

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date:	January 4, 2022	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Workshop	<input type="checkbox"/> Public Hearing
Department:	<u>Environmental Resources Management</u>		

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) approve Agreement No. 21030 with the Florida Fish and Wildlife Conservation Commission (FWC) to provide up to \$60,000 of State funding (CSFA 77-007) for the construction of the 2022 FWC Artificial Reef (Project) within the Delray Dredge Hole artificial reef site, expiring September 30, 2022;

B) adopt a Resolution authorizing the Clerk of the Court to disburse \$74,000 from the Vessel Registration Fee Trust Fund to provide matching funding for the Project, including \$10,000 for contingencies;

C) approve a Budget Amendment of \$60,000 in the Environmental Enhancement Saltwater Fund, and a transfer from Reserves of \$74,000 for a total of \$134,000 in funding for the Project; and

D) authorize the County Administrator, or designee, to sign all future time extensions, task assignments, certifications, and other forms associated with this Agreement, and any necessary minor amendments that do not significantly change the scope of work, terms, or conditions of this Agreement.

Summary: The Agreement reimburses the County up to \$60,000 for the placement of a minimum of 700 tons of limestone boulders at the Delray Dredge Hole artificial reef site. The estimated total Project cost is \$134,000. The resolution and budget transfer from County Vessel Registration Fees, a non-ad valorem source, will cover the County's 51.6% match of \$64,000 with an additional \$10,000 contingency.

The Agreement contains indemnification and termination provisions that differ from that adopted for use by the County under PPM CW-F-049. In accordance with PPM CW-F-049, the Risk Management Department and the County Attorney's Office have reviewed the terms and agreed to the deviations, taking in to consideration the County's desire to deploy this artificial reef, the amount of the grant award, County's current performance of such habitat enhancement projects and liability for its acts, and the non-waiver of sovereign immunity beyond the statutory caps of 768.28, Florida Statutes. District 4 (SS)

Background and Justification: The 2022 FWC Artificial Reef will lie in 55-65 feet of water approximately 6.2 nautical miles southeast of the South Lake Worth Inlet. This location falls within the County's fully permitted Delray Dredge Hole artificial reef site. This Project will provide additional habitat for marine species offshore of Delray Beach Florida.

Attachments:

1. Agreement
2. Resolution
3. Budget Amendment (1224) / Transfer

Recommended by:	<u></u>	<u>12-1-21</u>	SAS 11/30/21
	Department Director	Date	
Approved by:	<u></u>	<u>12/29/2021</u>	
	Assistant County Administrator	Date	

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2022	2023	2024	2025	2026
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	<u>\$134,000</u>	_____	_____	_____	_____
External Revenues	<u><\$60,000></u>	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>\$74,000</u>	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in Current Budget?	Yes _____	No <u>X</u>			
Does this item include the use of federal funds?	Yes _____	No <u>X</u>			

Budget Account No.:

Fund 1224 Department 380 Unit 1038 Object 3401 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

Construction \$124,000
 Contingency \$ 10,000
 Total \$134,000

FWC Grant Agreement #21030 (-\$ 60,000)
 Saltwater Vessel Registration Fee Trust Fund \$ 74,000

C. Department Fiscal Review:

S. Murray

III. REVIEW COMMENTS

A. OFMB Fiscal and /or Contract Dev. and Control Comments:

Loren Mante 12/6/21
 OFMB 12-1-21
 AD 12/6/21
 Legal Sufficiency. 12/2/21

John J. Javorek 12/23/21
 Contract Development & Control

B. Legal Sufficiency:

[Signature]
 Assistant County Attorney

C. Other Department Review:

 Department Director

**STATE OF FLORIDA
FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION**

AGREEMENT NO. 21030

CFDA Title(s): n/a	CFDA No(s): n/a
Name of Federal Agency(s): n/a	
Federal Award No(s): n/a	Federal Award Year(s): n/a
Federal Award Name(s): n/a	
CSFA Title(s): Florida Artificial Reef Program	CSFA No(s): 77-007
State Award No(s): FWC-21030	State Award Year(s): 2021-22
State Award Name(s): Palm Beach County Artificial Reef Construction 2021-22	

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**,” and Palm Beach County, FEID # 59-6000785, whose address is 2300 N. Jog Road 4th Floor, West Palm Beach, FL 33411, hereinafter “**Grantee**.”

