

REQUEST FOR BID

**AQUATIC LIFE ECOSYSTEM (ALE) REEF CONSTRUCTION
with
Engineered Pre-Fabricated Reef Modules**

OKALOOSA COUNTY, FLORIDA



RFP #: SW 25-12

BID OPENS: May 31, 2012 @ 3:00 P.M.

NOTICE TO BIDDERS

Notice is hereby given that the Board of County Commissioners (the Board) of Okaloosa County, FL, will accept sealed bids until 3:00 p.m. (local time), for the **Okaloosa County Engineered Pre-Fabricated Reef Modules Artificial Reef Construction Project – Aquatic Life Ecosystem (ALE) Reef** located in the Gulf of Mexico approximately 22 nautical miles on a bearing of 147° from Destin Pass at a depth of approximately 121 ft. Pursuant to copies of bid provisions, bid forms, and specifications may be obtained from Okaloosa County Purchasing Department, 602-C North Pearl Street, Crestview, FL 32536, 850-689-5960 or they may be downloaded from our website at www.co.okaloosa.fl.us (navigation thread - Departments / Purchasing / Vendor Registration / Opportunities). This will link to the Florida Panhandle Purchasing Group website where County bid specifications are posted.

On May 31, 2012 at 3:00 p.m. (CST), the bids will be opened and read aloud. All bids must be delivered in sealed envelopes reflecting on the outside thereof the **bidder's name** and the following:

**"Bid on Okaloosa County
AQUATIC LIFE ECOSYSTEM (ALE) REEF CONSTRUCTION
to be opened on May 31, 2012 at 3:00 p.m.**

There is no obligation on the part of the County to award the bid to the bidder with lowest price, and the County reserves the right to award the bid to the bidder submitting a responsive bid with a resulting negotiated agreement which is most advantageous providing the best value and highest quality to Okaloosa County, and to waive any irregularity or technicality in bids received. Okaloosa County shall be the sole judge of the bid and the resulting negotiating agreement that is in its best interest and its decision shall be final.

Any bidder failing to mark outside of envelope as set forth herein may not be entitled to have their bid considered.

All RFP's should be delivered to the Okaloosa County Purchasing Department at the address listed below no later than 3:00 PM CST, May 31, 2012, in order to be considered.

This project is funded through the Florida Fish & Wildlife Conservation Commission (FWC) and the Federal Aid in Sport Fish Restoration Program. A copy of the Grant Agreement between Okaloosa County and the FWC is attached to this RFP. This agreement has one document that must be agreed to and signed by the bidder in Attachment E.

All bids should be addressed as follows:

Clerk of the Circuit Court
Attn: Gary Stanford
302 N. Wilson St. #203
Crestview FL 32536

Richard L Brannon
Purchasing Director

Date

BOARD OF COUNTY COMMISSIONERS
OKALOOSA COUNTY

Don R. Amunds
Chairman

SPECIFICATIONS

RFP #: SW 25-12

RFP ITEM: "ALE REEF", OKALOOSA COUNTY, ENGINEERED PRE-FABRICATED REEF MODULES, ARTIFICIAL REEF PROJECT

The purpose of this RFP is to secure sealed bids for the acquisition and deployment of the greatest number of acceptable **Engineered Pre-Fabricated Reef Modules** as described in Attachment A – Scope of Services that can be deployed for an amount not to exceed \$63,000.00. All material is referred to as "pre-fabricated" in this RFP.

The County reserves the right to choose a material or product that best meets its needs and to select quantities as it so chooses.

This project is funded by the U. S. Fish & Wildlife Service -Federal Aid in Sport Fish Restoration Program, and the Florida Fish & Wildlife Conservation Commission - Division of Marine Fisheries Artificial Reef Grants Program, Grant No. FWC-11223 attached hereto and made a part hereof as Attachment "B".

Bidders must include a concise description of the type of material being proposed. Description should include dimensions, weight, pictures or illustrations (if possible), unit pricing and support literature (if available). Bidders must also provide a description of the proposed equipment resources that are proposed to be used to complete the deployment, a deployment plan describing how the material will be deployed, a planned schedule of operations, and a detailed description of experience and understanding of artificial reef deployments, including a list of artificial reef deployments conducted within at least the last 5 years. The County reserves the right to disqualify any RFP it seems not providing clear descriptive information.

Selection preference will be biased to the bidder who proposes to deploy the greatest number of artificial reef units that meet or exceed the minimum standards and the criteria (point system) as described in Attachment "A".

This RFP Package is divided into multiple Sections:

Notice to Bidders

Specifications

Contract

Special Conditions

Form - Conflict of Interest Disclosure

Form - Drug Free Workplace Certification

Form - Indemnification and Hold Harmless

Form - Notice of Award

Form - Notice to Proceed

Bid Evaluation

Attachment A – Scope of Services

Bidders desiring consideration should provide an original and two (2) copies of their bid, which should include a description of the bidder's organization, key personnel, experience and approach to the project relating to the scope of work provided in this RFP package.

SPECIAL CONDITIONS

1. The County reserves the right to waive any informalities or reject any and all bids, in whole or part, to utilize any applicable state contracts in lieu of or in addition to this bid, and to accept the bid that in its judgment will best serve the interest of the County. The County specifically reserves the right to reject any conditional bid and will normally reject those that made it difficult to determine the true amount of the bid.
2. Addition/Deletion of Items: The County reserves the right to add or delete any item from this bid or resulting contract when deemed to be in the County's best interest.
3. Bids will not be considered from vendors who are currently involved in official financial re-organization or bankruptcy proceedings.
4. Payments: The contractor shall be paid upon submission of invoices in duplicate, to:

Okaloosa County Board of Commissioners
Finance Department
302 N. Wilson St. #203
Crestview, FL 32536-3502.

The prices stipulated herein for articles delivered and accepted. Invoices must show purchase order numbers.

5. **Information:** Questions concerning bid requirements or specifications should be directed to the Okaloosa County Purchasing Department, 602-C North Pearl St., Crestview, FL 32536; Phone # 850-689-5960, Attn: Richard Brannon. Any changes by the County to specifications shall be in writing in the form of an addendum and furnished to all bidders. Verbal information obtained otherwise will not be considered in awarding of bids.
6. **Right to Waive & Reject:**
 - A. The Board, in its absolute discretion, may reject any bid of a bidder that has failed, in the opinion of the Board, to complete or perform an Okaloosa County contracted project in a timely fashion or has failed in any other way, in the opinion of the Board, to perform a prior contract in a satisfactory manner, and has directed the Okaloosa County Purchasing Director to emphasize this condition to potential bidders.

- B. There is no obligation on the part of the County to award the bid to the low bidder, and the County reserves the right to award the bid to bidder submitting a responsive bid with a resulting negotiated agreement which is most advantageous providing the best value and highest quality to Okaloosa County, and to reject any and all bids or to waive any irregularity or technicality in bids received. Okaloosa County shall be the sole judge of the bid and the resulting negotiated agreement that is in its best interest and its decision shall be final.
- C. The Board of County Commissioners reserves the right to waive any informalities or reject any and all bids, in whole or part, to utilize any applicable state contracts in lieu of or in addition to this bid and to accept the bid that in its judgment will best serve the interest of the County.
- D. The Board of County Commissioners specifically reserves the right to reject any conditional bid and will normally reject those that made it difficult to determine the true amount of the bid. Each item must be proposed separately and no attempt is to be made to tie any item or items to any other item or items (unless otherwise instructed in the bid package).

7. **Disqualification of Bidders**

Any of the following reasons may be considered by the County as sufficient for the disqualification of a bidder and the rejection of his bid or bids:

- A. More than one bid for the same work from an individual, firm or corporation under the same or different name.
- B. Evidence that the bidder has a financial interest in the firm of another bidder for the same work.
- C. Evidence of collusion among bidders. Participants in such collusion will receive no recognition as bidders for any future work of the County until such participant shall have been reinstated as a qualified bidder.
- D. Uncompleted work that in the judgment of the County might hinder or prevent the prompt completion of additional work if awarded.

- E. Failure to pay or satisfactorily settle all bills due for labor and material on former contracts in force at the time of advertisement of bids.
 - F. Default under previous contract.
 - G. The Board, in its absolute discretion, may reject any bid that has failed, in the opinion of the Board, to complete or perform an Okaloosa County contracted project in a timely fashion or has failed in any other way, in the opinion of the Board, to perform a prior contract in a satisfactory manner, and has directed the Okaloosa County Purchasing Director to emphasize this condition to potential bidders.
8. **Bid Opening:** Opening shall be public on the date and time specified. It is the bidders responsibility to assure that his bid is delivered at the proper time and place. Offers by telegram, facsimile, or telephone are **NOT ACCEPTABLE**. **NOTE:** Crestview, FL is "**not a next day guaranteed delivery location**" by delivery services.
9. **Public Entity Crime Information:** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids 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 in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
10. **Conflict of Interest:** The award hereunder is subject to the provisions of Chapter 112, Florida Statutes. All respondents must disclose with their bid, the name of any officer, director, or agent who is also a public officer or an employee of the Board, or any of its agencies.

Furthermore, all respondents must disclose the name of any County officer or employee who owns, directly or indirectly, any interest of five percent (5%) or more in the firm or any of its branches.

Furthermore, the official, prior to or at the time of submission of the bid, must file a statement with the Clerk of Circuit Court of Okaloosa County, if he is an officer or employee of the

County, disclosing his or spouse's or child's interest and the nature of the intended business.

NOTE: For the bidders' convenience, this certification form is enclosed and is made a part of the bid package.

11. **Identical Tie Bids:** Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quality and service are received by the County for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process (see attached certification form).

Established procedures for processing tie bids will be followed if any of the competing vendors has a drug-free workplace program.

NOTE: For the bidders' convenience, this certification form is enclosed and is made a part of the bid package.

12. **Discrimination:** An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity.

13. **Indemnification & Hold Harmless:** To the fullest extent permitted by law, the contractor shall indemnify and hold harmless the County, its officers and employees from liabilities, damages, losses, and costs including but not limited to reasonable attorney fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the contractor and other persons employed or utilized by the contractor in the performance of this Agreement.

