ownership. The Lessee is further prohibited from making any claim, including any advertisement, that said land, or the use thereof, may be purchased, sold, or re-sold.

6. INTEREST IN RIPARIAN UPLAND PROPERTY: During the term of this lease, the Lessee shall maintain the interest in the riparian upland property that is more particularly described in Attachment **B** and by reference made a part hereof together with the riparian rights appurtenant thereto, and if such interest is terminated, the lease may be terminated at the option of the Lessor. Prior to sale and/or termination of the Lessee's interest in the riparian upland property, the Lessee shall inform any potential buyer or transferee of the Lessee's interest in the riparian upland property and the existence of this lease and all its terms and conditions and shall complete and execute and documents required by the Lessor to effect an assignment of this lease, if consented to by the Lessor. Failure to do so will not relieve the Lessee from responsibility for full compliance with the terms and conditions of this lease which include, but are not limited to, payment of all fees and/or penalty assessments incurred prior to such act.

7. ASSIGNMENT OF LEASE: This lease shall not be assigned or otherwise transferred without prior written consent of the Lessor or its duly authorized agent. Such assignment or other transfer shall be subject to the terms, conditions and provisions of management standards and applicable laws, rules and regulations in effect at that time. Any assignment or other transfer without prior written consent of the Lessor shall be null and void and without legal effect.

8. INDEMNIFICATION/INVESTIGATION OF ALL CLAIMS: The Lessee shall investigate all claims of every nature at its expense. Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party and the officers, employees and agents thereof. Nothing herein shall be construed as an indemnity or a waiver of sovereign immunity enjoyed by any party hereto, as provided in Section 768.28, Florida Statutes, as amended from time to time, or any other law providing limitations on claims.

9. VENUE: Lessee waives venue as to any litigation arising from matters relating to this lease and any such litigation between Lessor and Lessee shall be initiated and maintained only in Leon County, Florida.

10. NOTICES/COMPLIANCE/TERMINATION: The Lessee binds itself, its successors and assigns, to abide by the provisions and conditions herein set forth, and said provisions and conditions shall be deemed covenants of the Lessee, its successors and assigns. In the event the Lessee fails or refuses to comply with the provisions and conditions herein set forth, or in the event the Lessee violates any of the provisions and conditions herein set forth, and the Lessee fails or refuses to comply with any of said provisions or conditions within twenty (20) days of receipt of the Lessor's notice to correct, this lease may be terminated by the Lessor upon thirty (30) days written notice to the Lessee. If canceled, all of the above-described parcel of land shall revert to the Lessor. All costs and attorneys' fees incurred by the Lessor to enforce the provisions of this lease shall be paid by the Lessee. All notices required to be given to the Lessee by this lease or applicable law or administrative rules shall be sufficient if sent by U.S. Mail to the following address:

City of Vero Beach
Post Office Box 1389
Vero Beach, Florida 32961-1389

The Lessee shall notify the Lessor by certified mail of any change to this address at least ten (10) days before the change is effective.

11. TAXES AND ASSESSMENTS: The Lessee shall assume all responsibility for liabilities that accrue to the subject property or to the improvements thereon, including any and all drainage or special assessments or taxes of every kind and description which are now or may be hereafter lawfully assessed and levied against the subject property during the effective period of this lease.

12. NUISANCES OR ILLEGAL OPERATIONS: The Lessee shall not permit the leased premises or any part thereof to be used or occupied for any purpose or business other than herein specified unless such proposed use and occupancy are consented to by the Lessor and the lease is modified accordingly, nor shall Lessee knowingly permit or suffer any nuisances or illegal operations of any kind on the leased premises.

13. MAINTENANCE OF FACILITY/RIGHT TO INSPECT: The Lessee shall maintain the leased premises in good condition, keeping the structures and equipment located thereon in a good state of repair in the interests of public health, safety and welfare. No dock or pier shall be constructed in any manner that would cause harm to wildlife. The leased premises shall be subject to inspection by the Lessor or its designated agent at any reasonable time.

