

**CHAPTER 66B-2  
WATERWAYS ASSISTANCE PROGRAM**

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**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.

*Rulemaking 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.

*Rulemaking 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 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) "MARITIME MANAGEMENT PLAN" means a written plan containing a systematic arrangement of elements specifically formulated to identify, evaluate and promote the benefits of eligible waterway accessibility and enjoyment, with consideration and respect to the physical, environmental and economic parameters of the planning area.
- (13) "MATCHING FUNDS" means those funds provided by the local sponsor to the project.
- (14) "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.
- (15) "NAVIGATION RELATED DISTRICTS" means port authorities, inlet districts or any other agency having legally authorized navigation related duties in waterways of the District.
- (16) "PRE-AGREEMENT COSTS" means project costs approved by the District Board which have occurred prior to the execution of the project agreement.
- (17) "PROGRAM" means the Florida Inland Navigation District Waterways Assistance Program.
- (18) "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.
- (19) "PROJECT" means a planned undertaking consisting of eligible program facilities, improvements or expenses for the use and benefit of the general public.
- (20) "PROJECT AGREEMENT" means an executed contract between the District and a project sponsor setting forth mutual obligations regarding an approved project.
- (21) "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.
- (22) "PROJECT MANAGER" means the District employee who is responsible for monitoring the performance of the Project and compliance with the project agreement.
- (23) "PROJECT PERIOD" means the approved time during which costs may be incurred and charged to the funded project.
- (24) "PROJECT SPONSOR" means an eligible governmental agency receiving program funds pursuant to an approved application.
- (25) "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.
- (26) "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.
- (27) "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.
- (28) "TRIM HEARING" means a public hearing required by Chapter 200, F.S., concerning the tax and budget of the District.
- (29) "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.
- (30) "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.

**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, maritime management plans, 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 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, email and/or advertised public notice all eligible governmental agencies of the program and the upcoming authorized submission period.

(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 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 create and maintain an enterprise fund for the public project that shall plan for and retain at all times sufficient funds for the on-going maintenance of the facility during its project life. Accounting records of the previous five years of the public project's enterprise fund will be submitted as part of any subsequent assistance program application to the District.

*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, 3-7-11, 3-7-12, 1-27-14, 2-17-15.*

#### **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. 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. 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) through (F) Waterways Assistance Program Application and Evaluation Worksheet (effective date 1/2014), hereby incorporated by reference and available at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-03568> and available from the District office or by download from the District's webpage at: [www.aicw.org](http://www.aicw.org).

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

(2) Project Funding Ratio: All financial assistance and support to eligible governmental agencies shall require, at 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(6), F.A.C., land acquisition projects in accordance with subsection 66B-2.005(7) and Rule 66B-2.008, F.A.C., small-scale spoil island restoration and enhancement projects that meet the provisions of Rule 66B-2.014, derelict vessel projects consistent with Rule 66B-2.0015, F.A.C., and Waterway Cleanup Projects approved under Rule 66B-2.0016, 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. All approved multi-year projects are limited to a maximum of two (2) additional funding requests.

(5) 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.

(6) 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 be within the Intracoastal Right-of-Way (ROW), or provide public navigation channel access to two or more public accessible 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. Navigation projects or project elements that have one facility open to the public will 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.

(7) Land Acquisition: All land acquisition projects shall qualify for a maximum of twenty-five (25) percent program funding. All pre-agreement expenses for land acquisition must be completed within one-year of the date of application for funding. All funded land acquisition projects must construct the required boating access facility within 7 years of completion of the land acquisition, or the District may require the applicant to refund the program funding. Immediately upon acquiring title to the land, the applicant shall record a declaration of covenants in favor of the District stating that if the required boating access facility is not constructed within 7 years and dedicated for the public use as a boating access facility for a minimum period of 25 years after completion of construction, the District shall require the applicant to refund the program funding.

(8) Seaport Funding Eligibility: Financial assistance to seaports may exceed the proportional share of the District's ad valorem tax collections as set forth in subsection 66B-2.005(1), F.A.C., from the county in which such seaport is located if the seaport can demonstrate that a regional benefit occurs from the port's activities. Financial assistance to a seaport project that demonstrates a

regional benefit shall not exceed an amount equal to (i) the proportional share of the District's ad valorem tax collections as set forth in subsection 66B-2.005(1), F.A.C., from the counties where the benefit is demonstrated less (ii) funding allocated in the same fiscal year to all other local government projects funded in those counties.

