

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

Blue Sheet No. 20041363

1. REQUESTED MOTION:

ACTION REQUESTED: Execute Grant Agreement #04018 with Florida Fish and Wildlife Conservation Commission (FWC), awarding \$25,000 to Lee County for construction of the "FWC '05 Reef Grant" project. Approve corresponding Budget Amendment Resolution amending the FY04-05 - 08-09 CIP Program accordingly. Execute "Attachment E" - Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion.

WHY ACTION IS NECESSARY: To accept funding from FWC and certify eligibility to receive federal funds.

WHAT ACTION ACCOMPLISHES: Formalizes \$25,000 in grant funding.

**2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #:**

C 8 B

3. MEETING DATE:

11-09-2004

4. AGENDA:

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

**5. REQUIREMENT/PURPOSE:
(Specify)**

- STATUTE 370.25(l)
- ORDINANCE _____
- ADMIN. CODE _____
- OTHER Rule 68E-9 FAC

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER _____
- B. DEPARTMENT Public Works
- C. DIVISION Natural Resources
- BY: Roland Ottolini, Nat. Res. Director

RO

7. BACKGROUND:

Lee County Natural Resources Division applied for a grant to fund a new artificial reef project through FWC and the Federal Aid in Sportfish Restoration Program. The State has approved this request in the amount of \$25,000. The grant has no required match and is funded through the FWC on a reimbursement basis. Lee County must certify their eligibility to receive these federal funds. The grant period runs through June 30, 2005.

The grant will fund construction of a single artificial reef on a currently permitted site. Our project will build 28 small, modular artificial reef units designed to protect juvenile fish at existing artificial reefs. This project, if successful, will serve to enhance local fisheries as well as recreational and commercial fishing opportunities. Three original copies of the grant agreement and Certification are included for processing. All three executed copies should be sent to the State for finalization whereupon they will return one original to Lee County.

Upon approval, funds will be budgeted per the following accounts:

Expenses: 21311230100

Capital Improvement Grant / FWC '05 Reef Grant / Capital Improvement / Improvement Construction

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services <i>10/26/04</i>				G County Manager
					OA	OM	Risk	GC	
<i>J. Hunter</i> <i>10-20-04</i>	<i>[Signature]</i>		<i>[Signature]</i> <i>10/20/04</i>	<i>[Signature]</i> <i>10/20/04</i>	<i>[Signature]</i> <i>10/26/04</i>	<i>[Signature]</i> <i>10/26/04</i>	<i>[Signature]</i> <i>10/26/04</i>	<i>[Signature]</i> <i>10/26/04</i>	<i>J. Hunter</i> <i>10-20-04</i>

10. COMMISSION ACTION:

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

Rec. by CoAtty
 Date: *10/25/04*
 Time: *1:00 PM*
 Forwarded To:
Admin
10/27/04

RECEIVED
 COUNTY CLERK
10/25/04
 BY ADMIN
 REFERRED TO: *PL*
10/27/04
9 AM

RESOLUTION

Amending the Budget of Capital Improvements-Fund 30100 to incorporate the unanticipated receipts into Estimated Revenues and Appropriations for the fiscal year 2004-2005.

WHEREAS, in compliance with the Florida Statutes 129.06(2), it is the desire of the Board of County Commissioners of Lee County, Florida, to amend the Capital Improvements-Fund 30100 budget for \$25,000 of the unanticipated revenue from the Florida Fish & Wildlife Conservation Comm. and an appropriation of a like amount for construction costs and;

WHEREAS, the Capital Improvements-Fund 30100 budget shall be amended to include the following amounts which were previously not included.

ESTIMATED REVENUES

Prior Total:		\$88,348,908
Additions		
21311230100.331390.9001	Dept of Interior	25,000
Amended Total Estimated Revenues		\$88,373,908

APPROPRIATIONS

Prior Total:		\$88,348,908
Additions		
21311230100.503490	Other Contracted Services	25,000
Amended Total Appropriations		\$88,373,908

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Lee County, Florida, that the Capital Improvements-Fund 30100 budget is hereby amended to show the above additions to its Estimated Revenue and Appropriation accounts.

Duly voted upon and adopted in Chambers at a regular Public Hearing by the Board of County Commissioners on this ____ day of _____, 2004.

