

LEE COUNTY BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

BLUE SHEET NO: 20041318

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Approve and execute grant agreement between the Lee County Board of County Commissioners and the Department of Environmental Protection (DEP), Land and Water Conservation Fund (LWCF). This grant in the amount of \$150,400 with \$150,400 match allows for public facility development to Caloosahatchee Creeks Preserve. Approve Budget Amendment Resolution in the amount of \$150,400.

**WHY ACTION IS NECESSARY:** Board approval is required for all grant agreements.

**WHAT ACTION ACCOMPLISHES:** Allows for improvements to be made at Caloosahatchee Creeks Preserve.

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

*C11B*

**3. MEETING DATE:**

*10-26-2004*

**4. AGENDA**

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

**5. REQUIREMENT/PURPOSE**

- (Specify)
- STATUTE
  - ORDINANCE
  - ADMIN. CODE
  - OTHER

**6. REQUESTOR OF INFORMATION**

- A. COMMISSIONER:
- B. DEPARTMENT: Parks & Recreation
- C. DIVISION:
- BY: John Yarbrough

*John Yarbrough*

**7. BACKGROUND:**

Lee County Parks and Recreation applied for and has recently been notified that they are the recipient of the Department of Environmental Protection (DEP), Land and Water Conservation Fund (LWCF) grant for Caloosahatchee Creeks Preserve. Improvements will include a canoe/kayak launch facility, picnic facilities, restrooms, and other related support facilities in the amount of \$150,400. When open in approximately 1 year, this will be the first Conservation 2020 preserve with new facilities for public use.

We have been notified that this project was approved by LWCF in the amount of \$150,400 with a \$150,400 match. Matching funds will come from Conservation 2020 Management funds.

**This grant will become effective upon execution by LWCF and funding will be made available in FY 04/05.**

Funding will be made available in the following grant business unit: 11077230105.334720.9002 & 11077230105.506540

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL**

*CCM*

DEPARTMENT DIRECTOR	Purchasing	Human Relations	County Administration				OTHER	COUNTY ATTORNEY	COUNTY MANAGER
<i>In 10-8-04</i>			<i>OA</i>	<i>OM</i>	<i>Risk</i>	<i>GC</i>		<i>KRE</i>	<i>HIS</i>
			<i>10/12/04</i>	<i>10/13/04</i>	<i>10/13/04</i>	<i>10/13/04</i>		<i>10/13/04</i>	<i>10/13/04</i>

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

RECEIVED BY  
COUNTY ADMIN: *CM*  
*10/12/04*  
*1pm 507*  
COUNTY ADMIN  
FORWARDED TO: *10/14/04*  
*10/14/04*

Rec. by CoAtty  
Date: *10/11/04*  
Time: *1:51 pm*  
Forwarded To:  
*Co. Admin*  
*10/12/04*

# RESOLUTION #

Amending the Cap. Imp. - Environ. Sen. Land Mgt Budget, Fund 30105 to incorporate the unanticipated receipts into Estimated Revenues and Appropriations for the fiscal year 2004-2005.

**WHEREAS**, in compliance with the Florida Statutes 129.06(2), it is the desire of the Board of County Commissioners of Lee County, Florida, to amend the Cap. Imp. - Environ. Sen. Land Mgt. Budget, Fund 30105 for \$ 150,400 of the unanticipated revenue from Grant funding and an appropriation of a like amount for grant expenditures and;

**WHEREAS**, the Cap. Imp. - Environ. Sen. Land Mgt. Budget, Fund 30105 shall be amended to include the following amounts which were previously not included.

## ESTIMATED REVENUES

Prior Total:		
Additions		\$13,590,551
11077230105.334720.9002	FDEP Grants for Parks	\$ 150,400
Amended Total Estimated Revenues		\$13,740,951

## APPROPRIATIONS

Prior Total:		\$13,590,551
Additions		
11077230105.506540	Improvement Construction	\$ 150,400
Amended Total Appropriations		\$13,740,951

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Lee County, Florida, that the Cap. Imp. - Environ. Sen. Land Mgt. Budget, Fund 30105 is hereby amended to show the above additions to its Estimated Revenue and Appropriation Accounts.

