CHAPTER 66A-2
WCIND WATERWAY DEVELOPMENT PROGRAM

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66A-2.001 Purpose.
Pursuant to Section 374.976, F.S., the West Coast Inland Navigation District (WCIND) is authorized to undertake additional programs intended to alleviate the problems associated with its waterways. The purpose of this Rule Chapter is to set forth WCIND's policies and procedures implementing such program, which shall be known hereafter as WCIND'S Waterway Development Program (WDP or the Program).

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History–New 11-11-90, Formerly 16S-2.001, Amended 3-3-21.

66A-2.0011 Scope.
The provisions of this rule chapter implement the additional programs intended to alleviate problems associated with WCIND's waterways under Section 374.976, F.S. Nothing herein shall be construed to limit WCIND's authority to administer programs under its codified special act charter in Chapter 98-526, Laws of Florida, or otherwise restrict any other powers granted to WCIND thereunder.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History–New 3-3-21.

66A-2.002 Definitions.
The terms used in this rule chapter are defined as follows:

(1) "Acquisition" means the act of obtaining with Program funds equipment, intangible property, supplies, real property, activities and services necessary to plan and carry out a project under this rule.

(2) "Application" means a member county's formal request for Program funds on the specified form with required supporting documentation.

(3) "Board" means the Board of Commissioners of WCIND.

(4) "Budget-Cycle Funding" or "Budget-Cycle" means the time period between January 1st and June 15th when project applications may be submitted to WCIND for approval and appropriation of project funds by the Board during the TRIM hearing or budget approval process for the upcoming fiscal year beginning on October 1st.

(5) "Capital Improvement" means the addition, improvement, modification or alteration of real property that materially increases its value or useful life.

(6) "Construction" means the carrying out of any altering, building, clearing, demolishing, dredging, excavating, filling and

related activities of any facility or real property.

(7) “County Navigation Improvement Fund” or “CNIF” means the total unencumbered balances of reserve funds assigned to each member county in an adopted budget. Each member county CNIF reserve fund balance available is its unexpended proportional share of ad valorem tax revenues carried over from past fiscal years, including excess funds from completed projects, plus such unobligated revenues from the current fiscal year.

(8) “Development” in the context of capital improvements, means the act of physically improving real property or facilities thereon to increase its ability or capacity to serve waterway related purposes. In the context of intellectual property, “development” refers to the systematic use of scientific and technical knowledge in the design, testing, or evaluation of a potential new product or service (or of an improvement in an existing product or service) to meet specific performance requirements or objectives.

(9) “Equipment” means non-consumable and nonexpendable, tangible personal property having a per-unit cost of $5,000 or more and a useful life beyond one year.

(10) “Executive Director” means the Executive Director of the WCIND.

(11) “Extension” means to increase the size or capacity or make an addition to an existing facility. In the context of time, “extension” refers to the additional time granted to a member county to complete a project agreement or satisfy a condition or requirement under this Rule Chapter.

(12) “Facility” means all or any portion of a capital improvement established to be used exclusively for purposes directly related to WCIND waterways as set forth in this Rule Chapter.

(13) “Fiscal Year” means WCIND fiscal year, October 1st – September 30th.

(14) “In-Kind Contribution” means the value of a non-cash contribution provided by a member county or third-party to meet a project’s match funding requirement.

(15) “Intangible Property” means property having no physical existence such as trademarks, copyrights, or patents, having a per-unit cost of $5,000 or more and a useful life beyond one year.

(16) “Intellectual Property” means a copyrightable intangible property that was developed with Program funds, or for which ownership was acquired with Program funds.

(17) “Liaison Agent” means the person officially designated by a member county who is authorized to act on its behalf on matters related to participation in the Program.

(18) “Maintenance” means the activities necessary to keep facilities or equipment in a condition to serve their intended purposes. Maintenance activities include routine, recurring custodial services, minor repairs and other non-routine actions which occur on a less frequent basis through any give fiscal year.

(19) “Marine Law Enforcement” means law enforcement activities performed on WCIND waterways by any of the following: county sheriffs and their deputies; municipal police officers; or law enforcement officers, part-time law enforcement officers and auxiliary law enforcement officers as defined by Section 943.10, F.S.

(20) “Marine Fire Service” means fire suppression and prevention activities and related rescue response activities for the protection of life and property performed on WCIND waterways by a county, municipality, sheriff or special district. Marine fire service may be performed in conjunction with marine emergency medical services where the marine fire service provider is licensed to perform the same under Chapter 401, F.S.

(21) “Match” means the value of cash, pre-agreement costs or in-kind contributions provided by a member county or third-party to pay its share of the project costs as required by this Rule Chapter.

(22) “Member County” means a county located within the taxing boundaries of the WCIND.

(23) “Net Ad Valorem Revenue” means WCIND’s estimated net ad valorem revenues as adopted in its annual budget and calculated from subtracting applicable property appraiser and tax collector fees from the estimated ad valorem revenue.

(24) “Off Funding Cycle” or “Off-Cycle” means the time outside of the TRIM hearing or budget approval process when project applications may be submitted to WCIND for approval and appropriation of CNIF reserve funds by the Board at a regularly scheduled meeting.

(25) “Operations” means the activities necessary for facilities or equipment to function and produce desired results on a daily or frequent basis. Where appropriate context applies, operations means activities necessary to properly conduct marine law enforcement or boating safety and environmental education programs.

(26) “Overhaul” means the repair, rebuild and recondition of equipment at or near the end of the equipment’s useful life that results in a new useful life of the equipment that is consistent with the extent of the overhaul.

(27) “Planning” means project planning phase activities, including feasibility analysis, design, studies, and other tasks required to prepare plans for eligible projects prior to construction, including environmental review, permitting and compliance tasks, and architectural, survey and engineering studies.

