



WELCOME

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Welcome to the 2022 Florida Communities Trust Post-Completion Webinar

This PowerPoint presentation has been saved in PDF format on the Florida Communities Trust website. We encourage you to download the slideshow before the webinar begins by following the link below.

Visit Our Website to Download this PowerPoint Presentation:

<https://floridadep.gov/lands/land-and-recreation-grants/content/parks-and-open-space-florida-forever-grant-program-0>

The webinar will begin promptly at 10:00 a.m.



Florida Communities Trust Post-Completion Webinar

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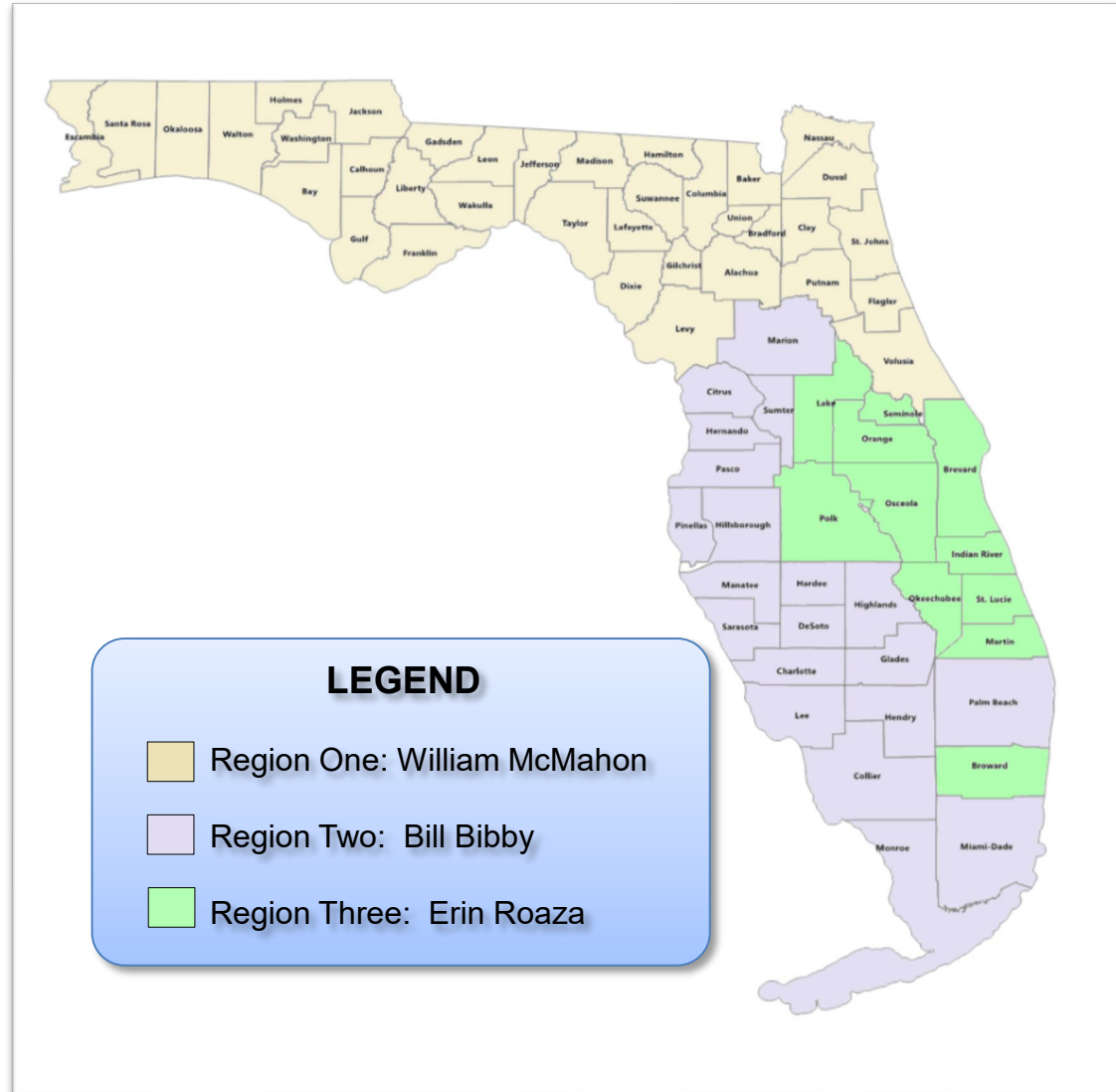
Division of State Lands / Florida Communities Trust
Florida Department of Environmental Protection