WHEREAS, the Commission and Grantee have partnered together to construct an artificial reef complex by deploying at least 700 tons of limestone boulders within an authorized permitted area; and,

WHEREAS, Grantee has been awarded Palm Beach County/FWC-21030; and,

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

NOW THEREFORE, the Commission and the Grantee, for the considerations hereafter set forth, agree as follows:

1. PROJECT DESCRIPTION.

The Grantee shall provide the services and perform the specific responsibilities and obligations, as set forth in the Scope of Work, attached hereto as Attachment A and made a part hereof (hereafter, Scope of Work). The Scope of Work 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 Grantee responses to the Commission’s request for competitive or other grant proposals, the Grantee’s response is hereby incorporated by reference.

2. PERFORMANCE.

The Grantee shall perform the activities described in the Scope of Work in a proper and satisfactory manner. Unless otherwise provided for in the Scope of Work, any and all equipment, products or materials necessary or appropriate to perform under this Agreement shall be supplied by the Grantee. Grantee shall obtain all necessary local, state, and federal authorizations necessary to complete this project, and the Grantee shall be licensed as necessary to perform under this Agreement as may be required by law, rule, or regulation; the Grantee shall provide evidence of such compliance to the Commission upon request. The Grantee 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 Grantee 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 Grantee. Grantee 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 pursuant to Paragraph eight (8) below, in the event the Grantee's ability to perform under this Agreement becomes compromised.

3. AGREEMENT PERIOD.

A. Agreement Period and Commission's Limited Obligation to Pay. This Agreement is made pursuant to a grant award and shall be effective upon execution by the last Party to sign and shall remain in effect through 09/30/2022. However, as authorized by Rule 68-1.003, F.A.C., 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 Grantee. The Grantee 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.

4. COMPENSATION AND PAYMENTS.

- A. Compensation.** As consideration for the services rendered by the Grantee under the terms of this Agreement, the Commission shall pay the Grantee on a cost reimbursement basis in an amount not to exceed \$60,000.00
- B. Payments.** The Commission shall pay the Grantee for satisfactory performance of the tasks identified in Attachment A, Scope of Work, 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 identified in Paragraph ten (10), below. Unless otherwise specified in the Scope of Work, 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 the Scope of Work, 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 reimburse the Grantee for allowable costs resulting from obligations incurred during the agreement period specified in Paragraph three (3).

- C. Invoices.** Each invoice shall include the Commission Agreement Number and the Grantee's Federal Employer Identification (FEID) Number. Invoices, with supporting documentation, may be submitted electronically to the attention of the Commission's Grant Manager identified in Paragraph ten (10), below. 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. Grantee acknowledges that the Commission's Grant Manager shall reject invoices lacking documentation necessary to justify invoiced expenses.
- D. Match.** Pursuant to grant program guidelines, the Grantee is required to contribute non-federal match towards this Agreement. If applicable, details regarding specific match requirements are included in Attachment A, Scope of Work.
- E. Travel Expenses.** If authorized in Attachment A, Scope of Work, travel expenses shall be reimbursed in accordance with Section 112.061, F.S.
- F. 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 Grantee in writing at the earliest possible time if funds are not appropriated or available.
- G. Non-Competitive Procurement and Rate of Payment.** Section 216.3475, F.S., requires that under non-competitive procurements, a Grantee 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, Grantee 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.
- 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 the Scope of Work 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 Grantee 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.** Grantee 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.

5. RETURN OR RECOUPMENT OF FUNDS.

- A. Overpayment to Grantee.** Pursuant to Section 215.971(1)(e) &(f), F.S., the Grantee shall return to the Commission any overpayments due to unearned funds or funds disallowed pursuant to the terms of this Agreement that were disbursed to Grantee by the Commission. In the event the Grantee or its independent auditor discovers that overpayment has been made, the Grantee 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 Grantee 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 "The Florida Fish and Wildlife Conservation Commission".
- B. Additional Costs or Monetary Loss Resulting from Grantee Non-Compliance.** If the Grantee'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 Grantee under this Agreement or any other agreement between Grantee 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 Grantee and the Commission, the Grantee 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 Grantee 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.