14. NON-DISCRIMINATION: The Lessee shall not discriminate against any individual because of that individual's race, color, religion, sex, national origin, age, handicap, or marital status with respect to any activity occurring within the area subject to this lease or upon lands adjacent to and used as an adjunct of the leased area. During the lease term, the Lessee shall post and maintain the placard furnished to the Lessee by the Lessor in a prominent and visible location on the leased premises or adjacent business office of the Lessee. It shall be the responsibility of the Lessee to post the placard in a manner which will provide protection from the elements, and, in the event that said placard becomes illegible at any time during the term of this lease (including any extensions thereof), to notify the Lessor in writing, so that a replacement may be provided.

15. ENFORCEMENT OF PROVISIONS: No failure, or successive failures, on the part of the Lessor to enforce any provision, nor any waiver or successive waivers on its part of any provision herein, shall operate as a discharge thereof or render the same inoperative or impair the right of the Lessor to enforce the same upon any renewal thereof or in the event of subsequent breach or breaches.

16. PERMISSION GRANTED: Upon expiration or cancellation of this lease all permission granted hereunder shall cease and terminate.

17. **RENEWAL PROVISIONS:** Renewal of this lease shall be at the sole option of the Lessor. Such renewal shall be subject to the terms, conditions and provisions of management standards and applicable laws, rules and regulations in effect at that time. In the event that Lessee is in full compliance with the terms of this lease, the Lessee may apply in writing for a renewal. Such application for renewal must be received by Lessor no sooner than 120 days and no later than 30 days prior to the expiration date of the original or current term hereof. The term of any renewal granted by the Lessor shall commence on the last day of the previous lease term. If the Lessee fails to timely apply for a renewal, or in the event the Lessor does not grant a renewal, the Lessee shall vacate the leased premises and remove all structures and equipment occupying and erected thereon at its expense. The obligation to remove all structures authorized herein upon termination of this lease shall constitute an affirmative covenant upon the Lessee's interest in the riparian upland property more particularly described in Attachment **B**, which shall run with the title to the Lessee's interest in said riparian upland property and shall be binding upon Lessee and Lessee's successors in title or successors in interest.

18. **REMOVAL OF STRUCTURES/ADMINISTRATIVE FINES:** If the Lessee does not remove said structures and equipment occupying and erected upon the leased premises after expiration or cancellation of this lease, such structures and equipment will be deemed forfeited to the Lessor, and the Lessor may authorize removal and may sell such forfeited structures and equipment after ten (10) days written notice by certified mail addressed to the Lessee at the address specified in Paragraph 10 or at such address on record as provided to the Lessor by the Lessee. However, such remedy shall be in addition to all other remedies available to the Lessor under applicable laws, rules and regulations including the right to compel removal of all structures and the right to impose administrative fines.

19. **REMOVAL COSTS/LIEN ON RIPARIAN UPLAND PROPERTY:** Subject to the noticing provisions of Paragraph 18 of this lease, any costs incurred by the Lessor in removal of any structures and equipment constructed or maintained on state lands shall be paid by Lessee and any unpaid costs and expenses shall constitute a lien upon the Lessee's interest in the riparian upland property that is more particularly described in Attachment **B**. This lien on the Lessee's interest in the riparian upland property shall be enforceable in summary proceedings as provided by law.

20. **RECORDATION OF LEASE:** The Lessee, at its own expense, shall record this fully executed lease in its entirety in the public records of the county within which the lease site is located within fourteen (14) days after receipt, and shall provide to the Lessor within ten (10) days following the recordation a copy of the recorded lease in its entirety which contains the O.R. Book and pages at which the lease is recorded.

21. **RIPARIAN RIGHTS/FINAL ADJUDICATION:** In the event that any part of any structure authorized hereunder is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent riparian rights, Lessee agrees to either obtain written consent for the offending structure from the affected riparian owner or to remove the interference or encroachment within 60 days from the date of the adjudication. Failure to comply with this paragraph shall constitute a material breach of this lease agreement and shall be grounds for immediate termination of this lease agreement at the option of the Lessor.

22. **AMENDMENTS/MODIFICATIONS:** This lease is the entire and only agreement between the parties. Its provisions are not severable. Any amendment or modification to this lease must be in writing, must be accepted, acknowledged and executed by the Lessee and Lessor, and must comply with the rules and statutes in existence at the time of the execution of the modification or amendment. Notwithstanding the provisions of this paragraph, if mooring is authorized by this lease, the Lessee may install boatlifts within the leased premises without formal modification of the lease provided that (a) the Lessee obtains any state or local regulatory permit that may be required; and (b) the location or size of the lift does not increase the mooring capacity of the facility.