ATTEST:
CHARLIE GREEN, EX-OFFICIO CLERK

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

BY: _____
DEPUTY CLERK

CHAIRMAN

APPROVED AS TO FORM

OFFICE OF COUNTY ATTORNEY

DOC TYPE YA
LEDGER TYPE BA

FORWARD WITH AGREEMENT AND BLUE SHEET

ALL INFORMATION IS REQUIRED - DO NOT LEAVE ANY BLANKS - USE N/A WHEN NOT APPLICABLE

GRANT AT A GLANCE

GRANT AWARD INFORMATION

1. County Grant ID (project #):

2. Title of Grant: Lee County Artificial Reef Construction Grant

3. Amount of Award: \$25,000

4. Amount of Match Required: \$0

5. Type of Match: N/A (cash, in-kind etc)

6. SOURCE OF GRANT FUNDS & CATALOG NUMBER:

Table with 2 columns: FEDERAL (checked) CFDA #15.605, STATE (unchecked) CSFA #

7. Agency Contract Number: FWC-04018

Table with 3 columns: 8. Contract Period, Begin Date: upon execution, End Date Aug. 15, 2005

9. Name of Subrecipient(s)

10. Business Unit(s)

11. Scope of Grant: (describe project). Purchase of reef materials, transport of materials to County reef site, creation of artificial reef in Gulf of Mexico.

12. Has this Grant been Funded Before? [checked] YES [] NO If YES When Since 1991

13. Is Grant Funding Anticipated in Subsequent Years? [checked] YES [] NO

14. If Grant Funding Ends Will This Program Be Continued at County Expense? [] YES [checked] NO If YES What is the Lee County Budget Impact:

Table with 3 columns: 1st Year, 2nd Year, 3rd Year; 4th Year, 5th Year

Check Box if Additional Information on Program and Budget Impact is provided in Comment Section on page 2 []

ADMINISTERING DEPARTMENT INFORMATION

- 1. Department: Chris Koepfer, 479-8133, koepfeca@leegov.com
2. Contacts:

Program Mgr. Steve Boutelle	Phone #: 479-8128
Fiscal Mgr. Elin Clemons	Phone #: 479-8109

GRANTOR AGENCY INFORMATION
(The agency you signed this agreement with)

- 1. Grantor Agency: Florida Fish and Wildlife Conservation Commission (FWC)
- 2. Program Title/Division: Marine Fisheries
- 3. Agency Contact: Jon Dodrill
- 4. Phone Number: 850-922-4340 x209
- 5. Mailing Address: 620 South Meridian Street Box MF-MFM
Tallahassee, Florida 32399-1600

SOURCE OF FUNDS

- 1. Original Funding
Source: U. S. Fish and Wildlife Service
(name of agency where funding originated from)
- 2. Pass Through Agency: FWC
(middleman if any? Example: federal \$\$ from US DOT given to STATE of FL DOT-- then from STATE DOT to Lee County DOT --- STATE of FL DOT is the pass-through agency).
- 3. Additional Information for Other Agencies Involved:

- 3a. Is the County a Grantee
or Subrecipient in #3 above: Grantee

REPORTING REQUIREMENTS

- 1. Does this grant require a separate subfund? YES NO

Please Explain: _____

- 2. Is funding received in advance? YES NO
- (If YES, please indicate conditions for returning residual proceeds, or interest and the address to return it to, if different from the Grantor Agency Information)

COMMENTS--INSTRUCTIONS:

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION



RODNEY BARRETO
Miami

KATHY BARCO
Jacksonville

SANDRA T. KAUPE
Palm Beach

RICHARD A. CORBETT
Tampa

H.A. "HERKY"
HUFFMAN
Enterprise

DAVID K. MEEHAN
St. Petersburg

BRIAN S. YABLONSKI
Tallahassee

KENNETH D. HADDAD, Executive Director
VICTOR J. HELLER, Assistant Executive Director

DIVISION OF MARINE FISHERIES MANAGEMENT
Mark S. Robson, Director

October 12, 2004

Chris Koepfer, Biologist
Lee County
Post Office Box 398
Fort Myers, Florida 33901

LEE COUNTY DIV. OF
NATURAL RESOURCES

OCT 18 2004

RECEIVED

RE: **Grant Agreement FWC-04018**
Lee County Artificial Reef Construction Project 2004-2005

Dear Mr. Koepfer:

Please find enclosed three (3) original copies of Grant Agreement FWC-04018 for your review and signature. Please sign both the signature page (Page 8 of 8) and the form for certification regarding debarments, suspension, ineligibility and voluntary exclusion-lower tier federally funded transactions (Attachment E). **Please sign and date all three copies and return all signed copies to me by courier service at the following address:**

Jon Dodrill
FWC Division of Marine Fisheries Management
2590 Executive Center Circle East, Suite 203
Tallahassee, Florida 32301

Upon execution of the Grant Agreement by the Florida Fish and Wildlife Conservation Commission, an original, signed copy will be returned for your file.

Please note the Agreement requires FWC approval of the draft plans and technical specifications for the modules (Scope of Services, item 1), and FWC approval of the bid specifications, quotes, and the selected sub-contractor.

The project period of this Grant Agreement is from the date of execution by the Commission until the expiration date of June 30, 2005. The funds are for the 2004-05 fiscal year appropriation to the Commission's artificial reef program. Note that the terms of the Grant Agreement incorporate the terms of your project as specified in your grant application, and the requirements of Chapter 68R-9, F.A.C. If you have any questions regarding the Grant Agreement, please contact me at (850) 922-4340 x209 or by email at jon.dodrill@myfwc.com.

