

DEP AGREEMENT NO. RFA75

**PORT EVERGLADES SLIP 1 EXPANSION PERFORMANCE BASED MILESTONE
FUNDING AGREEMENT**

This Port Everglades Slip 1 Expansion Performance Based Milestone Funding Agreement (“Agreement”) is entered into between the Parties in consideration of the mutual benefits to be derived, and other good and valuable consideration, and the Parties hereby agree as follows:

PARTIES

1. The Florida Department of Environmental Protection (“Department”) is the administrative agency of the State of Florida having the power and duty to protect Florida’s air and water resources and to administer and enforce the provisions of Chapters 376 and 403, Florida Statutes (“F.S.”), and the rules promulgated thereunder in Title 62, Florida Administrative Code (“F.A.C.”). The Department has jurisdiction over the matters addressed in this Agreement. The Department is located at 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000.
2. Broward County, a political subdivision of the State of Florida (“County”), is the owner of the property at which a construction expansion project known as the Slip 1 Expansion Project will occur.

PURPOSE

3. The purpose of this Agreement is to fund site rehabilitation in accordance with applicable subsections of Sections 376.30701 and 376.3071, F.S., and Chapters 62-780 and 62-777, F.A.C., on a milestone performance basis in coordination with a major construction expansion project at Port Everglades.

BACKGROUND AND SCOPE OF WORK

4. The Port Everglades facility (Department Facility Identification Number 068942977) located at 1850 Eller Drive, Broward County, Florida, and known as the Common Area – Berths 1 – 27 and pipeline rights-of-way (“Facility”), has been found to have petroleum contamination.

Certain petroleum contamination originating at the Facility has been determined to be eligible for site rehabilitation coverage under the Early Detection Incentive (EDI) Program pursuant to Section 376.3071, F.S. (“Eligible Discharge(s)”).

5. The Department is authorized to provide State funding assistance for Eligible Discharges based on the priority score established for the Eligible Discharge pursuant to Section 376.3071(5)(a), F.S., and Chapter 62-771, F.A.C. The priority score for this Facility is fifteen (15), which is currently in funding range.
6. The County plans to widen Slip 1 at Port Everglades by approximately 158 feet to the south, encroaching into approximately 4.4 acres of existing uplands known as Pier 1.

The overall Slip 1 Expansion Project will consist of decommissioning and removing all underground utilities and fuel pipelines in a portion of Pier 1, the installation of a new seawall for parts of Slip 1, removal of parts of the existing seawall for Slip 1 and dredging of Slip 1 ("Project"). The Eligible Discharge at the Facility extends to areas outside of the Project footprint and parts of the Eligible Discharge outside the Project footprint are not being addressed by this Agreement (see Figure 1, Slip 1 Project Footprint).

7. Over 113,500 cubic yards of petroleum-contaminated soil will be excavated, contaminated groundwater remediated, and engineering controls installed (the soil excavation, groundwater remediation, engineering control installation(s), and ancillary bracing and shoring structures will be collectively referred to as "source removal") within the Project footprint. This source removal is a relatively small portion of the overall Project. Compared with site rehabilitation at other state-funded locations, the risk of coordinating work is much higher here due to the risk of seawall collapse, the narrow space available to work, and the necessarily aggressive timing of the Project required to limit the duration of the Slip being closed in a very busy port. The timing of the seawall removal/installation and remediation integration is expected to be complicated due to the number of Project contractors. Therefore, the Department has determined that it is in the best interest of the state for the source removal of the discharge referenced in Paragraphs 4 and 5 be funded concurrently with the Project. This will allow the County to contract and coordinate aspects of the Project and source removal while mitigating the environmental risks.
8. The source removal progress shall be based upon milestone achievement and the applicable provisions of Chapter 62-780, F.A.C.
9. Consistent with Section 376.3071, F.S., and the rules and guidance adopted thereunder, the Department, in consultation with the County, based on site assessment data on file with the Department and combined Remedial Action Plan Volume I - Slip One Expansion Footprint Portion (Oculus link: [https://depdms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&\[guid=11.4058137.1\]&\[profile=Cleanup_Remediation\]](https://depdms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&[guid=11.4058137.1]&[profile=Cleanup_Remediation]) and Remedial Action Plan Volume II - Upland Remaining Land Portion, including Engineering Control Plan (RAP) approved by the Department on October 1, 2020 (Oculus link: [https://depdms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&\[guid=11.4058130.1\]&\[profile=Cleanup_Remediation\]](https://depdms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&[guid=11.4058130.1]&[profile=Cleanup_Remediation])), both incorporated by reference, have agreed to a milestone payment funding arrangement as described below.

CONTRACTORS

10. Source Removal work funded under this Agreement will be performed by one or more of the County's Qualified Site Rehabilitation Contractors ("Contractor(s)") that meet, at minimum, the qualifications pursuant to Section 376.3071(6)(c), F.S. and procured in compliance with its procurement processes. The Department will review and approve source removal documents pursuant to Chapter 62-780, F.A.C. The County is further

advised and understands that the Department may task staff from a private team (company that the Department contracts with for staff augmentation for petroleum cleanup site management) to review the source removal documents relating to the Facility.

