



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

F.1.

1/10/2023

### Subject:

Permission to Accept a Grant from the Florida Fish and Wildlife Conservation Commission and Matching Fund Donations for Artificial Reef Construction

### Fiscal Impact:

FY 22/23 Revenues - \$60,000 Grant (to Fund 1700) and \$6,000 in donations (to Beaches, Boating and Waterways Fund 0032). The donations are used as the local 10% match that is required for the grant.

### Dept/Office:

Natural Resources Management Department

### Requested Action:

It is requested that the Board: 1) Authorize the Chair to execute an Artificial Reef Construction Grant Agreement between Brevard County and the Florida Fish and Wildlife Conservation Commission; 2) Accept matching fund donations; 3) Authorize staff to competitively bid and the County Manager to execute a construction contract with the lowest responsive and qualified bidder; and 4) authorize associated Budget Change Requests.

### Summary Explanation and Background:

The Brevard County Boating & Waterways Program is actively pursuing funding to deploy artificial reef material at the County permitted Brevard County Artificial Reef Site 2. Artificial reefs link ecological, recreational and economic objectives. By developing a well-managed artificial reef site, the County seeks to increase viable habitat for key recreational and commercial fish species along Florida's Central Atlantic coast. It has been shown that well managed artificial reef sites can be a driving factor for recreational and commercial fishing as well as diving. Regional growth in recreational and commercial use directly increases expenditures at regional waterfront businesses such as bait shops, fishing and diving charters/businesses, and boat rental/sales locations, thus motivating the economy of the associated shoreline community and the region.

The permitted Brevard County reef site is located approximately 15.5 nautical miles due east of Port Canaveral. Site depths range from 76 ft. to 88 ft. This 3085-acre site was selected due to its lack of hard bottom features and its expanse of open sandy bottom. The site is mostly uninhabited, with the exception of scattered starfish, sea urchins, and calico scallops. The Florida Fish and Wildlife Conservation Commission grant is for the construction and deployment of at least 15 prefabricated artificial reef modules at the County's site. Materials will be placed in a single patch reef cluster within the County's permitted site. This project will be the eighth in a series of patch reefs the county intends to create within the larger permitted site.

Current project partners include the Florida Sports Fishing Association, Central Florida Offshore Anglers, the

Coastal Conservation Association, the Florida Institute of Technology, and the University of Florida's Brevard County Marine Extension Service. The Florida Sports Fishing Association, Central Florida Offshore Anglers, the Coastal Conservation Association have each pledged \$2,000 to cover the local match requirement for the grant funds.

Staff requests permission to accept the Florida Fish and Wildlife Conservation Commission Artificial Reef Construction Grant and associated donations, authorize any necessary budget change requests, and authorize staff to advertise for bids and the County Manager to execute a construction contract with the lowest responsive and qualified bidder.

**Clerk to the Board Instructions:**

Please execute and attest one (1) original copy of the attached Grant Agreement (FWC-22001). Contact Matt Culver at [matt.culver@brevardfl.gov](mailto:matt.culver@brevardfl.gov) for pick-up of the executed document.



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

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Kimberly.Powell@brevardclerk.us

January 11, 2023

**M E M O R A N D U M**

**TO:** Virginia Barker, Natural Resources Management Director Attn: Matt Culver

**RE:** Item F.1., Permission to Accept a Grant from the Florida Fish and Wildlife Conservation Commission and Matching Fund Donations for Artificial Reef Construction

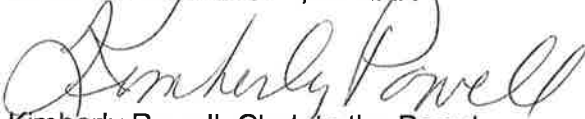
The Board of County Commissioners, in regular session on January 10, 2023, approved the Chair to execute an Artificial Reef Construction Grant Agreement between Brevard County and the Florida Fish and Wildlife Conservation Commission; accepted matching fund donations; authorized staff to competitively bid and the County Manager to execute a construction contract with the lowest responsive and qualified bidder; and authorized associated Budget Change Requests. Enclosed is the executed Agreement.

**Upon execution by the Florida Fish and Wildlife Conservation Commission, please return a fully-executed copy to this Office for inclusion in the official minutes.**

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

  
Kimberly Powell, Clerk to the Board

/pp

Encl. (1)

cc: County Manager  
Central Services  
Finance  
Budget

**BREVARD COUNTY  
BOARD OF COUNTY COMMISSIONERS**

## **CONTRACT REVIEW AND APPROVAL FORM**

### **SECTION I - GENERAL INFORMATION**

<b>1. Contractor:</b> Florida Fish and Wildlife Conservation Commission		<b>2. Amount:</b> \$60,000	
<b>3. Fund/Account #:</b> 0032/223210		<b>4. Department Name:</b> Natural Resources	
<b>5. Contract Description:</b> Artificial Reef Grant			
<b>6. Contract Monitor:</b> Matt Culver		<b>8. Contract Type:</b>  GRANT	
<b>7. Dept/Office Director:</b> Virginia Barker			
<b>9. Type of Procurement:</b> Invitation to Bid (ITB)			

### **SECTION II - REVIEW AND APPROVAL TO ADVERTISE**

#### **APPROVAL**

<u><b>COUNTY OFFICE</b></u>	<u><b>YES</b></u>	<u><b>NO</b></u>	<u><b>SIGNATURE</b></u>
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Purchasing	<input type="checkbox"/>	<input type="checkbox"/>	
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	

### **SECTION III - CONTRACTS MANAGEMENT DATABASE CHECKLIST**

#### **APPROVAL**

<u><b>COUNTY OFFICE</b></u>	<u><b>YES</b></u>	<u><b>NO</b></u>	<u><b>SIGNATURE</b></u>
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Culver, Matt <small>Digitally signed by Culver, Matt DN: cn=Culver, Matt, email=Matt.Culver@brevard.gov Date: 2021.11.29 15:28:47 -0500</small>
Purchasing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Wall, Katherine <small>Digitally signed by Wall, Katherine Date: 2022.11.29 16:04:31 -0500</small>
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Balser, Heather <small>Digitally signed by Balser, Heather Date: 2022.12.02 17:40:44 -0500</small>

### **SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST**

<b>CM DATABASE REQUIRED FIELDS</b>	<b>Complete ✓</b>
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status, Title, Type, and Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date, Effective Date, and Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Contract Form with County Attorney/ Risk Management/ Purchasing Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>

BREVARD COUNTY  
BOARD OF COUNTY COMMISSIONERS

## CONTRACT REVIEW AND APPROVAL FORM

### SECTION I - GENERAL INFORMATION

1. <b>Contractor:</b> Florida Fish and Wildlife Conservation Commission		2. <b>Amount:</b> \$60,000	
3. <b>Fund/Account #:</b> 0032/223210		4. <b>Department Name:</b> Natural Resources	
5. <b>Contract Description:</b> Artificial Reef Grant			
6. <b>Contract Monitor:</b> Matt Culver		8. <b>Contract Type:</b>  GRANT	
7. <b>Dept/Office Director:</b> Virginia Barker			
9. <b>Type of Procurement:</b> Invitation to Bid (ITB)			

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#### APPROVAL

<u>COUNTY OFFICE</u>	<u>YES</u>	<u>NO</u>	<u>SIGNATURE</u>
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Purchasing	<input type="checkbox"/>	<input type="checkbox"/>	
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	

### SECTION III - CONTRACTS MANAGEMENT DATABASE CHECKLIST

#### APPROVAL

<u>COUNTY OFFICE</u>	<u>YES</u>	<u>NO</u>	<u>SIGNATURE</u>
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Culver, Matt <small>Digitally signed by Culver, Matt DN: cn=Culver, Matt, email=Matt.Culver@brevard1.gov Date: 2021.11.29 16:28 ET 0000</small>
Purchasing	<input type="checkbox"/>	<input type="checkbox"/>	
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Wilson, Shannon <small>Digitally signed by Wilson, Shannon Date: 2022.11.28 16:16:56 -0500</small>
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	

### SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM DATABASE REQUIRED FIELDS	Complete ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status, Title, Type, and Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date, Effective Date, and Expiration Date	<input type="checkbox"/>
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Material Group	<input type="checkbox"/>
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"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>

## RECIPIENT/SUBRECIPIENT AGREEMENT

STATE OF FLORIDA

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

FWC Agreement No. 22001

Federal Grant Information	
CFDA Title(s): Federal Aid in Sportfish Restoration	CFDA No(s): 15.605
Name of Federal Agency(s): United States Fish and Wildlife Service	
Federal Award No(s): F20AF11284-A2	Federal Award Year(s): 2022-2023
Federal Award Name(s): Marine Artificial Reef Planning, Development, Administration, and Assessment in Florida	
State Grant Information	
CSFA Title(s): N/A	CSFA No(s) : N/A
State Award No(s): FWC-22001	State Award Year(s): 2022-2023
State Award Name(s): Brevard County Artificial Reef Construction 2022-2023	

This Agreement is entered into by and between the Florida Fish and Wildlife Conservation Commission, whose address is 620 South Meridian Street, Tallahassee, Florida 32399-1600, hereafter "Commission" or "FWC," and Brevard County Board of County Commissioners, FEID # 59-6000523, whose address is 2725 Judge Fran Jamieson Way, A219 Viera, FL 32940 , the Recipient/Subrecipient, hereinafter "Recipient", collectively, "Parties".

### **INTRODUCTORY CLAUSES**

**WHEREAS**, Commission and Recipient intend to partner together to construct 1 patch reef consisting of 15 prefabricated concrete modules within the Brevard County Artificial Reef Site 2 permitted area;

**WHEREAS**, such benefits are for the ultimate good of the State of Florida, its resources, wildlife, and public welfare.

### **TERMS OF THE AGREEMENT**

The Commission and the Recipient, for the considerations stated in this Agreement, agree as follows:

#### **Section 1. PROJECT DESCRIPTION.**

The Recipient shall provide the services and perform the specific responsibilities and obligations, as set forth in the Scope of Work, attached hereto as Attachment A, which specifically identifies project tasks and

accompanying deliverables. These deliverables must be submitted and approved by the Commission prior to any payment. The Commission will not accept any deliverable that does not comply with the specified required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable. If this agreement is the result of Recipient responses to the Commission's request for competitive or other grant proposals, the Recipient's response is hereby incorporated by reference.

## **Section 2. PERFORMANCE.**

The Recipient shall perform the activities described in Attachment A in a proper and satisfactory manner. Unless otherwise provided for in Attachment A, any and all equipment, products or materials necessary or appropriate to perform under this Agreement shall be supplied by the Recipient. The Recipient shall obtain all necessary local, state, and federal authorizations necessary to complete this project, and the Recipient shall be licensed as necessary to perform under this Agreement as may be required by law, rule, or regulation; the Recipient shall provide evidence of such compliance to the Commission upon request. The Recipient shall procure all supplies and pay all charges, fees, taxes and incidentals that may be required for the completion of this Agreement. By acceptance of this Agreement, the Recipient warrants that it has the capability in all respects to fully perform the requirements and the integrity and reliability that will assure good-faith performance as a responsible Recipient. The Recipient shall immediately notify the Commission's Grant Manager in writing if its ability to perform under the Agreement is compromised in any manner during the term of the Agreement. The Commission shall take appropriate action, including potential termination of this Agreement, in the event the Recipient's ability to perform under this Agreement becomes compromised.

## **Section 3. AGREEMENT PERIOD.**

**Agreement Period and Commission's Limited Obligation to Pay.** The Agreement shall be effective upon execution by the last Party to sign and shall remain in effect through 09/30/2023.

However, if this Agreement is made pursuant to a grant award as authorized by Rule 68-1.003, F.A.C., the referenced grant programs may execute Agreements with a retroactive start date of no more than sixty (60) days, provided that approval is granted from the Executive Director or his/her designee and that it is in the best interest of the Commission and State to do so. For this Agreement, the retroactive start date was not approved. The Commission's Grant Manager shall confirm the specific start date of the Agreement by written notice to the Recipient. The Recipient shall not be eligible for reimbursement or compensation for grant activities performed prior to the start date of this Agreement nor after the end date of the Agreement. For this Agreement, preaward costs are not eligible for reimbursement. If necessary, by mutual agreement as evidenced in writing and lawfully executed by the Parties, an Amendment to this Agreement may be executed to lengthen the Agreement period.

## **Section 4. COMPENSATION AND PAYMENTS.**

### **A. Compensation.**

As consideration for the services rendered by the Contractor under the terms of this Agreement, the Commission shall pay the Recipient on a cost reimbursement basis in an amount not to exceed \$60,000.00.

### **B. Payments.**

The Commission shall pay the Recipient for satisfactory performance of the tasks identified in Attachment A as evidenced by the completed deliverables, upon submission of invoices, accompanied by supporting documentation sufficient to justify invoiced expenses or fees, and after acceptance of services and deliverables in writing by the Commission's Grant Manager. Unless otherwise specified in Attachment A,

invoices shall be due monthly, commencing from the start date of this Agreement. Invoices must be legible and must clearly reflect the Deliverables that were provided in accordance with the terms of the Agreement for the invoice period. Unless otherwise specified in Attachment A, a final invoice shall be submitted to the Commission no later than forty-five (45) days following the expiration date of this Agreement to assure the availability of funds for payment. Further, pursuant to Section 215.971(1)(d), F.S., the Commission may only pay the Recipient for allowable costs resulting from obligations incurred during the agreement period.

#### **C. Invoices.**

Each invoice shall include the Commission Agreement Number and the Recipient's Federal Employer Identification (FEID) Number. Invoices, with supporting documentation, may be submitted electronically to the attention of the Commission's Grant Manager. If submitting hard copies, an original and two (2) copies of the invoice, plus all supporting documentation, shall be submitted. All bills for amounts due under this Agreement shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. Recipient acknowledges that the Commission's Grant Manager shall reject invoices lacking documentation necessary to justify invoiced expenses.

#### **D. Match**

If this Agreement is made pursuant to a grant award as authorized by Rule 68-1.003, F.A.C., the Recipient is not required to contribute non-federal match towards this Agreement. If applicable, details regarding specific match requirements are included in Attachment A.

#### **E. State Obligation to Pay.**

The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation and authorization to spend by the Legislature. The Parties hereto understand that this Agreement is not a commitment to future appropriations but is subject to appropriation and authority to spend provided by the Legislature. The Commission shall be the final authority as to the availability of funds for this Agreement, and as to what constitutes an "annual appropriation" of funds to complete this Agreement. If such funds are not appropriated or available for the Agreement purpose, such event will not constitute a default on behalf of the Commission or the State. The Commission's Grant Manager shall notify the Recipient in writing at the earliest possible time if funds are not appropriated or available.

#### **F. Non-Competitive Procurement and Rate of Payment.**

Section 216.3475, F.S., requires that under non-competitive procurements, a Recipient may not receive a rate of payment in excess of the competitive prevailing rate for those services unless expressly authorized in the General Appropriations Act. If applicable, Recipient warrants, by execution of this Agreement, that the amount of non-competitive compensation provided in this Agreement is in compliance with Section 216.3475, F.S.

#### **G. Cost Reimbursement**

If the Compensation section indicates this is a cost reimbursement Agreement, the Recipient shall be paid on a cost reimbursement basis for all eligible Project costs upon the completion, submittal, and approval of each deliverable identified in Attachment A. To be eligible for reimbursement, costs must follow the requirements of Section 215.971, F.S. and must also be in compliance with other laws, rules, and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures.



Invoices submitted for cost reimbursement must be itemized by expenditure category as outlined in the approved Agreement budget. Additionally, the invoice must evidence the completion of all tasks required to be performed for the deliverable and must show that the Recipient met the minimum performance standards established in the Agreement. The Commission is required to maintain detailed supporting documentation and to make it available for audit purposes. By submission of the payment request, the Commission is certifying that the detailed documentation to support each item on the itemized invoice is on file at the agency and is available for audit.

Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for the categories in the approved Agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided. The Commission may require more detailed documentation as deemed appropriate to satisfy that the terms of the Agreement have been met.

Listed below are types and examples of their supporting documentation:

- i. **Salaries:** Timesheets that support the hours worked on the project or activity must be kept. A payroll register or similar documentation should be submitted and maintained. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.
- ii. **Tuition:** If the Commission determines tuition, stipends, and/or waivers are allowable costs, the payments must result from obligations incurred during the specified agreement period. Documentation must be provided to show compliance with 215.971, F.S. Examples include but are not limited to keeping timesheets/time and effort reports/logs that support the hours worked on the project or activity. If an individual for whom tuition, stipends and/or waivers are being claimed are paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.
- iii. **Fringe Benefits:** Supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the Agreement specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.
  - a. Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.
- iv. **Travel:** To the extent the Commission determines travel is an allowable cost, reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher along with supporting receipts and invoices.
- v. **Other Direct Costs:** To the extent the Commission determines other direct costs are allowable, reimbursement will be made based on paid invoices/receipts and proof of payment processing (cancelled/processed checks and bank statements).
- vi. **In-House Charges:** Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

- vii. **Indirect Costs:** To the extent the Commission determines that indirect costs are allowable, and the Agreement specifies that indirect costs will be paid based on a specified rate, then the calculation should be provided in the Agreement's budget breakdown. Indirect costs must be in the approved Agreement budget and the Recipient must be able to demonstrate that the costs are not duplicated elsewhere as direct costs. All indirect cost rates must be evaluated for reasonableness and for allowability and must be allocated consistently.

