

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
CLEAN VESSEL ACT GRANT PROGRAM**

**DEP Agreement No: MV078  
For CVA 12-643**

**PROJECT AGREEMENT**

THIS AGREEMENT is entered into between the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, whose address is 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000 (hereinafter referred to as the "Department" or "DEP") and the CITY OF KEY WEST, whose address is City Marina at Garrison Bight, 1800 N. Roosevelt Boulevard, Key West, Florida 33040 (hereinafter referred to as the "Grantee" or "Recipient"), a Florida local government, to conduct Clean Vessel Act Grant; CVA 12-643, City of Key West, approved under the Clean Vessel Act Grant Program (CFDA 15.616).

WHEREAS, the Department is the recipient of federal financial assistance from the Department of Interior, U.S. Fish and Wildlife Service; and,

WHEREAS, as the result of this Agreement the Grantee has been determined to be a subrecipient of federal financial assistance from the U.S. Fish and Wildlife Service.

NOW, THEREFORE, in consideration of the premises and the mutual benefits to be derived herefrom, the Department and the Grantee do hereby agree as follows:

1. The Agreement shall be performed in accordance with Public Law 102-587, Subtitle F, the Clean Vessel Act of 1992, and the Federal Clean Vessel Act Grant Program Guidelines (50 CFR Parts 80 and 85), which are hereby incorporated by reference as if fully set forth herein.
2. The Grantee agrees to conduct the project known as the Clean Vessel Act Grant; CVA 12-643, City of Key West, in accordance with the terms and conditions set forth in this Agreement, the Scope of Work and Conditions, provided as Attachment A, and all exhibits and attachments referenced herein and made a part hereof.
3. By executing this Agreement, the Department certifies that a site visit has been conducted by Department personnel to verify and document that the project activities and location of the work described in Attachment A meet the categorical exclusion criteria under the National Environmental Policy Act (NEPA) and that activities conducted as a result of this Agreement will have no impact on any species listed in the NEPA criteria. The Department will maintain the site visit documentation in its files in Tallahassee in accordance with the conditions of the Department's source grant agreement with the U.S. Fish and Wildlife Service.
4.
  - A. This Agreement shall become effective upon execution by both parties and shall remain in effect for a period of five (5) years from the date of project completion for the reporting requirements as identified in paragraph 7 of this Agreement. The Grantee must make project facilities available to the boating public for a minimum of five (5) years after the completion date of the project established above. However, it is understood and agreed that the Project shall be completed on or before August 17, 2013.
  - B. In the event of a change in ownership, the Grantee is required to notify the Department in writing of such change no later than ten (10) days after the change in ownership occurs, and the Grantee is required to notify the new owner of this Agreement, the obligation to continue maintenance and operations as well as reporting for the remaining life of this Agreement prior to the change. The "Bill of Sale" or other official document transferring ownership shall include these grant requirements. Any change in ownership will require an amendment to this Agreement. Should the new owner refuse to assume the obligations as set forth in this Agreement, the original Grantee shall reimburse the Department for the value of the equipment as specified in 43 CFR, Part 12.72.
5.
  - A. As consideration for the services rendered by the Grantee under the terms of this Agreement, the Department shall pay the Grantee on a cost reimbursement basis an amount not to exceed \$69,780.14

toward all eligible costs associated with the Project as described in **Attachment A, Scope of Work and Conditions**. Prior written approval from the Department's Grant Manager shall be required for task amount changes between approved tasks that do not exceed up to 10% of the total budget amount. The DEP Grant Manager will transmit a copy of the written approval and revised budget to the DEP Procurement Office and the DEP Contracts Disbursements Office for inclusion in the Agreement file. Changes greater than 10% will require a formal amendment to the Agreement. This Agreement may be amended to provide for additional services if additional funding is made available by the U.S. Fish and Wildlife Service and/or the Florida Legislature.