ALLOCATION OF FUNDS, FUNDING OF MILESTONES, AND DELIVERABLES

11. The Department and County agree to \$27,500,000, included in this Agreement, paid by Department for source removal of the Eligible Discharge located within the Project footprint. The \$27,500,000 includes contingent funding of \$2,500,000, which will be allowed for transport and disposal (T&D) of petroleum impacted soil tonnage exceedance, if needed, above the established scope as defined in the approved RAP and Attachment A, Milestone Description Table.
12. Invoices are due to the Department no later than 30 days after the County receives approval to invoice in writing from the Department. Payment for the source removal work for the Eligible Discharge located within the Project footprint shall be paid to the County after the County provides information to the Department that the following milestones have been achieved by its Contractor(s) and the Department has reviewed and approved the documentation submitted as described below.
13. The milestones will be completed as described in in this Agreement, Rule 62-780, F.A.C., and pursuant to the documents incorporated by reference. Corresponding payments from Department to County need not be in the order listed below:
 - a. \$3,125,000.00 upon Department approval of the work performed as evidenced in the Source Removal Report within Remediation Zones A1 and A2.
 - b. \$4,687,500.00 upon Department approval of work performed as evidenced in the Source Removal Report within Remediation Zone A3, A4 and A5.
 - c. \$3,125,000.00 upon Department approval of the work performed as evidenced in the Source Removal Report within Remediation Zone B1 and B2.
 - d. \$3,125,000.00 upon Department approval of the work performed as evidenced in the Source Removal Report within Remediation Zone B3 and B4.
 - e. \$3,125,000.00 upon Department approval of the work performed as evidenced in the Source Removal Report within Remediation Zone B5 and B6.
 - f. \$1,562,500.00 upon Department approval of the work performed as evidenced in the Source Removal Report within Remediation Zone B7.
 - g. \$1,562,500.00 upon Department approval of the work performed as evidenced in the Source Removal Report within Remediation Zone B8.
 - h. \$3,125,000.00 upon Department approval of the work performed as evidenced in the Source Removal Report within Remediation Zone B9 and B10.
 - i. \$1,562,500.00 upon Department approval of the work performed as evidenced in the Source Removal Report within Remediation Zone C1, Florida licensed Professional Engineer certified As-Built(s), an Engineering Control (EC) Maintenance Plan. In addition, a Florida licensed Professional Engineer must

certify that the ECs were installed in accordance with the design specifications including surface cap, slurry wall and sheet piling wall.

- j. \$2,500,000.00 in contingency may be allowed upon Department approval of the work performed as evidenced in the Project Summary Report documenting an increase in scope. An increase in scope is defined as the transport and disposal (T&D) of petroleum impacted soil in excess of 189,000 tons for the entire Project. This Project Summary Report may only be invoiced at the end of Project completion and must include a rationale for the contingency request, summary of activities and a tabulated summary of T&D for each Remediation Zone including the total tons, calculations and conversions, as applicable.

DEPARTMENT'S OBLIGATIONS

14. The Department has made a cost commitment as specified in Paragraph 11, Attachment A, Milestone Description Table and Exhibit A, Milestone Activities. Pursuant to Section 287.0582, F.S., the State of Florida's performance and obligation to pay under this Agreement is contingent upon the availability of funding and annual appropriation by the Florida Legislature.
15. The Department will encumber the funds, including contingent funding, for this Agreement in its entirety (\$27,500,000.00) upon execution of the Agreement.

INVOICING

16. The County shall not submit an invoice for payment of a milestone unless documentation of the achievement of that milestone has been submitted to the Department and the Department has approved the achievement in writing. Each invoice must contain all documentation of performance as specified in the RAP and Attachment A, Milestone Description Table. The County shall submit a Release of Claims with the final invoice (see Exhibit B, Release of Claims Form).
17. Invoices must be submitted in detail sufficient for a preaudit and post audit.

COVENANTS AND REPRESENTATIONS OF THE DEPARTMENT

18. This Agreement is effective on the date of execution by all Parties and shall remain in effect for no more than sixty (60) months following the date of execution of this Agreement. If the County has satisfactorily performed under this Agreement, the Department, at its sole discretion, may extend this Agreement on the same terms and conditions. Any renewals provided under the Contract must meet the requirements of Section 287.058(1)(g) Florida Statute (F.S.), which is incorporated herein by reference. If the Standard Contract indicates renewals are available, the Contract may be renewed for those timeframe(s). All renewals are contingent upon satisfactory performance by Contractor. Renewals may be for the entire period or in increments.

19. Department invoices for payment must be paid pursuant to Section 215.422, F.S.
20. The Department reserves the right to verify representations made regarding progress, milestones, or other conditions, at its sole cost and discretion, at any time. The Department shall not be under any obligation to notify either the County or Contractor(s) of such inspections, however, proper notification and protocol for site access on the secured property will be required. Costs incurred by the County or Contractor(s) for participating in an inspection shall not be compensated or reimbursed in any way by the Department.
21. When payment of the final invoice and Exhibit B, Release of Claims Form, is submitted by the County, the Department's obligation to commit funds under this Agreement is complete.