6. COMMISSION EXEMPT FROM TAXES, PROPERTY EXEMPT FROM LIEN.

- A. Commission Exempt from Taxes.** 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 terms of this Agreement. Grantee 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 Grant Manager.
- B. Property Exempt from Lien.** If the Grant involves the improvement of real property titled to the State of Florida, then the following paragraph applies:

The Grantee 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 Grantee shall include notice of such exemptions in any subcontracts and purchase orders issued hereunder.

7. MONITORING.

The Commission's Grant Manager shall actively monitor the Grantee'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 Attachment B, Audit Requirements. Additionally, monitoring terms, conditions, and schedules may be included in Attachment A, Scope of Work.

8. TERMINATION.

- A. Commission Termination.** The Commission may unilaterally terminate this Agreement for convenience by providing the Grantee with thirty (30) calendar days of written notice of its intent to terminate. The Grantee shall not be entitled to recover any cancellation charges or lost profits. The Grantee 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 Grantee with written notice of termination.
- C. Termination – Other.** The Commission may terminate this Agreement if the Grantee 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 Grantee shall not be entitled to recover any cancellation charges or lost profits.
- D. 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 Grantee. 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 Grantee will be compensated for any work satisfactorily completed and any non-cancellable obligations properly incurred prior to notification of termination.
- E. Grantee Discontinuation of Activities upon Termination Notice.** Upon receipt of notice of termination, the Grantee shall, unless the notice directs otherwise, immediately discontinue all activities authorized hereunder. Upon termination of this Agreement, the Grantee 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.

9. REMEDIES.

- A. Financial Consequences.** In accordance with Sections 215.971(1)(a) &(b), F.S., Attachment A, Scope of Work, 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 Grantee fails to produce each deliverable within the time

frame specified by the Scope of Work, the budget amount allocated for that deliverable will be deducted from the Grantee's payment. In addition, pursuant to Section 215.971(1)(c), the Commission shall apply any additional financial consequences, identified in the Scope of Work.

- B. Cumulative Remedies.** The rights and remedies of the Commission in this paragraph are in addition to any other rights and remedies provided by law or under the Agreement.

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 fax numbers, 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. A designation of a new Grant Manager shall not require a formal amendment to the Agreement.

FOR THE COMMISSION:

Grant Manager
 Jeff Renchen
 Fisheries Biologist IV
 Division of Marine Fisheries Management
 1875 Orange Ave. East
 Tallahassee, FL 32311
 Phone: (850) 617-9634
 Fax: n/a
 Jeffrey.renchen@myfwc.com

FOR THE GRANTEE:

Grant Manager
 Deborah Drum
 Environmental Program Director
 Palm Beach County
 2300 N. Jog Road, 4th Floor
 West Palm Beach, FL 33411
 Phone: (561) 233-2454
 Fax: n/a
 ddrum@pbcgov.org

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 Grantee'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 Regulation.** 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.

12. PROPERTY RIGHTS.

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

A. Intellectual and Other Intangible Property.

- i. Grantee's Preexisting Intellectual Property (Proprietary) Rights.** Unless specifically addressed in the Attachment A, Scope of Work, intellectual and other intangible property rights to the Grantee's preexisting property will remain with the Grantee.
- 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 Grantee 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 Grantee shall comply with Section 287.05805, F.S. This section requires the Grantee 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, Scope of Work. 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, Scope of Work.

C. Non-Expendable Property. The following provisions apply to the extent that the grant allows the acquisition of 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 **\$1,000.00** 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, Scope of Work.

- D. **Equipment and Supplies.** The following provisions apply to the extent that the grant allows the acquisition of 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.

13. RELATIONSHIP OF THE PARTIES.

- A. **Independent Grantee.** The Grantee shall perform as an independent grantee and not as an agent, representative, or employee of the Commission. The Grantee 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 Grantee and the Commission.
- B. **Grantee Training and Qualifications.** Grantee agrees that all Grantee employees, subcontractors, or agents performing work under the Agreement shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Grantee 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 Grantee shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by the Grantee. 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 Grantee of its obligation to perform all work in compliance with the Agreement. The Commission, in coordination with the Grantee, may reject and bar from any facility for cause any of Grantee's employees, subcontractors, or agents.
- D. **Commission Rights to Assign or Transfer.** The Grantee 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 Grantee.

- E. Commission Rights to Undertake and Award Supplemental Agreements.** Grantee agrees that the Commission may undertake or award supplemental agreements for work related to the Agreement. The Grantee and its subcontractors shall cooperate with such other Grantees and the Commission in all such cases.