(28) “Post-Construction” means the monitoring, collection and analysis of physical or biological data, or similar activities required by state or federal permits on an annual or periodic basis following the completion of the project’s construction phase.

(29) “Primary Facility” means any facility which could stand alone and carry out its project purpose to relate directly to WCIND waterways, without a support facility.

(30) “Project” means a planned undertaking which includes one or more activities that have a common purpose that relates directly to WCIND waterways.

(31) “Project Agreement” means an executed contract between WCIND and a member county setting forth the terms and conditions of funding an approved Program project.

(32) “Real Property” means all lands, including improvements and fixtures thereon and property of any nature appurtenant thereto or used in connection therewith, and every estate, interest, and right, legal or equitable, therein.

(33) “Reconstruction” means the act of constructing a previously existing facility again, which was demolished or destroyed in whole or in part by fire, casualty or natural disaster.

(34) “Regional and Administrative Efforts” means the regional and administrative expenses and contingencies budgeted annually for the purposes of providing the requisite local cooperation for the construction, maintenance and operation of the Gulf Intracoastal Waterway in accordance with Chapter 98-526, Laws of Florida. Regional and administrative efforts are budgeted and funded from the annual net ad valorem revenue in proportion to each member county’s share of the same.

(35) “Specialized Instruction” means the act or practice of teaching a particular skill necessary to boat more safely or protect the marine environment or advising and informing students in a manner that develops an awareness of boating safety or waterway environments, and is performed on WCIND waterways. Specialized instruction is specific and exclusive to the boater safety or environmental education curriculum and is not included under member county or third-party operator salaries.

(36) “Supplies” means all materials, fabricated parts and other items of tangible personal property other than equipment as defined above.

(37) “Support Facility” means a facility which could not stand alone and carry out its project purpose to relate directly to the waterways without the primary facility.

(38) “Third-Party Operator” means a local government or other entity which is provided Program funds under written contract with a member county to carry out all or part of an approved project in accordance with the project agreement.

(39) “TRIM Hearings” means the public hearings required by the Truth in Millage Act as codified in Chapter 200, F.S., to adopt WCIND’s annual ad valorem tax millage rate and budget.

(40) “Upgrade” means improvements to equipment that are intended to materially improve its functional use or heighten the capabilities of its intended use. This term does not include overhauls of equipment.

(41) “Waterway Related Environmental Issues” means: the physical and biological impacts of waterway construction, maintenance, and operation, and related restoration and enhancement activities; the role of waterways within watershed ecosystems, watershed structure and functions, and the value and benefits of healthy watersheds; ecofriendly boating practices and the balance of the recreational, economic, and scenic values of such waters.

(42) “WCIND’s Interest” means the interest that WCIND holds in any tangible or intangible property acquired with Program funds based upon WCIND’s share in the costs of the original acquisition.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History–New 11-11-90, Formerly 16S-2.002, Amended 3-3-21.

66A-2.003 Policy.

The following constitutes WCIND’s policy pertaining to the administration of the additional programs undertaken pursuant to Section 374.976, F.S:

(1) Waterway Development Program. This Program is established to alleviate problems associated with WCIND waterways and is implemented through member county projects directly addressing such problems related to navigability, recreational boater access, boater safety and the marine environment. Financial assistance may be furnished to member counties for the costs of planning and carrying out projects that meet the purposes of one or more of the following project categories:

(a) Public Navigation. The purpose of this project category is to benefit or enhance public navigation within WCIND.

(b) Boater Recreation. The purpose of this project category is to benefit or enhance access to WCIND waterways for recreational boaters.

(c) Environmental Education. The purpose of this project category is to benefit or enhance the marine environment in WCIND waterways and increase public awareness and knowledge of waterway related environmental issues.

(d) Boating Safety and Education. The purpose of this project category is to benefit or enhance safety on WCIND waterways and increase awareness and knowledge of safe boating practices and waterway regulations among WCIND's boating public.

(e) Marine Law Enforcement. The purpose of this project category is to benefit or enhance law enforcement on WCIND waterways for better protection of the boating public's health and safety and welfare, and the marine environment.

(2) Project Application and Approval. Member counties shall submit requests for funding to WCIND for each project on Form No. 1, "Funding Application," effective 2/23/21, which is incorporated herein by reference and available from https://www.flrules.org/Gateway/reference.asp?No=Ref-12689, in accordance with the requirements set forth in Rule 66A-2.004, F.A.C. The Board may approve applications complying with the provisions of this Rule Chapter and fund projects during annual budget-cycles or off-cycles.

(3) Project Agreement. Prior to reimbursement of funds for eligible project costs, the member county shall enter into a specified written project agreement with WCIND, Form No. 2, "Waterway Development Project Agreement," effective 2/23/21, which is incorporated herein by reference and available from https://www.flrules.org/Gateway/reference.asp?No=Ref-12696.

(4) Budget-Cycle Funding: Each fiscal year, the Board will allocate Program funds during the annual budget process based upon WCIND's overall goals, priorities, fiscal responsibilities, and operational needs for the upcoming fiscal year. Funds available to each member county will be their proportional balances for county specific projects as allocated in any fiscal year budget. County specific project funds are calculated by subtracting WCIND's regional and administrative costs from net ad valorem tax revenue then adding any unused CNIF carried over from the prior fiscal year. Budget-cycle funding shall be available in the following Program Area match ratios and allocation limits:

Waterway Development Projects Funding Match Ratios and Allocation Limits		
Project Category	Match	Limits
Public Navigation	No Match	Up to 100%
Boater Recreation	50%	Up to 100%
Boating Safety and Education	50%	Up to 100%
Marine Law Enforcement	No Match	Up to 35%*
Environmental Education	No Match	Up to 25%*

* A waiver of the 35% and 25% limits may be granted by the Board when requested by a member county due to its total project needs and priorities exceeding the allocation limits in a budget cycle. Member counties shall request the waiver as part of the official Board of County Commissioners resolution approving the applications required by subsections 66A-2.004(1) and (2), F.A.C.