23. **ADVERTISEMENT/SIGNS/NON-WATER DEPENDENT ACTIVITIES/ADDITIONAL ACTIVITIES/MINOR STRUCTURAL REPAIRS:** No permanent or temporary signs directed to the boating public advertising the sale of alcoholic beverages shall be erected or placed within the leased premises. No restaurant or dining activities are to occur within the leased premises. The Lessee shall ensure that no permanent, temporary or floating structures, fences, docks, pilings or any structures whose use is not water-dependent shall be erected or conducted over sovereignty submerged lands without prior written consent from the Lessor. No additional structures and/or activities including dredging, relocation/realignment or major repairs or renovations to authorized structures, shall be erected or conducted on or over sovereignty, submerged lands without prior written consent from the Lessor. Unless specifically authorized in writing by the Lessor, such activities or structures shall be considered unauthorized and a violation of Chapter 253, Florida Statutes, and shall subject the Lessee to administrative fines under Chapter 18-14, Florida Administrative Code. This condition does not apply to minor structural repairs required to maintain the authorized structures in a good state of repair in the interests of public health, safety or welfare; provided, however, that such activities shall not exceed the activities authorized by this agreement.

24. ACOE AUTHORIZATION: Prior to commencement of construction and/or activities authorized herein, the Lessee shall obtain the U.S. Army Corps of Engineers (ACOE) permit if it is required by the ACOE. Any modifications to the construction and/or activities authorized herein that may be required by the ACOE shall require consideration by and the prior written approval of the Lessor prior to the commencement of construction and/or any activities on sovereign, submerged lands.

25. COMPLIANCE WITH FLORIDA LAWS: On or in conjunction with the use of the leased premises, the Lessee shall at all times comply with all Florida Statutes and all administrative rules promulgated thereunder. Any unlawful activity which occurs on the leased premises or in conjunction with the use of the leased premises shall be grounds for the termination of this lease by the Lessor.

26. LIVEABOARDS: The term "liveaboard" is defined as a vessel docked at the facility and inhabited by a person or persons for any five (5) consecutive days or a total of ten (10) days within a thirty (30) day period. If liveaboards are authorized by paragraph one (1) of this lease, in no event shall such "liveaboard" status exceed six (6) months within any twelve (12) month period, nor shall any such vessel constitute a legal or primary residence.

27. GAMBLING VESSELS: During the term of this lease and any renewals, extensions, modifications or assignments thereof, Lessee shall prohibit the operation of or entry onto the leased premises of gambling cruise ships, or vessels that are used principally for the purpose of gambling, when these vessels are engaged in "cruises to nowhere," where the ships leave and return to the state of Florida without an intervening stop within another state or foreign country or waters within the jurisdiction of another state or foreign country, and any watercraft used to carry passengers to and from such gambling cruise ships.

28. SPECIAL LEASE CONDITIONS:

A. Unless authorized in writing by the Lessor, the Lessee shall not rebuild or restore the non-water dependent structures included in this lease if 50 percent or more of the area encompassed by a structure is destroyed or if use of a structure has been discontinued and 50 percent or more of the area encompassed by a structure must be replaced in order to restore the structure to a safely useable condition. In addition, the use of the non-water dependent structures included in this lease shall not be converted to a new use except as authorized in writing by the Lessor.

B. Within 60 days after the Lessor's execution of this lease, Lessee shall install and display permanent manatee educational signs that provide information on the manners of manatees and the potential threat to this endangered species from boat operation. Lessee shall maintain these signs during the term of this lease and all subsequent renewal periods and shall be required to replace the signs in the event they become faded, damaged or outdated. Lessee shall ensure that the view of the signs is not obstructed by vegetation or structures. The number, type, and procedure for installation of these signs shall be in accordance with the handout, "Permanent Manatee Signs," which can be obtained from the Florida Fish and Wildlife Conservation Commission, Imperiled Species Management Section, 620 S. Meridian Street – 6A, Tallahassee, Florida 32399-1600 (Phone 850/922-4330).

C. The Lessee shall provide and make available to all vessels utilizing the docking facility operational and well maintained sewage pumpout facilities acceptable to the State of Florida Department of Environmental Protection or State of Florida Department of Health, whichever agency has jurisdiction.

