



Participant Instructions

Please [register](#) for the FCT Post Completion Webinar

After registering, you will receive a confirmation email containing information about joining the webinar.

[Download the Power Point Slideshow](#)

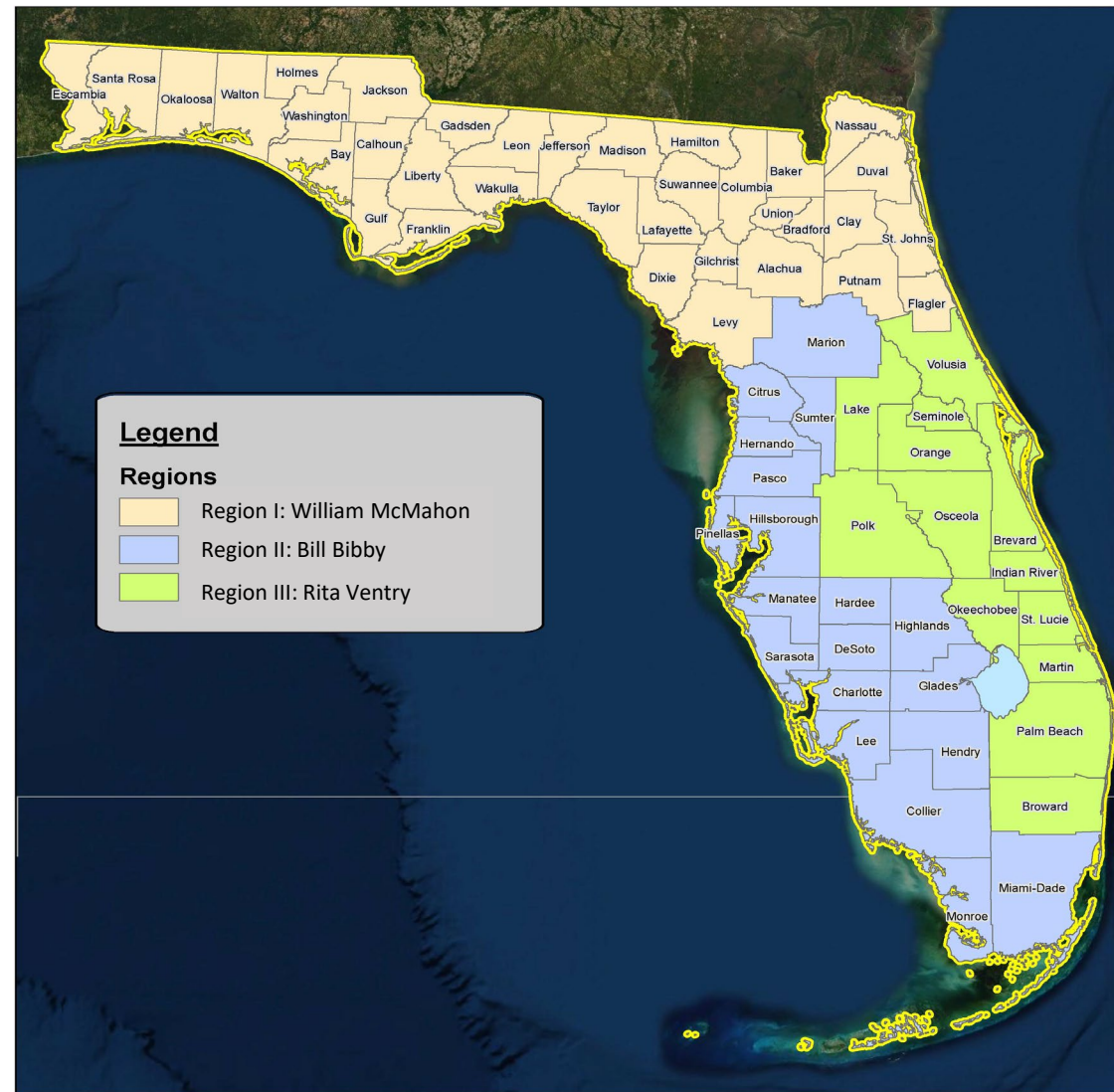


Florida Communities Trust Post-Completion Webinar

May 19, 2021



Staff Assignments





Agenda

- **Purpose**
- **Program Overview**
- **Rules**
- **Post Completion Responsibilities/Bond Requirements**
- **Questions**



Program Overview

These local land acquisition grant programs provide funding to local governments and eligible nonprofit organizations to acquire land for parks, open space, greenways and projects supporting Florida's seafood harvesting and aquaculture industries. The source of funding for Florida Communities Trust comes from Florida Forever proceeds.

[FCT Web Page](#)



Program Rules

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 Workfront

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

SMWW Application Procedures

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

SMWW Land Acquisition Procedures



Post-Completion Responsibilities

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



Questions





Development

- **Developed pursuant to Grant Award Agreement, Dedication and Declaration of Restrictive Covenants and Approved Management Plan.**
- **Open the Developed Project Site to the Public.**





Stewardship Reports

Annual Reporting

- **Verify conditions imposed at time of award**
- **Verify use of property**

5-Year Reporting

- **Project Fully Developed per Approved Management Plan**





5-Year Transition (Stewardship Reports)

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)

Assuming a successful outcome of the review and site visit

- FCT will issue a notice
- Include new reporting due dates



**Note, annual reporting can be re-imposed if
necessary**



Questions





Bond Funding



No. . .
Not THAT Bond!