COVENANTS AND REPRESENTATIONS OF THE COUNTY

22. The County represents that it is a local government in the State of Florida and is qualified to enter into this Agreement and is able to fully perform its duties under this Agreement.
23. The County recognizes that the total cost of source removal in the Project footprint may exceed the Department's contribution. The County commits to pay the total cost of site rehabilitation beyond the Department's contribution in the Project footprint. The County has agreed that the Department will pay the County the amount up to \$27,500,000, including contingent funding upon completion of ten (10) milestones, as specified in Paragraph 13.
24. The County shall maintain books, records, documents and other evidence pertaining to compensation and payments directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles and practices consistently applied. The Department, the State or their authorized representatives shall have access, without cost, to such records for audit purposes during the term of this Agreement and for five years following termination of this Agreement.
25. The County agrees to provide, a copy of any and all Agreements with the Contractor(s) performing source removal activities subject to this Agreement, including site access agreements within 30 days of execution of those Agreements. The County shall be subject to the prompt payment provisions of Sections 376.3071(6)(h) and 215.422, F.S., upon receipt of an invoice from the Contractor(s), when such invoice is accompanied by a written approval by the Department of the work completed. Within 21 days of payment to the Contractor(s), the County shall provide to the Department proof of such payment, which shall include a copy of the County's paid and canceled check to the Contractor(s). Alternately, the County may provide a certification by the Contractor(s) that the invoice amount specified in the certification was paid and indicating the date such payment from the County was received by the Contractor(s) (see Exhibit C – County Payment of Subcontractors Summary Form).

MISCELLANEOUS

26. Breach. Any Party may terminate this Agreement for material breach of obligations. Material breach means substantial failure to comply with the terms and conditions of this Agreement. A Party terminating the Agreement shall give written notice of the breach to the other Party within 10 days of discovery of facts giving rise to the breach. Such notice shall be of sufficient detail so that the Party allegedly in breach can formulate a remedy. If the breach is remedied within 15 days of the notice, the Agreement shall remain in effect. If the breach is not remedied within 15 days of the notice, the Agreement may be terminated within 15 days of the close of the 15-day remedy period. In the event that the Department determines, in its sole discretion, that the County is in breach of this Agreement, the Department reserves the right to exercise all remedies at law and equity including, but not limited to, suit for specific performance. In the event that the Department is in breach of this Agreement, then the County reserves the right to exercise all remedies at law.

Department may terminate this Agreement without cause and for its convenience by giving thirty (30) calendar days written notice to County. Termination for convenience shall not entitle either party to any indirect, special or resulting damages, lost profits, costs or penalties, and County shall be entitled only to recover those amounts earned by it for authorized deliverables completed under any milestone up to the date of termination, with the Department's obligation to pay surviving termination.

In the event of termination of this Agreement, the Facility shall return to its previously existing status under the Early Detection Incentive (EDI) Program.

27. Notice. Any notice or written communication required or permitted hereunder between the Parties shall be considered delivered when posted by Certified Mail, Return Receipt Requested, sent and received by electronic mail, or delivered in person to each appropriate Party Representative, as designated below. The Department shall give reasonable notice (and not less than any specifically required under this Agreement) of its inspection of documents, conduct of audits, review of files, request for information, request for copies or otherwise relating to the exercise of such rights as referred to in this Agreement. Party Representatives are as follows:

For the Department:

Felicia Mizener, E.I., Site Manager
Florida Department of Environmental Protection
2600 Blair Stone Road, MS 4580
Tallahassee, Florida 32399-2400
Phone # 850-245-8893
Email Address: felicia.mizener@FloridaDEP.gov

For the County:

Broward County's Port Everglades Department
ATTN: Chief Executive/Port Director
1850 Eller Drive
Fort Lauderdale, FL 33316
Phone # 954-368-3516
Email Address: jdaniels@broward.org

Each Party shall have the right to change its Representative upon 10 calendar days written notice to all other Parties.

28. Amendments. Any amendment to this Agreement must be in writing and signed by the Parties.
29. Assignment. This Agreement shall not be assigned by any Party without prior written consent of the non-assigning Parties.
30. Choice of Law/Forum. The Parties hereby agree that the laws of the State of Florida shall govern any and all actions or disputes arising out of this Agreement; and any such actions shall be brought in Broward County, Florida.
31. Inspector General. This Agreement is subject to a post-performance audit by the Department's or State's Inspector General. The County understands its duty, pursuant to Section 20.055(5), F.S., to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing regarding the Agreement. The County will comply with this duty and ensure that its Subcontracts issued under this Agreement, if any, impose this requirement, in writing, on its sub-Contractor(s).
32. Scrutinized Companies.
- i. County certifies that it and its subcontractor(s) are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the County or its subcontractors are found to have submitted a false certification; or if the County, or its subcontractor(s) are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
 - ii. The County also certifies that it and its subcontractor(s) are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the County, its affiliates, or its subcontractor(s) are found to have submitted a false certification; or if the County, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
 - iii. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions, then they shall become inoperative.
33. Any reference in this Agreement to a specific time period refers to calendar days.
34. This Agreement shall not constitute, be interpreted, construed or used as evidence of any admission of liability, law or fact, a waiver of any right or defense, nor an estoppel against any party, by the Parties as between themselves or by any other person or entity not a Party. However, nothing in this Paragraph whatever is intended or should be

construed to limit, bar or otherwise impede the enforcement of any term or condition of this Agreement against any Party to this Agreement by any Party to this Agreement.

35. This Agreement, and all documents incorporated herein, states the entire Agreement and understandings between the Parties, and that the Parties are not bound by any stipulations, representations, agreements, or promises, oral or otherwise, not part of or incorporated as part of this Agreement. Each affiliated entity which comprise the County, jointly and severally, does hereby agree to the terms of this Agreement, and to the performance of County's obligations associated with the Facility. Further, each affiliated entity which comprise the County authorizes and ratifies the signature of the party executing below for and on its behalf.

Additionally, the County understands that the County may not receive any remuneration (i.e. anything of value), in cash or in kind, directly or indirectly, from a petroleum site rehabilitation contractor performing site cleanup activities in the Petroleum Restoration Program.