(5) Off-Cycle Funding. During off-cycle funding of any remaining fiscal year, the Board may fund additional county specific projects from the available CNIF reserve fund balances assigned to each member county. Off-cycle funding is intended to provide member counties with the flexibility to timely plan and carry out projects when local needs, priorities or opportunities arise outside of the budget-cycle application process. Off-cycle funding shall be subject to the same Program area match ratios and allocation percentage limits in the above table as applied to the member county's total available CNIF reserve fund balances at the time of the request, unless otherwise waived by the Board.

(6) Interlocal Agreements. WCIND may provide financial assistance, support or cooperation for projects that benefit or enhance public navigation and have multiple funding partners, including the U.S. Army Corps of Engineers, through an interlocal agreement pursuant to Chapter 163 or Section 374.976, F.S. WCIND staff will identify these projects and present them to the Board for approval during budget-cycles or off-cycles. With exception to the three-year funding encumbrance limit set forth in Section 374.976(2), F.S., interlocal agreement projects shall not be subject to the provisions of this rule chapter unless a member county is a party to an interlocal agreement and receives Program funds during any budget-cycle or off-cycle. In such instances, a member county shall only be subject to the three-year funding encumbrance limit, the matching funds requirements and the proportional share funding limits set forth in Sections 374.976(2) and (3), F.S.

(7) Non-Compliance. WCIND may terminate a project agreement and demand return of Program funds disbursed to member

county or other remedial action for non-compliance with any of the terms of the project agreement or this rule chapter, if such non-compliance calls into question the ability of the member county or third-party operator to complete the project. Failure of a member county or third-party operator to comply with the provisions of this rule chapter or the project agreement may result in WCIND declaring the member county or third-party operator ineligible for further participation in the Program until such time as the non-compliance has been remedied to the satisfaction of the Board.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History–New 11-11-90, Formerly 16S-2.003, Amended 3-3-21.

66A-2.004 Application Requirements.

All member county requests for Program funds shall be submitted in accordance with the following application requirements:

(1) Budget-Cycle Funding Applications. Member counties shall submit a completed Form No. 1, "Funding Application," which is incorporated by reference in subsection 66A-2.003(2) F.A.C., for each budget-cycle funding request with supporting documents and an official Board of County Commissioners resolution approving such applications from January 1st through June 15th of each year to be considered at the Board's TRIM hearings and funding approval for the following fiscal year. Applications which are not received in WCIND's headquarters in paper or electronic format by 4:00 p.m. on June 15th of each year may be rejected from consideration at the TRIM hearings.

(2) Off-Cycle Funding Applications. Member counties shall submit a completed Form No. 1, "Funding Application," which is incorporated by reference in subsection 66A-2.003(2), F.A.C., for each off-cycle funding request no less than thirty (30) days prior to the next regularly scheduled meeting to be considered for funding approval by the Board. Applications which are not received in WCIND's headquarters in paper or electronic format by such date, may be rejected from consideration at the next regularly scheduled Board meeting. Supporting documents and an official Board of County Commissioners resolution approving the application need not be submitted with the completed application but must be submitted prior to the Board's consideration at its next regularly scheduled meeting.

(3) WCIND shall review all applications for compliance with this Rule Chapter and Section 374.976, F.S., and may reject those that are found non-compliant. Additionally, WCIND may reject applications from member counties which have previously been found non-compliant with the provisions of this Rule Chapter or the terms of a previous project agreement pursuant to subsection 66A-2.003(7), F.A.C.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History–New 11-11-90, Formerly 16S-2.004, Amended 3-3-21.

66A-2.0041 Disaster Relief Projects.

At a regular or special meeting, the Board may waive the requirements of this rule chapter and funding limitations in Section 374.976(3), F.S., to approve and fund disaster relief projects in member counties recovering from a storm event or natural disaster resulting in a state of emergency declared under Chapter 252, F.S. Disaster relief projects approved by the Board shall be distributed under a project agreement and be subject to the remaining conditions in Section 374.976, F.S. Member counties must submit funding requests for disaster relief projects along with a waiver request, if necessary, to WCIND on Form No. 1, "Funding Application", which is incorporated by reference in subsection 66A-2.003(2), F.A.C., prior to the Board's consideration at its regular or special meeting.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History–New 3-3-21.

66A-2.005 Project Eligibility.

Eligible project costs are only those costs associated with the specific types of projects and activities listed in Rules 66A-2.20051 through 66A-2.0055, F.A.C., for each project category, as long as the expenditures incurred by the member county are reasonable and necessary for the performance of an approved project. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The following provisions set forth the general eligibility requirements of the Program.

(1) Ineligible Activities or Costs. Unless otherwise allowed by the eligibility requirements within a project category, the following costs are prohibited from Program funding or use as match funding:

(a) Indirect, contingencies, miscellaneous, or reoccurring personnel related costs;

(b) Member county in-house labor or other costs related to compensating employees, including salaries and wages, and fringe

benefits costs;

(c) Operational, maintenance and administrative, utility, rent, taxes and insurance costs;

(d) Expenditures for equipment, materials and supplies, or services not used exclusively for an approved project;

(e) Expenditures for vehicles or overland transportation services;

(f) Expenditures for enclosed buildings or structures; and

(g) Civil air patrols.

(2) Match Funds: Applications for projects requiring matching funds shall clearly identify and enumerate the amount and source. Upon verification from the member county's records, the following sources may be utilized for match funds:

(a) Cash;

(b) Costs for preliminary plans incurred without WCIND financial assistance prior to a project's approval by the Board;

(c) Pre-agreement costs for real property acquisitions as described in subsection 66A-2.0071(3), F.A.C.