Sincerely,

A handwritten signature in cursive script that reads "Jon Dodrill".

Jon Dodrill, Environmental Administrator
Artificial Reef Program

LEE COUNTY ARTIFICIAL REEF CONSTRUCTION PROJECT

THIS GRANT 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**", and the **LEE COUNTY BOARD OF COUNTY COMMISSIONERS**, whose address is 1500 Monroe Street, Fort Myers, FL, 33901 hereafter "**GRANTEE**."

NOW THEREFORE, the **COMMISSION** and the **GRANTEE**, for the considerations hereafter set forth, agree as follows:

DUTIES OF THE GRANTEE

1. Scope of Services

The **GRANTEE** shall perform the services and specific responsibilities as set forth in Attachment A, entitled "Scope of Services", attached hereto and made a part hereof.

2. Grantee Eligibility

The **GRANTEE** shall be licensed as necessary to perform under this Grant Agreement as may be required by law, rule, or regulation, and shall provide evidence of such compliance to the **COMMISSION** upon request.

TERM OF AGREEMENT

3. This Agreement shall begin upon execution by both parties and end June 30, 2005, inclusive. **All work described in Attachment A, Scope of Services, must be completed no later than June 30, 2005.** The **GRANTEE** shall not be eligible for reimbursement for services rendered prior to the execution date of this Agreement nor after June 30, 2005.

COMPENSATION

4. As consideration for the services rendered by the **GRANTEE** under the terms of this Agreement, the **COMMISSION** shall reimburse the **GRANTEE** on a cost reimbursement basis in an amount not to exceed **\$25,000**.

PAYMENTS

5. The **COMMISSION** shall pay the **GRANTEE** for satisfactory service upon submission of invoices, accompanied by required reports or deliverables, and after acceptance of services and deliverables in writing by the **COMMISSION's** Contract Manager. Each invoice shall include the FWC Grant Number and the **GRANTEE's** Federal Employer Identification (FEID) Number. An original and two (2) copies of the invoice shall be submitted. The **COMMISSION** shall not provide advance payment. All bills for amounts due under this Agreement shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. Invoices for reimbursement shall be submitted following successful completion of the artificial reef project described in Attachment A, Scope of Services, and approved by the **COMMISSION** prior to the termination date of the Agreement. The **GRANTEE** shall not be eligible for reimbursement for services rendered after June 30, 2005. A final invoice must be received by the **COMMISSION** no later than August 15, 2005 to assure availability of funds for payment.

6. No travel expenses are authorized.

7. The **GRANTEE** shall be compensated on a cost reimbursement basis in accordance with Comptroller Contract Payment Requirements as shown in the Department of Financial Services, Bureau of Auditing, Voucher Processing Handbook, Chapter 4., C., 1. (attached hereto and made part hereof as Attachment B).

8. For Agreements whose term extends beyond the State fiscal year in which encumbered funds were appropriated, the State of Florida's performance and obligation to pay is contingent upon an annual appropriation by the Legislature.

9. Invoices, including backup documentation, shall be submitted to:

Jon Dodrill, Resource Manager
Florida Fish and Wildlife Conservation Commission
Division of Marine Fisheries Management
2590 Executive Center Circle East, Suite 203
Tallahassee, Florida 32301

TERMINATION

10. This Agreement shall terminate immediately upon the **COMMISSION** giving written notice to the **GRANTEE** in the event of fraud, willful misconduct, or breach of this Agreement.

11. Either party may terminate this Agreement by giving written notice to the other party specifying the termination date and justification for termination, by certified mail, return receipt requested, at least forty-five (45) days prior to the termination date specified in the Agreement.

TAXES

12. The **GRANTEE** 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 term of this Agreement.

NOTICE

13. Unless a change of address is given, any and all notices shall be delivered to the parties at the following addresses:

GRANTEE

Chris Koepfer, Biologist
Lee County
Post Office Box 398
Fort Myers, Florida 33901
941.479-8133
koepfeca@leegov.com

COMMISSION

Jon Dodrill, Resource Manager
FWCC Division of Marine Fisheries
2590 Executive Center Circle East, Suite 203
Tallahassee, Florida 32301
850.922.4340 x209
jon.dodrill@myfwc.com

AMENDMENT OR MODIFICATION

14. 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. The **COMMISSION** may at any time, by written order designated to be a Modification, make any change in the work within the general scope of this Agreement (e.g. specifications, schedules, method or manner of performance, requirements, etc.). However, all Modifications are subject to the mutual agreement of both parties as evidenced in writing. Any Modification that causes an increase or decrease in the **GRANTEE's** cost or the term of the Agreement shall require a formal amendment.