D. There shall be a portable pumpout facility on site at all times.

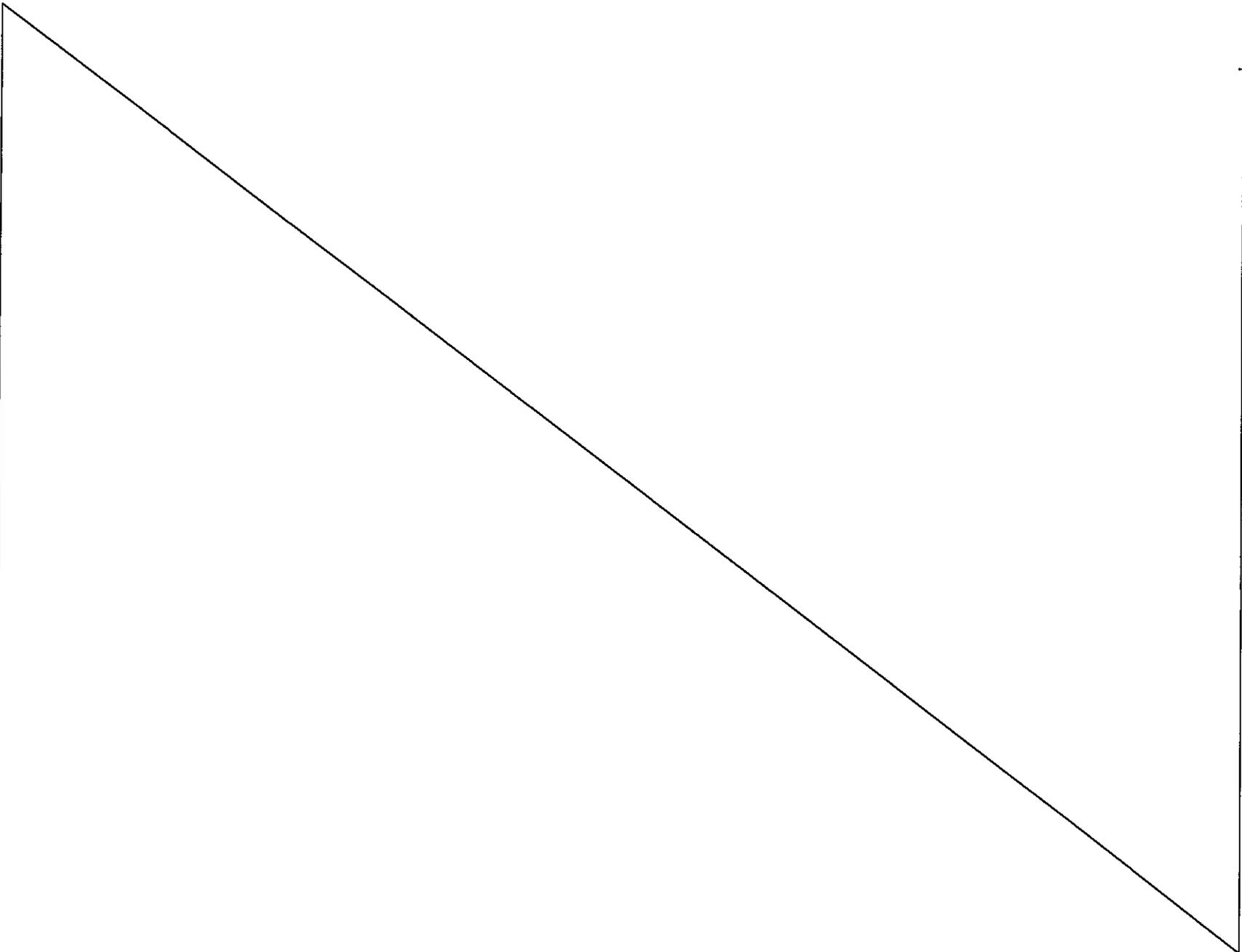
E. For vessels with functional heads without holding tanks, the Lessee shall affix an approved seal (e.g., the type used on water meters) on the closed sea cock of each liveaboard vessel that will remain in the wet slip for more than seven consecutive days. The Lessee shall inspect these seals each 30 days (to assure that the sea cock remains closed) and record this in a log which will remain available for inspection by regulatory agencies, during normal working hours.