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

ATTEST:  
CHARLIE GREEN, EX-OFFICIO CLERK

BOARD OF COUNTY COMMISSIONERS  
LEE COUNTY, FLORIDA

BY: \_\_\_\_\_  
DEPUTY CLERK

\_\_\_\_\_  
CHAIRMAN

APPROVED AS TO FORM

\_\_\_\_\_  
OFFICE OF COUNTY ATTORNEY

DOC TYPE YA  
LEDGER TYPE BA

**FORWARD WITH AGREEMENT AND BLUE SHEET**

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

**GRANT AT A GLANCE**

GRANT AWARD INFORMATION

- 1. County Grant ID (project #): 11077230105
- 2. Title of Grant: Caloosahatchee Creek Preserve
- 3. Amount of Award: \$150,400
- 4. Amount of Match Required: \$150,400
- 5. Type of Match: cash and/or in-kind services  
(cash, in-kind etc)

6. SOURCE OF GRANT FUNDS & CATALOG NUMBER:

FEDERAL <input checked="" type="checkbox"/> CFDA #15.916	STATE <input type="checkbox"/> CSFA #
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7. Agency Contract Number: LW500

8. Contract Period:	Begin Date: upon execution	End Date: upon execution
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9. Name of Subrecipient(s) N/A

10. Business Unit(s): 11077230105.334720.9002 & 11077230105.6540

11. Scope of Grant: (describe project). Improvements will include a canoe/kayak launch facility, picnic facilities, restrooms, and other related support facilities at Caloosahatchee Creek Preserve.

12. Has this Grant been Funded Before?  YES  NO If YES When?

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

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

1st Year	2 <sup>nd</sup> Year	3 <sup>rd</sup> Year
4 <sup>th</sup> Year	5 <sup>th</sup> Year	

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

**ADMINISTERING DEPARTMENT INFORMATION**

- 1. Department: Parks and Recreation
- 2. Contacts:

Program Mgr. Anik Smith	Phone #: 461-7455
Fiscal Mgr. Cindy Mitar	Phone #: 461-7414

**GRANTOR AGENCY INFORMATION**

(The agency you signed this agreement with)

- 1. Grantor Agency: Florida Department of Environmental Protection (FDEP)
- 2. Program Title/Division: Land and Water Conservation Fund (LWCF)
- 3. Agency Contact: Collier Clark (e-mail: collier.clark@dep.state.fl.us)
- 4. Phone Number: (850) 245-2501 fax # (850) 245-3038
- 5. Mailing Address: 3900 Commonwealth Boulevard, MS585  
Tallahassee, FL 32399-3000

**SOURCE OF FUNDS**

- 1. Original Funding  
Source: Florida Department of Environmental Protection (FDEP)  
(name of agency where funding originated from)
- 2. Pass Through Agency: N/A  
(middleman if any? Example: federal \$\$ from US DOT given to STATE of FL DOT ---then from STATE DOT to Lee County DOT --- STATE of FL DOT is the pass-through agency).
- 3. Additional Information for Other Agencies Involved:

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

**REPORTING REQUIREMENTS**

1. Does this grant require a separate subfund? YES  NO  X  
(Example: you need to return interest earnings)

Please Explain:

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

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**COMMENTS--INSTRUCTIONS:**

[Empty box for comments and instructions]

12-00500  
(LWCF Project Number)

LW500  
DEP Contract Number  
CFDA Number: 15.916

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
LAND AND WATER CONSERVATION FUND PROGRAM  
FY 2004 - 2005  
PROJECT AGREEMENT - DEVELOPMENT

This Project Agreement is entered into between the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, whose address is 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000 (hereinafter called the "Department"), and the **LEE COUNTY**, whose address is 3410 Palm Beach Boulevard, Fort Myers, Florida, 33916 (hereinafter called the "Grantee"), a local government, in furtherance of the Caloosahatchee Creek Preserve project, an approved outdoor recreation project.