RELATIONSHIP OF THE PARTIES

15. The **GRANTEE** shall perform as an independent agent and not as an agent, representative, or employee of the **COMMISSION**.

16. The **GRANTEE** covenants that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of services required.

17. The parties agree that there is no conflict of interest or any other prohibited relationship between the **GRANTEE** and the **COMMISSION**.

INSURANCE REQUIREMENTS

18. To the extent required by law, the **GRANTEE** will either be self-insured for Worker's Compensation claims, or will secure and maintain during the life of this Contract, Workers' Compensation Insurance for all of its employees connected with the work of this project. If any work is subcontracted, the **GRANTEE** shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the **GRANTEE**. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation law. In case any class of employees engaged in hazardous work under this Contract is not protected under Workers' Compensation statutes, the **GRANTEE** shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the **COMMISSION**, for the protection of his 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. In the construction industry, only corporate officers of a corporation or any group of affiliated corporations may elect to be exempt from workers' compensation coverage requirements. Such exemptions are limited to a maximum of three per corporation and each exemption holder must own at least 10% of the corporation. Independent contractors, sole proprietors and partners in the construction industry cannot elect to be exempt and must maintain workers' compensation insurance.

19. The **GRANTEE** warrants and represents that it is self-funded for liability insurance, appropriate and allowable under Florida law, and that such self-insurance offers protection applicable to the **GRANTEE's** officers, employees, servants and agents while acting within the scope of their employment with the **GRANTEE**.

CANCELLATION UNDER CHAPTER 119, FLORIDA STATUTES

20. This Agreement may be unilaterally canceled by the **COMMISSION** for refusal by the **GRANTEE** to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the **GRANTEE** on conjunction with this agreement.

RECORD KEEPING REQUIREMENTS

21. The **GRANTEE** 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 principals. The **GRANTEE** shall allow the **COMMISSION**, the State, or other authorized representatives, access to periodically inspect, review or audit such documents as books, vouchers, records, reports, canceled checks and any and all similar material. Such audit may include examination and review of the source and application of all funds whether from the state, local or federal government, private sources or otherwise. These records shall be maintained for five (5) years following the close of this contract. In the event any work is subcontracted, the **GRANTEE** shall require each subcontractor to similarly maintain and allow access to such records for audit purposes.

LIABILITY

22. Each Party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, Florida Statutes.

NON-DISCRIMINATION

23. No person, on the grounds of race, creed, color, national origin, age, sex, or disability, shall be excluded from participation in, be denied the proceeds or benefits of, or be otherwise subjected to discrimination in performance of this Agreement.

PROHIBITION OF DISCRIMINATORY VENDORS

24. In accordance with Section 287.134, Florida Statutes, 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.

PROHIBITION AGAINST LOBBYING

25. The **GRANTEE** 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 **GRANTEE**, 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. If any non-Federal funds are used for lobbying activities as described above in connection with this Contract, the **GRANTEE** shall submit Standard Form-LLL, "Disclosure Form to Report Lobbying", and shall file quarterly updates of any material changes. The **GRANTEE** shall require the language of this certification to be included in all subcontracts, and all subcontractors shall certify and disclose accordingly.

26. Pursuant to the Lobbying Disclosure Act of 1995, the **GRANTEE** agrees to refrain from entering into any subcontracts under this Agreement 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.

27. In accordance with Section 216.347, Florida Statutes, the **GRANTEE** is hereby prohibited from using funds provided by this Agreement for the purpose of lobbying the Legislature, the judicial branch or a state agency.

NON-ASSIGNMENT

28. This Agreement is an exclusive agreement for services and may not be assigned in whole or in part without the written approval of the **COMMISSION**.

PERFORMANCE AND REMEDIES

29. The **GRANTEE** shall perform the services in a proper and satisfactory manner as determined by the **COMMISSION**.

30. It is understood by the parties that remedies for damages or any other remedies provided for herein shall be construed to be cumulative and not exclusive of any other remedy otherwise available under law.

SEVERABILITY AND CHOICE OF VENUE

31. This Agreement has been delivered in the State of Florida and shall be construed in accordance with the laws of Florida. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. Any action in connection herewith, in law or equity, shall be brought in Leon County, Florida.

NO THIRD PARTY RIGHTS

32. The parties hereto do not intend nor shall this Agreement be construed to grant any rights, privileges or interest to any third party.

JURY TRIAL WAIVER

33. As consideration of this Agreement, the parties hereby waive trial by jury in any action or proceeding brought by any party against another party pertaining to any matter whatsoever arising out of or in any way connected with this Agreement.