NOTE: For bidder's convenience, this certification form is enclosed and is made a part of the bid package.

14. **Contractor's Insurance**

- A. The CONTRACTOR shall not commence any work in connection with this Agreement until he has obtained all required insurance and such insurance has been approved by the Okaloosa County Risk Management Director.
- B. All insurance policies shall be with insurers licensed to do business in the State of Florida, and any insuring company is required to have a minimum rating of A, Class X in the Best Key Rating Guide published A. M. Best & Co., Inc.
- C. All insurance shall include the interest of all entities names in and its respective agents, consultants, servants and employees of each and all other interests as may be reasonably required by Okaloosa County as Additional Insured. The coverage afforded the Additional Insured under this policy shall be primary insurance. If the Additional Insured have other insurance that is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount of the company's liability under this policy shall not be reduced by the existence of such other insurance.
- D. The County of Okaloosa shall be listed as Additional Insured by policy endorsement on all insurance contracts applicable to this Agreement except Workers' Compensation and Professional Liability.
- E. The County of Okaloosa shall be furnished proof of coverage by certificates of insurance (COI) and endorsements for every applicable insurance contract required by this Agreement. The COI's and policy endorsements must be delivered to the County Representative not less than ten (10) days prior to the commencement of any and all contractual agreements between the County of Okaloosa and the CONTRACTOR.
- F. The County shall retain the right to reject all insurance contracts that do not meet the requirement of this Agreement. Further, the County reserves the right to change these insurance requirements with 60-day notice to the CONTRACTOR.
- G. The insurance definition of Insured or Additional Insured shall include Subcontractor, Sub-subcontractor, and any associated or subsidiary companies of the CONTRACTOR, which are involved, and which is a part of the contract.

- H. The County reserves the right at any time to require the CONTRACTOR to provide certified copies of any insurance policies to document the insurance coverage specified in this Agreement.
- I. The designation of CONTRACTOR shall include any associated or subsidiary company which is involved and is a part of the contract and such, if any associated or subsidiary company involved in the project must be named in the Workers' Compensation coverage.
- J. All policies shall be written so that the County will be notified of cancellation or restrictive amendments at least thirty (30) days prior to the effective date of such cancellation or amendment. Such notice shall be given directly to the County Representative.

Workers' Compensation Insurance

- A. The CONTRACTOR shall secure and maintain during the life of this agreement Workers' Compensation insurance for all of his employees employed for the project or any site connected with the work, including supervision, administration or management, of this project and in case any work is sublet, with the approval of the County of Okaloosa, the CONTRACTOR shall require the Subcontractor similarly to provide Workers' Compensation insurance for all employees employed at the site of the project, and such evidence of insurance shall be furnished the County of Okaloosa not less than ten (10) days prior to the commencement of any and all sub-contractual agreements which have been approved by the County of Okaloosa.
- B. Such insurance shall comply with the Florida Workers' Compensation Law and Comprehensive Maritime Injured Workers' Coverage.
- C. No class of employee, including the CONTRACTOR himself, shall be excluded from the Workers' Compensation insurance coverage. The Workers' Compensation insurance shall also include Employer's Liability coverage.

Business Automobile and Commercial General Liability Insurance

- A. The CONTRACTOR shall maintain Business Automobile Liability insurance coverage

throughout the life of this Agreement. The insurance shall include Owned, Non-owned & Hired Motor Vehicle coverage.

- B. The CONTRACTOR shall carry other Commercial General Liability insurance against all other Bodily Injury, Property Damage and Personal and Advertising Injury exposures. The coverage shall include both On-and Off-Premises Operations, Contractual Liability, Board Form Property Damage, and Professional Liability.
- C. All liability insurance (other than Professional Liability) shall be written on an occurrence basis and shall not be written on a claim-made basis. If the insurance is issued with an aggregate limit of liability, the aggregate limit of liability shall apply only to the locations included in this Agreement. If, as the result of any claims or other reasons, the available limits of insurance reduce to less than those stated in the Limits of Liability, the CONTRACTOR shall notify the County representative in writing. The CONTRACTOR shall purchase additional liability insurance to maintain the requirements established in this Agreement. Umbrella or Excess Liability insurance can be purchased to meet the Limits of Liability specified in this Agreement.
- D. Commercial General Liability coverage shall be endorsed to include the following:
 - 1.) Premises – Operation Liability
 - 2.) Occurrence Bodily Injury and Property Damage Liability
 - 3.) Independent Contractor's Liability
 - 4.) Completed Operations and Products Liability
- E. CONTRACTOR shall agree to keep in continuous force Commercial General Liability coverage including Completed Operations and Products Liability for two (2) years beyond acceptance of project.

Limits of Liability

The insurance required shall be written for not less than the following, or greater if required by law and shall include Employer's liability with limits as prescribed in this contract:

	<u>LIMIT</u>
A. Worker's Compensation	
1.) State	Statutory

2.)	Employer's Liability	\$1,000,000 each accident
B.	Business Automobile & Commercial General Liability Insurance	\$1,000,000 each occurrence (A combined single limit)
C.	Personal and Advertising Injury	\$250,000

Notice of Claims or Litigation

The CONTRACTOR agrees to report any incident or claim that results from performance of this Agreement. The County representative shall receive written notice in the form of a detailed written report describing the incident or claim within ten (10) days of the CONTRACTOR's knowledge. In the event such incident or claim involves injury and/or property damage to a third party, verbal notification shall be given the same day the CONTRACTOR becomes aware of the incident or claim followed by a written detailed report within ten (10) days of verbal notification.

Certificate of Insurance

- A. Certificates of insurance, in duplicate, indicating the job site and evidencing all required coverage must be submitted to and approved by Okaloosa County prior to the commencement of any of the work. The certificate holder(s) shall be as follows:

Okaloosa County
602-C North Pearl Street
Crestview, Florida 32536

- B. All policies shall expressly require 30 days written notice to Okaloosa County at the address set out above, or the cancellations of material alterations of such policies, and the Certificates of Insurance, shall so provide.
- C. All certificates shall be subject to Okaloosa County's approval of adequacy of protection and the satisfactory character of the Insurer.
- D. The Certificates of Insurance shall disclose any and all deductibles or self-insured retentions (SIRs). Deductibles or SIRs in excess of \$10,000 will not be accepted unless specifically approved in writing by Okaloosa County. All deductibles or SIRs, whether

approved by Okaloosa County or not, shall be the CONTRACTOR's full responsibility. In particular, the CONTRACTOR shall afford full coverage as specified herein to entities listed as Additional Insured.

- E. In no way will the entities listed as Additional Insured be responsible for, pay for, be damaged by, or limited to coverage required by this schedule due to the existence of a deductible or SIR. Specific written approval from Okaloosa County will only be provided upon demonstration that the CONTRACTOR has the financial capability and funds necessary to cover the responsibilities incurred as a result of the deductible or SIR.
- F. In the event of failure of the CONTRACTOR to furnish and maintain said insurance and to furnish satisfactory evidence thereof, Okaloosa County shall have the right (but not the obligation) to take out and maintain insurance on the project. All costs for the coverage will be paid by CONTRACTOR upon presentation of a bill.

General Terms

Any type of insurance or increase of limits of liability which is not described above and is required of the CONTRACTOR for its own protection or on account of statute, shall be its own responsibility and at its own expense.

The carrying of the insurance described shall in no way be interpreted as relieving the CONTRACTOR of any responsibility under this contract.

Should the CONTRACTOR engage a subcontractor or sub-subcontractor, the same conditions will apply under this agreement to each subcontractor and sub-subcontractor.

The CONTRACTOR hereby waives all rights of subrogation against Okaloosa County and its consultants and other indemnities of the CONTRACTOR under all the foregoing policies of insurance.

Umbrella Insurance

The CONTRACTOR shall have the right to meet the liability insurance requirements with the purchase of an umbrella insurance policy. In all instances, the combination of primary and umbrella liability coverage must equal or exceed the minimum liability insurance limits stated in this agreement.

CONFLICT OF INTEREST DISCLOSURE FORM

For purposes of determining any possible conflict of interest, all bidders, must disclose if any Okaloosa Board of County Commissioner, employee(s), elected officials(s), of if any of its agencies is also an owner, corporate officer, agency, employee, etc., of their business.

Indicate either "yes" (a county employee, elected official, or agency is also associated with your business), or "no". If yes, give person(s) name(s) and position(s) with your business.

YES _____

NO _____

NAME(S)

POSITION(S)

FIRM NAME: _____

BY (PRINTED): _____

BY (SIGNATURE): _____

TITLE: _____

ADDRESS: _____

PHONE NO. _____

E-MAIL _____

DRUG-FREE WORKPLACE CERTIFICATION

THE BELOW SIGNED BIDDER CERTIFIES that it has implemented a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under quote a copy of the statement specified in subsection 1.
4. In the statement specified in subsection 1, notify the employees that, as a condition of working on the commodities or contractual services that are under quote, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in, drug abuse assistance or rehabilitation program if such is available in employee's community, by any employee who is convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign this statement, I certify that this firm complies fully with the above requirements.

DATE: _____

SIGNATURE: _____

COMPANY: _____

NAME: _____

(Typed or Printed)

ADDRESS: _____

TITLE: _____

E-MAIL: _____

PHONE NO.: _____

INDEMNIFICATION AND HOLD HARMLESS

To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold harmless OKALOOSA COUNTY, its officers and employees from liabilities, damages, losses, and costs including but not limited to reasonable attorney fees, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the CONTRACTOR and other persons employed or utilized by the CONTRACTOR in the performance of this Agreement.

Bidder's Company Name

Authorized Signature – Manual

Physical Address

Authorized Signature – Typed

Mailing Address

Title

Phone Number

FAX Number

Cellular Number

After-Hours Number(s)

DATE

NOTICE OF AWARD

TO:

PROJECT DESCRIPTION: AQUATIC LIFE ECOSYSTEM (ALE) REEF CONSTRUCTION with LIMESTONE EMBEDDED, ENGINEERED PRE-FABRICATED REEF MODULES, OKALOOSA COUNTY, FLORIDA

The owner has considered the bid submitted by you for the above-described work in response to its Advertisement for Bids dated _____ and Information for Bidders.

