

Memorandum of Agreement
between
State of Florida Department of Economic Opportunity
and
State of Florida Department of Agriculture and Consumer Services
Division of Aquaculture

DEO Contract #
W0013

This Agreement is made and entered into this 10th day of December 2015, between the State of Florida Department of Economic Opportunity, hereinafter referred to as the FDEO, and the State of Florida Department of Agriculture and Consumer Services, Division of Aquaculture, hereinafter referred to as the FDACS.

WITNESSETH

WHEREAS, FDACS has received funding in fiscal year 2015-2016 pursuant to section 328.76(1)(e), Florida Statutes, to "fund activities relating to the protection, restoration, and research of the natural oyster reefs and beds of the state;" and

WHEREAS, FDEO is administering an Apalachicola Bay (hereinafter the "Bay") cultch planting program using Bay oystermen to transport and plant oyster substrate; and

WHEREAS, FDACS has agreed that FDACS funding can be used for activities addressing restoration of natural oyster reefs in the Bay; and

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

1. FDEO shall administer and supervise the Bay cultch planting program pursuant to this Agreement.
2. FDEO shall use the CareerSource Gulf Coast (the designated local workforce development board responsible for Franklin County) to directly manage and oversee local program operations. FDEO shall use its existing grantee/subgrantee agreement with CareerSource Gulf Coast to implement this project.
3. FDEO shall direct CareerSource Gulf Coast to execute an agreement with the City of Apalachicola to pay participating oystermen at a rate of \$50 per cubic yard planted.
4. Total cubic yards to be planted will be as follows:
 - a. 1,491 cubic yards of cultch material that is presently staged at the boat loading area in Eastpoint and at a remote staging area in Franklin County.
 - b. 3,960 cubic yards of additional cultch material to be purchased and delivered by FDACS to Mile Marker 12.3, Highway 30, Franklin County (Florida Department of Transportation bridge right of way).
5. The City of Apalachicola will be paid a flat rate equal to 5% of the total payment actually made to participating oystermen and any project staff used to conduct this reshelling effort.
6. Excluding additional cultch material, FDEO through its agreement with CareerSource Gulf Coast will pay for all project direct and indirect costs, including loading cultch, onsite management, and project expenses associated with administering the Bay cultch planting program.

7. FDACS shall transfer a maximum of \$359,693.00 to FDEO on a cost-reimbursement basis, for the purposes provided herein.
 - a. Upon execution of this Agreement, FDACS shall transfer a total of \$100,000 to FDEO as an advance to begin program operations. Additional funds will be transferred based on actual costs incurred pursuant to this agreement. Funds transferred based on actual invoices shall replenish the initial advance up to the total authorized by this Agreement less the advance. FDEO shall provide FDACS a reconciliation of transferred funds at the end of the project.
 - b. FDEO agrees to provide FDACS with copies of actual paid expenditures documenting the amount and value of invoiced items, planting locations (GPS coordinates), estimated cubic yards of cultch material planted at each location, material handler invoices, and supporting documentation for all project administrative overhead and indirect charges. All submitted invoices for reimbursement shall include attached copies of this supporting documentation.
 - c. Supporting documentation of shared program costs incurred by CareerSource Gulf Coast shall be a copy of the monthly spreadsheet showing the final calculation and allocation of these costs.
 - d. Supporting documentation for indirect costs by CareerSource Gulf Coast for administrative overhead shall be a copy of the approval by FDEO of the indirect rate to be used for all projects operated by CareerSource Gulf Coast with funding provided by FDEO.
 - e. FDACS agrees to transfer funds to FDEO as soon as possible but no later than 30 days after FDACS's receipt of the invoice and supporting documents.
8. In addition to its obligation to transfer funds to FDEO in paragraph 7 above, FDACS will purchase and have delivered to Mile Marker 12.3, Highway 30, Franklin County (FDOT bridge right of way) an estimated 3,960 cubic yards of cultch material.
9. FDACS will have the delivered cultch material randomly tested by a materials consultant to confirm quality assurance/quality control of the cultch material.
10. This Agreement shall become effective on the date of execution by the last party and shall remain in effect until all cultch material is planted, but no longer than June 30, 2016, unless terminated in accordance with Paragraph 14. This Agreement may be extended as agreed by the parties, upon execution of a written amendment to this Agreement.
11. FDEO's Project Manager is Michael D. Lynch, or designee, Department of Economic Opportunity, Division of Workforce Services, One Stop and Program Support, (850)245-7193. FDACS's Project Manager is Kal Knickerbocker, Division of Aquaculture Director, or designee, Division of Aquaculture, 600 South Calhoun Street, Suite 217, Tallahassee, Florida 32399, (850)617-7600. All matters related to this Agreement shall be directed to the Project Managers for appropriate action or disposition.
12. This Agreement and any rights and privileges contained herein shall not be assigned or transferred to another party without prior written approval of the other party.

13. FDEO and FDACS agree that each party shall be solely responsible for the negligent or wrongful acts of its employees and agents during the course of this Agreement. However, nothing contained herein shall be construed as an indemnity or constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, Florida Statutes, as amended from time to time, or any other law providing limitations on claims.
14. This Agreement is not intended to, and does not, guarantee any individual any right to participate in the program or any right to any particular rate of pay. The parties hereto reserve the right to renegotiate or modify the terms of this contract to the fullest extent allowable by law. Participants in the shelling program are independent contractors of the City of Apalachicola, and any and all terms governing the work performed by these independent contractors are provided for by agreement between the City of Apalachicola and its independent contractors. This agreement does not and is not intended to confer any rights or remedies upon any person other than the parties.
15. Either party may terminate this Agreement for cause or convenience by giving thirty (30) days written notice to the other party of its intent to do so. Upon such termination invoked by either FDACS or FDEO, no new expenditures shall be made and the further expenditure of funds shall be limited to obligations already made by FDEO prior to its receipt of the notice of termination.
16. The parties agree that time is of the essence in the performance of the terms of this Agreement.
17. This Agreement represents the entire agreement of the parties. Any alterations, variations, changes, modifications, and waivers of provisions of this Agreement shall only be valid when they have been reduced to writing and duly signed by each of the parties.
18. The Florida Department of Agriculture and Consumer Services, Division of Aquaculture, and Florida Department of Economic Opportunity have caused this Agreement to be duly executed by their authorized representatives.

STATE OF FLORIDA
DEPARTMENT OF ECONOMIC OPPORTUNITY

BY:  _____

CISSY PROCTOR, CHIEF OF STAFF
DEPARTMENT OF ECONOMIC OPPORTUNITY

DATE: 12/9/15

STATE OF FLORIDA
DEPARTMENT OF AGRICULTURE AND CONSUMER
SERVICES,

BY:  _____

D. ALAN EDWARDS, DIRECTOR DIVISION
OF ADMINISTRATION

DATE: 12-10-15