For cost reimbursement Agreements with another State agency (including State universities):

In lieu of the detailed documentation described above, alternative documentation may be submitted to substantiate the costs requested to be reimbursed. This alternative documentation may be in the form of FLAIR reports or other reports containing sufficient detail.

#### **H. Time Limits for Payment of Invoices.**

Payments shall be made in accordance with Sections 215.422 and 287.0585, F.S., which govern time limits for payment of invoices. Section 215.422, F.S. provides that agencies have five (5) working days to inspect and approve Deliverables, unless Attachment A specifies otherwise. If payment is not available within forty (40) days, measured from the latter of the date the invoice is received or the Deliverables are received, inspected and approved, a separate interest penalty set by the Department of Financial Services pursuant to Section 55.03(1), F.S., will be due and payable in addition to the invoice amount. Invoices returned to a Recipient due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed invoice is provided to the agency.

#### **I. Electronic Funds Transfer.**

Recipient agrees to enroll in Electronic Funds Transfer (EFT), offered by the State's Chief Financial Officer, within thirty (30) days of the date the last Party has signed this Agreement. Copies of the Authorization form and a sample blank enrollment letter can be found on the vendor instruction page at: <https://www.myfloridacfo.com/Division/AA/Vendors/default.htm>. Questions should be directed to the State of Florida's EFT Section at (850) 413-5517. Once enrolled, invoice payments will be made by EFT.

#### **J. Vendor Ombudsman.**

A Vendor Ombudsman, whose duties include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a State agency, may be contacted at (850) 413-5516 or by calling the Chief Financial Officer's Hotline, (800) 342-2762.

### **Section 5. RETURN OR RECOUPMENT OF FUNDS**

#### **A. Unobligated Funds.**

Pursuant to Section 215.971(1)(d)-(e), F.S., the Commission may only pay the Recipient for allowable costs resulting from obligations incurred during the agreement period, and any balance of unobligated funds that has been advanced or paid must be refunded to the Commission. Any funds paid in excess of the amount to which the Recipient is entitled under the terms and conditions of the Agreement must be refunded to the Commission as well. To be eligible for payment, costs must be in compliance with laws, rules, and regulations applicable to expenditures of State funds, including, but not limited to, the above referenced laws and the Reference Guide for State Expenditures.

**B. Overpayments to Recipient.**

Pursuant to Section 215.971(1)(f), F.S., any funds paid in excess of the amount to which the Recipient is entitled under the terms and conditions of the Agreement must be refunded to the Commission. In the event the Recipient or its independent auditor discovers that overpayment has been made, the Recipient shall repay said overpayment within forty (40) calendar days without prior notification from the Commission. In the event the Commission first discovers an overpayment has been made, the Commission will notify the Recipient in writing. Should repayment not be made in a timely manner, the Commission shall be entitled to charge interest at the lawful rate of interest established pursuant to Section 55.03(1), F.S., on the outstanding balance beginning forty (40) calendar days after the date of notification or discovery. Refunds should be sent to the Commission's Grant Manager and made payable to the "Florida Fish and Wildlife Conservation Commission."

**C. Additional Costs or Monetary Loss Resulting from Recipient Non-Compliance.**

If the Recipient's non-compliance with any provision of the Agreement results in additional cost or monetary loss to the Commission or the State of Florida to the extent allowed by Florida Law, the Commission can recoup that cost or loss from monies owed to the Recipient under this Agreement or any other agreement between Recipient and the Commission. In the event the discovery of this cost or loss arises when no monies are available under this Agreement or any other agreement between the Recipient and the Commission, the Recipient will repay such cost or loss in full to the Commission within thirty (30) days of the date of notice of the amount owed, unless the Commission agrees, in writing, to an alternative timeframe. If the Recipient is unable to repay any cost or loss to the Commission, the Commission shall notify the State of Florida, Department of Financial Services, for resolution pursuant to Section 17.0415, F.S.

**Section 6. COMMISSION EXEMPT FROM TAXES, PROPERTY EXEMPT FROM LIEN.****A. Commission Exempt from Taxes.**

The Recipient recognizes that the State of Florida, by virtue of its sovereignty, is not required to pay any taxes on the services or goods purchased under the terms of this Agreement. The Recipient is placed on notice that this exemption generally does not apply to nongovernmental entity recipients, subrecipients, contractors, or subcontractors. Any questions regarding this tax exemption should be addressed to the Commission's Grant Manager.

**B. Property Exempt from Lien.**

If the Agreement involves the improvement of real property titled to the State of Florida, then the following paragraph applies:

The Recipient acknowledges that Property being improved is titled to the State of Florida and is not subject to lien of any kind for any reason. The Recipient shall include notice of such exemptions in any subcontracts and purchase orders issued hereunder.

**Section 7. MONITORING.**

The Commission's Grant Manager shall actively monitor the Recipient's performance and compliance with the terms of this Agreement. The Commission reserves the right for any Commission staff to make scheduled or unscheduled, announced or unannounced monitoring visits. Specific State and Federal monitoring terms and

conditions are found in the Requirements of the Federal and Florida Single Audit Acts, Attachment B. Monitoring terms, conditions, and schedules may be included in Attachment A.

## **Section 8. TERMINATION.**

### **A. Commission Unilateral Termination.**

The Commission may unilaterally terminate this Agreement for convenience by providing the Recipient with thirty (30) calendar days of written notice of its intent to terminate. The Recipient shall not be entitled to recover any cancellation charges or lost profits. The Recipient may request termination of the Agreement for convenience.

### **B. Termination – Fraud or Willful Misconduct.**

This Agreement shall terminate immediately in the event of fraud or willful misconduct. In the event of such termination, the Commission shall provide the Recipient with written notice of termination.

### **C. Termination - Funds Unavailability.**

In the event funds to finance this Agreement become unavailable or if federal or state funds upon which this Agreement is dependent are withdrawn or redirected, the Commission may terminate this Agreement upon no less than twenty-four (24) hours' notice in writing to the Recipient. Said notice shall be delivered by certified mail, return receipt requested or in person with proof of delivery. The Commission shall be the final authority as to the availability of funds and will not reallocate funds appropriated for this Agreement to another program thus causing "lack of funds." In the event of termination of this Agreement under this provision, the Recipient will be compensated for any work satisfactorily completed and any non-cancellable obligations properly incurred prior to notification of termination.

### **D. Termination – Other.**

The Commission may terminate this Agreement if the Recipient fails to: 1.) comply with all terms and conditions of this Agreement; 2.) produce each deliverable within the time specified by the Agreement or extension; 3.) maintain adequate progress, thus endangering the performance of the Agreement; or, 4.) abide by any statutory, regulatory, or licensing requirement. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences for default. The rights and remedies of the Commission in this clause are in addition to any other rights and remedies provided by law or under the Agreement. The Recipient shall not be entitled to recover any cancellation charges or lost profits.

### **E. Recipient Discontinuation of Activities upon Termination Notice.**

Upon receipt of notice of termination, the Recipient shall, unless the notice directs otherwise, immediately discontinue all activities authorized hereunder. Upon termination of this Agreement, the Recipient shall promptly render to the Commission all property belonging to the Commission. For the purposes of this section, property belonging to the Commission shall include, but shall not be limited to, all books and records kept on behalf of the Commission.

## **Section 9. REMEDIES.**

### **A. Financial Consequences.**

In accordance with Sections 215.971(1)(a) & (b), F.S., Attachment A contains clearly established tasks in quantifiable units of deliverables that must be received and accepted in writing by the agency before payment. Each deliverable specifies the required minimum level of service to be performed and the criteria

for evaluating the successful completion of each deliverable. If the Recipient fails to produce each deliverable within the time frame specified by Attachment A, the budget amount allocated for that deliverable will be deducted from the Recipient's payment. In addition, pursuant to Section 215.971(1)(c), the Commission shall apply any additional financial consequences, identified in Attachment A.

**B. Cumulative Remedies.**

The rights and remedies of the Commission during the agreement period are in addition to any other rights and remedies provided by law or under the Contract.

**Section 10. NOTICES AND CORRESPONDENCE.**

Any and all notices shall be delivered to the individuals identified below. In the event that either Party designates a different Grant Manager after the execution of this Agreement, the Party will provide written notice of the name, address, zip code, telephone, and email address of the newest Grant Manager, or an individual authorized to receive notice on behalf of that Party, to all other Parties as soon as possible, but not later than five (5) business days after the new Grant Manager has been named. Designating a new Grant Manager shall not require a formal amendment to the Agreement.

**COMMISSION GRANT MANAGER  
CONTACT INFORMATION:**

Emily Jackson  
Biological Scientist IV  
FWC Russell Office Building  
1875 Orange Ave E  
Tallahassee, FL, 32311  
850-617-9646  
Emily.Jackson@myfwc.com

**RECIPIENT GRANT MANAGER CONTACT  
INFORMATION:**

Matt Culver  
Boating and Waterways Program Coordinator  
2725 Judge Fran Jamieson Way, A219  
Viera, FL 32940  
321-633-2016  
Matt.culver@brevardfl.gov

**Section 11. AMENDMENT.**

**A. Waiver or Modification.**

No waiver or modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and lawfully executed by the Parties.

**B. Change Orders.**

The Commission may, at any time, by written order, make a change to this Agreement. Such changes are subject to the mutual agreement of both Parties as evidenced in writing. Any change which causes an increase or decrease in the Recipient's cost or time shall require an Amendment. Minor changes, such as those updating a Party's contact information, may be accomplished by a Modification.

**C. Renegotiation upon Change in Law or Regulations.**

The Parties agree to renegotiate this Agreement if federal and/or state revisions of any applicable laws or regulations make changes in the Agreement necessary.

## Section 12. PROPERTY RIGHTS.

If this Agreement includes Federal funds, the provisions of Sections 200.310-200.316, Office of Management and Budget (OMB) Uniform Guidance (2 CFR 200), and any language addressing Federal rights, apply.

### A. Intellectual and Other Intangible Property.

- i. **Recipient's Preexisting Intellectual Property (Proprietary) Rights.** Unless specifically addressed in Attachment A, intellectual and other intangible property rights to the Recipient's preexisting property will remain with the Recipient.
- ii. **Proceeds Related to Intellectual Property Rights.** Proceeds derived from the sale, licensing, marketing or other authorization related to any intellectual and other intangible property right created or otherwise developed by the Recipient under this Agreement for the Commission shall be handled in the manner specified by the applicable Florida State Statute and/or Federal program requirements.
- iii. **Commission Intellectual Property Rights.** Where activities supported by this Agreement produce original writing, sound recordings, pictorial reproductions, drawings or other graphic representations and works of any similar nature, the Commission and the State of Florida have the unlimited, royalty-free, nonexclusive, irrevocable right to use, duplicate and disclose such materials in whole or in part, in any manner, for any purpose whatsoever and to have others acting on behalf of the Commission to do so. If this Agreement is supported by Federal funds, the Federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes, and to authorize others to do so.

### B. Purchase or Improvement of Real Property.

This Agreement is not for the purchase or improvement of real property, therefore, the following terms and conditions do not apply.

- i. **Federal Funds.** Any Federal funds provided for the purchase of or improvements to real property are subject to the Property Standards of Sections 200.310 - 200.316, and 200.329, OMB Uniform Guidance (2 CFR 200), as amended.
- ii. **Title.** If this Agreement is supported by state funds, the Recipient shall comply with Section 287.05805, F.S. This section requires the Recipient to grant a security interest in the property to the State of Florida, the type and details of which are provided for in Attachment A. Title to state-owned real property remains vested in the state. Title to federally owned real property remains vested in the Federal government in accordance with the provisions of Section 200.312, OMB Uniform Guidance (2 CFR 200), as amended.
- iii. **Use.** Federally owned real property will be used for the originally authorized purpose as long as needed for that purpose in accordance with Section 200.311, OMB Uniform Guidance (2 CFR 200). State-owned real property will be used as provided in Attachment A.

### C. Non-Expendable Property.

- i. **Non-Expendable Property Defined.** For the requirements of this section of the Agreement, "non-expendable property" is the same as "property" as defined in Section 273.02, F.S. (equipment, fixtures, and other tangible personal property of a non-consumable and non-expendable nature, with a value or cost of **\$5,000.00** or more, and a normal expected life of one (1) year or more; hardback-

covered bound books that are circulated to students or the general public, with a value or cost of **\$25.00** or more; and uncirculated hardback-covered bound books, with a value or cost of **\$250.00** or more).

- ii. **Title to Non-Expendable Property.** Title (ownership) to all non-expendable property acquired with funds from this Agreement shall be vested in the Commission and said property shall be transferred to the Commission upon completion or termination of the Agreement unless otherwise authorized in writing by the Commission or unless otherwise specifically provided for in Attachment A.

#### **D. Equipment and Supplies**

- i. **Title - Equipment.** Title to equipment acquired under a Federal award will vest upon acquisition in the non-Federal entity in accordance with Sections 200.313 and 200.314, OMB Uniform Guidance (2 CFR 200).
- ii. **Title – Supplies.** Title to supplies will vest in the non-Federal entity upon acquisition. Unused supplies exceeding **\$5,000.00** in total aggregate value upon termination or completion of the project or program are subject to Section 200.314, OMB Uniform Guidance.
- iii. **Use – Equipment.** Equipment must be used by the non-Federal entity in the program or project for which it was acquired as long as needed.

### **Section 13. RELATIONSHIP OF THE PARTIES.**

#### **A. Independent Recipients.**

The Recipient shall perform as an independent Recipient and not as an agent, representative, or employee of the Commission. The Recipient covenants that it presently has no interest and shall not acquire any interest that would conflict in any manner or degree with the performance of services required. Each Party hereto covenants that there is no conflict of interest or any other prohibited relationship between the Recipient and the Commission.

#### **B. Recipient Training Qualifications.**

The Recipient agrees that all Recipient employees, subcontractors, or agents performing work under the Agreement shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Recipient shall furnish a copy of technical certification or other proof of qualification.

#### **C. Commission Security.**

All employees, subcontractors, or agents performing work under the Agreement must comply with all security and administrative requirements of the Commission. The Commission may conduct, and the Recipient shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by the Recipient. The Commission may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with the Commission's other requirements. Such refusal shall not relieve Recipient of its obligation to perform all work in compliance with the Agreement. The Commission, in coordination with the Recipient, may reject and bar from any facility for cause any of Recipient's employees, subcontractors, or agents.

**D. Commission Rights to Assign or Transfer.**

The Recipient agrees that the State of Florida shall at all times be entitled to assign or transfer its rights, duties, or obligations under this Agreement to another governmental agency in the State of Florida, upon giving prior written notice to the Recipient.

**E. Commission Rights to Undertake or Award Supplemental Contracts.**

The Recipient agrees that the Commission may undertake or award supplemental agreements for work related to the Agreement. The Recipient and its subcontractors shall cooperate with such other Recipients and the Commission in all such cases.

**Section 14. SUBCONTRACTS.**

The Recipient is permitted to subcontract work under this Agreement, therefore, the following terms and conditions apply.

**A. Authority.**

The Recipient shall ensure, and provide assurances to the Commission upon request, that any subcontractor selected for work under this Agreement has the necessary qualifications and abilities to perform in accordance with the terms and conditions of this Agreement. The Recipient must provide the Commission with the names of any subcontractor considered for work under this Agreement; the Commission reserves the right to reject any subcontractor. The Recipient agrees to be responsible for all work performed and all expenses incurred with the project. Any subcontract arrangements must be evidenced by a written document available to the Commission upon request. The Recipient further agrees that the Commission shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract. The Recipient, at its expense, will defend the Commission against such claims. The following provisions apply in addition to any terms and conditions included in Attachment A.

**B. Recipient Payments to Subcontractor.**

If subcontracting is permitted pursuant to Paragraph A, above, Recipient agrees to make payments to the subcontractor within seven (7) working days after receipt of full or partial payments from the Commission in accordance with Section 287.0585, F.S., unless otherwise stated in the agreement between the Recipient and subcontractor. Recipient's failure to pay its subcontractors within seven (7) working days will result in a penalty charged against the Recipient and paid to the subcontractor in the amount of one-half of one percent (0.50%) of the amount due per day from the expiration of the period allowed herein for payment. Such penalty shall be in addition to actual payments owed and shall not exceed fifteen percent (15%) of the outstanding balance due.

