

AGREEMENT FOR WCIND SUBGRANT FUNDING

THIS AGREEMENT is entered into by and between the LEE COUNTY BOARD OF COUNTY COMMISSIONERS, hereafter referred to as the "County" and Fort Myers Shores Fire & Rescue Service District hereafter referred to as "Recipient", and is for implementation of the Water Rescue/Fire Vessel Capability Improvement Project for Accessories for improvement to Fire/Rescue vessel for improved response within district waters. (Boating Safety/Education L-523) (hereafter "Project") to be carried out with funding provided by the Recipient, and grant funding provided by the County from the WEST COAST INLAND NAVIGATION DISTRICT (hereafter "WCIND") under its Waterway Development Program.

WHEREAS, the County is considered the applicant and assumes responsibility for the grant funds; and

WHEREAS, the Recipient is a co-applicant and will assume responsibility for daily grant administration; and

WHEREAS, the County, on May 21, 2019 adopted Resolution No. 19-05-15 and certified that the moneys from the WCIND Waterway Development Program will be appropriately and effectively used by Recipient for its Project, and that the grant funds will not be used to supplant existing County budget allocations; and

WHEREAS, funds received from WCIND through the Waterway Development Program are committed for expenditure in program activities that meet WCIND's criteria for grants; and

WHEREAS, the County has approved the Recipient's request for grant funding under the WCIND Waterway Development Program in accordance with their Pre-Application Form for Sub-grantees, incorporated herein by reference;

NOW, THEREFORE, the parties hereto agree as follows:

1. This Agreement shall be governed and construed in accordance with the provisions of Florida Statutes, and those specific provisions and rules pertaining to WCIND and the Waterway Development Program (Rule 66A-2, Florida Administrative Code). In the event that any provision in this Agreement is in conflict with the applicable rules and statutes, the parties hereto may negotiate in good faith to reconcile such conflict, or either party may terminate this Agreement to the extent funds have not been expended prior to the date of the Notice to Terminate.
2. The County agrees, warrants and covenants to distribute funds to Recipient on a reimbursement basis for project costs accrued in accordance with the scope of work specified in Resolution No. 19-05-15 and the agreement between WCIND and the County. The funding of the grant shall not exceed

\$19,200 during the County's fiscal 2019-2020 year. No reimbursement shall be made for expenses made prior to October 1, 2019.

3. The Recipient agrees, warrants, and covenants that:
 - a. All moneys expended shall be for services, equipment, and supplies solely used to further the goals and objectives of the WCIND Waterway Development Program, as set forth in the current grant program guidelines in Rule 66A-2, Florida Administrative Code. Moneys shall not be used for tools, equipment, boats, motors, office furniture and supplies, law enforcement and safety equipment, contract labor and materials not used exclusively for the authorized project, in-house labor, equipment or other services, and operational or administrative costs.
 - b. All funds used for the project which are expended to acquire professional architectural, engineering, landscape architecture or land surveying services for the accomplishment of the project shall be secured in accordance with the provisions of Chapter 287, Florida Statutes. (NOTE: Rule 66A-2.005(2)(b), F.A.C., provides that moneys from the WCIND Waterway Development Program Fund shall not be used for project-related pre-construction costs incurred for surveys, appraisals, engineering and architectural fees, permitting and utilities fees.)
 - c. All purchases of equipment and supplies shall be made on a competitive basis. Items with a purchase price of \$2000.00 or greater must have no less than three written bids. Bids must be submitted to the County for approval prior to purchases being made. Costs for items purchased without the required prior approval may not be eligible for reimbursement. Exceptions may be granted by the County, subject to applicable rules and regulations, but must be requested in writing and describe why the Recipient cannot meet the bidding requirement.
 - d. WCIND funds may not be used for any land acquisition projects.
 - e. The Recipient agrees to submit quarterly signed project status reports to the County which are due 15 days after the months of December, March, June and September. Failure to provide timely reports may result in termination of the Project Agreement, or loss of present or future funding eligibility.

- f. (checked if applicable) For environmental education or boater safety projects, the recipient must also provide in their quarterly and annual reports the following in order to show an established curriculum relating to the waters of the WCIND:
- i. Who attended and taught the course.
 - ii. Date class was held.
 - iii. Location of class.
 - iv. Course material.
- g. X (checked if applicable) Matching funds are required for this project. The Recipient must identify and enumerate the amount of all matching funds in quarterly and annual reports. Matching funds must be cash only and constitute 50% of the total project cost.
- h. (checked if applicable) This project is for marine enforcement. The Recipient must identify and include the following information in all quarterly and annual reports:
- i. standard Marine Enforcement Quarterly Report Form
 - ii. documentation of warnings and citations
 - iii. general activity as it pertains to vessels or equipment with a purchased value of \$5,000 or greater that WCIND funds were used to produce
- i. Official communications shall be delivered as follows.

