

REGULAR MEETING  
JUNE 28, 2021  
5:30 P.M.

**BOOK 44 PAGE 174**

The Lafayette County Commission met on the above date and hour for a regular scheduled meeting. The meeting was held in the County Commissioners Meeting Room at the Lafayette County Courthouse in Mayo, Florida. The following members were present: Commissioner Lance Lamb, Dist. 1; Commissioner Henry McCray, Dist. 2; Commissioner Lisa Walker, Dist. 3; Commissioner Anthony Adams, Dist. 4; Commissioner Earnest L. Jones, Dist. 5; and Leenette McMillan-Fredriksson, County Attorney.

### **APPROVE THE MINUTES**

On a motion by Mr. Lamb and a second by Mr. McCray, the Board voted unanimously to approve the minutes.

### **CHAMBER OF COMMERCE**

Keesha Fundora and Lynn Buchanan addressed the Board on the updates and revisions that have been made to the Chamber of Commerce, along with their upcoming events. No action was taken on this issue.

### **HAL ADAMS FLOATING DOCK AGREEMENT**

On a motion by Mr. Jones and a second by Mrs. Walker, the Board voted unanimously to approve the agreement with the Florida Fish and Wildlife Conservation Commission for the Hal Adams Floating Dock Agreement.

### **INDIGENT BURIAL REQUEST**

On a motion by Mr. Lamb and a second by Mrs. Walker, the Board voted unanimously to approve an Indigent Burial Request for LaQuinta Thomas.

**VETERAN'S SERVICE OFFICER POSITION**

On a motion by Mr. Jones and a second by Mr. McCray, the Board voted unanimously to advertise for the Veteran's Service Officer position.

**PUBLIC HEARING – ROAD CLOSING PETITION BY GEORGIA MICHELLE KEEN**

The Board held a Public Hearing on a road closing petition filed by Georgia Michelle Keen. On a motion by Mr. Lamb and a second by Mr. Jones, the Board voted unanimously to table this Public Hearing until the next meeting so that the adjacent property owner could be contacted. On a motion by Mr. Lamb and a second by Mr. McCray, the Board voted unanimously to adjourn the Public Hearing.

**COVID-19 STATE OF EMERGENCY FOR LAFAYETTE COUNTY**

On a motion by Mr. Lamb and a second by Mrs. Walker, the Board voted unanimously to continue the COVID-19 State of Emergency for Lafayette County.

**APPROVE THE BILLS**

On a motion by Mr. Jones and a second by Mr. Lamb, the Board voted unanimously to approve following bills:

- General Fund - \$112,518.10
- Emergency 911 Fund - \$608.40
- Industrial Park Fund - \$77.95

**AGREEMENT FOR BROADBAND SOFTWARE**

On a motion by Mrs. Walker and a second by Mr. McCray, with Mr. Jones abstaining for conflict, the Board voted unanimously to approve an agreement with Breaking Point Solutions, LLC for Broadband Software.

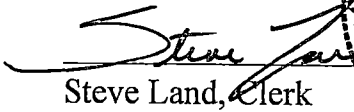
ADJOURN

On a motion by Mr. Jones and a second by Mr. Lamb, the Board voted unanimously to adjourn.

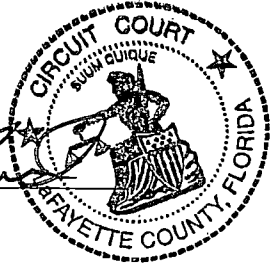


Anthony Adams, Chairman

Attest:



Steve Land, Clerk



Approved this 12<sup>th</sup> day of July, 2021.

AMENDED  
PUBLIC NOTICE

The Lafayette County Commission will be holding a regular meeting on Monday, June 28, 2021 at 5:30 p.m. The meeting will be held in the County Commissioners Meeting Room, on the second floor at the Lafayette County Courthouse in Mayo, Florida. Listed below is an agenda for the meeting.

By Order Of:



Anthony Adams, Chairman  
Lafayette County Commission

**BOARD OF COUNTY COMMISSIONERS MEETING:**

1. Open the meeting.
2. Invocation and pledge to the flag.
3. Approve the minutes.
4. Requests and comments from the community.
5. Department Heads:
  - A) Marcus Calhoun – Maintenance.
  - B) Scott Sadler – Public Works.
  - C) Garret Land – Building/Zoning.
  - D) Marty Tompkins – EMS.
  - E) Shawn Jackson – Extension Office.
6. Approve an agreement with the Florida Fish and Wildlife Conservation Commission for the Hal Adams Floating Dock
7. Consider an indigent burial request for approval.
8. Discuss the Veterans Service Officer position, continued from last meeting.
9. Public Hearing – Road Closing Petition filed by Georgia M. Keen.
10. Discuss the implications of the COVID-19 declaration.
11. Leenette McMillan-Fredriksson – various items.
12. Approve the bills.
13. Other Business.
  - A) Approve an Agreement with Breaking Point Solutions, LLC for Broadband Software.
14. Future agenda items.
15. Adjourn.

All members of the public are welcome to attend. Notice is further hereby given, pursuant Florida Statute 286.0105, that any person or persons deciding to appeal any matter considered at this public hearing will need a record of the hearing and may need to ensure that a verbatim record of the proceeding is made which record includes the testimony and evidence upon which the appeal is to be based.

*Persons with disabilities requesting reasonable accommodations to participate in this proceeding should contact (386) 294-1600 or via Florida Relay Service at (800) 955-8771. See [www.lafayetteclerk.com](http://www.lafayetteclerk.com) for updates and amendments to the agenda.*

STATE OF FLORIDA  
 FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

AGREEMENT NO. 19029

CFDA Title(s): Sport Fish Restoration – Boat Access	CFDA No(s): 15.605
Name of Federal Agency(s): U.S. Fish and Wildlife Service	
Federal Award No(s): F21AF00467	Federal Award Year(s): 2021
Federal Award Name(s): Lafayette County – Hal Adams Floating Dock	
CSFA Title(s): N/A	CSFA No(s): N/A
State Award No(s): N/A	State Award Year(s): N/A
State Award Name(s): N/A	

This Agreement is entered into by and between the Florida Fish and Wildlife Conservation Commission, whose address is 620 South Meridian Street, Tallahassee, Florida 32399-1600, hereafter “**Commission**,” and Lafayette County Board of County Commissioners, FEID # 59-6000692, whose address is P.O. Box 88, Mayo, FL 32066, hereinafter “**Grantee**.”

WHEREAS, the Commission and Grantee have partnered together to design and construct a floating dock, gangway, and boarding dock access at the Hal Adams Boat Ramp; and,

WHEREAS, Grantee has been awarded USFWS Award # F21AF00467 and FWC grant #19029 and,

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

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

1. PROJECT DESCRIPTION.

The Grantee shall provide the services and perform the specific responsibilities and obligations, as set forth in the Scope of Work, attached hereto as Attachment A and made a part hereof (hereafter, Scope of Work). The Scope of Work specifically identifies project tasks and accompanying deliverables. These deliverables must be submitted and approved by the Commission prior to any payment. The Commission will not accept any deliverable that does not comply with the specified required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable. If this agreement is the result of Grantee responses to the Commission’s request for competitive or other grant proposals, the Grantee’s response is hereby incorporated by reference.

*Mailed Original to:  
 Joshua Bredt  
 w/ FWC  
 7/1/21  
 Naveen*

**2. PERFORMANCE.**

The Grantee shall perform the activities described in the Scope of Work in a proper and satisfactory manner. Unless otherwise provided for in the Scope of Work, any and all equipment, products or materials necessary or appropriate to perform under this Agreement shall be supplied by the Grantee. Grantee shall obtain all necessary local, state, and federal authorizations necessary to complete this project, and the Grantee shall be licensed as necessary to perform under this Agreement as may be required by law, rule, or regulation; the Grantee shall provide evidence of such compliance to the Commission upon request. The Grantee shall procure all supplies and pay all charges, fees, taxes and incidentals that may be required for the completion of this Agreement. By acceptance of this Agreement, the Grantee warrants that it has the capability in all respects to fully perform the requirements and the integrity and reliability that will assure good-faith performance as a responsible Grantee. Grantee shall immediately notify the Commission's Grant Manager in writing if its ability to perform under the Agreement is compromised in any manner during the term of the Agreement. The Commission shall take appropriate action, including potential termination of this Agreement pursuant to Paragraph eight (8) below, in the event the Grantee's ability to perform under this Agreement becomes compromised.

**3. AGREEMENT PERIOD.**

**A. Agreement Period and Commission's Limited Obligation to Pay.** This Agreement is made pursuant to a grant award and shall be effective upon execution by the last Party to sign and shall remain in effect through 09/30/2023. However, as authorized by Rule 68-1.003, F.A.C., referenced grant programs may execute Agreements with a retroactive start date of no more than sixty (60) days, provided that approval is granted from the Executive Director or his/her designee and that it is in the best interest of the Commission and State to do so. For this agreement, the retroactive start date was not approved. The Commission's Grant Manager shall confirm the specific start date of the Agreement by written notice to the Grantee. The Grantee shall not be eligible for reimbursement or compensation for grant activities performed prior to the start date of this Agreement nor after the end date of the Agreement. For this agreement, preaward costs may be eligible for reimbursement. Details of allowable expenses are included in Attachment A (Scope of Work). If necessary, by mutual agreement as evidenced in writing and lawfully executed by the Parties, an Amendment to this Agreement may be executed to lengthen the Agreement period.

**4. COMPENSATION AND PAYMENTS.**

- A. Compensation.** As consideration for the services rendered by the Grantee under the terms of this Agreement, the Commission shall pay the Grantee on a cost reimbursement basis in an amount not to exceed \$308,388.
- B. Payments.** The Commission shall pay the Grantee for satisfactory performance of the tasks identified in Attachment A, Scope of Work, as evidenced by the completed deliverables, upon submission of invoices, accompanied by supporting documentation sufficient to justify invoiced expenses or fees, and after acceptance of services and deliverables in writing by the Commission's Grant Manager identified in Paragraph ten (10), below. Unless otherwise specified in the Scope of Work, invoices shall be due monthly, commencing from the start date of this Agreement. Invoices must be legible and must clearly reflect the Deliverables that were provided in accordance with the terms of the Agreement for the invoice period. Unless otherwise specified in the Scope of Work, a final invoice shall be submitted to the Commission no later than forty-five (45) days following the expiration date of this Agreement to assure the availability of funds for payment. Further, pursuant to Section 215.971(1)(d), F.S., the Commission may only reimburse the Grantee for allowable costs resulting from obligations incurred during the agreement period specified in Paragraph three (3).