*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, 3-7-11, 3-7-12, 4-10-13, 1-27-14.*

### **66B-2.006 Application Process.**

(1) Application Period: With the exception of eligible Disaster Relief Projects, eligible Small-Scale Spoil Island Restoration and Enhancement Projects eligible Small-Scale Derelict Vessel Applications and Waterway Cleanup Events, 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 the Waterway Assistance Program Application and Evaluation Worksheet No. 91-25 and 91-25 (A) through (F) (effective date 1/2014) 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, the Small-Scale Derelict Vessel program, and eligible Waterway Cleanup Events, 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 the Waterway Assistance Program Project Application and Evaluation Worksheet No. 91-25 and 91-25 (A) through (F) 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. 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) Maps and Geographic Information: All applicants shall be required to submit, at minimum, the following geographic information: A County location map, a project location map, a project boundary map, and a clear and detailed site development map for land development projects.

(6) Application Review: Applicants shall obtain the local FIND Commissioner's initials on Form No. 90-26 prior to submitting the application to the District office. It is the applicant's responsibility to make timely arrangements for the local FIND Commissioner's review. In the absence of extenuating circumstances outside of the applicant's control as determined by the Board of Commissioners, an application shall not be considered complete if it does not include the local FIND commissioner's initials on Form No. 90-26. 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 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.

(7) 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.

(8) 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.

(9) Application Evaluation and Rating Score: Following the presentations, the Board will review the applications and evaluate them using the Waterways Assistance Program Application and Evaluation Worksheets No. 91-25 (A) through (F) for Waterways Assistance Program 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, 1/2014).

(10) 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.

*Rulemaking 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, 3-7-11, 1-27-14.*

#### **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.

*Rulemaking 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, maritime management planning, 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. Maritime Management Planning;
14. Waterways boating safety programs and equipment;
15. Beach renourishment on beaches adversely impacted by navigation inlets, navigation structures, navigation dredging, or a navigation project; and,
16. Environmental restoration, enhancement or mitigation projects; and,
17. Other waterway related projects. Waterway projects that do not meet specific criteria in subsection 66B-2.005(5) or (6) or subparagraphs 66B-2.008(1)(a)1.-16., F.A.C., but are located on eligible waterways shall be considered for funding under the priority listing of "other waterway related project" and eligible for 25% funding.

(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 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 for non-waterway related facilities;
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, organizational conferences; and,
13. Inlet maintenance.

(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 fire-fighting, Marine law enforcement and other vessels are eligible for a maximum of \$60,000 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 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. The public marina will be required to establish and maintain an accounting of the funds for the facility and shall plan for and retain at all times sufficient funds for the on-going maintenance of the facility during its project life.

(5) The District may assist eligible local governments with efforts to prepare and implement a comprehensive maritime management plan. The plan shall be utilized by the eligible government to promote and maximize the public benefit and enjoyment of eligible waterways, while identifying and prioritizing the waterway access needs of the community. The plan should not duplicate any existing or ongoing efforts for the same waterway or water shed, nor shall the District participate in any effort that does not address the basic maritime needs of the community.

(a) Existing plans may be updated at reasonable intervals or amended to include waterway areas previously not included in the original effort. Public, government, environmental, industry and other pertinent interest groups shall be solicited and included for input in the planning process.

(b) The plan shall be utilized as a tool to provide a minimum 5-year planning analysis and forecast for the maritime needs of the community, and shall include, at minimum, the following:

1. Public boat ramp and ramp parking inventory and analysis.
2. Public mooring and docking facility analysis, including day docks and transient slips.
3. Commercial and working waterfront identification and needs analysis.
4. The identification, location, condition and analysis of existing and potential navigation channels.
5. An inventory and assessment of accessible public shorelines.
6. Public Waterway transportation needs.
7. Environmental conditions that affect boat facility siting, a current resource inventory survey, and restoration opportunities.
8. Economic conditions affecting the boating community and boating facilities.
9. Acknowledgment and coordination with existing data and information, including an emphasis on the Intracoastal Waterway.

(c) Projects requested for assistance program funding shall be consistent with the applicant's maritime management plan. The applicant should utilize the plan to assist in prioritizing waterway improvement projects.