You are hereby notified that your bid has been accepted for items in the amounts of \$_____.

You are required by the Instructions to Bidders to execute the Agreement and furnish the required contractor's Performance Bond, Payment Bond, and Certificates of Insurance within fifteen (15) calendar days from the date of this notice to you.

If you fail to execute said Agreement and to furnish said bonds within fifteen (15) calendar days from the date of this notice, said owner will be entitled to consider all your rights arising out of the owner's acceptance of your bid as abandoned and as a forfeiture of your bid bond. The owner will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this Notice of Award to the owner: Okaloosa County Purchasing, 602-C North Pearl St., Crestview, FL 32536. If you have any questions, please call Jack Allen at 850-689-5960.

Dated this ____ day of _____, 2012.

OWNER – OKALOOSA COUNTY BOARD OF COUNTY COMMISSIONERS

BY: _____ TITLE Purchasing Director
Richard L Brannon

ACCEPTANCE OF NOTICE

Receipt of the above **NOTICE OF AWARD** is hereby acknowledged.

BY: _____

This the _____ day of _____, 2012.

BY: _____

Title: _____

NOTICE TO PROCEED

DATE: _____

TO:

PROJECT: _____

You are hereby notified to commence WORK in accordance with the Agreement dated _____, **2012**, on or before _____, and you are to complete the WORK within _____. The date of completion of all WORK is therefore _____.

You are required to return an acknowledged copy of this **NOTICE TO PROCEED** to the **OWNER:** Okaloosa County Purchasing, 602-C North Pearl St, Crestview, FL 32536.

OKALOOSA COUNTY BOARD OF COUNTY COMMISSIONERS

OWNER

BY: _____

Richard L. Brannon

TITLE: **Purchasing Director**

ACCEPTANCE OF NOTICE

Receipt of the above **NOTICE TO PROCEED** is hereby acknowledged.

Company Name

This the _____ day of _____, **2012**

Signature

By: _____

Type or Print Name

Title: _____

CONTRACT

This agreement, executed in Crestview, Florida this ____ day of _____ 2012 representing Okaloosa County, Florida, the Owner, hereinafter called the Party of the First Part, and _____ or **its** successors, executors, administrators and assigns, hereinafter called the Party of the Second Part.

WITNESSETH:

That for and in consideration of payments, hereinafter mentioned, to be made by the Party of the First Part, the Party of the Second Part agrees to furnish all equipment, machinery, tools and labor; to furnish and deliver all materials required to be furnished and delivered in and about the improvement and to do and perform all work **related to providing Engineered Pre-Fabricated Reef Modules to be used in a reef building project as per RFP #SW 25-12** for an approximate total price of \$_____ in strict conformity with the provisions of this Contract, the Notice to Contractors, the Specifications and the Plans approved by the Owner. The said Plans, Specifications, the Notice to Contractors, and the Bid are hereby made a part of this agreement as fully and to the same effect as if the same had been set forth at length in the body of this agreement.

As security for the full and faithful performance of this contract and all the incidents thereto, the Party of the Second Part had made and furnished a Contract Bond with _____ as Surety (as required per the bid package), which is accepted by Parties of the First Part and made a part of this contract.

In consideration of the foregoing promises, the Party of the First Part agrees to pay to the Party of the Second Part such unit prices for the work actually done as are set out in the accompanying bid in the manner provided in the said Specifications.

The Contractor shall be prepared to begin work to be performed under the contract as he set forth in his bid, but will not proceed until he receives official notice to begin. The official notice will stipulate the date upon which it is expected that the Contractor will begin his work and from which date the working days tabulated against his time limit will begin; all other requirements in regard to the beginning of construction stipulated in the bid and Special Provisions will date from the official notice. The place where the work is to be started will either be stated in the "Notice to Proceed"; or will be designated on the ground. The work shall be prosecuted from as many different points, in such part or parts and at such times as may be directed, and shall be conducted in such a manner and with sufficient materials, equipment and labor as is considered necessary to insure its completion with the

time set forth in the bid. Should the prosecution of work for any reason be discontinued by the Contractor, with the consent of the Engineer, he shall notify the Engineer at least twenty-four (24) hours before again resuming operations.

Cancellation: This contract may be cancelled by the OWNER, if the CONTRACTOR fails to complete this project as proposed within the terms and conditions of this contract, upon written notification.

REPRESENTATIVES: The authorized representative of the County shall be:

Scott R. Henson
Okaloosa County Public Works Project Manager
84 Ready Ave.
Ft. Walton Beach, FL 32548
850-609-6165 / 850-978-0009 (CELL)
E-Mail: shenson@co.okaloosa.fl.us

The authorized representative for _____ shall be:

E-Mail: _____

All notices required by this agreement shall be in writing to the representative listed above with a courtesy copy to the following:

Jack Allen
Contracts & Leases Coordinator
Okaloosa County Purchasing Department
602-C North Pearl Street
Crestview, FL 32536
850-689-5960 / 850-689-5998 (FAX)
E-Mail: jallen@co.okaloosa.fl.us

IN WITNESS WHEREOF, the Chairman of the Board of County Commissioners, by authority vested in him, has hereunto subscribed his name on behalf of the County of Okaloosa, Florida, the Owner, and the said _____ has hereto fixed his signature, the day and year above written.

WITNESS:

CONTRACTOR

BY _____

TITLE

**STATE OF FLORIDA
COUNTY OF OKALOOSA**

This contract is accepted this ____ day of _____ 2012 and is effective on the ____ day of _____ 2012.

ATTEST:

COUNTY OF OKALOOSA, FLORIDA

BY _____

Gary Stanford
Deputy Clerk of Court

Don R. Amunds, Chairman

GOVERNMENT DEBARMENT & SUSPENSION

INSTRUCTIONS

1. By signing and submitting this bid, the prospective lower tier participant 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 prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this bid is submitted if at any time the prospective lower tier participant 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," "bid," 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 bid is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this bid that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this bid that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all 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 Number).
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 department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, INELIGIBILITY
AND VOLUNTARY EXCLUSION
LOWER TIER COVERED TRANSACTIONS**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 49CFR Part 29, Participants' responsibilities.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ABOVE)

- (1) The prospective lower tier participant certifies, by submission of this bid, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this bid.

Name and Title of Authorized Representative

Signature

Date

E-VERIFY COMPLIANCE CERTIFICATION

In accordance with Okaloosa County Policy and Executive Order Number 11-116 from the office of the Governor of the State of Florida, Bidder hereby certifies that the U.S. Department of Homeland Security's E-Verify system will be used to verify the employment eligibility of all new employees hired by the contractor during the contract term, and shall expressly require any subcontractors performing work or providing services pursuant to the contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term; and shall provide documentation of such verification to the OWNER upon request.

As the person authorized to sign this statement, I certify that this company complies/will comply fully with the above requirements.

DATE: _____

SIGNATURE: _____

COMPANY: _____

NAME: _____

(Typed or Printed)

ADDRESS: _____

TITLE: _____

E-MAIL: _____

PHONE NO.: _____

PROHIBITION AGAINST LOBBYING

The contractor 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 Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding, renewal, amending or modifying of any Federal contract, grant, or cooperative agreement. If any non-Federal funds are used for lobbying activities as described above in connection with this Contract, the Contractor shall submit Standard Form – LLL, "Disclosure Form to Report Lobbying", and shall file quarterly updates of any material changes.

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

PROGRAM FRAUD & FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

- (1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submissions, or certification, the Federal government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal government deems appropriate.

- (2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307 (n)(1) on the Contractor, to the extent the Federal government deems appropriate.

BID PROTESTS

The Director of Purchasing or his/her representative shall post a tabulation of bids received along with the intended award recommendations or a short list of bidders on the bulletin board in the Purchasing Department. Any person allegedly adversely affected by the decision or intended decision of award must file a written notice of protest within three (3) business days after posting of the award recommendation. This notice must be delivered to the Purchasing Director or his/her designated representative and must contain the following:

1. The protestant's business name, address & phone #.
2. The solicitation involved.
3. A clear statement as to the grounds of protest (applicable statutes, ordinances, laws, etc.
4. Specifically request the relief to which the protestant deems itself entitled.

Failure to file a written notice of protest within the time period specified shall result in relinquishment of all rights of protest by the vendor.

A committee made up of the Purchasing Director or his/her representative, the requesting department head or his/her representative and the Director of Administrative Services shall review any and all protests within five (5) business days. If necessary, this committee shall schedule a hearing for appropriate action to be determined by the committee. The bid protester will be notified, in writing, of their final findings.

PROPOSAL EVALUATION

"ALE Reef"

Okaloosa County

Engineered Pre-Fabricated Reef Modules

2012 Artificial Reef Project

The County will score the contractor bids base on six criteria: Material Specification, Reef Unit Prices, Available Deployment Resources, Deployment Plan, Schedule of Operations, and Experience & Understanding. Bidders are encouraged to organize their bids so that the evaluation topics are readily accessible by the County Bid Evaluation Team. Most of the information requested in Attachment A "Scope of Services" should be discussed by the bidder in the Deployment Plan. If the bidder so chooses, all of the evaluation topics listed below can be organized as individual sections within the Deployment Plan.

Bidder (Name) _____

Rater (Name) _____

Date _____

Company
Evaluated _____

Material Specifications 1 – 20 Points _____

Dimensions, weight, pictures or illustrations (if possible), unit pricing and support literature (if available).

Reef Unit Prices 1 – 40 Points _____

Cost per Each.

Available Deployment Resources 1 – 10 Points _____

Equipment resources that are proposed to be used to complete the deployment.

Deployment Plan 1 – 10 Points _____

Discussion of items presented in Attachment A Scope of Services.

Schedule of Operations

1 – 10 Points

Schedule of major tasks, durations and progression of work.

Experience & Understanding

1 – 10 Points

Detailed description of experience and understanding of artificial reef deployments, including a list of artificial reef deployments conducted within at least the last 5 years.