WHEREAS, the Department receives funds for the purpose of passing through the agency as grants to other entities in accordance with Section 375.021(4), Florida Statutes; and,

WHEREAS, Chapter 375, Florida Statutes, further authorizes the Department to receive grants for outdoor recreation and conservation; and,

WHEREAS, the Grantee has submitted Project Application number 402, which has been approved by the Department.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Department and Grantee do hereby agree as follows:

1. This Project Agreement shall be effective upon execution of this Project Agreement and end no later than three (3) years from the date of Agreement execution, inclusive. The Project Agreement shall be performed in accordance with Chapter 62D-5, Part VII, Florida Administrative Code, effective July 15, 2001 (hereinafter called the **Rule**), the Land and Water Conservation Fund (LWCF) Act of 1965, Public Law 88-578, 78 Stat 897, as amended, (hereinafter called the **Program**), and in accordance with general provisions for such agreements prescribed by the United States Department of the Interior (hereinafter called the **USDOI**) in the LWCF Grants-in-Aid Manual, (hereinafter called the **Manual**). The Manual refers to the code of federal regulations (CFRs) applicable to this Agreement. The following table identifies several of the key CFRs addressed in the Manual, but does not limit the Grantee to compliance with only the CFRs identified in the table.

CFR Cite	Title
36 CFR 59	Land and Water Conservation Fund Program Assistance to States; Post-Completion Compliance Responsibilities
36 CFR 800.8	Coordination With the National Environmental Policy Act
43 CFR 12	Administrative and Audit Requirements and Cost Principles for Assistance Programs
43 CFR 17	Nondiscrimination in Federally Assisted Programs of the Department of Interior

The Grantee agrees to become familiar with all provisions and comply with the Rule and Manual, which are incorporated into this Project Agreement by reference, as if fully set forth herein. In the event a dispute should arise between the parties concerning the intent of any language herein contained, the same shall be resolved by the adoption of that meaning which furthers the intent and purpose of the LWCF Act of 1965 and the general provisions governing this Project Agreement as set forth in the Manual. No construction shall be contrary to the requirements of the Acts of Congress or of the regulations of the Secretary of the Interior.

2. The Department has found that public outdoor recreation is the primary purpose of the project known as Caloosahatchee Creek Preserve (Land and Water Conservation Fund, LWCF Project Number 12-00500), hereinafter called the Project, and enters into this Project Agreement with the Grantee for the development of that real property, the legal description of which shall be submitted to the Department as described in the Land and Water Conservation Fund Program Approved Project Documentation Form, DEP Form FPS-A048. The approved Project Application, which includes the Project Elements (description of project, detailed budget, and anticipated deliverables), is incorporated into this Project Agreement by reference as if fully set forth herein. Any revisions to the Project Elements as set forth in the approved Project Application must be formally requested by the Grantee and, if agreed upon by the Department, the modifications will be reduced to writing in an amendment to this Agreement.
3. The Grantee shall construct, or cause to be constructed, specified public outdoor recreation facilities and improvements consisting of the following Project Elements: **picnic facilities, trails, canoe launch, wildlife observation area, parking, restrooms, access road and other related support facilities.**
4. The Project Elements identified in Paragraph 3 herein shall be designed and constructed substantially in accordance with the conceptual site development plan contained in the Project Application. Project Site facilities shall be attractive for public use, and generally consistent and compatible with the environment. Plans and specifications for Project Site improvements and facilities shall be in accord with current and established engineering and architectural standards and practices. Emphasis should be given to the health and safety of users, accessibility to the general public, and the protection of the recreational and natural values of the area. This site development plan may be altered by the

Grantee, only after written approval by the Department. Any and all utility lines installed within the park shall be placed underground. The Grantee shall have the final site development plan (site engineering and architectural) prepared by a registered architect or engineer licensed in accordance with the laws of the State of Florida.

5. A. The Department shall pay the Grantee on a reimbursement basis the eligible Grant amount not to exceed \$150,400.00, which will pay said federal Program's share of the cost of the Project. Program funding limits are based upon the following:

Total Department (federal) Program Amount	\$150,400.00
Grantee Match Amount	\$150,400.00
Total Project Cost	<u>\$300,800.00</u>

Type of Match (Cash and/or In-kind Services)