- B. The Grantee shall be reimbursed on a cost reimbursement basis for all eligible project costs upon receipt and acceptance of a properly completed **Attachment B, Grant Payment/Match Request Form**, an invoice, and supporting documentation. Supporting Documentation shall include an invoice on the Grantee's letterhead clearly marked as invoice; an itemized listing (by category) of all expenditures claimed, including the dates of service. Receipts and cancelled checks clearly reflecting the dates of service and back-up documentation, including any subcontractor invoices if applicable, shall be available upon request. The Chief Financial Officer requires detailed supporting documentation of all costs under a cost reimbursement agreement. In accordance with **Attachment C, Contract Payment Requirements**, the Grantee shall comply with the minimum requirements set forth therein. Invoices for the deliverables described in **Attachment A** must explicitly reference the deliverables and the grant award amounts associated with each deliverable. Periodic payments of project costs are allowed under this Agreement but must be tied to the submittal of a deliverable. The Grantee shall submit a final invoice to the Department no later than **August 31, 2013**, to assure the availability of funds for final payment. The final invoice shall be accompanied by a completed and signed Project Completion Form to be provided by the Department, an Operational Plan as described in the Operations section of Attachment A of this Agreement, a copy of the operational log required under Condition 8 of the Operations section of Attachment A, a photograph of the completed pumpout installation as well as a photograph of the pumpout logo sign and informational sign. Each payment request submitted shall document all matching funds and/or match efforts (i.e. in-kind services) provided during the period covered by each request. The final payment will not be processed until the match requirement has been met.) Upon approval and payment of the final invoice, any funds remaining under this Agreement will be unencumbered. No travel expenses are authorized under the terms of this Agreement.
- C. 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) if applicable. 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 Department of Financial Services' Reference Guide for State Expenditures at <http://www.fldfs.com/aadir/reference%5Fguide> and allowable costs for Federal Programs can be found under 48 CFR Part 31 and Appendix E of 45 CFR Part 74, at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html> and OMB Circulars A-87 (2 CFR 225), A-122 (2 CFR 230), A-21 (2 CFR 220); and administrative requirements can be found in OMB Circulars A-102 and A-110 (2 CFR 215) at <http://www.whitehouse.gov/omb/circulars/index.html#numerical>.
- D. The Grantee shall obtain at least two written quotes for the purchase of goods or services costing more than \$2,500 and less than \$100,000 and submit said quotes to the Department for review and approval of the quote amount prior to the commencement of any work under this Agreement. Written quotes shall be for items that are alike in function, operation and purpose. An explanation will be required whenever the Grantee elects to use the vendor quoting other than the lowest price. The Department has the right to reject all quotes and require additional documentation supporting the projected Project costs. The Department shall make no reimbursement from grant funds until this documentation has been provided and approved. Any purchase over \$100,000 shall comply with the procurement requirements described in 43 CFR 12.76.
- E. Any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth in Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be

given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

- F. The parties hereto understand and agree that this Agreement requires a cost sharing or match in the form of cash or third party in-kind, on the part of the Grantee. The match expended by the Grantee shall be at least 25% of the total amount actually expended on the Project. All cost sharing/match shall meet the federal requirements established in 43 CFR, Part 12 and OMB Circulars A-87 (2 CFR 225), A-122 (2 CFR 230) and A-21 (2 CFR 220).
- G. Allowable costs will be determined in accordance with the cost principles applicable to the organization incurring the costs. For purposes of this Agreement, the following cost principles are incorporated by reference.

Organization Type	Applicable Cost Principles
State, local or Indian tribal government.	OMB Circular A-87 (2 CFR 225)
Private non-profit organization other than (1) an institution of higher education, (2) hospital, or (3) organization named in OMB Circular A-122 as not subject to that circular.	OMB Circular A-122 (2 CFR 230)
Education Institutions	OMB Circular A-21 (2 CFR 220)
For-profit organization including an organization named in OMB A-122 as not subject to that circular.	48 CFR Part 31, Contract Cost Principles and Procedures, or uniform cost accounting standards that comply with cost principles acceptable to the federal agency.
Hospital	45 CFR Subtitle A - Appendix E to Part 74- Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals

- H. 1. The Grantee's accounting systems must ensure that these funds are not commingled with funds from other agencies. Funds from each agency must be accounted for separately. Grantees are prohibited from commingling funds on either a program-by-program or a project-by-project basis. Funds specifically budgeted and/or received for one project may not be used to support another project. Where a Grantee's, or subrecipient's, accounting system cannot comply with this requirement, the Grantee, or subrecipient, shall establish a system to provide adequate fund accountability for each project it has been awarded.
2. If the Department finds that these funds have been commingled, the Department shall have the right to demand a refund, either in whole or in part, of the funds provided to the Grantee under this Agreement for non-compliance with the material terms of this 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 based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the original payment(s) are received from the Department by the Grantee to the date repayment is made by the Grantee to the Department.
3. In the event that the Grantee recovers costs, incurred under this Agreement and reimbursed by the Department, from another source(s), the Grantee shall reimburse the Department for all recovered funds originally provided under this Agreement. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the payment(s) are recovered by the Grantee to the date repayment is made to the Department by the Grantee.
6. The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. The parties hereto understand that this Agreement is not a commitment of future appropriations.

