

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20040993

1. REQUESTED MOTION:

ACTION REQUESTED: Board approve Grant Agreement No. 1999-0273-006, Lee County Law Enforcement Equipment, between Lee County and the National Fish and Wildlife Foundation. Approve budget amendment in the amount of \$18,636 for the additional revenue and amend the FY03/04 Natural Resources, Marine Services Program operating budget accordingly.

WHY ACTION IS NECESSARY: The Board of County Commissioners must approve all agreements.

WHAT ACTION ACCOMPLISHES: Provides mechanism that allows County to accept funds and purchase equipment outlined by the grant agreement.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #: C-W 08

C8A

3. MEETING DATE:

08-17-2004

4. AGENDA:

5. REQUIREMENT/PURPOSE:
(Specify)

6. REQUESTOR OF INFORMATION:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER

- A. COMMISSIONER _____
- B. DEPARTMENT Public Works
- C. DIVISION Natural Resources
- BY: Roland Ottolini, P.E.

[Signature]

7. BACKGROUND:

In collaboration with the Lee County Sheriff's Office, Marine Unit, the Division of Natural Resources applied for and was awarded grant funding in the amount of \$18,636. This funding will be used to purchase 6 pairs of stabilizing binoculars and 6 sets of third generation night-vision monoculars. Both the Sheriff's Office and the U.S. Fish and Wildlife Service have identified these items as tools that will assist staff members in performance of their duties, in particular manatee protection. No matching funds are required for this grant.

Funds will be available in account no. OC5370300100.506410 and revenues will be deposited into OC5370300100.337300.9008.

Attachment: Two (2) original grant agreements.

This is a foundation grant, not subject to the Single Audit. No Grant at a Glance form is attached and there is no match requirement.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
					OA	OM	Risk	GC	
<i>[Signature]</i> 8-3-04	<i>[Signature]</i>	N/A	N/A	<i>[Signature]</i> 8/4/04	<i>P.M.</i> 8/4/04	<i>[Signature]</i> 8/4/04	<i>[Signature]</i> 8/4/04	<i>[Signature]</i> 8/4/04	<i>[Signature]</i> 8-3-04

10. COMMISSION ACTION:

- _____ APPROVED
- _____ DENIED
- _____ DEFERRED
- _____ OTHER

Rec. by CoAtty
 Date: *8/4/04*
 Time: *2:35*
 Forwarded To:
[Signature]

RECEIVED BY
 COUNTY ADMIN: *[Signature]*
 8/5/04
 COUNTY ADMIN
 FORWARDED TO: *[Signature]*
 8/5/04
 4pm

**NATIONAL FISH AND WILDLIFE FOUNDATION
GRANT AGREEMENT
(ADVANCE PAYMENT BASIS)**

PROJECT: Lee County Law Enforcement Equipment (1999-0273-006)

☞ Please reference project title and number on all correspondence ☜

NFWF RECIPIENT: Lee County

PROJECT PERIOD: 08/01/2004 to 02/28/2005

AWARD: \$18,636 is provided in consideration for the NFWF Recipient's agreement to perform the Project in accordance with Section 1 below.

FUNDING SOURCE: Manatee Mitigation Fund \$18,636

☆☆☆☆

Defined Terms. All capitalized terms used in this Agreement shall have the meanings attributed to such terms in the 2002 Glossary found on NFWF's website <www.nfwf.org>, which is incorporated in this Agreement by this reference.

Section 1. PROJECT PURPOSE

National Fish and Wildlife Foundation (NFWF) agrees to provide the Award to the NFWF Recipient for the purposes of satisfactorily performing the Project described in a Full Proposal received by NFWF on 4/13/2004 and incorporated into this Agreement by reference.

1.1. Project Description.

Project Abstract:	The Lee County Division of Natural Resources ^{JMC} Division of Natural Resources will purchase night vision monoculars and stabilizing binoculars that will assist with their manatee law enforcement activities.
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Project Phase 1	-Purchase 6 3rd Gen. Night Vision Monoculars -Purchase 6 Fujinon Binoculars Techno-Stabi 10x40 -Submit Report to NFWF	Budget Category	NFWF Funds
		Salaries & Benefits:	\$0.00
		Equipment:	\$0.00
		Other:	\$18,636
		TOTAL	\$18,636
Matching Contributions allocated to Phase 1: \$0.00		PROJECT TOTAL	\$18,636

1.2. Project Deliverables.

- See Phase 1 Description

1.3. Diligence and Communication Required. The NFWF Recipient agrees to pursue completion of the Project diligently and to communicate with the Project Manager on a regular basis with respect to the status of the Project, including but not limited to providing the reports discussed in Section 4 below. Failure to diligently pursue completion of the Project within the Project Period and/or failure to so communicate with the Project Manager will be deemed a material default in this Agreement, entitling NFWF to terminate this Agreement.