- B. Within sixty (60) days after receipt of the request, the Department's Grant Manager shall review the completion documentation and payment request from the Grantee for the Project. If the documentation is sufficient and meets the requirements of the Land and Water Conservation Fund Program Required Project Completion Documentation Form, DEP Form FPS-A051, referenced in s. 62D-5.073(7)(e)2, F.A.C., the Department will approve the request for payment.
6. In addition to the invoicing requirements contained in paragraph 5 above, the Department will periodically request proof of a transaction (invoice, payroll register, etc.) to evaluate the appropriateness of costs to the Agreement pursuant to State and Federal guidelines (including cost allocation guidelines), as appropriate. This information when requested must be provided within 30 calendar days of such request. The Grantee may also be required to submit a cost allocation plan to the Department in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits). All bills for amounts due under this Agreement shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. State guidelines for allowable costs can be found in the Florida Department of Financial Service's Reference Guide for State Expenditures at [www.dbf.state.fl.us/aadir/reference\\_guide](http://www.dbf.state.fl.us/aadir/reference_guide) and allowable costs for federal programs can be found under 48 CFR Part 31 at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html> and OMB Circulars A-87, A-122, A-21, at <http://www.whitehouse.gov/omb/circulars/index.html#numerical>.
7. Reimbursement for travel expenses is not authorized under this Project Agreement.
8. The Grantee agrees to comply with the Division of Recreation and Parks' Grant and Contract Accountability Procedure, hereinafter called the Procedure and incorporated into this Project Agreement by reference as if fully set forth herein.

All purchases of goods and services for accomplishment of the Project shall be secured in accordance with the procurement requirements specified in 43 CFR 12.76. Expenses representing the Project costs, including the required matching contribution, shall be reported to the Department and summarized on certification forms provided in the Procedure. The Department and Grantee agree to use the Procedure guidelines in accounting for LWCF funds disbursed under the Project. The parties further agree that the principles for determining the eligible costs, supporting documentation and minimum reporting requirements of the Procedure shall be used.

9. Allowable indirect costs as defined in the Procedure shall not exceed 15% of the Grantee's eligible salaries/wages. Indirect costs that exceed 15% must be approved in advance in writing by the Department to be considered eligible Project expenses.
10. Project funds may be reimbursed for eligible Preagreement Expenses (as defined in s. 62D-5.069(31) of the Rule) incurred by Grantee prior to execution of this Project Agreement as set forth in s.62D-5.073(2) of the Rule. The Department and the Grantee fully understand and agree that there shall be no reimbursement of Project funds by the Department for any expenditure made prior to the execution of this Project Agreement with the exception of the following expenditures which meet the requirements of the foregoing sections of the Rule.

Preagreement Costs Approved:

Description of Work Performed	Amount Approved
None	0
Total Preagreement Costs Approved:	0

11. A. Prior to commencement of Project development, the Grantee shall submit the documentation required by the Land and Water Conservation Fund Program Required Project Commencement Documentation Form, DEP Form FPS-A050, referenced in s. 62D-5.073(7)(e) of the Rule, to the Department. Upon determining that the documentation complies with the Rule, the Department will give written notice to Grantee to commence the development and approve the request for payment.
- B. Upon execution of this Project Agreement, the Grantee acknowledges the prior receipt of the LWCF Grants-in Aid Manual, the Division of Recreation and Parks' Grant and Contract Accountability Procedures, and the required project commencement documents listed below that must be completed by the Grantee, if applicable, and returned to the Department within one hundred eighty (180) days following the execution date of this Project Agreement. This date may be extended upon written approval



from the Department Grant Manager who is authorized to sign such approval letters.

- C. Required Project Commencement Documentation for Development Agreements:
1. Boundary Survey
  2. Title Search
  3. Certification of Manual Possession
  4. Site Plan (2 copies)
  5. List of Facilities and Improvements for Construction with Related Costs
  6. Permitting Certification
12. The Grantee shall obtain all required local, state and federal permits and approvals prior to commencement of Project construction and shall certify that it has done so to the Department by completing the Land and Water Conservation Program Project Permitting Certification, DEP Form FPS-A052, referenced in s. 62D-5.073(7)(e)(1) of the Rule.
13. The Grantee shall complete all Project construction by the completion date established in paragraph 1, above.
14. Project completion means the Project is open and available for use by the public. The Project must be completed prior to release of final reimbursement.
15. A. The Grantee shall maintain books, records and documents directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles consistently applied. The Department, the State, or their authorized representatives shall have access to such records for audit purposes during the term of this Agreement and for five years following Agreement completion. In the event any work is subcontracted, the Grantee shall similarly require each subcontractor to maintain and allow access to such records for audit purposes.
- B. The Grantee agrees that if any litigation, claim, or audit is started before the expiration of the record retention period established above, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.
- C. Records for equipment acquired with federal funds shall be retained for five years following final disposition.
16. In addition to the provisions contained in Paragraph 15 above, the Grantee shall comply with the applicable provisions contained in **Attachment A**, Special Audit Requirements, attached hereto and made a part hereof. A revised copy of **Attachment A**, Exhibit-1, must be provided to the Grantee with each amendment