OTHER PROVISIONS

36. Public Records. The Department reserves the right to unilaterally cancel this Agreement for refusal by the County or Contractor(s) to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, F.S., and made or received by the County or Contractor(s) in conjunction with this Agreement.
- A. The County and Contractor(s) shall keep and maintain public records required by the Department to perform the services under this Agreement.
 - B. Upon request from the Department's custodian of public records, the County or Contractor(s) shall provide the Department with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
 - C. The County and Contractor(s) shall ensure that all public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the County and Contractor(s) do not transfer the records to the Department.
 - D. Upon completion of the Agreement, the County and Contractor(s) shall transfer, at no cost to the Department, all public records in possession of the County and Contractor(s) or keep and maintain public records required by the Department to perform the services under this Agreement. If the County and Contractor(s) transfers all public records to the Department upon completion of the Agreement, the County and Contractor(s) shall destroy any duplicate public records that are exempt or confidential and exempt from public disclosure requirements. If the County and Contractor(s) keep and maintain public records upon completion of the Agreement, the County and Contractor(s) shall meet all applicable requirements for retaining public records. The County and Contractor(s) shall keep a duplicate of all accounting records required to be kept pursuant to Paragraph 25 of this Agreement.

All records that are stored electronically must be provided to the Department, upon request from the Department's custodian of public records, in a format that is accessible by and compatible with the information technology systems of the Department.

- E. This Agreement may be unilaterally canceled by the Department for the County or Contractor's failure or refusal to comply with any of the foregoing provisions or to either provide to the Department upon request, or to allow inspection and copying of all documents, papers, letters, or other material made or received by the County or Contractor(s) in conjunction with this Agreement, unless the records are claimed and determined to be exempt from Section 24(a) of Article I of the State Constitution and Section 119.07(1), F.S. If the County or Contractor(s) fail to provide the public records to the Department within a reasonable time, they may be subject to penalties under s. 119.10, F.S.
- F. **IF THE COUNTY OR CONTRACTOR(S) HAVE QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE DEPARTMENT'S CUSTODIAN OF PUBLIC RECORDS BY TELEPHONE AT (850) 245-2118, BY EMAIL AT PUBLIC.SERVICES@FLORIDADEP.GOV, OR AT THE MAILING ADDRESS BELOW.**

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
Office of the Ombudsman & Public Services
Attn: Public Records Request
3900 Commonwealth Blvd, MS 49
Tallahassee, FL 32399**

38. PUR 1000. The provision of the State of Florida PUR 1000 are incorporated into this Agreement:
https://www.dms.myflorida.com/content/download/2933/11777/PUR_1000_General_Contract_Conditions.pdf. If any provisions in the PUR1000 conflict with this Agreement, the provisions of this Agreement control.
39. Intellectual Property. No intellectual property will be created as a result of this Agreement.
40. Other Expenses. No expenses in addition to the milestone payments will be made for activities, including travel, as a result of this Agreement.
41. Financial Consequences. This is a performance-based milestone agreement and as a financial consequence for non-performance, the Department will withhold 100% of the

milestone payment due until performance is completed in a satisfactory manner pursuant to Attachment A, Milestone Description Table.

42. Corrective Action Plan. If the County fails to correct all the deficiencies in a rejected deliverable within the specified timeframe, the Department may, in its sole discretion, request that a proposed Corrective Action Plan (CAP) be submitted by the County to the Department. The Department request that the County specify the outstanding deficiencies in the CAP. All CAPs must be able to be implemented and performed in no more than sixty (60) calendar days.

A. The County shall submit a CAP within ten (10) calendar days of the date of the written request from the Department. The CAP shall be sent to the Site Manager for review and approval, as specified in Paragraph 27. Within ten (10) calendar days of receipt of a CAP, the Department shall notify the County in writing whether the proposed CAP has been accepted. If the CAP is not accepted, the County shall have ten (10) calendar days from receipt of the Department letter rejecting the proposal to submit a revised proposed CAP. Failure to obtain the Department approval of a CAP as specified above may result in the Department's termination of this Contract for cause as authorized in this Contract.

B. Upon the Department's notice of acceptance of a proposed CAP, the County shall have ten (10) calendar days to commence implementation of the accepted plan. Acceptance of the proposed CAP by the Department does not relieve the County of any of its obligations under the Agreement. In the event the CAP fails to correct or eliminate performance deficiencies by County, the Department shall retain the right to require additional or further remedial steps, or to terminate this Agreement for failure to perform. No actions approved by the Department or steps taken by the County shall preclude the Department from subsequently asserting any deficiencies in performance. The County shall continue to implement the CAP until all deficiencies are corrected. Reports on the progress of the CAP will be made to the Department as requested by the Department's Site Manager.

C. Failure to respond to a Department request for a CAP or failure to correct a deficiency in the performance of the Agreement as specified by the Department may result in termination of the Agreement.

43. Foreign Gifts. The County certifies that, if applicable, it or its contractor(s) have disclosed foreign gifts pursuant to Section 286.101, F.S.
44. Third Parties. The Department shall not be deemed to assume any liability for the acts, failures to act or negligence of the County, its agents, servants, and employees. The County shall not disclaim its own negligence to the Department or any third party. This Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties. If the Department consents to a subcontract, the County will specifically disclose that this Agreement does not create any third-party rights. Further, no third parties shall rely upon any of the rights and obligations created under this Agreement.