14. SUBCONTRACTS.

- A. Authority.** Grantee is permitted to subcontract work under this Agreement, therefore, the following terms and conditions apply. The Grantee 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 Grantee must provide the Commission with the names of any subcontractor considered for work under this Agreement; the Commission in coordination with the Grantee reserves the right to reject any subcontractor. The Grantee 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 Grantee further agrees that the Commission shall not be liable to the extent allowed by law, to any subcontractor for any expenses or liabilities incurred under the subcontract and the Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.
- B. Grantee Payments to Subcontractor.** If subcontracting is permitted pursuant to Paragraph A, above, 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 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 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 in coordination with Grantee shall retain the right to reject any of the Grantee'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 Grantee 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 venture, or partner of the State of Florida.

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 and Conflict of Interest.** This Agreement is subject to Chapter 112, F.S. Grantee 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). Grantee must disclose, in writing, any potential conflict of interest to the Commission in accordance with applicable Federal awarding agency policy.
- B. Convicted Vendors.** Grantee hereby certifies that neither it, nor any person or affiliate of Grantee, has been convicted of a Public Entity Crime as defined in section 287.133, F.S., nor placed on the

convicted vendor list. Grantee 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 Grantee, 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:

http://www.dms.myflorida.com/business_operations/state_purchasing/vendor_information/convicted_suspended_discriminatory_complaints_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** Grantee certifies that it and any of its affiliates are not scrutinized companies as identified in Section 287.135, F.S. In addition, Grantee 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 Grantee, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Grantee, 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.

- D. **Discriminatory Vendors.** Grantee 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. Grantee has a continuing duty to disclose to the Commission whether they appear on the discriminatory vendor list.

- E. **Prompt Disclosure of Litigation, Investigations, Arbitration, or Administrative Proceedings.** Throughout the term of the Agreement, the Grantee 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 Grantee's ability to perform under this agreement. If the existence of such Proceeding causes the Commission concern that the Grantee's ability or willingness to perform the Agreement is

jeopardized, the Grantee may be required to provide the Commission with reasonable assurances to demonstrate that: a.) the Grantee will be able to perform the Agreement in accordance with its terms and conditions; and, b.) Grantee 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.

- F. **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), Grantee 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.

16. INSURANCE.

The Grantee warrants and represents that it is insured, or self-insured for liability insurance, in accordance with applicable state law and that such insurance or 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.

17. SPONSORSHIP.

As required by Section 286.25, F.S., if any recipient, subrecipient, contractor or subcontractor under this grant 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 (Grantee’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 Grantee’s organization. Additional sponsorship requirements may be specified in Attachment A, Scope of Work.

18. PUBLIC RECORDS.

- A. All records in conjunction with this Grant 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 Grantee 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 Grantee in conjunction with this Agreement, unless exemption for such records is allowable under Florida law.
- C. If the Grantee meets the definition of “Contractor” in Section 119.0701(1)(a) F.S., the Grantee 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.

19. COOPERATION WITH INSPECTOR GENERAL.

Pursuant to subsection 20.055(5), F.S., Grantee, and any subcontractor to the Grantee, 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 Grantee shall provide any type of information the Inspector General deems relevant to the Grantee's integrity or responsibility. Such information may include, but shall not be limited to, the Grantee's business or financial records, documents, or files of any type or form that refer to or relate to the Agreement. The Grantee 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 Grantee's compliance with the terms of this or any other agreement between the Grantee and the State which results in the suspension or debarment of the Grantee. Such costs shall include but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees.

20. SECURITY AND CONFIDENTIALITY.

The Grantee shall not divulge to third parties any clearly marked confidential information obtained by the Grantee or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Grant work. To ensure confidentiality, the Grantee shall take appropriate steps regarding its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Grant.

21. RECORD KEEPING REQUIREMENTS.

- A. **Grantee Responsibilities.** 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 principles.
- B. **State Access to Grantee Books, Documents, Papers, and Records.** The Grantee 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 Grantee'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. **Grantee Records Retention.** Unless otherwise specified in the Scope of Work, these records shall be maintained for five (5) fiscal years following the close of this Agreement, or the period required for this particular type of project by the General Records Schedules maintained by the Florida Department of State (available at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>), whichever is longer. Grantee shall cooperate with the Commission to facilitate the duplication and transfer of such records upon the Commission's request.
- D. **Grantee Responsibility to Include Records Requirements – Subcontractors.** In the event any work is subcontracted under this Agreement, the Grantee 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: <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 Grantee agrees to provide the information necessary, over the life of this Agreement, for the Commission to comply with this requirement.