**C. Commission Right to Reject Subcontractor Employees.**

The Commission shall retain the right to reject any of the Recipient's or subcontractor's employees whose qualifications or performance, in the Commission's judgment, are insufficient.

**D. Subcontractor as Independent Contractor.**

If subcontracting is permitted pursuant to Paragraph A above, the Recipient agrees to take such actions as may be necessary to ensure that each subcontractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the State of Florida.



## Section 15. MANDATORY DISCLOSURE.

These disclosures are required by State law, as indicated, and apply when this Agreement includes State funding; and by Federal law, as indicated, and apply when the Agreement includes a Federal award.

### A. Disclosure of Interested State Employees.

This Agreement is subject to Chapter 112, F.S. Recipient shall provide the name of any officer, director, employee, or other agent who is affiliated with this project and an employee of the State of Florida. If the Agreement includes a Federal award, then the Agreement is also subject to Section 200.112, OMB Uniform Guidance (2 CFR 200). Recipient must disclose, in writing, any potential conflict of interest to the Commission in accordance with applicable Federal awarding agency policy.

### B. Convicted Vendors.

The Recipient hereby certifies that neither it, nor any person or affiliate of Recipient, has been convicted of a Public Entity Crime as defined in section 287.133, F.S., nor placed on the convicted vendor list. Recipient shall have a continuing obligation to disclose, to the Commission, in writing, if it, its principals, recipient, subrecipient, contractor, or subcontractor, are on the convicted vendors list maintained by the Florida Department of Management Services pursuant to Section 287.133(3)(d), F.S.

- i. **Convicted Vendor List.** Pursuant to Subsection 287.133(2)(a), F.S., a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not be awarded or perform work as a Recipient, supplier, subcontractor or consultant under a contract with any public entity and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. The State of Florida, Department of Management Services, Division of State Purchasing provides listings for convicted, suspended, discriminatory and federal excluded parties, as well as the vendor complaint list at: [https://www.dms.myflorida.com/business\\_operations/state\\_purchasing/state\\_agency\\_resources/vendor\\_registration\\_and\\_vendor\\_lists](https://www.dms.myflorida.com/business_operations/state_purchasing/state_agency_resources/vendor_registration_and_vendor_lists)
- ii. **Notice of Conviction of Public Entity Crime.** Any person must notify the Department of Management Services and the Commission, in writing, within thirty (30) days after conviction of a public entity crime applicable to that person or an affiliate of that person as defined in Section 287.133, F.S.
- iii. **Vendors on Scrutinized Companies List.** The Recipient certifies that it and any of its affiliates are not scrutinized companies as identified in Section 287.135, F.S. In addition, the Recipient agrees to observe the requirements of Section 287.135, F.S., for applicable sub-agreements entered into for the performance of work under this Agreement. Pursuant to Section 287.135, F.S., the Commission may immediately terminate this Agreement for cause if the Recipient, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Recipient, its affiliates, or its subcontractors are placed on any applicable scrutinized companies list or engaged in prohibited contracting activity during the term of the Agreement. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions, then they shall become inoperative.

### C. Discriminatory Vendors.

The Recipient shall disclose to the Commission, in writing, if they, their subrecipient, contractor, or subcontractor, are on the Discriminatory Vendor List maintained by the Florida Department of

Management Services pursuant to Section 287.134(3)(d), F.S. "An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity." Section 287.134(2)(a), F.S. Recipient has a continuing duty to disclose to the Commission whether they appear on the discriminatory vendor list.

**D. Prompt Disclosure of Litigation, Investigations, Arbitration, or Administrative Proceedings.**

Throughout the term of the Agreement, the Recipient has a continuing duty to promptly disclose to the Commission's Grant Manager, in writing, upon occurrence, all civil or criminal litigation, investigations, arbitration, or administrative proceedings (Proceedings) relating to or affecting the Recipient's ability to perform under this agreement. If the existence of such Proceeding causes the Commission concern that the Recipient's ability or willingness to perform the Agreement is jeopardized, the Recipient may be required to provide the Commission with reasonable assurances to demonstrate that: a.) the Recipient will be able to perform the Agreement in accordance with its terms and conditions; and, b.) Recipient and/or its employees or agents have not and will not engage in conduct in performing services for the Commission which is similar in nature to the conduct alleged in such Proceeding.

**E. Certain Violations of Federal Criminal Law.**

If this agreement includes a Federal award, then in accordance with Section 200.113, OMB Uniform Guidance (2 CFR 200), Recipient must disclose, in a timely manner, in writing to the Commission all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

**Section 16. INSURANCE.**

If the Recipient is a state or federal agency with self-insurance, Recipient warrants and represents that it is insured, or self-insured for liability insurance, in accordance with applicable state or federal law and that such insurance or self-insurance offers protection applicable to the Recipient's officers, employees, servants and agents while acting within the scope of their employment with the Recipient.

If the Recipient is not a state or federal agency with self-insurance, then the following applies:

**A. Reasonably Associated Insurance.**

During the term of the Agreement, the Recipient, at its sole expense, shall maintain insurance coverage of such types and with such terms and limits as may be reasonably associated with the Agreement. Providing and maintaining adequate insurance coverage is a material obligation of the Recipient, and failure to maintain such coverage may void the Agreement. The limits of coverage under each policy maintained by the Recipient shall not be interpreted as limiting the Recipient's liability and obligations under the Agreement. All insurance policies shall be through insurers licensed and authorized to write policies in Florida.

**B. Workers Compensation.**

To the extent required by Chapter 440, F.S., the Recipient will either be self-insured for Worker's Compensation claims or will secure and maintain during the life of this Agreement, Worker's Compensation Insurance, Jones Act insurance, Maritime insurance or appropriate/applicable coverage that

acts or serves as "worker's compensation insurance coverage" for all of its employees connected with the work of this project, with minimum employers' liability limits of \$100,000.00 per accident, \$100,000.00 per person, and \$500,000.00 policy aggregate. Such policy shall cover all employees engaged in any contract work. If any work is subcontracted, the Recipient shall require the subcontractor similarly to provide Workers' Compensation Insurance Jones Act insurance, Maritime insurance or appropriate/applicable coverage that acts or serves as "worker's compensation insurance coverage" for all of the latter's employees unless such employees are covered by the protection afforded by the Recipient. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation Law (Chapter 440, F.S.). In case any class of employees engaged in hazardous work under this Agreement is not protected under Workers' Compensation statutes, the Recipient shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Recipient, for the protection of its employees not otherwise protected. Employers who have employees who are engaged in work in Florida must use Florida rates, rules, and classifications for those employees.

### **C. General Liability Insurance.**

By execution of this Agreement, unless Recipient is a state agency or subdivision as defined by Subsection 768.28(2), F.S. or unless otherwise provided for in Attachment A, the Recipient shall provide reasonable and adequate commercial general liability insurance coverage and hold such liability insurance at all times during the Agreement. A self-insurance program established and operating under the laws of the State of Florida may provide such coverage.

### **D. Insurance Required for Performance.**

During the Agreement term, the Recipient shall maintain any other types and forms of insurance required for the performance of this Agreement as required in Attachment A.

### **E. Written Verification of Insurance.**

Upon execution of this Agreement, the Recipient shall provide the Commission written verification of the existence and amount for each type of applicable insurance coverage. Within thirty (30) days of the effective date of the Agreement, Recipient shall furnish proof of applicable insurance coverage to the Commission's Grant Manager by standard Association for Cooperative Operations Research and Development (ACORD) form certificates of insurance. In the event that any applicable coverage is cancelled by the insurer for any reason, Recipient shall immediately notify the Commission's Contract Manager in writing of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within fifteen (15) business days after the cancellation of coverage.

### **F. Commission Not Responsible for Insurance Deductible.**

The Commission shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of Recipient providing such insurance.

## **Section 17. SPONSORSHIP.**

As required by Section 286.25, F.S., if the Recipient is a nongovernmental organization which sponsors a program financed wholly or in part by state funds, including any funds obtained through this Agreement, it shall, in publicizing, advertising, or describing the sponsorship of the program, state: "Sponsored by (Recipient's name) and the State of Florida, Fish and Wildlife Conservation Commission." If the sponsorship reference is in written

material, the words "State of Florida, Fish and Wildlife Conservation Commission" shall appear in the same size letters or type as the name of the Recipient's organization. Additional sponsorship requirements may be specified in Attachment A.

#### **Section 18. PUBLIC RECORDS.**

- A. All records in conjunction with this Agreement shall be public records and shall be treated in the same manner as other public records that are under Chapter 119, F.S.
- B. This Agreement may be unilaterally canceled by the Commission for refusal by the Recipient to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, F.S., and made or received by the Recipient in conjunction with this Agreement, unless exemption for such records is allowable under Florida law.
- C. If the Recipient meets the definition of "Contractor" in Section 119.0701(1)(a) F.S., the Recipient shall comply with the following:
  - i. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF THE CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: 850-488-6553, RecordsCustodian@myfwc.com, and 620 South Meridian Street, Tallahassee FL 32399**
  - ii. Keep and maintain public records required by the Commission to perform the service.
  - iii. Upon request from the Commission's custodian of public records, provide the Commission with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S. or as otherwise provided by law.
  - iv. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the Commission.
  - v. Upon completion of the contract transfer, at no cost, to the Commission all public records in possession of the Contractor or keep and maintain public records required by the Commission to perform the service. If the Contractor transfers all public records to the Commission upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Commission, upon request from the Commission's custodian of public records, in a format that is compatible with the information technology systems of the Commission.

## **Section 19. COOPERATION WITH INSPECTOR GENERAL.**

Pursuant to subsection 20.055(5), F.S., Recipient, and any subcontractor to the Recipient, understand and will comply with their duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Inspector General or any other authorized State official, the Recipient shall provide any type of information the Inspector General deems relevant to the Recipient's integrity or responsibility. Such information may include, but shall not be limited to, the Recipient's business or financial records, documents, or files of any type or form that refer to or relate to the Agreement. The Recipient agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Recipient's compliance with the terms of this or any other agreement between the Recipient and the State which results in the suspension or debarment of the Recipient. Such costs shall include but not be limited to salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees.

## **Section 20. SECURITY AND CONFIDENTIALITY.**

The Recipient shall maintain the security of any information created under this Agreement that is identified or defined as "confidential" in Attachment A. The Recipient shall not divulge to third Parties any confidential information obtained by the Recipient or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Agreement work. To ensure confidentiality, the Recipient shall take appropriate steps regarding its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Agreement.

## **Section 21. RECORD KEEPING REQUIREMENTS.**

### **A. Recipient Responsibilities.**

The Recipient shall maintain accurate books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement, in accordance with generally accepted accounting principles.

### **B. State Access to Contractor Books, Documents, Papers, and Records.**

The Recipient shall allow the Commission, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability or authorized representatives of the state or federal government to have access to any of the Recipient's books, documents, papers, and records, including electronic storage media, as they may relate to this Agreement, for the purposes of conducting audits or examinations or making excerpts or transcriptions..

### **C. Recipient Records Retention.**

Unless otherwise specified in Attachment A, these records shall be maintained for five (5) fiscal years following the close of this Contract, or the period required for this particular type of project by the General Records Schedules maintained by the Florida Department of State (<https://dos.myflorida.com/library-archives/records-management/general-records-schedules/>), whichever is longer. Recipient shall cooperate with the Commission to facilitate the duplication and transfer of such records upon the Commission's request.

**D. Recipient Responsibility to Include Records Requirements – Subcontractors.**

In the event any work is subcontracted under this Agreement, the Recipient shall include the aforementioned audit and record keeping requirements in all subsequent contracts.

**E. Compliance with Federal Funding Accountability and Transparency.**

Any federal funds awarded under this Agreement must comply with the Federal Funding Accountability and Transparency Act (FFATA) of 2006. The intent of the FFATA is to empower every American with the ability to hold the government accountable for each spending decision. The result is to reduce wasteful spending in the government. The FFATA legislation requires that information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website: [www.USASpending.gov](http://www.USASpending.gov). Grant recipients awarded a new Federal grant greater than or equal to \$25,000.00 awarded on or after October 1, 2010, are subject to the FFATA. The Recipient agrees to provide the information necessary, over the life of this Agreement, for the Commission to comply with this requirement.

**Section 22. FEDERAL AND FLORIDA SINGLE AUDIT ACT (FSAA) REQUIREMENTS.**

Pursuant to the FSAA (or Federal) Vendor / Recipient Determination Checklist, the Recipient has been determined to be a recipient of state financial assistance and/or a subrecipient of a federal award. Therefore, pursuant to Section 215.97, F.S. and/or OMB Uniform Guidance (2 CFR 200), the Recipient may be subject to the audit requirements of the Florida and/or Federal Single Audit Acts. If applicable, the Recipient shall comply with the audit requirements outlined in Attachment B, attached hereto and made a part of the Agreement, as applicable.

**Section 23. FEDERAL COMPLIANCE.**

As applicable, Recipient shall comply with all federal laws, rules, and regulations, including but not limited to:

**A. Clean Air Act and Water Pollution Control Act.**

All applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401-7671q), and the Water Pollution Control Act (33 U.S.C. 1251-1387, as amended).

**B. Lacey Act, 16 U.S.C 3371-3378.**

This Act prohibits trade in wildlife, fish and plants have been illegally taken, possessed, transported or sold.

**C. Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801-1884.**

This Act governs marine fisheries in Federal waters.

**D. Migratory Bird Treaty Act, 16 U.S.C. 703-712.**

The Act prohibits anyone, unless permitted, to pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry or cause to be carried by any means whatsoever, receive for shipment, transport of carriage, or export, at any time, or in any manner, any migratory bird, or any part, nest, or egg of such bird.

**E. Endangered Species Act, 16 U.S.C. 1531, et seq.**

The Act provides a program for the conservation of threatened and endangered plants and animals and the habitat in which they are found. The Act also prohibits any action that cause a “taking” of any listed species

of endangered fish or wildlife. Also, generally prohibited are the import, export, interstate, and foreign commerce of listed species.

## **Section 24. FEDERAL FUNDS.**

This Agreement relies on federal funds, therefore, the following terms and conditions apply:

### **A. Prior Approval to Expend Federal Funds to Federal Agency or Employee.**

It is understood and agreed that the Recipient is not authorized to expend any federal funds under this Agreement to a federal agency or employee without the prior written approval of the awarding federal agency.

### **B. Equal Employment Opportunity.**

Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60), is applicable, except as otherwise provide under 41 CFR Part 60, to any grant, contract, loan, insurance, or guarantee involving Federal assisted construction.

### **C. Davis-Bacon Act.**

Unless exempt, the Davis-Bacon Act, 40 U.S.C. 3141-3148, as supplemented by Department of Labor regulations at 29 CFR Part 5 is applicable to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000.00 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Under this Act, contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. Davis-Bacon Act does not apply if federal funding is solely provided by the American Rescue Plan Act (ARPA).

### **D. Copeland "Anti-Kickback Act".**

The Copeland "Anti-Kickback" Act, 40 U.S.C. 3141-3148, and 3146-3148, as supplemented by Department of Labor regulations (29 CFR Part 5), is applicable to contracts awarded by a non-Federal entity in excess of \$100,000.00 that involve employment of mechanics or labors. Under this Act, contractors and subrecipients are prohibited from inducing, by any mean, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

### **E. Contract Work Hours and Safety Standards Act**

Sections 103 and 107 of the Agreement Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5), are applicable to construction contracts awarded by Contractors and subcontractors in excess of \$2,000.00, and in excess of \$2,500.00 for other contracts which involve the employment of mechanics or laborers. Under this Act, contractors and subcontractors must compute wages of mechanics and laborers (workers) on the basis of a standard forty (40) hour work week; provide workers no less than time and a half for hours worked in excess of the forty (40) hour work week; and not require workers to work in surroundings or work conditions that are unsanitary, hazardous, or dangerous.

**F. Rights to Inventions Made Under a Contract or Agreement.**

If the Federal award meets the definition of “funding agreement” under 37 CFR 401.2(a) and the Recipient or Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under the “funding agreement,” the Recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

**G. Energy Efficiency.**

Mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871) applies.

**H. Debarment and Suspension Contractor Federal Certification.**

In accordance with Federal Executive Order 12549 and 2 CFR Part 1400 regarding Debarment and Suspension, the Contractor certifies that neither it, nor its principals, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency; and, that the Contractor shall not knowingly enter into any lower tier contract, or other covered transaction, with a person who is similarly debarred or suspended from participating in this covered transaction.