November 2, 2022



WELCOME

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION





AGENDA

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

- Purpose
- Program Overview
- Rules
- Post-completion Responsibilities / Bond Requirements
- Questions



Purpose of the Webinar

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

- Provide Step-by-Step Instruction
- Program Rules and Requirements
- Preview Forms
- Community Partnerships
- Updated Information



Program Overview

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Florida Communities Trust

- Created by Chapter 380, Part III, Florida Statute
- Non-regulatory - assist local governments with comp plan compliance
- Previously funded through P-2000.
Currently from Florida Forever
- Provide grant funds to acquire land
- An “agency within an agency”
- Governed by a Five-member Board



FCT Board at the Aug. 10, 2022 meeting

FCT Web Page:

<https://floridadep.gov/lands/land-and-recreation-grants/content/parks-and-open-space-florida-forever-grant-program-0>



Program Rules

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Parks and Open Space

[62-815, F.A.C.](#)

Preservation 2000 Program

[62-817, F.A.C.](#)

Preservation 2000 Land Acquisition Procedures

[62-818, F.A.C.](#)

Florida Forever Program

[62-819, F.A.C.](#)

Florida Forever Land Acquisition Procedures

Stan Mayfield Working Workfronts

[62-820, F.A.C.](#)

SMWW Application Procedures

[62-821, F.A.C.](#)

SMWW Land Acquisition Procedures



Post-Completion Responsibilities

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

- Development
- Stewardship Reporting
- Five-Year Transition
- Bond Requirements/Revenue Reports
- Use Agreements/MOU/Management Agreements
- Management Plan Changes
- DDRC Amendments
- Boundary Modifications
- Linear Facilities
- Land Exchanges
- Transfer or Reversion of Project Site



Questions?

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION





Development

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- Each project developed pursuant to Grant Award Agreement / Dedication and Declaration of Restrictive Covenants, and approved Management Plan.
- The FCT-acquired project site must be open and accessible to the public.





Stewardship Reports

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Annual Reporting

- Verify conditions for award are being met
- Verify use of property

5-Year Reporting

- Project fully developed per approved DDRC & Management Plan



5-Year Transition (Stewardship Reporting)

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Once the project is fully developed, the project may be eligible for a five-year reporting cycle.

1. Must be requested by recipient in writing
2. Statement of Completion
3. Updated Management Plan
 - As-built master site plan
 - Revise all Text – Completed or Ongoing
4. Photographs of all site improvements and restoration activities.





5-Year Transition (Stewardship Reporting)

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Assuming a successful outcome of the review and site visit, FCT will:

- Issue a confirmation letter
- Include new reporting due dates



Note, annual reporting can be re-imposed if necessary



Questions?

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Bond Funding

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No. . .

Not THAT Bond!



Bond Funding

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Preservation 2000 (1990–2000)

Florida Forever (2000-present)



Bond Funding

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What are the rules?

- To be and remain tax exempt, bonds must be issued by, and the proceeds must benefit, governmental entities ONLY.
- Issuers (the State of Florida) can allow 10% of bond proceeds to be used for non-governmental (i.e. private) use
- That percentage drops to 5% if
 - The use by the private party is unrelated to any governmental use of the bond proceeds; or
 - The percentage of proceeds from the private use exceeds the percentage of proceeds used for a related governmental interest.





Bond Questions

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What is “Private Use”?

“Used in the trade or business of a nongovernmental person” means:

- A **private** entity;
- That as a result of a **single transaction** or a series of **related transactions**;
- **Uses property acquired with the proceeds of a bond issue.**
- For this purpose, “any activity carried on by a person other than a natural person must be treated as a trade or business.”
- May be actual or beneficial use.



Bond Questions

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Exceptions: The Qualified Management Contract Safe Harbor

- A management contract is any contract between a governmental person and a service provider where the service provider provides services involving all or a portion of any function of a facility.
- The “safe harbor” provides that management contracts do not result in private business use if they do not:
 - Grant the service provider a share of NET profits; or
 - Impose on the service provider the burden of meeting NET losses



Bond Questions

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Who is a “Private User”?