- C. Invoices.** Each invoice shall include the Commission Agreement Number and the Grantee's Federal Employer Identification (FEID) Number. Invoices, with supporting documentation, may be submitted electronically to the attention of the Commission's Grant Manager identified in Paragraph ten (10), below. If submitting hard copies, an original and two (2) copies of the invoice, plus all supporting documentation, shall be submitted. All bills for amounts due under this Agreement shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. Grantee acknowledges that the Commission's Grant Manager shall reject invoices lacking documentation necessary to justify invoiced expenses.
- D. Match.** Pursuant to grant program guidelines, the Grantee is required to contribute non-federal match towards this Agreement. If applicable, details regarding specific match requirements are included in Attachment A, Scope of Work.
- E. Travel Expenses.** If authorized in Attachment A, Scope of Work, travel expenses shall be reimbursed in accordance with Section 112.061, F.S.
- F. State Obligation to Pay.** The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation and authorization to spend by the Legislature. The Parties hereto understand that this Agreement is not a commitment to future appropriations but is subject to appropriation and authority to spend provided by the Legislature. The Commission shall be the final authority as to the availability of funds for this Agreement, and as to what constitutes an "annual appropriation" of funds to complete this Agreement. If such funds are not appropriated or available for the Agreement purpose, such event will not constitute a default on behalf of the Commission or the State. The Commission's Grant Manager shall notify the Grantee in writing at the earliest possible time if funds are not appropriated or available.
- G. Non-Competitive Procurement and Rate of Payment.** Section 216.3475, F.S., requires that under non-competitive procurements, a Grantee may not receive a rate of payment in excess of the competitive prevailing rate for those services unless expressly authorized in the General Appropriations Act. If applicable, Grantee warrants, by execution of this Agreement, that the amount of non-competitive compensation provided in this Agreement is in compliance with Section 216.3475, F.S.
- H. Time Limits for Payment of Invoices.** Payments shall be made in accordance with Sections 215.422 and 287.0585, F.S., which govern time limits for payment of invoices. Section 215.422, F.S. provides that agencies have five (5) working days to inspect and approve Deliverables, unless the Scope of Work specifies otherwise. If payment is not available within forty (40) days, measured from the latter of the date the invoice is received or the Deliverables are received, inspected and approved, a separate interest penalty set by the Department of Financial Services pursuant to Section 55.03(1), F.S., will be due and payable in addition to the invoice amount. Invoices returned to a Grantee due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed invoice is provided to the agency.
- I. Electronic Funds Transfer.** Grantee agrees to enroll in Electronic Funds Transfer (EFT), offered by the State's Chief Financial Officer, within thirty (30) days of the date the last Party has signed this Agreement. Copies of the Authorization form and a sample blank enrollment letter can be found on the vendor instruction page at:

<https://www.myfloridacfo.com/Division/AA/Vendors/default.htm>

Questions should be directed to the State of Florida's EFT Section at (850) 413-5517. Once enrolled, invoice payments will be made by EFT.

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

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

- A. **Overpayment to Grantee.** Pursuant to Section 215.971(1)(e) &(f), F.S., the Grantee shall return to the Commission any overpayments due to unearned funds or funds disallowed pursuant to the terms of this Agreement that were disbursed to Grantee by the Commission. In the event the Grantee or its independent auditor discovers that overpayment has been made, the Grantee shall repay said overpayment within forty (40) calendar days without prior notification from the Commission. In the event the Commission first discovers an overpayment has been made, the Commission will notify the Grantee in writing. Should repayment not be made in a timely manner, the Commission shall be entitled to charge interest at the lawful rate of interest established pursuant to Section 55.03(1), F.S., on the outstanding balance beginning forty (40) calendar days after the date of notification or discovery. Refunds should be sent to the Commission's Grant Manager and made payable to the "The Florida Fish and Wildlife Conservation Commission".
- B. **Additional Costs or Monetary Loss Resulting from Grantee Non-Compliance.** If the Grantee's non-compliance with any provision of the Agreement results in additional cost or monetary loss to the Commission or the State of Florida to the extent allowed by Florida Law, the Commission can recoup that cost or loss from monies owed to the Grantee under this Agreement or any other agreement between Grantee and the Commission. In the event the discovery of this cost or loss arises when no monies are available under this Agreement or any other agreement between the Grantee and the Commission, the Grantee will repay such cost or loss in full to the Commission within thirty (30) days of the date of notice of the amount owed, unless the Commission agrees, in writing, to an alternative timeframe. If the Grantee is unable to repay any cost or loss to the Commission, the Commission shall notify the State of Florida, Department of Financial Services, for resolution pursuant to Section 17.0415, F.S.

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

- A. **Commission Exempt from Taxes.** The Grantee recognizes that the State of Florida, by virtue of its sovereignty, is not required to pay any taxes on the services or goods purchased under the terms of this Agreement. Grantee is placed on notice that this exemption generally does not apply to nongovernmental entity recipients, subrecipients, contractors, or subcontractors. Any questions regarding this tax exemption should be addressed to the Commission Grant Manager.
- B. **Property Exempt from Lien.** If the Grant involves the improvement of real property titled to the State of Florida, then the following paragraph applies:

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



**BOOK 44 PAGE 182****7. MONITORING.**

The Commission's Grant Manager shall actively monitor the Grantee's performance and compliance with the terms of this Agreement. The Commission reserves the right for any Commission staff to make scheduled or unscheduled, announced or unannounced monitoring visits. Specific State and Federal monitoring terms and conditions are found in Attachment B, Audit Requirements. Additionally, monitoring terms, conditions, and schedules may be included in Attachment A, Scope of Work.

**8. TERMINATION.**

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

**B. Termination – Fraud or Willful Misconduct.** This Agreement shall terminate immediately in the event of fraud or willful misconduct. In the event of such termination, the Commission shall provide the Grantee with written notice of termination.

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

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

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

**9. REMEDIES.**

**A. Financial Consequences.** In accordance with Sections 215.971(1)(a) &(b), F.S., Attachment A, Scope of Work, contains clearly established tasks in quantifiable units of deliverables that must be

received and accepted in writing by the agency before payment. Each deliverable specifies the required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable. If the Grantee fails to produce each deliverable within the time frame specified by the Scope of Work, the budget amount allocated for that deliverable will be deducted from the Grantee's payment. In addition, pursuant to Section 215.971(1)(c), the Commission shall apply any additional financial consequences, identified in the Scope of Work.

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

10. **NOTICES AND CORRESPONDENCE.**

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

**FOR THE COMMISSION:**

Grant Manager  
 Joshua Bradt  
 Grant Specialist IV  
 FL Fish & Wildlife Conservation Commission  
 620 S Meridian Street  
 Tallahassee, FL 32399  
 Office: (850) 717-2108  
 Fax: (850) 488-9284  
 Andrea.Pelton@myfwc.com

**FOR THE GRANTEE:**

Grant Manager  
 Steve Land  
 County Clerk  
 Lafayette County Board of County Commissioners  
 P.O. Box 88  
 Mayo, FL 32066  
 Office: (386) 294-1600  
 Fax:  
 Sland@lafayetteclerk.com

11. **AMENDMENT.**

- A. **Waiver or Modification.** No waiver or modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and lawfully executed by the Parties.
- B. **Change Orders.** The Commission may, at any time, by written order, make a change to this Agreement. Such changes are subject to the mutual agreement of both Parties as evidenced in writing. Any change which causes an increase or decrease in the Grantee's cost or time shall require an Amendment. Minor changes, such as those updating a Party's contact information, may be accomplished by a Modification.
- C. **Renegotiation upon Change in Law or Regulation.** The Parties agree to renegotiate this Agreement if federal and/or state revisions of any applicable laws or regulations make changes in the Agreement necessary.

12. **PROPERTY RIGHTS.**

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

**BOOK 44 PAGE 184****A. Intellectual and Other Intangible Property.**

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

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

This agreement is for the purchase or improvement of real property, therefore the following terms and conditions apply.

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

**C. Non-Expendable Property.** The following provisions apply to the extent that the grant allows the acquisition of non-expendable property.

- i. **Non-Expendable Property Defined.** For the requirements of this section of the Agreement, "non-expendable property" is the same as "property" as defined in Section 273.02, F.S. (equipment, fixtures, and other tangible personal property of a non-

consumable and non-expendable nature, with a value or cost of **\$1,000.00** or more, and a normal expected life of one (1) year or more; hardback-covered bound books that are circulated to students or the general public, with a value or cost of **\$25.00** or more; and uncirculated hardback-covered bound books, with a value or cost of **\$250.00** or more).

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

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

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

**13. RELATIONSHIP OF THE PARTIES.**

- A. **Independent Grantee.** The Grantee shall perform as an independent grantee and not as an agent, representative, or employee of the Commission. The Grantee covenants that it presently has no interest and shall not acquire any interest that would conflict in any manner or degree with the performance of services required. Each Party hereto covenants that there is no conflict of interest or any other prohibited relationship between the Grantee and the Commission.
- B. **Grantee Training and Qualifications.** Grantee agrees that all Grantee employees, subcontractors, or agents performing work under the Agreement shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Grantee shall furnish a copy of technical certification or other proof of qualification.
- C. **Commission Security.** All employees, subcontractors, or agents performing work under the Agreement must comply with all security and administrative requirements of the Commission. The Commission may conduct, and the Grantee shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by the Grantee. The Commission may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with the Commission's other requirements. Such refusal shall not relieve Grantee of its obligation to perform all work in compliance with the Agreement. The Commission, in coordination with the Grantee, may reject and bar from any facility for cause any of Grantee's employees, subcontractors, or agents.

- D. **Commission Rights to Assign or Transfer.** The Grantee agrees that the State of Florida shall at all times be entitled to assign or transfer its rights, duties, or obligations under this Agreement to another governmental agency in the State of Florida, upon giving prior written notice to the Grantee.
- E. **Commission Rights to Undertake and Award Supplemental Agreements.** Grantee agrees that the Commission may undertake or award supplemental agreements for work related to the Agreement. The Grantee and its subcontractors shall cooperate with such other Grantees and the Commission in all such cases.

14. **SUBCONTRACTS.**

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

- A. **Authority.** The Grantee shall ensure, and provide assurances to the Commission upon request, that any subcontractor selected for work under this Agreement has the necessary qualifications and abilities to perform in accordance with the terms and conditions of this Agreement. The Grantee must provide the Commission with the names of any subcontractor considered for work under this Agreement; the Commission in coordination with the Grantee reserves the right to reject any subcontractor. The Grantee agrees to be responsible for all work performed and all expenses incurred with the project. Any subcontract arrangements must be evidenced by a written document available to the Commission upon request. The Grantee further agrees that the Commission shall not be liable to the extent allowed by law, to any subcontractor for any expenses or liabilities incurred under the subcontract and the Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.
- B. **Grantee Payments to Subcontractor.** If subcontracting is permitted pursuant to Paragraph A, above, Grantee agrees to make payments to the subcontractor upon completion of work and submitted invoice in accordance with the contract between the Grantee and subcontractor. Failure to make payment pursuant to any subcontract will result in a penalty charged against Grantee and paid to the subcontractor in the amount of one-half of one percent (0.50%) of the amount due per day from the expiration of the period allowed herein for payment. Such penalty shall be in addition to actual payments owed and shall not exceed fifteen percent (15%) of the outstanding balance due.
- C. **Commission Right to Reject Subcontractor Employees.** The Commission in coordination with Grantee shall retain the right to reject any of the Grantee's or subcontractor's employees whose qualifications or performance, in the Commission's judgment, are insufficient.
- D. **Subcontractor as Independent Contractor.** If subcontracting is permitted pursuant to Paragraph A above, the Grantee agrees to take such actions as may be necessary to ensure that each subcontractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venture, or partner of the State of Florida.