which authorizes a funding increase or decrease. The revised Exhibit-1 shall summarize the funding sources supporting the Project Agreement for purposes of assisting the Grantee in complying with the requirements of **Attachment A**. If the Grantee fails to receive a revised copy of **Attachment A**, Exhibit-1, the Grantee shall notify the Department's Grant Manager at 850/245-2501 to request a copy of the updated information.

17. Following receipt of an audit report identifying any reimbursement due the Department for the Grantee's noncompliance with this Project Agreement, the Grantee will be allowed a maximum of thirty (30) days to submit additional pertinent documentation to offset the amount identified as being due to the Department. The Department, following a review of the documentation submitted by the Grantee, will inform the Grantee of any reimbursement due the Department.
18. The Grantee, as an independent contractor and not an agent, representative, or employee of the Department, agrees to carry adequate liability and other appropriate forms of insurance. The Department shall have no liability except as specifically provided in this Project Agreement.
19. To the extent required by law, the Grantee will be self-insured against, or will secure and maintain during the life of this Agreement, Workers' Compensation Insurance for all of its employees connected with the work of this Project and, in case any work is subcontracted, the Grantee shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Grantee. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation law. In case any class of employees engaged in hazardous work under this Agreement is not protected under Florida Workers' Compensation law, the Grantee shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Department, for the protection of those employees not otherwise protected.
20. The purchase of non-expendable equipment is not authorized under the terms of this Agreement.
21. The Department's Grant Manager for the purpose of this Project Agreement shall be responsible for ensuring performance of its terms and conditions and shall approve all reimbursement requests prior to payment. The Grantee's Liaison Agent (also known as Grantee's Grant Manager), as identified in the Project Application, or successor, shall act on behalf of the Grantee relative to the provisions of this Project Agreement. The Grantee's Liaison Agent, shall submit to the Department signed Project status reports every ninety (90) days summarizing the work accomplished, problems encountered, percentage of completion, and other information which may be requested by the Department. Photographs to reflect the construction work accomplished shall be submitted when the Department requests them. Any and all notices shall be deemed

effective and sufficient if sent via U.S. mail, facsimile (fax), or by hand-delivery to the parties at the following addresses:

Grantee's Liaison Agent

Name: Ms. Barbara Manzo, Deputy Director of  
Parks and Recreation  
Entity: Lee County  
Address: 3410 Palm Beach Boulevard  
City, State, Zip: Fort Myers, FL 33916  
Phone: 239/338-3300  
SunCom Phone:  
Fax: 239/338-3333  
SunCom Fax:  
Email: [Barbara@leegov.com](mailto:Barbara@leegov.com)

Department's Grant Manager

Name: Collier Clark  
Entity: Florida Department of Environmental  
Protection  
Address: 3900 Commonwealth Boulevard, MS585  
City, State, Zip: Tallahassee, Florida 32399-3000  
Phone: (850) 245-2501  
SunCom Phone: 205-2501  
Fax: (850) 245-3038  
SunCom Fax: 205-3038  
Email: [collier.clark@dep.state.fl.us](mailto:collier.clark@dep.state.fl.us)

22. Prior to final reimbursement, the Grantee must erect a permanent information sign on the Project site which credits Project funding or a portion thereof, from the Land and Water Conservation Fund Program through the USDOl and the Department.
23. The Department and USDOl have the right to inspect the Project and any and all records related thereto at any reasonable time.
24. This Agreement may be unilaterally canceled by the Department for refusal by the Grantee to allow public access to all documents, papers, letters, or other material made or received by the Grantee in conjunction with this Agreement, unless the records are exempt from Section 24(a) of Article I of the State Constitution and Section 119.07(1), Florida Statutes.
25. Prior to the closing of the Project the Department shall have the right to demand a refund, either in whole or in part, of the LWCF funds provided to the Grantee for non-compliance with the material terms of this Project Agreement. The Grantee, upon such written notification from the Department, shall refund, and shall forthwith pay to the Department, the amount of money demanded by the Department. Interest on any refund shall be calculated and determined pursuant to Section 55.03(1) of the Florida Statutes. Interest shall be calculated from the

date(s) of payment(s) to the Grantee by the Department to the date repayment is made by Grantee.