ATTACHMENT "A"
SCOPE OF SERVICES
AQUATIC LIFE ECOSYSTEM (ALE) REEF CONSTRUCTION
OKALOOSA COUNTY
2012 FWC GRANT – 11223

Okaloosa County proposes to construct a the Aquatic Life Ecosystem (ALE) Reef comprised of a minimum of 40 prefabricated **Engineered Pre-Fabricated Reef Modules** (approximately 100 tons) within the County's Large Area Artificial Reef Site (LAARS) Site "A". The ALE Reef will be comprised of twenty separate deployment locations (patch reefs) forming an "X" pattern with two units per deployment location (See Figure 1). Each patch reef of two modules will be approximately 500 ft (152.4 m) from its nearest neighbor. The table below lists the proposed coordinates of each patch reef (Centerpoint will consist of 4 separate modules).

Reef Location	LAARS Site Patch Number	Latitude	Longitude
Center NW	A/--	30° 6.803'N	86° 18.702'W
Center NE	A/--	30° 6.803'N	86° 18.698'W
Center SW	A/--	30° 6.797'N	86° 18.702'W
Center SE	A/--	30° 6.798'N	86° 18.698'W
SW leg	A/44	30° 6.753'N	86° 18.782'W
SW leg	A/45	30° 6.702'N	86° 18.862'W
SW leg	A/46	30° 6.648'N	86° 18.932'W
SW leg	A/47	30° 6.588'N	86° 19.003'W
NW leg	A/48	30° 6.843'N	86° 18.782'W
NW leg	A/49	30° 6.888'N	86° 18.862'W
NW leg	A/50	30° 6.938'N	86° 18.932'W
NW leg	A/51	30° 6.983'N	86° 19.003'W
NE leg	A/52	30° 6.843'N	86° 18.622'W
NE leg	A/53	30° 6.888'N	86° 18.543'W
NE leg	A/54	30° 6.938'N	86° 18.467'W
NE leg	A/55	30° 6.983'N	86° 18.392'W
SE Leg	A/56	30° 6.753'N	86° 18.622'W
SE leg	A/57	30° 6.702'N	86° 18.543'W
SE leg	A/58	30° 6.648'N	86° 18.468'W
SE leg	A/59	30° 6.588'N	86° 18.392'W

The proposed deployment location is approximately 22 nautical miles on a bearing of 147° from the Destin East Pass inlet. The LAARS Site "A" is a 56.7 square nautical mile permitted area, located in federal waters off Okaloosa County. The permitted site contains numerous existing reef sites - both private and publically funded.

The LAARS Site "A" is permitted to Okaloosa County by the U.S. Department of the Army, Corps of Engineers Permit Number #1996-03565 (IP-SWA), which is valid through August 31, 2012. The patch reef deployment locations are proposed to be located on the southern portion northeast quadrant of the permitted site near coordinates 30° 06.800'N and 86° 18.700'W, in approximately 121 feet. (33.7 m) of water.

The reef construction activity to be funded by the FWC, managed by the County, and executed through contracted services via this contract vehicle, consists of the following work elements to be addressed in the bid prepared in response to this request. As noted on the Bid Evaluation Form, bidders are encouraged to organize their bids so that the evaluation topics are readily accessible by the County Bid Evaluation Team. Most of the information requested in the tasks described in this Scope of Service need to be addressed by the bidder in the Deployment Plan. If the bidder so chooses, each individual evaluation topic;

- Material Specification,
- Reef Unit Prices,
- Available Deployment Resources,
- Schedule of Operations, and
- Experience & Understanding,

can be organized as individual sections within the Deployment Plan and serve as the response to this RFP.

Bidders must include a concise description of the type of material being proposed. Material description should include dimensions, weight, pictures or illustrations (if possible), unit pricing and support literature (if available). Bidders must also provide a description of the proposed equipment resources that are proposed to be used to complete the deployment, a deployment plan describing how the material will be deployed, a planned schedule of operations, and a detailed description of experience and understanding of artificial reef deployments, including a list of artificial reef deployments conducted within at least the last 5 years.

The following is a list of Services that both the **COUNTY** and the **CONTRACTOR** will provide to the FWC and should be addressed in the Deployment Plan portion of the bidders bid. In addition, the

following list includes additional terms and conditions.

LOADING & TRANSPORTATION

1. Material procurement – The **CONTRACTOR** will provide **Engineered Pre-Fabricated Reef Modules**, or other concrete structures acceptable to Okaloosa **COUNTY** and **COUNTY** Artificial Reef Program Partners. The contractor should specify the exact quantity of pre-fabricated units included in their proposed price.
2. The **CONTRACTOR** will provide pre-deployment loading and transportation of reef materials.
3. The **CONTRACTOR** will provide loading of **Engineered Pre-Fabricated Reef Modules** onto a suitable conveyance for offshore placement at the ALE Reef site.
4. The **CONTRACTOR** will provide a sufficiently powered transport or towing vessel, personnel, and all necessary equipment to transport the material offshore and complete the deployment. A **COUNTY** employee must be on board the material transport vessel at all times when in state waters.
5. Reef material loaded on to the transporting vessel must be properly secured in compliance with Coast Guard standards to allow for safe transport to the reef construction site.
6. The successful bidders (**CONTRACTORS**) Project Manager shall complete the FWC Artificial Reef Cargo Manifest form to be maintained onboard the vessel at all times during transport of materials, pursuant to Chapter 370.25, Florida Statutes.

DEPLOYMENT & MATERIAL PLACEMENT

7. During the deployment of the 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 reef modules on the bottom.
8. Material must be arranged to provide habitat complexity as well as provide sand bottom forage area opportunities.
9. Individual reef materials should not be 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.

11. 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. The GPS system must be capable of producing location data in State Plan Coordinates, North American Datum of 1983 (NAD83), Adjustment of 2007 (NSRS2007), Florida North Zone, Lambert Conformal Conical Map Projection.
12. Effective and reliable communications shall exist at all times between the **CONTRACTOR** and the designated **COUNTY** observer on site, all vessel captains, mates and crew members assisting in the deployment.
13. 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 NOAA weather service supporting Destin area waters out 20 nautical miles. Both the **COUNTY** Project Manager or designee or the designated **CONTRACTOR** representative have the authority to suspend off-loading operation is positioning and other deployment objectives, including safety of personnel and equipment, are not being met.
14. The reef material under this Agreement will be deployed around the center latitude/longitude coordinates of the ALE Reef as illustrated in the attached illustration (Figure 1) and Reef Coordinate Table. The **CONTRACTOR** will deploy patch reefs in 90° radials from the centerpoint in four "arms" forming an X pattern. Each patch reef will consist of two units, and will be approximately 500 feet from the nearest patch reef neighbor.
15. Each patch reef will have exact latitude/longitude coordinates programmed into the deployment vessel's GPS unit based on previous reefs site deployment and pre-deployment surveys. GPS coordinate system for location data will be State Plane Coordinates, North American Datum of 1983 (NAD83). Adjustment of 2007 (NSRS2007), Florida North Zone, Lambert Conformal Conical Map Projection.
16. The minimum vertical clearance at Mean Lower Low Water above the highest point of the reef material shall not be less than 50 feet as specified in the permit for the site..
17. The **CONTRACTORS** Project Manager shall oversee the temporary marking of the reef deployment location in advance of reef materials deployment in order to assist the subcontractor in the proper placement of the reef.

18. There will be 5 temporary marker buoys set for duration of the construction by the **CONTRACTOR** and verified by **COUNTY** observer or authorized agent, one for each corner of the deployment area, marking the ends of the radial arms, and one for the center. These markers will be buoys 16 inches in diameter minimum – clearly visible to the transport vessel captain, and sufficiently anchored with scope so that they will not drift during deployment activities. Precise GPS placement of marker buoys that do not shift position with time will also be required to insure the reef is constructed as designed.
19. The **COUNTY** will not pay for materials placed outside the permit or designated deployment location.
20. The **CONTRACTOR** will provide a support vessel, captain and sufficient crew to assist in the reef construction effort. The support vessel will be used to place marker buoys at each patch reef location as a reference for module placement. The support vessel should be capable of accommodating its crew and three other individuals - to be identified at a later time - and their dive gear. These three individuals will be **COUNTY** employees &/or FWC agents. After assisting in the construction effort, the support vessel and crew will be made available to support a minimum of two reef monitoring dives to be performed by FWC agents. The **COUNTY** Project Manager or **COUNTY** employee designated as an official observer shall remain on site during the entire deployment phase of the operation. This individual will confirm the GPS coordinates of the individual module placements as well as the maximum vertical relief of the constructed reefs using via fathometer after the reef construction has been completed.
21. Both the **COUNTY** and **CONTRACTOR** shall have on-site current NOAA nautical charts of the deployment area, with the LAARS site A and deployment 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 **COUNTY** observer and the **CONTRACTOR** when on site. The **COUNTY** observer shall also be in possession of a copy of the USACE permit for the area where the deployment is taking place. Both the **CONTRACTOR** and the **COUNTY** observer shall be responsible for insuring that all permit conditions are met.
22. The **COUNTY** agrees to allow the FWC or its designee to conduct on-site inspections of all phases of this artificial fishing reef project before, during, and after the deployment.

LIABILITY & RESPONSIBILITY FOR REEF MATERIALS

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

PAYMENT SCHEDULE

24. The **COUNTY** shall be paid on a cost reimbursement basis by the FWC in the form of a single final payment for the allowable costs incurred under this Agreement following satisfactory completion of the project and submission of all required project close out documentation. Final payment will be rendered no later than the ending date of the Agreement. A timely reimbursement request following completion of actual field operations will expedite payment. The **CONTRACTOR** shall not be eligible for reimbursement for services performed after August 31, 2012. A final invoice must be received no later than August 15, 2012 to assure the availability of funds for payment. The **CONTRACTOR** shall be paid by the **COUNTY** once services described in this document have been completed to the satisfaction of the **COUNTY**.