15. **MANDATORY DISCLOSURE.**

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

- A. **Disclosure of Interested State Employees and Conflict of Interest.** This Agreement is subject to Chapter 112, F.S. Grantee shall provide the name of any officer, director, employee, or other agent who is affiliated with this project and an employee of the State of Florida. If the Agreement includes a Federal award, then the Agreement is also subject to Section 200.112, OMB Uniform

Guidance (2 CFR 200). Grantee must disclose, in writing, any potential conflict of interest to the Commission in accordance with applicable Federal awarding agency policy.

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

- i. **Convicted Vendor List.** Pursuant to Subsection 287.133(2)(a), F.S., a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not be awarded or perform work as a Grantee, supplier, subcontractor or consultant under a contract with any public entity and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. The State of Florida, Department of Management Services, Division of State Purchasing provides listings for convicted, suspended, discriminatory and federal excluded parties, as well as the vendor complaint list at:

[http://www.dms.myflorida.com/business\\_operations/state\\_purchasing/vendor\\_information/convicted\\_suspended\\_discriminatory\\_complaints\\_vendor\\_lists](http://www.dms.myflorida.com/business_operations/state_purchasing/vendor_information/convicted_suspended_discriminatory_complaints_vendor_lists)

- ii. **Notice of Conviction of Public Entity Crime.** Any person must notify the Department of Management Services and the Commission, in writing, within thirty (30) days after conviction of a public entity crime applicable to that person or an affiliate of that person as defined in Section 287.133, F.S.

- C. Vendors on Scrutinized Companies List.**

- i. **Scrutinized Companies.** Grantee certifies that it and any of its affiliates are not scrutinized companies as identified in Section 287.135, F.S. In addition, Grantee agrees to observe the requirements of Section 287.135, F.S., for applicable sub-agreements entered into for the performance of work under this Agreement. Pursuant to Section 287.135, F.S., the Commission may immediately terminate this Agreement for cause if the Grantee, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Grantee, its affiliates, or its subcontractors are placed on any applicable scrutinized companies list or engaged in prohibited contracting activity during the term of the Agreement. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

- D. Discriminatory Vendors.** Grantee shall disclose to the Commission, in writing, if they, their subrecipient, contractor, or subcontractor, are on the Discriminatory Vendor List maintained by the Florida Department of Management Services pursuant to Section 287.134(3)(d), F.S. "An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity." Section 287.134(2)(a), F.S. Grantee has a continuing duty to disclose to the Commission whether they appear on the discriminatory vendor list.

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

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

**F. Certain Violations of Federal Criminal Law.** If this agreement includes a Federal award, then in accordance with Section 200.113, OMB Uniform Guidance (2 CFR 200), Grantee must disclose, in a timely manner, in writing to the Commission all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.**16. INSURANCE.**

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

**17. SPONSORSHIP.**

As required by Section 286.25, F.S., if any recipient, subrecipient, contractor or subcontractor under this grant is a nongovernmental organization which sponsors a program financed wholly or in part by state funds, including any funds obtained through this Agreement, it shall, in publicizing, advertising, or describing the sponsorship of the program, state: "Sponsored by (Grantee's name) and the State of Florida, Fish and Wildlife Conservation Commission." If the sponsorship reference is in written material, the words "State of Florida, Fish and Wildlife Conservation Commission" shall appear in the same size letters or type as the name of the Grantee's organization. Additional sponsorship requirements may be specified in Attachment A, Scope of Work.

**18. PUBLIC RECORDS.**

- A. All records in conjunction with this Grant shall be public records and shall be treated in the same manner as other public records that are under Chapter 119, F.S.
- B. This Agreement may be unilaterally canceled by the Commission for refusal by the Grantee to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, F.S., and made or received by the Grantee in conjunction with this Agreement, unless exemption for such records is allowable under Florida law.
- C. If the Grantee meets the definition of "Contractor" in Section 119.0701(1)(a) F.S., the Grantee shall comply with the following:
  - i. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF THE CHAPTER 119, FLORIDA**

**STATUES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: 850-488-6553, [RecordsCustodian@myfwc.com](mailto:RecordsCustodian@myfwc.com), and 620 South Meridian Street, Tallahassee FL 32399**

- ii. Keep and maintain public records required by the Commission to perform the service.
- iii. Upon request from the Commission's custodian of public records, provide the Commission with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S. or as otherwise provided by law.
- iv. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the Commission.
- v. Upon completion of the contract transfer, at no cost, to the Commission all public records in possession of the Contractor or keep and maintain public records required by the Commission to perform the service. If the Contractor transfers all public records to the Commission upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Commission, upon request from the Commission's custodian of public records, in a format that is compatible with the information technology systems of the Commission.

**19. COOPERATION WITH INSPECTOR GENERAL.**

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

**20. SECURITY AND CONFIDENTIALITY.**

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



**21. RECORD KEEPING REQUIREMENTS.**

- A. Grantee Responsibilities.** The Grantee shall maintain accurate books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement, in accordance with generally accepted accounting principles.
- B. State Access to Grantee Books, Documents, Papers, and Records.** The Grantee shall allow the Commission, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability or authorized representatives of the state or federal government to have access to any of the Grantee's books, documents, papers, and records, including electronic storage media, as they may relate to this Agreement, for the purposes of conducting audits or examinations or making excerpts or transcriptions.
- C. Grantee Records Retention.** Unless otherwise specified in the Scope of Work, these records shall be maintained for five (5) fiscal years following the close of this Agreement, or the period required for this particular type of project by the General Records Schedules maintained by the Florida Department of State (available at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>), whichever is longer. Grantee shall cooperate with the Commission to facilitate the duplication and transfer of such records upon the Commission's request.
- D. Grantee Responsibility to Include Records Requirements – Subcontractors.** In the event any work is subcontracted under this Agreement, the Grantee shall include the aforementioned audit and record keeping requirements in all subsequent contracts.
- E. Compliance with Federal Funding Accountability and Transparency.** Any federal funds awarded under this Agreement must comply with the Federal Funding Accountability and Transparency Act (FFATA) of 2006. The intent of the FFATA is to empower every American with the ability to hold the government accountable for each spending decision. The result is to reduce wasteful spending in the government. The FFATA legislation requires that information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website: <http://www.USASpending.gov>. Grant recipients awarded a new Federal grant greater than or equal to **\$25,000.00** awarded on or after October 1, 2010 are subject to the FFATA. The Grantee agrees to provide the information necessary, over the life of this Agreement, for the Commission to comply with this requirement.

**22. FEDERAL AND FLORIDA SINGLE AUDIT ACT REQUIREMENTS.**

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

**23. FEDERAL COMPLIANCE.**

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

- i. **Clean Air Act and Water Pollution Control Act.** All applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401-7671q), and the Water Pollution Control Act (33 U.S.C. 1251-1387, as amended).
- ii. **Lacey Act, 16 U.S.C 3371-3378.** This Act prohibits trade in wildlife, fish and plants that have been illegally taken, possessed, transported or sold.
- iii. **Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801-1884.** This Act governs marine fisheries in Federal waters.
- iv. **Migratory Bird Treaty Act, 16 U.S.C. 703-712.** The Act prohibits anyone, unless permitted, to pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry or cause to be carried by any means whatsoever, receive for shipment, transport of carriage, or export, at any time, or in any manner, any migratory bird, or any part, nest, or egg of such bird.
- v. **Endangered Species Act, 16 U.S.C. 1531, et seq.** The Act provides a program for the conservation of threatened and endangered plants and animals and the habitat in which they are found. The Act also prohibits any action that cause a "taking" of any listed species of endangered fish or wildlife. Also, generally prohibited are the import, export, interstate, and foreign commerce of listed species.

24. **FEDERAL FUNDS. This Agreement relies on federal funds, therefore, the following terms and conditions apply:**

- A. **Prior Approval to Expend Federal Funds to Federal Agency or Employee.** It is understood and agreed that the Grantee is not authorized to expend any federal funds under this Contract to a federal agency or employee without the prior written approval of the awarding federal agency.
- B. **Equal Employment Opportunity.** Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60). Applicable, except as otherwise provide under 41 CFR Part 60, to any grant, contract, loan, insurance, or guarantee involving Federal assisted construction.
- C. **Davis-Bacon Act.** The Davis-Bacon Act, 40 U.S.C. 3141-3148, as supplemented by Department of Labor regulations at 29 CFR Part 5. Applicable to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000.00 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Under this Act, contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.
- D. **Copeland "Anti-Kickback Act.** The Copeland "Anti-Kickback" Act, 40 U.S.C. 3141-3148, and 3146-3148, as supplemented by Department of Labor regulations (29 CFR Part 5). Applicable to contracts awarded by a non-Federal entity in excess of \$100,000.00 that involve employment of mechanics or labors. Under this Act, contractors and subrecipients are prohibited from inducing, by any mean, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.
- E. **Contract Work Hours and Safety Standards Act.** Sections 103 and 107 of the Agreement Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). Applicable to construction contracts awarded by Contractors and subcontractors in excess of \$2,000.00, and in excess of \$2,500.00 for other contracts which involve the employment of mechanics or laborers. Under this Act, contractors and subcontractors must

compute wages of mechanics and laborers (workers) on the basis of a standard forty (40) hour work week; provide workers no less than time and a half for hours worked in excess of the forty (40) hour work week; and not require workers to work in surroundings or work conditions that are unsanitary, hazardous, or dangerous.

- F. Rights to Inventions Made Under a Contract or Agreement.** 37 CFR Part 401. If the Federal award meets the definition of "funding agreement" under 37 CFR 401.2(a) and the recipient or Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under the "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- G. Energy Efficiency.** Mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).
- H. Debarment and Suspension Contractor Federal Certification.** In accordance with Federal Executive Order 12549 and 2 CFR Part 1400 regarding Debarment and Suspension, the Grantee certifies that neither it, nor its principals, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency; and, that the Grantee shall not knowingly enter into any lower tier contract, or other covered transaction, with a person who is similarly debarred or suspended from participating in this covered transaction.
- I. Prohibition against Lobbying.**
- i. **Grantee Certification – Payments to Influence.** The Grantee certifies that no Federal appropriated funds have been paid or will be paid, on or after December 22, 1989, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding, renewal, amending or modifying of any Federal contract, grant, or cooperative agreement. The Grantee also certifies that they have not engaged any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of the Grantee with respect to this Contract and its related federal contract, grant, loan, or cooperative agreement; or, if the Grantee has engaged any registrant with respect to this Contract and its related Federal contract, grant, loan, or cooperative agreement, the Grantee shall, prior to or upon execution of this Contract, provide the Commission Contract Manager a signed declaration listing the name of any said registrant. During the term of this Contract, and at the end of each Calendar quarter in which any event occurs that materially affects the accuracy of this certification or declaration, the Grantee shall file an updated declaration with the Commission's Contract Manager. If any non-federal funds are used for lobbying activities as described above in connection with this Contract, the Grantee shall submit Standard Form-LLL, "Disclosure Form to Report Lobbying", and shall file quarterly updates of any material changes. The Grantee shall require the language of this certification to be included in all subcontracts, and all subcontractors shall certify and disclose accordingly.
  - ii. **Grantee – Refrain from Subcontracting with Certain Organizations.** Pursuant to the Lobbying Disclosure Act of 1995, the Grantee agrees to refrain from entering into any

subcontracts under this Contract with any organization described in Section 501(c)(4) of the Internal Revenue Code of 1986, unless such organization warrants that it does not, and will not, engage in lobbying activities prohibited by the Act as a special condition of the subcontract.

