

EXECUTIVE SUMMARY

Recommendation to approve Collier County Guiding Principles that apply to RESTORE Act funding and direct staff to coordinate a Selection Committee to review proposed projects.

OBJECTIVE: Collier County has been identified as one of 23 Gulf coastal counties to be impacted by the Deepwater Horizon oil spill of April 2010 and eligible for funding through the RESTORE Act, federal legislation passed last summer mandating states counties be compensated for resulting damages. The amount of funding may be significant based on the Clean Water Act and depends on civil penalties yet to be settled with parties determined responsible for the accident. Counties are preparing project lists in advance of receipt of funds.

Because Collier is one of the impacted Gulf coastal counties, the Board of County Commissioners (BCC) and the County Manager's Agency staff have been monitoring the RESTORE Act process since August 2012.

In pursuing RESTORE Act funds, the Board of County Commissioners (BCC) is being asked today to adopt the Collier County-specific *Guiding Principles* below. These local Guiding Principles will need to be applied to project proposals, along with *Allowable Uses* developed in the bill. The BCC is being asked also to direct staff to coordinate a Selection Committee comprised of external stakeholders and county staff which will review projects and present to the BCC a vetted list of final candidates in June 2013.

CONSIDERATION: Following the *Deepwater Horizon* tragedy when an explosion and fire in the Gulf of Mexico killed 11 workers and poured 200 million gallons of oil unabated into Gulf waters for three months, the Florida Association of Counties (FAC) and a group of lobbyists advocated to assist the eight (8) most impacted "disproportionate" counties. As lobbying efforts in Washington, D.C. intensified, FAC included 15 less affected "non-disproportionately" coastal Gulf counties. Collier County is one of those 15.

County Commissioners and staff from Monroe to Escambia counties began attending monthly meetings held to address the RESTORE Act, which was co-sponsored by Senators Bill Nelson and Marco Rubio, and passed as an amendment in the federal Transportation Bill that was approved by the U.S. Congress in June and signed by President Barack Obama in July 2012.

Passage of the RESTORE Act – which means Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 – may translate into millions of dollars for Gulf counties impacted by the oil spill tragedy and its repercussions.

The legislation holds the parties responsible for the Gulf oil disaster accountable for restoring the Gulf. By investing fines owed by British Petroleum (BP) and the other parties responsible for the Gulf oil spill into the Gulf region, the RESTORE Act will provide significant resources to Collier County.

In January the BCC approved Collier County joining the Consortium which is administering one of three funding opportunity “pots” containing dollars from civil penalty settlements according to the Clean Water Act. (See Ocean Conservancy diagram attached.)

Staff requests the BCC adopt the following **Guiding Principles** relating to project proposals:

1. Projects provide positive environmental and economic benefits, including job creation.
2. Projects are consistent with local government comprehensive plans and community priorities.
3. Projects incorporate other funding partners to fully leverage grant resources.
4. Projects meet the funding criteria set forth in the RESTORE Act.
5. Projects selected will be diverse and address all our community’s eligible needs, including coastal and ecosystem restoration and development, flood protection, and tourism promotion.

The recommendation is also that the BCC direct county staff to communicate and coordinate a **Selection Committee** which will include the following stakeholder representatives: City of Naples, City of Marco Island and Everglades City; Conservancy of Southwest Florida, Rookery Bay National Estuarine Research Reserve, Big Cypress Basin, Tourism Development Council and Collier County Marine Industries Association.

The eight (8) external committee members will join the following (internal) county staff: William Lorenz, Natural Resources Director; Gary McAlpin, Coastal Zone Programs Manager; Jerry Kurtz, Surface Water and Environmental Planning Manager; Jack Wert, Tourism Director; and Debbie Wight, Legislative Affairs Coordinator.

The 13-member Selection Committee will receive proposed projects from all interested parties, review and evaluate, and present to the BCC a prioritized list of projects to evaluate and consider for funding. Process updates will be posted on the county’s RESTORE Act website: <http://www.colliergov.net/index.aspx?page=7066>

The Guiding Principles are intended to localize the criteria as well as supplement the following **Allowable Uses** that are required for RESTORE Act funding:

- Restoration and protection of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region
- Mitigation of damage to fish, wildlife, and natural resources
- Implementation of a federally approved marine, coastal, or comprehensive conservation management plan, including fisheries monitoring
- Workforce development and job creation
- Improvements to or on State parks located in coastal areas affected by the Deepwater Horizon oil spill
- Infrastructure projects benefitting the economy or ecological resources, including port infrastructure
- Coastal flood protection and related infrastructure
- Activities to promote tourism and seafood in the Gulf coast region

The three (3) available funding pots, from left to right on the attached diagram, are defined below:

Opportunity “pot” 1 – Thirty-five (35) percent to be divided equally among the five Gulf of Mexico states, or up to nearly \$1.5 billion for each state. A 2011 Florida law says 75 percent of the state’s share of this pot, up to \$1.1 billion, must go to the eight hardest hit Gulf counties in Northwest Florida, and 25 percent, which could amount to \$367 million, will be divided among the 15 non-disproportionately impacted counties, including Collier County. The 15 non-disproportionately impacted counties will receive funding based on a formula that considers the weighted average of the population of the county, the weighted average of the county per capita sales tax collections estimated for fiscal year 2012, and the weighted average distance from the Deepwater Horizon oil rig to each of the nearest and farthest points of the shoreline. Assuming that Collier County is average in its qualification based on the formula, Collier County could receive between \$6 and \$24 million. The County Commission will have responsibility for approving Collier’s spending plan for this pot.