REPORTING, PERFORMANCE & PUBLICATIONS

25. Written or electronically transmitted *Progress Reports* must be sent to the FWC Contract Manager by the Okaloosa County Artificial Reef Program Manager at no less than 60 day intervals beginning from the date of execution of this agreement. The **CONTRACTOR** will be responsible for preparing data collected during the deployment in a timely fashion so that the **COUNTY** can meet its reporting requirements. This data shall include but not be limited to the following:

- Field Notes
- Photography or Videography
- List of GPS readings (in the format described above)
- Manifest (dimensions, weight, pictures or illustrations (if possible), unit pricing and support literature (if available)
- Deployment Permit Application Paperwork
- Captain's log
- Material tonnages

26. A *Final Field Report* providing the designated **COUNTY** observer's narrative of the reef deployment operation is required prior to reimbursement. The field report shall be submitted by the **COUNTY** and will include a written chronology and narrative describing the deployment, and a performance evaluation of the marine **CONTRACTOR** who performed the work. The final field report should include video footage or photographs (underwater and/or

surface), if available. The **CONTRACTOR** will assist in the perpetration of the *Final Field Report*.

27. A *Materials Placement Report* shall be submitted to the FWC Project Manager by the **COUNTY** within 30 days of field operation completion. The Materials Placement Report shall reflect an accurate material tonnage for the reef deployed as well as a detailed description of the type, number, dimensions and individual weights of the various sizes of reef materials deployed. This information may be submitted on the materials placement report in lieu of taking loaded and unloaded barge measurements. The **CONTRACTOR** will assist the **COUNTY** in the preparation of the Materials Placement Report.

If accurate individual weights of Engineered Pre-Fabricated Reef Modules cannot be obtained or are not known, barge displacement measurements are required. The CONTRACTORs Project Manager or employee designate 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 CONTRACTORs Project Manager or employee designate 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.

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



December 15, 2011

Brenda Bailey
Contracts and Grants Manager
1804 Lewis Turner Blvd., Suite 206
Fort Walton Beach, FL 32547

**Florida Fish
and Wildlife
Conservation
Commission**

RE: Grant Agreement FWC-11223
Artificial Reef Construction

Dear Ms. Bailey:

Please find enclosed two (2) original copies of the above referenced Grant Agreement for your review and signature. Please sign both the signature page (Page 10 of 11) and the form for certification regarding debarments, suspension, ineligibility and voluntary exclusion-lower tier federally funded transactions (Attachment E). Please sign and date both copies and return all signed copies to me by courier service at the following address:

Commissioners

Kathy Barco
Chairman
Jacksonville

Kenneth W. Wright
Vice Chairman
Winter Park

Ronald M. Bergeron
Fort Lauderdale

Richard A. Corbett
Tampa

Charles W. Roberts III
Tallahassee

Dwight Stephenson
Delray Beach

Brian S. Yablonski
Tallahassee

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

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

Executive Staff

Nick Wiley
Executive Director

Greg Holder
Assistant Executive Director

Karen Ventimiglia
Chief of Staff

All work must be completed no later than August 31, 2012. The funds are for the 2011-12 fiscal year appropriation to the Commission's artificial reef program. Note that the terms of the Grant Agreement incorporate the terms of your project as specified in your grant application, and the requirements of Chapter 68R-9, F.A.C. If you have any questions regarding the Grant Agreement, please contact me at (850) 617-9634 or by email at bill.horn@myfwc.com.

Division of Marine
Fisheries Management

Jessica McCawley
Director

(850) 487-0554
(850) 487-4847 FAX

Sincerely,

Bill Horn, Environmental Specialist III
Artificial Reef Program
Division of Marine Fisheries Management

*Managing fish and wildlife
resources for their long-term
well-being and the benefit
of people.*

620 South Meridian Street
Tallahassee, Florida
32399-1600
Voice: (850) 488-4676

WMH
Enclosures

Hearing/speech-impaired:
(800) 955-8771 (T)
(800) 955-8770 (V)

MyFWC.com

**OKALOOSA COUNTY ARTIFICIAL REEF
CONSTRUCTION PROJECT 2011-2012**

GRANT AGREEMENT

THIS GRANT AGREEMENT is entered into by and between the FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION, whose address is 620 South Meridian Street, Tallahassee, Florida 32399-1600, hereafter "COMMISSION," and the OKALOOSA COUNTY BOARD OF COUNTY COMMISSIONERS whose address is 1804 Lewis Turner Blvd., Fort Walton Beach, FL 32547, hereafter "GRANTEE."

WHEREAS, this COMMISSION grant is authorized and awarded under 68A-2.015 and 68E-9 Florida Administrative Code;

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

1. **PROJECT DESCRIPTION.** The GRANTEE shall perform the project activities and specific responsibilities and obligations as set forth in the Scope of Work attached hereto and made a part hereof as Attachment A.
2. **PERFORMANCE.** The GRANTEE shall perform the activities described in the Scope of Work in a proper and satisfactory manner. Any and all equipment, products or materials necessary or appropriate to perform under this Agreement shall be supplied by the GRANTEE. The GRANTEE shall be licensed as necessary to perform under this Agreement as may be required by law, rule, or regulation, and shall provide evidence of such compliance to the COMMISSION upon request. The GRANTEE shall procure all supplies, 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 grant requirements and the integrity and reliability that will assure good-faith performance as a responsible grant recipient.
3. **TERM.** This Agreement shall be effective upon execution by the last party to do so. The Agreement shall begin on signature and shall end August 31, 2012, inclusive. **All construction described in Attachment A, Scope of Work, must be completed no later than August 21, 2012.** The GRANTEE shall not be eligible for reimbursement for grant activities performed prior to the begin date of this Agreement nor after August 21, 2012 except for an unanticipated delay justifying a short term extension until August 31, 2012 as described in paragraph 4.
4. All artificial reef construction must be completed by August 21, 2012. A one-time short term time extension of up to ten (10) days (through the Agreement end date of August 31, 2012) 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. In both situations a) and b), the reef material must either be at the staging area ready for immediate loading on the transport vessel or already loaded and ready for transport and deployment as of August 21, 2012. 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 August 21, 2012. Subcontracts with completion dates even earlier than August 21, 2012 to provide an additional buffer are strongly encouraged.

5. **COMPENSATION.** As consideration for the GRANTEE's performance 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**. The GRANTEE shall be required to provide a minimum matching contribution of \$3,000 of the total project costs in support of the COMMISSION's grant from the U.S. Fish and Wildlife Service. In addition to the required \$3,000 match, the GRANTEE shall be responsible for all project costs in excess of \$63,000.

6. The GRANTEE shall be compensated on a cost reimbursement basis in accordance with Comptroller Contract Payment Requirements as shown in the Department of Financial Services, Bureau of Auditing, "Reference Guide for State Expenditures". The cost reimbursement requirements section of the Reference Guide is attached hereto and made a part hereof as Attachment B.

7. **PAYMENTS.** The COMMISSION shall pay the GRANTEE for satisfactory performance upon submission of invoices, accompanied by required reports or deliverables, and after acceptance of services and deliverables in writing by the Commission's Project Manager. Each invoice shall include the COMMISSION Agreement Number and the GRANTEE's Federal Employer Identification (FEID) Number. An original and two (2) copies of the invoice shall be submitted. The COMMISSION shall not provide advance payment. All bills for amounts due under this Agreement shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

8. Invoices submitted by the GRANTEE for reimbursement shall be for 100% of actual project costs and submitted following successful completion of the artificial reef project described in Attachment A, Scope of Work.

9. A final invoice must be received by the COMMISSION no later than October 15, 2012 to assure availability of funds for payment. A timely reimbursement request following completion of actual field operations is strongly encouraged.

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

11. The COMMISSION shall make payment to the GRANTEE for an amount of the total project eligible cost less the \$3,000 match, not to exceed \$60,000 of approved invoiced costs. The \$3,000 of invoice costs not reimbursed by the COMMISSION shall represent the GRANTEE's matching contribution as required by the COMMISSION's grant from the U.S. Fish and Wildlife Service.

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

13. **TERMINATION.** This Agreement shall terminate immediately upon the COMMISSION giving written notice to the GRANTEE in the event of fraud, willful misconduct, or breach of this Agreement. The COMMISSION may terminate this Agreement at any time with or without cause by a written notice by certified mail, return receipt requested, from the COMMISSION to the GRANTEE. Upon receipt of such notice, the GRANTEE shall, unless the notice directs otherwise, immediately discontinue all grant 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.

14. **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.

15. **NOTICES.** Any and all notices shall be delivered to the parties at the following addresses (or such changed address or addressee as may be provided by notice). A notice or other communication shall be deemed received by the addressee on the next business day after having been placed in overnight mail with the U. S. Postal Service, or other overnight express service such as FedEx, UPS, or similar service. Notices sent by means other than overnight delivery shall be deemed received when actually received by the addressee:

FOR THE COMMISSION:

Bill Horn, Environmental Specialist III
FWC Division of Marine Fisheries Management
2590 Executive Center Circle East, Suite 203
Tallahassee, Florida 32301
(850) 617-9633
bill.horn@myfwc.com

FOR THE GRANTEE:

Brenda L. Bailey
Contracts & Grants Manager
1804 Lewis Turner Blvd. Suite 206
Fort Walton Beach, Florida 32547
(850) 651-7200, ext 4381
grants@clerkofcourts.cc

16. **AMENDMENT.** No waiver or modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and lawfully executed by the parties. The COMMISSION may at any time, by written order designated to be a Modification, make any change in the work within the general scope of this Agreement (e.g., specifications, schedules, method or manner of performance, requirements, etc.). However, all Modifications are subject to the mutual agreement of both parties as evidenced in writing. Any Modification that causes an increase or decrease in the GRANTEE's cost or the term of the Agreement shall require a formal amendment.

17. **RELATIONSHIP OF THE PARTIES.** The GRANTEE shall perform as an independent agent 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 which would conflict in any manner or degree with the performance of services required. The parties agree that there is no conflict of interest or any other prohibited relationship between the GRANTEE and the COMMISSION.

