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|--------------------------|
| Meeting Date |
| February 17, 2015 |



| AGENDA | |
|----------|---------------|
| Section | Consent |
| Item No. | II.A.1 |

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

| | |
|--------------|---|
| SUBJECT: | Permission to Accept a Grant to Supplement Derelict Vessel Removal Funding Fiscal Impact: \$30,000 Florida Inland Navigation District (FIND) Grant and \$10,000 Vessel Registration Funds/Brevard Boating Improvement Fund (BBIF) |
| DEPT/OFFICE: | Natural Resources Management Department (NRM) |

Requested Action:

It is requested that the Board; 1) Authorize the Chairman to execute a Small-Scale Derelict Vessel Removal Project Agreement between Brevard County and FIND, with County Attorney and Risk Management approval; 2) Accept FIND funds for this project, approve the matching funds from Vessel Registration Funds/BBIF and authorize any necessary budget changes requests; 3) Approve legal venue as Palm Beach County; 4) Authorize the County Manager or designee to execute task orders, contracts, agreements and change orders, as required, to accomplish the work.

Summary Explanation & Background:

Since its inception in 2007, the Brevard County Boating & Waterways Program, acting through NRM, has removed over 125 derelict and/or abandoned vessels from the County's waterways. The removal of the vessels has greatly improved the safety of navigation in Brevard waterways as well as the quality of our waterways. Specifically, this equates to over 400 tons of debris and over 300 gallons of fuel/oil removed. Working through partnerships with the Florida Fish and Wildlife Conservation Commission (FWC) and Brevard County Sheriff's Office (BCSO), the Program actively tracks derelict and potentially derelict vessels to determine the appropriate action for each case.

Brevard County is constantly combating the dereliction and/or abandonment of vessels within the Indian River Lagoon system. At present, law enforcement officials working in Brevard County have officially reported and/or designated more than 30 additional vessels within County jurisdiction as derelict. The eight vessels targeted for this project are very large and have been identified as potential public safety and navigational hazards. Formal reports from FWC and/or the BCSO are completed for these identified vessels. No vessel will be removed without the appropriate vessel report and removal authorization in County possession. As always, staff will make all efforts to work with local law enforcement to recover expended funds from the vessel owners. As with previous removal projects, state and federal protocols will be followed.

As authorized through Florida Statute Chapter 328, the County collects a percentage of all vessel registration fees collected within Brevard County. Per statute, those fees are to be used exclusively for derelict vessel removal, waterway marker projects, and improvements related to waterway access facilities. Staff requests permission to accept the derelict vessel removal grant from FIND to supplement available vessel registration funds. The FIND grant, entitled *Small-Scale Derelict Vessel Removal*, requires a minimum 25% match of funds with a maximum yearly award of \$30,000. Vessel registration funds/BBIF, in the amount of \$10,000, will serve as match for this grant. If this grant is accepted, the total budget to remove the identified vessels would be \$40,000.

Staff recognizes that the County Attorney's Office cannot approve this contract due to language regarding the venue for legal action indicated as Palm Beach County. County policy requires contracts to indicate a legal venue in Brevard County, unless authorized otherwise by the Board. This contract language is identical to previously executed contracts between the FIND and Brevard County. Board approval of this contract venue waiver will allow the County to execute the contract and obtain the \$30,000 in derelict vessel funding.

Fiscal Impact:

FY 14/15 - \$30,000 in Grant Funds and \$10,000 Vessel Registration/BBIF
FY 15/16 - No Fiscal Impact. Continuation of project funds.

Name: Ernest N. Brown or Virginia Barker, Natural Resources Management Department, (321) 633-2016

Clerk to the Board Instructions: none

Exhibits Attached: FIND Small-Scale Derelict Vessel Removal Agreement

| | | | | | | | |
|------------------------------------|--------------------------|--|-----|--------------------------|----|--------------------------|-----------------------------|
| Contract /Agreement (If attached): | | Reviewed by County Attorney | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> | PR <input type="checkbox"/> |
| County Manager | Assistant County Manager | Department Director / Extension | | | | | |
| Stockton Whitten | Mel Scott | Ernest N. Brown, Director, NRM | | | | | |
| | | Virginia Barker | | | | | |
| | | Jack Masson, Director, Park & Recreation | | | | | |