(d) In-kind Contributions. The value of the following in-kind contributions may be used as match funds:

1. Volunteer Services or Labor. Volunteer services or labor furnished by third-party professional and technical personnel, consultants, and other skilled and unskilled labor if the service is an integral and necessary part of an approved project and used exclusively for the project's purposes. Rates for third-party volunteer services must be consistent with those paid for similar work by the member county. In those instances, in which the required skills are not found in the member county, rates must be consistent with those paid for similar work in the labor market in which the member county competes for the kind of services involved. Unless otherwise agreed to, rates for third-party volunteer services shall be determined by the U.S. Bureau of Labor Statistics State Occupational Employment and Wage Estimates report for Florida at the time of the application;

2. Equipment and Supplies. Equipment and supplies acquired without WCIND financial assistance during the duration of the project where such equipment and supplies are an integral and necessary part of an approved project and used exclusively for the project's purposes. The value of contributed equipment and supplies shall be based upon a receipt or equivalent documentation showing the actual purchase price or current value.

3. Real Property Value. The current fair market value of a project site acquired without WCIND financial assistance shall be based upon an appraisal dated no earlier than one year prior to the submission of the application. In lieu of obtaining an appraisal to establish the site's fair market value, a member county may use the assessed value of the project site supported by documentation of the current assessed value from the respective County Property Appraiser.

(3) Phasing of Projects. Applications may be submitted as a phased project with up to three phases, where Phase I includes the real property acquisition, Phase II includes the design, engineering and permitting activities, and Phase III includes the construction of the project. The description of the Phase II and III work shall be submitted along with the Phase I application for Board review.

(4) Eligibility Determination. Applications received by the application submission deadline will be reviewed by the Executive Director or his or her designee for project eligibility and compliance with this rule chapter. No additional information shall be accepted after the application submission deadline, unless specifically requested by the Executive Director for clarification of information provided in the application received by the published application submission deadline.

(5) The Executive Director will make recommendations for approval or denial of the project applications during the TRIM hearings or regular meeting, whichever is applicable.

(6) The Board will make all final decisions on the eligibility of a project or specific allowable project costs during the TRIM Hearings or regular meeting, whichever is applicable.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History–New 11-11-90, Amended 8-15-94, Formerly 16S-2.005, Amended 3-3-21.

66A-2.0051 Public Navigation Projects.

(1) Public Navigation Facilities. Program funds may be used to pay direct costs incurred in connection with capital improvements resulting in public navigation facilities, including the cost of acquisition, planning, development, construction, reconstruction, extension, post-construction, operation, maintenance and related activities. Eligible public navigation facilities include:

(a) Primary Facilities.

1. Public navigation channels;

2. Spoil material disposal areas;

3. Inlet management projects approved by the Board pursuant to Section 374.976(1)(b), F.S.;

4. Public navigation channel markers or other aids to navigation, including, but not limited to, signs, symbols, beacons, buoys, or lights; and

5. Other primary facilities as determined by the Board to benefit or enhance public navigation.

(2) Public Navigation Equipment. Program funds may be used to pay direct costs incurred in connection with enhancing waterway operation or maintenance capabilities, including acquisition, overhaul and upgrade of the following equipment:

(a) Vessels and appurtenant equipment, such as trailers, communication or navigation systems, sonar devices, lights and other similar vessel accessory apparatuses;

Weather stations, sensors, gauges, data loggers, telemetry devices and related equipment providing real-time waterway conditions of WCIND waterways; and

(b) Other equipment as determined by the Board to benefit or enhance public navigation.

(3) Public Navigation Intangible Property. Program funds may be used to pay direct costs incurred in connection with enhancing waterway operation or maintenance capabilities, including acquisition of intangible property and development of intellectual property, such as software applications and operating systems, and web-based information and applications, and other intangible property as determined by the Board to benefit or enhance public navigation.

(4) Public Navigation Hazards. Program funds may be used to pay direct costs incurred in connection with improving navigation safety, including planning, development, construction, post-construction and related activities necessary to remove abandoned or derelict vessels, and other navigation hazards or navigation safety activities on WCIND waterways as determined by the Board to benefit or enhance public navigation.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History–New 3-3-21.

66A-2.0052 Boater Recreation Projects.

(1) Boater Recreation Facilities. Program funds may be used to pay direct costs incurred in connection with capital improvements resulting in boater recreation facilities, including the cost of acquisition, planning, development, construction, reconstruction, extension, post-construction and related activities. Eligible boater recreation facilities include:

(a) Primary Facilities.

1. Public docks, boat ramps and launching facilities, tie-up facilities, and mooring fields;

2. Public piers providing access to WCIND waterways for recreational boaters, canoers or kayakers;

3. Public canoe or kayak trails and launching facilities;

4. Spoil island or natural island restoration within WCIND’s waterways providing for boater access and recreational purposes; and

5. Other primary facilities as determined by the Board to benefit or enhance recreational boater access, except enclosed structures which are ineligible as primary facilities.

(b) Support Facilities.

1. Vehicle and trailer parking, boarding docks, wave attenuator or breakwaters, seawalls, restrooms, walkways, landscaping, security lighting and fencing, interpretive signs, handicap ramps and fish cleaning stations. Enclosed structures shall be limited to restrooms accessible by waterway users; and

2. Other non-enclosed support facilities as determined by the Board to benefit or enhance recreational boating access.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History–New 3-3-21.

66A-2.0053 Environmental Education Projects.