Private use is a trade or business carried on by a **non-governmental person** on bond-financed property.

- Not-for-profits are considered non-governmental and thus private.
- Individuals and corporations are private.
- Joint entities that include a non-governmental person (e.g. public/private partnerships) are considered private.
- The Federal government is considered private in most circumstances.



Bond Funding: Revenue Reporting

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Florida Communities Trust Florida Forever Annual Revenue Report			
State Fiscal Year	July 1, 2021	through June 30,	2022
	year		year
FCT Project #:			
Project Site Name:			
Recipient:			
Key Contact Name:			
Address:			
Email:			
For each source of revenue, please select an Activity from the drop-down menu. Enter a brief description under Comments. Select "Misc. Prod." for revenue activities that do not fit any of the activities listed and use the Description field to define the activity type (i.e., parking fees or facility rental). Enter the total amount of revenue earned for the current State Fiscal Year. Use as many of the blanks as necessary. If no revenue was earned at the site, please enter "No Revenue Earned at this FCT Site" in the first "Description or Comment" field and submit the form with \$0 revenue.			
Activity (Select from the Drop-Down Menu)	Description or Comment	Revenue this State Fiscal Year:	
Grazing			
Hunting			
Lease			
Misc. Prod.			
Row Crops			
Sod			
Sugar Cane			
Timber			
Total Revenue this State Fiscal Year			\$0.00
When completed, please return this form to: Florida Communities Trust Florida Department of Environmental Protection 3800 Commonwealth Boulevard, Mail Station 103 Tallahassee, Florida 32399 Email: FloridaCommunitiesTrust@dep.state.fl.us			

State Fiscal Year: July 1 - June 30

Report is due by July 31 annually

Revenue Report form can be found at:

<https://floridadep.gov/lands/land-and-recreation-grants/documents/annual-revenue-report>



Questions?

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Agreements

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Types of Agreements

- Lease (NOT private use)
- Use Agreements
- Memorandum of Understanding (MOU)
- Management Agreements

FCT Must Approve

- Submit a draft agreement at least 60 days prior to execution.





Management Plans: P-2000 Projects

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Rule 62-815.011(b), F.A.C. (P-2000 Rule).

The plan must describe:

- How the site will be managed to further the purpose of the project
- Planned improvements to the project site
- Costs and funding sources
- If the Grant Recipient is not the proposed managing entity, include an agreement:
 - Managing entity's willingness to manage the site
 - Manner in which the site will be managed (*DDRC/SMC*)
 - Source of funding for management



Management Plans: Florida Forever Projects

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**Required by Rule 62-818.011, F.A.C.
(Florida Forever Rule).**



“Explain how the Project Site will be managed to further the purposes of the project and meet the terms and conditions of the Grant Agreement.”

Essentially the same requirements and expectations as P-2000



Changing the Management Plan

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Rule 62-818.011(3), F.A.C.:

- "Any revision or modification to the approved Management Plan will require review and approval by the Trust. The Recipient shall provide a written request for any Management Plan change including all appropriate supporting materials."





How to Change the Management Plan

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- **Written Request**
 - Email your FCT Planner
- **Describe the Reason for the Change**
- **Appropriate Supporting Materials (as necessary):**
 - Revised text (use Track Changes format)
 - Revised Project Site Plan
 - Photographs
 - Architectural renderings
 - Anything that documents the need for a change to the plan



Common Management Plan Changes

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- **Recreational Elements:**
 - Add or remove facility type
 - Change facility location
- **Boundary Modifications**
- **Linear Facilities**
- **Change in Project Manager**





Approving Change to a Management Plan

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- **Approval by FCT Planner UNLESS:**
 - The proposed change is **CONTROVERSIAL**
 - Objections from the Community

In that case:

- **Request goes to the FCT Board for consideration**
 - FCT Board has the final say in all matters



Changing the Management Plan

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Reasons a Request Might be Denied:

- Would result in a lower point score for the project
- Use other than outdoor recreation or conservation

If the Request is Approved:

- Revised plan is filed at FCT
- May require an amended DDRC





DDRC/DRC/GAA Amendments

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What is a DDRC?