22. FEDERAL AND FLORIDA SINGLE AUDIT ACT REQUIREMENTS.

Pursuant to the FSAA (or Federal) Vendor / Recipient Determination Checklist, the Grantee 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 Grantee may be subject to the audit requirements of the Florida and/or Federal Single Audit Acts. If applicable, the Grantee shall comply with the audit requirements outlined in Attachment B, "Requirements of the Federal and Florida Single Audit Acts," attached hereto and made a part of the Agreement, as applicable.

23. FEDERAL COMPLIANCE.

As applicable, Grantee 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 that 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.

24. FEDERAL FUNDS. No Federal Funds are applied to this Agreement, therefore, the following terms and conditions do not apply.

- A. **Prior Approval to Expend Federal Funds to Federal Agency or Employee.** It is understood and agreed that the Grantee is not authorized to expend any federal funds under this Contract 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). 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.** The Davis-Bacon Act, 40 U.S.C. 3141-3148, as supplemented by Department of Labor regulations at 29 CFR Part 5. 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.
- 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). 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). 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.** 37 CFR Part 401. 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).
- H. Debarment and Suspension Contractor Federal Certification.** In accordance with Federal Executive Order 12549 and 2 CFR Part 1400 regarding Debarment and Suspension, the Grantee 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 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.
- I. Prohibition against Lobbying.**
- i. Grantee Certification – Payments to Influence.** 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. The Grantee 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 Grantee with respect to this Contract and its related federal contract, grant, loan, or cooperative agreement; or, if the Grantee has engaged any registrant with respect to this Contract and its related Federal contract, grant, loan, or cooperative agreement, the Grantee 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 Grantee 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 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.
 - ii. Grantee – Refrain from Subcontracting with Certain Organizations.** Pursuant to the Lobbying Disclosure Act of 1995, the Grantee 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, Grantee shall comply with the following 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 Grantee attests and certifies that the Grantee will provide a drug-free workplace compliant with 41 U.S.C. 81.

25. CONTRACT-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.** Grantee 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.

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 Agreement 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 contract.

- 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.

27. INDEMNIFICATION.

If Grantee is a state agency or subdivision, as defined in Subsection 768.28(2), F.S., pursuant to Subsection 768.28(19), F.S., neither Party indemnifies nor insures the other Party for the other Party's negligence. If Grantee is not a state agency or subdivision as defined above, Grantee 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 Grantee, its agents, employees, partners, or subcontractors, provided, however, that Grantee 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.

28. NON-DISCRIMINATION.

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.

29. SEVERABILITY, CHOICE OF LAW, AND CHOICE OF VENUE.

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, to the exclusion of all other lawful venues.

30. 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.

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 Grantee of *quantum meruit*.

32. PROHIBITION OF UNAUTHORIZED ALIENS.

In accordance with Federal Executive Order 96-236, the Commission shall consider the employment by the Grantee 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 Grantee knowingly employs unauthorized aliens.

33. 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 Purchase Order term; and 2.) include in all subcontracts under this Purchase Order, the requirement that subcontractors performing work or providing services pursuant to this Purchase Order 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 Purchase Order with the Commission, Contractors and Subcontractors shall register with and use the E-Verify system. Failure to do so shall result in the Purchase Order not being issued, or if discovered after issuance, termination of the Purchase Order.
- 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 Purchase Order and the Commission may treat a failure to comply as a material breach of the agreement. If the Commission terminates the Purchase Order 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 Purchase Order.

34. 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 the Grantee believes is excusable under this paragraph, Grantee shall notify the Commission's Grant 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 Grantee could reasonably foresee that a delay could occur as a result; or (2) within five (5) calendar days after the date Grantee first had reason to believe that a delay could result, if the delay is not reasonably foreseeable. **THE FOREGOING SHALL CONSTITUTE GRANTEE'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 Grantee of its decision in writing. No claim for damages, other than for an extension of time, shall be asserted against the Commission. Grantee 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, Grantee 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 Grantee, provided that Grantee 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 Grantee 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.

35. 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 Grantee's obligation to timely provide deliverables under this Agreement including but not limited to timely submittal of reports, are contained in the Scope of Work, Attachment A.