(1) Environmental Education Facilities. Program funds may be used to pay direct costs incurred in connection with capital improvements resulting in environmental education facilities, including the cost of planning (except for feasibility analysis), development, construction, reconstruction, extension, post-construction and related activities. Eligible environmental education facilities include:

(a) Primary Facilities. Exhibits, demonstrations or interpretive sites constructed and installed within an existing educational facility which provide a range of environmental educational and interpretive programs, including aquariums, signs, kiosks, trails or walkways, wayside panels, static, interactive, multimedia or virtual displays, and other similar features which convey information about environmental education.

(b) Support Facilities.

1. Permanent appurtenances mounted or fastened to the existing educational facility to support the structural integrity of an installed exhibits demonstration or interpretive site or required to connect to existing utility services; and

2. Other support facilities as determined by the Board installed and integrated into an exhibits demonstration or interpretive site which provides an interactive user experience and conveys information about environmental education.

(2) Environmental Education Equipment. Program funds may be used to pay direct costs incurred in connection with enhancing environmental education capabilities, including acquisition, overhaul and upgrade of audio visual equipment, specialized scientific equipment, and other equipment as determined by the Board to be integral to the curriculum and an enhancement of the environmental education experience.

(3) Environmental Education Intangible Property. Program funds may be used to pay direct costs incurred in connection with enhancing environmental education capabilities, including acquisition of intangible property and the development of intellectual property, such as software applications and operating systems, web-based information and applications, curricula, including instructional tools and materials, and other intangible property as determined by the Board to be integral to the curriculum and an enhancement of the environmental education experience.

(4) Environmental Education Instruction. Program funds may be used to pay direct costs incurred in connection with enhancing environmental education capabilities, including the acquisition of specialized instruction services and the following supplies:

1. Instructional materials for environmental education curriculum delivered via in-house classroom or on the water class instruction; and

2. Other supplies as determined by the Board to be integral to the curriculum and an enhancement of the environmental education experience.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History–New 3-3-21.

66A-2.0054 Boating Safety and Education Projects.

(1) Boating Safety and Education Facilities. Program funds may be used to pay direct costs incurred in connection with capital improvements resulting in boating safety and education facilities, including the cost of planning (except for feasibility analysis), development, construction, reconstruction, extension, post-construction and related activities. Eligible boating safety and education facilities include:

(a) Primary Facilities.

1. Docks and lifts that enhance the capabilities of marine fire and rescue services;

2. Docks and lifts that enhance the capabilities of boating safety and education instruction; and

3. Signage at public docks, boat ramps and launch facilities that increases awareness of boating safety and educates the boating pubic.

(b) Support Facilities. Boarding docks, wave attenuator or breakwaters and seawalls.

(2) Boating Safety and Education Equipment. Program funds may be used to pay direct costs incurred in connection with the acquisition, overhaul and upgrade of the following equipment:

(a) Vessels and appurtenant equipment that enhance marine fire and rescue services capabilities, such as trailers, communication or navigation systems, sonar devices, lights, fire pumps, life-saving appliances, dive and rescue gear, hazardous materials response kits, and other similar vessel accessory apparatuses and onboard safety equipment;

(b) Vessels and appurtenant equipment that enhance boating safety and education capabilities, such as trailers, communication or navigation systems, lights, personal floatation devices, and other similar vessel accessory apparatuses and onboard safety equipment, and non-motorized vessels, such as sailboats, canoes, kayaks, rowing sculls, paddles, and other similar non-motorized vessels accessories apparatus and safety equipment.

(3) Boating Safety and Education Intangible Property. Program funds may be used to pay direct costs incurred in connection with enhancing boating safety and education capabilities, including acquisition of intangible property and development of intellectual property, such as software applications and operating systems, web-based information and applications, curricula, including instructional tools and materials.

(4) Boating Safety and Education Instruction. Program funds may be used to pay direct costs incurred in connection with enhancing boating safety and education capabilities, including acquisition of specialized instruction services and acquisition of the following supplies:

(a) Instructional materials for curriculum delivered via in-house classroom or on the water instruction; and

(b) Other supplies as determined by the Board to be integral to the curriculum and an enhancement of the boating safety and education experience.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History–New 3-3-21.

66A-2.0055 Marine Law Enforcement Projects.

(1) Marine Law Enforcement Facilities. Program funds may be used to pay direct costs incurred in connection with capital improvements resulting in marine law enforcement facilities, including the cost of planning (except for feasibility analysis), development, construction, reconstruction, extension, post-construction and related activities. Eligible marine law enforcement facilities are limited to docks lifts or similar primary facilities providing mooring and access for law enforcement vessels.

(2) Marine Law Enforcement Equipment. Program funds may be used to pay direct costs incurred in connection with enhancing marine law enforcement capabilities, including acquisition, overhaul and upgrade of the following equipment:

1. Vessels and appurtenant equipment, such as trailers, communication or navigation systems, lights and similar vessel accessory apparatus and onboard safety equipment;

2. Other equipment as determined by the Board to enhance the capabilities of marine law enforcement.

(3) Marine Law Enforcement Patrols. Program funds may be used to pay direct costs incurred in connection with enhancing marine law enforcement capabilities, including acquisition of marine law enforcement personnel services performed on WCIND waterways (on the water hours, including overtime), and the acquisition of fuel and oil supplies.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History–New 3-3-21.

66A-2.006 Project Design Criteria.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976 FS. History–New 11-11-90, Formerly 16S-2.006, Repealed 3-3-21.

66A-2.007 Funding Conditions.

The following constitute the general conditions for Program compliance:

(1) Three-Year Encumbrance Limit. Program funds shall not be encumbered for a project beyond three years following approval of a project (October 1 for budget-cycle projects and three years from the date of Board approval for off-cycle projects).

(2) Match Funds. With the exception of public navigation, marine law enforcement or environmental education projects, matching funds are required and shall be clearly identified and enumerated as to amount and source on all requests for funding. Member counties shall provide documentation verifying the amount and source of matching funds in accordance with subsection 66A-2.005(2), F.A.C.