**J. Compliance with Office of Management and Budget Circulars.** As applicable, Grantee shall comply with the following Office of Management and Budget (OMB) Uniform Guidance (2 CFR 200).

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

**25. CONTRACT-RELATED PROCUREMENT.**

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

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

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

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

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

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

**C. Procurement of Recycled Products or Materials.** Grantee agrees to procure any recycled products or materials which are the subject of or are required to carry out this Contract in accordance with Section 403.7065, F.S.

26. **PROFESSIONAL SERVICES.**

- A. **Architectural, Engineering, Landscape Architectural, or Survey and Mapping.** If this Agreement is for the acquisition of professional architectural, engineering, landscape architectural, or registered surveying and mapping services, and is therefore subject to Section 287.055, F.S., the following provision applies:

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

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

27. **INDEMNIFICATION.**

If Grantee is a state agency or subdivision, as defined in Subsection 768.28(2), F.S., pursuant to Subsection 768.28(19), F.S., neither Party indemnifies nor insures the other Party for the other Party's negligence. If Grantee is not a state agency or subdivision as defined above, Grantee shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State and the Commission, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Grantee, its agents, employees, partners, or subcontractors, provided, however, that Grantee shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or the Commission. If this is a Professional Services Agreement as defined in Subsection 725.08 F.S., then notwithstanding the provisions of Subsection 725.06 F.S., the design professional shall only be liable for, and fully indemnify, defend, and hold harmless the State, the Commission, and their officers, agents, and employees, for actions caused in whole or in part, by the negligence, recklessness, or intentionally wrongful conduct of the design professional and other persons employed or utilized by the design professional in the performance of the Agreement.

28. **NON-DISCRIMINATION.**

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

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

This Agreement has been delivered in the State of Florida and shall be construed in accordance with the laws of Florida. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited

or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. Any action in connection herewith, in law or equity, shall be brought in Leon County, Florida, to the exclusion of all other lawful venues.

**30. NO THIRD-PARTY RIGHTS.**

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

**31. JURY TRIAL WAIVER.**

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

**32. PROHIBITION OF UNAUTHORIZED ALIENS.**

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

**33. EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY).**

- i. **Requirement to Use E-Verify.** Section 448.095(2) Florida Statute requires the Contractor to: 1.) utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the Purchase Order term; and 2.) include in all subcontracts under this Purchase Order, the requirement that subcontractors performing work or providing services pursuant to this Purchase Order utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of the subcontract.
- ii. **E-Verify Online.** E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States. The Department of Homeland Security's E-Verify system can be found online at <https://www.e-verify.gov>.
- iii. **Enrollment in E-Verify.** As a condition precedent to entering a Purchase Order with the Commission, Contractors and Subcontractors shall register with and use the E-Verify system. Failure to do so shall result in the Purchase Order not being issued, or if discovered after issuance, termination of the Purchase Order.
- iv. **E-Verify Recordkeeping.** The Contractor further agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the Commission or other authorized state entity consistent with the terms of the Contractor's enrollment in the program. This includes maintaining a copy of proof of the Contractor's and subcontractors' enrollment in the E-Verify Program. If a contractor enters into a contract with a subcontractor, the subcontractor must provide the contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract

with an unauthorized alien. The contractor shall maintain a copy of such affidavit for the duration of the contract.

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

**34. FORCE MAJEURE AND NOTICE OF DELAY FROM FORCE MAJEURE.**

Neither Party shall be liable to the other for any delay or failure to perform under this Agreement if such delay or failure is neither the fault nor the negligence of the Party or its employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Party's control, or for any of the foregoing that affects subcontractors or suppliers if no alternate source of supply is available. However, in the event of delay from the foregoing causes, the Party shall take all reasonable measures to mitigate any and all resulting delay or disruption in the Party's performance obligation under this Agreement. If the delay is excusable under this paragraph, the delay will not result in any additional charge or cost under the Agreement to either Party. In the case of any delay the Grantee believes is excusable under this paragraph, Grantee shall notify the Commission's Grant Manager in writing of the delay or potential delay and describe the cause of the delay either: (1) within ten (10) calendar days after the cause that creates or will create the delay first arose, if Grantee could reasonably foresee that a delay could occur as a result; or (2) within five (5) calendar days after the date Grantee first had reason to believe that a delay could result, if the delay is not reasonably foreseeable. **THE FOREGOING SHALL CONSTITUTE GRANTEE'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. The Commission, in its sole discretion, will determine if the delay is excusable under this paragraph and will notify Grantee of its decision in writing. No claim for damages, other than for an extension of time, shall be asserted against the Commission. Grantee shall not be entitled to an increase in the Agreement price or payment of any kind from the Commission for direct, indirect, consequential, impact, or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist, Grantee shall perform at no increased cost, unless the Commission determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to the Commission or the State, in which case, the Commission may do any or all of the following: (1) accept allocated performance or deliveries from Grantee, provided that Grantee grants preferential treatment to the Commission with respect to products or services subjected to allocation; (2) purchase from other sources (without recourse to and by Grantee for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity; or (3) terminate the Agreement in whole or in part.

**35. TIME IS OF THE ESSENCE.**

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

**36. ENTIRE AGREEMENT.**

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

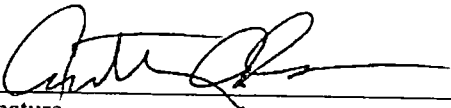
**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK  
SIGNATURE PAGE TO FOLLOW**



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

Lafayette County Board of County Commissioners

Florida Fish and Wildlife Conservation Commission

  
Signature

Gregg Eason Digitally signed by Gregg Eason  
Date: 2021.08.17 15:53:08 -04'00'

Executive Director (or designee)

Name: Anthony Adams

Name: Gregg Eason

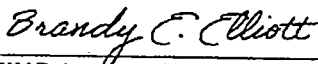
Title: Chairman - BOCC

Title: Lieutenant Colonel/Deputy Director

Date: June 28, 2021

Date: 8/17/21

Approved as to form and legality:

  
FWC Attorney Signature

Attachments in this Agreement include the following:

- Attachment A Scope of Work
- Attachment B Audit Requirements
- Attachment C Copy of Federal Award: F21AF00467
- Attachment D Boating Infrastructure Grant Program Final Rule, 50 CFR Part 86
- Attachment E Progress Report Form
- Attachment F Certification of Completion Form
- Attachment G Sample Invoice Form
- Attachment H Notice of Grant Agreement Form

## SCOPE OF WORK

BOOK 44 PAGE 199

## 1. PROJECT DESCRIPTION

- A. Purpose and Background:** The Lafayette County Board of County Commissioners will use grant funds to design and construct a floating dock, gangway and boarding dock access at the Hal Adams Boat Ramp. The Hal Adams Boat Ramp is located on the Suwannee River in northern Lafayette County. The near vertical riverbanks and configuration of the existing boat ramp walls with fencing create unsafe conditions for boarding, disembarking, loading and unloading boats.

The existing boat ramp is steep and has vertical walls topped by chain link fence along both sides. The ramp is one lane, leaving little room to maneuver a truck and boat trailer during ingress and egress to the Suwannee River. This condition makes it very difficult to load gear and board boats. While there is plenty of undesignated parking, a beautiful view, and a ramp, many boaters are hesitant to use the facility due to safety concerns. A floating dock is proposed to improve the conditions by providing loading and boarding away from the boat ramp.

Plans and permits for a floating dock and boarding dock were previously developed and funded with a grant from Florida Fish and Wildlife Conservation Commission's Florida Boating Improvement Program. The plans were deemed unfeasible by a third-party review. The County has hired Dewberry Engineering firm and is requesting funds for redesign and construction a new floating dock and boarding dock. Permits for this project have already been approved.

- B. Project Benefits:** The project will vastly improve boater safety by providing a dock to tie off boats and an alternative to boarding and disembarking on the existing boat ramp.
- C. Type of Agreement:** This is a cost reimbursement agreement in accordance with Comptroller Contract Payment Requirements as shown in the Department of Financial Services, Bureau of Accounting and Auditing, Voucher Processing Handbook, Chapter 4., C., I., attached hereto and made a part of hereof as Attachment C.
- D. Term of Agreement:** The term of the Agreement shall begin upon execution and end on September 30, 2023. Prior to the end of the term, Lafayette County Board of County Commissioners (Grantee) shall complete the tasks and provide the deliverables described in this Scope of Work. **All activities must be completed by September 30, 2023.**

## 2. PROJECT DELIVERABLES

Total payments for all deliverables will not exceed the maximum grant award amount of \$308,388.

- A. Deliverable 1:** The Grantee will use procure contracted services to design and engineer one floating dock, one gangway and one boarding dock access to the floating dock at Hal Adams boat ramp.

**Deliverable 1 Tasks:**

- Procure services to assist in administration, management and inspection of the project.
- Obtain engineering plans of the proposed project including but not limited to:
  - Site plans
  - Preliminary and final opinion of probable costs
  - Technical specifications

- Finished construction drawings
- Surveys and reports;
- Apply for and obtain permits from U.S. Army Corp of Engineers; and Suwanee River Water Management District
- Prepare construction plans, details, sections, and specifications necessary for bidding and;
- Advertise the construction project by distributing the Contract Documents to interested bidders, maintain a list of plan holders, and issue addendums if necessary.

**Compensation:** Total payment for this deliverable will be \$34,499.

**Minimum Performance:** Minimum performance will be the completion of all Tasks listed above and the completion of all requirements in Section 4 - Performance. The Grantee shall provide proof of services rendered; invoices; proof of payment; and copies of permits received.

**Documentation:** Documentation includes an attestation of activities or services rendered and proof of payment.

- B. **Deliverable 2:** The Grantee will procure contracted services to construct one floating dock and install one aluminum boarding dock and one aluminum gangway.

**Deliverable 2 Tasks:**

- Construct one floating dock, approximately 50' by 10'.
- Install one aluminum boarding dock, approximately 6' wide and;
- Install one aluminum gangway approximately 4' by 32'.

**Compensation:** Total payment for this deliverable will be \$273,889.

**Minimum Performance:** Minimum performance will be the completion of all Tasks listed above and the completion of all requirements in Section 4 - Performance. The Grantee shall provide proof of services rendered; invoices; proof of payment; and photographs of construction.

**Documentation:** Documentation includes an attestation of activities or services rendered and proof of payment.

3. **FINANCIAL CONSEQUENCES**

- A. Pursuant to 215.971(1)(c), Florida Statutes, the Commission will withhold payment of Program funds for failure to complete the Project as described herein within the timeframe allowed, or for failure to correct any Project deficiencies, as noted in the final Project inspection. Only those deliverables completed, or items purchased and received in accordance with the scope of work and within the agreement period of performance will be eligible for reimbursement. Failure of the Grantee to provide the deliverable shall be considered non-compliance with terms and payment will not be processed.
- B. In addition to nonpayment for deliverables which are not satisfactorily or timely completed, or for failure to correct any project deficiencies, as noted in the final project inspection, the Commission will impose a financial consequence of twenty-five percent (25%) of the total contract amount for failure to complete any deliverables satisfactorily or timely, or for failure to correct any project deficiencies, as noted in the final project inspection. The final project

inspection will be done by a Commission employee verifying that the project was completed according to the project scope of work.