45. Insurance.

A. Proof of Insurance. Upon execution of this Agreement, the County shall provide the Department documentation demonstrating the existence and amount for each type of applicable insurance coverage prior to performance of any work under this Agreement. Upon receipt of written request from the Department, the County shall furnish the Department with proof of applicable insurance coverage by standard form certificates of insurance, a self-insured authorization, or other certification of self-insurance.

B. Deductibles. The Department shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the County providing such insurance.

C. Duty to Maintain Coverage. In the event that any applicable coverage is cancelled by the insurer for any reason, or if County cannot get adequate coverage, the County shall immediately notify the Department of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within ten (10) days after the cancellation of coverage.

D. Insurance Requirements for Sub-Contractors. Department shall not be liable to any subcontractor for any expenses or liabilities incurred under any subcontract, regardless of whether the Department has approved such subcontract or subcontractor. Any subcontracts made under or in performance of this Agreement must include the same conditions specified in this Agreement, and shall include a release of any rights, claims or liabilities against the Department. The level of insurance to be carried by subcontractors performing work under this Agreement shall be at the discretion of County.

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County

ATTEST:

BROWARD COUNTY, by and through
its Board of County Commissioners

Broward County Administrator, as
ex officio Clerk of the Broward County
Board of County Commissioners

By _____
Mayor

____ day of _____, 2022

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Port Everglades Department
1850 Eller Drive, Suite 502
Fort Lauderdale, Florida 33316
Telephone: (954) 523-3404

ANTONIO
By LOZADA
Antonio Lozada (Date)
Assistant County Attorney

Digitally signed by ANTONIO
LOZADA
Date: 2022.04.18 15:09:59 -04'00'

CARLOS A.
RODRIGUEZ-
By CABARROCAS
Carlos Rodriguez-Cabarrocas (Date)
Assistant County Attorney

Digitally signed by CARLOS A.
RODRIGUEZ-CABARROCAS
Date: 2022.04.18 17:56:25
-04'00'

FOR THE DEPARTMENT:

Florida Department of Environmental Protection
Approved as to form and legality:

By: _____
Name: Karen E. Armstrong, Assistant Deputy
Title: Office of General Council

Date: See date above

By: _____
Name: Shawn Hamilton
Title: FDEP Secretary

Date: See date above

Attachment A, Milestone Description Table
Exhibit A, Milestone Activities
Exhibit B, Release of Claims Form
Exhibit C, County Payment of Subcontractors Summary Form
Figure 1, Slip 1 Project Footprint

Attachment A - RFA75
Petroleum Restoration Program (PRP)
Scope of Work (SOW)
Milestone Description Table

Attachment A

ATTACHMENT A MILESTONE DESCRIPTION TABLE

Agreement Number: RFA75
9-Digit Facility ID Number: 68942977
Facility Name: Port Everglades Administration Building - Slip 1 Expansion Project