(3) Site Dedication. Real property which is developed with Program funds shall be dedicated in accordance with the following:

(a) Public Lands. Member county and local government lands which are developed with Program funds shall be dedicated in perpetuity as a waterway development project site for the use and benefit of the general public. Lands which are under control of a member county or local government by lease agreement or other legally binding document, shall be dedicated as a waterway development project site for the use and benefit of the general public for a minimum of twenty-five (25) years from the completion date set forth in the project completion certificate. Member counties shall record such dedications within their respective public property records.

(b) Private Lands. Private lands of a third-party operator may be developed with Program funds for boater safety and education or environmental education projects as described in Rule 66A-2.005, F.A.C. In such instances, member counties shall provide safeguards to ensure that the project site located on the third-party operator’s lands are operated and maintained for boater safety and education or environmental education purposes and opened to the general public for a minimum of twenty-five (25) years from the completion date set forth in the project completion certificate.

(4) Facilities Maintenance and Operation. Except as otherwise provided in this Rule Chapter, the member county 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 federal, state and local health standards. Project facilities shall be kept safe and in repair to prevent undue deterioration. The member county must have full legal authority and

financial ability to operate and maintain the project facilities or, where appropriate, ensure that a third-party operator has such authority and ability.

(5) Legal Compliance and Assurances. Member counties and third-party operator shall comply with all applicable state, federal and local laws, rules, and regulations or, where appropriate, ensure a third-party operator's compliance with the same. Applications must include copies of all applicable regulatory agency permits or authorizations demonstrating the project's compliance with all applicable federal, state and local laws, rules and regulations, including but not limited to, U.S. Army Corps of Engineers, Florida Department of Environmental Protection, and Florida Water Management Districts. Failure to include copies of such permits or authorizations may result in the rejection of the application. Member counties may re-apply for previously rejected projects upon obtaining the required permits or authorizations during any subsequent off-cycle or budget-cycle. Upon approval of an application, member counties shall ensure compliance with all permits and their conditions relating to the project's construction and post-construction monitoring.

(6) Project Accessibility. Notwithstanding facilities used exclusively for marine law enforcement or marine fire and rescue services, facilities funded in whole or in part by Program funds shall be accessible to the public on a non-exclusive basis without regard to age, gender, race, religion, marital status, disability, or ethnic group, and shall be open at hours comparable to similar state or local public facilities.

(7) User Fees. User fees may be charged for the use of facilities funded in whole or in part by Program funds. Discrimination based on residence, including preferential reservation, membership or annual permit systems, is prohibited except differences in user fees may be maintained on the basis of residence. User fees charged to nonresidents cannot exceed twice the amount charged to residents. Where there is no charge for residents, but a user fee is charged to nonresidents, nonresident user fees cannot exceed user fees charged for residents at comparable state or local public facilities. User fees based upon residence shall be set forth in the project agreement and only apply to the project areas as described therein.

(8) Third-Party Operators. A member county may authorize project funds for use by third-party operators. However, the terms and conditions of the project agreement are not assignable, and the member county shall remain responsible for Program administration and accountability as further set forth in this rule chapter. Member counties shall continue to be responsible to WCIND for the proper use and management of Program funds, equipment and facilities, and maintain oversight of third-party operators.

(9) Procurement Requirements. Member counties shall acquire professional services in compliance with Florida law, including Section 287.055, F.S., or ensure a third-party operator's compliance with the same. Additionally, member counties shall competitively procure acquisition of all goods and services exceeding $5,000 for accomplishment of the project. Alternatively, a member county may utilize a state contract or equivalent procurement method within its approved purchasing policy for such acquisitions. Member counties shall ensure third-party operators procure goods and services in compliance with the requirements herein. Verification of such compliance shall be provided in a quarterly report.

(10) Valuation. Unless otherwise specified in this Rule Chapter, when determining the value of facilities, equipment, intellectual property or supplies, member counties may utilize the appropriate valuation methods under Generally Accepted Accounting Principles (GAAP) or Modified Accelerated Cost Recovery System (MACRS).

(11) Equipment. Title to equipment acquired with Program funds shall vest upon acquisition in the member county subject to the conditions and requirements of this Rule Chapter. All equipment shall be used exclusively for the waterway purposes as indicated in the project agreement. The equipment shall be operated, stored and maintained per the manufacturer's recommendations, and made available for inspection by WCIND staff upon request.

(a) Replacement or Disposition. When replacing or disposing of equipment acquired in whole or in part with Program funds, member counties shall first make written request to WCIND using Form No. 7, "Property Disposal/Replacement Request," effective 2/23/21, which is incorporated herein by reference and available from https://www.flrules.org/Gateway/reference.asp?No=Ref-12701. WCIND will approve such requests in accordance with the following requirements:

1. Replacement. Member counties may trade-in or sell the equipment to be replaced, with its trade-in value or sale proceeds being used to offset the cost of the replacement equipment.

2. Disposition. Member counties may dispose of original or replacement equipment that is no longer needed for its project purpose or for any other use as approved by WCIND, in accordance with the following:

a. Equipment with a current per-unit fair market value of $5,000 or less may be retained, sold, or otherwise disposed of without any further obligation to WCIND. Member counties shall record the details of dispositions of such equipment within its annual asset

inventory, including the party receiving the equipment (if any), the date of disposition, the cash or value received (if any); or

b. Equipment with a current per-unit fair market value of more than $5,000 may be retained or sold with WCIND's interest being refunded. Where such equipment is sold, WCIND may permit the member county to deduct and retain $500 or ten percent of the proceeds, whichever is less, for its selling and handling costs. Member counties shall record the details of dispositions in the same manner as provided for in sub-subparagraph (11)(a)(2)1. above.