26. If the United States, acting through the USDOl, the Secretary of the Interior, or any other branch of the government of the United States, acting within the scope of its lawful authority, should for any reason demand a refund from the Department, in whole or in part, of the funds provided to the Grantee under the terms of this Project Agreement, the Grantee, upon notification from the Department, agrees to pay the refund and will forthwith repay directly to the Department the amount of money demanded.
27. The Grantee shall comply with all federal, state and local laws, rules, regulations and ordinances in developing this Project. The Grantee acknowledges that this requirement includes compliance with all federal, state and local health and safety rules and regulations including all applicable building codes. The Grantee further agrees to ensure that the Grantee's contract will include the requirements of this paragraph in all subcontracts made to perform this Project Agreement.
28. Competitive open bidding and purchasing for construction of said Project facilities or improvements shall comply with all applicable laws and the Manual. Following completion of Project construction, the Grantee's Liaison Agent shall provide the Department with a statement certifying that all purchases or contracts for construction were competitively bid pursuant to applicable law and the Manual.
29. If asphalt paving is required for the Project it shall conform to the Florida Department of Transportation's specifications for road and bridge construction. Bid specifications, contracts and/or purchase orders of the Grantee must specify thickness of asphalt and square yards to be paved.
30. By acceptance of the provisions of this Project Agreement, the Grantee does hereby agree to dedicate the Project Site and all land within the Project boundaries, identified in Paragraph 2 herein, in perpetuity as an outdoor recreation site for the use and benefit of the public, as stated in s. 62D-5.074(1) of the Rule. Execution of this Project Agreement by the Department shall constitute an acceptance of said dedication on behalf of the general public of the State of Florida. The Grantee represents that it has sufficient site control to enable this dedication. All dedications must be promptly recorded in the county's official public records by the Grantee and Grantee shall provide a certified copy to the Department.
31. The Grantee agrees to operate and maintain the Project site as stated in s. 62D-5.074(2) of the Rule. The Project site, Project-related facilities, and any future outdoor recreation facilities developed on the Project site shall be open to the general public for outdoor recreation use, maintained in accordance with applicable health and safety standards, and kept in good repair to prevent undue deterioration and provide for safe public use. The Grantee covenants that it has full legal authority and financial ability to develop, operate and maintain said Project-related facilities and improvements as specified within the terms of this

Project Agreement. The Grantee shall obtain Department approval prior to any and all current or future development of facilities on the Project site, if said development is not described in Paragraph 3 herein.

32. The Grantee shall not, for any reason, convert all or any portion of the park for any purpose other than public outdoor recreation without prior approval of the USDOl and the Department pursuant to Section 6(f)(3) of the LWCF Act, the Manual, and s. 62D-5.074(3) of the Rule.
33. Failure to comply with the provisions of the Rule or the terms and conditions of this Agreement will result in cancellation of the Project Agreement by the Department. The Department shall give the Grantee in violation of the Rule or this Project Agreement a notice in writing of the particular violations stating a reasonable time to comply. If the Grantee does not comply or obtain an extension of time within the time period stated in the notice, this Project Agreement shall be automatically terminated.
34. In the event of conflict in the provisions of the Rule, the Project Agreement and the Project Application, the provisions of the Rule shall control over this Project Agreement and this Project Agreement shall control over the Project Application documents.
35. If the Department determines that site control is not sufficient under the Rule or has been compromised, the Department shall give the applicant a notice in writing and a reasonable time to comply. If the deficiency cannot be reasonably corrected within the time specified in the notice, the Department shall cancel this Project Agreement.
36. In accordance with the LWCF Act, Program funds will be made available contingent upon an annual appropriation to each State by Congress. The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation of spending authority by the Florida Legislature. The parties hereto understand that this Agreement is not a commitment of future appropriations.
37. A. The Grantee certifies that no Federal appropriated funds have been paid or will be paid by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding, renewal, amending or modifying of any Federal contract, grant, or cooperative agreement. If any non-Federal funds are used for lobbying activities as described above, the Grantee shall submit **Attachment B**, Form DEP 55-221, effective January 2001, "Disclosure of Lobbying Activities" (attached hereto and made a part hereof), 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. **(43 CFR Part 18)**