36. 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 Grantee's response to the solicitation.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE TO FOLLOW**

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.

Palm Beach County

Florida Fish and Wildlife Conservation
Commission

Signature

Executive Director (or designee)

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

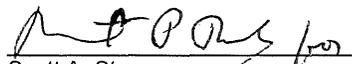
Approved as to form and legality:

/s/ James M. Collins III
FWC Attorney Signature

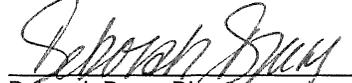
Attachments in this Agreement include the following:

- Attachment A Scope of Work
- Attachment B Requirements of the Federal and Florida Single Audit Acts
- Attachment C Cost Reimbursement Contract Payment Requirements
- Attachment D Certification Regarding Debarment/Suspension for Subcontracts
- Attachment E Certification of Completion

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

 12/23/21
Scott A. Stone Date
Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

 12-1-21
Deborah Drum, Director Date
Environmental Resources Management

Attachment A – SCOPE OF WORK

Project Name:	Palm Beach County Artificial Reef Construction 2021-22	FWC Agreement No.	21030
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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 by deploying at least 700 tons of limestone boulders amongst two patch reefs within the Delray Dredge Hole Artificial Reef permitted area. Each patch reef will consist of artificial reef materials placed as a single pile (approximately 350 tons each) at a designated location within the boundaries of the Delray Dredge Hole permitted area (SAJ-2018-01279) at a depth of 55-65 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 700 tons of limestone boulders or clean secondary-use concrete material deemed acceptable to the **COMMISSION**. All artificial reef materials shall be clean and free from excess dirt, asphalt, creosote, petroleum, or other hydrocarbons and toxic residues, loose free floating material or other deleterious substances.
2. Individual artificial reef materials shall weigh a minimum of 500 lbs. and measure a minimum of three feet in diameter. The **GRANTEE** shall evaluate the structural integrity of each limestone boulder proposed for use, and shall eliminate from consideration all fragile or soft boulders that would be prone to break apart into pieces less than 500 pounds in weight during the handling and transport process.
3. The **GRANTEE** upon request agrees to provide to the **COMMISSION's** Contract Manager an updated inventory report that accurately describes the material stockpiled in the staging area recommended for artificial reef utilization. The staging area inventory report will include a brief narrative of the material stockpile, pictures, and estimated weight of individual reef materials.
4. Reimbursement for loading, transporting and deploying the materials will be based on the minimum criteria specified in the Deliverables section. Materials that are not placed within the boundaries of the permitted will not be reimbursed.
5. 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 boulders), and take a representative photograph of the artificial reef material on the barge or other deployment vessel immediately prior to deployment. The calculations and photos shall be included with the Materials Placement Report.
6. The **GRANTEE** agrees to allow the **COMMISSION** to conduct on-site inspections of the artificial reef materials before, during, and after the deployment.

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LOADING AND TRANSPORTATION

7. 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.
8. The **GRANTEE's** Project Manager shall ensure the FWC Artificial Reef Cargo Manifest form is 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>. At least 14 days prior to the deployment, the completed FWC Artificial Reef Cargo Manifest form must also be submitted via email to the **COMMISSION's** Contract Manager, ArtificialReefDeployments@myfwc.com, and other notifying agencies as required by the permit.

DEPLOYMENT AND MATERIALS PLACEMENT

9. During the deployment of the artificial 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 limestone boulder patch reef on the bottom. Sufficient anchoring and positioning by the deployment vessel is required to ensure the individual reef materials being deployed are not widely scattered.
10. 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, crew operating the deployment equipment, and the designated **GRANTEE** observer on site.
11. 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.
12. At least 700 tons of artificial reef materials under this Agreement will be deployed as two (2) piles of about 350 tons each to create two patch reefs within the permitted area as specified in the deployment plan and listed in Table 1 below at the following coordinates:

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TABLE 1

Patch Reef #	Latitude	Longitude	Depth (ft)
1	26° 27.167' N	80° 02.951' W	55-65
2	26° 27.184' N	80° 02.969' W	55-65