(12) Casualty Loss and Misused Property. When facilities, equipment or supplies are lost or damaged by fire, natural disaster or other casualty, the fair market value shall be calculated on the basis of the condition of the facilities, equipment or supplies immediately before the loss or damage, irrespective of the extent of insurance coverage or insurance adjustment received. If any loss or damage to facilities, equipment or supplies results from abuse or misuse occurring with the member county's knowledge and consent, the member county shall either repair, reconstruct or replace such facilities, equipment or supplies at its own expense or refund WCIND's interest therein. If the lost or damaged facilities, equipment or supplies are covered by insurance, a member county shall apply all insurance proceeds to either the costs of repairing, reconstructing or replacing such facilities, equipment or supplies, or the refund of WCIND's interest therein.

(13) Intangible Property. Title to intangible property shall vest upon acquisition in the member county subject to the conditions and requirements of this rule chapter. All intangible property shall be used exclusively for the waterway purposes as indicated in the project agreement. Member counties may replace or dispose of intangible property in accordance with the provisions for equipment in paragraph (11)(a) above. Member counties may copyright any intellectual property created under the Program with the reservation of WCIND's royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use the intellectual property for WCIND purposes, and to authorize others to do so.

(14) Inventory. Member counties shall submit an annual asset inventory by June 15th of each year. The asset inventory shall track and detail, at minimum, each asset (facilities, equipment and intangible property) acquired with Program funds, the asset's current custodian, date acquired, acquisition cost, whether the asset is insured, and disposition details where applicable.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History–New 11-11-90, Formerly 16S-2.007, Amended 3-3-21.

66A-2.0071 Real Property Acquisition.

The following constitutes the specific conditions procedures and administrative requirement for real property acquisition projects.

(1) Eligible Projects. Real property acquisitions are limited to projects that provide for rights-of-way, spoil material disposal areas, environmental mitigation areas or other areas that may be necessary for completion of capital improvements resulting in future public navigation or boater recreation facilities or extension of existing public navigation or boater recreation facilities. Member counties shall have up to one year from the effective date of the project agreement to purchase the property. The Board may extend this period in accordance with subsection 66A-2.0072(2), F.A.C.

(2) Capital Improvements. The public navigation or boater recreation capital improvements proposed at the time of the acquisition shall be constructed on the property within seven (7) years of the acquisition date and dedicated to the public for such use in perpetuity upon completion. Failure to timely complete the capital improvements may result in WCIND at its sole discretion: requiring the member county to refund WCIND's interest as calculated in subsection (6) below; the conveyance of the property to WCIND; or extending the seven aforesaid (7) year time limit.

(3) Total Project Cost. Real property acquisitions projects are subject to the match ratios set forth in subsection 66A-2.003(4), F.A.C., and total project cost shall be upon based on either the negotiated purchase price or approved appraised value, whichever is lowest. If the negotiated purchase price or approved appraised value is greater than the project cost, the member county must pay the additional cost. Pre-agreement costs for appraisals, inspections, surveys (boundary and topographic) and title searches or opinions completed within one-year of the date of application may be detailed in the project agreement and used as match funds for a boater recreation project.

(4) Member counties shall include in the acquisition project application, the following supporting documentation:

(a) Appraisal. An appraisal prepared by an appraiser certified under Chapter 475, F.S., shall be submitted which establishes the fair market value of the parcel(s) proposed for acquisition. If the property is $500,000 or less in appraised value, one appraisal is required. If the property exceeds $500,000 in appraised value, two appraisals are required. The appraisal(s) must be dated no earlier than six months prior to the submittal date of the application. If two appraisals are required for the project, the lower of the approved appraised values shall be the basis of the total project cost.

(b) Survey. A survey, certified, signed and sealed by a professional surveyor and mapper licensed under Chapter 472, F.S., shall

be submitted which provides a legal description and sketch of the boundaries of the parcel(s) proposed for acquisition. The survey shall accurately portray the existing conditions and any known easements and encroachments. The survey shall be certified no earlier than six months prior to the submittal date of the application.

(c) Title Opinion. A title opinion prepared by a member of the Florida Bar or a licensed title insurer which covers the thirty-year period prior to the application submittal date and attests to the landowner's clear title with no liens, encumbrances or taxes against the property.

(5) Ownership. Title to land acquired with program funds shall vest in the member county at closing subject to such covenants and restrictions, and reversion, conveyance and termination clauses that are sufficient to ensure compliance with this Rule Chapter in perpetuity and any easements reserved for the benefit of WCIND. Immediately upon acquiring title to the land, the applicant shall record a declaration of covenants and restrictions in favor of WCIND which include, at a minimum, the time limit for completing the proposed capital improvements and public dedication requirements in subsection (2) above. Additionally, the deed shall contain a reversion, conveyance or termination clause that vests title to WCIND if any of the covenants or restrictions are violated by the member county or by some third-party with the knowledge of the member county.

(6) Misused Real Property. If a member county violates the covenants and restrictions on the acquired property, the Board, at its discretion, may require the member county to take one of the following remedial actions:

(a) Convey the property to WCIND;

(b) Sell the property at public auction and refund WCIND's interest from the sale proceeds; or

(c) Retain the property for non-waterway related uses and refund WCIND's interest based upon the fair market value of the property at the time of the violation. Fair market value of the property, including any WCIND funded capital improvements thereon, shall be determined in the same manner as the total project costs in paragraph (4)(a) above.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History–New 3-3-21.

66A-2.0072 Project Administration.

The following constitutes the general requirements for the administration of the Program.

(1) Project Management. The Executive Director or his or her designee shall be the WCIND project manager responsible for monitoring the project agreements under the Program. The Executive Director or designated project manager shall also be responsible for approving all reimbursement requests. The Liaison Agent shall act on the member county's behalf in carrying out the terms and conditions of the project and project agreement. Payment of project costs shall be reimbursed as provided for in this rule chapter and in the project agreement.