**I. Prohibition against Lobbying.**

- i. **Recipient Certification – Payments to Influence.** The Recipient certifies that no Federal appropriated funds have been paid or will be paid, on or after December 22, 1989, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding, renewal, amending or modifying of any Federal contract, grant, or cooperative agreement. The Recipient also certifies that they have not engaged any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of the Recipient with respect to this Contract and its related federal contract, grant, loan, or cooperative agreement; or, if the Recipient has engaged any registrant with respect to this Contract and its related Federal contract, grant, loan, or cooperative agreement, the Recipient shall, prior to or upon execution of this Contract, provide the Commission Contract Manager a signed declaration listing the name of any said registrant. During the term of this Contract, and at the end of each Calendar quarter in which any event occurs that materially affects the accuracy of this certification or declaration, the Recipient shall file an updated declaration with the Commission’s Contract Manager. If any non-federal funds are used for lobbying activities as described above in connection with this Contract, the Recipient shall submit Standard Form-LLL, “Disclosure Form to Report Lobbying”, and shall file quarterly updates of any material changes. The Recipient shall require the language of this certification to be included in all subcontracts, and all subcontractors shall certify and disclose accordingly.
- ii. **Recipient – Refrain from Subcontracting with Certain Organizations.** Pursuant to the Lobbying Disclosure Act of 1995, the Recipient agrees to refrain from entering into any subcontracts under this Contract with any organization described in Section 501(c)(4) of the Internal Revenue Code of



1986, unless such organization warrants that it does not, and will not, engage in lobbying activities prohibited by the Act as a special condition of the subcontract.

**J. Compliance with Office of Management and Budget Circulars.**

As applicable, Recipient shall comply with the Office of Management and Budget (OMB) Uniform Guidance (2 CFR 200).

**K. Drug Free Workplace.**

Pursuant to the Drug-Free Workplace Act of 1988, the Recipient attests and certifies that the Recipient will provide a drug-free workplace compliant with 41 U.S.C. 81.

**L. American Rescue Plan Act of 2021 (ARPA).**

If this Agreement relies on ARPA federal funds, then the following shall apply:

- i. For Contracts executed prior to April 3, 2022, Contractors shall provide a Data Universal Number System (DUNS) number to the Commission within two weeks of Contract execution or prior to payment, whichever comes first.
- ii. For Contracts executed on or after April 4, 2022, Contractors shall provide a Unique Entity Identifier (UEI) to the Commission within two weeks of Contract execution or prior to payment, whichever comes first.
- iii. Public Law 117-2, American Rescue Plan Act of 2021, Title XI-Committee of Finance Subtitle M; Section 9901.
- iv. Coronavirus State Fiscal Recovery Fund (SFRF) (31 CFR Part 35).
- v. US Department of Treasury, Compliance and Reporting Guidance State and Local Recovery Funds, as amended.

**Section 25. AGREEMENT-RELATED PROCUREMENT.**

**A. PRIDE.**

In accordance with Section 946.515(6), F.S., if a product or service required for the performance of this Contract is certified by or is available from Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE) and has been approved in accordance with Subsection 946.515(2), F.S., the following statement applies:

It is expressly understood and agreed that any articles which are the subject of, or required to carry out, this contract shall be purchased from [PRIDE] in the same manner and under the same procedures set forth in Subsections 946.515(2) and (4), F.S.; and for purposes of this contract the person, firm or other business entity carrying out the provisions of this contract shall be deemed to be substituted for this agency insofar as dealings with such corporation are concerned.

The above clause is not applicable to subcontractors unless otherwise required by law. Additional information about PRIDE and the products it offers is available at <http://www.pride-enterprises.org>.

**B. Respect of Florida.**

In accordance with Subsection 413.036(3), F.S., if a product or service required for the performance of this Contract is on the procurement list established pursuant to Subsection 413.035(2), F.S., the following statement applies:

It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413, F.S., in the same manner and under the same procedures set forth in Subsections 413.036(1) and (2), F.S.; and for purposes of this contract, the person, firm or other business entity carrying out the provisions of this contract shall be deemed to be substituted for the state agency insofar as dealings with such qualified nonprofit agency are concerned.

Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.

**C. Procurement of Recycled Products or Materials.**

Contractor agrees to procure any recycled products or materials which are the subject of or are required to carry out this Contract in accordance with Section 403.7065, F.S.

**Section 26. PROFESSIONAL SERVICES.**

**A. Architectural, Engineering, Landscape Architectural, or Survey and Mapping.**

If this Agreement is for the acquisition of professional architectural, engineering, landscape architectural, or registered surveying and mapping services, and is therefore subject to Section 287.055, F.S., the following provision applies:

The architect (or registered surveyor and mapper or professional engineer, as applicable) warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the architect (or registered surveyor and mapper, or professional engineer, as applicable) to solicit or secure this contract and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the architect (or registered surveyor and mapper or professional engineer, as applicable) any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

**B. Termination for Breach.**

For the breach or violation of this provision, the Commission shall have the right to terminate the Agreement without liability and, at its discretion, to deduct from the Agreement price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

**Section 27. INDEMNIFICATION.**

If the Recipient is a state agency or subdivision, as defined in Subsection 768.28(2), F.S., or as a governmental entity as defined in Subsection 287.012(14), F.S., neither Party indemnifies nor insures the other Party for the other Party's negligence. If Recipient is not a state agency or subdivision as defined above, Recipient shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State and the Commission, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to personal

injury and damage to real or personal tangible property alleged to be caused in whole or in part by Recipient, its agents, employees, partners, or subcontractors, provided, however, that Recipient shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or the Commission. If this is a Professional Services Agreement as defined in Subsection 725.08 F.S., then notwithstanding the provisions of Subsection 725.06 F.S., the design professional shall only be liable for, and fully indemnify, defend, and hold harmless the State, the Commission, and their officers, agents, and employees, for actions caused in whole or in part, by the negligence, recklessness, or intentionally wrongful conduct of the design professional and other persons employed or utilized by the design professional in the performance of the Agreement.

## **Section 28. NON-DISCRIMINATION.**

No person, on the grounds of race, color, religion, gender, pregnancy, national origin, age, handicap, or marital status, shall be excluded from participation in, be denied the proceeds or benefits of, or be otherwise subjected to discrimination in performance of this Agreement.

## **Section 29. MEDIATION.**

In the event of any claim or dispute arising by or between the Commission and the Recipient, each party shall continue to perform as required under the Agreement, notwithstanding the existence of such claim or dispute, it being acknowledged that time is of the essence. This provision includes, but is not limited to, the obligation to continue to perform under the Agreement notwithstanding disputes as to amounts due for payment hereunder.

Except for any claim, dispute, or matter in question that has been waived by the acceptance of final payment, or that is otherwise barred by the applicable statute of limitations or other provision of law, any claim, dispute, or other matter in question arising out of, or relating to, the Work or the Agreement or the breach thereof, shall be first submitted to non-binding mediation by a single mediator in Tallahassee, Florida

The party making a claim or dispute shall notify the other in writing of its claim or dispute within ten working days of the event giving rise to the claim or dispute.

- i. Such notice shall give the other party ten working days from receipt of the notice to respond in writing.
- ii. If the party initiating such notice is not satisfied with the response, then it shall invoke this clause initiating non-binding mediation by sending a demand for mediation in writing to the other party within seven (7) days.
- iii. The parties have two weeks after notice to agree in writing upon a mediator.
- iv. If the parties cannot agree upon a Florida Supreme Court certified mediator, then the parties shall request the Chief Judge of the Second Judicial Circuit in Leon County, Florida, to appoint a Florida Supreme Court certified mediator.
  - a. The mediator's fees shall be born equally by the parties involved in the mediation and shall pay all of its own attorneys' fees and expenses related to the mediation unless otherwise agreed.
  - b. Unless otherwise agreed by the parties in writing, such mediation shall take place within forty-five (45) days of the appointment of, or agreement to, the mediator if the mediator's schedule so allows.

- c. The terms of this Agreement and any dispute relating thereto will be governed by the laws of the State of Florida, any litigation will be brought in the state or federal court in and for Tallahassee, Florida, and you agree to submit to the exclusive jurisdiction of the state and federal courts located in and for the Leon County, State of Florida.
- d. All parties agree to negotiate in good faith in an effort to settle any dispute. All parties shall have a representative present at mediation with the authority to settle the case.
- v. Any resolution achieved at mediation shall be set forth in a written settlement agreement.
- vi. The Recipient shall require all the dispute resolution provisions and requirements set out in this Section in each contract it makes with any Subcontractor, material supplier, equipment supplier, or fabricator.
- vii. In no event shall the demand for mediation be made after the date when institution of legal or equitable proceedings based on such claim, dispute, or other matter in question would be barred by the applicable statute of limitations, or otherwise.

Unless otherwise agreed in writing, the Recipient shall carry on the Work and maintain its performance of this Agreement during any claim, dispute, or mediation.

If any matter sought to be mediated by the Commission or the Recipient involves a claim or other matter by or against the Consultant, any Subcontractor, any Separate Contractor, or any other third party, or any such entity is reasonably necessary to be joined in the mediation to permit a full and complete disposition of the dispute submitted hereunder, then the Consultant, Subcontractor, Separate Contractor or third party shall be joined by personal service of the notice demanding mediation.

Such termination of the mediation shall not preclude any party from commencing any judicial proceeding in a court of competent jurisdiction in Leon County, Florida, providing the claims sought to be decided are not otherwise barred.

Any demand for mediation and any answer to such demand must contain a written statement of each claim alleged and the dollar amount in controversy sought in each claim.

Should mediation fail to resolve the claim submitted, the parties may then proceed to seek applicable remedies at law.

The agreement to mediate set forth in this Section shall apply to, and become part of, any Subcontract, any contract into which these General Conditions are incorporated by reference or otherwise, and the parties to such contract shall mediate all disputes arising out of, or in any way relating to, that contract or the Project in accordance with the provisions of this Section.

### **Section 30. SEVERABILITY, CHOICE OF LAW, AND CHOICE OF VENUE.**

This Agreement has been delivered in the State of Florida. Florida law governs this Agreement, all agreements arising under or out of this Agreement, and any legal action or other proceeding of any kind designed to resolve a dispute that arises out of or relates to this Agreement. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. If a court or other tribunal finds any provision of this Agreement unenforceable as written, the unenforceable provision(s) shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision and the remaining provisions of this Agreement. The parties have selected the Second Judicial Circuit in Leon County,

Florida, as the mandatory and exclusive forum for resolving any dispute, in law or equity, that arises out of or relates to the parties' transactions. By signing this Agreement, Recipient affirms that Recipient considers the Second Judicial Circuit to be a fair and convenient forum for any legal action or other proceeding of any kind designed to resolve such a dispute. The Recipient will not initiate in any other forum a legal action or other proceeding to which this provision applies.

### **Section 31. JURY TRIAL WAIVER.**

As part of the consideration for this Agreement, the Parties hereby waive trial by jury in any action or proceeding brought by any party against any other party pertaining to any matter whatsoever arising out of or in any way connected with this Agreement, or with the products or services provided under this Agreement, including but not limited to any claim by the Recipient of *quantum meruit*.

### **Section 32. NO THIRD-PARTY RIGHTS.**

The Parties hereto do not intend, nor shall this Agreement be construed, to grant any rights, privileges or interest to any person not a party to this Agreement.

### **Section 33. PROHIBITION OF UNAUTHORIZED ALIENS.**

In accordance with Federal Executive Order 96-236, the Commission shall consider the employment by the Recipient of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationalization Act. Such violation shall be cause for unilateral cancellation of this Agreement if the Recipient knowingly employs unauthorized aliens.

### **Section 34. EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY).**

#### **A. Requirement to Use E-Verify.**

Section 448.095(2) Florida Statute requires the Contractor to: 1.) utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the Contract term; and 2.) include in all subcontracts under this Contract, the requirement that subcontractors performing work or providing services pursuant to this Contract utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of the subcontract.

#### **B. E-Verify Online.**

E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States. The Department of Homeland Security's E-Verify system can be found online at <https://www.e-verify.gov>.

#### **C. Enrollment in E-Verify.**

As a condition precedent to entering a Contract with the Commission, Contractors and Subcontractors shall register with and use the E-Verify system. Failure to do so shall result in the Contract not being issued, or if discovered after issuance, termination of the Contract.

**D. E-Verify Recordkeeping.**

The Contractor further agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the Commission or other authorized state entity consistent with the terms of the Contractor's enrollment in the program. This includes maintaining a copy of proof of the Contractor's and subcontractors' enrollment in the E-Verify Program. If a contractor enters into a contract with a subcontractor, the subcontractor must provide the contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The contractor shall maintain a copy of such affidavit for the duration of the contract.

**E. Employment Eligibility Verification & Compliance.**

Compliance with the terms of the Employment Eligibility Verification provision is made an express condition of this Contract and the Commission may treat a failure to comply as a material breach of the agreement. If the Commission terminates the Contract pursuant to Section 448.095(2)(c) Florida Statute, the contractor may not be awarded a public contract for at least 1 year after the date on which the contract was terminated and the Contractor is liable for any additional costs incurred by The Commission as a result of the termination of this Contract.

**Section 35. FORCE MAJEURE AND NOTICE OF DELAY FROM FORCE MAJEURE.**

Neither Party shall be liable to the other for any delay or failure to perform under this Agreement if such delay or failure is neither the fault nor the negligence of the Party or its employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Party's control, or for any of the foregoing that affects subcontractors or suppliers if no alternate source of supply is available. However, in the event of delay from the foregoing causes, the Party shall take all reasonable measures to mitigate any and all resulting delay or disruption in the Party's performance obligation under this Agreement. If the delay is excusable under this paragraph, the delay will not result in any additional charge or cost under the Agreement to either Party. In the case of any delay Recipient believes is excusable under this paragraph, Recipient shall notify the Commission's Contract Manager in writing of the delay or potential delay and describe the cause of the delay either: (1) within ten (10) calendar days after the cause that creates or will create the delay first arose, if Recipient could reasonably foresee that a delay could occur as a result; or (2) within five (5) calendar days after the date Recipient first had reason to believe that a delay could result, if the delay is not reasonably foreseeable. **THE FOREGOING SHALL CONSTITUTE THE RECIPIENT'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. The Commission, in its sole discretion, will determine if the delay is excusable under this paragraph and will notify Recipient of its decision in writing. No claim for damages, other than for an extension of time, shall be asserted against the Commission. Recipient shall not be entitled to an increase in the Agreement price or payment of any kind from the Commission for direct, indirect, consequential, impact, or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist, Recipient shall perform at no increased cost, unless the Commission determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to the Commission or the State, in which case, the Commission may do any or all of the following: (1) accept allocated performance or deliveries from Recipient, provided that Recipient grants preferential treatment to the Commission with respect to products or services subjected to allocation; (2) purchase from other sources (without recourse to and by Recipient for the

related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity; or (3) terminate the Agreement in whole or in part.

**Section 36. TIME IS OF THE ESSENCE.**

Time is of the essence regarding the performance obligations set forth in this Agreement. Any additional deadlines for performance for Recipient's obligation to timely provide deliverables under this Agreement including but not limited to timely submittal of reports, are contained in Attachment A.

**Section 37. MEDIA REQUESTS.**

Recipients shall refer all requests by the media or public relations personnel to the Commission's Grant Manager. Recipients must submit a written request for permission before consulting with the media and the Commission will provide consultation and talking points. Recipients will not issue news releases, respond to questions, or make statements on behalf of the Commission or its partners without prior direction and the Commission's written approval. Production and filming requests related to this Agreement shall be processed through the Commission only.

**Section 38. ENTIRE AGREEMENT.**

This Agreement with all incorporated attachments and exhibits represents the entire Agreement of the Parties. Any alterations, variations, changes, modifications or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, and duly signed by each of the Parties hereto, unless otherwise provided herein. In the event of conflict, the following order of precedence shall prevail: this Agreement and its attachments, the terms of the solicitation and the Recipient's response to the solicitation.

**REMAINDER OF THE PAGE INTENTIONALLY LEFT BLANK**

**SIGNATURE PAGE TO FOLLOW**

**SIGNATURES**

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed through their duly authorized signatories on the day and year last written below.

RECIPIENT EXECUTION SIGNATURE	COMMISSION EXECUTION SIGNATURE
<b>Brevard County Board of County Commissioners</b>	<b>Florida Fish and Wildlife Conservation Commission</b>
	
Recipient Signature	Executive Director (or Designee) Signature
<b>Rita Pritchett</b>	
Print Name	Print Name
<b>Chair</b>	
Title	Title
As approved by the Board on 1/10/2023	
Date	Date
ATTEST: 	PRINT <b>RACHEL SADOFF, CLERK</b>

**ATTACHMENTS**

Attachments in this Agreement include the following:

- Attachment A, Scope of Work
- Attachment B, Requirements of the Federal and Florida Single Audit Acts
- Attachment C, Federal Aid Compliance Requirements
- Attachment D, Cost Reimbursement Requirements
- Attachment E, Certification Regarding Disbarment/Suspension for Subcontractors
- Attachment F, Federal Funding Accountability and Transparency Act (FFATA) Reporting Form
- Attachment G, Certificate of Completion



## Attachment A – SCOPE OF WORK

<b>Project Name:</b>	Brevard County Artificial Reef Construction 2022-23	<b>FWC Agreement No.</b>	22001
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### 1. DESCRIPTION OF GOODS / SERVICES PROCURED, OR PROJECT WORKPLAN

#### A. DESCRIPTION OF GOODS / SERVICES

The objective of this activity is to construct a marine artificial reef complex by deploying at least fifteen (15) pre-fabricated concrete modules that are at least four (4) feet tall to create a single patch reef within the Brevard County Artificial Reef Site 2 permitted area. Each module will be placed at designated locations within the boundaries of the permitted area at a depth of 80-85 ft.