Subphase(s): FPR
SR
EC

Milestone Description Table	
Milestone 1 Description:	Removal of contaminated soil and groundwater within Remediation Zones A1 and A2 with Side Sloping in accordance with the Slip 1 Expansion Performance Based Milestone Funding Agreement: Excavate RZ-A1 (45-feet wide by 130-feet long by 8-feet below current grade), RZ-A2 (30-feet wide by 60-feet long by 8-feet below current grade) and Side Sloping, remove free product (FP), and remediate groundwater per FDEP approved RAP. Within 60 days of completion of source removal activities, submit a Source Removal Report that will summarize all source removal and groundwater remediation activities. The Report will include text summarizing the work completed, with the depth to groundwater and the type and estimated volume of FP and groundwater recovered, soil and groundwater analytical tables and lab reports, scaled figure depicting the area of soil removal and approximate location of sample locations, soil weight tickets with corresponding disposal manifest for FP, contaminated soils, and other contaminated materials.
Milestone 1 Deliverable:	Source Removal Report
Milestone 1 Due Date:	Monday, October 6, 2025
Milestone 2 Description:	Removal of contaminated soil and groundwater within Remediation Zones A3, A4 and A5 with Side Sloping in accordance with the Slip 1 Expansion Performance Based Milestone Funding Agreement: Excavate RZ-A3 (415-feet wide by 40-feet long by 8 feet below current grade), RZ-A4 (355-feet wide by 40-feet long by 8-feet below current grade) and Side Sloping, remove free product, and remediate groundwater per FDEP approved RAP. Within 60 days of completion of source removal activities, submit a Source Removal Report that will summarize all source removal and groundwater remediation activities. The Report will include text summarizing the work completed, with the depth to groundwater and the type and estimated volume of FP and groundwater recovered, soil and groundwater analytical tables and lab reports, scaled figure depicting the area of soil removal and approximate location of sample locations, soil weight tickets with corresponding disposal manifest for FP, contaminated soils, and other contaminated materials.
Milestone 2 Deliverable:	Source Removal Report
Milestone 2 Due Date:	Monday, December 1, 2025
Milestone 3 Description:	Removal of contaminated soil and groundwater within Remediation Zones B1 and B2 in accordance with the Slip 1 Expansion Performance Based Milestone Funding Agreement: Excavate RZ-B1 (150-feet wide by 158-feet long by 12-feet below current grade) and RZ-B2 (150-feet wide by 158-feet long by 12-feet below current grade), remove free product, and remediate groundwater per FDEP approved RAP. Within 60 days of completion of source removal activities, submit a Source Removal Report that will summarize all source removal and groundwater remediation activities. The Report will include text summarizing the work completed, with the depth to groundwater and the type and estimated volume of FP and groundwater recovered, soil and groundwater analytical tables and lab reports, scaled figure depicting the area of soil removal and approximate location of sample locations, soil weight tickets with corresponding disposal manifest for FP, contaminated soils, and other contaminated materials.
Milestone 3 Deliverable:	Source Removal Report
Milestone 3 Due Date:	Monday, February 2, 2026
Milestone 4 Description:	Removal of contaminated soil and groundwater within Remediation Zones B3 and B4 in accordance with the Slip 1 Expansion Performance Based Milestone Funding Agreement: Excavate RZ-B3 (150-feet wide by 158-feet long by 12-feet below current grade) and RZ-B4 (150-feet wide by 158-feet long by 12-feet below current grade), remove free product, and remediate groundwater per FDEP approved RAP. Within 60 days of completion of source removal activities, submit a Source Removal Report that will summarize all source removal and groundwater remediation activities. The Report will include text summarizing the work completed, with the depth to groundwater and the type and estimated volume of FP and groundwater recovered, soil and groundwater analytical tables and lab reports, scaled figure depicting the area of soil removal and approximate location of sample locations, soil weight tickets with corresponding disposal manifest for FP, contaminated soils, and other contaminated materials.
Milestone 4 Deliverable:	Source Removal Report
Milestone 4 Due Date:	Monday, March 30, 2026
Milestone 5 Description:	Removal of contaminated soil and groundwater within Remediation Zones B5 and B6 in accordance with the Slip 1 Expansion Performance Based Milestone Funding Agreement: Excavate RZ-B5 (150-feet wide by 158-feet long by 12-feet below current grade) and RZ-B6 (150-feet wide by 158-feet long by 12-feet below current grade), remove free product, and remediate groundwater per FDEP approved RAP. Within 60 days of completion of source removal activities, submit a Source Removal Report that will summarize all source removal and groundwater remediation activities. The Report will include text summarizing the work completed, with the depth to groundwater and the type and estimated volume of FP and groundwater recovered, soil and groundwater analytical tables and lab reports, scaled figure depicting the area of soil removal and approximate location of sample locations, soil weight tickets with corresponding disposal manifest for FP, contaminated soils, and other contaminated materials.
Milestone 5 Deliverable:	Source Removal Report
Milestone 5 Due Date:	Monday, June 1, 2026
Milestone 6 Description:	Removal of contaminated soil and groundwater within Remediation Zone B7 and Side Sloping in accordance with the Slip 1 Expansion Performance Based Milestone Funding Agreement: Excavate RZ-B7 (100-feet wide by 158-feet long by 12-feet below current grade) and Side Sloping (118-feet by 118-feet by 8-feet for 1:1 slopes from area extending between 17-feet and 25-feet horizontally south from the existing bulkhead from 12-feet deep to 18-feet deep (RZ-B1 through RZ-B7) including the 1:1 sloping area on the north and south sides of this deeper cut, respectively, remove free product, and remediate groundwater per FDEP approved RAP. Within 60 days of completion of source removal activities, submit a Source Removal Report that will summarize all source removal and groundwater remediation activities. The Report will include text summarizing the work completed, with the depth to groundwater and the type and estimated volume of FP and groundwater recovered, soil and groundwater analytical tables and lab reports, scaled figure depicting the area of soil removal and approximate location of sample locations, soil weight tickets with corresponding disposal manifest for FP, contaminated soils, and other contaminated materials.
Milestone 6 Deliverable:	Source Removal Report
Milestone 6 Due Date:	Monday, August 3, 2026
Milestone 7 Description:	Removal of contaminated soil and groundwater within Remediation Zone B8 in accordance with the Slip 1 Expansion Performance Based Milestone Funding Agreement: Excavate RZ-B8 (100-feet wide by 158-feet long by 10-feet below current grade), remove free product, and remediate groundwater per FDEP approved RAP. Within 60 days of completion of source removal activities, submit a Source Removal Report that will summarize all source removal and groundwater remediation activities. The Report will include text summarizing the work completed, with the depth to groundwater and the type and estimated volume of FP and groundwater recovered, soil and groundwater analytical tables and lab reports, scaled figure depicting the area of soil removal and approximate location of sample locations, soil weight tickets with corresponding disposal manifest for FP, contaminated soils, and other contaminated materials.
Milestone 7 Deliverable:	Source Removal Report
Milestone 7 Due Date:	Monday, October 5, 2026
Milestone 8 Description:	Removal of contaminated soil and groundwater within Remediation Zones B9 and B10 in accordance with the Slip 1 Expansion Performance Based Milestone Funding Agreement: Excavate RZ-B9 (90-feet wide by 70-feet long by 6-feet below current grade) and RZ-B10 (90-feet wide by 88-feet long by 6-ft below current grade, remove free product, and remediate groundwater per FDEP approved RAP. Within 60 days of completion of source removal activities, submit a Source Removal Report that will summarize all source removal and groundwater remediation activities. The Report will include text summarizing the work completed, with the depth to groundwater and the type and estimated volume of FP and groundwater recovered, soil and groundwater analytical tables and lab reports, scaled figure depicting the area of soil removal and approximate location of sample locations, soil weight tickets with corresponding disposal manifest for FP, contaminated soils, and other contaminated materials.
Milestone 8 Deliverable:	Source Removal Report
Milestone 8 Due Date:	Monday, December 7, 2026
Milestone 9 Description:	Removal of contaminated soil and groundwater within Remediation Zone C1 with Side Sloping in accordance with the Slip 1 Expansion Performance Based Milestone Funding Agreement: Excavate RZ-C1 (225-feet wide by 115-feet long by 8-feet below current grade) and Side Sloping, remove free product, and remediate groundwater per FDEP approved RAP. Within 60 days of completion of source removal activities, submit a Source Removal Report that will summarize all source removal and groundwater remediation activities. The Report will include text summarizing the work completed, with the depth to groundwater and the type and estimated volume of FP and groundwater recovered, soil and groundwater analytical tables and lab reports, scaled figure depicting the area of soil removal and approximate location of sample locations, soil weight tickets with corresponding disposal manifest for FP, contaminated soils, and other contaminated materials. Prepare and submit a Florida Licensed Professional Engineer certified As-Built, an Engineering Control (EC) Maintenance Plan. In addition, a Florida Licensed Professional Engineer must certify that the ECs were installed in accordance with the design specifications including surface cap, slurry wall and sheet piling wall.
Milestone 9 Deliverable:	Source Removal Report, Professional Engineered certified As-Built, Engineering Control Professional Engineer certification(s) and Engineering Control Maintenance Plan
Milestone 9 Due Date:	Monday, February 1, 2027
Milestone 10 Description:	Contingent Milestone: Contingency may be allowed upon Department approval of a Project Summary Report documenting an increase in scope. An increase in scope is defined as transport and disposal (T&D) of petroleum impacted soil in excess of 189,000 tons for the entire Project. This Project Summary Report may only be invoked at the end of Project completion
Milestone 10 Deliverable:	Prepare and submit a Project Summary Report. At a minimum, the report shall include a rationale for the contingency request, summary of activities and a tabulated summary of T&D for each Remediation Zone including the total tons, calculations and conversions, as applicable.
Milestone 10 Due Date:	Monday, April 5, 2027
Agreement End Date:	60 Months from Agreement Execution Date
Total Performance Period Days:	60 months