7.
  - A. The Grantee shall submit progress reports on a quarterly basis until the Project completion date identified in paragraph 4.A. Progress reports shall describe the work performed, problems encountered, problem resolution, schedule updates and proposed work for the next reporting period. It is hereby understood and agreed by the parties that the term "quarterly" shall reflect the calendar quarters ending March 31, June 30, September 30 and December 31. The Grantee shall utilize **Attachment D, Progress Report Form**, for submitting its progress report. Reports shall be submitted to the Department's Grant Manager no later than fifteen (15) days following the completion of the quarterly reporting period. The Department's Grant Manager shall have thirty (30) calendar days to review deliverables submitted by the Grantee.
  - B. The Grantee shall submit quarterly, the gallons pumped, fees collected, vessels pumped, number of out of state vessels, and maintenance costs. This information shall be submitted to the Department on the form provided at: [http://www.dep.state.fl.us/cleanmarina/CVA/quarterly\\_pumpout.htm](http://www.dep.state.fl.us/cleanmarina/CVA/quarterly_pumpout.htm) for a period of five (5) years following the Project completion date identified in paragraph 4.A. This form shall be submitted quarterly to the Department's Grant Manager no later than fifteen (15) days following the last day of the reporting quarter beginning with the quarter during which the completion of the construction or installation of equipment occurred.
8. The Grantee shall save and hold harmless and indemnify the State of Florida, the Department and the U.S. Fish and Wildlife Service, against any and all liability, claims, judgments or costs of whatsoever kind and nature for injury to, or death of any person or persons and for the loss or damage to any property resulting from the use, service, operation or performance of work under the terms of this Agreement, resulting from the negligent acts of the Grantee, his subcontractor, or any of the employees, agents or representatives of the Grantee or subcontractor to the extent allowed by law.
9.
  - A. The Department may terminate this Agreement at any time in the event of the failure of the Grantee to fulfill any of its obligations under this Agreement. Prior to termination, the Department shall provide thirty (30) calendar days written notice of its intent to terminate and shall provide the Grantee an opportunity to consult with the Department regarding the reason(s) for termination.
  - B. The Department may terminate this Agreement for convenience by providing the Grantee with thirty (30) calendar days written notice.
  - C. 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)(a), Florida Statutes.
  - D. This Agreement may be terminated by the Department if written confirmation is received from the Grantee that the pumpout vessel or the pumpout equipment has been destroyed by an act of nature.
10. If the Grantee materially fails to comply with the terms and conditions of this Agreement, including any Federal or State statutes, rules or regulations, applicable to this Agreement, the Department may take one or more of the following actions, as appropriate for the circumstances.
  - A. Temporarily withhold cash payments pending correction of the deficiency by the Grantee.
  - B. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
  - C. Wholly or partly suspend or terminate this Agreement.
  - D. Withhold further awards for the project or program.
  - E. Take other remedies that may be legally available.
  - F. Costs of the Grantee resulting from obligations incurred by the Grantee during a suspension or after termination of the Agreement are not allowable unless the Department expressly authorizes them in the

notice of suspension or termination. Other Grantee costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if the following apply.

1. The costs result from obligations which were properly incurred by the Grantee before the effective date of suspension or termination, are not in anticipation of it, and in the case of termination, are noncancellable.
  2. The cost would be allowable if the Agreement were not suspended or expired normally at the end of the funding period in which the termination takes place.
- G. The remedies identified above, do not preclude the Grantee from being subject to debarment and suspension under Executive Orders 12549 and 12689.
11. 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, the U.S. Fish and Wildlife Service 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 subgranted or subcontracted, the Grantee shall similarly require each subgrantee and 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 real property and equipment acquired with Federal funds shall be retained for five years following final disposition.
12. A. In addition to the requirements of the preceding paragraph, the Grantee shall comply with the applicable provisions contained in **Attachment E (Special Audit Requirements)**, attached hereto and made a part hereof. **Exhibit 1 to Attachment E** summarizes the funding sources supporting the Agreement for purposes of assisting the Grantee in complying with the requirements of **Attachment E**. A revised copy of **Exhibit 1** must be provided to the Grantee for each amendment which authorizes a funding increase or decrease. If the Grantee fails to receive a revised copy of **Exhibit 1**, the Grantee shall notify the Department's Grants Development and Review Manager at 850/245-2361 to request a copy of the updated information.
- B. The Grantee is hereby advised that the Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. The Grantee shall consider the type of financial assistance (federal and/or state) identified in **Attachment E, Exhibit 1** when making its determination. For federal financial assistance, the Grantee shall utilize the guidance provided under OMB Circular A-133, Subpart B, Section \_\_.210 for determining whether the relationship represents that of a subrecipient or vendor. For state financial assistance, the Grantee shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website:

<https://apps.fldfs.com/fsaa>

The Grantee should confer with its chief financial officer, audit director or contact the Department for assistance with questions pertaining to the applicability of these requirements.