(Dedication to Public Use and Declaration of Restrictive Covenants)

- On older projects, this is known as either the Declaration of Restrictive Covenants or the Grant Award Agreement
- A document signed by both the recipient and the FCT
- On file with county public records
- Establishes the State's Reversionary Interest
- Governs what may or may not be done on the project site
- Limits the use of the site to conservation, outdoor recreation and related activities
- Includes Special Management Conditions from the application and Grant Agreement/CAA
- Also includes the Deed to the property as an attachment/exhibit



DDRC/DRC/GAA Amendments

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Why Amend the DDRC?

- Management Plan Revision
- Boundary Modification
- Linear Facility
- Land Exchange



Any Change to Special Management Conditions



DDRC/DRC/GAA Amendments

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How to Amend the DDRC?

1. Written request, with backup, to your FCT Planner
 - Unless Linear Facility/Land Exchange
2. FCT will review for consistency
3. Draft Amended DDRC to recipient for review and execution
4. Executed DRC filed in public records by recipient
5. Recorded copy returned to FCT





Questions?

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Boundary Modification

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Preservation 2000 – 62-815.0105, F.A.C.

Florida Forever – 62-818.014, F.A.C.

Requests for boundary amendments received after acquisition reimbursement shall not be considered unless an exception is granted by the Trust based upon the demonstration of “good cause.”





Boundary Modification

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When Submitting Your Request for Boundary Modification:

- An original signed cover letter; with Statement binding the Recipient;
 - How the modification complies with the intent and purpose of the project;
 - Why the boundary change was not in the original Application;
 - An explanation of the effect on the overall project if the requested modification is not approved;
- A written statement signed by the Recipient detailing any and all changes to the original Application which result from the boundary modification being proposed



Boundary Modification

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If your request for Boundary Modification is approved:

- Revised Management Plan;
 - Include revised master site plan
- Revised DDRC
 - Include deed/legal description



Linear Facilities

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Examples of Linear Facilities:

- Road Widening
- Sidewalk Addition
- Utility Corridors
 - Power/Communication Lines
 - Gas/Oil Pipelines
 - Water/Sewer Lines

Any Linear Facility on an FCT Site will require approval from FCT.





Linear Facilities

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Multi-Step Process

Per 62-818.015 (FL Forever) or Board Policy (P-2000)

1. Determination that:

- a) No reasonable alternative
- b) Minimal impact
- c) Alternative analysis

2. If No Reasonable Alternatives

- a) Written Statement – Local Government approval
- b) Description and Dimensions
- c) Natural Communities
- d) Compatibility with Recreational Use
- e) Mitigation
- f) Modified Master Site Plan



**Most often requires
Board approval**



Linear Facilities

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Recipient (*the party taking the land for a linear facility*) Must Pay for Land Taken:

**If FCT
Approves
the
Request**

1. Provide an Appraisal/Other Valuation Method
2. Provide a Legal Description
3. Sign an amendment to the DRC
4. Record the Amended DRC

No Payment if Land is NOT Taken.

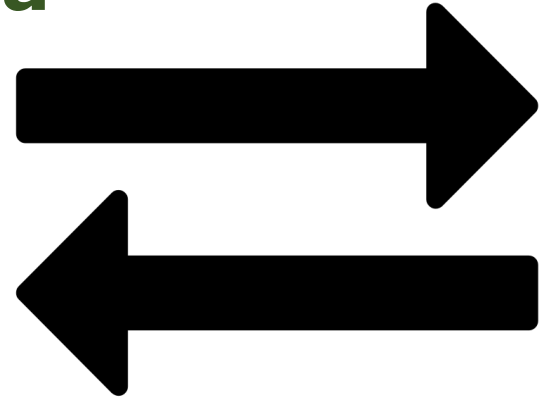


Land Exchanges

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Governed by Rule 62-818.016, F.A.C. (Florida Forever) or Board Policy (P-2000)

- Local governments only
- Written request
- To be considered, the exchange parcel(s) MUST:
 1. Be contiguous to the FCT project site
 2. Equal or greater upland acreage
 3. Same (or greater) real estate value (or else monetary compensation)
 4. Significant and clear net benefit
 5. Does not result in a lower score based on the application criteria





Land Exchanges

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

If no net environmental, conservation, or recreational benefit, the request will be denied.

HOWEVER

If the previous tests are met, the FCT will request the following information. . .