(2) Time Extensions. All project agreements require a project to be completed within one year from the effective date of the project agreement. The completion date may be extended for good cause upon written request of the member county. However, in no event shall the completion date be extended beyond three years following the effective date of the initial project agreement. Member county liaison agents shall submit a request for extension to WCIND no later than June 15 of fiscal year one or two of the approved project, whichever year is applicable, using Form No. 3, "Project Extension Request," effective 2/23/21, which is incorporated herein by reference and available from https://www.flrules.org/Gateway/reference.asp?No=Ref-12697. For purposes of this rule, "good cause" means an event beyond the control of the Member County, which prevents it from timely completing the project, including, but not limited to: acts of God (such as earthquakes, drought, fires, storms, and floods); war, hostilities, acts of terrorism, blockades or riots; strikes, lockouts, or other industrial disturbances; and title disputes, or other litigation. In review of time extension requests, the Board will take into consideration the current project status and progress, the nature of the causing event, and the ability of the member county to complete the project within one additional year.

(3) Failure to Timely Complete. If any project has not been completed within three years following approval of the project, all undisbursed Program funds shall no longer be encumbered for the project and WCIND shall place such funds into the member county's CNIF. Nothing in this rule chapter prohibits the member county from re-applying to WCIND for new funding for the project in a subsequent WCIND budget-cycle following expiration of the initial project agreement. Projects that fail to timely complete shall not be eligible for funding during the next available off-cycle.

(4) Agreement Modification. Any requested changes in the scope of the project or amount of financial assistance from WCIND must be submitted in writing to WCIND. All proposed changes to the project agreement must be submitted to WCIND in writing by the member county's Liaison Agent accompanied by a statement of justification for the proposed changes. All project agreement amendments shall be approved by the Board, except that the Executive Director may approve a minor project agreement amendment

which does not change the approved project's category or the amount of financial assistance. Agreed changes shall be evidenced by a formal amendment to the project agreement utilizing Exhibit "G" of Form No. 2, "Waterway Development Project Agreement," which is incorporated by reference in subsection 66A-2.003(3), F.A.C.

(5) Agreement Termination. WCIND may unilaterally terminate the project agreement for breach of its terms and conditions or noncompliance with the provisions of this rule chapter should the member county fail to cure the breach or remedy the noncompliance within thirty (30) days after receiving written notice. If the member county fails to cure the breach, WCIND may require the member county to refund all funds previously reimbursed under the project agreement. Additionally, upon written request by either party, WCIND and the member county may mutually agree to terminate the project agreement.

(6) Project Reporting. The liaison agent shall 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 be submitted on Form No. 5, "Quarterly Status Report," effective 2/23/21, which is incorporated herein by reference and available from https://www.flrules.org/Gateway/reference.asp?No=Ref-12699, by the 15th calendar day after the end of each quarter and continue throughout the length of the project period until completion of the project. A final project report shall be submitted with the certificate of project completion form and shall include at a minimum: project summary, photo of completed project, final cost, project benefits to the waterway and location address.

(7) Payment Requests. For all projects, requests for disbursement of WCIND funds shall be made using Form No. 4, "Request for Payment Certificate," effective 2/23/21, which is incorporated herein by reference and available from https://www.flrules.org/Gateway/reference.asp?No=Ref-12698.

(8) Project Inspection. Upon reasonable request, the WCIND project manager or his or her designee shall have the right to inspect the project and all records relating to the project.

(9) Project Completion. WCIND shall be notified of completion of a project by the submission of Form No. 6, "Notification of Project Completion," effective 2/23/21, which is incorporated herein by reference and available from https://www.flrules.org/Gateway/reference.asp?No=Ref-12700, signed by the liaison agent, and co-signed by either the County Administrator or the County Financial Officer.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History–New 3-3-21.

66A-2.008 Accountability.

The following procedures shall govern the accountability of Program funds:

(1) Member counties are responsible for maintaining an accounting system which meets generally accepted accounting principles and for maintaining such financial records as are necessary to properly account for all Program funds.

(2) Quarterly Reports: Member counties shall submit completed quarterly status reports to WCIND in accordance with subsection 66A-2.0071(6), F.A.C.

(3) Completion Certification: Final certification of project completion and supporting documents as outlined in subsection 66A-2.0071(9), F.A.C., shall be submitted to WCIND prior to final reimbursement of Program funds for each project.

(4) Auditing: All project records including project costs shall be available for review by WCIND or by an auditor selected by WCIND for 3 years after completion of the project.

(5) Project Records: The member county 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 member county shall retain all records until the final resolution of such matters. Records for real property, capital improvements and equipment must be retained for three years after disposition or replacement.

(6) Repayment: If it is found by WCIND or any state, county or independent auditor that funds had not been used in accordance with the project agreement, this Rule Chapter or Section 374.976, F.S., the member county shall be responsible for refunding the misused funds to WCIND. Payment of the refund shall include interest calculated from date of original County receipt of the funds, through date of WCIND's receipt of the refund at the same rate which would have been paid during said period for the funds if they have been invested in the State of Florida Local Government Surplus Funds Trust Fund (Florida PRIME).

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History–New 11-11-90, Formerly 16S-2.008, Amended 3-3-21.

66A-2.009 Acknowledgment.

Upon request, the member county shall erect a permanent sign, approved by WCIND, at an appropriate location on the project site which indicates WCIND's participation in the project. If the member county erects a temporary construction sign, this sign shall also recognize the WCIND's participation. If the final product of the project is a report, study or other publication, upon request, WCIND's sponsorship of that publication shall be prominently indicated at the beginning of the publication. If the project results in an educational display or intellectual property, upon request, a statement acknowledging WCIND's participation in the project shall be contained in the display or intellectual property.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History–New 3-3-21.