



**NASSAU COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**  
 P.O. Box 1010  
 Fernandina Beach, Florida 32035-1010

Jim B. Higginbotham	Dist. No. 1 Fernandina Beach
John A. Crawford	Dist. No. 2 Fernandina Beach
Tom Branan	Dist. No. 3 Yulee
Chris Kirkland	Dist. No. 4 Hilliard
Jimmy L. Higginbotham	Dist. No. 5 Callahan

BOARD MEETING  
 DATE: 2-26 1996  
 ACTION: 3  
 FILE: \_\_\_\_\_

T. J. "Jerry" GREESON  
 Ex-Officio Clerk

MICHAEL S. MULLIN  
 County Attorney

WALTER D. GOSSETT  
 County Coordinator

**MEMORANDUM**

**TO:** Board of County Commissioners

**FROM:** Walt Gossett *[Signature]*

**SUBJECT:** **DEP DRAFT COUNTY AGREEMENT FOR REEF GRANT**

**DATE:** February 19, 1996

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Attached is a draft of the standard DEP/County agreement for the artificial reef grant. Wording is standard throughout the state and is a result of years of experience with these grants.

Request the Board approve the Chairman to sign the agreement upon the County Attorney's approval.

(904) 225-9021 Board Room; 321-5703, 879-1029, 355-6275

*An Affirmative Action / Equal Opportunity Employer*



# Department of Environmental Protection

Mariory Stoneman Douglas Building  
 3900 Commonwealth Boulevard  
 Tallahassee, Florida 32399-3000

January 24, 1996

Virginia B. Wetherell  
 Secretary

Mr. Walter Gossett  
 Nassau County  
 P.O. Box 1647  
 Femandina, FL  
 32305

Dear Mr. Gossett:

Please find enclosed a draft copy of the grant agreement to construct an artificial reef offshore of Nassau County. As the county has not had a previous grant through this office, I thought that it would be appropriate to have this contract reviewed by the county's legal department or other parties. Please note that this agreement has been developed through years of experience with these grants and contains wording which is standard for all such agreements throughout the state. Any changes in this standard grant agreement would have to be approved by the Department of Environmental Protection's legal section, contracts office, Division of Marine Resources, and could take considerable time for approval.

If I have not received a response within two weeks of the date of this letter, I will assume that the contract language is acceptable to Nassau County and will proceed to forward you final copies for signature by an authorized county official. Also, could you please forward a copy of the U.S. Army Corps of Engineers permit for your artificial reef site as well as the federal employer identification number for the county. The Grant Agreement cannot be executed until I am in receipt of this information.

Your interest in participating in the construction of artificial reefs to enhance marine habitat to improve the recreational saltwater fisheries offshore of Nassau County is appreciated. Please contact the undersigned Grant Manager at the letterhead address (adding MS 240 after the street address) if you have any questions on this matter. I can also be reached at (904) 922-4340 or by FAX at (904) 922-0463.

Sincerely,

*Thomas Maher*

Thomas Maher  
 Environmental Specialist III  
 Office of Fisheries Management  
 and Assistance Services

TFM/tm

Enclosure

C:\TFM\ASSAUCO\DR

"Protect, Conserve and Manage Florida's Environment and Natural Resources"

Printed on recycled paper.

Post-It® Fax Note	7671	Date	2/15/96	# of pages	7
From	To Mike Muller	From	Alanna		
Co.	Please Review	Co.			
Phone #	Return with	Phone #			
Fax #	Comments, ASAP	Fax #			

2/15/96  
 HAND DELIVERED BY JOHN DANIELS



## Department of

# Environmental Protection

Division of Marine Resources

Office of Fisheries Management and Assistance Services

3900 Commonwealth Blvd., MS 240

Tallahassee, FL 32399-3000

April 5, 1996

4/8/96 (BL)

Lawton Chiles  
Governor

Virginia B. Wetherell  
Secretary

Ms. Henna Kerins  
Nassau County  
P.O. Box 1010  
Fernandina, FL  
32035

Dear Ms. Kerins:



Please find attached an executed copy of DEP Grant Number OFMAS - 059 for the construction of an artificial reef utilizing 100 tons of concrete culverts. These funds are for the 1995/96 fiscal year appropriation to the artificial reef program from revenue generated by saltwater fishing license sales. **All construction activities must be completed prior to midnight December 1, 1996.**

Please read the Grant Agreement carefully. Note that the terms of the Grant Agreement requires you to abide by the specifications of your grant application, and also incorporates the requirements of Chapter 16R-9, F.A.C. (The Comprehensive Artificial Fishing Reef Program Control Code), and Chapter 16A-11, F.A.C. (Grant and Contract Accountability Policy), copies of which are enclosed for your perusal. Grant projects will be closely monitored for compliance with all terms of the contractual agreement.

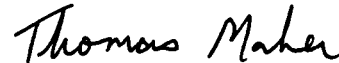
The following information is provided for clarification and reference:

1. The Grant Agreement authorizes the expenditure of funds solely for the purpose of constructing an artificial reef. Any changes in your project (i.e., change of site, materials) may require an amendment to the Grant Agreement. If you plan any modifications, please contact the undersigned Grant Manager immediately. Failure to obtain an executed amendment prior to initiating a change in plans may jeopardize your funds.
2. Written status reports are required at sixty (60) intervals. These reports should be submitted to the undersigned Grant Manager in order to document the progress of the reef construction and identify any problems which could delay completion of the project. Due dates are May 18th, July 17th, September 15th, and November 14th.
3. Upon completion of the artificial reef project, a payment package must be submitted to this office to facilitate reimbursement. The following items, if applicable (copies of all required forms enclosed) must be included in the package:
  - (a) Request for Payment, form DNR 34-406. This form shows the actual costs incurred and the amount of reimbursement requested. (see p. 4, 23a.)
  - (b) Materials Placement Report, form DNR 34-403. This form must be completed for each day materials are placed on the site.
  - (c) Invoices from all vendors showing unit costs and total costs of services.
  - (d) A copy of the advertisement for vendor (call for bids).

- (e) A copy of the bill for advertisement (if applicable).
- (f) Project specifications.
- (g) A copy of all vendor replies and winning bid.
- (h) A copy of the contract between the county and the vendor.
- (i) Copies of both sides of all canceled checks paid to the vendor by the county.
- (j) Certification of Completion form. This is a statement in which the local government certifies, under penalties of perjury, that the project has been completed according to the terms of the contract.
- (k) Photographs of the project.
- (l) All required quarterly performance reports, if not previously submitted.
- (m) Newspaper articles (if applicable).

All project correspondence and reports should be directed to the undersigned Grant Manager at the letterhead address, Mail Station 240. If you have any questions, please contact me at (904) 922-4340, or by FAX at (904) 922-0463.

Sincerely,



Thomas Maher  
Environmental Specialist III  
Office of Fisheries Management  
and Assistance Services

TFM/tm

Enclosures

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FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF MARINE RESOURCES  
FLORIDA ARTIFICIAL FISHING REEF PROGRAM  
GRANT AGREEMENT

This Agreement is entered into this 26<sup>th</sup> day of March 1996 by and between the Florida Department of Environmental Protection, hereinafter referred to as the Department, and the Nassau County Board of Commissioners.

Whereas, Section 370.25, Florida Statutes, created an artificial fishing reef program with the Department to, in part, provide grants to coastal local governments for developing artificial reefs; and

Whereas, Nassau County (hereinafter referred to as the "County") is a coastal local government as defined in Rule 16R-9.002(4), Florida Administrative Code, and

Whereas, Chapter 16R-9, Florida Administrative Code, establishes rules for the administration of this grant program,

Now therefore, in and for the mutual covenants contained herein, the parties hereto agree as follows:

1. The Department agrees to pay the County a sum not to exceed \$25,000 for the completion of the artificial fishing reef development project described in Exhibit A.