Tammy Etheridge, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972

February 18, 2015

MEMORANDUM

TO: Ernest Brown, Natural Resources Management Director

RE: Item II.A.1, Agreement with Florida Inland Navigation District (FIND), for Small Scale Derelict Vessel Removal Project Grant

The Board of County Commissioners, in regular session on February 17, 2015, authorized the Chairman to sign the Agreement with FIND, upon County Attorney and Risk Management Approval; granted acceptance of FIND funds for Small Scale Derelict Vessel Removal Project Grant; approved matching funds from Vessel Registration Funds/Brevard Boating Improvement Fund (BBIF); authorized necessary Budget Change Requests; approved legal venue as Palm Beach County; and authorized the County Manager, or his designee, to execute any task orders, contracts, agreements, and change orders, as required, to accomplish the work. Enclosed is the original contract for your action.

Upon execution by FIND, please return a fully-executed Agreement to this office for inclusion in the official minutes.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Etheridge, Deputy Clerk

/clm

Encl. (1)

cc: Finance
Budget
Contracts Administration
Parks and Recreation Director

SMALL-SCALE DERELICT VESSEL REMOVAL
PROJECT AGREEMENT

ICW-BV-15-01

This Agreement is entered into this 2nd day of March, 2015 by and between the FLORIDA INLAND NAVIGATION DISTRICT ("FIND") and BREVARD COUNTY (the "Project Sponsor"). Nothing contained herein shall constitute a waiver by either party of its sovereign immunity under Section 768.28 Florida Statutes.

WHEREAS, Project Sponsor has requested that FIND provide a portion of the funding needed for a Small-Scale Derelict Vessel Removal Project in Brevard County, as detailed in Exhibit A; and

WHEREAS, FIND is willing to provide such assistance for the removal of eligible derelict vessel(s) along the Intracoastal Waterway in Brevard County, subject to the terms and provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereby agree as follows:

1. Subject to the provisions of this Agreement, Project Sponsor shall coordinate the work for the Project. Project Sponsor agrees, with respect to the Project, that as between the parties to this Agreement, it shall be solely responsible for any claims for damages resulting therefrom. Project Sponsor agrees to indemnify FIND, its Commissioners, employees, and agents, from any and all liabilities, claims, costs, damages, and expenses (including court costs and attorneys' fees) arising from or related to Project Sponsor's actions regarding the Project.

2. FIND shall provide an amount not to exceed \$30,000.00 for the components of the project set forth in Exhibit A, with FIND paying the Project Sponsor up to seventy-five percent (75%) of the amount actually expended for each component, up to the amount listed on Exhibit A for said component, which shall also be in compliance with the District's policy on Small-Scale Derelict Vessel Removal projects Exhibit C.

3. The funds to be provided by FIND to the Project Sponsor hereunder will be paid within thirty (30) days of receipt by FIND of a request for payment accompanied by supporting documentation showing expenditures equal or greater to the amount being sought from FIND.

4. The Project Sponsor, upon completion of the PROJECT, shall submit to the DISTRICT a request for final reimbursement of the PROJECT AMOUNT less any prior installment payments. The Payment amounts previously retained by the DISTRICT shall be paid upon (1) receipt of the Final Audit report of expenses incurred on the PROJECT by the DISTRICT, (2) full completion of the PROJECT to the reasonable satisfaction of the DISTRICT, (3) submission of Project Completion Certification Form No. 90-13 (Exhibit B), and (4) submission of a photograph(s) of the completed PROJECT(s).

5. Project Sponsor shall, upon request by FIND, provide a report of final expenses incurred on the Project. The Project Sponsor shall also retain all records supporting costs of the Project for three (3) years after the end of the fiscal year in which the Project is completed, except that such records shall be retained by Project Sponsor until final resolution of matters resulting from any litigation, claim, or special audit that starts prior to the expiration of the three-year retention period.

6. If Project Sponsor shall fail to fulfill in a timely and proper manner the obligations under this Agreement, or if Project Sponsor shall violate any of the covenants, terms, or stipulations of this Agreement, FIND shall thereupon have the rights to terminate this Agreement.