13. The **GRANTEE** shall provide a bottom survey for **COMMISSION** review and approval at least 14 days prior to deployment. The bottom survey must be a visual site survey completed by certified SCUBA divers. The entire extent of the proposed deployment area must be surveyed during the dive(s). The bottom survey report shall include a narrative of the survey methods, results and photo documentation of the bottom.
14. The minimum vertical clearance of 40 ft. shall be maintained above the highest point of the reef material in the Delray Dredge Hole Reef permitted site (in accordance with the special conditions of the US Army Corps of Engineers permit number SAJ-2018-01279 (SP-KAE)).
15. 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.
16. 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 and navigational clearance of the constructed reefs using a fathometer after the reef construction has been completed.
17. 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 ensuring that all permit condition terms are complied with.
18. 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,

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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

19. 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.
20. A pre-deployment survey is required and a post-deployment survey is optional for this deployment. The SCUBA assessment(s) conducted by the **GRANTEE** at the deployment location(s) (post deployment assessment is not required, but is an eligible activity for reimbursement under Chapter 68E-9.004(1)(a), F.A.C.), are eligible for reimbursement as long as the work is completed within the current grant period. In addition, a survey report must be submitted to the **COMMISSION** 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*: dive plan, start and end time of each dive, dive profile, 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 or WAAS coordinates were recorded. 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. What is the proximity of limestone boulders 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 representative still and/or video footage of each deployment location.

LIABILITY AND RESPONSIBILITY FOR REEF MATERIALS

21. The **GRANTEE**’s subcontracts shall be written such that 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

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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.
- 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.

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- 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.

2. DELIVERABLES

A. Deliverable #1 (Artificial Reef Construction)

Construction of a marine artificial reef by deploying at least 700 tons of limestone boulders amongst two (2) patch reefs within the Delray Dredge Hole Artificial Reef permitted area. Each of the patch reefs will consist of artificial reef materials placed as a single pile (approximately 350 tons each) placed at designated locations 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 700 tons of clean limestone boulders artificial reef material 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 limestone boulders cannot be obtained or are not known, barge displacement measurements are required. The **GRANTEE's** Project Manager 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 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

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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, 2022. A one-time short term time extension of up to twenty-nine (29) days (through the Agreement end date of September 30, 2022) 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, 2022. Subcontracts with completion dates even earlier than September 1, 2022 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 or portion of the project not completed for each deliverable will be deducted from the Grantee's payment based upon their unit cost specified by the Scope of Work.
- 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, and identifying any problems that may have arisen and actions taken to correct such problems.
- 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.

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- 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 Florida saltwater fishing license revenues in assisting in the funding of this activity.

5. COMPENSATION AND PAYMENT

A. COST REIMBURSEMENT

- 1. 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 C. The **GRANTEE** shall provide a minimum matching contribution as specified in Attachment B, Exhibit 1.
- 2. The **COMMISSION** shall make payment to the **GRANTEE** for an amount of the total project eligible cost less the \$64,000 match, not to exceed \$60,000.00 of approved invoiced costs. The \$64,000.00 of invoice costs not reimbursed by the **COMMISSION** shall represent the **GRANTEE's** matching contribution as required by the **COMMISSION's** grant.

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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 November 10, 2022 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

- 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.

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.

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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.
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 D. As required by sentences 1 and 2 above, the **GRANTEE** shall

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include the language of this section, and Attachment D in all subcontracts or lower tier agreements executed to support the **GRANTEE's** work under this Agreement.

C. PAYMENT BOND

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

D. PERFORMANCE BOND

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

E. CERTIFICATE OF CONTRACT COMPLETION

The Grantee will be required to complete a Certificate of Completion form (Attachment E) 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.

F. CERTIFICATE OF PARTIAL PAYMENT

This Section is not applicable and intentionally left blank.

G. GRANTEE PAYMENTS TO SUBCONTRACTOR

Grant Agreement No. 21030, 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 1 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
STATE AND FEDERAL FINANCIAL ASSISTANCE

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

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

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

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.

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
STATE AND FEDERAL FINANCIAL ASSISTANCE

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
STATE AND FEDERAL FINANCIAL ASSISTANCE

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:
not applicable
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:
not applicable
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:
not applicable
2. Federal Program B:
not applicable

AUDIT REQUIREMENTS FOR AWARDS OF
STATE AND FEDERAL FINANCIAL ASSISTANCE

Subject to Section 215.97, F.S.:

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.

1. State Project A:
Florida Artificial Reef Program, 77-007, \$60,000
2. State Project B:
not applicable

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

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.