County designated Liaison Agent:

Michael Campbell
Lee County Natural Resources
P.O. Box 398
Ft. Myers, FL 33902-0398
239-533-8133 phone
239-485-8408 fax
mcampbell@leegov.com

Recipient designated Project Manager who shall be responsible for ensuring performance of the terms and conditions of this Agreement:

Name	Chief Chris Dowaliby
Title	Fire Chief
Company	Fort Myers Shores Fire & Rescue Service District
Address	12345 Palm Beach Blvd
City, State, Zip	Fort Myers, FL 33905
Phone	(239) 694-3355
Fax	
Email	fmsfdadmin@hotmail.com

Changes to the listed contact information shall be submitted immediately in writing to the other party.

4. The County and the Recipient agree, covenant, and warrant as follows:

- a. The grant funds will be disbursed no more than monthly based on project deliverables to Recipient upon receipt of appropriate paid invoices with sufficient supporting documentation and a report indicating activities that have occurred during the billing period. Project deliverables must be verifiable to reflect the work accomplished before funds will be disbursed.
- b. The Recipient shall prepare and submit to the County an annual report (due by the end of each calendar year) summarizing the work accomplished, problems encountered, location and status of equipment with a purchase value of \$5000 or more and other relevant information. The annual reporting requirement shall remain in effect until the County has verified in writing to the Recipient that no equipment or asset remains with a value of \$5000 or more.
- c. The County has the right to terminate the grant and demand full refund of all moneys in the event it is determined that any grant funds were expended in non-compliance with the terms of this Agreement, WCIND rules, or other applicable statutes and rules.
- d. This grant period is for eleven months only. All unspent grant funds remaining at the end of the grant period, August 30, 2020, will be returned to WCIND for use in the Lee County Countywide Navigation Improvement Fund. A one year extension may be granted under extenuating circumstances. A

written request for extension must be submitted prior to July 31, 2020.

- e. Accurate records of expenditures of grant funds shall be maintained and these records shall be available at all reasonable times for inspection, review or audit by the County and WCIND. Records shall be kept for a period of at least three (3) years following the end of the grant period and until all annual reporting requirements have been satisfied.
- f. Expenditure reports must be accompanied by sufficient supporting invoices and documentation to support pre-audit and post-audit review. The sufficiency of said documentation shall be determined by the County's Clerk of the Circuit Court and WCIND's Executive Director who may seek additional information as the circumstances require.
- g. The performance of this Agreement shall be in compliance with all applicable laws, orders, and codes of Federal, State and Local governments.
- h. The County shall not be liable to any person, firm or corporation that contracts with the Recipient to provide goods and services associated with the Project conducted with grant moneys. Nor shall the County be liable to any person, firm, or corporation for claims against the Recipient or debts incurred by the Recipient.
- i. Neither party to this Agreement may assign this Agreement without prior written consent of the other party.
- j. This Agreement may be terminated and the Recipient shall return to the County all moneys received from the County under this Agreement, upon the occurrence of one or more of the following events:
 - (1) Should it be determined that the County is not a qualified grantee for funds awarded under the applicable statutes or rules, or
 - (2) Should the Recipient fail to provide the quarterly and annual reports and documents required under this Agreement in accordance with the grant criteria or fail to expend the funds in a manner consistent with the grant criteria.

- k. Upon written notice by the County of the occurrence of either one of the conditions stated above, the Recipient shall, within thirty (30) days thereafter, return the funds to the County without regard to whether such funds have already been expended or encumbered by the Recipient.
- l. This Agreement may not be modified, amended or extended orally. This Agreement may be amended only by written agreement executed with the same formality as this Agreement.
- m. In the event that any section or paragraph of this Agreement is adjudged by a court of competent jurisdiction to be invalid, such adjudication shall not affect or nullify the remaining sections or paragraphs, but shall be confined solely to the sections or paragraphs involved in such decision.
- n. Each of the parties hereto covenants to the other party that it has lawful authority to enter into this Agreement and has authorized the execution of this Agreement by the party's authorized representative.
- o. Any capital equipment expenditure made under this grant shall become the property of the County when it is no longer necessary for or used for the Recipient's Project unless the County (and, if necessary, WCIND) releases the capital equipment to the Recipient pursuant to Exhibit "A", Disposal of Assets Acquired with WCIND Grant Funds.
- p. The County and Recipient mutually agree to the following special terms and conditions incorporated as part of this Agreement:
 - (1) Exhibit "A" - Disposal of Assets Acquired with WCIND Grant Funds;
 - (2) Exhibit "B" - (check if applicable):
 - X Matching Funds Certification Form;
 - Certification of Law Enforcement Expenditures;
 - Standard Marine Enforcement Quarterly Report Form
 - Quarterly Report Form,(Applicable to all except LE)
 - (3) Exhibit "C" - Definition of Funding Conditions.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the undersigned officials, as duly authorized this 18th day of February, 2022