(6) All eligible environmental restoration, enhancement or mitigation projects as well as the environmental restoration, enhancement or mitigation components of other types of projects shall be required to pursue and assign any available mitigation credits to the District for that share of the project funded through the District's Assistance Program. All eligible environmental restoration, enhancement or mitigation projects shall provide public access where possible.

(7) 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-*

**66B-2.009 Project Administration.**

The District will appoint a project manager who shall be responsible for monitoring the project and the project agreement. The project manager shall also be responsible for approving all reimbursement requests. The project sponsor shall appoint a liaison agent, who will be a member of the eligible applicant's staff, to act on its behalf in 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. The project agreement shall be executed and returned by the project sponsor within six (6) months of the approval of the project funding and 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, result in a reallocation of more than 35% of the approved funding of the project among project elements, nor allow for a greater than 35% change in the project scale or scope of work. 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. A Final Project Report shall be submitted at the completion of the project and shall at minimum include: project summary, photo of completed project, final cost, project benefits to the waterway and location address.

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

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

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

*Rulemaking 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, 3-7-11, 1-27-14.*

### **66B-2.011 Reimbursement.**

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

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

- (a) The percentage total of project funding that the Board has agreed to fund, or
- (b) The maximum application funding assistance amount.

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

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

(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.

(6) Recovery of Additional Project Funding: If the project sponsor receives additional funding for the project costs from another source that was not identified in the original application and that changes the agreement cost-share percentage, the project sponsor shall proportionately reimburse the District's program funds equal to the cost-share percentage in the approved project agreement. The project sponsor shall promptly notify the District of any project payments it receives from a source other than the District.

*Rulemaking 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, 3-7-11.*

### **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.

*Rulemaking 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 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. The applicant shall include a map clearly delineating the location of all proposed work included in the application.

(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.

*Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History--New 7-30-02, Amended 4-24-06, 3-7-11.*

### **66B-2.015 Small-Scale Derelict Vessel Removal Projects.**

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

(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 \$30,000.00 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. The applicant shall include a map clearly delineating the location of all vessels included in the application

(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.

*Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History--New 4-24-06, Amended 4-15-07, 3-25-08, 3-7-11, 1-27-14.*

### **66B-2.016 Waterways Cleanup Events.**

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

(1) Application Procedure: Prior to the event, a request for funding shall be submitted to the District by means of a cover letter detailing the occurrence of the cleanup, contact information, a map of the cleanup locations and the general parameters of the event. In addition, the Applicant will submit a detailed budget clearly delineating the expenditure of all District funds, as well as the overall general budget of the event. Proposals may be submitted to the District and considered by the Board at any time during the year.

(2) Availability: The District shall fund a maximum of one clean-up program per waterway, per year within a county, with exception to the provisions of subsections (8) through (10), below.

(3) Applicant Eligibility: The clean-up program must be sponsored by a government agency or a registered not-for-profit corporation.

(4) Funding: District funding shall be limited to \$5,000 per waterway, per county, except for the provisions of subsections (8) through (10), below.

(5) The District shall be recognized in all written, on-line, audio or video advertising and promotions as a participating sponsor of the clean-up program.

(6) Funding Eligibility: The funding provided by the District shall only be allocated to reimburse the applicant for out of pocket expenditures related to specific cleanup program expenses such as trash bags, trash collection, haul and landfill fees, gloves, advertising, T-shirts, and related expenses. The funding provided by the District shall not be allocated for parties, meetings, food or beverages.

(7) The District Board shall make all final decisions concerning the provision of funding for a clean-up program.

In addition to the requirements stated above, a cleanup program implementing all of the following additional incentives will qualify for up to additional \$5,000 in clean up funds.

(8) The clean-up program budget must provide equal or greater matching funds for all Navigation District funding.

(9) The applicant shall tally and report the composition and location of the waterway-related debris, with the goal to show definitive progress in the amount of refuse collected, a reduction in the overall debris in the waterway, or an increase in the number of additional waterway areas included in the clean up.

(10) For each additional \$1,000 in Navigation District funding, the applicant shall coordinate a minimum of one waterway collection point or clean up area, or an applicant can conduct an additional waterway cleanup program for the waterway areas.

*Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History--New 3-7-11.*