The log entries shall include the following:

- a. date of inspection;
- b. an entry that the seal has remained intact;
- c. identification of the vessel (e.g., name, number); and
- d. signature of the inspector.

F. The Lessee and marina operations staff shall inform all wet slip occupants in writing of the availability and requirement to use the sewage pumpout facilities provided on the uplands.

G. Within 30 days after each anniversary of the effective date of this lease, the Lessee shall submit annual certified financial records of income and expenses to the State of Florida Department of Environmental Protection, Division of State Lands, Bureau of Public Land Administration, 3900 Commonwealth Blvd, MS 130, Tallahassee, FL 32399. "Income" is defined in subsection 18-21.003(31), Florida Administrative Code. The submitted financial records shall be certified by a certified public accountant: _____



WITNESSES:

Original Signature

BOARD OF TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND OF THE STATE
OF FLORIDA
(SEAL)

Print/Type Name of Witness _____
Original Signature _____
Print/Type Name of Witness _____
STATE OF FLORIDA
COUNTY OF LEON

BY: _____
Jeffery M. Gentry, Operations and Management Consultant
Manager, Bureau of Public Land Administration,
Division of State Lands, State of Florida Department of
Environmental Protection, as agent for and on behalf of the Board
of Trustees of the Internal Improvement Trust Fund of
the State of Florida

"LESSOR"

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by
Jeffery M. Gentry, Operations and Management Consultant Manager, Bureau of Public Land Administration, Division of State
Lands, State of Florida Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the
Internal Improvement Trust Fund of the State of Florida. He is personally known to me.

APPROVED AS TO FORM AND LEGALITY:

Notary Public, State of Florida

DEP Attorney

Printed, Typed or Stamped Name _____
My Commission Expires: _____
Commission/Serial No. _____

WITNESSES:

City of Vero Beach, Florida (SEAL)