18. **INSURANCE.** To the extent required by law, the GRANTEE will either be self-insured for Worker's Compensation claims, or will secure and maintain during the life of this Agreement, Workers' Compensation Insurance for all of its employees connected with the work of this project. If any work is subcontracted, the GRANTEE shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the GRANTEE. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation law. In case any class of employees engaged in hazardous work under this Agreement is not protected under Workers' Compensation statutes, the GRANTEE shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the COMMISSION, for the protection of his employees not otherwise protected.

19. Employers who have employees who are engaged in work in Florida must use Florida rates, rules, and classifications for those employees. In the construction industry, only corporate officers of a corporation or any group of affiliated corporations may elect to be exempt from workers' compensation coverage requirements. Such exemptions are limited to a maximum of three per corporation and each exemption holder must own at least 10% of the corporation. Independent contractors, sole proprietors and partners in the construction industry cannot elect to be exempt and must maintain workers' compensation insurance.

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

21. **PUBLIC RECORDS.** All records in conjunction with this Agreement shall be public records and shall be treated in the same manner as other public records are under Chapter 119, Florida Statutes. This Agreement may be unilaterally canceled by the COMMISSION for refusal by the GRANTEE to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the GRANTEE in conjunction with this Agreement, unless exemption for such records is allowable under Florida law.

22. **RECORD KEEPING REQUIREMENTS.** The GRANTEE shall maintain accurate books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement, in accordance with generally accepted accounting principals. The GRANTEE shall allow the COMMISSION, the State, or other authorized representatives, access to periodically inspect, review or audit such documents as books, vouchers, records, reports, canceled checks and any and all similar material.

Such audit may include examination and review of the source and application of all funds whether from the state, local or federal government, private sources or otherwise. These records shall be maintained for five (5) years following the close of this Agreement. In the event any work is subcontracted, the GRANTEE shall require each subcontractor to similarly maintain and allow access to such records for audit purposes.

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

24. **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.

25. **PROHIBITION OF DISCRIMINATORY VENDORS.** In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

26. **NON-ASSIGNMENT.** This Agreement may not be assigned in whole or in part without the written approval of the COMMISSION. Any such assignment or attempted assignment shall be null and void.

27. **PROHIBITION OF CONTINGENT FEES.** The GRANTEE warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the GRANTEE, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the GRANTEE, any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Agreement.

28. **SEVERABILITY 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.

29. **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.

30. **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.

31. **FEDERAL/FLORIDA SINGLE AUDIT ACTS REQUIREMENTS.** In accordance with section 215.97, Florida Statutes, the Florida Single Audit Act requires all non-State organizations (GRANTEE) that are recipients of State financial assistance to comply with the audit requirements of the Act. In addition, recipients and subrecipients (GRANTEE) of federal financial assistance must comply with the Federal Single Audit Act requirements of OMB Circular A-133. Therefore, the GRANTEE shall be required to comply with the audit requirements outlined in Attachment C, titled "Requirements of the Federal and Florida Single Audit Acts", attached hereto and made a part of the Agreement, as applicable.

32. **FEDERAL FUNDS.** This Agreement is funded in whole or in part by a grant the U.S. Fish and Wildlife Service, Federal Aid in Sport Fish Restoration Program, CFDA No. 15.605. Therefore, the GRANTEE shall be responsible for complying with all federal grant requirements as provided in the grant, a copy of which is attached hereto and made a part hereof as Attachment D. It is understood and agreed that the GRANTEE is not authorized to expend any federal funds under this Agreement to a federal agency or employee without the prior written approval of the U.S. Fish and Wildlife Service.

33. **DEBARMENT AND SUSPENSION.** 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 this Agreement by the GRANTEE, the GRANTEE shall complete, sign and return a copy of the form entitled "Certification Regarding Debarments, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Federally Funded Transactions", attached hereto and made a part hereof as Attachment E. As required by sentences 1 and 2 above, the GRANTEE shall include the language of this section, and Attachment E in all subcontracts or lower tier agreements executed to support the GRANTEE's work under this Agreement.

34. **PROHIBITION AGAINST LOBBYING.** The GRANTEE certifies that no Federal appropriated funds have been paid or will be paid, on or after December 22, 1989, by or on behalf of the GRANTEE, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding, renewal, amending or modifying of any Federal contract, grant, or cooperative agreement. If any non-Federal funds are used for lobbying activities as described above in connection with this Agreement, 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.

35. Pursuant to the Lobbying Disclosure Act of 1995, the GRANTEE agrees to refrain from entering into any subcontracts under this Agreement with any organization described in Section 501(c)(4) of the Internal Revenue Code of 1986, unless such organization warrants that it does not, and will not, engage in lobbying activities prohibited by the Act as a special condition of the subcontract.

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

37. **DELIVERABLES.** The following services or service tasks are identified as deliverables for the purposes of this AGREEMENT:

- a.) Performance of all services set forth in the Scope of Work.
- b.) Submission of all invoicing, supporting documentation, Corrective Action Plans and reports.

38. **PERFORMANCE AND MONITORING.** The GRANTEE shall perform the services described in the Scope of Work in 100% compliance with all of the Terms and Conditions of this AGREEMENT. The COMMISSION will monitor the GRANTEE'S service delivery to determine if the GRANTEE has achieved the required level of performance. The COMMISSION reserves the right for any COMMISSION staff to make scheduled or unscheduled, announced or unannounced monitoring visits. If the COMMISSION at its sole discretion determines that the GRANTEE failed to meet any of the Terms and Conditions of this AGREEMENT, the GRANTEE will be sent a formal written notice. Within ten (10) days of receipt of notice the GRANTEE shall provide the COMMISSION with a formal written Corrective Action Plan in response to all noted deficiencies. The GRANTEE shall correct all identified deficiencies within forty-five (45) days of notice. The COMMISSION may conduct follow-up monitoring at any time to determine compliance based on the submitted Corrective Action Plan. Failure to meet 100% compliance with all of the Terms and Conditions of this AGREEMENT or failure to correct the deficiencies identified in the notice within the time frame specified may result in liquidated damages, and/or termination of this AGREEMENT in accordance with the Termination section.

39. **PROHIBITION OF UNAUTHORIZED ALIENS.** In accordance with 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.

40. **EMPLOYMENT ELIGIBILITY VERIFICATION.** The GRANTEE shall enroll in and use the U.S. Department of Homeland Security's E-Verify Employment Eligibility Verification System (<http://www.uscis.gov/portal/site/uscis>) to verify the employment eligibility of all new employees hired by the GRANTEE during the term of this AGREEMENT.

41. The GRANTEE shall include in any subcontracts for the performance of work or provision of services pursuant to this Contract the requirement that the subcontractor use the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the AGREEMENT term.

42. The GRANTEE 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 GRANTEE's enrollment in the program. This includes maintaining a copy of proof of the GRANTEE's and subcontractors' enrollment in the E-Verify Program (which can be accessed from the "Edit Company Profile" link on the left navigation menu of the E-Verify employer's homepage).

43. Compliance with the terms of the Employment Eligibility Verification provision is made an express condition of this AGREEMENT and the Commission may treat a failure to comply as a material breach of the AGREEMENT.

44. **DIVISION OF MARINE FISHERIES MANAGEMENT REQUIREMENTS**

- a. The GRANTEE agrees to follow all requirements of Section 287.057, Florida Statutes, for the procurement of commodities or contractual services under this Agreement. The GRANTEE will obtain a minimum of three written quotes for any subcontracts required for Agreements in the amount of \$35,000 or less, and the GRANTEE will publicly advertise and send bid specifications to a minimum of five (5) potential subcontractors for any subcontracts required for Agreements in excess of \$35,000.
- b. The use of a vendor registered with the Statewide Negotiated Agreement Price Schedule (SNAPS) does not preclude the GRANTEE from the requirements of Paragraph a.
- c. The GRANTEE shall include Attachment A (Scope of Work) *verbatim* in all bid specifications. All bid specifications must be approved, in writing, in advance by the COMMISSION's Contract Manager, prior to public advertisement or distribution.

- d. The GRANTEE shall submit bid specifications to the COMMISSION's Contract Manager for approval within ninety (90) days following the execution date of this Agreement.
- e. Any request to use a sole source vendor by the GRANTEE must be requested and justified in writing and approved by the COMMISSION's Contract Manager prior to awarding a sole source subcontract under this Agreement.
- f. A summary of the vendor replies and recommended subcontractor must be sent by the GRANTEE to the COMMISSION's Contract Manager for written approval prior to the awarding of any subcontracts under this Agreement.
- g. A copy of this Agreement should be provided to all subcontractors and incorporated by reference in all subcontracts. The GRANTEE shall require all subcontractors to comply with all applicable provisions of this Agreement. All such subcontracts in excess of \$5,000 shall be in writing.
- h. The GRANTEE agrees to acknowledge the role of the Federal Aid in Sport Fish Restoration Program funding in any publicity related to this Agreement.
- i. The GRANTEE agrees to provide the COMMISSION with a minimum of five (5) days notice for any artificial reef construction that occurs as a result of this Agreement.
- j. The GRANTEE agrees to follow all provisions of Section 379.249, Florida Statutes and Chapter 68E-9, Florida Administrative Code during the term of this Agreement.
- k. 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.

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45. **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 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.