FOR THE COUNTY:

ATTEST: **CLERK OF CIRCUIT COURT**
LINDA DOUGGETT, CLERK

BY: Michael Butler

DEPUTY CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: M. S. Man

ASSISTANT COUNTY MANAGER

APPROVED AS TO LEGAL FORM
FOR THE RELIANCE OF LEE COUNTY ONLY

BY: James E. Howard

LEE COUNTY ATTORNEY'S OFFICE



FOR THE RECIPIENT:

By: E. Kimball

Type Name: Edward Kimball

Title: Fire Commissioner

Address: Ft. Myers Shores Fire District
12345 Palm Beach Blvd
Ft. Myers, FL 33905

Michael Butler
Witness
Michael Butler
Witness

The foregoing instrument was acknowledged before me in the State of Florida, County of Lee, this 7th day of November, 2019, by Edward Kimball, who produced — personally known — as identification.

WITNESS my hand and official seal in the County and State last aforesaid this day of Nov. 7, 2019.

(SEAL)

Notary Public

Deborah L. Howard

Printed Name of Notary Public

Deborah L. Howard

My Commission Expires: Jan 12, 2022

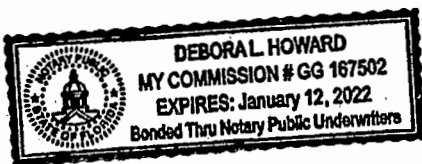


EXHIBIT "A"

DISPOSAL OF ASSETS ACQUIRED WITH WCIND GRANT FUNDS

Disposal of assets acquired with WCIND grant funds (such as tools, equipment, boats, motors, office furniture, law enforcement and safety equipment, and other materials) shall be handled in accordance with the following provisions:

A. When replacing assets or equipment acquired in whole or in part under a WCIND grant, the grantee or subgrantee may use the assets or equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the prior written approval of WCIND.

B. When original or replacement assets or equipment acquired under a WCIND grant are (a) sold (except as authorized in the preceding paragraph); (b) no longer available for use in a WCIND-sponsored program; (c) used for purposes not authorized by WCIND; or (d) no longer needed for the original project or program or for other activities currently or previously supported by WCIND, disposition of the assets will be made as follows:

1. Assets or items of equipment with a current per-unit fair market value of less than \$5,000.00 may be retained, sold, or otherwise disposed of without any further obligation to WCIND.
2. Assets or items of equipment with a current per-unit fair market value in excess of \$5,000.00 may be retained or sold and WCIND's equity in the asset will be refunded in the same proportion as WCIND's participation in the cost based on the current market value or proceeds from sale.

C. Tangible property acquired under county projects must be shown as property acquired in the records for that project of the county. Also, that such property be available for audit or appropriate recording of disposition of such property be readily available should the item or items be disposed of or are no longer in use.

WEST COAST INLAND NAVIGATION DISTRICT

WCIND WATERWAY DEVELOPMENT PROGRAM

CERTIFICATION OF MATCHING FUNDS REQUIREMENT

PROJECT: Water Rescue/Fire Vessel Capability Improvement

COUNTY: LEE

PROJECT NO: L-523

I certify that all matching funds requirements were met in accordance with the terms of the Project Application between the County and the Recipient, pursuant to the Waterway Development Program rules and regulations adopted by WCIND on November 11, 1990, and all applicable law.

Date

Recipient

STATE OF _____)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, who produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _____, 20____.

(SEAL)

Notary Public

Printed Name of Notary Public

My Commission Expires: _____

DATE

ACCEPTED BY COUNTY
LIAISON AGENT:

(6830)

WEST COAST INLAND NAVIGATION DISTRICT
WCIND WATERWAY DEVELOPMENT PROGRAM

CERTIFICATION OF LAW ENFORCEMENT EXPENDITURES

PROJECT: Water Rescue/Fire Vessel Capability Improvement

COUNTY: LEE PROJECT NO: L-523

I certify that all funds allocated for the above named project were expended for marine law enforcement only, pursuant to the Waterway Development Program rules and regulations adopted by WCIND on November 11, 1990, and as authorized by Section 374.976, Florida Statutes, to ensure program funds are not used to supplement other activities.