The artificial reef construction activity to be funded consists of the following elements:

#### MATERIALS

1. Artificial reef materials must consist of a total of at least fifteen (15) pre-fabricated concrete artificial reef modules, or other concrete structures acceptable to the **COMMISSION**. All modules must be at least four (4) feet tall with a base diameter of at least five (5) feet and weight at least one (1) ton
2. Pre-fabricated modules must be composed of marine grade concrete with a minimum strength of 4,000 pounds per square inch (psi). Pre-fabricated modules shall consist of concrete with no exposed metal framework. Pre-fabricated modules will be designed with multiple openings of various sizes all the way through the outer surface to allow for water circulation and access by fish.
3. Open-bottom pre-fabricated reef modules may not be used unless the module has a top opening sufficiently large to allow for turtle escapement. Approved open-bottom modules include:
  - a. Three-sided modules where each side of the top opening is at least 36-in in length along its edge.
  - b. Four or more sided modules where each side of the top opening is at least 40-in in length along its edge.
  - c. Modules with a round opening with a diameter of at least 40-in (oval openings are not allowed unless a 40-in diameter circle space can fit within the oval).
  - d. Modules that are approved by the **COMMISSION** as being turtle friendly.
4. No open-bottom modules are allowed that include additional modules, discs, or other materials stacked, placed on or immediately adjacent to the top opening, as they may prevent turtles from easily escaping.
5. All artificial reef materials shall be clean and free from dirt, asphalt, creosote, petroleum, or other hydrocarbons and toxic residues, loose free floating material or other deleterious substances.
6. The **GRANTEE** shall evaluate the structural integrity of each pre-fabricated module proposed for use, and shall eliminate from artificial reef material consideration all badly damaged modules that would be prone to break apart during the transport and/or deployment process.

## Attachment A – SCOPE OF WORK

<b>Project Name:</b>	Brevard County Artificial Reef Construction 2022-23	<b>FWC Agreement No.</b>	22001
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7. For each barge load of artificial reef materials, the **GRANTEE** shall inventory all of the artificial reef materials, calculate the tonnage (either using before and after barge draft calculations, trucking receipts, or the known weights of individual pieces or reef modules), and take a representative photograph of the artificial reef material on the barge or other deployment vessel immediately prior to deployment.
8. The **GRANTEE** must develop for the purpose of tracking each module placement a system of unique module identifiers. For example, one such system could consist of unique alpha numeric lettering spray painted or otherwise obviously displayed on each unit. The purpose of this system is to allow for visual identification of these units underwater during initial post deployment module condition and orientation visual assessments.
9. Units must be capable of being deployed in an upright position on the seafloor. Any lifting lines or straps used during deployment must be temporary and removed by the **GRANTEE** prior to reimbursement.
10. Reimbursement for loading, transporting and deploying the materials will be based on cost per unit basis. Materials that are placed within the boundaries of the permitted area, completely intact and in an upright position will be reimbursed at the full unit cost. Materials that are damaged during loading, transport or deployment operations will be reimbursed based on the liquidated damage schedule (if applicable) listed in the bid specifications provided by the **GRANTEE** and approved by the **COMMISSION**.
11. The **GRANTEE** agrees to allow the **COMMISSION** to conduct on-site inspections of the artificial reef materials before, during, and after the deployment.

### LOADING AND TRANSPORTATION

12. Artificial reef materials will be loaded using a suitable means of conveyance for transportation to a staging area site and loading onto a barge or other suitable vessel for offshore transportation to the designated artificial reef site. Offshore transportation shall be provided by a sufficiently powered transport or towing vessel, and shall include the necessary personnel and equipment to safely transport and deploy the reef material. Reef material loaded on to the transporting vessel must be properly secured in compliance with Coast Guard standards to allow for its safe transport to the reef construction site.
13. The **GRANTEE's** Project Manager shall complete the FWC Artificial Reef Cargo Manifest form to be maintained onboard the vessel at all times during transport of materials, pursuant to Chapter 379.249, F.S. The form is available on the **COMMISSION's** website: <http://www.myfwc.com/artificialreefs>.

### DEPLOYMENT AND MATERIALS PLACEMENT

14. During the deployment of the artificial reef material, the transport vessel must be securely in place with minimal movement (<50 feet) to ensure accurate placement of

## Attachment A – SCOPE OF WORK

<b>Project Name:</b>	Brevard County Artificial Reef Construction 2022-23	<b>FWC Agreement No.</b>	22001
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each concrete module on the bottom. Material must be arranged to provide habitat complexity as well as provide sand bottom forage area opportunities.

15. Any machinery used to move and deploy the reef materials should be sufficiently powered/maneuverable and capably operated to ensure timely, effective and safe off-loading of materials. The tug or transport vessel shall meet all U.S. Coast Guard certification and safety requirements, be equipped with a working, accurate Global Positioning System (GPS) unit and other marine electronics including a working VHF radio. Effective and reliable communications shall exist at all times between the transport vessel, and the designated **GRANTEE** observer on site.
16. Deployment operations will only be initiated when sea height in the operations area is no greater than two to four feet as forecast by the nearest NOAA weather office. Either the **COMMISSION'S** observer, the **GRANTEE's** observer or the subcontractor's vessel captain reserves the right to suspend off-loading operations if positioning and other deployment objectives, including safety of personnel and equipment, are not being met.
17. At least fifteen (15) pre-fabricated reef modules under this Agreement strategically clustered into a grid of modules to create one patch reef in the center of the Brevard County Artificial Reef Site 2 permitted area at: **28° 23.609' N, 80° 17.795' W**. Pre-fabricated reef modules will be placed in a grid no more 50 feet apart from each other.
18. The minimum vertical clearance of fifty (50) feet shall be maintained above the highest point of the reef material in the Brevard County Artificial Reef Site 2 permitted area (in accordance with the special conditions of the US Army Corps of Engineers permit number SAJ-1993-00620 (SP-TSD).
19. The **GRANTEE's** Contract Manager or **GRANTEE's** designated official observer shall oversee the temporary marking of the reef deployment location in advance of reef materials deployment in order to assist the subcontractor in the proper placement of the artificial reef materials. The marker(s) shall be buoys of sufficient size and color to be clearly visible to the tug captain, and sufficiently anchored and with sufficient scope so that they will not drift off the designated deployment site prior to deployment. The **COMMISSION** will not pay for materials placed outside the permit area as described above. Precise GPS placement of marker buoys that do not shift position with time are important to ensure the reef is constructed within the permitted area.
20. The **GRANTEE's** Project Manager or **GRANTEE's** designated official observer shall remain on site during the entire deployment phase of the operation and confirm the GPS coordinates of the individual placements as well as the maximum vertical relief of the constructed reefs using a fathometer after the reef construction has been completed.
21. Both the **GRANTEE** and its subcontractor shall have on site current nautical charts of the deployment area, with the permitted site indicated on the chart. The proposed patch reef coordinates and the corner coordinates of the reef site will also be in possession of the **GRANTEE's** observer and the subcontractor when on site. The **GRANTEE's**

## Attachment A – SCOPE OF WORK

<b>Project Name:</b>	Brevard County Artificial Reef Construction 2022-23	<b>FWC Agreement No.</b>	22001
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observer shall also be in possession of a copy of the Army Corps permit for the area where the deployments are taking place. The **GRANTEE** shall be responsible for ensuring that all permit condition terms are complied with.

22. Both the **GRANTEE** and its subcontractor shall be prepared to remove any floating debris that might occur during deployment. Having boat hooks, dip nets, and other equipment on board to enable efficient collection of unanticipated floating debris is strongly encouraged. The **GRANTEE** shall be responsible for ensuring that any floating debris discovered during deployment operations (e.g., wood, floating line, aluminum cans, plastic bottles, or other floating materials) shall be collected and transported back to land for proper disposal.

### ALLOWABLE EXPENDITURES ASSOCIATED WITH THE REEF PROJECT

23. Funds from this Agreement may be expended on the activities listed pursuant to Chapter 68E-9.004(1)(a), F.A.C. No more than \$5,000 or 10% (whichever is less) of project funds granted under the program may be expended for 'engineering services'. Any funds required in excess of this amount must be provided by the applicant. See Chapter 68E-9.004(1)(a), F.A.C. for the definition of 'engineering services' and complete list of eligible materials and activities.
24. If the **GRANTEE** chooses to conduct a pre-deployment and/or post-deployment SCUBA assessment at the deployment location (post deployment assessment is not required, but is an eligible activity for reimbursement under Chapter 68E-9.004(1)(a), F.A.C.), in order to be eligible for reimbursement, work must be completed within the current grant period and the following items, at a minimum, must be included:
- Methods*: name and type of vessel, anchored or live boated, type of GPS unit(s), divers, survey methods;
  - Conditions*: cloud cover, wind speed and direction, sea conditions, visibility, water temperature, currents;
  - Chronology*: dive plan, start and end of each dive, dive profile, maximum depth, dive time, distance and bearing searched;
  - Coordinates*: Describe the GPS unit(s) used to navigate to the site (model number). Describe whether differential or WAAS coordinates were recorded. Compare the dive locations to deployment location numbers. How well do they match the published numbers?
  - Physical observations*: Describe the number and size of material observed. What is the proximity of concrete pieces or modules to each other? What percent material was damaged or partially damaged? What is the maximum and minimum relief of the site? How do these observations compare to the Material Placement Report Form information submittal?
  - Footprint area*: Measure the approximate total area covered by each patch reef through standard in situ survey practices.
  - Biological observations*: Describe any fish observed, or other general biological observations.
  - Video and photographs*: Provide representative still and/or video footage of each deployment location (digital format preferred when available).

## Attachment A – SCOPE OF WORK

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### LIABILITY AND RESPONSIBILITY FOR REEF MATERIALS

25. Upon initiation of the handling and movement of these artificial reef materials by the **GRANTEE's** subcontractor, all liability, risk of loss and responsibility for the safe handling, storage, transportation and deployment of the materials shall be borne by the subcontractor. This liability, assumption of risk and responsibility shall remain with the subcontractor until the materials are deployed at the permitted reef site in accordance with the specifications in this Agreement.

### B. BACKGROUND

Chapter 379.249 F.S. creates the Florida Artificial Reef Program to enhance saltwater opportunities and to promote proper management of fisheries resources associated with artificial reefs for the public interest. Under the program, the **COMMISSION** may provide grants and financial and technical assistance to coastal local governments, state universities, and nonprofit corporations qualified under s. 501(c)(3) of the Internal Revenue Code for the siting and development of artificial reefs as well as for monitoring and evaluating such reefs and their recreational, economic, and biological effectiveness. Chapter 68E-9 F.A.C. defines the procedures for submitting an application for financial assistance and criteria for allocating available funds. The purpose of this rule is to govern the development of state and federally funded artificial reefs, the review and ranking of project applications eligible for funding, and the administration of funds from the Florida Artificial Reef Program.

This artificial reef construction project was selected for funding by the **COMMISSION** based upon ranking of competitive applications submitted to the Artificial Reef Program pursuant to the criteria for allocating funds described in Chapter 68E-9, F.A.C.

### C. SUPPORT OF COMMISSION MISSION

Construction of this artificial reef will augment marine hard bottom habitat with well-planned stable and durable artificial reefs for purposes of providing near shore reef fish habitat, offshore recreational fishing and diving opportunities, reduced pressure on natural reef and hard bottom sites, and reduced user conflicts by providing additional recreational fishing and diving site locations off of Florida's coastal waters. The proposed artificial reefs will make fisheries resources available for the long term benefit of local Florida residents and visitors.

### D. DEFINITIONS

The terms and abbreviations used herein shall have the meanings as defined below.

- i. "Artificial reef" means one or more manufactured or natural objects intentionally placed on the bottom in predominantly marine waters to provide conditions believed to be favorable in sustaining, or enhancing the spawning, breeding, feeding, or growth to maturity of Florida's managed reef associated fish species as well as to increase the productivity of other reef community resources which support fisheries. Included in this definition are artificial reefs developed with one or more of the following additional objectives: enhancement of fishing and diving opportunities, fisheries research, and fisheries conservation/preservation purposes.

## Attachment A – SCOPE OF WORK

<b>Project Name:</b>	Brevard County Artificial Reef Construction 2022-23	<b>FWC Agreement No.</b>	22001
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- ii. “Permitted area” means an area with discrete boundaries inside of which one or more artificial reefs may be located and for which all required permits and authorizations have been obtained. These permits and authorizations include: artificial reef permits issued by the Florida Department of Environmental Protection and/or the Army Corps of Engineers and other permits, licenses, or authorizations required by any governing body.
- iii. “Staging area” means a land-based holding area for artificial reef material where such material is stored and prepared for transportation to an approved artificial reef site.
- iv. “Prefabricated modules” means structures specifically designed and built for use as artificial reefs and which meet the environmental safety, durability, and stability requirements of this rule, as well as providing complexity and texture which are suitable as habitat for fishes and for colonization by encrusting marine organisms.
- v. “Base diameter” means the longest distance can be formed with a straight line between two edges or corners of a module that only passes through the interior of a module when viewed from above.

## 2. DELIVERABLES

### A. Deliverable #1 (Artificial Reef Construction)

Construction of a marine artificial reef by deploying at least fifteen (15) pre-fabricated concrete reef modules within the Brevard County Artificial Reef Site 2 permitted area. Pre-fabricated modules will be placed in close proximity to each other to create a single patch reef within the boundaries of the permitted area.

#### i. Minimum Level of Performance

The artificial reef must be deployed within the boundaries of the permitted area and in compliance with all the applicable permits and authorizations associated with the permitted area. At a minimum, a total of at least 15 pre-fabricated concrete reef modules must be deployed in accordance with the specifications in this Agreement.

#### ii. Documentation / Criteria Used as Evidence of Performance

1. A Materials Placement Report shall be submitted to the **COMMISSION's** Project Manager within 30 days of field operations completion. The Materials Placement Report form is available on the **COMMISSION's** website at <http://www.myfwc.com/artificialreefs>. The Materials Placement Report must have a certification signature and reflect an accurate material tonnage for the reef deployed as well as a detailed description of the type, number, dimensions and individual weights of the various sizes of reef materials deployed. This information may be submitted on the materials placement report in lieu of taking loaded and unloaded barge measurements. If accurate individual weights of concrete units cannot be obtained or are not known, barge displacement measurements are required. The **GRANTEE's** Project Manager

## Attachment A – SCOPE OF WORK

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or **GRANTEE's** designee shall then record the waterline length, width and draft (to the nearest inch) of the loaded barge at all four (4) corners to calculate the average displacement of water due to the weight of the artificial reef materials. The same barge measurements must be taken by either the **GRANTEE's** Project Manager or **GRANTEE's** designee when the barge returns to shore after the deployment has been completed. These measurements may not be taken while the barge is offshore at the deployment site. The barge measurements are to be included in the Materials Placement Report.

2. A table providing coordinates for each deployed module is required and is to be attached to the Material Placement Report. Coordinates can be reported by the contracted vendor during deployment or by the **GRANTEE** during post-deployment monitoring.
3. A final written field assessment providing the designated observer's narrative, for each day of the reef deployment operations, is required prior to reimbursement. The field report shall include a written chronology and narrative describing the deployment, and a performance evaluation of the marine subcontractors who performed the work. The final field assessment should include photos of the material and loaded barge prior to each deployment and, if available, underwater photographs and video footage (surface and/or underwater).

### iii. Timeline for Completion

All artificial reef construction must be completed by September 1, 2023. A one-time short term time extension of up to twenty-nine (29) days (through the Agreement end date of September 30, 2023) may be authorized in writing by the **COMMISSION's** Contract Manager under the following conditions: a) documented hazardous weather and sea conditions do not allow for the safe deployment of reef materials offshore or, b) unanticipated documented equipment malfunction on the transport vessel or accompanying tug or at the shore-side loading area results in an unexpected short term delay. The **COMMISSION** reserves the right to deny any time extension request if sufficient progress has not been accomplished. Advance planning that avoids dependence on a favorable weather window during the final days of the project is strongly encouraged. All request for bid packages from the **GRANTEE** to subcontractors must include language that specifies a completion date that ensures all materials will be in the water by September 1, 2023. Subcontracts with completion dates even earlier than September 1, 2023 to provide an additional buffer are strongly encouraged.