- C. In addition, the Grantee agrees to complete and submit the **Certification of Applicability to Single Audit Act Reporting, Attachment F**, attached hereto and made a part hereof, within four (4) months following the end of the Grantee's fiscal year. Attachment F should be submitted to the Department's Grants Development and Review Manager at 3900 Commonwealth Boulevard, Mail Station 93, Tallahassee, Florida 32399-3000. The Grants Development and Review Manager is available to answer any questions at (850) 245-2361.

13.
  - A. The Grantee may subcontract work under this Agreement without the prior written consent of the Department's Grant Manager. The payment terms of subcontracts (other than construction and the purchase of commodities) shall comply with the terms of this Agreement (for example, if payment under this Agreement is being made on a cost reimbursement basis, then the subcontract should also be cost reimbursement). The Grantee shall submit a copy of the executed subcontract to the Department within ten (10) days after execution. The Grantee agrees to be responsible for the fulfillment of all work elements included in any subcontract and agrees to be responsible for the payment of all monies due under any subcontract. It is understood and agreed by the Grantee that the Department shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract and that the Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.
  - B. The Department of Environmental Protection supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State of Florida. A list of minority owned firms that could be offered subcontracting opportunities may be obtained by contacting the Office of Supplier Diversity at (850) 487-0915.
  - A. The Grantee agrees to follow the affirmative steps identified in 43 C.F.R. 12 for its selection of subcontractors and retain records documenting compliance.
  - D. This Agreement is neither intended nor shall it be construed to grant any rights, privileges, or interest in any third party without the mutual written agreement of the parties hereto.
  - E. This Agreement is an exclusive grant and may not be assigned in whole without the written approval of the Department.
14.
  - 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 of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  - B. The Grantee shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients certify accordingly.
  - C. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
  - D. 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.
15. The Grantee shall comply with all applicable federal, state and local rules and regulations in performing under this Agreement. The Grantee acknowledges that this requirement includes compliance with all applicable federal, state and local health and safety rules and regulations. The Grantee further agrees to include this provision in all subcontracts issued as a result of this Agreement.
16. Any notices between the parties shall be considered delivered when posted by Certified Mail, return receipt requested, or delivered in person to the Grant Managers at the addresses below.

17. The Department's Grant Manager (which may also be referred to as the Department's Project Manager) for this Agreement is identified below.

Brenda Leonard	
Florida Department of Environmental Protection	
Office of Sustainable Initiatives	
3900 Commonwealth Boulevard, MS#30	
Tallahassee, Florida 32399-3000	
Telephone No.:	(850) 245-2847
Fax No.:	(850) 245-2159
E-mail Address:	<a href="mailto:Brenda.leonard@dep.state.fl.us">Brenda.leonard@dep.state.fl.us</a>

18. The Grantee's Grant Manager (which may also be referred to as the Grantee's Project Manager) for this Agreement is identified below. The Department must be notified in writing of any change in this information within thirty (30) days.

David Hawthorne	
City of Key West	
City Marina at Garrison Bight	
1800 N. Roosevelt Boulevard	
Key West, Florida 33040	
Telephone No.:	(305) 809-3982
Fax No.:	(305) 293-6477
E-mail Address:	<a href="mailto:dhawthor@keywestcity.com">dhawthor@keywestcity.com</a>

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 Workers' Compensation statutes, the Grantee shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Department, for the protection of his employees not otherwise protected.
20. The Grantee warrants and represents that it is self-funded for liability insurance, appropriate and allowable under Florida law, and that such self-insurance offers protection applicable to the Grantee's officers, employees, servants and agents while acting within the scope of their employment with the Grantee.
21. The Grantee covenants that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of services required.
22. Upon satisfactory completion of this Agreement, the Grantee may retain ownership of the non-expendable personal property or equipment purchased under this Agreement. However, the Grantee shall complete and sign **Attachment G, Property Reporting Form**, DEP 55-212, and forward it along with the appropriate invoice to the Department's Grant Manager. The following terms shall apply:
- A. The Grantee shall have use of the non-expendable personal property or equipment for the authorized purposes of the contractual arrangement as long as the required work is being performed.
  - B. The Grantee is responsible for the implementation of adequate maintenance procedures to keep the non-expendable personal property or equipment in good operating condition.
  - C. The Grantee is responsible for any loss, damage, or theft of, and any loss, damage or injury caused by the use of, non-expendable personal property or equipment purchased with state funds and held in his possession for use in a contractual arrangement with the Department.