- C. Failure of Grantee to have all receipts and evidence of project performance reflecting costs were incurred within the period of performance may jeopardize payment of funds to the Grantee per the Agreement.
- D. Following the end of the term of this Agreement, the Grantee shall repay any Program funds received for the Project for failure to maintain the Project site as a public boating access facility according to the terms and conditions herein for a period of twenty (20) years. This section shall survive any Agreement termination.

#### 4. PERFORMANCE

- A. **Permit Requirements:** The Grantee agrees to adhere to all federal, state, county and city permit requirements of the Project.
- B. **Procurement:** The Grantee shall procure goods and services through a competitive solicitation process in accordance with Chapter 287, Florida Statutes. The Grantee shall forward one copy of any solicitation to the Commission's grant manager for review prior to soliciting for quotations or commencing any work. The Grantee shall forward one copy of the bid tabulation, or similar list of responses to the solicitation, along with the award recommendation to the Commission's grant manager, to retain in their own records.
- C. **Engineering:** If applicable, all engineering must be completed by a professional engineer or architect registered in the State of Florida. All work must meet or exceed minimum design standards and guidelines established by all applicable local, state and federal laws. The Grantee agrees to adhere to all federal, state, county and city requirements of the Project and all requirements of the 2010 Standards issued pursuant to the Americans with Disabilities Act, 1003 – Recreational Boating Facilities. Standard 235.3 for Accessible Design requires that where boarding piers are provided at boat launch ramps, no fewer than one must be accessible. When compliance with ADA wheelchair accessibility requirements is in question with regard to reimbursable costs under this Agreement, the Commission may engage a third-party engineer at its own expense to review the design and report to the Commission concerning compliance. The Commission's determination based on this review will be final.
- D. **Construction:** If applicable, the contractor shall be certified by the Division of Construction Industry Licensing Board of the Florida Department of Business and Professional Regulation for the duration of this Agreement and shall provide evidence of such certification upon request.
- E. **Commencement of Work:** The Grantee shall commence work on the Project within 90 days of execution of the Agreement. Failure by the Grantee to begin work shall constitute a breach of the Agreement and may result in termination of the Agreement by the Commission.
- F. **Performance Criteria:** The Grantee shall complete the Project as described in this Scope of Work; the Florida Boating Improvement Program Application 19-019; incorporated herein by reference; and the resulting Sport Fish grant award from the US Fish and Wildlife Service, FL-F-F21AF00467, incorporated herein as Attachment C. Failure to complete the project in a satisfactory manner could result in financial consequences as specified herein.

- G. Sport Fish Restoration Rule:** The Grantee agrees to construct, operate and maintain the Project according to all provisions of Attachment D, Financial Assistance: Wildlife Restoration, Sport Fish Restoration, Hunter Education and Safety Final Rule, 50 CFR Part 80, attached and made part of this Agreement.

The Grantee further agrees to comply with all other applicable federal, state, and local rules and regulations in providing services to the Commission under this Agreement. The Grantee further agrees to include this provision in all subcontracts issued as a result of this Agreement. This section survives any Agreement termination.

- H. Certificate of Completion:** Upon completion of all Project deliverables, the Grantee shall sign and submit to the Commission's grant manager, a Final Progress Report Form, attached hereto and made a part hereof as Attachment E, and a Certification of Completion Form, attached hereto and made a part hereof as Attachment F, which certifies the Project was completed in accordance with the provisions herein. Final photographs shall be submitted with the form.
- I. Site Dedication:** For construction grants, but not for grants which involve only design, engineering, and permitting, or for grants for the installation of waterway markers or other projects on sovereign submerged lands, the Grantee agrees to dedicate the project site as a boat access facility for the use and benefit of the public as a condition of receiving funds under this Agreement. The Notice of Grant Agreement Form (Site Dedication) is attached hereto and made a part hereof as Attachment H. If required, the Grantee shall execute and record this document in the official records of the County where the Project is located. As proof of the site dedication, a copy of the recorded document shall be submitted to the Commission in addition to the Certificate of Completion, Attachment F.

Final reimbursement or 25% of the award, whichever is greater, shall be withheld until receipt of Site Dedication AND Certificate of Completion. Following this initial site dedication, the project site shall remain a public boat access facility for a period not less than twenty (20) years following the date the Site Dedication was recorded. Land under control other than by ownership by the Grantee (i.e. lease, management agreement, cooperative agreement, inter-local agreement or other similar instrument) shall be managed by the Grantee as a public boat access facility for the entirety of this site dedication period surviving the Agreement termination. Grantee agrees to secure all authorizations necessary for continuing use and management of the property for the duration of this site dedication period. Title to all improvements shall be retained by the Grantee upon final payment by the Commission.

The Grantee shall repay all funds received for the Project under this Agreement for failure to maintain the Project site as a public boating access facility according to the terms and conditions herein for the duration of the site dedication period. Should the Grantee convert all or any part of the Project to other than Commission approved uses prior to the end of this site dedication period, or should the Grantee lose authorization to use and manage the property on which the Project is completed before the end of the site dedication period, the Grantee shall replace the area, facilities, resource or site at its own expense with a project acceptable to the Commission of comparable scope and quality. In the event the Project is converted to use for other purposes or the Grantee loses authorization to use and manage the property on which the Project is completed within the site dedication period and Grantee has not replaced the Project with a like project acceptable to the

Commission, the Grantee agrees to return to the Commission all funds tendered under this Agreement for the original Project.

Site dedication, the site dedication period, and all terms of this section survive any Agreement termination. If mutually agreed upon by both parties in writing the site dedication may be rescinded. The Commission shall waive the site dedication requirement if no program funds were dispersed.

- J. Acknowledgement:** Upon completion of the Project, the Grantee, at its expense, shall purchase, erect and maintain a permanent sign, not less than three (3) feet by four (4) feet in size, displaying the Commission's logo, acknowledging the Commission and the Sport Fish Restoration Program as a funding source for the Project. Any other form of acknowledgement must be approved by the Commission's grant manager. Such acknowledgement shall be maintained for the duration of the site dedication period described in Section I, Site Dedication, above in Section 4, Performance. Should the Grantee fail to maintain such acknowledgement, the Grantee agrees to return to the Commission all funds tendered under this Agreement for the original Project. The Grantee shall provide a draft copy of the acknowledgement sign for approval by the Commission prior to displaying on site. Language to place on the sign shall include: This Project was funded by the Florida Fish and Wildlife Conservation Commission through the Sport Fish Restoration Program and Florida Boating Improvement Program. This section survives any Agreement termination.

## 5. BUDGET

Deliverable Number	Cost Item	TOTAL COST	Local Share	State Share	Federal Share
1	Administrative and legal expenses	\$1,000	\$0	\$1,000	\$0
	Land, structures, rights-of-way, appraisals	\$0	\$0	\$0	\$0
	Relocation expenses and payments	\$0	\$0	\$0	\$0
1	Architectural and engineering fees	\$34,499	\$0	\$8,540.56	\$25,958.44
	Other architectural and engineering fees	\$0	\$0	\$0	\$0
2	Project inspection fees	\$17,889	\$0	\$4,428.61	\$13,460.39
	Site work	\$0	\$0	\$0	\$0
	Demolition and removal	\$0	\$0	\$0	\$0
2	Construction	\$255,000	\$0	\$63,127.83	\$191,872.17
	Equipment	\$0	\$0	\$0	\$0
	Miscellaneous:	\$0	\$0	\$0	\$0

	Contingencies (allowed at the time of the grant)	\$0	\$0	\$0	\$0
	<b>TOTAL</b>	<b>\$308,388</b>	<b>\$0</b>	<b>\$77,097</b>	<b>\$231,291</b>
	<b>Percentage</b>	<b>100%</b>	<b>0%</b>	<b>25%</b>	<b>75%</b>

- A. **Project Budget:** For satisfactory completion of the tasks and deliverables described in this Scope of Work, by the Grantee under the terms of this Agreement, the Commission shall pay the Grantee on a cost reimbursement basis in an amount not to exceed \$308,388. All amounts noted in the budget are estimates based on preliminary quotes or prior project activities from the application amount. Deviations from this budget that exceed ten percent (10%) of the total amount in any budget category/deliverable must be approved by the Commission grant manager in writing prior to the deviation. The Grantee shall be reimbursed only for budgeted expenses incurred during the term of the Agreement that are directly related to the Project.
- B. **Cost Share:** The Grantee agrees to provide 0% of the total cost for the Project as described in the scope of work. The total compensation by the Commission shall be \$308,388 or 100% of the total cost, whichever is less.
- C. **Pre-Award Costs:** The Lafayette County Board of County Commissioners was selected by the Florida Boating Improvement Program Evaluation Committee to move forward in the Sport Fish Restoration application process. In the application, pre-award costs were requested for Architectural and Engineering in the amount of \$34,499. From the activities listed above, the following costs have been incurred since November 2014: Architectural and Engineering: \$34,499; These costs will be charged to the federal grant.

**6. COMPENSATION AND PAYMENT**

- E. **Fee Schedule:** This section is not applicable.
- F. **Travel Expenses:** No travel expenses are authorized under the terms of this Agreement.
- G. **Cost Reimbursement:** This is a cost reimbursement agreement. The total approved estimated project cost for the Project is \$308,388. The Commission agrees to reimburse the Grantee for an amount not to exceed \$308,388 or 100% of the total cost, whichever is less for satisfactory completion by the Grantee of the Project. The Grantee agrees to provide a minimum of \$0 or 0% toward completion of the Project and shall be responsible for any additional costs that exceed the total approved estimated project cost for the Project.
- H. **Invoice Schedule and Payment:** Invoices may be submitted upon the completion of at least one deliverable listed in the scope of work. The Commission shall have up to thirty (30) days to inspect and approve the Project's deliverables once reported complete by the Grantee. If there are deficiencies noted in the Project inspection, these shall be corrected by the Grantee prior to payment by the Commission. The Commission shall restrict any or all payment of funds pending correction of such deficiencies.

The Grantee shall report the Project complete by submitting the Certification of Completion Form, attached hereto and made a part hereof as Attachment F. Final payment shall be contingent upon the Commission's grant manager receiving and accepting the Certification of Completion Form, Final Progress Report and final inspection of the Project, as described herein.

Once the final inspection and project deliverables are approved, the Grantee may submit a final request for reimbursement within thirty (30) days after receiving written acceptance by the Commission's grant manager.

- I. Forms and Documentation:** After receiving acceptance of deliverable completion from the Commission's grant manager, the Grantee may submit a request for reimbursement that includes an invoice in a format similar to Attachment G, Sample Invoice Form.

Invoice forms and supporting documentation must clearly identify the dates of services, a description of the specific Agreement deliverables provided during the reporting period, an itemized list of expenditures, the quantity provided, the payment amount specified in the Agreement, the Commission's Agreement Number and the Grantee's Federal Employer Identification (FEID) Number.