DIVISION OF MARINE FISHERIES REQUIREMENTS

34. The **GRANTEE** agrees to follow all requirements of Section 287.057, Florida Statutes, for the procurement of commodities or contractual services under this Agreement. The **GRANTEE** will obtain a minimum of two written quotes for any subcontracts required for Agreements in the amount of \$25,000 or less, and the **GRANTEE** will publicly advertise and send bid specifications to a minimum of five (5) potential subcontractors for any subcontracts required for Agreements in excess of \$25,000.

35. The use of a vendor registered with the Statewide Negotiated Agreement Price Schedule (SNAPS) does not preclude the **GRANTEE** from the requirements of Paragraph 34.

36. The **GRANTEE** shall include Attachment A (Scope of Services) *verbatim* in all bid specifications. All bid specifications must be approved, in writing, in advance by the **COMMISSION's** Contract Manager, prior to public advertisement or distribution.

37. The **GRANTEE** shall submit bid specifications to the **COMMISSION's** Contract Manager for approval within ninety(90) days following the execution date of this Agreement.

38. Any request to use a sole source vendor by the **GRANTEE** must be requested and justified in writing and approved by the **COMMISSION's** Contract Manager prior to awarding a sole source subcontract under this Agreement.

39. A summary of the vendor replies and recommended subcontractor must be sent by the **GRANTEE** to the **COMMISSION's** Contract Manager for written approval prior to the awarding of any subcontracts under this Agreement.

40. The **GRANTEE** shall include this entire Agreement and all attachments in all subcontracts issued as a result of this Agreement. All such subcontracts in excess of \$5,000 shall be in writing.

41. The **GRANTEE** agrees to acknowledge the role of the Federal Aid in Sport Fish Restoration Program funding in any publicity related to this Agreement.

42. The **GRANTEE** agrees to provide the **COMMISSION** with a minimum of five (5) days notice for any artificial reef construction that occurs as a result of this Agreement.

43. The **GRANTEE** agrees to follow all provisions of Section 370.25, Florida Statutes and Rule 68E-9, Florida Administrative Code during the term of this Agreement.

44. 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.

FEDERAL/FLORIDA SINGLE AUDIT ACTS REQUIREMENTS

45. The Florida Single Audit Act requires all non-state organizations (**GRANTEE**) who are recipients of State financial assistance to comply with the audit requirements of the Act, pursuant to Section 215.97, Florida Statutes. In addition, recipients and subrecipients (**GRANTEE**) of federal financial assistance must comply with the Federal Single Audit Act requirements of OMB Circular A-133. Therefore, the **GRANTEE** shall be required to comply with the audit requirements outlined in Attachment C, titled "Requirements of the Federal and Florida Single Audit Acts", attached hereto and made a part of this Agreement, as applicable.

CERTIFICATE OF CONTRACT COMPLETION

46. The **GRANTEE** will be required to complete a Certificate of Contract Completion form 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.

FEDERAL FUNDS

47. 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 this Agreement, a copy of which is attached hereto and made a part of as Attachment D. 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.

DEBARMENT AND SUSPENSION

48. 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 contract, 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.

49. Upon execution of this Agreement by the **GRANTEE**, the **GRANTEE** shall 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

50. As required by paragraphs 48 and 49 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.

RIGHTS IN INTELLECTUAL PROPERTY

51. All items, materials or products, of any description, produced or developed by the **GRANTEE** for the **COMMISSION** in connection with this Grant Agreement shall be the exclusive property of the **COMMISSION** and the State of Florida and may thereby be copyrighted, patented, or otherwise protected as provided by law. Neither the **GRANTEE**, nor its employees, representatives or subcontractors, shall have any proprietary interest in the products and materials developed under this Grant Agreement. Because Federal funding is involved in support of this Grant Agreement, the Federal Government also reserves a royalty-free, nonexclusive, irrevocable right to reproduce, publish, or otherwise use said work (including any future versions, updates and improvements), and to license the same rights and use to agencies and subdivisions of the Federal Government. Publishing rights to the information resulting from this grant agreement are hereby granted to the **GRANTEE**, and to any not-for-profit subcontractors.

ENTIRE AGREEMENT

52. This Agreement represents that 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.

REST OF PAGE INTENTIONALLY LEFT BLANK

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.

**LEE COUNTY BOARD OF
COUNTY COMMISSIONERS**

**FLORIDA FISH AND WILDLIFE
CONSERVATION COMMISSION**

By: _____
(Authorized Signatory*)

By: _____
Director, Division of Marine Fisheries
or Designee

(Print Signatory's Name and Title)

Date: _____

Date: _____

(Grantee)

(Address)

(City, State, and Zip Code)


(Federal Employer Identification Number)

Reimbursement Check Remittance Address:

(Address)

(City, State, and Zip Code)

Approved as to form and legality:



FWC Attorney

*If someone other than the Chairman signs this Agreement, a statement or other document authorizing that person to sign the Agreement on behalf of the County must accompany the Agreement.