1. State Project 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 \$64,000) in support of the Commission's grant.
2. State Project B:
not applicable

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.

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 or (850) 413-3060.

**ATTACHMENT C:
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 D
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.

debar.226/rev.12/00



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

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.

 (Signature)

 (Date)

RESOLUTION NO. 2022-_____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AUTHORIZING THE CLERK TO DISBURSE FUNDS FROM THE COUNTY VESSEL REGISTRATION FEES TRUST FUND FOR CONSTRUCTING HABITAT ENHANCEMENT TO THE DELRAY DREDGE HOLE ARTIFICIAL REEF SITE.

WHEREAS, Palm Beach County enacted the Vessel Registration Fee Ordinance, No. 88-40 which began collecting fees June 1, 1989; and

WHEREAS, the Vessel Registration Fee Ordinance provides that monies collected from vessel registration fees be utilized to protect coastal marine and estuarine habitats, maintain and enhance fisheries and other salt and freshwater habitats, and construct artificial reefs; and

WHEREAS, the current Delray Dredge Hole artificial reef site was permitted in 2018; and

WHEREAS, the enhancement of this site will involve placing a minimum of 700 tons of limestone boulders to create a reef approximately 6.2 miles SE from South Lake Worth Inlet that will increase fisheries and marine life habitat and provide new areas for diving, fishing and boating activities; and

WHEREAS, the work will cost \$134,000, which includes a \$10,000 contingency, and will be covered, in part, by a \$60,000 grant agreement from the Florida Fish and Wildlife Conservation Commission; and

WHEREAS, the County's portion of the work will include using \$74,000 from the County's Vessel Registration Fee Trust Fund; and

WHEREAS, the Director of Environmental Resources Management recommends that the Board of County Commissioners authorize the Clerk of the Court to disburse Vessel Registration Fee Trust Fund monies in the amount of \$74,000 to cover a portion of project funds for enhancement of the Delray Dredge Hole artificial reef site.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY FLORIDA, that:

Section 1: The foregoing recitals are hereby adopted and ratified. and incorporated herein by reference.

Section 2: The Board of County Commissioners hereby authorizes the Clerk to disburse funds from the County Vessel Registration Fee Trust Fund in an amount of \$74,000 for building an artificial reef at the Delray Dredge Hole artificial reef site.

Section 3: Effective Date. This Resolution shall become effective upon adoption.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

- Commissioner Robert S. Weinroth, Mayor _____
- Commissioner Gregg K. Weiss, Vice Mayor _____
- Commissioner Maria G. Marino _____
- Commissioner Dave Kerner _____
- Commissioner Maria Sachs _____
- Commissioner Melissa McKinlay _____
- Commissioner Mack Bernard _____

The Mayor thereupon declared the Resolution duly passed and adopted this _____ day of _____, 2022.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

JOSEPH ABRUZZO
Clerk of the Circuit Court & Comptroller

By: Scott A. Stone Date: 12/23/21 By: _____
Assistant County Attorney Deputy Clerk

22- 0228

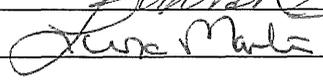
BOARD OF COUNTY COMMISSIONERS
 PALM BEACH COUNTY, FLORIDA
 BUDGET AMENDMENT

Fund 1224 Environmental Enhance - Saltwater

BGEX 380 112221-449
 BGRV 380 112221-102

ACCT.NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED As of 11/22/2021	REMAINING BALANCE
<u>REVENUES</u>								
1224-380-1038-3439	State Grnt Other Phys Envir	0	0	60,000	0	60,000		
Total Receipts and Balances		1,085,570	1,085,570	60,000	0	1,145,570		
<u>EXPENDITURES</u>								
1224-380-1038-3401	Other Contractual Services	0	0	134,000	0	134,000	0	134,000
1224-380-3891-9902	Operating Reserves	724,291	474,291	0	74,000	400,291		400,291
Total Appropriations & Expenditures		1,085,570	1,085,570	134,000	74,000	1,145,570		

Office of Financial Management & Budget
 INITIATING DEPARTMENT/DIVISION
 Administration/Budget Department Approval
 OFMB Department - Posted

Signatures & Dates
 12-1-21
 12/6/21

By Board of County Commissioners
 At Meeting of
 January 4, 2022
 Deputy Clerk to the
 Board of County Commissioners