Section 2. RESTRICTION ON FUNDS

No Funds provided by NFWF pursuant to this Agreement or Matching Contributions may be used to support litigation expenses or lobbying activities.

Section 3. PAYMENT OF FUNDS and ADMINISTRATION PROCEDURES

3.1. NFWF Funds. Payments of the NFWF Funds for this Award will be made in 1 installment.

- Project Phase One installment will be advanced to the NFWF Recipient when NFWF receives a Request for Payment from the NFWF Recipient certifying that it is ready to begin project activities for the first Phase described in Section 1.1 immediately upon receipt of the funds.
- Subsequent Phase installments will be advanced to the NFWF Recipient when NFWF receives and approves a completed Project Phase Reporting Form certifying that (i) the NFWF Recipient has completed the previous Project Phase as described in Section 1.1 and (ii) the NFWF Recipient has expended NFWF Funds and Matching Contributions consistent with the Project Phase Budget as described in Section 1.1; and the NFWF Recipient provides NFWF a Request for Payment certifying that it is ready to begin Project activities for the next Phase immediately upon receipt of the funds.
- Payment for the Final Phase of the Project will be made in arrears, upon the receipt and approval by NFWF of all required reporting for this Agreement.
- Under no circumstances will any payment under this Agreement be made if any *Financial or Programmatic Reports are due and outstanding.*

3.2. Budget Changes. In the event the NFWF Recipient determines that the amount of the Budget is going to change in any one line item by an amount that exceeds more than 10% of the total Budget for that Phase, the NFWF Recipient must seek approval from the Project Manager. *If approval is received, both parties must sign a written amendment to this Agreement reflecting the new Budget.*

Section 4. REPORTING REQUIREMENTS

4.1. Phase Financial and Programmatic Report. Upon completion of each Phase, the NFWF Recipient will submit a **brief** e-mail or fax Project Phase Report on Project accomplishments and financial expenditures incurred during the Phase.

4.2. Annual Financial and Programmatic Report. The NFWF Recipient will submit an Annual Financial and Programmatic Report no later than October 31st of each year during the Project Period, summarizing all of the activities accomplished and expenditures made from the beginning of the Project Period or the most recent Project Phase Report until and including the immediately preceding September 30th.

4.3. Final Report. No later than 90 days after the completion of the Project, the NFWF Recipient shall submit a Final Financial and Programmatic Report to NFWF, that includes: 1) a Final Financial Reporting Form accounting for all receipts of Project funds, Project expenditures, and Budget variances (if any) compared to the approved Budget; 2) a report and Certification of Matching Contributions secured and expended by the NFWF Recipient for the Project; 3) a Final Programmatic Report summarizing the accomplishments achieved during the term of the Agreement. A representative number of **digital photos (preferred) or color 35mm slides** depicting the Project and copies of all publications, press releases and other appropriate "products" resulting from the Project should also be provided to NFWF as part of the Final Report; and 4) a completed Project Evaluation Report. Any requests for extensions of this Final Report submission date must be made in writing to NFWF Project Officer and approved by NFWF in advance.

Section 5. STANDARD PROVISIONS.

This Agreement is also subject to the terms and conditions set forth in the attached Standard Provisions, each of which is incorporated in this Agreement by this reference.

Section 6. CONTACT INFORMATION.

For NFWF Recipient:

Justin McBride ^{JMC}
Lee County ~~Shelton Office~~ Division of Natural Resources
1500 Monroe St.
Ft. Myers , FL 33902
Phone: 239-479-8130
Fax: 239-479-8108
E-mail: jmcbride@leegov.com

Unless from the email address set forth above, electronic mails will be deemed unauthorized. If multiple users are authorized to send electronic mails on behalf of the NFWF Recipient, please list all authorized sources.