List of Attachments included as part of this Agreement:

- | | |
|---------------------|--|
| <u>Attachment A</u> | <u>Scope of Services</u> |
| <u>Attachment B</u> | <u>Comptroller's Contract Payment Requirements</u> |
| <u>Attachment C</u> | <u>Requirements of the Federal - Florida Single Audit Acts</u> |
| <u>Exhibit 1</u> | <u>State and Federal Funds Awarded through the Florida Fish and Wildlife Conservation Commission</u> |
| <u>Attachment D</u> | <u>Federal Aid Compliance Requirements</u> |
| <u>Attachment E</u> | <u>Certification Regarding Debarment/Suspension</u> |

**ATTACHMENT A
SCOPE OF SERVICES**

***PACE'S PLACE JUVENILE FISH REFUGE HABITAT
LEE COUNTY ARTIFICIAL REEF CONSTRUCTION 2004-05***

Lee County proposes to construct and deploy 28 concrete designed juvenile fish habitat units. The units will have a concrete base and utilize a type of steel mesh to create the units. Internal of the mesh, some of the unit will contain additional concrete structure (cinderblocks, etc.) to determine if the species that utilize the habitats prefer some kind of structure to orient to. The 28 units will be distributed in groups of 4-6 units at six different discrete locations within the Pace's Place permitted area. The Pace's Place permitted site is a square permitted zone, measuring 0.25 nm on a side, in a north-south orientation, located in state waters off Lee County. Six previous deployments have been made within this site since 2000 (limerock, precast concrete boxes and risers, solid concrete tetrahedrons, and a barge). The Pace's Place site is permitted to Lee County by the U.S. Department of the Army, Corps of Engineers Permit Number #199903662 (IP-MS), which is valid until November 24, 2009. Since this location is in state waters, the Florida Department of Environmental Protection has issued Permit Number #36-159360-001-EG18 which is also valid until November 24, 2009. The Pace's Place site is located approximately 5 nautical miles on a bearing of 245° from Redfish Pass. The permitted site center is located at coordinates 26° 31' 09.45" N and 82° 16' 59.34" W. The Pace's Place concrete modules, are proposed to be located adjacent to the six existing material locations within the permitted area at coordinates 26° 31.069' N and 82° 17.014' W; 26° 31.171' N and 82° 16.968' W; 26° 31.183' N and 82° 16.919' W; 26° 31.249' N and 82° 17.001' W; 26° 31.239' N and 82° 17.064' W; 26° 31.249' N and 82° 16.940' W at a depth of 34-36 feet.

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

CONCRETE MODULE CONSTRUCTION

1. The GRANTEE shall provide the COMMISSION with draft construction plans and specifications for the 28 concrete "designed juvenile fish habit units" for COMMISSION review and approval prior to commencement of construction.

LOADING AND TRANSPORTATION

2. Loading and transportation of 28 concrete "designed juvenile fish habitat units", or other concrete structures acceptable to the COMMISSION.
3. Load the 28 concrete "designed juvenile fish habitat units" onto a suitable conveyance and transport to a site for loading onto a barge or other suitable vessel for offshore movement. Load the structures onto a vessel for transportation to the designated reef site. Provide a sufficiently powered transport or towing vessel, personnel, and all necessary equipment to transport the material offshore and deploy it. 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.

4. 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 370.25, Florida Statutes.

DEPLOYMENT AND MATERIAL PLACEMENT

5. During the deployment of the concrete reef material, the transport vessel must be effectively moored through double anchoring, be spudded down, or otherwise be held securely in place with minimal movement (+/-50 feet) to ensure accurate placement of the concrete patch reef on the bottom. Material must be arranged to provide habitat complexity as well as provide sand bottom forage area opportunities. Individual reef materials should not be widely scattered. 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. 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 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.
6. The reef material under this Agreement will be deployed at six locations within the permitted area at coordinates 26° 31.069' N and 82° 17.014' W; 26° 31.171' N and 82° 16.968' W; 26° 31.183' N and 82° 16.919' W; 26° 31.249' N and 82° 17.001' W; 26° 31.239' N and 82° 17.064' W; 26° 31.249' N and 82° 16.940' W at a depth of 34-36 feet.
7. The minimum permitted vertical clearance as determined by the U.S. Army Corps of Engineers authorization for this permitted area shall be maintained at Mean Lower Low Water above the highest point of the reef material.
8. The GRANTEE's Contract Manager 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 reef. The markers shall be buoys no less than 12 inches in diameter, 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 will also be important to insure the reef is constructed within the permitted area.
9. The GRANTEE's Project Manager or GRANTEE's employee designated as an 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.

10. 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 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 insuring that all permit condition terms are complied with.
11. The GRANTEE agrees to allow the COMMISSION to conduct on-site inspections of the saltwater artificial fishing reef project before, during, and after the deployment.