## 3. FINANCIAL CONSEQUENCES

- A. If the **GRANTEE** fails to complete construction in compliance with the permit conditions or in accordance with the time frame and minimum level of performance specified by the Scope of Work, the number of units not completed for each deliverable will be deducted from the Grantee's payment based upon their unit cost specified by the Scope of Work.

## Attachment A – SCOPE OF WORK

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- B. The **GRANTEE** will not be eligible for reimbursement until all reports have been provided to the satisfaction of the **COMMISSION** documenting that all work has been completed in accordance with the Scope of Work, and in compliance with all permit conditions.

### 4. PERFORMANCE

- A. The **GRANTEE** shall submit to the **COMMISSION**, at no less than 60 day intervals beginning from the date of execution of this agreement, written or electronically transmitted progress reports outlining the progress of the project. The progress report shall identify any problems that may have arisen and actions taken to correct such problems, and include construction activities that have occurred since the last report and construction activities planned until the next report.
- B. The **GRANTEE** agrees to provide the **COMMISSION** with a minimum of five (5) days' notice and continuous notification as each deployment date approaches for any artificial reef construction that occurs as a result of this Agreement.
- C. The **GRANTEE** agrees to follow all provisions of Section 379.249, F.S. and Chapter 68E-9, F.A.C. during the term of this Agreement.
- D. The **GRANTEE** agrees to comply with all applicable federal, state, and local statutes, rules and regulations in providing goods or services to the **COMMISSION** under the terms of this Agreement; including the general and special conditions specified in any permits issued by the Department of the Army, Corps of Engineers and/or the Florida Department of Environmental Protection. The **GRANTEE** further agrees to include this as a separate provision in all subcontracts issued as a result of this Agreement.
- E. If prehistoric or historic artifacts, such as pottery or ceramics, projectile points, dugout canoes, metal implements, historic building material, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance in the immediate vicinity of the discovery. The applicant shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section at (850)245-6333. Project activities shall not resume without verbal and/or written authorization. In the event that unmarked human remains are encountered during the permitted activities, all work shall stop immediately and the proper authorities notified in accordance with Section 872.05, F.S.
- F. Funds from this Agreement may not be expended on salaries, training, or parts replacement or repairs to rented or contractor owned equipment. Documentation of expenses and survey reports must be submitted with the closeout package in order for reimbursement to be made.
- G. The **GRANTEE** agrees to acknowledge the role of the Federal Aid in Sport Fish Restoration Program funding in any publicity related to this Agreement.



## Attachment A – SCOPE OF WORK

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### 5. COMPENSATION AND PAYMENT

#### A. COST REIMBURSEMENT

The **GRANTEE** shall be compensated for a maximum of \$60,000.00 on a cost reimbursement basis in accordance with the Cost Reimbursement Contract Payment Requirements as shown in the Department of Financial Services, "Reference Guide for State Expenditures" publication. The cost reimbursement requirements section of the Reference Guide is attached hereto and made a part hereof as Attachment D. The **GRANTEE** shall provide a minimum matching contribution as specified in Attachment B, Exhibit 1 and item 14(c) Federal Funds.

#### B. INVOICE SCHEDULE

A single final invoice may be submitted after completion of the deliverable and must be received by the **COMMISSION** no later than December 15, 2023 to assure availability of funds for payment. A timely reimbursement request following completion of actual field operations is strongly encouraged.

#### C. TRAVEL EXPENSES

No travel expenses are authorized under the terms of this Agreement.

#### D. FORMS AND DOCUMENTATION

1. The **GRANTEE** shall submit a completed Materials Placement Report form along with the invoice and request for payment. The Materials Placement Report form is available on the **COMMISSION's** website at: <http://www.myfwc.com/artificialreefs>.

### 6. MONITORING SCHEDULE

- A. The **GRANTEE** agrees to allow the **COMMISSION** to conduct on-site inspections of the artificial reef materials, staging area and construction site before, during, and after the deployment.
- B. The **COMMISSION** will monitor the **GRANTEE's** service delivery to determine if the **GRANTEE** has achieved the required level of performance. If the **COMMISSION** in its sole discretion determines that the **GRANTEE** failed to meet any of the terms or conditions of the Agreement, the **GRANTEE** will be sent a formal written notice. The **GRANTEE** shall correct all identified deficiencies within forty-five (45) days of notice. Failure to achieve 100% compliance with all of the terms and conditions of this Agreement or failure to correct the deficiencies identified in a notice identifying deficiencies within the time frame specified may result in delays in payment, financial consequences, or termination of this Agreement in accordance with the terms of the Agreement.
- C. No additional monitoring activities have been identified at this time; however, additional tasks may be identified during the pendency of this agreement.

## Attachment A – SCOPE OF WORK

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### 7. INTELLECTUAL PROPERTY RIGHTS

See Agreement for applicable terms and conditions related to the intellectual property rights.

### 8. SUBCONTRACTS

See Agreement for applicable terms and conditions related to subcontracts.

### 9. INSURANCE

See Agreement for applicable terms and conditions related to insurance.

### 10. SECURITY AND CONFIDENTIALITY

See Agreement for applicable terms and conditions related to security and confidentiality.

### 11. RECORD KEEPING REQUIREMENTS

See Agreement for applicable terms and conditions related to record keeping requirements.

### 12. NON-EXPENDABLE PROPERTY

The **GRANTEE** is not authorized to use funds provided herein for the purchase of any non-expendable equipment or personal property valued at \$1,000 or more for performance under this Agreement.

### 13. PURCHASE OR IMPROVEMENT OF REAL PROPERTY

This Section is not applicable and intentionally left blank.

### 14. SPECIAL PROVISIONS FOR CONSTRUCTION CONTRACTS

#### A. DRUG-FREE WORKPLACE

Pursuant to Section 440.102(15), F.S., any construction contractor regulated under Parts I and II of Chapter 489, F.S., who contracts to perform construction work under a state contract shall implement a drug-free workplace.

#### B. CONTRACTOR ELIGIBILITY

1. The use of a Marine Specialty licensed contractor (Section 489.105, F.S.) is not a requirement for professional services pertaining to artificial reef deployment activities during this Agreement. A Marine Specialty Contractor license (Chapter 61G4-15.033 Florida Administrative Code) does not include artificial reefs, and therefore is not a licensing requirement for artificial reef deployment.
2. The Consultants Competitive Negotiation Act (Section 287.055, F.S.) is not applicable for professional services pertaining to artificial reef planning, procurement, deployment or survey activities during this Agreement. Signed and sealed drawings are not required.

## Attachment A – SCOPE OF WORK

<b>Project Name:</b>	Brevard County Artificial Reef Construction 2022-23	<b>FWC Agreement No.</b>	22001
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3. In accordance with Executive Order 12549, Debarment and Suspension, the **GRANTEE** shall agree and certify that neither it, nor its principals, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency; and, that the **GRANTEE** shall not knowingly enter into any lower tier agreement, or other covered transaction, with a person who is similarly debarred or suspended from participating in this covered transaction, unless authorized in writing to the **COMMISSION** by the federal agency issuing the grant award. Upon execution of subcontracts funded by this Agreement, the **GRANTEE** shall require subcontractors to complete, sign and return a copy of the form entitled "Certification Regarding Debarments, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Federally Funded Transactions", attached hereto and made a part hereof as Attachment E. As required by sentences 1 and 2 above, the **GRANTEE** shall include the language of this section, and Attachment E in all subcontracts or lower tier agreements executed to support the **GRANTEE's** work under this Agreement.

### C. FEDERAL FUNDS

1. This Agreement is funded in whole or in part by a grant from the U.S. Fish and Wildlife Service, Federal Aid in Sport Fish Restoration Program, CFDA No. 15.605. Therefore, the **GRANTEE** shall be responsible for complying with all federal grant requirements as provided in the grant, a copy of which is attached hereto and made a part hereof as Attachment C. It is understood and agreed that the **GRANTEE** is not authorized to expend any federal funds under this Agreement to a federal agency or employee without the prior written approval of the U.S. Fish and Wildlife Service.
2. The Davis-Bacon Act is not applicable to subcontracts executed under this Agreement. This project is funded by the Dingell-Johnson Sport Fish Restoration Act which does not require implementation of the provision of the Davis-Bacon Act as the initial federal award to the **COMMISSION** was exempt from the Davis-Bacon Act conditions.
3. The **GRANTEE** agrees to follow all requirements of CFR 200, Code of Federal Regulations, for the procurement of commodities or contractual services under this Agreement.
4. The **GRANTEE** shall be required to provide a minimum matching contribution of \$6,000.00 of the total project costs in support of the **COMMISSION's** grant from the U.S. Fish and Wildlife Service.
5. The **COMMISSION** shall make payment to the **GRANTEE** for an amount of the total project eligible cost less the \$6,000.00 match, not to exceed \$60,000.00 of approved invoiced costs. The \$6,000.00 of invoice costs not reimbursed by the **COMMISSION** shall represent the **GRANTEE's** matching contribution as required by the **COMMISSION's** grant from the U.S. Fish and Wildlife Service.

### D. PAYMENT BOND

Pursuant to Chapter 287, F.S., no payment or surety bond is required for this project.

## Attachment A – SCOPE OF WORK

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### E. PERFORMANCE BOND

Pursuant to Chapter 287, F.S., no performance bond is required for this project.

### F. CERTIFICATE OF CONTRACT COMPLETION

The Grantee will be required to complete a Certificate of Completion form (Attachment F) when all work has been completed and accepted. This form must be submitted to the **COMMISSION's** Contract Manager with the **GRANTEE's** invoice for payment to be authorized. The **COMMISSION's** Contract Manager shall submit the executed form with the invoice to Accounting Services.

### G. CERTIFICATE OF PARTIAL PAYMENT

This Section is not applicable and intentionally left blank.

### H. GRANTEE PAYMENTS TO SUBCONTRACTOR

Grant Agreement No. 22001 Section 14, B, "Grantee Payments to Subcontractor" is hereby amended to read as follows:

If subcontracting is permitted pursuant to Section 14, Paragraph A, the **GRANTEE** agrees to make payments to the subcontractor upon completion of work and submitted invoice in accordance with the contract between the **GRANTEE** and subcontractor. Failure to make payment pursuant to any subcontract within thirty (30) working days will result in a penalty charged against **GRANTEE** and paid to the subcontractor in the amount of one-half of one percent (0.50%) of the amount due per day from the expiration of the thirty (30) working day period allowed herein for payment. Such penalty shall be in addition to actual payments owed and shall not exceed fifteen percent (15%) of the outstanding balance due.

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## Department of Financial Services

Division of Accounting and Auditing – Bureau of Auditing

### ATTACHMENT B AUDIT REQUIREMENTS FOR AWARDS OF STATE AND FEDERAL FINANCIAL ASSISTANCE

*Note: Rule Chapter 69I-5, Florida Administrative Code (F.A.C.), State Financial Assistance, incorporates this form as well as the regulations cited therein by reference in Rule 69I-5.006, F.A.C. Rule 69I-5.001, F.A.C., incorporates 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, including Subpart F - Audit Requirements, 2018 Edition, and its related Appendix XI, Compliance Supplement, April 2017 and April 2018. The form and regulations can be accessed via the Department of Financial Services' website at <https://apps.fldfs.com/fsaa/>.*

The administration of resources awarded by the Florida Fish and Wildlife Conservation Commission to the grantee may be subject to audits and/or monitoring by the Florida Fish and Wildlife Conservation Commission, as described in this section.

#### MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and section 215.97, Florida Statutes (F.S.), as revised (see AUDITS below), monitoring procedures may include, but not be limited to, on-site visits by the Florida Fish and Wildlife Conservation Commission staff, limited scope audits as defined by 2 CFR §200.425, or other procedures. By entering into this agreement, the grantee agrees to comply and cooperate with any monitoring procedures or processes deemed appropriate by the Florida Fish and Wildlife Conservation Commission. In the event the Florida Fish and Wildlife Conservation Commission determines that a limited scope audit of the grantee is appropriate, the grantee agrees to comply with any additional instructions provided by the Florida Fish and Wildlife Conservation Commission staff to the grantee regarding such audit. The grantee further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

#### AUDITS

##### Part I: Federally Funded

This part is applicable if the grantee is a state or local government or a nonprofit organization as defined in 2 CFR §200.90, §200.64, and §200.70.

1. A grantee that expends \$750,000 or more in federal awards in its fiscal year must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. EXHIBIT I to this form lists the federal resources awarded through the Florida Fish and Wildlife Conservation Commission by this agreement. In determining the federal awards expended in its fiscal year, the grantee shall consider all sources of federal awards, including federal resources received from the Florida Fish and Wildlife Conservation Commission. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR §§200.502-503. An audit of the grantee conducted by the Auditor General in accordance with the provisions of 2 CFR §200.514 will meet the requirements of this Part.
2. For the audit requirements addressed in Part I, paragraph 1, the grantee shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR §§200.508-512.
3. A grantee that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. If the grantee expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements,

AUDIT REQUIREMENTS FOR AWARDS OF  
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the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from grantee resources obtained from other than federal entities).

**Part II: State Funded**

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*Note: This part is applicable if the grantee is a nonstate entity as defined by section 215.97(2), F.S.*

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1. In the event that the grantee expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such grantee (for fiscal years ending June 30, 2017, and thereafter), the grantee must have a state single or project-specific audit for such fiscal year in accordance with section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through the Florida Fish and Wildlife Conservation Commission by this agreement. In determining the state financial assistance expended in its fiscal year, the grantee shall consider all sources of state financial assistance, including state financial assistance received from the Florida Fish and Wildlife Conservation Commission, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for federal program matching requirements.
2. For the audit requirements addressed in Part II, paragraph 1, the grantee shall ensure that the audit complies with the requirements of section 215.97(8), F.S. This includes submission of a financial reporting package as defined by section 215.97(2), F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the grantee expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal years ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of section 215.97, F.S., is not required. If the grantee expends less than \$750,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of section 215.97, F.S., the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from the grantee's resources obtained from other than state entities).

**Part III: Other Audit Requirements**

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*Note: This Part should be used to specify any additional audit requirements imposed by the state awarding entity that are solely a matter of that state awarding entity's policy (i.e., the audit is not required by federal or state laws and is not in conflict with other federal or state audit requirements). Pursuant to section 215.97(8), F.S., state agencies may conduct or arrange for audits of state financial assistance that are in addition to audits conducted in accordance with section 215.97, F.S. In such an event, the state awarding agency must arrange for funding the full cost of such additional audits.*

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**Part IV: Report Submission**

1. Copies of reporting packages for audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and required by Part I of this form shall be submitted, when required by 2 CFR §200.512, by or on behalf of the grantee directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR §200.36 and §200.512.

The FAC's website provides a data entry system and required forms for submitting the single audit reporting package. Updates to the location of the FAC and data entry system may be found at the OMB website.

2. Copies of financial reporting packages required by Part II of this form shall be submitted by or on behalf of the grantee directly to each of the following:

**AUDIT REQUIREMENTS FOR AWARDS OF  
STATE AND FEDERAL FINANCIAL ASSISTANCE**

- a. The Commission at each of the following addresses:

Office of Inspector General  
Florida Fish and Wildlife Conservation Commission  
Bryant Building  
620 S. Meridian St.  
Tallahassee, FL 32399-1600

- b. The Auditor General's Office at the following address:

Auditor General  
Local Government Audits/342  
Claude Pepper Building, Room 401  
111 West Madison Street  
Tallahassee, Florida 32399-1450

The Auditor General's website (<https://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

3. Copies of reports or the management letter required by Part III of this form shall be submitted by or on behalf of the grantee directly to:

The Commission at each of the following addresses:

Office of Inspector General  
Florida Fish and Wildlife Conservation Commission  
Bryant Building  
620 S. Meridian St.  
Tallahassee, FL 32399-1600

4. Any reports, management letters, or other information required to be submitted to the Florida Fish and Wildlife Conservation Commission pursuant to this agreement shall be submitted timely in accordance with 2 CFR §200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
5. Grantees, when submitting financial reporting packages to the Florida Fish and Wildlife Conservation Commission for audits done in accordance with 2 CFR 200, Subpart F - Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the grantee in correspondence accompanying the reporting package.

**Part V: Record Retention**

The grantee shall retain sufficient records demonstrating its compliance with the terms of the award(s) and this agreement for a period of at least five years from the date the audit report is issued, and shall allow the Florida Fish and Wildlife Conservation Commission, or its designee, the CFO, or Auditor General access to such records upon request. The grantee shall ensure that audit working papers are made available to the Florida Fish and Wildlife Conservation Commission, or its designee, the CFO, or Auditor General upon request for a period of at least three years from the date the audit report is issued, unless extended in writing by the Florida Fish and Wildlife Conservation Commission.

