

**AMENDMENT NO. 1
RENEWAL NO. 1
TO AGREEMENT NO. RFA75
BETWEEN
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND
BROWARD COUNTY**

This Amendment to Agreement No. RFA75 (Agreement) is made by and between the Department of Environmental Protection (Department), an agency of the State of Florida, and Broward County, 1850 Eller Drive, Fort Lauderdale, FL 33316 (County), on the date last signed below.

WHEREAS, the Department entered into the Agreement with the County for the Slip 1 widening project at Port Everglades effective June 2, 2022;

WHEREAS, the parties wish to amend the Agreement as set forth herein to extend the grant period;

WHEREAS, the parties wish to amend the Agreement as set forth herein to update the Party Representatives;

WHEREAS, the parties wish to amend the Agreement as set forth herein to update the attachments, exhibits, and grant language.

NOW THEREFORE, the parties agree as follows:

- 1) The Agreement is renewed for a 5-year period to begin June 2, 2027, and remain in effect until June 2, 2032. The Department and the County shall continue to perform their respective duties during this renewal period pursuant to the same terms and conditions provided in the Agreement.
- 2) The content of Paragraph 27. is hereby deleted in its entirety and replaced with the following:

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:

<u>For the Department:</u> Felicia Mizener, E.I. 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	<u>For the County:</u> Broward County's Port Everglades Department ATTN: Chief Executive/Port Director 1850 Eller Drive Fort Lauderdale, FL 33316 Phone # 954-368-3516 Email Address: JMMORRIS@broward.org
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- 3) Attachment A, Milestone Description Table, is hereby deleted in its entirety and replaced with Attachment A-1, Revised Milestone Description Table, as attached to this Amendment and hereby incorporated into the Agreement. All references in the Agreement to Attachment A shall hereinafter refer to Attachment A-1, Revised Milestone Description Table.

- 4) Exhibit A, Milestone Activities, is hereby deleted in its entirety and replaced with Exhibit A-1, Revised Milestone Activities, as attached to this Amendment and hereby incorporated into the Agreement. All references in the Agreement to Exhibit A shall hereinafter refer to Exhibit A-1, Revised Milestone Activities.
- 5) Public Records, Section 36, the body of the provision is deleted and replaced with Exhibit D, Public Records Requirements, which is attached hereto and hereby incorporated by reference into the Agreement.
- 6) The following provision is hereby added to the Agreement as a new Section 46:

State Funds Documentation. Pursuant to section 216.1366, F.S., if County meets the definition of a non-profit organization under section 215.97(2)(m), F.S., County must provide the Department with documentation that indicates the amount of state funds:

- i. Allocated to be used during the full term of the contract or agreement for remuneration to any member of the board of directors or an officer of County.
- ii. Allocated under each payment by the public agency to be used for remuneration of any member of the board of directors or an officer of the County.

The documentation must indicate the amounts and recipients of the remuneration. Such information must be posted on the State's contract tracking system and maintained pursuant to section 215.985, F.S., and must be posted on the County's website, if County maintains a website.

- 7) The following provision is hereby added to the Agreement as a new Section 47:

Execution in Counterparts. This Agreement, and any Change Orders or Amendments thereto, may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

- 8) All other terms and conditions of the Agreement remain in effect. If and to the extent that any inconsistencies may appear between the Agreement and this Amendment, the provisions of this Amendment shall control.

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The parties agree to the terms and conditions of this Amendment and have duly authorized their respective representatives to sign it on the dates indicated below.

**Broward County,
by and through its County Administrator**

**Florida Department of
Environmental Protection**

By: _____

By: _____

Secretary or Designee

Title: _____

Date: _____

Date: _____

Approved as to form by
Andrew J. Meyers
Broward County Attorney
1850 Eller Drive, Suite 302
Fort Lauderdale, Florida 33316
Telephone: (954) 523-3404

By: _____
Antonio Lozada (Date)
Assistant County Attorney

By: _____
Carlos Rodriguez-Cabarrocas (Date)
Senior County Attorney

LIST OF ATTACHMENTS/EXHIBITS INCLUDED AS PART OF THIS AMENDMENT:

<u>Specify Type</u>	<u>Letter/Number</u>	<u>Description</u>
Attachment	A-1	Revised Milestone Description Table (2 page)
Exhibit	A-1	Revised Milestone Activities (3 pages)
Exhibit	D	Public Records Requirement (1 page)

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REVISED EXHIBIT A-1 MILESTONE ACTIVITIES

Contract #:	RFA75
FDEP Facility ID #:	068942977
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
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		9/9/2030
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		11/11/2030
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		1/13/2031
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		3/17/2031
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		5/19/2031
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		7/21/2031
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		9/22/2031
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		11/24/2031
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		1/16/2032
Milestone 10:	Contingent Milestone in accordance with the Slip 1 Expansion Performance Based Milestone Funding Agreement.	9%	\$ 2,500,000.00		3/29/2032
Totals					Grant End:
		100.0%	\$ 27,500,000.00		6/2/2032

REVISED EXHIBIT A-1 MILESTONE ACTIVITIES

2. Remediation Strategy and Endpoint

Primary Remediation Technology:

Excavation

Add-Ons:

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.