Original Signature

BY: _____
Original Signature of Executing Authority

Typed/Printed Name of Witness

Kevin Sawnick
Typed/Printed Name of Executing Authority

Original Signature

Mayor
Title of Executing Authority

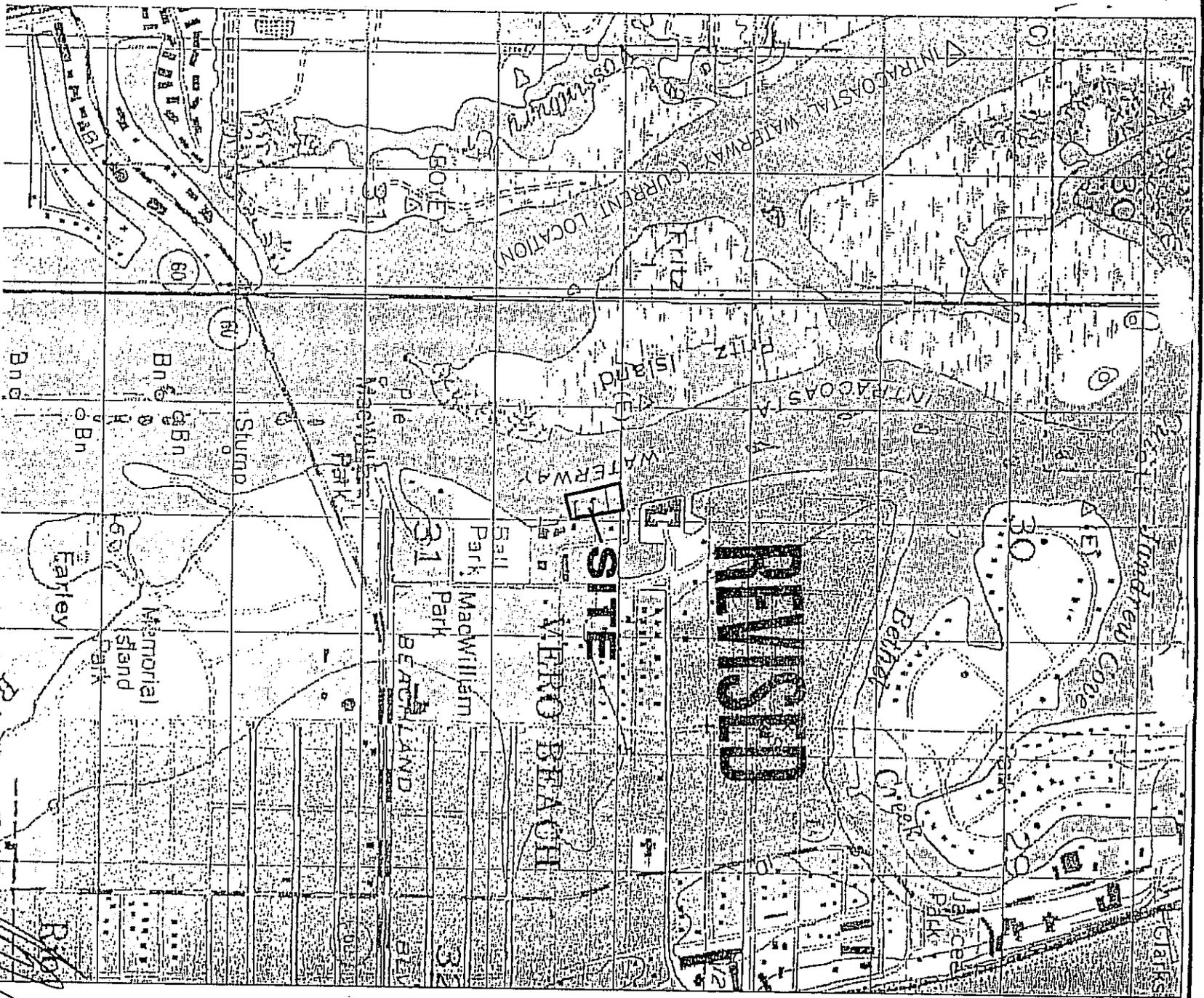
Typed/Printed Name of Witness

"LESSEE"

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by
Kevin Sawnick as Mayor, for and on behalf of the City of Vero Beach, Florida. He is personally known to me or who has
produced _____, as identification.

My Commission Expires: _____
Notary Signature _____
Notary Public, State of _____
Commission/Serial No. _____
Printed, Typed or Stamped Name _____



USGS QUAD MAP

N.T.S. 31-16802-005 *Sheet 2 of 3*

W
 MOSBY AND ASSOCIATES, INC.
 CONSULTING ENGINEERS
 2455 - 14TH AVENUE
 VERO BEACH, FLORIDA 32960
 PHONE (561) 569-0035
 FAX (561) 778-3617



REVISIONS
 REVISIONED PER PERM COMMENTS (4-11-00) BY KMS 4-28-00

NOTE: CURRENT SIZE OF MAPS DO NOT SHOW THE LOCATION OF THE INTRACOASTAL WATERWAY. PRESENTLY THE I.C.W. IS LOCATED ON THE WESTERN SIDE OF FRITZ ISLAND.

VERO BEACH MARINA DOCK ADDITION	VERO BEACH, FLORIDA
JOB NO. 01-553	FLC-2A
DFN/CHK KMG/RLM	SHEET 3 OF 12
DATE FEB 2000	

EXHIBIT "A"
PROPERTY DESCRIPTION
PROPOSED SUBMERGED LAND LEASE AGREEMENT

Situated in the State of Florida, County of Indian River, City of Vero Beach, and being a part of the Indian River in Section 31, Township 32 South, Range 40 East and being more particularly bounded and described as follows:

Commencing at the Northwest corner of Lot 11, Block 1 of Veromar Subdivision as recorded in Plat Book 1, Page 88 of the Public Records of Indian River County;

Thence South 71°29'41" West a distance of 12.80 feet to the Point of Beginning;

Thence continue South 71°29'41" West a distance of 219.90 feet;

Thence South 18°30'19" East a distance of 181.17 feet;

Thence South 76°51'50" West a distance of 30.00 feet;

Thence South 13°08'10" East a distance of 92.00 feet;

Thence North 76°51'50" East a distance of 38.65 feet;

Thence South 18°30'19" East a distance of 130.08 feet;

Thence North 71°29'41" East a distance of 176.20 feet to a point on the safe upland line of the Indian River;

Thence along said safe upland line of the Indian River:

North 15°39'56" West a distance of 52.99 feet;

North 17°39'20" West a distance of 52.33 feet;

North 17°24'10" West a distance of 52.26 feet;

North 12°32'03" West a distance of 51.12 feet;

North 11°30'36" West a distance of 50.93 feet;

North 08°55'08" West a distance of 50.56 feet;