2. This Agreement shall become effective upon execution and end on December 1, 1996. In the event the construction of the project is not complete by said date, the Department will have the right to cancel its obligations of any and all financial assistance granted for the said project.

3. The Department and the County fully understand and agree that there shall be no reimbursement of funds by the Department for any obligation or expenditure made prior to the execution of the Agreement or after expiration of the Agreement.

4. Chapter 16A-11 (Contracts and Grants Accountability) of the Florida Administrative Code is expressly made a part of this Agreement and is incorporated herein by reference as if fully set forth. The County agrees to abide by and comply with all provisions of such rule and to ensure compliance by any contractor or vendor entering an Agreement as a result of said project.

5. All requests for payment and disbursement of funds shall be made in strict accordance with the provisions of Exhibit A and Chapter 16A-11, Florida Administrative Code. All invoices submitted for payment shall include sufficient detail to perform a proper pre-audit or post-audit review, as required by the Department.

6. The County shall be responsible for all work performed under the terms of this Agreement. The County may subcontract as necessary to perform the work required for this project provided that the subcontract has been approved in writing by the Department prior to its execution. It is understood by the County that the Department shall not be liable to the subcontractor for any expenses or liabilities incurred under the subcontract and that the County shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.

7. The County recognizes that the State of Florida, by virtue of its sovereignty, is not required to pay any taxes on the services or goods purchased under the terms of this Agreement.

8. The County agrees to appoint a liaison agent to be responsible for the successful completion of said project, the prompt implementation of the provisions of this Agreement, the submission of status reports at least every 60 days from the effective date of execution of this Agreement, and the submission of the Certification of Completion and other certifications as required herein. The County shall certify, under penalties of perjury, compliance with provisions of this Agreement, and said certification shall be submitted with the final request for payment. A Materials Placement Report, DNR Form 34-403, shall be completed and submitted with the status report when deployment activity occurred during the reporting period.

9.	Thomas F. Maher (Name)	Environmental Specialist III (Title)	or
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successor or designee, is hereby designated the Department's project manager for the purpose of this Agreement and shall be responsible for enforcing performance of the Agreement terms and conditions and shall serve as liaison with the County and approve all invoices prior to payment.

10. The Department's obligation to pay under this Agreement, if the Agreement period extends into a new fiscal year, is contingent upon an annual appropriation by the Legislature and certification of the project funds forwarded in the FCO Grants category.

11. The County agrees to make the completed artificial fishing reef available to the general public without regard to race, creed, sex, color, national origin, age, disability or location of the user's residence.

12. The County agrees to maintain said artificial fishing reef(s) for the general public benefit and covenants that it has the full legal authority to so maintain.

13. The County shall perform as an independent entity and not as an agent, representative, or employee of the State of Florida or the Department.

14. This Agreement is exclusive to the County and may not be assigned in whole or in part without the express written approval of the Department.

15. This 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.

16. This Agreement may be canceled by either party, with or without reason, by giving **30 days** written notice to the other party. Said notice shall be sufficient if delivered personally or by certified mail to the Department Project Manager. In case of cancellation, only amounts accrued to the date of cancellation shall be due and payable.

17. The County agrees to provide access to all records, to allow the audit of any books, documents and papers, and to allow the Department to inspect said County project. The County also agrees to require any contractor or vendor receiving an award as a result of said project to agree in writing to the application of this provision where such pertains to the contractor's or vendor's records relating to said project. All records, documents and papers relative to this Agreement and its performance shall be retained by the County for a period not less than three years following Agreement completion or until final resolution of matters resulting from any litigation, claim, or audit that began prior to the expiration of the three-year record retention period.

18. Pursuant to Florida Statutes, all documents, papers, letters, or other material in conjunction with this Agreement shall be public record and treated in the same manner as other public records under general law and such records may be audited by the State of Florida Auditor General. This Agreement may be canceled by the Department without prior notice for refusal by the County to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the County in conjunction with this Agreement.