**OKALOOSA COUNTY
BOARD OF COUNTY COMMISSIONERS**

**FLORIDA FISH AND WILDLIFE
CONSERVATION COMMISSION**

By: _____
(Authorized Signatory*)

By: _____
Director, Division of Marine Fisheries
or Designee

James Campbell, Chairman _____
(Print Signatory's Name and Title)

Date: _____

Date: _____

Okaloosa County Board of County Commissioners

(Grantee)

1804 Lewis Turner Blvd., Suite 206 _____
(Address)

Fort Walton Beach, Florida 32547 _____
(City, State, and Zip Code)

59-6000765 _____
(Federal Employer Identification Number)

Approved as to form and legality:


FWC Attorney

Reimbursement Check Remittance Address:

1804 Lewis Turner Blvd., Suite 206 _____
(Address)

Fort Walton Beach, Florida 32547 _____
(City, State, and Zip Code)

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

List of Attachments included as part of this Agreement:

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

ATTACHMENT A SCOPE OF WORK

OKALOOSA COUNTY ARTIFICIAL REEF DEVELOPMENT PROJECT 2011-2012

Okaloosa County proposes to construct a reef comprised of a minimum of 40 prefabricated concrete and steel reef modules (approximately 100 tons) within the county's Large Area Artificial Reef Site (LAARS) site "A". The reef will be comprised of twenty separate locations forming an "X" pattern with two units per deployment location. Each patch reef of two units will be approximately 500 ft (152.4 m) from its nearest neighbor. The proposed deployment location is approximately 22 nautical miles on a bearing of 147 ° from the Destin East Pass inlet. The LAARS Site "A" is a 56.7 square nautical mile permitted area, located in federal waters off Okaloosa County. The permitted site contains twenty-seven existing deployments consisting of various concrete Reef Balls, modules, concrete culverts, M-60 military combat tanks and vessels. The LAARS Site "A" is permitted to Okaloosa County by the U.S. Department of the Army, Corps of Engineers Permit Number #1996-03565 (IP-SWA), which is valid until August 31, 2012. The patch reef deployment locations are proposed to be located within the northeast quadrant of the permitted site near coordinates 30° 06.800' N and 86° 18.700' W, in about 117 feet. (33.7 m) of water.

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

LOADING AND TRANSPORTATION

1. Loading and transportation of approximately 40 prefabricated concrete and steel reef module units, or other concrete structures acceptable to the **COMMISSION**.
2. Load the concrete materials onto a suitable conveyance and transport to a site for loading onto a barge or other suitable vessel for offshore movement. Load the structures onto a vessel for transportation to the designated reef site. Provide a sufficiently powered transport or towing vessel, personnel, and all necessary equipment to transport the material offshore and deploy it. Reef material loaded on to the transporting vessel must be properly secured in compliance with Coast Guard standards to allow for its safe transport to the reef construction site.
3. The **GRANTEE's** Project Manager shall complete the FWC Artificial Reef Cargo Manifest form to be maintained onboard the vessel at all times during transport of materials, pursuant to Chapter 379.249, Florida Statutes.

DEPLOYMENT AND MATERIAL PLACEMENT

4. During the deployment of the concrete reef material, the transport vessel must be effectively moored through double anchoring, be spudded down, or otherwise be held securely in place with minimal movement (+/-50 feet) to ensure accurate placement of the concrete patch reef on the bottom. Material must be arranged to provide habitat complexity as well as provide sand bottom forage area opportunities. Individual reef materials should not be widely scattered. Any machinery used to move and deploy the reef materials should be sufficiently

powered/maneuverable and capably operated to ensure timely, effective and safe off-loading of materials. The tug or transport vessel shall meet all U.S. Coast Guard certification and safety requirements, be equipped with a working, accurate Global Positioning System (GPS) unit and other marine electronics including a working VHF radio. Effective and reliable communications shall exist at all times between the transport vessel, and the designated **GRANTEE** observer on site. Deployment operations will only be initiated when sea height in the operations area is no greater than two to four feet as forecast by the nearest NOAA weather office. Either the **GRANTEE's** observer or the subcontractor's vessel captain reserves the right to suspend off-loading operations if positioning and other deployment objectives, including safety of personnel and equipment, are not being met.

5. The reef material under this Agreement will be strategically placed at twenty separate locations within the Okaloosa LAARS "A" Artificial Reef Site.
6. The minimum vertical clearance of 50 ft. shall be maintained at above the highest point of the reef material (in accordance with the special conditions of the US Army Corps of Engineers permit #1996-03565 (IP-SWA).
7. The **GRANTEE's** Contract Manager shall oversee the temporary marking of the reef deployment location in advance of reef materials deployment in order to assist the subcontractor in the proper placement of the reef. The markers shall be buoys no less than 12 inches in diameter, clearly visible to the tug captain, and sufficiently anchored and with sufficient scope so that they will not drift off the designated deployment site prior to deployment. The **COMMISSION** will not pay for materials placed outside the permit area as described above. Precise GPS placement of marker buoys that do not shift position with time will also be important to insure the reef is constructed within the permitted area.
8. The **GRANTEE's** Project Manager or **GRANTEE's** employee designated as an official observer shall remain on site during the entire deployment phase of the operation and confirm the GPS coordinates of the individual placements as well as the maximum vertical relief of the constructed reefs using a fathometer after the reef construction has been completed.
9. Both the **GRANTEE** and its subcontractor shall have on site current nautical charts of the deployment area, with the permitted site indicated on the chart. The proposed patch reef coordinates and the corner coordinates of the reef site will also be in possession of the **GRANTEE's** observer and the subcontractor when on site. The **GRANTEE's** observer shall also be in possession of a copy of the Army Corps permit for the area where the deployments are taking place. The **GRANTEE** shall be responsible for insuring that all permit condition terms are complied with.
10. The **GRANTEE** agrees to allow the **COMMISSION** to conduct on-site inspections of the saltwater artificial fishing reef project before, during, and after the deployment.

ALLOWABLE EXPENDITURES ASSOCIATED WITH THE REEF PROJECT

11. Funds from this Agreement may be expended on the activities listed pursuant to Chapter 68E-9.004(1)(a), F.A.C.
12. If the **GRANTEE** chooses to conduct a post-deployment SCUBA assessment at the deployment location(s) (this is not required, but is an eligible activity for reimbursement under Chapter 68E-9.004(1)(a), F.A.C.), in order to be eligible for reimbursement, work must be completed prior to August 31, 2012 and the following items, at a minimum, must be included:
 - a. *Methods*: name and type of vessel, anchored or live boated, type of GPS unit(s), divers, survey methods;
 - b. *Conditions*: cloud cover, wind speed and direction, sea conditions, visibility, water temperature, currents;
 - c. *Chronology*: start and end of each dive; dive profile: dive plan, maximum depth, dive time, distance and bearing searched;
 - d. *Coordinates*: Describe the GPS unit(s) used to navigate to the site (model number). Describe whether differential, WAAS, and/or LORAN 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 concrete pieces or modules to each other? What percent material was damaged or partially damaged? What is the maximum and minimum relief of the site? How do these observations compare to the Material Placement Report Form information submittal?
 - f. *Footprint area*: Measure the approximate total area covered by each patch reef through standard in situ survey practices.
 - g. *Biological observations*: Describe any fish observed, or other general biological observations.
 - h. *Video and photographs*: Provide representative still and/or video footage of each deployment location (digital format preferred when available).
13. Funds from this Agreement may not be expended on salaries, training, or parts replacement or repairs to rented or contractor owned equipment. Documentation of expenses and survey reports must be submitted with the closeout package in order for reimbursement to be made.

LIABILITY AND RESPONSIBILITY FOR REEF MATERIALS

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

REPORTING, PERFORMANCE, AND PUBLICATIONS

15. Written or electronically transmitted progress reports must be sent to the **COMMISSION's** Contract Manager at no less than 60 day intervals beginning from the date of execution of this agreement.
16. **A final field report providing the designated observer's narrative of the reef deployment operation is required prior to reimbursement.** The field report shall include a written chronology and narrative describing the deployment, and a performance evaluation of the marine subcontractors who performed the work. The final field report should include video footage or photographs (underwater and/or surface), if available.
17. A Materials Placement Report shall be submitted to the **COMMISSION's** Project Manager within 30 days of field operations completion. The Materials Placement Report shall reflect an accurate material tonnage for the reef deployed as well as a detailed description of the type, number, dimensions and individual weights of the various sizes of reef materials deployed. This information may be submitted on the materials placement report in lieu of taking loaded and unloaded barge measurements. If accurate individual weights of concrete units cannot be obtained or are not known, barge displacement measurements are required. The **GRANTEE's** Project Manager or **GRANTEE** employed designee shall then record the waterline length, width and draft (to the nearest inch) of the loaded barge at all four (4) corners to calculate the average displacement of water due to the weight of the artificial reef materials. The same barge measurements must be taken by either the **GRANTEE's** Project Manager or **GRANTEE**-employed designee when the barge returns to shore after the deployment has been completed. These measurements may not be taken while the barge is offshore at the deployment site. The barge measurements are to be included in the Materials Placement Report.
18. Any published articles related to this artificial reef activity should reflect the role of the USFWS Federal Aid in Sport Fish Restoration Program in assisting in the funding of this activity.

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ATTACHMENT B

Comptroller Contract Payment Requirements Department of Financial Services, Bureau of Auditing Reference Guide for State Expenditures *Cost Reimbursement Contracts*

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). The following supporting documentation shall be maintained in support of expenditure payment requests for cost reimbursement contracts as provided in Comptroller's Memorandum #04 (1996-97). Supporting 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 categories in the approved contract budget should be reimbursed.

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

- (1) Salaries: A payroll register or similar documentation should be 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, F.S., which includes submission of the claim on the approved state travel voucher.
- (4) Other direct costs: Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using state funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with 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 Section 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 based 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.

**ATTACHMENT C
REQUIREMENTS OF THE FLORIDA AND FEDERAL SINGLE AUDIT ACTS**

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

MONITORING

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

AUDITS

PART I: FEDERALLY FUNDED

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

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

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

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

PART II: STATE FUNDED

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

In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such recipient, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Executive Office of the Governor and the Comptroller; and Chapters 10.550 (local governmental entities)

or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this agreement indicates state financial assistance awarded through the Commission by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Commission other state agencies, and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for Federal program matching requirements.