ALLOWABLE EXPENDITURES ASSOCIATED WITH THE REEF PROJECT

12. Funds from this Agreement may be expended on the activities listed pursuant to Chapter 68E-9.004(1)(a), F.A.C.
13. If the GRANTEE chooses to conduct a post-deployment SCUBA assessment at each patch reef (this is not required, but is an eligible activity under Chapter 68E-9.004(1)(a), F.A.C.), in order to be eligible for reimbursement work must be completed prior to June 30, 2005 and the following items, at a minimum, must be included:
 - a. *methods*: name and type of vessel, anchored or live boated, type of GPS unit(s), divers, survey methods;
 - b. *conditions*: cloud cover, wind speed and direction, sea conditions, visibility, water temperature, currents;
 - c. *chronology*: start and end of each dive; dive profile: dive plan, maximum depth, dive time, distance and bearing searched;
 - d. *Coordinates*: Describe the GPS unit(s) used to navigate to the site (model number). Describe whether differential, WAAS, and/or LORAN. Compare the dive locations to deployment location numbers. How well do they match the published numbers?
 - e. *Physical observations*: Describe the number and size of material observed within each patch reef. 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?
 - f. *Footprint area*: Measure the approximate total area covered by each patch reef through standard in situ survey practices.
 - g. *Biological observations*: Describe any fish observed, or other general biological observations.
 - h. *Video and photographs*: Provide still and/or video footage of each of the eight patch reefs (digital format preferred when available).

14. 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.

LIABILITY AND RESPONSIBILITY FOR REEF MATERIALS

15. 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.

PAYMENT SCHEDULE

16. The GRANTEE shall be paid on a cost reimbursement basis by the COMMISSION in the form of a single final payment for the allowable costs incurred under this Agreement following satisfactory completion of the project and submission of all required project close out documentation, no later than August 15, 2005. A timely reimbursement request following completion of actual field operations is strongly encouraged. The GRANTEE shall not be eligible for reimbursement for services performed after June 30, 2005. A final invoice must be received no later than August 15, 2005 to assure the availability of funds for payment.

REPORTING, PERFORMANCE, AND PUBLICATIONS

17. Written or electronically transmitted progress reports must be sent to the COMMISSION's Contract Manager at no less than 60 day intervals beginning from the date of execution of this agreement.
18. **A final field report providing the designated observer's narrative of the reef deployment operation is required prior to reimbursement.** The field report shall include a written chronology and narrative describing the deployment. The final field report should include video footage or photographs (underwater and/or surface), if available.
19. A Materials Placement Report shall be submitted to the COMMISSION's Project Manager within 30 days of field operations completion. The Materials Placement Report shall 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 or GRANTEE employed 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-employed 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.

20. Any published articles related to this artificial reef activity should reflect the role of the USFWS Federal Aid in Sport Fish Restoration Program in assisting in the funding of this activity.

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ATTACHMENT B

Comptroller Contract Payment Requirements Department of Financial Services, Bureau of Accounting and Auditing Voucher Processing Handbook (10/07/97) *Cost Reimbursement Contracts*

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.) Supporting documentation must be provided for each amount for which reimbursement is being claimed indicating 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 categories in the approved contract budget should be reimbursed.

Listed below are examples of types of documentation representing the minimum requirements:

- (1) Salaries: A payroll register or similar documentation should be submitted. 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 or electronic means.
- (4) Other direct costs: Reimbursement will be made based on paid invoices/receipts. 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 Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, 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.

Pursuant to 216.346, Florida Statutes, a contract between state agencies including any contract involving the State University system or the State Community College system, the agency receiving the contract or grant moneys shall charge no more than 5 percent of the total cost of the contract or grant for overhead or indirect cost or any other cost not required for the payment of direct costs.

ATTACHMENT C
REQUIREMENTS OF THE FLORIDA AND FEDERAL SINGLE AUDIT ACTS

The administration of resources awarded by the Florida Fish and Wildlife Conservation Commission (Commission) to the Contractor/Grantee (recipient) may be subject to audits and/or monitoring by the Commission as described in this section.

MONITORING

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by Commission staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Commission. In the event the Commission determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Commission staff to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Comptroller or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised.

In the event that the recipient expends \$500,000 or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. EXHIBIT 1 to this agreement indicates Federal resources awarded through the Commission by this agreement. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from Commission. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part.

In connection with the audit requirements addressed in Part I, paragraph 1., the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.

If the recipient expends less than \$500,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the recipient expends less than \$500,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than Federal entities).

PART II: STATE FUNDED

This part is applicable if the recipient is a non-state entity as defined by Section 215.97(2)(l), Florida Statutes.

In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such recipient, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Executive Office of the Governor and the Comptroller; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this agreement indicates state financial assistance awarded through the Commission by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Commission other state agencies, and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for Federal program matching requirements.