Bond Funding

What are those 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 Funding: Revenue Reporting



Due by July 31 annually
Revenue form can be found at:

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



Bond Funding: Revenue Reporting



**Florida Communities Trust
Florida Forever
Annual Revenue Report**



State Fiscal Year July 1, through June 30,
year year

FCT Project #:

Project Site Name:

Recipient:

Key Contact Name:

Address:

Email:

Due Date of Annual Stewardship Report:

Only the shaded areas of the form may be filled in. For each source of revenue, please fill in the Activity (for example, parking fees or facility rentals), and Comments, and the total amount of revenue earned for the current State Fiscal Year. Please check the total revenue at the bottom of the form. Use as many of the blanks as necessary.

Activity (<i>i.e.</i> , parking, facility rental, concession)	Description or Comment	Revenue this State Fiscal Year:
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
 ftp site: <ftp://depftp.dep.state.fl.us/pub/incoming/FCT/>



Bond Questions

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 Questions

What is “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 use or beneficial use.**



Bond Questions

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**



Questions





Leases/Use Agreements/ MOU/Management Agreements

Types of Agreements

- Leases
- Use Agreements
- MOU
- Management Agreements



FCT Must Approve

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



Management Plans: P-2000 Projects

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

**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

- **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

- **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

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





Approving a Request to Change a Management Plan



- **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

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 DDRRC

DENIED

APPROVED



DDRC/DRC/GAA Amendments

What is a DDRC?

(Dedication 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 Grant Agreement/CAA
- Also includes the Deed to the property as an attachment/exhibit



DDRC/GAA Amendments

Why Amend the DDRC?

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

Any Change to Special Management Conditions





DDRC/GAA Amendments

How to Amend the DDRC?

- 1. Written request, with backup, to your FCT Planner**
 - Unless Linear Facility/Land Exchange
- 2. FCT will draft and sign Amended DDRC**
- 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





Boundary Modification

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

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**



Linear Facilities

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

Multi-Step Process

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

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

- 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.

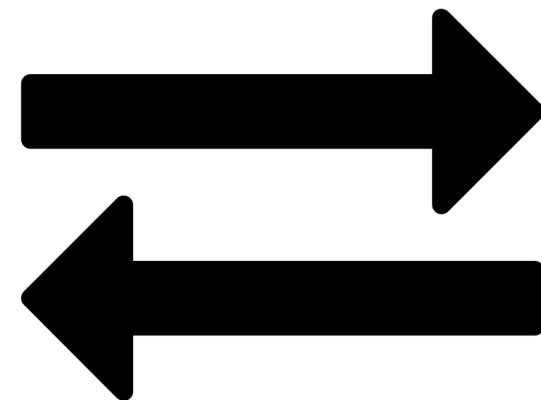
**If FCT Approves
the Request**



Land Exchanges

**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

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

1. **Written statement from governing council**
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**
7. **Phase I ESA**
8. **Other items as requested**



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



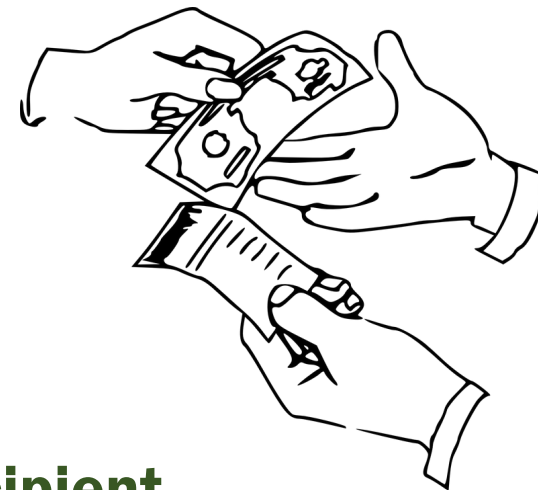
Land Exchanges

If the Board approves:

- **Amendment to the DRC**
- **Record the amended DRC**

Monetary compensation

- **From the party receiving the 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

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

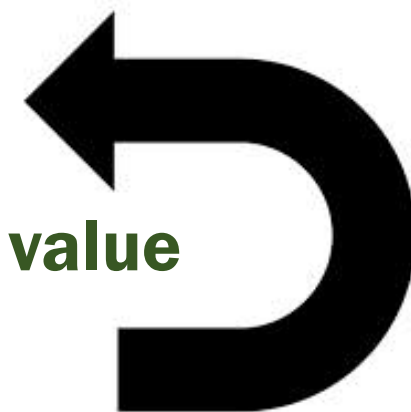




Transfer or Reversion

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 agency 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





Re-Cap

Post Completion Responsibilities:

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