Any blank fields in the Task Description Table are not applicable to this scope of work.

MILESTONE ACTIVITIES

Agreement #: RFA75
 FDEP Facility ID #: 68942977
 FDEP Facility Name: Port Everglades Administration Building - Slip 1 Expansion Project

1. Milestone Summary and Payment Schedule

Total Cost / Agreement Amount **\$27,500,000.00**Estimated Utility Cost **\$0.00**

	Milestones Activities ¹	Payment %	Payment Amt.	Due Date	Months
Milestone 1:	Removal of contaminated soil and groundwater within Remediation Zones A1 and A2 with Side Sloping in accordance with the Slip 1 Expansion Performance Based Milestone Funding Agreement.	11%	\$ 3,125,000.00	10/6/25	12
Milestone 2:	Removal of contaminated soil and groundwater within Remediation Zones A3, A4 and A5 with Side Sloping in accordance with the Slip 1 Expansion Performance Based Milestone Funding Agreement.	17%	\$ 4,687,500.00	12/1/25	5
Milestone 3:	Removal of contaminated soil and groundwater within Remediation Zones B1 and B2 in accordance with the Slip 1 Expansion Performance Based Milestone Funding Agreement.	11%	\$ 3,125,000.00	2/2/26	5
Milestone 4:	Removal of contaminated soil and groundwater within Remediation Zones B3 and B4 in accordance with the Slip 1 Expansion Performance based Milestone Funding Agreement.	11%	\$ 3,125,000.00	3/30/26	4
Milestone 5:	Removal of contaminated soil and groundwater within Remediation Zones B5 and B6 in accordance with the Slip 1 Expansion Performance Based Milestone Funding Agreement.	11%	\$ 3,125,000.00	6/1/26	4
Milestone 6:	Removal of contaminated soil and groundwater within Remediation Zone B7 and Side Sloping in accordance with the Slip 1 Expansion Performance Based Milestone Funding Agreement.	6%	\$ 1,562,500.00	8/3/26	2
Milestone 7:	Removal of contaminated soil and groundwater within Remediation Zone B8 in accordance with the Slip 1 Expansion Performance Based Milestone Funding Agreement.	6%	\$ 1,562,500.00	10/5/26	2
Milestone 8:	Removal of contaminated soil and groundwater within Remediation Zones B9 and B10 in accordance with the Slip 1 Expansion Performance Based Milestone Funding Agreement.	11%	\$ 3,125,000.00	12/7/26	2
Milestone 9:	Removal of contaminated soil and groundwater within Remediation Zone C1 with Slide Sloping in accordance with the Slip 1 Expansion Performance Based Milestone Funding Agreement.	6%	\$ 1,562,500.00	2/1/27	3
Milestone 10:	Contingent Milestone in accordance with the Slip 1 Expansion Performance Based Milestone Funding Agreement.	9%	\$ 2,500,000.00	4/5/27	2
Totals		100.0%	\$ 27,500,000.00	Agreement End: 60 Months from Agreement Execution Date	

2. Remediation Strategy and Endpoint

Primary Remediation Technology: Excavation
 Add-Ons:

MILESTONE ACTIVITIES

Closure/Endpoint:

Source removal activities in all Remediation Zones have been completed pursuant to the approved RAP, approved October 1, 2020, the existing seawall has been demolished in all Remediation Zones, final invoice and Release of Claims Form has been submitted by the County.

Target Levels:

Groundwater

Marine: 62-777 F.A.C., Marine SW Criteria

Soil Direct Exposure

CTLs, Residential Direct Exposure, Chapter 62-777 F.A.C.