Date

STATE OF _____)
COUNTY OF _____)

Recipient

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, who produced _____ as identification.
WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 20____.

(SEAL)

Notary Public

Printed Name of Notary Public
My Commission Expires: _____

DATE

ACCEPTED BY COUNTY
LIAISON AGENT:

(6843)

**LEE COUNTY ENVIRONMENTAL SERVICES DIVISION
MARINE SERVICES PROGRAM
STANDARD MARINE ENFORCEMENT QUARTERLY REPORT**

AGENCY: _____

Today's Date: _____

Report Period: _____

_____ **Oct. - Dec.** _____

_____ **Jan. - Mar.** _____

_____ **Apr. - Jun.** _____

_____ **Jul. - Sep.** _____

Total Hrs. Worked for the Period

Total Hrs. on the Water

Verbal Warnings _____

Manatee Zone Warnings _____

Written Warnings _____

Manatee Zone Citations _____

Total Citations _____

Complaints Dispatched _____

Assists:	Agency/Boaters	(Attach additional pages if necessary)	Hours

Signage needs or enforcement problems: <i>(Attach additional pages if necessary)</i>

List other significant activity on reverse side.

I certify that the above information is true and accurate to the best of my knowledge.

Print Name

Signature

**PROJECT STATUS REPORT
WCIND WATERWAY DEVELOPMENT PROGRAM**

COUNTY: LEE PROJECT NUMBER: _____

PROJECT TITLE: _____

<u>Project Elements</u>	<u>Work Accomplished</u>	<u>% Completed</u>
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Problems Encountered:

	<u>Period Covered</u>	<u>Year</u>
Project Manager: _____	Oct - Dec	_____
E-Mail: _____	Jan - Mar	_____
Phone: _____	Apr - Jun	_____
County Liaison: <u>Mike Campbell</u>	Jul - Sep	_____
Natural Resources Division		

EXHIBIT "C"

GUIDELINES TO DEFINE FUNDING CONDITIONS FOR LAW ENFORCEMENT, NAVIGATION, ENVIRONMENTAL EDUCATION, BOATING SAFETY-EDUCATION AND RECREATION

LAW ENFORCEMENT - 100%

- A. All funds must be used for waterway law enforcement.
- B. Funds shall be used for major overhaul or major repairs. No funding for general operation and maintenance will be approved.
- C. All equipment purchased by competitive bid or as specified by each county.
- D. The funding cap is 30% of the annual (fiscal year) allocation of ad valorem proceeds per county in which the grant is requested.
- E. Activities reports must be submitted with each quarterly report and grant payment request.

NAVIGATION IMPROVEMENT PROJECTS - 100%

- A. Project must directly improve navigation of District waters.
- B. Channel marking, navigation hazards removal and regulatory signage pertaining to District waters are applicable to navigation improvement projects.

ENVIRONMENTAL EDUCATION PROJECTS - 100%

- A. Must directly relate to waters of the District.
- B. Curriculum must be established via in-house classroom and/or field trip class instruction.
- C. The funding cap is 25% of the annual (fiscal year) allocation of ad valorem proceeds per county in which the grant is requested.
- D. Activity reports must be submitted with each quarterly report and grant payment request.

BOATING SAFETY AND EDUCATION - 50% MATCH FUNDED

- A. Funds can be used for classroom equipment providing the equipment is used for boater education and boater safety programs.
- B. Funds can be used for equipment placed on boats providing the boat is used for boater education and safety programs.
- C. Funds can be used for fire/rescue equipment, specifically for use in waters of the District.
- D. Funds may not be used for the operation and maintenance of equipment nor facilities.
- E. Funds may be used for signage pertaining to safety and education of boaters at launching facilities of the District.
- F. Activity reports must be submitted with each quarterly report and grant payment request.

BOATING RECREATION - 50% MATCH FUNDED

- A. Funds may be used to construct boat ramps.
- B. Funds may be used to rehabilitate boat ramps.
- C. Funds may be used for marine recreation parks usable by boaters and non-boaters.
- D. Funds may be used for spoil island and spoil area restoration affording boater recreation.



Lee County
Southwest Florida

Lee County Administration Document Routing Sheet

The attached document has been approved by the Board of County Commissioners. Please review the instructions below and forward to the appropriate office when complete.