The Grantee must submit and maintain original supporting documentation for all funds expended and received under this Agreement in sufficient detail for proper pre- and post-audit and to verify work performed was in accordance with the deliverable(s) and not eligible for payment under and other state or federal funding source. Supporting documentation includes, but is not limited to, quotes, procurement documents, purchase orders, original receipts, invoices, cancelled checks or EFT records, bank statements or copies of general ledgers.

The Commission's grant manager shall have up to ten (10) days to review and approve the invoice for payment. Any errors or insufficient supporting documentation included with the invoice will delay payment and the thirty (30) days to review by the Commission may begin again.

## 7. MONITORING SCHEDULE

- A. Compliance Monitoring and Corrective Actions:** The Commission will monitor the Grantee's service delivery to determine if the Grantee has achieved the required level of performance. 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. The Grantee shall correct all identified deficiencies within forty-five (45) days of notice. 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 delays in payment or termination of this Agreement in accordance with the Termination section.
- B. Site Inspections:** The Commission may inspect the Project site prior to and, if applicable, during the construction of the Project. The Grantee shall notify the Commission's Grant Manager when the Project has reached substantial completion so that inspection may occur in a timeframe allowing for the timely submission and processing of the final invoice. The Commission's grant manager, or designee, shall inspect the work accomplished on the Project and, if deemed complete and in compliance with the terms of the Agreement, approve the request for payment.

The Grantee shall allow unencumbered access to the Project site to the Commission, its employees or agent for the duration of the Agreement and for the duration of the site dedication period described in Section I, Site Dedication, above in Section 4, Performance for the purpose of site visit or inspection to verify the facility is being maintained, in operation and is open and available to the public. As part of the inspection, the Commission may request maintenance and use information



from the Grantee to validate the condition of the facility. This section shall survive any Agreement termination.

- C. The Grantee shall provide and be responsible for any and all costs associated with the ordinary and routine operations and maintenance of the Project site, including any and all personnel, equipment or service and supplies costs beyond the costs approved for reimbursement in this Agreement for the duration of the site dedication period described in Section I, Site Dedication, above in Section 4, Performance. This section survives any Agreement termination.
- D. **Project Progress Reports:** Starting the first quarter after the date the Agreement is executed, the Grantee shall submit to the Commission, on a quarterly basis, Project Progress Reports outlining the progress of the Project, identifying any problems that may have arisen, and actions taken to correct such problems. Such reports shall be submitted on the Project Progress Report Form attached hereto and made a part hereof as Attachment E. Progress report are required until the Certification of Completion is submitted. Reports are due to the Commission's grant manager according to the following schedule:

<u>Reporting Period</u>	<u>Report due by:</u>
January through March	April 15 <sup>th</sup>
April through June	July 15 <sup>th</sup>
July through September	October 15 <sup>th</sup>
October through December	January 15 <sup>th</sup>

- E. **Annual Reports:** Following completion of the Project, but not a project that involves only design, engineering, and permitting, or for grants for the installation of waterway markers or other projects on sovereign submerged lands, the Grantee shall submit to the Commission an annual report on June 30<sup>th</sup> of each year until the end of the site dedication period described in Section I, Site Dedication, above in Section 4, Performance. This annual report shall include a description of the condition of any facilities funded with Program funds including any major repairs to the facilities; the amount of revenue collected from any permits or fees for the use of the facilities; and an estimate of the number of users of the facilities. Should the Grantee fail to complete and submit these annual reports, the Grantee agrees to return to the Commission all funds tendered under this Agreement for the original Project. This section survives any Agreement termination.

**8. INTELLECTUAL PROPERTY RIGHTS**

No additional requirements. Refer to Section 12 of the Agreement.

**9. SUBCONTRACTS**

No additional requirements. Refer to Section 14 of the Agreement.

**10. INSURANCE**

No additional requirements. Refer to Section 16 of the Agreement.

**11. SECURITY AND CONFIDENTIALITY**

No additional requirements. Refer to Section 20 of the Agreement.

**12. RECORD KEEPING REQUIREMENTS**

Records shall be maintained for ten (10) years following the completion of the Project. Completion of the Project has occurred when all reporting requirements are satisfied, and final payment has been received by the Grantee. Refer to Section 21 of the Agreement.

**13. NON-EXPENDABLE PROPERTY**

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

**14. PURCHASE OR IMPROVEMENT OF REAL PROPERTY**

Refer to Section I, Site Dedication, above in Section 4, Performance.

**15. SPECIAL PROVISIONS FOR CONSTRUCTION CONTRACTS**

- A. Fees:** The Commission reserves the right to review and approve any and all fees proposed for grant project sites, funded in whole or in part by this Program, for the term of the Agreement as well as the term of the site dedication period described in Section I, Site Dedication, above in Section 4, Performance to ensure that excess collection does not occur and that funds collected are not reallocated or diverted to any non-boating access related purpose. This section survives any Agreement termination.
- B. Drug-Free Workplace Requirement for Construction Contractors:** Pursuant to Section 440.102(15), F.S., any construction contractor regulated under Parts I and II of Chapter 489, F.S., who contracts to perform construction work under a state contract shall implement a drug-free workplace.
- C. Contractor Eligibility:** All contractors shall be certified by the Division of Construction Industry Licensing Board of the Florida Department of Business and Professional Regulation for the duration of this Agreement and shall provide evidence of such certification to the Commission upon request.

(Remainder of page left blank intentionally.)

**PUBLIC NOTICE**

The Lafayette County Commission will hold a public hearing to consider the following petition to close a road by Georgia M. Keen. Listed below is a description of the road. The public hearing will be held during a regular scheduled meeting on Monday, June 28, 2021 at 5:30 p.m. or as soon thereafter as it can be heard, and will be held in the County Commissioners meeting room on the second floor of the Lafayette County Courthouse located at 120 West Main Street in Mayo, Florida.

By Order Of:



Anthony Adams, Chairman  
Lafayette County Commission

**PETITION TO CLOSE ROAD**

Comes now the undersigned pursuant to provisions of Florida Statute 336.09 and petitions the Board of County Commissioners for Lafayette County, Florida to vacate, abandon, discontinue and close the following road, to wit:

THAT PART OF NW DUFFY AVE. RUNNING IN A WESTERLY DIRECTION FROM NW CR 53 TO A POINT ON THE EAST RIGHT OF WAY OF THE LIVE OAK, PERRY AND SOUTH GEORGIA RAILROAD LYING IN BETWEEN BLK 5 & BLK 12 OF SW DAY. ALL LYING AND BEING IN SECTION 26 TOWNSHIP 3 S RANGE 10 E LAFAYETTE COUNTY, FLORIDA.

Executed this 20<sup>th</sup> day of May, 2021.

Georgia M. Keen  
4349 N CR 53  
Mayo, FL 32066

All members of the public are welcome to attend. Notice is further hereby given, pursuant to Florida statute 286.0105, that any person or persons deciding to appeal any matter considered at this public hearing will need a record of the hearing and may need to ensure that a verbatim record of the proceeding is made which record includes the testimony and evidence upon which the appeals is to be based.

MAYO FREE PRESS  
Please Run 6/10/21 and 6/17/21.

PETITION TO CLOSE ROAD  
LAFAYETTE COUNTY, FLORIDA

The undersigned, Georgia M Keen (print name) pursuant to Florida Statute 336.09, petitions the Board of County Commissioners to vacate, abandon, discontinue and close the following road:

NW DUFFY Ave Day Fl  
(fill in name of county road)

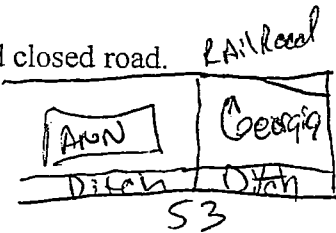
1. REASON

State below the reason to close the road:

It been only a Driveway to Mine &  
Ann Morrison property. Stops a railroad property  
only maintained by Georgia Keen

2. LEGAL DESCRIPTION

Attach as a separate page the legal description for the proposed closed road.



3. ADJACENT LANDOWNERS

List all adjacent landowners to the proposed road.

Adjacent Landowners

ANN MORRISON  
Lives in Indiana / PAID  
rent for 2017-2021 her

Add pages if necessary.



4. SKETCH: Attach a sketch showing the road and all adjacent landowners and their approximate location in relation to the proposed closed road.

5. NO-OBJECTION LETTERS: Attach a written statement of no objection to the road closure from all adjacent landowners.

UNDER PENALTIES OF PERJURY, I swear the foregoing is accurate to the best of my knowledge.

Georgia M. Keen  
Petitioner

5-20-21  
Date

"ATTACHMENT A"

THAT PART OF NW DUFFY AVE RUNNING IN A WESTERNLY DIRECTION FROM NW CR 53 TO A POINT ON THE EAST RIGHT OF WAY OF THE LIVE OAK, PERRY AND SOUTH GEORGIA RAILROAD LYING IN BETWEEN BLK 5 & BLK 12 OF SW DAY. ALL LYING AND BEING IN SECTION 26 TOWNSHIP 03 S RANGE 10 E LAFAYETTE COUNTY FLORIDA.

RESOLUTION NO. 2021-05-08

STATE OF EMERGENCY EXTENSION #63

WHEREAS, COVID-19 continues to be a threat to the public health of Lafayette County residents, workers, and visitors; and

WHEREAS, on March 9, 2020 Governor Ron DeSantis issued Executive Order Number 20-52, declaring a state of emergency for the State of Florida to address the public health emergency caused by the threat of COVID-19 to the state; and

WHEREAS, on March 19, 2020, the Lafayette County Board of County Commissioners declared a State of Emergency and approved extensions for additional seven day periods on the approval of the Chairman of the Board of County Commissioners, I hereby extend the current State of Emergency for an additional seven day period beginning May 27, 2021 thru June 3, 2021, unless cancelled before that time.

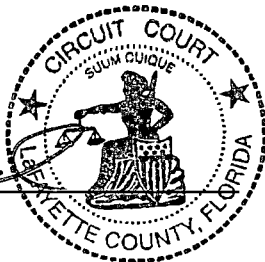
ENACTED this 27<sup>th</sup> day of May, 2021 effective from May 27, 2021 until June 3, 2021.

BOARD OF COUNTY COMMISSIONERS  
LAFAYETTE COUNTY, FLORIDA

  
Anthony Adams, Chairman

Attest:

  
Steve Land, Clerk



RESOLUTION NO. 2021-06-01

STATE OF EMERGENCY EXTENSION #64


**WHEREAS**, COVID-19 continues to be a threat to the public health of Lafayette County residents, workers, and visitors; and

**WHEREAS**, on March 9, 2020 Governor Ron DeSantis issued Executive Order Number 20-52, declaring a state of emergency for the State of Florida to address the public health emergency caused by the threat of COVID-19 to the state; and

**WHEREAS**, on March 19, 2020, the Lafayette County Board of County Commissioners declared a State of Emergency and approved extensions for additional seven day periods on the approval of the Chairman of the Board of County Commissioners, I hereby extend the current State of Emergency for an additional seven day period beginning June 3, 2021 thru June 10, 2021, unless cancelled before that time.

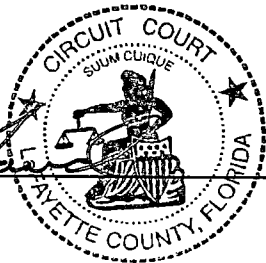
**ENACTED** this 3<sup>rd</sup> day of June, 2021 effective from June 3, 2021 until June 10, 2021.