Soil Leachability

CTLs, Residential Leachability, Chapter 62-777 F.A.C.

Surface Water

Marine: 62-777 F.A.C., Marine SW Criteria

Other

3. Description of Correction Based Action(s) (in the event primary technology fails to achieve milestones)

Residual Groundwater contamination will be managed within a Dredge Material Management Area (DMMA) in accordance with the dredging permit.

4. Baseline Groundwater Sampling

Is Free Product Present?

☒ Y☐ N

Has Free Product been Present?

☒ Y☐ N

MWs (list):

Each Remediation Zone open pit after excavation prior to groundwater remediation

Contaminants of Concern:

☒ BTEX/MTBE☒ Total Naphthalenes☒ TRPHs☐ Lead☐ EDB☐ Other**5. Key Well Sampling:**

Key Wells (list)

Sample GW in open pits after remediation time has lapsed

Minimum Sampling Frequency:

Contaminants of Concern:

☒ BTEX/MTBE☒ Total Naphthalenes☒ TRPHs☐ Lead☐ EDB☐ Other**6. Perimeter Well Sampling:**

Perimeter Wells (list)

NA

Minimum Sampling Frequency:

Contaminants of Concern:

☐ BTEX/MTBE☐ Total Naphthalenes☐ TRPHs☐ Lead☐ EDB☐ Other**7. Remediation System Sampling (Indicate Influent / Effluent / Mid and Analytes to be tested)**

Air

Monitor air surrounding open pit for TPH

Groundwater Treatment

air sparging or other

Other

Minimum Reporting Frequency

Hourly for air (TPH); remediation time has lapsed for GW for BTEX/MTBE, PAHs, and TRPHs

8. Confirmatory Soil Sampling (following the conclusion of PARM or NAM):

Minimum # of Borings (w Est. Total Footage):

Soil Sampling Locations:

Contaminants of Concern:

☐ Other**9. Site Specific Considerations** (eligibility, funding caps, additional SAA requirement, etc.)

Once the soil is removed the excavation will not be backfilled. All soil below contamination will be dredged under an ERP and the existing seawall will be removed. Therefore, groundwater will become surfacewater.

In the event County requires additional time for completion of any milestone beyond the due date listed in Exhibit A, Milestone Activities, County will request a time extension in writing, via email, to the Department's Site Manager a minimum of 20 days prior to the due date. The request will identify the milestone, requested revised due date for the milestone, and the justification for the time extension. Upon receipt of the request, the Site Manager will prepare a change order and provide it to County for review and signature. County will then provide the signed change order to the Site Manager for review and signature by the Department. A copy of the executed time extension will be provided to County for its records. Any requested time extension is not effective until a change order reflecting the new due date(s) is signed by all parties.

RELEASE OF CLAIMS

Exhibit B

RELEASE OF CLAIMS FORM

This affidavit must be completed and signed by the Vendor when requesting final payment. The signature of the Vendor shall be notarized as set forth below. Final payment will not be released until this form is accepted by the Florida Department of Environmental Protection (DEP).

1. I, _____ am the _____
(name of person appearing) (title of person appearing)
 of _____ (the "Vendor") hereby certify:
(name of Vendor)

A. That the Vendor entered into an agreement with the DEP to perform certain work under

Agreement number _____ on the following real
 property: _____

Site Name: _____ DEP Facility ID #: _____
(site or business name)

Site Address: _____
(street, city, county)

Site Owner: _____
(name of property owner)

B. That the Vendor has completed the work in accordance with the Port Everglades Slip 1 Expansion Performance Based Milestone Funding Agreement.

C. That all subcontractors and suppliers have been paid in full.

D. That receipt by the Vendor of payment for the final invoice, under the aforementioned agreement and the work issued thereunder, shall constitute a full release and discharge by the Vendor to the owner of any and all claims of the Vendor against the owner, arising out of, connected with, or resulting from, performance of the obligations of the Vendor and any subcontractors and suppliers pursuant to the agreement. The Vendor shall certify such release of claim to the owner, in writing, upon request by the owner.

E. That upon receipt by the Vendor from the Department of payment for the final invoice, under the aforementioned agreement and the task assignment issued thereunder, the Vendor releases the Department from any and all claims of the Vendor and any subcontractors and suppliers that may arise under, or by virtue of, the agreement and the work issued thereunder, except those claims that may be specifically exempted and set forth under the terms of the agreement. Exemptions claimed must be attached to the agreement number. Any exemptions not attached are hereby waived.

F. That person appearing is authorized to make the statements set forth in this affidavit.

(signature of authorized Vendor representative)

2. ----- Notarization of Signature of Vendor (required) -----

State of _____ County of _____

Sworn to and subscribed before me by _____ this _____ day of _____, 20____

Personally known ()

Produced Identification () Type of ID: _____

(Notary's Signature) My Commission Expires _____

Notary Public, State of _____ Commission Number (if applicable) _____

County Payment of Subcontractors Summary Form

[illegible]

Complete this County Payment of Subcontractors Summary Form to verify compliance with Section 376.3071(6)(h), F.S. This completed Payment Summary Form and annotated subcontractor invoices must be submitted to the Site Manager with the final milestone invoice package. Listed above is all subcontractors utilized under this Agreement and all amounts billed by Subcontractors for work under this Agreement. This serves as backup documentation for the certification on the notarized Contractor Affidavit/Release of Claims Form regarding item 1.D. "That all subcontractors and suppliers have been paid in full."

Figure 1, Slip 1 Project Footprint