AUDIT REQUIREMENTS FOR AWARDS OF  
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*Note: Records need to be retained for at least five years to comply with record retention requirements related to original vouchers as prescribed by the Department of State, Division of Library and Information Services, Bureau of Archives and Records Management.*



AUDIT REQUIREMENTS FOR AWARDS OF  
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**EXHIBIT 1**

**Federal Resources Awarded to the Grantee**

**Pursuant to this Agreement Consist of the Following:**

*Note: If the resources awarded to the grantee represent more than one federal program, provide the same information shown below for each federal program and show total federal resources awarded.*

1. Federal Program A:  
Federal Aid in Sport Fish Restoration Program, 15.605, \$32,000
2. Federal Program B:  
not applicable

**Compliance Requirements Applicable to the Federal Resources  
Awarded Pursuant to this Agreement are as Follows:**

*Note: If the resources awarded to the grantee represent more than one federal program, list applicable compliance requirements for each federal program in the same manner as shown below.*

1. Federal Program A:
  - A. Only the goods and/or services described within the attached Agreement and Attachment A Scope of Work are eligible expenditures for the funds awarded.
  - B. All provisions of Section 379.249, Florida Statutes and Rule 68E-9, Florida Administrative Code must be complied with in order to receive funding under this Agreement.
  - C. The Grantee must comply with the requirements of all applicable laws, rules or regulations relating to this artificial reef project.
  - D. The Grantee shall be required to provide a matching contribution of the total project costs (a minimum of \$6,000) in support of the Commission's grant from the U.S. Fish and Wildlife Service.
2. Federal Program B:  
not applicable

*Note: Instead of listing the specific compliance requirements as shown above, the state awarding agency may elect to use language that requires the grantee to comply with the requirements of applicable provisions of specific laws, rules, regulations, etc. For example, for Federal Program A, the language may state that the grantee must comply with specific laws, rules, regulations, etc., that pertains to how the awarded resources must be used or how eligibility determinations are to be made. The state awarding agency, if practical, may want to attach a copy of the specific laws, rules, regulations, etc., referred to.*

**State Resources Awarded to the Grantee**

**Pursuant to this Agreement Consist of the Following:**

**Matching Resources for Federal Programs:**

*Note: If the resources awarded to the grantee for matching represent more than one federal program, provide the same information shown below for each federal program and show total state resources awarded for matching.*

1. Federal Program A:  
Federal Aid in Sport Fish Restoration Program, 15.605, \$28,000

AUDIT REQUIREMENTS FOR AWARDS OF  
STATE AND FEDERAL FINANCIAL ASSISTANCE

2. Federal Program B:

not applicable

**Subject to Section 215.97, F.S.:**

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*Note: If the resources awarded to the grantee represent more than one state project, provide the same information shown below for each state project and show total state financial assistance awarded that is subject to section 215.97, F.S.*

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1. State Project A:

not applicable

2. State Project B:

not applicable

**Compliance Requirements Applicable to State Resources Awarded  
Pursuant to this Agreement Are as Follows:**

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*Note: List applicable compliance requirements in the same manner as illustrated above for federal resources. For matching resources provided by the Department of ABC for federal programs, the requirements might be similar to the requirements for the applicable federal programs. Also, to the extent that different requirements pertain to different amounts of the non-federal resources, there may be more than one grouping (i.e., 1, 2, 3, etc.) listed under this category.*

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1. State Project A:

not applicable

2. State Project B:

not applicable

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*Note: 2 CFR §200.513 and section 215.97(5), F.S., require that the information about federal programs and state projects included in EXHIBIT 1 be provided to the grantee.*

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*For questions regarding Form DFS-A2-CL, contact your FSAA state agency liaison or the Department of Financial Services, Bureau of Auditing, at [FSAA@MyFloridaCFO.com](mailto:FSAA@MyFloridaCFO.com) or (850) 413-3060.*

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**State Grant Programs Part 523 Federal Aid Compliance Requirements****Chapter 1 Summary 523 FW 1.1**

**1.1 Purpose.** The purpose of this chapter is to summarize guidance on those requirements generally applicable to grant programs.

**1.2 Applicability and Scope.** In accepting Federal funds, States and other grantees must comply with all applicable Federal laws, regulations, and policies. This chapter is not all-inclusive. Exclusion of any specific requirement does not relieve grantees of their responsibility for compliance. Copies of reference materials can be obtained from the Regional Offices. Guidance on the following requirements is contained in this chapter.

**A. Nondiscrimination Requirements.**

- Title VI of the Civil Rights Act of 1964
- Section 504 of the Rehabilitation Act of 1973
- Age Discrimination Act of 1975
- Title IX of the Education Amendments of 1972

**B. Environmental Requirements.**

- Coastal Zone Management Act of 1972
- Executive Order 11987, Exotic Organisms
- Endangered Species Act of 1973
- National Environmental Policy Act of 1969
- Floodplains and Wetlands Protection
- Animal Welfare Act of 1985
- Coastal Barriers Resources Act of 1982

**C. Historic and Cultural Preservation Requirements.**

- National Historic Preservation Act of 1966

**D. Administrative Requirements.**

- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
- Debarment and Suspension
- Drug-Free Workplace Act of 1988
- Restrictions on Lobbying (P.L. 101-121)

**1.3 Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d)).**

**A. Summary.** Prohibits discrimination based on race, color, or national origin in any "program or activity receiving Federal financial assistance."

**B. References.**

- (1) Regulations of the Department of the Interior (43 CFR Part 17)
- (2) U.S. Fish and Wildlife Service Guidelines for Compliance with Federal Nondiscrimination Requirements
- (3) U.S. Fish and Wildlife Service Federally Assisted Program Implementation Plan

**C. Requirements.**

- (1) Grantees may not, on the basis of race, color, or national origin, select, locate, or operate project facilities which will serve to exclude or limit opportunity for use or benefits.



(2) Grantees shall make reasonable efforts to inform the public of opportunities provided by Federal Aid projects and shall inform the public that the projects are subject to Title VI compliance.

(3) Though employment practices are not in themselves subject to Title VI, Title VI does apply to employment which may affect the delivery of services to beneficiaries of a federally assisted program. For the purpose of Title VI, volunteers or other unpaid persons who provide services to the public are included.

#### **1.4 Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 795)**

**A. Summary.** Ensures that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

##### **B. References.**

(1) Regulations of the Department of the Interior (43 CFR Part 17)

(2) U.S. Fish and Wildlife Service Guidelines for Compliance with Federal Nondiscrimination Requirements

(3) U.S. Fish and Wildlife Service Federally Assisted Program Implementation Plan

##### **C. Requirements.**

(1) Grantees may not deny a qualified handicapped person the opportunity to participate in or benefit from Federal Aid project facilities or services afforded to others.

(2) Grantees may not deny a qualified handicapped person the opportunity to participate as a member of a planning or advisory board.

(3) The location of facilities shall not have the effect of excluding handicapped persons from, deny them the benefits of, or otherwise subject them to discrimination under any Federal Aid project.

#### **1.5 Age Discrimination Act of 1975 (42 U.S.C. 6101)**

**A. Summary.** Prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance.

##### **B. References.**

(1) Regulations of the Department of the Interior (43 CFR Part 17)

(2) U.S. Fish and Wildlife Service Guidelines for Compliance with Federal Nondiscrimination Requirements

(3) U.S. Fish and Wildlife Service Federally Assisted Program Implementation Plan

**C. Requirements.** No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. However, a grantee is permitted to take an action otherwise prohibited if the action reasonably takes into account age as a factor necessary to the normal operation or achievement of any statutory objective of a program or activity.

#### **1.6 Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et.seq.)**

**A. Summary.** Prohibits discrimination on the basis of sex in any education program receiving Federal financial assistance.



**B. References.**

- (1) Regulations of the Department of the Interior (43 CFR Part 17)
- (2) U.S. Fish and Wildlife Service Guidelines for Compliance with Federal Nondiscrimination Requirements

**C. Requirements.** No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program receiving Federal financial assistance. For the purpose of Title IX, hunter education and aquatic education project activities are considered education programs.

**1.7 Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et. seq.)**

**A. Summary.** The Act is intended to, "preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone..."

**B. References.** Regulations of the Department of Commerce (15 CFR 930).

**C. Requirements.** Federal Aid projects, which would "significantly affect the coastal zone" must be consistent with the approved State management programs developed under the Act. Prior to submitting a Grant Proposal for a project in the coastal zone of a State with an approved Coastal Zone Management Program, the proposed project must be reviewed for consistency with the management plan. Grantees may be required to submit a statement attesting to conformance with the Coastal Zone Management Plan.

**1.8 Exotic Organisms Executive Order 11987**

**A. Summary.** Federal agencies shall discourage the States from introducing exotic species into natural ecosystems of the United States. In addition, Federal agencies will restrict the use of Federal funds for the purpose of introducing exotic species into ecosystems outside of the United States.

**B. References.** Executive Order 11987, Exotic Organisms, 42 FR 26949 (May 25, 1977)

**C. Requirements.**

- (1) Any proposal for the introduction of an exotic species into a natural ecosystem by a State fish and wildlife agency must include a biological opinion from the U.S. Fish and Wildlife Service supporting the proposed introduction.
- (2) To obtain a biological opinion, the State agency shall provide the Regional Director with a written request for the opinion together with any available information including, but not limited to, NEPA documents, biological data, and project plans.
- (3) After receiving a biological opinion, it will be the responsibility of the State agency to adhere to the recommendations outlined in that opinion.

**1.9 Endangered Species Act of 1973 (16 U.S.C. 1531-1534).**

**A. Summary.** Actions funded under the Federal Aid programs must not jeopardize the continued existence of any endangered or threatened species, or result in the destruction or adverse modification of the habitat of the species.

**B. Reference.** Section 7 Consultation Requirements, 43 FR 870 (Jan. 4, 1978).

**C. Requirements.** The Regional Director must ensure that Federal Aid projects are not likely to jeopardize the continued existence of endangered or threatened species or result in the



destruction or adverse modification of critical habitat. For projects which may affect an endangered or threatened species, either beneficially or adversely, a formal Section 7 consultation is necessary. The State is required to name the listed species and/or critical habitat included; list the name, description, and location of the area; list objectives of the actions; and provide an explanation of the impacts of the actions on a listed species or its critical habitat.

#### **1.10 National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347).**

**A. Summary.** Requires that every proposed Federal action be examined to determine the effects (beneficial or adverse) it will have on the human environment and that the findings be considered in decisions regarding its implementation.

##### **B. References.**

- (1) Regulations of the Council on Environmental Quality implementing the procedural provisions of NEPA, (40 CFR 1500-1508).
- (2) Departmental Manual, Environmental Quality, Part 516.
- (3) Fish and Wildlife Service Manual, National Environmental Policy Act, Part 550.
- (4) National Environmental Policy Act Handbook for Federal Aid Projects. The Assistant Director-Fish and Wildlife Enhancement is authorized to promulgate the National Environmental Policy Act Handbook for Federal Aid Projects.

**C. Requirements.** Each action proposed for Federal funding must include an Environmental Assessment (EA), Environmental Impact Statement (EIS), or show that the proposed activity is covered by one or more categorical exclusions. For specific requirements and procedures, see National Environmental Policy Act (NEPA) Handbook for Federal Aid Projects.

#### **1.11 Floodplains and Wetlands Protection.**

**A. Summary.** Federal Aid funds may not be used for projects affecting floodplains or wetlands unless there is no practical alternative outside the floodplain or wetland and only if actions are taken to minimize the adverse effects.

##### **B. References.**

- (1) Executive Order 11988, Floodplain Management, 42 FR 26951 (May 25, 1977).
- (2) Executive Order 11990, Protection of Wetlands, 42 FR 26961 (May 25, 1977).
- (3) Department of Interior Procedures for Implementation, 520 DM 1.
- (4) Natural Resources Protection, 613 FW.

**C. Requirements.** The Executive orders on floodplains and wetlands require Federal agencies to review proposed actions to ensure that there are no practical alternatives outside the floodplain or wetland, and to ensure that potential harm is minimized. If there are no practical alternatives to proposed projects in floodplains or wetlands, actions to minimize the adverse effects should be incorporated into the project plans.

#### **1.12 Animal Welfare Act of 1966 (7 U.S.C. 2131, et seq.).**

**A. Summary.** Requires the humane treatment of animals (exclusive of fish) used in research, experimentation, testing, and teaching.

**B. References.** Regulations of the Department of Agriculture, Animal and Plant Health Inspection Service (APHIS), 9 CFR Parts 1, 2 and 3 (54 FR 36112 (Aug. 31, 1989)).



**C. Requirements.** Grantees who use Federal Aid funds to conduct covered management or research or who engage in interstate shipment of animals should contact the local Animal and Plant Health Inspection Service (APHIS) office for instructions. A list of the APHIS offices may be obtained from the Regional Offices.

### **1.13 Coastal Barriers Resources Act of 1982 (16 U.S.C. 3501), as amended by the Coastal Barrier Improvement Act of 1990 (P.L. 101-591)**

**A. Summary.** The purpose of the Acts are "...to minimize the loss of human life, wasteful expenditure of Federal revenues and damage to fish and wildlife, and other natural resources associated with coastal barriers..."

**B. References.** U.S. Fish and Wildlife Service Advisory Guidelines, 48 FR 45664 (Oct. 6, 1983).

**C. Requirements.** Activities conducted within a unit of the Coastal Barrier Resources System must meet the requirements of section 6 of the Act. Section 6 requires consultation with the Service, via the appropriate Regional Office.

### **1.14 National Historic Preservation Act of 1966 16 U.S.C. 470.**

**A. Summary.** Federal agencies may not approve any grant unless the project is in accordance with national policies relating to the preservation of historical and cultural properties and resources.

#### **B. References.**

- (1) National Register of Historic Places (36 CFR 60).
- (2) The Archeological and Historic Preservation Act of 1974, 16 U.S.C. 469a.
- (3) Procedures for the Protection of Historic and Cultural Properties (36 CFR 800).
- (4) Determinations of Eligibility for Inclusion in the National Register of Historic Places (36 CFR 63).
- (5) Criteria for Comprehensive Statewide Historic Surveys and Plans (36 CFR 61).
- (6) Cultural Resources Protection, 614 FW.

#### **C. Requirements.**

(1) States must consult with the State Historic Preservation Officer (SHPO) for those activities or projects that are defined as undertakings under the National Historic Preservation Act. An undertaking is defined as a project, activity, or program that can result in changes in the character or use of properties that are listed on or potentially eligible for listing on the National Register of Historic Places (National Register) and located within the project's area of potential effect. Undertakings include new and continuing projects, activities, or programs and any of their elements not previously considered under Section 106 of the National Historic Preservation Act.

(2) In cases where a Federal Aid project has been determined to be an undertaking, the State must notify the appropriate Service Regional Director for guidance on how to proceed with Section 106 compliance. Based on the results of the consultation between the State and SHPO, the Service will determine the need and level of inventory to identify historic properties that may be affected by the undertaking and to gather sufficient information to evaluate whether these properties are listed or are eligible for listing in the National Register.

(3) Where completed inventories indicate that identified historic properties may be affected by the undertaking, the State shall be responsible for submitting the necessary documentation to the appropriate Regional Director for review. As necessary, the Service shall seek



determinations of eligibility for those properties that are to be affected by the proposed activity.

(4) If a State is advised by the SHPO that an undertaking will adversely affect a property that is eligible for or listed on the National Register, the State shall ask the appropriate Regional Director to determine measures for mitigating or avoiding impacts. This may require the development of a memorandum of agreement among the Service, State, and State Historic Preservation Officer to address specific measures that will be employed to avoid or minimize adverse effects to historic properties located within the area of potential effect. Adverse effects that may diminish the character and integrity of historic properties include

- (a) Physical destruction, damage, or alteration of all or part of the property;
- (b) Isolation of the property from or alteration of the character of the property's setting when that character contributes to the property's qualification for the National Register of Historic Places;
- (c) Introduction of visual, audible, or atmospheric elements that are out of character with the property or alter its setting;
- (d) Neglect of a property resulting in its deterioration or destruction; and
- (e) Transfer, lease, or sale of the historic property.

(5) If a previously unknown property that is eligible for listing on the National Register is discovered at any time during the implementation period of a Federal Aid project, the Regional Director must be notified and all actions which may adversely effect it must be suspended. The Service shall provide the State with instructions on how to proceed.

### **1.15 Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601)**

**A. Summary.** Federal agencies may not approve any grant unless the grantee provides Assurances that it will comply with the Act. Prices to be paid for lands or interests in lands must be fair and reasonable (except when the price is fixed by law, or when the lands are to be acquired at public auction or by condemnation and the value determined by the court). Persons displaced from their homes, businesses, and farms must receive relocation services, compensation, and fair equitable treatment.