For NFWF:

Bridget Kelly
National Fish and Wildlife Foundation
1120 Connecticut Avenue NW, Suite 900
Washington, DC 20036
Phone: (202) 857-0166
Fax: (202) 857-0162
E-mail: bridget.kelly@nfwf.org

IN WITNESS WHEREOF, the parties have executed this Agreement, intending to be bound legally.

NATIONAL FISH AND WILDLIFE FOUNDATION

By: _____
Peter Stangel, Ph.D.
Director, Southern Region
Date: _____

LEE COUNTY

By: _____

(Print name and title legibly)
Date: _____

2002 STANDARD PROVISIONS FOR AWARDS

This Award is subject to the following terms and conditions, except those that begin with a text box () that does **NOT** have an X in it ().

Section A1. ASSIGNMENT; SUBAWARDS

A1.1 The NFWF Recipient may not assign this Agreement, in whole or in part, to any other individual or other legal entity without the prior written approval of NFWF.

A1.2 The NFWF Recipient may not provide subawards without the prior written approval of NFWF.

Section A2. UNEXPENDED FUNDS; INTEREST

A2.1 Any funds provided by NFWF and held by the NFWF Recipient and not expended at the end of the Project Period will be returned to NFWF within ninety (90) days after the end of the Project Period.

A2.2 Any interest earned in any one year on Federal funds advanced to the NFWF Recipient that exceeds \$250 must be reported to NFWF, and the disposition of those funds negotiated with NFWF.

Section A3. AMENDMENTS

This Agreement can only be amended by a written amendment, signed by both parties. Counterpart originals and/or facsimile copies of amendments are acceptable, but not emails.

Section A4. TERMINATION

At any time prior to receipt of the first payment, the NFWF Recipient may terminate this Agreement. After receipt of the first payment, the NFWF Recipient may terminate this Agreement only with the written consent of NFWF. Failure by the NFWF Recipient to comply with any material term of this Agreement is cause for NFWF to terminate this Agreement by written notice to the NFWF Recipient. In the event of termination of this Agreement prior to Project completion, NFWF will not make payment for any of this Agreement's Project Deliverables that remain undelivered and any funds advanced by NFWF that have not been expended by the NFWF Recipient shall be returned to NFWF immediately, but in any event, no later than thirty (30) days after receipt of the notice of termination. NFWF agrees to pay all documented, non-cancelable commitments made by the NFWF Recipient prior to the NFWF Recipient's receipt of the notice of termination.

Section A5. ADDITIONAL SUPPORT

In making this Award, NFWF assumes no obligation to provide further funding or support to the NFWF Recipient beyond the terms stated in this Agreement.

Section A6. ARBITRATION AND CHOICE OF JURISDICTION

A6.1 All claims, disputes, and other matters in question arising out of, or relating to this Agreement, its interpretation or breach, shall be decided through arbitration by a person or persons mutually acceptable to both NFWF and the NFWF Recipient. Notice of the

demand for arbitration shall be made within a reasonable time after the claim, dispute, or other matter in question has arisen. The award rendered by the arbitrator or arbitrators shall be final.

A6.2 This Agreement shall be subject to and interpreted by the laws of the District of Columbia, without regard to choice of law principles. By entering into this Agreement, the NFWF Recipient agrees to submit to the jurisdiction of the courts of the District of Columbia.

A6.3 *The terms of this Section will survive termination of this Agreement.*

Section A7. COMPLIANCE WITH LAWS; INSURANCE; INDEMNIFICATION

A7.1 In conducting its activities relating to the Project, the NFWF Recipient agrees to conduct all such activities in compliance with all applicable Federal, State, and local laws, regulations, and ordinances; to secure all appropriate necessary public or private permits and consents.

A7.2 The NFWF Recipient agrees to obtain and maintain all appropriate insurance against liability for injury to persons or property from any and all activities undertaken by the NFWF Recipient and associated with this Award in any way.

A7.3 The NFWF Recipient shall indemnify and hold harmless NFWF, its officers, directors, agents, and employees in respect of any and all claims, injuries, losses, diminution in value, damages, liabilities, whether or not currently due, and expenses (including without limitation, settlement costs and any legal or other expenses for investigating or defending any actions or threatened actions arising from or in connection with the Project, including but not limited to, environmental laws, regulations, orders and decrees of whatsoever character or nature and damage or injury to persons and property).