Meeting Date:	05/21/2019
Agenda Item #:	C13 A-4
Agenda Item Title:	Approve Resolution Requesting WCIND Funding for FY 19/20
Attachment(s):	(1) Agreement – Fort Myers Shores Fire & Rescue Service District

Department	Instructions
County Attorney	Please review and sign the attached document(s) at the BLUE sticker. If you have any questions concerning the document(s), please contact the originating department. After completion, forward to the COUNTY MANAGER for signature.
County Manager	Please sign the attached document(s) at the GREEN sticker. After completion, forward to the MINUTES for execution.
Minutes Office	Please execute the attached document(s). MB 2-18-22 After document(s) are completely executed, return the remaining originals to Laurel Chick, County Administration for distribution.

Date out from Administration: 02/17/22

Return to Dept. ☐ Novus ☐

2022 FEB 17 AM 9:14
RECEIVED BY
LEE CO. ATTORNEY

2022 FEB 18 PM 4:16

MINUTES OFFICE
LAUREL CHICK



AGENDA ITEM REPORT

DATE: May 21, 2019
DEPARTMENT: Natural Resources
REQUESTER: Roland Ottolini
TITLE: Approve Resolution Requesting WCIND Funding for FY 19/20

I. MOTION REQUESTED

Approve Resolution to WCIND requesting \$1,622,849 from the Waterway Development Program for FY19/20 projects.

II. ITEM SUMMARY

Approves required Resolution to the West Coast Inland Navigation District (WCIND) requesting funding for FY19/20 totaling \$1,622,849 and authorizing Natural Resources Division Liaison to sign and submit applications and an Assistant County Manager to execute and submit any project funding agreements pertaining to projects on this priority list as approved by WCIND up to the amount listed. No Lee County funding required at this time.

III. BACKGROUND AND IMPLICATIONS OF ACTION

A) Board Action and Other History

WCIND is a taxing district that includes Manatee, Sarasota, Charlotte and Lee Counties. Member counties can request grant funding for navigation related projects on an annual basis through the Waterway Development Program as governed by Florida Administrative Code 66A-2. Applications and an accompanying Resolution are required submittals as part of the request process.

B) Policy Issues

The Resolution contains a prioritized list of project requests for navigation improvements, marine law enforcement and boating safety. Projects were considered based on Lee County needs and municipal and non-profit agency requests. A prioritized project list totaling \$1,622,849 was voted on and approved by the BOCC appointed Waterways Advisory Committee (WAC) on March 21, 2019.

C) BoCC Goals Partnerships

D) Analysis

Recommendations are based on WCIND eligibility criteria, anticipated fund availability, benefits to Lee County, previous funding experience, and input from the WAC, Natural Resources Division staff and the WCIND Executive Director. Project applications are included in the backup materials for reference.

No funds are required for this request. A budget amendment resolution will be prepared and submitted for approval when grant funding is awarded. Any successful projects will also be governed by formal agreements between Lee County and WCIND. Sub-grantees (as noted in the attached Application Report) will be required to enter into an agreement with Lee County. It is recommended that projects be deleted or funding reduced in order of the lowest priority if the requested total is not available from WCIND.

E) Options

IV. FINANCIAL INFORMATION

A)	Current year dollar amount of item:	No funding required.
B)	Is this item approved in the current budget?	
C)	Is this a revenue or expense item?	
D)	Is this Discretionary or Mandatory?	
E)	Will this item impact future budgets? If yes, please include reasons in III(D) above.	Yes
F)	Fund: Program: Project: Account Strings:	
G)	Fund Type?	
H)	Comments:	

V. RECOMMENDATION

Approve

VI. TIMING/IMPLEMENTATION

Florida Administrative Code 66A-2 requires requests for funding to be submitted to WCIND by May 31 of each year for consideration for funding during the following fiscal year commencing October 1 of the same year.

VII. FOLLOW UP

It is anticipated that the budget amendment resolution and sub-grant agreements will be scheduled for BOCC approval in September.

ATTACHMENTS:

Description	Upload Date	Type
<u>WCIND Resolution</u>	4/30/2019	Resolution
<u>052119R-A-4-Reso No 19-05-15</u>	6/5/2019	Resolution
<u>052119R-A-4-Agreement for WCIND Subgrant Funding</u>	11/4/2019	Backup Material
<u>052119R-A-4-Agreement for WCIND Subgrant Funding</u>	11/4/2019	Backup Material
<u>052119RA4</u>	11/22/2019	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Natural Resources	Ottolini, Roland	Approved	5/2/2019 - 10:45 AM
Budget Services	Guttery, Angela	Approved	5/3/2019 - 1:01 PM
Budget Services	Winton, Peter	Approved	5/3/2019 - 1:14 PM
County Attorney	Fredyma, John J.	Approved	5/6/2019 - 1:14 PM
County Manager	Hamer, David	Approved	5/7/2019 - 1:05 PM