REVISED EXHIBIT A-1 MILESTONE ACTIVITIES

4. Baseline Groundwater Sampling	Is Free Product Present? ☒ Y ☐ N	Has Free Product been Present? ☒ Y
MW's (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)
Minimum Sampling Frequency:
Contaminants of Concern:
☒ BTEX/MTBE ☒ Total Naphthalenes ☒ TRPHs ☐ Lead ☐ EDB ☐ Other

6. Perimeter Well Sampling:
Perimeter Wells (list)
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
Groundwater Treatment
Other
Minimum Reporting Frequency

8. Confirmatory Soil Sampling (following the conclusion of PARM or NAM):
Minimum # of Borings (w Est. Total Footage):
Soil Sampling Locations:
Contaminants of Concern:
☐ BTEX/MTBE ☐ Total Naphthalenes ☐ TRPHs ☐ Lead ☐ EDB ☐ 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.

ATTACHMENT A-1 REVISED MILESTONE DESCRIPTION TABLE

Grant Number:	RFA75
9-Digit Facility ID Number:	068942977
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 coresponding disposal manifest for FP, contaminated soils, and other contaminated materials.
Milestone 1 Deliverable:	Source Removal Report
Milestone 1 Due Date:	Monday, September 9, 2030
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), RZ-A5 (320-feet wide by 45-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 coresponding disposal manifest for FP, contaminated soils, and other contaminated materials.
Milestone 2 Deliverable:	Source Removal Report
Milestone 2 Due Date:	Monday, November 11, 2030
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 coresponding disposal manifest for FP, contaminated soils, and other contaminated materials.
Milestone 3 Deliverable:	Source Removal Report
Milestone 3 Due Date:	Monday, January 13, 2031
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 coresponding disposal manifest for FP, contaminated soils, and other contaminated materials.
Milestone 4 Deliverable:	Source Removal Report
Milestone 4 Due Date:	Monday, March 17, 2031
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 coresponding disposal manifest for FP, contaminated soils, and other contaminated materials.
Milestone 5 Deliverable:	Source Removal Report
Milestone 5 Due Date:	Monday, May 19, 2031

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 6-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 coresponding disposal manifest for FP, contaminated soils, and other contaminated materials.
Milestone 6 Deliverable:	Source Removal Report
Milestone 6 Due Date:	Monday, July 21, 2031
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 coresponding disposal manifest for FP, contaminated soils, and other contaminated materials.
Milestone 7 Deliverable:	Source Removal Report
Milestone 7 Due Date:	Monday, September 22, 2031
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 coresponding disposal manifest for FP, contaminated soils, and other contaminated materials.
Milestone 8 Deliverable:	Source Removal Report
Milestone 8 Due Date:	Monday, November 24, 2031
Milestone 9 Description:	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: 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 coresponding 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:	Friday, January 16, 2032
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 invoiced at the end of Project completion
Milestone 10 Deliverable:	Prepare and submit a Project Summary Report. At a minimum, the report shall include a rational 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, March 29, 2032
Contract End Date: Wednesday, June 2, 2032	

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Public Records Requirements**

Exhibit D

1. Public Records.

- a. If the Agreement exceeds \$35,000.00, and if County or Contractor(s) is acting on behalf of Department in its performance of services under the Agreement, County or Contractor(s) must allow public access to all documents, papers, letters, or other material, regardless of the physical form, characteristics, or means of transmission, made or received by County or Contractor(s) in conjunction with the Agreement (Public Records), unless the Public Records are exempt from section 24(a) of Article I of the Florida Constitution and section 119.07(1), F.S.
- b. The Department may unilaterally terminate the Agreement if County or Contractor(s) refuses to allow public access to Public Records as required by law.

2. Additional Public Records Duties of Section 119.0701, F.S., If Applicable.

For the purposes of this paragraph, the term “contract” means the “Agreement.” If County or Contractor(s) is a “contractor” as defined in section 119.0701(1)(a), F.S., the following provisions apply and the contractor shall:

- a. Keep and maintain Public Records required by Department to perform the service.
- b. Upon request, provide Department with a copy of requested Public Records or allow the Public 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. A contractor who fails to provide the Public Records to Department within a reasonable time may be subject to penalties under section 119.10, F.S.
- d. Ensure that 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 contract term and following completion of the contract if the contractor does not transfer the Public Records to Department.
- e. Upon completion of the contract, transfer, at no cost, to Department all Public Records in possession of the contractor or keep and maintain Public Records required by Department to perform the service. If the contractor transfers all Public Records to Department upon completion of the contract, the contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If the contractor keeps and maintains Public Records upon completion of the contract, the contractor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to Department, upon request from Department’s custodian of Public Records, in a format specified by Department as compatible with the information technology systems of Department. These formatting requirements are satisfied by using the data formats as authorized in the contract or Microsoft Word, Outlook, Adobe, or Excel, and any software formats the contractor is authorized to access.
- f. **IF THE COUNTY OR CONTRACTORS(S) HAVE QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE DEPARTMENT’S CUSTODIAN OF PUBLIC RECORDS AT:**

Telephone: (850) 245-2118

Email: public.services@floridadep.gov

Mailing Address: Department of Environmental Protection
ATTN: Office of Ombudsman and Public Services
Public Records Request
3900 Commonwealth Boulevard, MS 49
Tallahassee, Florida 32399