In connection with the audit requirements addressed in Part II, paragraph 1, the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a

financial reporting package as defined by Section 215.97(2)(d), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

If the recipient expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$500,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).

PART III: OTHER AUDIT REQUIREMENTS

None

PART IV: REPORT SUBMISSION

Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by PART I of this agreement shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following:

The Commission at the following address:

Trevor Phillips, Audit Director
Florida Fish and Wildlife Conservation Commission
Bryant Building, Room 170
620 S. Meridian St.
Tallahassee, FL 32399-1600

The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

Pursuant to Section .320 (f), OMB Circular A-133, as revised, the recipient shall submit a copy of the reporting package described in Section .320 (c), OMB Circular A-133, as revised, and any management letters issued by the auditor, to the Commission at the following address:

Trevor Phillips, Audit Director
Florida Fish and Wildlife Conservation Commission
Bryant Building, Room 170
620 S. Meridian St.
Tallahassee, FL 32399-1600

Copies of financial reporting packages required by PART II of this agreement shall be submitted by or on behalf of the recipient directly to each of the following:

The Commission at the following address:

Trevor Phillips, Audit Director
Florida Fish and Wildlife Conservation Commission
Bryant Building, Room 170
620 S. Meridian St.
Tallahassee, FL 32399-1600

The Auditor General's Office at the following address:

Auditor General's Office
G74 Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

Any reports, management letter, or other information required to be submitted to the Commission pursuant to this agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

Recipients, when submitting financial reporting packages to the Commission for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the recipient in correspondence accompanying the reporting package.

Contact the Commission's Audit Director, Trevor Phillips, by phone at (850) 488-6068 or by email at trevor.phillips@fwc.state.fl.us

PART IV: RECORD RETENTION

The recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five (5) years from the date the audit report is issued, and shall allow the Commission or its designee, Comptroller, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Commission or its designee, Comptroller, or Auditor General upon request for a period of five (5) years from the date the audit report is issued, unless extended in writing by the Commission.

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EXHIBIT - I

FEDERAL FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Federal Agency: U.S. Fish and Wildlife Service
Federal Program: Federal Aid in Sport Fish Restoration Program
CFDA Number: 15.605
State Agency: Florida Fish and Wildlife Conservation Commission
State Program: Division of Marine Fisheries Artificial Reef Grants Program
Recipient: Lee County
Amount: **\$25,000**

COMPLIANCE REQUIREMENTS APPLICABLE TO THE FEDERAL FUNDS AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

1. Only the goods and/or services described within the attached Agreement and Attachment A are eligible expenditures for the funds awarded.
2. All provisions of Section 370.25, Florida Statutes and Rule 68E-9, Florida Administrative Code must be complied with in order to receive funding under this Agreement.
3. The Grantee must comply with the requirements of all applicable laws, rules or regulations relating to this artificial reef project.

STATE FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

None.

SUBJECT TO SECTION 215.97, FLORIDA STATUTES (Florida Single Audit Act):

None.

COMPLIANCE REQUIREMENTS APPLICABLE TO THE STATE FUNDS AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

Not applicable.

NOTE: Section .400(d) of OMB Circular A-133, as revised, and Section 215.97, Florida Statutes, require that the information about Federal and State projects included in Exhibit I be provided to the recipient.

Attachment D
FISH AND WILDLIFE SERVICE
STATE GRANT PROGRAMS

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 (NEPA)
- Floodplains and Wetlands Protection
- Animal Welfare Act of 1985
- Coastal Barrier 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)

FISH AND WILDLIFE SERVICE
STATE GRANT PROGRAMS

State Grant Programs

Part 523 Federal Aid Compliance Requirements

Chapter 1 Summary

523 FW 1.5A

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 Executive Order 11987, Exotic Organisms.

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).

FISH AND WILDLIFE SERVICE
STATE GRANT PROGRAMS

State Grant Programs

Part 523 Federal Aid Compliance Requirements

Chapter 1 Summary

523 FW 1.10A

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 1985, 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

FISH AND WILDLIFE SERVICE
STATE GRANT PROGRAMS

State Grant Programs

Part 523 Federal Aid Compliance Requirements

Chapter 1 Summary

523 FW 1.14C(2)

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:

FISH AND WILDLIFE SERVICE
STATE GRANT PROGRAMS

State Grant Programs

Part 523 Federal Aid Compliance Requirements

Chapter 1 Summary

523 FW 1.15D(2)(a)

- (a) Recording fees, transfer taxes, and similar costs;
- (b) Penalty cost for prepayment of pre-existing recorded mortgage; and
- (c) Proportion 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.

FISH AND WILDLIFE SERVICE
STATE GRANT PROGRAMS

State Grant Programs

Part 523 Federal Aid Compliance Requirements

Chapter 1 Summary

523 FW 1.17C

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
- (3) 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 Offices.

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

(Page 1 of 2)

**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.

(Page 2 of 2)