- B. In accordance with Section 216.347, Florida Statutes, the Grantee is hereby prohibited from using funds provided by this Agreement for the purpose of lobbying the Legislature, the judicial branch or a state agency.
- 38.
- A. No person on the grounds of race, creed, color, national origin, age, sex, marital status 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 Project Agreement.
  - B. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and intends to post the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity at (850) 487-0915.
39. Each party hereto agrees that it shall be solely responsible for the wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of s. 768.28, Florida Statutes, and other statutes that provide immunity to the Department or the State.
40. A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not perform work as a grantee, contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017, Florida Statutes, or Category Two, for a period of 36 months from the date of being placed on the convicted vendor list.
- 41.
- A. In accordance with Executive Order 12549, Debarment and Suspension (**43 CFR Part 12.100-510**), the Grantee shall agree and certify that neither it, nor its principals, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency; and, that the Grantee shall not knowingly enter into any lower tier contract, or other covered transaction, with a person who is similarly debarred or suspended from participating in this covered transaction, unless authorized in writing by USDOT to the Department.
  - B. Upon execution of this Agreement by the Grantee, the Grantee shall complete, sign and return a copy of the form entitled "Certification

Regarding Debarments, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Federally Funded Transactions", attached hereto and made a part hereof as **Attachment C**.

- C. As required by paragraphs A and B above, the Grantee shall include the language of this section, and **Attachment C** in all subcontracts or lower tier agreements executed to support the Grantee's work under this Agreement.
42. This Project 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 Project Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Project Agreement shall be prohibited or invalid under applicable Florida 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 Project Agreement. Any action hereon or in connection herewith shall be brought in Leon County, Florida unless prohibited by applicable law.
43. No delay or failure to exercise any right, power or remedy accruing to either party upon breach or default by either party under this Project Agreement, shall impair any such right, power or remedy of either party; nor shall such delay or failure be construed as a waiver of any such breach or default, or any similar breach or default thereafter.
44. This Project Agreement is not intended nor shall it be construed as granting any rights, privileges or interest in any third party without mutual written agreement of the parties hereto.
45. This Project Agreement is an exclusive contract and may not be assigned in whole or in part without the prior written approval of the Department.
46. The parties hereto acknowledge and agree that the provisions contained in paragraphs 15, 23, 30, 31, and 32 shall survive the end date of this Agreement established in paragraph 1.
47. This Project Agreement represents the entire agreement of the parties. Any alterations, variations, changes, modifications or waivers of provisions of this Project Agreement shall only be valid when they have been reduced to writing, duly executed by each of the parties hereto, and attached to the original of this Project Agreement.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed, the day and year last written below.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

LEE COUNTY

By: \_\_\_\_\_  
Division Director  
Division of Recreation and Parks  
and State Liaison Officer  
(or designee)

By: \_\_\_\_\_  
\_\_\_\_\_  
Printed Name

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

\_\_\_\_\_  
Title

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

FEID No.: \_\_\_\_\_

Address:  
Office of Information and Recreation  
Services (MS 585)  
Division of Recreation and Parks  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

Address:



\_\_\_\_\_  
DEP Grant Manager

\_\_\_\_\_  
Grantee's Attorney

Approved as to form and legality for  
use for one year by Suzanne Brantley,  
Assistant General Counsel on 7/28/04.

**Attachments:**

- Attachment A - Special Audit Requirements (5 pages)
- Attachment B - Disclosure of Lobbying Activities (2 pages)
- Attachment C - Certification Regarding Debarments/Suspension, etc. (2 pages)



**ATTACHMENT A**  
**SPECIAL AUDIT REQUIREMENTS**

The administration of resources awarded by the Department of Environmental Protection (*which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the contract/agreement*) to the recipient (*which may be referred to as the "Contractor", "Grantee" or other name in the contract/agreement*) may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

**MONITORING**

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

**AUDITS**

**PART I: FEDERALLY FUNDED**

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

1. In the event that the recipient expends \$300,000 (\$500,000 for fiscal years ending after 12/31/03) or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. EXHIBIT 1 to this Agreement indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from the Department of Environmental Protection. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this part.
2. In connection with the audit requirements addressed in Part I, paragraph 1., the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
3. If the recipient expends less than \$300,000 (\$500,000 for fiscal years ending after 12/31/03) in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the recipient expends less than \$300,000 (\$500,000 for fiscal years ending after 12/31/03) in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than Federal entities).
4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at <http://12.46.245.173/cfda/cfda.html>.