#### **B. References.**

- (1) Department of Interior Uniform Relocation Assistance and Real Property Acquisition Regulations (41 CFR 114-50).
- (2) Department of Transportation Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs (49 CFR Part 24).

#### **C. Appraisal Requirements.**

- (1) A real property owner or his designated representative must be contacted prior to making an appraisal and given an opportunity to accompany the appraiser during inspection of the property. The fact that it occurred must be documented in project files and in the appraisal report.
- (2) Real property must be appraised, the appraisal report reviewed, and the fair market value established prior to initiation of negotiations with the owner.
- (3) If the acquisition of only part of a property will leave the owner with an uneconomic remnant, the State or other grantee must offer to buy the whole property. The term "uneconomic remnant" applies only to Title III of the Act and the necessity of the acquiring agency to offer to purchase such a remainder or the entire property. It is not to be construed with the term "uneconomic unit" as it applies to the in-lieu payment of farm operations under Title II of the Act.





**D. Negotiation Requirements.**

- (1) An owner or his designated representative must be provided, in person or by certified mail, a written statement of just compensation as determined in the appraisal process. Offers of compensation cannot be less than the approved appraisal of fair market value of such property. If only a portion of the owner's property is being taken and the owner is left with an uneconomic remnant, the agency must offer to buy the whole property.
- (2) Reimbursement to a real property owner for costs to convey a title must include
  - (a) Recording fees, transfer taxes, and similar costs;
  - (b) Penalty cost for prepayment of pre-existing recorded mortgage; and
  - (c) Pro-rata portion of real property taxes allocable to a period subsequent to the date of vesting title.
- (3) All displaced persons (owners and tenants) must be provided information on their relocation benefits.

**E. Relocation Assistance to Displaced People.**

- (1) A relocation plan must be prepared for displaced persons so that problems associated with displacement of individuals, families, businesses, farms and nonprofit organizations are known at an early stage in a project's development (see 49 CFR 24.205). Planning may involve the following
  - (a) Who and what will be displaced.
  - (b) The estimated number of dwellings, businesses, farms, and nonprofit organizations displaced, including rentals. This estimate should contain
    - (i) Currently available replacement housing, businesses, farm, and organization sites;
    - (ii) Approximate number of employees affected;
    - (iii) Types of buildings, number, and size of rooms;
    - (iv) The needs of those displaced (i.e. lifestyle); and
    - (v) Type of neighborhood, distance to community facilities, church, etc.
  - (c) List of comparable replacement dwellings, including rentals, available on the market within a 50-mile radius (specialized units may require expanding radius). When an adequate supply of comparable housing is not expected to be available, consideration of Housing of the Last Resort actions should be instituted.
  - (d) Estimate of cost of replacement housing by purchase and/or rental per displaced person, and consideration of special needs like the elderly or handicapped.
  - (e) Estimate of cost for moving.
- (2) Advisory Services for Displaced People. Advisory services must be provided for all persons occupying property to be acquired and for all persons who use such real property for a business or farm operation. Eligibility requirements and corresponding benefits must be explained to all displaced persons. Assistance must be provided to persons completing claim forms, obtaining moving services, and obtaining proper housing.
- (3) Payment for Relocation of Displaced Persons. Relocation expenses must be paid to a displaced person who purchases and occupies a replacement dwelling. Moving and related expenses will be provided to displaced persons residing on real property including those persons owning a business or a farm. All payments must comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.



### **1.16 Debarment and Suspension**

**A. Summary.** Executive Order 12549, Debarment and Suspension, directs that persons debarred or suspended by one Federal agency from receiving grants may not receive grants from any Federal agency.

**B. References.**

- (1) Executive Order 12549, Debarment and Suspension, Feb. 18, 1986.
- (2) Department of Interior Rules, Governmentwide Debarment and Suspension (Nonprocurement), 43 CFR 12.100 - 12.510

**C. Requirements.**

- (1) States and other grantees must submit the certification for Primary Covered Transactions (DI-1953). States certify as to their "principals", not the State agency. State principals are commissioners, directors, project leaders, or other persons with primary management or supervisory responsibilities, or a person who has a critical influence on or substantial control over Federal Aid projects. States may provide the certification annually. Other grantees must provide the certification with each Application for Federal Assistance.
- (2) States and other grantees must obtain from their subgrantees and contractors a certification for Lower Tier Covered Transactions (DI-1954). A certification is not required for small purchase procurements, currently defined as less than \$25,000. These certifications are normally provided with an application or proposal from a subgrantee or contractor.
- (3) States and other grantees must not make any award, either by subgrant or contract, to any party which is debarred or suspended or is otherwise ineligible under provisions of Executive Order 12549. The U.S. General Services Administration maintains a list of parties debarred, suspended, ineligible or excluded from participation in Federal grants under the provision of the Executive order. A copy of this list is available, upon request, from the Regional Director.

### **1.17 Drug-Free Workplace Act of 1988.**

**A. Summary.** The Drug-Free Workplace Act requires that all grantees certify that they will maintain a drug-free workplace.

**B. References.** Department of Interior Rules, Drug-Free Workplace Requirements, 43 CFR 12.600-635.

**C. Requirements.** Grantee organizations must

- (1) Establish (and publish) a policy that informs employees that the manufacture, distribution, possession, or use of a controlled substance in the workplace is prohibited;
- (2) Establish an awareness program to inform employees of the dangers of drug abuse in the workplace; and

Provide a drug-free workplace certification to the Department of Interior or U.S. Fish and Wildlife Service. The forms for providing the certification are available from the Regional Director. State agencies may certify annually. If the State agency is covered by a consolidated certification for all State agencies, a copy of the consolidated certification should be submitted to the Regional Director. (The original is retained by the State.) Grantees other than State agencies must submit the certification with each Grant Agreement.



### **1.18 Restrictions on Lobbying (P.L. 101-121)**

**A. Summary.** Prohibits the use of Federal appropriated funds for lobbying either the executive or legislative branches of the Federal Government in connection with a specific contract, grant, loan, or cooperative agreement.

**B. References.** Department of the Interior Rules, 43 CFR Part 18, New Restrictions on Lobbying.

#### **C. Requirements.**

(1) Recipients of Federal grants are prohibited from using Federal appropriated funds, e.g. grants, to pay any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, or an employee of a member of Congress in connection with a specific contract, grant, loan, or cooperative agreement.

(2) Proposals for grants in excess of \$100,000 must contain a certification that no part of the funds requested will be used for lobbying. Copies of the certification form, Form DI-1963, can be obtained from the Regional Offices.

(3) Recipients of grants in excess of \$100,000 must file a disclosure form on lobbying activities conducted with other than Federal appropriated funds. Form SF-LLL and SF-LLL-A, Continuation Sheet, shall be used for this purpose. Copies of the forms can be obtained from the Regional Office.



### **COST REIMBURSEMENT CONTRACT PAYMENT REQUIREMENTS**

Pursuant to the *Reference Guide for State Expenditures* published by the Department of Financial Services and found here, invoices submitted for cost reimbursement must be itemized by expenditure category as outlined in the approved contract budget. Additionally, the invoice must evidence the completion of all tasks required to be performed for the deliverable and must show that the provider met the minimum performance standards established in the contract. FWC is required to maintain detailed supporting documentation and to make it available for audit purposes. By submission of the payment request, the agency is certifying that the detailed documentation to support each item on the itemized invoice is on file at the agency and is available for audit.

FWC is required to maintain the detailed supporting documentation in support of each request for cost reimbursement and to make it available for audit purposes. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for the categories in the approved contract budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided. FWC may require more detailed documentation as deemed appropriate to satisfy that the terms of the contract have been met.

Listed below are types and examples of supporting documentation:

- (1) Salaries: Timesheets that support the hours worked on the project or activity must be kept. A payroll register or similar documentation should be submitted and maintained. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.
- (2) Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.  
  
Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.
- (3) Travel: Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher along with supporting receipts and invoices.
- (4) Other direct costs: Reimbursement will be made based on paid invoices/receipts and proof of payment processing (cancelled/processed checks and bank statements). If nonexpendable property is purchased using state funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with DMS Rule 60A-1.017, F.A.C., regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in s. 273.02, F.S., for subsequent transfer to the State.
- (5) In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.
- (6) Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown. Indirect costs must be in the approved agreement budget

and the entity must be able to demonstrate that the costs are not duplicated elsewhere as direct costs. All indirect cost rates must be evaluated for reasonableness and for allowability and must be allocated consistently.

For cost reimbursement contracts with another State agency (including State universities):

In lieu of the detailed documentation described above, alternative documentation may be submitted to substantiate the costs requested to be reimbursed. This alternative documentation may be in the form of FLAIR reports or other reports containing sufficient detail.

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**Attachment E****CERTIFICATION REGARDING DEBARMENTS, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION-LOWER TIER FEDERALLY FUNDED TRANSACTIONS**

Required for all contractors and subcontractors on procurement (vendor) contracts of \$100,000 or more, and for all contracts and grants with sub-recipients regardless of amount, when funded by a federal grant.

1. The undersigned hereby certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. The undersigned also certifies that it and its principals:
  - (a) Have not within a three-year period preceding this response been convicted of or had a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
  - (b) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 2.(a) of this Certification; and
  - (c) Have not within a three-year period preceding this certification had one or more public transactions (Federal, State or local) terminated for cause or default.
3. Where the undersigned is unable to certify to any of the statements in this certification, an explanation shall be attached to this certification.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
Authorized Signature/Contractor

Typed Name/Title

Grantee Name/Contractor Name

Street Address

Building, Suite Number

City/State/Zip Code

Area Code/Telephone Number

**INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT,  
SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION-  
LOWER TIER FEDERALLY FUNDED TRANSACTIONS**

1. By signing and submitting this form, the certifying party is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the certifying party knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Florida Fish and Wildlife Conservation Commission (FWC) or agencies with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The certifying party shall provide immediate written notice to the person to which this contract is submitted if at any time the certifying party learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this contract is submitted for assistance in obtaining a copy of those regulations.
5. The certifying party agrees by submitting this contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier contract, or other covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the FWC or agency with which this transaction originated.
6. The certifying party further agrees by executing this contract that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all contracts or lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (Telephone No. (202) 501-4740 or (202) 501-4873.)
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the FWC or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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**Florida Fish and Wildlife Conservation Commission**  
**FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT FORM**  
Subaward to a Recipient

**PURPOSE:** The Federal Funding Accountability and Transparency Act (FFATA) was signed on September 26, 2006. The intent of this legislation is to empower every American with the ability to hold the government accountable for each spending decision. The FFATA legislation requires information on federal awards (federal assistance and expenditures) be made available to the public via a single, searchable website, which is <http://www.usaspending.gov/>.

The FFATA Subaward Reporting System (FSRS) is the reporting tool the Florida Fish and Wildlife Conservation Commission ("FWC" or "Commission") must use to capture and report subaward and executive compensation data regarding first-tier subawards that obligate \$25,000 or more in Federal funds (excluding Recovery funds as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5).

[Note: This reporting requirement is not applicable for the procurement of property and services obtained by the FWC through a Vendor relationship. Refer to 2 CFR Ch. I Part 170 Appendix A, Section I.c.3 for the definition of "subaward".]

**ORGANIZATION AND PROJECT INFORMATION:**

The following information must be provided to the FWC prior to the FWC's issuance of a subaward (Agreement) that obligates \$25,000 or more in federal funds as described above. Please provide the following information and return the signed form to the Commission as requested. If you have any questions, please contact the FWC's Grant's Manager at 850-617-9649 for assistance.

DUNS +4 # \*: \_\_\_\_\_

\* If your company or organization does not have a DUNS number, you will need to obtain one from Dun & Bradstreet at 866-705-5711 or use the webform (<http://fedgov.dnb.com/webform>). The process to request a DUNS number takes about ten minutes and is free of charge. Make sure to include the +4 for the DUNS #.

BUSINESS NAME: \_\_\_\_\_

OBA NAME (IF APPLICABLE): \_\_\_\_\_

PRINCIPAL PLACE OF BUSINESS ADDRESS: \_\_\_\_\_

ADDRESS LINE 2: \_\_\_\_\_

ADDRESS LINE 3: \_\_\_\_\_

CITY: \_\_\_\_\_

STATE: \_\_\_\_\_ ZIP CODE+4\*\*: \_\_\_\_\_

PARENT COMPANY DUNS# (IF APPLICABLE): \_\_\_\_\_

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA#): \_\_\_\_\_

DESCRIPTION OF PROJECT (UP TO 4000 CHARACTERS): \_\_\_\_\_



**PRINCIPAL PLACE OF PROJECT PERFORMANCE (IF DIFFERENT THAN PRINCIPAL PLACE OF BUSINESS)**

ADDRESS LINE 1: \_\_\_\_\_

ADDRESS LINE 2: \_\_\_\_\_

ADDRESS LINE 3: \_\_\_\_\_

CITY: \_\_\_\_\_

STATE: \_\_\_\_\_ ZIP CODE+4\*\*: \_\_\_\_\_

CONGRESSIONAL DISTRICT FOR PRINCIPAL PLACE OF PROJECT PERFORMANCE: \_\_\_\_\_

\*\*Providing the Zip+4 ensures that the correct Congressional District is reported.

**EXECUTIVE COMPENSATION INFORMATION:**

1. In your business or organization's previous fiscal year, did your business or organization (including parent organization, all branches, and all affiliates worldwide) receive (a) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance (e.g. loans, grants, subgrants, and/or cooperative agreements, etc.) subject to the Transparency Act, as defined at 2 CFR 170.320; *all d*, (b) \$25,000,000 or more in annual gross revenues from U.S. Federal procurement contracts (and subcontracts) and Federal financial assistance (e.g. loans, grants, subgrants, and/or cooperative agreements, etc.) subject to the Transparency Act?
- Yes \_\_\_\_\_ No \_\_\_\_\_

*If the answer to Question 1 is "Yes," continue to Question 2. If the answer to Question 1 is "No", move to the signature block below to complete the certification and submittal process.*

2. Does the public have access to information about the compensation of the executives in your business or organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or Section 6104 of the Internal Revenue Code of 1986?
- Yes \_\_\_\_\_ No \_\_\_\_\_

*If the answer to Question 2 is "Yes," move to the signature block below to complete the certification and submittal process. [Note: Securities Exchange Commission information should be accessible at <http://www.sec.gov/answers/execomp.htm> . Requests for Internal Revenue Service (IRS) information should be directed to the local IRS for further assistance.]*

*If the answer to Question 2 is "No" FFATA reporting is required. Provide the information required in the "TOTAL COMPENSATION CHART FOR MOST RECENTLY COMPLETED FISCAL YEAR" appearing below to report the "Total Compensation" for the five (5) most highly compensated "Executives", in rank order, in your organization. For purposes of this request, the following terms apply as defined in 2 CFR Ch. I Part 170 Appendix A:*

"Executive" is defined as "officers, managing partners, or other employees in management positions".

"Total Compensation" is defined as the cash and noncash dollar value earned by the executive during the most recently completed fiscal year and includes the following:

- i. Salary and bonus.
- ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for
- iii. financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- iv. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives and are available generally to all salaried employees.
- v. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- vi. Above-market earnings on deferred compensation which is not tax-qualified.
- vii. Other compensation, if the aggregate value of all such other compensation (e.g. severance termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

**TOTAL COMPENSATION CHART FOR MOST RECENTLY COMPLETED FISCAL YEAR**

(Date of Fiscal Year Completion (mm/dd/yyyy)): \_\_\_\_\_

Rank (Highest to Lowest)	Name (Last, First, MI)	Title	Total Compensation for Most Recently Completed Fiscal Year
1			
2			
3			
4			
5			

THE UNDERSIGNED AS (enter position title): \_\_\_\_\_ OF  
(Business Name) \_\_\_\_\_ CERTIFIES THAT ON THE DATE WRITTEN  
BELOW, THE INFORMATION PROVIDED HEREIN IS ACCURATE.

Type or Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**For FWC Agency Use Only:**

Prime award Granting Entity: \_\_\_\_\_

Prime award Granting Entity Number: \_\_\_\_\_ Prime award DUNS #: \_\_\_\_\_

FWC FLAIR Grant #: \_\_\_\_\_ FWC Subaward Contract #: \_\_\_\_\_ Congressional District: \_\_\_\_\_

**Completed forms should be sent to FFATA@MyFWC.com within seven (7) days of contract execution.**



**FL FISH AND WILDLIFE CONSERVATION COMMISSION  
DIVISION OF MARINE FISHERIES MANAGEMENT  
ARTIFICIAL REEF PROGRAM  
CERTIFICATION OF COMPLETION**

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I, \_\_\_\_\_  
(Printed Name and Title)

representing \_\_\_\_\_  
(Name of Grantee)

do hereby certify that the artificial reef project funded by Grant Number FWC - \_\_\_\_\_ has been completed in compliance with all terms and conditions of said Grant Agreement.

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(Signature)

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(Date)