23. A. The Department may at any time, by written order designated to be a change order, make any change in the work within the general scope of this Agreement (e.g., specifications, task timelines within current authorized Agreement period, method or manner of performance, requirements, etc.). All change orders 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, or a change in ownership shall require formal amendment to this Agreement, and will not be eligible for processing through the change order procedures described above.
- B. In the event of a change in the Grant Manager for the Grantee or for the Department, each party will notify the other party in writing of such change within thirty (30) days after the change becomes effective. The notice shall be sent from the Grantee's representative authorized to execute agreements to the Department's Grant Manager. The Department's Grant Manager will transmit a copy of such change to the Department's Procurement Office and the Contract Disbursement Office for inclusion in the Agreement file.
24. A. 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.
- 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.
25. In accordance with Executive Order 12549, Debarment and Suspension (**2 CFR 1400**), 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, unless authorized in writing by the U.S. Fish and Wildlife Service to the Department. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this Agreement. The Grantee shall include the language of this section in all subcontracts or lower tier agreements executed to support the Grantee's work under this Agreement.
26. The U.S. Fish and Wildlife Service and the Department, reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for government purposes:
- A. The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant.
- B. Any rights of copyright to which a Grantee, subgrantee or a contractor purchases ownership with grant support.
27. Land acquisition is not authorized under the terms of this Agreement.
28. A 3 x 4 foot sign of the International Pumpout Symbol shall be placed on a dock or on land, facing the waterway and easily visible to the boaters. Sign specifications can be found at the following link: <http://wsfrprograms.fws.gov/Subpages/ToolkitFiles/fasymb.pdf>. In addition, informational signage stating fees, hours of operation, instructions, and operator name and telephone number shall be posted in a clearly visible location. The sign shall have posted emergency phone numbers for reporting service problems and shall include the following statement:



“Funded in part by the U.S. Fish and Wildlife Service, Clean Vessel Act through the Florida Department of Environmental Protection.”

29. The Grantee agrees to comply with, and include as appropriate in contracts and subgrants, the provisions contained in **Attachment H, Contract Provisions**, attached hereto and made a part hereof. In addition, the Grantee acknowledges that the applicable regulations listed in **Attachment I, Regulations**, attached hereto and made a part hereof, shall apply to this Agreement.
30. If a court deems any provision of this Agreement void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.
31. This Agreement 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, duly signed by each of the parties hereto, and attached to the original of this Agreement, unless otherwise provided herein.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

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

CITY OF KEY WEST

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: \_\_\_\_\_  
Signature of Person Authorized to Sign

By: \_\_\_\_\_  
Director, Office of Sustainable Initiatives

\_\_\_\_\_  
Print Name and Title of Authorized Person

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

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

FEID No.59-6000346

\_\_\_\_\_  
Brenda Leonard, DEP Grant Manager

D. Skelton  
DEP Contracts Administrator

Approved as to form and legality:

James B. [Signature]  
DEP Attorney

For Agreements with governmental boards/commissions: If someone other than the Chairman signs this Agreement, a resolution, statement or other document authorizing that person to sign the Agreement on behalf of the governmental board/commission must accompany the Agreement.

List of attachments/exhibits included as part of this Agreement:

Specify Type	Letter/ Number	Description (include number of pages)
<u>Attachment</u>	<u>A</u>	<u>Scope of Work and Conditions (4 Pages)</u>
<u>Attachment</u>	<u>B</u>	<u>Grant Payment/Match Request Form (1 Page)</u>
<u>Attachment</u>	<u>C</u>	<u>Contract Payment Requirements (1 Page)</u>
<u>Attachment</u>	<u>D</u>	<u>Progress Report Form (2 Pages)</u>
<u>Attachment</u>	<u>E</u>	<u>Special Audit Requirements (5 Pages)</u>
<u>Attachment</u>	<u>F</u>	<u>Certification of Applicability to Single Audit Act Reporting (1 Page)</u>
<u>Attachment</u>	<u>G</u>	<u>Property Reporting Form (1 Page) if applicable</u>
<u>Attachment</u>	<u>H</u>	<u>Contract Provisions (4 Pages)</u>
<u>Attachment</u>	<u>I</u>	<u>Regulations (1 Page)</u>