## PART II: STATE FUNDED

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

1. In the event that the recipient expends a total amount of State financial assistance equal to or in excess of \$300,000 in any fiscal year of such recipient, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Executive Office of the Governor and the Chief Financial Officer; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this Agreement indicates State financial assistance awarded through the Department of Environmental Protection by this Agreement. In determining the State financial assistance expended in its fiscal year, the recipient shall consider all sources of State financial assistance, including State financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1, the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(d), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$300,000 in State financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$300,000 in State financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-State entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at <http://state.fl.us/fsaa/catalog> or the Governor's Office of Policy and Budget website located at <http://www.myflorida.com/myflorida/government/contacts/opbOffice.html> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website <http://www.leg.state.fl.us/>, Governor's Website <http://www.myflorida.com/>, Department of Financial Services' Website <http://www.dbf.state.fl.us/> and the Auditor General's Website <http://www.state.fl.us/audgen>.

## PART III: OTHER AUDIT REQUIREMENTS

*(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(7)(m), Florida Statutes, State agencies may conduct or arrange for audits of State financial assistance that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)*

## PART IV: REPORT SUBMISSION

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

- A. The Department of Environmental Protection at the following address:

**Audit Director**  
Florida Department of Environmental Protection  
Office of the Inspector General, MS 40  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

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

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

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

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

**Audit Director**  
Florida Department of Environmental Protection  
Office of the Inspector General, MS 40  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

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

- A. The Department of Environmental Protection at the following address:

**Audit Director**  
Florida Department of Environmental Protection  
Office of the Inspector General, MS 40  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

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

State of Florida Auditor General  
Room 401, Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

4. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at the following address:

**Audit Director**  
Florida Department of Environmental Protection  
Office of the Inspector General, MS 40  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

5. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this Agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
6. Recipients, when submitting financial reporting packages to the Department of Environmental Protection for audits done in accordance with OMB Circular A-133, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the recipient in correspondence accompanying the reporting package.

#### **PART V: RECORD RETENTION**

The recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of **5** years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of **3** years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

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**EXHIBIT - 1**

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

<b>Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following:</b>					
Federal Program Number	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
Original Agreement	U.S. Department of Interior	15.916	Land and Water Conservation Fund	150,400.00	140001

<b>State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs:</b>					
Federal Program Number	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category

<b>State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:</b>						
State Program Number	Funding Source	State Fiscal Year	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category

<b>Total Award</b>				<b>\$150,400.00</b>		
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For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [<http://12.46.245.173/cfda/cfda.html>] and/or the Florida Catalog of State Financial Assistance (CSFA) [<http://state.fl.us/fsaa/catalog>]. The services/purposes for which the funds are to be used are included in the Contract scope of services/work. Any match required by the recipient is clearly indicated in the Contract.



## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by the reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

**ATTACHMENT C**

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

**DEP AGREEMENT NO: LW500**

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

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

By \_\_\_\_\_

Authorized Signature/Contractor

\_\_\_\_\_  
Typed Name/Title

\_\_\_\_\_  
Contractor's Firm Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Building, Suite Number

\_\_\_\_\_  
City/State/Zip Code

\_\_\_\_\_  
Area Code/Telephone Number



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

1. By signing and submitting this form, the certifying party is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the certifying party knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department of Environmental Protection (DEP) or agencies with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The certifying party shall provide immediate written notice to the person to which this contract is submitted if at any time the certifying party learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this contract is submitted for assistance in obtaining a copy of those regulations.
5. The certifying party agrees by submitting this contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier contract, or other covered transaction with a person who is proposed for debarment under 48 CFR 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the DEP or agency with which this transaction originated.
6. The certifying party further agrees by executing this contract that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all contracts or lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (Telephone No. (202) 501-4740 or (202) 501-4873.)
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the DEP or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.