BOARD OF COUNTY COMMISSIONERS  
LAFAYETTE COUNTY, FLORIDA

  
Anthony Adams, Chairman

Attest:

  
Steve Land, Clerk



RESOLUTION NO. 2021-06-02

STATE OF EMERGENCY EXTENSION #65


WHEREAS, COVID-19 continues to be a threat to the public health of Lafayette County residents, workers, and visitors; and

WHEREAS, on March 9, 2020 Governor Ron DeSantis issued Executive Order Number 20-52, declaring a state of emergency for the State of Florida to address the public health emergency caused by the threat of COVID-19 to the state; and

WHEREAS, on March 19, 2020, the Lafayette County Board of County Commissioners declared a State of Emergency and approved extensions for additional seven day periods on the approval of the Chairman of the Board of County Commissioners, I hereby extend the current State of Emergency for an additional seven day period beginning June 10, 2021 thru June 17, 2021, unless cancelled before that time.

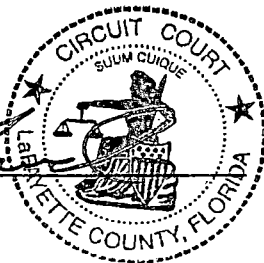
ENACTED this 10<sup>th</sup> day of June, 2021 effective from June 10, 2021 until June 17, 2021.

BOARD OF COUNTY COMMISSIONERS  
LAFAYETTE COUNTY, FLORIDA

  
Anthony Adams, Chairman

Attest:

  
Steve Land, Clerk





RESOLUTION NO. 2021-06-04

STATE OF EMERGENCY EXTENSION #66


**WHEREAS**, COVID-19 continues to be a threat to the public health of Lafayette County residents, workers, and visitors; and

**WHEREAS**, on March 9, 2020 Governor Ron DeSantis issued Executive Order Number 20-52, declaring a state of emergency for the State of Florida to address the public health emergency caused by the threat of COVID-19 to the state; and

**WHEREAS**, on March 19, 2020, the Lafayette County Board of County Commissioners declared a State of Emergency and approved extensions for additional seven day periods on the approval of the Chairman of the Board of County Commissioners, I hereby extend the current State of Emergency for an additional seven day period beginning June 17, 2021 thru June 24, 2021, unless cancelled before that time.

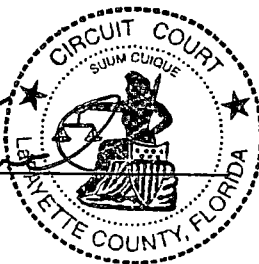
**ENACTED** this 17<sup>th</sup> day of June, 2021 effective from June 17, 2021 until June 24, 2021.

BOARD OF COUNTY COMMISSIONERS  
LAFAYETTE COUNTY, FLORIDA

  
Anthony Adams, Chairman

Attest:

  
Steve Land, Clerk



RESOLUTION NO. 2021-06-05

STATE OF EMERGENCY EXTENSION #67


WHEREAS, COVID-19 continues to be a threat to the public health of Lafayette County residents, workers, and visitors; and

WHEREAS, on March 9, 2020 Governor Ron DeSantis issued Executive Order Number 20-52, declaring a state of emergency for the State of Florida to address the public health emergency caused by the threat of COVID-19 to the state; and

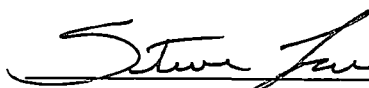
WHEREAS, on March 19, 2020, the Lafayette County Board of County Commissioners declared a State of Emergency and approved extensions for additional seven day periods on the approval of the Chairman of the Board of County Commissioners, I hereby extend the current State of Emergency for an additional seven day period beginning June 24, 2021 thru July 1, 2021, unless cancelled before that time.

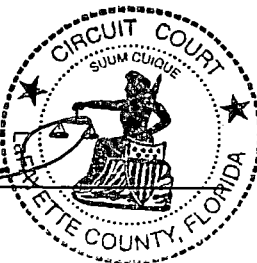
ENACTED this 24<sup>th</sup> day of June, 2021 effective from June 24, 2021 until July 1, 2021.

BOARD OF COUNTY COMMISSIONERS  
LAFAYETTE COUNTY, FLORIDA

  
\_\_\_\_\_  
Anthony Adams, Chairman

Attest:

  
Steve Land, Clerk



Check History Report  
Sorted By Check Number  
Activity From: 6/28/2021 to 6/28/2021

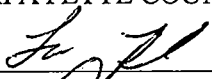
Bank Code: A General Fund

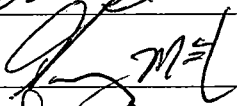
Check Number	Check Date	Vendor Number	Name	Check Amount	Check Type
063275	6/28/2021	JDC	John Deere Credit	1,213.85	Auto
063276	6/28/2021	KWB	District 2 Medical Examiner	3,510.00	Auto
063277	6/28/2021	MTG	Matheson Tri-Gas Inc.	1,108.50	Auto
063278	6/28/2021	MTRI	Med-Tech Resource Inc.	391.76	Auto
063279	6/28/2021	AAAPORT	AAA Porta Serve	85.00	Auto
063280	6/28/2021	BPIT	Brian Pittman	975.00	Auto
063281	6/28/2021	BPSLLC	Breaking Point Solutions LLC	5,000.00	Auto
063282	6/28/2021	BR	Blue Rok, Inc.	823.42	Auto
063283	6/28/2021	DE	Duke Energy	5,139.39	Auto
063284	6/28/2021	DISH	Dish Network	140.13	Auto
063285	6/28/2021	DMINC	Denali Materials, Inc.	417.83	Auto
063286	6/28/2021	GLC	Greatamerica Financial Service	300.09	Auto
063287	6/28/2021	LEGAL	Legal Shield	123.60	Auto
063288	6/28/2021	MOS	McCrimon's Office Supply	31.00	Auto
063289	6/28/2021	MSSC	Municipal Supply & Sign Comp.	1,200.00	Auto
063290	6/28/2021	NFP	North Florida Printing	367.00	Auto
063291	6/28/2021	QC	Quill Corporation	477.97	Auto
063292	6/28/2021	RP	Ring Power	906.86	Auto
063293	6/28/2021	SG	Suwannee Graphics	35.00	Auto
063294	6/28/2021	SICD	Standard Insurance Company	2,627.12	Auto
063295	6/28/2021	SICL	Standard Insurance Company	435.20	Auto
063296	6/28/2021	SICV	Standard Insurance Company	414.32	Auto
063297	6/28/2021	TCI	Tri-County Irrigation, Inc.	74.11	Auto
063298	6/28/2021	W	Windstream	3,124.33	Auto
063299	6/28/2021	WBH	W. B. Howland Co.	1,015.56	Auto
063300	6/28/2021	WSLO	Winsupply of Live Oak	537.03	Auto
063301	6/28/2021	FLGHIC	FL Local Government Health Insurance Consortium	67,863.99	Auto
063302	6/28/2021	MBH	Meridian Behavioral Healthcare	4,458.50	Auto
063303	6/28/2021	MP	Mayo Postmaster	330.00	Auto
063304	6/28/2021	SSC	Security Safe Company, Inc.	49.00	Auto
063305	6/28/2021	SUNLIFE	Sun Life Financial	375.82	Auto
063310	6/28/2021	AHLIC	American Heritage Life Insurance Company	156.51	Auto
063311	6/28/2021	ATCL	Andersons' Tri-county Locksmit	30.00	Auto
063312	6/28/2021	BPIT	Brian Pittman	1,425.00	Auto
063313	6/28/2021	BR	Blue Rok, Inc.	587.22	Auto
063314	6/28/2021	EWL	EnviroWaste LLC	800.00	Auto
063315	6/28/2021	HB	Hamlin Brothers	130.00	Auto
063316	6/28/2021	HHTSW	H & H Tractor & Site Works	2,211.00	Auto
063317	6/28/2021	MOS	McCrimon's Office Supply	36.00	Auto
063318	6/28/2021	NFEDP	North FL Economic Dev Partners	869.00	Auto
063319	6/28/2021	PR	Dewberry Engineers Inc	1,800.00	Auto
063320	6/28/2021	SVE	Suwannee Valley Electric	54.27	Auto
063321	6/28/2021	LN	Liberty National Life Insuranc	867.72	Auto

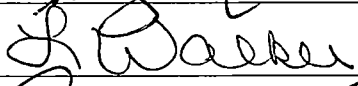
Bank A Total: 112,518.10

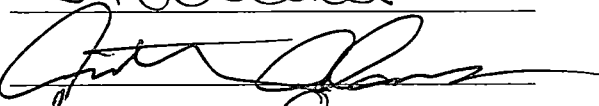
Report Total: 112,518.10

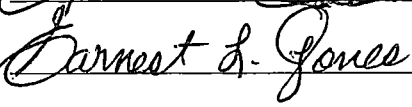
THESE INVOICES HAVE BEEN EXAMINED AND APPROVED FOR PAYMENT BY THE  
LAFAYETTE COUNTY BOARD OF COMMISSIONERS ON THIS 28TH DAY OF JUNE 2021.

  
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**BOOK 44 PAGE 217**

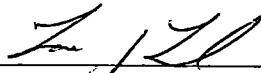
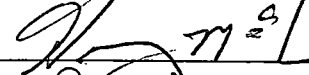
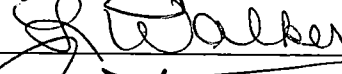
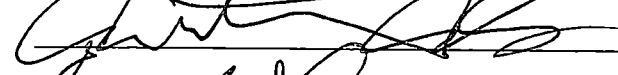
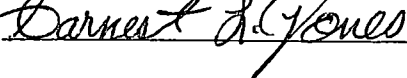
**BOARD OF COUNTY COMMISSIONERS, LAFAYETTE COUNTY, FL**

LIST OF WARRANTS DRAWN ON THE EMERGENCY 911 FUND.

FROM THE FIRST FEDERAL BANK, ON JUNE 28, 2021.

TO WHOM ISSUED	PURPOSE OF EXPENDITURE	ACCOUNT NUMBER	WARRANT NO.	AMOUNT
State of FL- Dept of Mgmt Svcs	Communications	526-410		\$ 608.40
TOTAL				\$ 608.40

THESE INVOICES HAVE BEEN EXAMINED AND APPROVED FOR PAYMENT BY THE LAFAYETTE COUNTY BOARD OF COUNTY COMMISSIONERS ON THIS 28TH DAY OF JUNE, 2021.


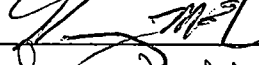
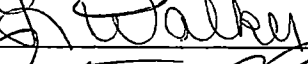
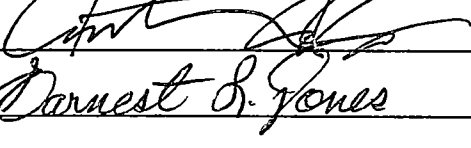
**BOARD OF COUNTY COMMISSIONERS, LAFAYETTE COUNTY, FL**

LIST OF WARRANTS DRAWN ON THE INDUSTRIAL PARK FUND.

FROM THE LAFAYETTE COUNTY STATE BANK, ON JUNE 28, 2021.