The Secretary of the Treasury is collecting data and establishing the formula distribution of the funds, which will occur at any time. The County Commission is responsible for approving Collier’s final local projects and spending plan. These formula funds are definite. There is no immediate deadline for these projects. The recommendation is to have a project list prepared when Clean Water Act civil penalties are settled.

*At today’s **Feb. 26** meeting, the BCC and county staff invite public agencies, external organizations and private individuals as well as any other interested stakeholders to submit their project proposals for consideration. Attached are a **RESTORE Act info sheet** and a **RESTORE Act interest form** which will assist you in submitting projects based on the **Guiding Principles and Allowable Uses**. The deadline for submissions is **April 9**.*

Opportunity “pot” 2 – Thirty (30) percent, up to \$6.3 billion, to be distributed by a federal-state Gulf Coast Ecosystem Restoration Council to carry out the comprehensive restoration plan. Collier County staff completed project proposal forms, one for each of the top four ranked structural initiatives from the BCC-approved Watershed Management Plan.

The project proposal was created by the three Southwest Florida National Estuary Programs (NEP’s). The Charlotte Harbor, Sarasota Bay, and Tampa Bay National Estuary Programs are assisting with coordination of a Southwest Florida Regional Ecosystem Restoration Plan.

The Regional Estuary Plan will develop a prioritized list of environmental projects that would restore and protect the natural resources, ecosystems, water quality and coastal wetlands of Southwest Florida, consistent with the federally-approved actions in the NEP’s Comprehensive Conservation and Management Plans (CCMP’s). These four proposed Collier County projects are consistent with the goals of the NEP CCMP’s.

Staff forwarded this information on to the NEP's on Nov. 5, 2012. The four (4) Collier County initiatives have been included in a list of projects based on the NEP's regional approach planned for seeking RESTORE Act funds. The federal Council will be determining which projects will receive funding by July 2013.

Florida's Governor's office will be leading the development of proposals for funding that will be transmitted to the Gulf Coast Ecosystem Restoration Council for review and approval. **This is the only opportunity that includes time constraints. The federal Council has 180 days – by July 2013 – to decide on a project list.** As of last month, 250 projects had been submitted.

Opportunity “pot” 3 – Thirty (30) percent, up to \$6.3 billion, to pay for state proposals for environmental restoration and economic recovery work. These plans must be approved by the federal Council and will allow states to undertake projects and programs to restore/protect natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and the economy of the Gulf Coast. Coordinated by FAC, creation of the Consortium representing 23 affected Gulf coastal counties, was included in the RESTORE Act legislation for the State of Florida, an action that protects home rule authority of local governments rather than turning all funds over to state government for disbursement.

The Governor's office is partnering with the Consortium to determine the process for inclusion of projects in these state proposals for environmental restoration and economic recovery work. Everglades infrastructure may be a focus of proposals that will be advanced by the State, as using oil spill money in the western Everglades might allow more federal and state restoration funding to be devoted to the central and eastern Everglades. Governor Scott has included \$60 million for Everglades restoration programs in his State Fiscal Year 2014 budget.

This funding will be allocated to the five (5) Gulf states based on an allocation formula that includes number of miles of oiled shoreline per state compared to total miles of oiled shoreline; average distance of oiled shoreline to BP Deepwater Horizon oil rig of each state; and the average population of coastal counties based on 2010 Census. **There is no deadline for these projects at this point.** Staff and other parties continue to develop this list internally.

The link below provided by the Florida Department of Environmental Protection (FDEP) shows the beginning of the partnership with Governor Scott and his State agencies. Consortium leadership believes this vehicle for submitting projects is the best opportunity for Florida to maximize resources for restoration:

http://www.dep.state.fl.us/deepwaterhorizon/projects_restore_act.htm

The FDEP site reads:

In order to provide an opportunity for the public to suggest potential projects for the Council Comprehensive Plan, the DEP has created an [online project submittal form](#). Project submittals will be evaluated carefully by DEP in consultation with the Florida Fish and Wildlife Conservation Commission, and selected projects will ultimately be submitted to the Council by the Governor for consideration for inclusion in the Comprehensive Plan.

The Selection Committee invite letters to external stakeholders will be sent, along with Info Page and Interest Form, immediately following the **Feb. 26** BCC meeting. Natural Resources will receive proposed projects from internal and external parties **Feb. 26 through April 9**. The Selection Committee will hold review meetings **April 10 through May 21** to evaluate, categorize and prioritize projects. The Selection Committee will determine the optimum funding pot for each proposed project. The County Manager will review the final list from **May 22 through June 11**. The BCC will be presented with a final prioritized list of projects by the Selection Committee/CM on **June 25, 2013**.

Many unanswered questions are pending settlements of civil penalties and rule making by the U.S. Department of the Treasury.

FISCAL IMPACT: There is no fiscal impact associated with this executive summary.

GROWTH MANAGEMENT IMPACT: There is no growth management impact associated with this executive summary.

LEGAL CONSIDERATIONS: There are no legal considerations associated with this executive summary. This item requires majority support for approval.

RECOMMENDATION: That the Board of County Commissioners approves the Collier County Guiding Principles that will be applied to proposed projects, and directs staff to coordinate the Selection Committee which will review project submissions.

Prepared by Debbie Wight, Legislative Affairs Coordinator