Land Exchanges

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

1. Written statement from governing body
2. Revised Management Plan and Master Site Plan
3. Information on natural communities and cultural features
4. Survey and legal description
5. Title policy
6. CURRENT Appraisal(s) for each parcel (2 if over \$1M)
7. Phase I ESA (Phase II if RECs)
8. Other items as requested



If these requirements are met, and a net benefit is determined, the request goes to the Board.



Land Exchanges

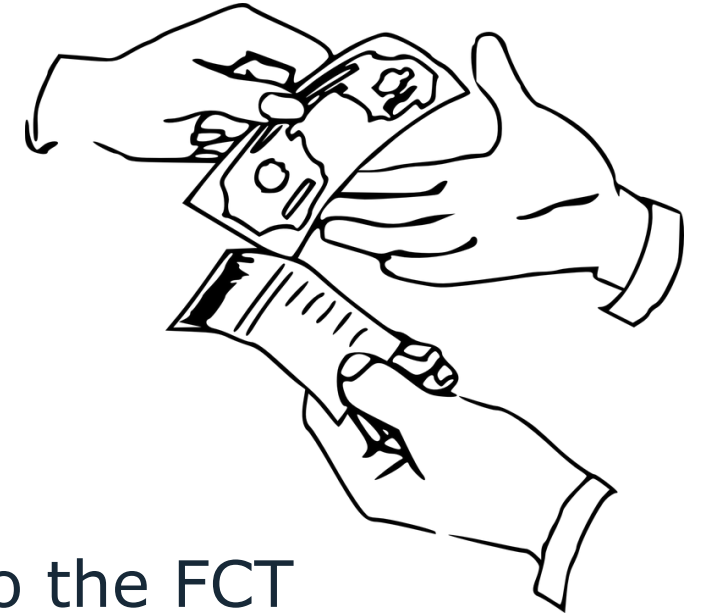
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If the Board approves:

- Amendment to the DRC
- Record the amended DRC

Monetary compensation

- From the party receiving the exchange land to the FCT and grant recipient
- Due if the value of the land provided is **greater** than the land received by the FCT/grant recipient
- Distributed between the FCT and the grant recipient according to grant/match ratio





Transfer or Reversion

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Transfer from one Managing Entity to another

Per section 380.510(3)(e), F.S.

- Transfer subject to approval by FCT Board
- New DRC and Management Plan
- Transferee takes on all FCT post-completion responsibilities





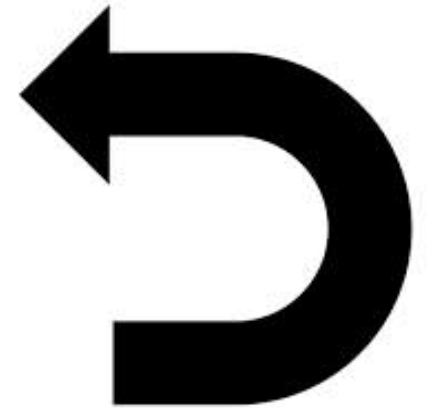
Transfer or Reversion

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Reversion

Per section 380.510(3)(d), F.S.

- If any essential term or condition is violated, title will revert to the Board of Trustees of the Internal Improvement Trust Fund
- FCT will hold the site for subsequent transfer to an appropriate governmental or non-profit agency
- After 5 years, the land may be disposed of at fair market value or traded for other land of comparable value





Questions?

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Questions?

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Post Completion Responsibilities:

- Development
- Stewardship Reporting
- Five-Year Transition
- Bond Requirements/Revenue Reports
- Leases/Use Agreements/MOU/Management Agreements
- Management Plan Changes
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- Land Exchanges
- Transfer or Reversion of Project Site



FCT Contacts

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

FCT Email: FloridaCommunitiesTrust@floridadep.gov

FCT Phone: (850) 245-2501

Program Manager Linda Reeves: Linda.Reeves@floridadep.gov

OMC Manager, (vacant):

FCT Planners:

Region One, William McMahon: William.McMahon@floridadep.gov

Region Two, Bill Bibby: Bill.Bibby@floridadep.gov

Region Three, Erin Roaza Erin.Roaza@floridadep.gov

DSL Acquisition:

Rachael Crum: Rachael.Crum@floridadep.gov

Closing and Legal Matters:

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THANK YOU

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