Notwithstanding the above, Project Sponsor shall not be relieved of liability for damages or expenses as contemplated herein sustained by FIND by virtue of any breach of the Agreement by Project Sponsor.

7. Any notice or other written communications between Project Sponsor and FIND shall be considered delivered when posted by certified mail or delivered in person to the respective party at the address indicated below:

To FIND: Florida Inland Navigation District
1314 Marcinski Road
Jupiter, Florida 33477
Attention: Executive Director

To the Project Sponsor: Brevard County
2725 Judge Fran Jamieson Way
Building A, Room 219
Viera, FL 32940
Attention: Natural Resources Management Department

8. This instrument embodies the entire agreement of the parties. There are no provisions, terms, conditions or obligations other than those contained herein; and this Agreement shall supersede all previous communication, representation or agreements, either verbal or written between the parties hereto. This Agreement shall not be modified unless in writing and signed by both parties hereto.

9. This Agreement shall be interpreted and construed pursuant to the laws of the State of Florida. In the event of any litigation arising hereunder, the venue of any such litigation shall be had only in the courts of Palm Beach County, Florida.

10. The rights and duties arising under this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. Neither party may assign this Agreement nor any interest hereunder without the express prior written consent of the other party.

11. Waiver of a breach of any provision of this Agreement shall not be deemed a waiver of any other breach of the same or different provision.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first above written.

WITNESSES:





FLORIDA INLAND NAVIGATION DISTRICT

By: 

Executive Director

DATE: 03/02/15

WITNESSES:

Attest: _____



Scott Ellis, Clerk

PROJECT SPONSOR
Brevard County Board Of County Commissioners

By: 

Title: Robin L. Fisher, Chairman

DATE: 4-17-2015

As approved by the Board on February 17, 2015

Exhibit A

FLORIDA INLAND NAVIGATION DISTRICT SMALL-SCALE DERELICT VESSEL REMOVAL PROGRAM APPLICATION

PROJECT COST ESTIMATE

(See Rule Sections 66B-2.005, 2.008 & 2.015 for eligibility and funding ratios)

APPLICANT: Brevard County

PROJECT: 2014-2015 Derelict Vessel Removal

VESSEL LOCATION AND IDENTIFICATION: 8 vessels in the Indian River & Banana River

| Project Elements | Quantity Estimated Cost | Applicant's Cost | FIND Cost |
|------------------------|-------------------------|------------------|-----------|
| DV-5 Removal/Disposal | \$5000.00 | \$1250.00 | \$3750.00 |
| DV-7 Removal/Disposal | \$5000.00 | \$1250.00 | \$3750.00 |
| DV-11 Removal/Disposal | \$5000.00 | \$1250.00 | \$3750.00 |
| DV-12 Removal/Disposal | \$5000.00 | \$1250.00 | \$3750.00 |
| DV-14 Removal/Disposal | \$5000.00 | \$1250.00 | \$3750.00 |
| DV-21 Removal/Disposal | \$5000.00 | \$1250.00 | \$3750.00 |
| DV-22 Removal/Disposal | \$5000.00 | \$1250.00 | \$3750.00 |
| DV-25 Removal/Disposal | \$5000.00 | \$1250.00 | \$3750.00 |

** TOTALS = \$ 40,000.00 \$ 10,000.00 \$ 30,000.00

Note: All costs are estimates. The project is subject to a competitive bidding process & therefore actual costs are unknown at this point.

EXHIBIT B

FLORIDA INLAND NAVIGATION DISTRICT

SMALL-SCALE DERELICT VESSEL REMVOAL PROGRAM

Project Completion Certification

Sponsor: _____

Project Title: _____ Project #: _____

I hereby certify that the above referenced project was completed in accordance with the Assistance Program Project Agreement between the Florida Inland Navigation District and _____, dated _____, 20____, and that all funds were expended in accordance with Exhibit "A" and Paragraph 1 of the Project Agreement. *

Project Liaison Name: _____

Project Liaison Signature: _____

Date: _____

*S. 837.06 Florida Statutes, False official statements. - Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 F.S.

EXHIBIT C
Small-Scale Derelict Vessel Removal Projects Rule (Rule 66B-2.015)

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.