A7.4 *The terms of this Section will survive termination of this Agreement.*

Section A8. COMMUNICATIONS

All notices, Requests for Payment and reports required or allowed to be given by this Award shall be by first-class mail (postage prepaid), facsimile (with telephone call required to confirm that fax has been received), or overnight mail delivery by a nationally known courier and addressed using the contact information provided in this Agreement. All notices, reports and Request for Payments may be sent by e-mail, but Final Financial and Programmatic Reports must be provided in hard copy as well. Each party agrees to notify the other within ten (10) days after the change in named representative, address, telephone, or other contact information.

Section A9. PUBLICITY

The NFWF Recipient agrees to give appropriate credit to the National Fish and Wildlife Foundation and those Federal, State or local agencies and/or private organizations identified as sources of funds in the letter of transmittal of this Agreement, if any, for their financial support in any and all press releases, publications, annual reports, video credits, dedications, and other public communications regarding this Agreement or any of the Project Deliverables associated with this Agreement. The NFWF Recipient gives NFWF the right and authority to publicize NFWF's financial support for this Agreement and the Project in press releases, publications and other public communications.

Section A10. DISCLAIMERS

Payments made to the NFWF Recipient under this Agreement do not by direct reference or implication convey NFWF's endorsement nor the endorsement by any other entity that provides funds to the NFWF Recipient through this Agreement, including the U.S. Government, for the Project. All information submitted for publication or other public releases of information regarding this Agreement shall carry the following disclaimer:

"The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the opinions or policies of the U.S. Government or the National Fish and Wildlife Foundation. Mention of trade names or commercial products does not constitute their endorsement by the U.S. Government or the National Fish and Wildlife Foundation."

Section A11. WEBSITE LINKS

The NFWF Recipient agrees to permit NFWF to post a link on any or all of NFWF's websites to any websites created by the NFWF Recipient in connection with the Project.

Section A12. EVALUATION

The NFWF Recipient agrees to cooperate with NFWF by providing timely responses to all reasonable requests for information to assist in evaluating the accomplishments of the Project for a period of five (5) years after date on which the Final Financial and Programmatic Report are provided.

Section A13. DAVIS-BACON

The NFWF Recipient shall be subject to the provisions of the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provision Applicable to Contracts Governing Federally Financed and Assisted Construction."

Section A14. DEBARMENT AND SUSPENSIONS

The NFWF Recipient shall enter into no contract using Federal funds provided by NFWF with any party listed on the General Services Administration's Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Orders 12549 and 12689 (Debarment and Suspension).

Section A15. FEDERAL FUNDS - FEDERAL REGULATIONS

A15.1 If all or a part of the Award consists of Federal funds, the text box at the beginning of this Section should contain an X and, before proceeding with its Project, the NFWF Recipient must read and understand certain Federal regulations, including but not limited to, those identified below which may be located on the Internet at <http://www.whitehouse.gov/omb/circulars/index.html>. If a NFWF Recipient does not have access to the Internet, it should ask its NFWF Project Manager for copies. Many Federal agencies have agency-specific regulations that govern the issuance of awards and subawards with their funds; it is the obligation of the NFWF Recipient to review and comply with any such regulations issued by its Federal agency Funding Source(s).

A15.2 If the Grantee is a non-profit organization, it will need to understand and comply with (i) OMB Circular A-110 "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" and, (ii) depending on what kind of organization it is, either (a) OMB Circular A-21 "Cost Principles for Educational Institutions" or (b) OMB Circular A-122 "Cost Principles for Non-Profit Organizations," in addition to other applicable Federal regulations.

A15.3 If the Grantee is a State, Local or Tribal Government, it will need to understand and comply with OMB Circulars A-102 "Grants and Cooperative Agreements with State and Local Governments" and A-87 "Cost Principles for State, Local, and Indian Tribal Governments," in addition to other applicable Federal regulations.

A15.4 If the NFWF Recipient is any type of organization and it receives an aggregate of \$300,000 or more from all Federal sources, it is subject to a special kind of audit as detailed in OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations," which it will need to understand and comply with, in addition to other applicable Federal regulations.

A15.5 If one of the Funding Sources for the Award is the National Oceanographic and Atmospheric Administration, the Award also is subject to the Department of Commerce's Financial Assistance Standard Terms and Conditions, which may be located on the Internet at <http://www.osec.doc.gov/oebam/standards.htm>.

A16. FEDERAL NFWF RECIPIENT

If the NFWF Recipient is a Federal agency, the following Standard Provisions do NOT apply to it: A2.2, A6.1, A7.2, and A7.3.