19. Each party hereto agrees that it shall be solely responsible for the wrongful acts of its employees, contractors, and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity and the limitations set forth in Section 768.28, Florida Statutes.

20. The County warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the County to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the County any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Furthermore, the expenditure of any funds provided by this Agreement for the purpose of lobbying the Legislature or a state agency is expressly prohibited pursuant to Section 216.347, Florida Statutes.

21. This Agreement has been delivered in the State of Florida and shall be construed in accordance with the laws of Florida. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. Any action hereon or in connection herewith shall be brought in Leon County, Florida.

22. No delay or omission to exercise any right, power or remedy accruing to either party upon breach or default by either party under this Agreement, shall impair any such right, power or remedy of either party; nor shall such delay or omission be construed as a waiver of any such breach or default, or any similar breach or default thereafter.

23. Pursuant to Chapter 216.349 Florida Statutes, a County receiving funds from a grants and aids appropriation by a state agency shall:

- a) If the amount exceeds \$100,000, have a grant specific audit performed in accordance with the rules of the Auditor General promulgated pursuant to s. 11.45;
- b) If the amount exceeds \$25,000 but does not exceed \$100,000, have a grant specific audit performed in accordance with the rules of the Auditor General promulgated pursuant to s. 11.45 or have a statement prepared by an independent certified public accountant which attests that the receiving entity or organization has complied with the provisions of the grant; or
- c) If the amount does not exceed \$25,000, have the head of the entity attest, under penalties of perjury, that the entity has complied with the provisions of the grant.

All audits performed or attestation statements prepared under this subsection shall be filed with the granting agency and with the Auditor General.

24. The County shall furnish a copy of the independent financial and compliance audit required by Office of Management and Budget Circular #A-128 to the Department within 30 days after furnishing the original audit to the Office of Management and Budget.

25. Following receipt of an audit report identifying any reimbursement due the Department for non-compliance with the Agreement, the County will be allowed a maximum of 60 days to submit any additional pertinent documentation to offset the amount identified as being due the Department.

26. If it becomes necessary for the Department to demand a refund of all or any funds tendered in this Agreement, the County agrees to return said funds to the Department within sixty (60) days after notification of the Department. If not returned within sixty (60) days the County understands and agrees that any further County requests for funding as to this or any other program under the Department's administration shall be denied until the funds have been returned.

27. In the event the County fails to comply with the terms and conditions of this Agreement, the Agreement may be considered null and void and the Department will have the right to cancel its financial and legal obligations as identified in this Agreement. Failure to comply with the terms and provisions shall result in the Department declaring the County ineligible for further participation in the program until such time as the County complies.



28. In connection with any litigation arising out of this Agreement, the prevailing party shall be entitled to the recovery of its costs and a reasonable attorney's fee.

29. 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.

IN WITNESS WHEREOF, the parties hereto executed this Agreement on the date listed first written above.

BOARD OF COUNTY  
COMMISSIONERS  
NASSAU COUNTY

SECRETARY OF THE  
FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION  
OR DESIGNATED REPRESENTATIVE

BY:   
Signature

  
Signature

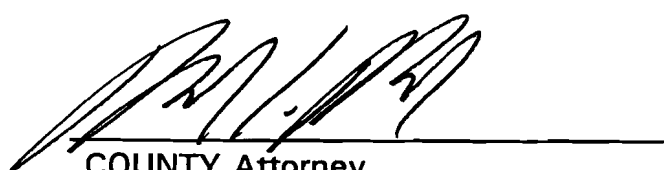
Jim B. Higginbotham  
Name of Chairman or Designee\*

Chairman  
(Title)

P. O. Box 1010  
(Address)

Fernandina Beach, FL 32035  
(City, state, zip code)

Thomas Maher  
DEP Project Manager

  
COUNTY Attorney

Approved as to form and legality  
N. P. Hammond  
DEP Attorney

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