TO WHOM ISSUED	PURPOSE OF EXPENDITURE	ACCOUNT NUMBER	WARRANT NO.	AMOUNT
SVEC	Utilities	552-430		\$ 77.95
TOTAL				\$ 77.95

THESE INVOICES HAVE BEEN EXAMINED AND APPROVED FOR PAYMENT BY THE LAFAYETTE COUNTY BOARD OF COUNTY COMMISSIONERS ON THIS 28TH DAY OF JUNE, 2021.

THIS SOFTWARE LICENSE AGREEMENT (this "Agreement") is made and entered into effective [ June 28 ] 2021 (the "Effective Date"), by and between Breaking Point Solutions LLC, ("Our Company"), having a principal place of business at 16409 400<sup>th</sup> Street, Montgomery, Minnesota 56069 USA, and Lafayette County ("Licensee") having a principal place of business at 120 W Main St Mayo, FL 32066, and describes the terms and conditions pursuant to which Our Company will provide Licensee the Software (as defined and described below).

**BACKGROUND**

- A. Our Company has developed GEO Crowd-Sourcing and Mapping software, including modifications, enhancements, improvements, updates, additions, derivative works, documentation and related material (the "Software").
- B. Our Company desires that the Software be licensed to Licensee.
- C. Licensee desires to license the Software from Our Company.

NOW, THEREFORE, in consideration of the mutual covenants and premises herein contained, the parties hereto agree as follows:

- 1. Grant of License/Term/Fees. Our Company grants to Licensee a non-exclusive, non-transferable license (the "License") to use the Software from the Effective Date for an initial term (the "Term") and the License Fee(s) as described below, subject to the terms and conditions herein.

License Fee(s)/Renewals. Licensee shall pay Our Company annualized license fee(s) (the "License Fee(s)") of \$5,000 per year (a total of \$5,000 for the full initial Term) for the License to use of the Software. An invoice will be issued after the contract is fully executed. Any renewals shall be invoiced by the end of the Term at Our Company's then current prices. If the initial Term (or any extension/renewal Term, as applicable), is multi-year, Customer shall have the option of paying the multi-year License Fee(s) on an annualized basis prorated over the multi-year Term. Payment terms shall be payable within 30 days of the Invoice Date.

For an initial fixed Term of 1 year(s), which may be renewed and/or extended prior to the end thereof on mutually agreed upon terms,

OR

For an initial Term of [ ] year(s), which shall automatically renew for successive [ ] year Terms, unless either party provides the other written notice of non-renewal at least 30 days prior to the expiration of the current Term.

The activated County shall be Lafayette County, Florida.

- 2. Ownership/Confidentiality. Licensee agrees that the Software is exclusively owned by Our Company and includes valuable intellectual property of Our Company. Licensee agrees to treat the Software as strictly confidential and will not without the express written authorization of Our Company:
  - a. Copy, sell or market the Software to any third party; or

- b. Publish or otherwise disclose information relating to performance or quality of the Software to any third party; or
  - c. Modify, reuse, disassemble, decompile, reverse engineer or otherwise translate the Software or any portion thereof.
3. Customizations/Modifications. Any customizations or modifications of the Software for a specific need or purpose may be requested by the Licensee. In such a case any such customizations or modifications shall be owned by Our Company and licensed to Licensee under this Agreement.
  4. Support/Troubleshooting. Any performance of the Software which Licensee believes to be a defect or bug shall be promptly documented and reported to Our Company. Our Company shall review any such report and will be the sole party determining what, if, or when any corrective action shall be taken.
  5. Termination/Survival. This Agreement (including the License) will terminate without further notice from Our Company if Licensee fails to comply with any material term(s) of this Agreement after receipt of written notice and thirty (30) days opportunity to cure. Upon the termination of this Agreement (including the License), access codes will be disabled rendering the software inoperable. Notwithstanding any such termination or expiration of this Agreement and the License, the following provisions shall survive: Sections 2, 5-11, 14.
  6. Warranty/Disclaimer. Our Company warrants to Licensee that the Software will perform substantially in accordance with the Software documentation. Licensee's sole and exclusive remedy for any breach of the foregoing warranty shall be, at Our Company's option, repair or replacement of the non-conforming software or a refund of the remaining portion (prorated) of the License Fee(s) related to the non conforming Software and this Agreement shall be deemed Terminated per Section 5. Our Company further warrants that it owns or otherwise has sufficient rights in the Software to grant to Licensee the right to use the Software granted herein, and that the Software does not infringe the copyrights, trade secrets patents or trademark rights of any third party.

OTHER THAN AS EXPRESSLY SET FORTH IN THE FOREGOING PARAGRAPH, OUR COMPANY DOES NOT MAKE ANY EXPRESS OR IMPLIED WARRANTIES TO LICENSEE OR ANY OTHER PERSONS OR ENTITIES WITH RESPECT TO THE SOFTWARE, THE LICENSE OR ANY PRODUCTS OR SERVICES PROVIDED HEREUNDER OR OTHERWISE REGARDING THIS AGREEMENT, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY, AND THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

7. Indemnification. Our Company shall defend and/or settle at its expense, any claims, actions or proceedings against Licensee to the extent arising out of or relating to any misappropriation or infringement by the Software of any third party's proprietary or intellectual property right ("Licensee Claims"), and Our Company shall pay all damages finally awarded by a court of competent jurisdiction to such third party against Licensee, or any settlement amounts agreed by Our Company in writing; subject to the conditions that, Licensee shall notify Our Company of any Licensee Claims, permit Our Company to control the defense and settlement of such Licensee Claims (provided that Licensee may participate with counsel of its own choosing, at its own expense), and assist Our Company in defending or settling such Licensee Claims. Our Company shall not be liable for any settlement amounts entered into by Licensee without Our Company's prior written approval. If Our Company has reason to believe that it would be subject to an injunction or continuing damages based on the Software, then Our Company shall be entitled to either modify the Software to make it non-infringing and/or remove the misappropriated material, replace the Software or portion thereof with a service or materials that provide substantially the same functionality or information, or, if neither of the foregoing is commercially



practicable, require Licensee to cease using the Software, and refund to Licensee any License Fee(s) that have been pre-paid by Licensee but are unused. The foregoing notwithstanding, Our Company shall have no liability for a claim of infringement or misappropriation to the extent caused by (i) the combination of the Software with any other service, software, data or products not provided or certified by Our Company, which claim would have been avoided if the Software had not been so combined; or (ii) the use of any material provided by Licensee; (iii) any breach by Licensee of this Agreement or of any Software policies and/or procedures.

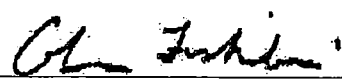
THE FOREGOING IS OUR COMPANY'S SOLE AND EXCLUSIVE LIABILITY, AND LICENSEE'S SOLE AND EXCLUSIVE REMEDY FOR ANY INFRINGEMENT OR MISAPPROPRIATION OF ANY THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS.

8. Limitation of Liability. EXCEPT FOR THE CONFIDENTIALITY AND INDEMNIFICATION OBLIGATIONS HEREUNDER, (a) IN NO EVENT WILL OUR COMPANY BE LIABLE TO LICENSEE UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF CLAIM OR ACTION, IN AN AMOUNT THAT EXCEEDS THE TOTAL FEES PAID OR OWED TO OUR COMPANY UNDER THIS AGREEMENT FOR THE PREVIOUS TWELVE MONTH PERIOD - THIS LIMITATION OF LIABILITY IS THE TOTAL AGGREGATE, AND IS NOT PER INCIDENT, AND (b) IN NO EVENT WILL OUR COMPANY BE LIABLE TO LICENSEE FOR SPECIAL, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, OR INDIRECT DAMAGES OR COSTS (INCLUDING LEGAL FEES AND EXPENSES) OR LOSS OF GOODWILL OR PROFIT IN CONNECTION WITH THE SUPPLY, USE OR PERFORMANCE OF OR INABILITY TO USE THE SOFTWARE, ANY LICENSE PROVIDED HEREUNDER, OR IN CONNECTION WITH ANY CLAIM ARISING FROM THIS AGREEMENT, EVEN IF OUR COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR COSTS.
9. Legal Compliance/Export Control. Licensee shall comply with all applicable federal, state and local laws, regulations, and ordinances in connection with its activities pursuant to this Agreement. Without limiting the generality of the foregoing, Licensee also agrees that it may not use or otherwise export or re-export the Software except as authorized by United States law and the laws of the jurisdiction in which the Software was obtained. In particular, but without limitation, the Software may not be exported or re-exported (a) into (or to a national or resident of) any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. By using the Software, Licensee represents and warrants that it is not located in, under control of, or a national or resident of any such country or on any such list.
10. Governing Law/Jurisdiction. This Agreement shall be governed by, construed and enforced in accordance with the laws of the United States of America and of the State of Minnesota. Any disputes arising under this Agreement shall be determined by a federal or state court located in Hennepin County, State of Minnesota.
11. Notices. Any notice required by this Agreement shall be given by prepaid, first class, certified mail, return receipt requested to above address or such other address as may be given from time to time under the terms of this notice provision.
12. Complete Understanding. This Agreement constitutes the entire and only agreement between the parties for the Software and the License and all other prior negotiations, representations, agreements, and understandings are superseded hereby.
13. Amendment and Waiver. No agreements altering or supplementing the terms hereof may be made except by means of a written document signed by the duly authorized representatives of the parties. Failure of Our Company to enforce a right under this Agreement shall not act as a waiver of that right or the ability to later assert that right relative to the particular situation involved.

- 14. Severability. If any provision of this Agreement shall be found by a court to be void, invalid or unenforceable, the same shall be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this Agreement.
- 15. Assignment. Licensee may not assign any of its rights or delegate any of its obligations under this Agreement or the License, whether by operation of law or otherwise, without the prior express written consent of Our Company, which may be conditioned, granted or withheld at Our Company's sole discretion. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors, and permitted assigns. Any attempted assignment in violation of this Section shall be null and void.
- 16. Force Majeure. Except for Licensee's obligations to pay the License Fee(s), neither party shall be deemed to be in breach of this Agreement for any failure or delay in performance caused by reasons beyond its reasonable control, including but not limited to acts of God, earthquakes, wars, terrorism, communication failures, strikes or shortages of materials, or pandemics.
- 17. Territory Overlap/Data-Sharing. If Licensee's territory overlaps with another licensee's territory, both parties must provide Our Company with a mutually signed data sharing agreement between the two parties, otherwise Our Company will keep the data separate for each licensee
- 18. The principle contact for Our Company shall be: Glenn Fishbine, [glenn@geopartnersllc.com](mailto:glenn@geopartnersllc.com) 612 387 7536
- 19. The principle contact for Licensee shall be: Keesha Faudora 386-294-1600

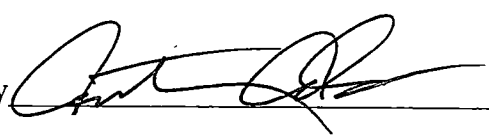
IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement.

Breaking Point Solutions LLC

By 

Name: Glenn Fishbine  
Title: Partner, Breaking Point Solutions, LLC  
CTO, GEO Partners, LLC  
Date: 5/18/21

Licensee

By 

Name: Anthony Adams  
Title: Chairman - BOCC  
Date: June 28, 2021