North 10°40'41" West a distance of 50.80 feet;

North 07°58'41" West a distance of 29.20 feet;

North 05°25'02" West a distance of 17.40 feet to the Point of Beginning;

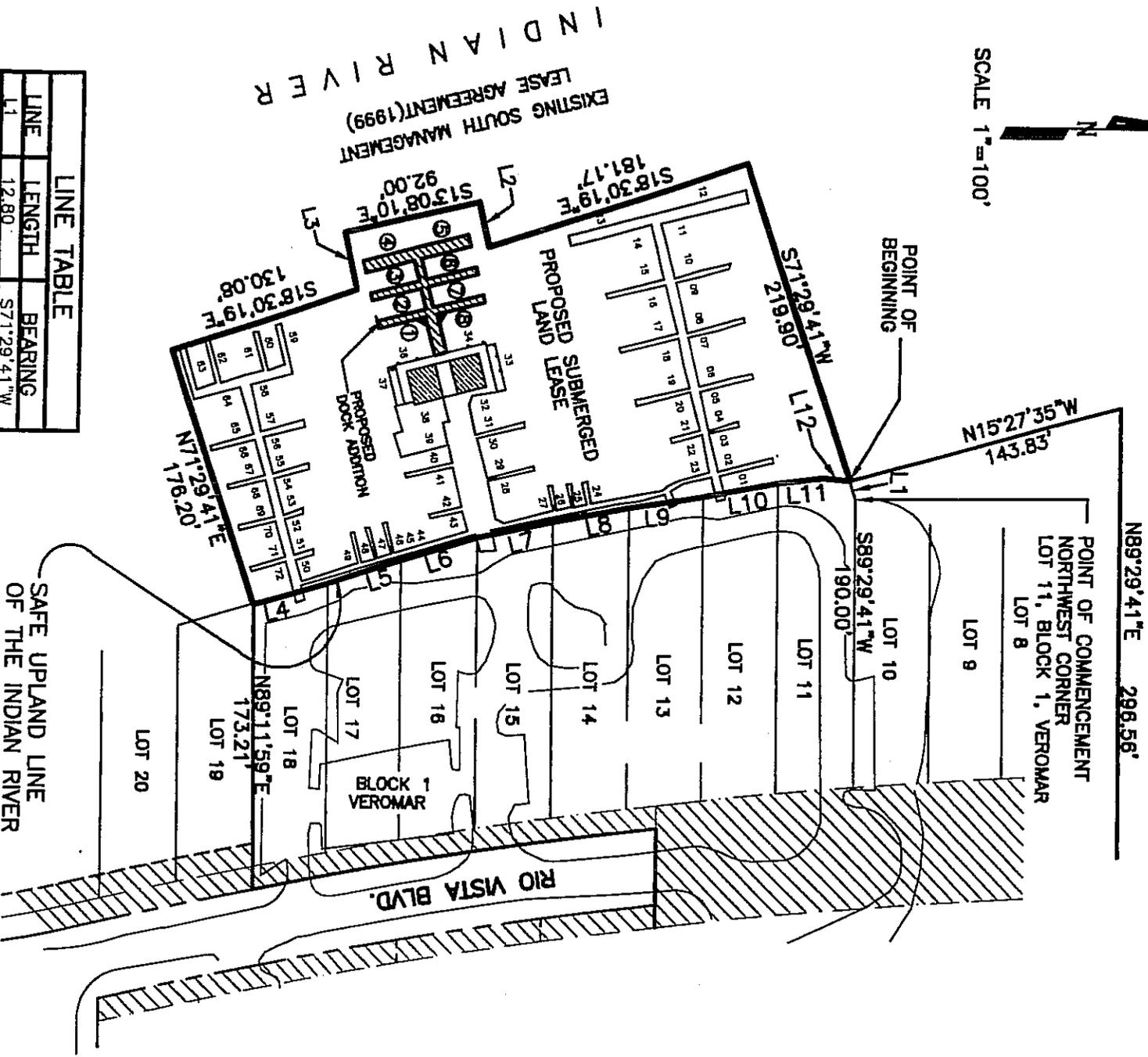
Said parcel containing 77,900 square feet more or less.