In connection with the audit requirements addressed in Part II, paragraph 1, the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(d), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

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

PART III: OTHER AUDIT REQUIREMENTS

None

PART IV: REPORT SUBMISSION

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

The Commission at the following address:

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

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

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

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

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

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

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

The Commission at the following address:

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

The Auditor General's Office at the following address:

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

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

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

Contact the Commission's Audit Director, Trevor Phillips, by phone at (850) 617-9466 or by email at trevor.phillips@myfwc.com

PART IV: RECORD RETENTION

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

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EXHIBIT - I

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

Federal Agency: U.S. Fish and Wildlife Service
Federal Program: Federal Aid in Sport Fish Restoration Program
CFDA Number: 15.605
State Agency: Florida Fish and Wildlife Conservation Commission
State Program: Division of Marine Fisheries Management Artificial Reef Grants Program
Recipient: Okaloosa County
Amount: \$60,000

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

1. Only the goods and/or services described within the attached Agreement and Attachment A are eligible expenditures for the funds awarded.
2. All provisions of Section 379.249, Florida Statutes and Rule 68E-9, Florida Administrative Code must be complied with in order to receive funding under this Agreement.
3. The Grantee must comply with the requirements of all applicable laws, rules or regulations relating to this artificial reef project.
4. The GRANTEE shall be required to provide a matching contribution of the total project costs (a minimum of **\$3,000.00**) in support of the **COMMISSION's** grant from the U.S. Fish and Wildlife Service.

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

MATCHING FUNDS FOR FEDERAL PROGRAMS:

None.

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

None.

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

Not applicable.

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

FISH AND WILDLIFE SERVICE
STATE GRANT PROGRAMS

State Grant Programs

Part 523 Federal Aid Compliance Requirements

Chapter 1 Summary

523 FW 1.1

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

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

A. Nondiscrimination Requirements.

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

B. Environmental Requirements.

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

C. Historic and Cultural Preservation Requirements.

- National Historic Preservation Act of 1966

D. Administrative Requirements.

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

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

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

B. References.

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

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

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

C. Requirements.

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

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

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

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

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

B. References.

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

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

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

C. Requirements.

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

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

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

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

Chapter 1 Summary

523 FW 1.5A

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

B. References.

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

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

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

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

B. References.

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

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

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

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

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

C. Requirements. Federal Aid projects, which would 'significantly affect the coastal zone' must be consistent with the approved State management programs developed under the Act. Prior to submitting a Grant Proposal for a project in the coastal zone of a State with an approved Coastal Zone

Management Program, the proposed project must be reviewed for consistency with the management plan. Grantees may be required to submit a statement attesting to conformance with the Coastal Zone Management Plan.

1.8 Executive Order 11987, Exotic Organisms.

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

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

C. Requirements.

(1) Any proposal for the introduction of an exotic species into a natural ecosystem by a State fish and wildlife agency must include a biological opinion from the U.S. Fish and Wildlife Service supporting the proposed introduction.

(2) To obtain a biological opinion, the State agency shall provide the Regional Director with a written request for the opinion together with any available information including, but not limited to, NEPA documents, biological data, and project plans.

(3) After receiving a biological opinion, it will be the responsibility of the State agency to adhere to the recommendations outlined in that opinion.

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

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

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

C. Requirements. The Regional Director must ensure that Federal Aid projects are not likely to jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of critical habitat. For projects which may affect an endangered or threatened species, either beneficially or adversely, a formal Section 7 consultation is necessary. The State is required to name the listed species and/or critical habitat included; list the name, description, and location of the area; list objectives of the actions; and provide an explanation of the impacts of the actions on a listed species or its critical habitat

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

FISH AND WILDLIFE SERVICE
STATE GRANT PROGRAMS

State Grant Programs

Part 523 Federal Aid Compliance Requirements

Chapter 1 Summary

523 FW 1.10A

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

B. References.

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

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

1.11 Floodplains and Wetlands Protection.

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

B. References.

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

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

1.12 Animal Welfare Act of 1985, 7 U.S.C. 2131, et seq.

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

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

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

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

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

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

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

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

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

B. References.

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

C. Requirements.

(1) States must consult with the State Historic Preservation Officer (SHPO) for those activities or projects that are defined as undertakings under the National Historic Preservation Act. An undertaking is defined as a project, activity, or program that can result in changes in the

STATE GRANT PROGRAMS

character or use of properties that are listed on or potentially eligible for listing on the National Register of Historic Places (National Register) and located within the project's area of potential effect. Undertakings include new and continuing projects, activities, or programs and any of their elements not previously considered under Section 106 of the National Historic Preservation Act.

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

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

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

- (a) Physical destruction, damage, or alteration of all or part of the property;
 - (b) Isolation of the property from or alteration of the character of the property's setting when that character contributes to the property's qualification for the National Register of Historic Places;
 - (c) Introduction of visual, audible, or atmospheric elements that are out of character with the property or alter its setting;
 - (d) Neglect of a property resulting in its deterioration or destruction, and
 - (e) Transfer, lease, or sale of the historic property.
- (5) If a previously unknown property that is eligible for listing on the National Register is discovered at any time during the implementation period of a Federal Aid project, the Regional Director must be notified and all actions which

may adversely affect it must be suspended. The Service shall provide the State with instructions on how to proceed.

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

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

B. References.

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

C. Appraisal Requirements.

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

D. Negotiation Requirements.

- (1) An owner or his designated representative must be provided, in person or by certified mail, a written statement of just compensation as determined in the appraisal process. Offers of compensation cannot be less than the approved appraisal of fair market value of such property. If only a portion of the owner's property is being taken and the owner is left with an uneconomic remnant, the agency must offer to buy the whole property.
- (2) Reimbursement to a real property owner for costs to convey a title must include:

FISH AND WILDLIFE SERVICE
STATE GRANT PROGRAMS

State Grant Programs

Part 523 Federal Aid Compliance Requirements

Chapter 1 Summary

523 FW 1.15D(2)(a)

- (a) Recording fees, transfer taxes, and similar costs.
- (b) Penalty cost for prepayment of pre-existing recorded mortgage, and
- (c) Pro-rata portion of real property taxes allocable to a period subsequent to the date of vesting title.
- (3) All displaced persons (owners and tenants) must be provided information on their relocation benefits.

E. Relocation Assistance to Displaced People.

(1) A relocation plan must be prepared for displaced persons so that problems associated with displacement of individuals, families, businesses, farms and nonprofit organizations are known at an early stage in a project's development (see 49 CFR 24.205). Planning may involve the following:

- (a) Who and what will be displaced.
- (b) The estimated number of dwellings, businesses, farms, and nonprofit organizations displaced, including rentals. This estimate should contain:
 - (i) Currently available replacement housing, businesses, farm, and organization sites;
 - (ii) Approximate number of employees affected;
 - (iii) Types of buildings, number, and size of rooms;
 - (iv) The needs of those displaced (i.e. lifestyle); and
 - (v) Type of neighborhood, distance to community facilities, church, etc.
- (c) List of comparable replacement dwellings, including rentals, available on the market within a 50-mile radius (specialized units may require expanding radius). When an adequate supply of comparable housing is not expected to be available, consideration of Housing of the Last Resort actions should be instituted.
- (d) Estimate of cost of replacement housing by purchase and/or rental per displaced person, and consideration of special needs like the elderly or handicapped.
- (e) Estimate of cost for moving.

(2) **Advisory Services for Displaced People.** Advisory services must be provided for all persons occupying property to be acquired and for all persons who use such real property for a business or farm operation. Eligibility requirements and corresponding benefits must be explained to all displaced persons. Assistance must be provided to persons completing claim forms, obtaining moving services, and obtaining proper housing.

(3) **Payment for Relocation of Displaced Persons.** Relocation expenses must be paid to a displaced person who purchases and occupies a replacement dwelling.

Moving and related expenses will be provided to displaced persons residing on real property including those persons owning a business or a farm. All payments must comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

1.16 Debarment and Suspension

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

B. References.

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

C. Requirements.

(1) States and other grantees must submit the certification for Primary Covered Transactions (DI-1953). States certify as to their "principals", not the State agency. State principals are commissioners, directors, project leaders, or other persons with primary management or supervisory responsibilities, or a person who has a critical influence on or substantial control over Federal Aid projects. States may provide the certification annually. Other grantees must provide the certification with each Application for Federal Assistance.

(2) States and other grantees must obtain from their subgrantees and contractors a certification for Lower Tier Covered Transactions (DI-1954). A certification is not required for small purchase procurements, currently defined as less than \$25,000. These certifications are normally provided with an application or proposal from a subgrantee or contractor.

(3) States and other grantees must not make any award, either by subgrant or contract, to any party which is debarred or suspended or is otherwise ineligible under provisions of Executive Order 12549. The U.S. General Services Administration maintains a list of parties debarred, suspended, ineligible or excluded from participation in Federal grants under the provision of the Executive order. A copy of this list is available, upon request, from the Regional Director.

1.17 Drug-Free Workplace Act of 1988

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

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

STATE GRANT PROGRAMS

State Grant Programs

Part 523 Federal Aid Compliance Requirements

Chapter 1 Summary

523 FW 1.17C

C. Requirements. Grantee organizations must:

- (1) Establish (and publish) a policy that informs employees that the manufacture, distribution, possession, or use of a controlled substance in the workplace is prohibited;
- (2) Establish an awareness program to inform employees of the dangers of drug abuse in the workplace; and
- (3) Provide a drug-free workplace certification to the Department of Interior or U.S. Fish and Wildlife Service. The forms for providing the certification are available from the Regional Director. State agencies may certify annually. If the State agency is covered by a consolidated certification for all State agencies, a copy of the consolidated certification should be submitted to the Regional Director. (The original is retained by the State.) Grantees other than State agencies must submit the certification with each Grant Agreement.

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

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

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

C. Requirements.

- (1) Recipients of Federal grants are prohibited from using Federal appropriated funds, e.g. grants, to pay any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, or an employee of a member of Congress in connection with a specific contract, grant, loan, or cooperative agreement
- (2) Proposals for grants in excess of \$100,000 must contain a certification that no part of the funds requested will be used for lobbying. Copies of the certification form, Form DI-1963, can be obtained from the Regional Offices.
- (3) Recipients of grants in excess of \$100,000 must file a disclosure form on lobbying activities conducted with other than Federal appropriated funds. Form SF-LLL and SF-LLL-A, Continuation Sheet, shall be used for this purpose. Copies of the forms can be obtained from the Regional Offices.

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

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

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

Dated this _____ day of _____, 20__.

By: _____
Authorized Signature/Contractor

Typed Name/Title

Grantee Name/Contractor Name

Street Address

Building, Suite Number

City/State/Zip Code

Area Code/Telephone Number

debar.226/rev. 12/00

**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.