David R. Gay, PSM #5973

marinamoorings-aug00.doc

SCALE 1"=100'



LINE	LENGTH	BEARING
L1	12.80'	S71°29'41"W
L2	30.00'	S76°51'50"W
L3	38.65'	N76°51'50"E
L4	52.99'	N15°39'56"W
L5	52.33'	N17°39'20"W
L6	52.26'	N17°24'10"W
L7	51.12'	N12°32'03"W
L8	50.93'	N11°30'36"W
L9	50.56'	N08°55'08"W
L10	50.80'	N10°40'41"W
L11	29.20'	N07°53'41"W
L12	17.40'	N05°25'02"E

SAFE UPLAND LINE OF THE INDIAN RIVER

SURVEYOR'S NOTES

1. BEARINGS ARE REFERENCED TO THE SUBJECT SUBMERGED LAND LEASE AND THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, FLORIDA HIGH PRECISION NETWORK, NAD 83/1990 FINAL ADJUSTMENT, HOLDING A BEARING OF S 89°24'41" W ALONG THE NORTH LINE OF LOT 11, BLOCK 1 OF VEROMAR SUBDIVISION, PLAT 1
2. FIELD SURVEY COMPLETED ON MAY 14, 2000.
3. THIS SURVEY MEETS OR EXCEEDS THE REQUIREMENTS OF FLORIDA STATUTE CHAPTER 47.027 GOVERNING THE MINIMUM TECHNICAL STANDARDS FOR SURVEYS AND MAPS.
4. THIS SPECIFIC PURPOSE SURVEY IS FOR THE SOLE PURPOSE OF ILLUSTRATING THE PROPOSED SUBMERGED LAND LEASE AT THE CITY MARINA AS SHOWN. ALL OTHER INFORMATION SHOWN HEREIN WAS TAKEN FROM AERIAL PHOTOGRAPHY, DEVELOPED BY DENI AND ASSOCIATES IN 1991.
5. THIS SPECIFIC PURPOSE SURVEY IS NOT VALID WITHOUT THE ATTACHED PAGE 1 PROPERTY DESCRIPTION.
6. THIS SURVEY IS NOT VALID WITHOUT AN EMBOSSED SURVEYOR'S SEAL.

Attachment A
Page 10 of 11 Pages
SSLL No. 310221903

THIS SKETCH IS NOT A SURVEY

DAVID GAY, PSM #5923
David Gay
DATE 5-27-02

SHEET 2 OF 2

CITY OF VERO BEACH
DEPARTMENT OF PUBLIC WORKS
AND ENGINEERING
ENGINEERING DIVISION

SPECIFIC PURPOSE SURVEY
PROPOSED DOCK ADDITION LOCATION
VERO BEACH CITY MARINA

EXHIBIT "A"	REV. NO. 4	APPROVAL
CITY PROJECT NO. 9819	CHARTER MKF	CJS
DATE 8/2000	DRAWN BY DG	DATE 5/2002
ADD SURVEY NOTES		

ATTACHMENT E-7

ATTORNEY'S CERTIFICATION OF TITLE

OFFICE OF THE CITY ATTORNEY

City of Vero Beach

P.O. Box 1389

Vero Beach, FL 32961-1389

March 31, 1999

TO WHOM IT MAY CONCERN:

I, Kevin J. Sandor, am an Assistant Attorney for the City of Vero Beach, Florida. I hereby state that I have examined a copy of the deeds from Illinois-Florida Corporation to the City dated September 3, 1931; from Robert C. Rathbone to the City dated May 29, 1946; from Vero Beach Yacht Club, Inc. to the City dated November 25, 1957; and from Indian River County, Florida to the City dated August 1, 1989, conveying the following described property:

Lots 11 to 18 (inclusive), Block 1; Lots 1 to 12 (inclusive), and Lot 13, LESS the South 5 feet, Block 13; and Lots 28 to 34 (inclusive), Block 13, VEROMAR SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 1, at Page 88, of the Public Records of Indian River County, Florida; together with those vacated streets or vacated portions of streets adjoining said Lots.

I have also examined a document showing that this property is listed on the tax rolls as belonging to the City.

This property is what is now called "City of Vero Beach Marina."

I certify that the City does, in fact, own this property for public recreational purposes based upon the documents that I have examined.

Very truly yours,


Kevin J. Sandor

Assistant City Attorney

31-167502001

RECEIVED MAR 17 2000

Page 1 of 1