

## AGREEMENT FOR PETROLEUM CLEANUP PARTICIPATION PROGRAM

This Agreement is entered into by and between the Florida Department of Environmental Protection (hereinafter "Department"), whose address is 3900 Commonwealth Boulevard, Tallahassee, Florida, and Nassau County (hereinafter "Participant"), whose address is 37356 Pea Farm Road, Hilliard, Florida 32046 (collectively the "Parties") to perform certain site rehabilitation activities for contamination determined eligible for the Petroleum Cleanup Participation Program (hereinafter "PCPP") in accordance with Section 376.3071(13), Florida Statutes (F.S.). The contamination subject of this Agreement is described in reports listed in Attachment A of this Agreement at the Nassau County Transportation Department Hilliard Maintenance Yard facility located at 2496 Eastwood Road, Hilliard, Nassau County, FDEP Facility I.D. #458521128.

WHEREAS, in accordance with Section 376.3071(13), F.S., the Department is authorized to provide state funding assistance at sites determined eligible for PCPP, based on the site's priority ranking established pursuant to Section 376.3071(5)(a), F.S., and Chapter 62-771, Florida Administrative Code (F.A.C.); and

WHEREAS, in accordance with Section 376.3071(13), F.S., the Department has determined the described contamination eligible and that based on the information provided to the Department, the Participant is able to provide the required Limited Contamination Assessment Report (hereinafter "LCAR") and the required copayment amount of \$15,953.75, based on the LCAR and the estimated costs of site rehabilitation.

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

### GENERAL.

1. All activities associated with the performance of this Agreement shall be in conformance with the provisions of Chapter 376, F.S., and Chapter 62-770, F.A.C. All other terms and conditions, including payments by the Department of its cost share under this Agreement shall be construed in conformance with the provisions of Sections 376.3071(13) and 376.30711, F.S. The Parties hereto agree that this Agreement shall additionally be subject to the applicable provisions of Chapter 287, F.S.

2. The Participant understands that during the course of site rehabilitation, the Department may, based on the statutes, rules and guidance of the Department, revise the site rehabilitation strategy, attached hereto as Attachment B, due to technical or cost considerations. Any changes made by the Department to the site rehabilitation strategy which will not increase the Participant's share of site rehabilitation costs specified herein may be made unilaterally by the Department and will not require the Participant's consent. Changes proposed by the Department to the site rehabilitation strategy which would increase the Participant's share of site rehabilitation costs in excess of the

Site Manager M3 Date 1/15/07

Participant's cost share amount specified herein will be made only with the Participant's consent.

#### TERM OF AGREEMENT AND SPENDING LIMITS.

3. This Agreement is effective on the date of execution by the Parties until the earlier of: (1) the Department has determined that rehabilitation is complete and issues a Site Rehabilitation Completion Order; or (2) the funding limitations set forth in Section 376.3071(13)(b), F.S., are exhausted and site rehabilitation has not been achieved.

4. The ceiling amount of this Agreement shall be \$47,861.25, which represents the Department's estimated cost share of the site rehabilitation. The Department and the Participant have estimated, based upon the Participant's LCAR, total costs under this Agreement by both parties cumulatively for the specified site rehabilitation activities to be \$63,815.00 (the "Estimated Cost"). However, the Parties recognize that due to unforeseen circumstances which may exist or occur at the site during cleanup, actual site rehabilitation costs may either exceed or be less than this estimated amount.

#### COVENANTS AND REPRESENTATIONS OF THE DEPARTMENT.

5. Based on the Participant's copayment obligation of 25% of the estimated cost of site rehabilitation, the Department's cost share is 75%. In accordance with Sections 376.3071(13) and 376.30711, F.S., the Department will negotiate work orders with the approved site rehabilitation contractor, and will thereby be responsible to the contractor solely for the Department's percentage of its cost share as specified in the work order.

6. The Department will review and approve site rehabilitation activities in accordance with the terms of the work orders and Chapter 62-770, F.A.C., and shall make copies of such documents available to the Participant. The Participant is further advised and understands that the Department may task a locally contracted county with review of site rehabilitation documents or issuance of work orders under this Agreement.

7. In accordance with Section 287.0582, F.S., the State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

#### COVENANTS AND REPRESENTATIONS OF THE PARTICIPANT.

8. The Participant represents that it is qualified to enter into this Agreement and is able to fully perform its duties under this Agreement

9. Within 30 days of execution of this Agreement, Participant shall submit a Contractor Designation Form to the Department for approval in accordance with Section 376.30711, F.S.

10. Participant has a copayment obligation to pay 25% of the Estimated Cost of site rehabilitation. In order to guarantee and secure its performance to the Department under this Agreement, the Participant shall provide within five days of execution a copy of any and all agreements with any Designated Contractor performing site rehabilitation activities subject to this Agreement. The Participant is prohibited from entering into any agreement with the Designated Contractor which would have the effect of reducing the Participant's cost share commitment under this Agreement. The Participant shall be subject to the prompt payment provisions of Section 215.422, F.S., upon receipt of an invoice for its cost share commitment from the Designated Contractor, when such invoice is accompanied by a written approval by the Department of the work completed. Within 40 days of payment to the Designated Contractor, the Participant shall provide to the Department proof of such payment, which shall include a copy of the Participant's paid and canceled check to the Designated Contractor or a certification by the Designated Contractor that the invoice amount specified in the certification was paid and indicating the date such payment was received by the Designated Contractor from the Participant. Failure of the Participant to timely and adequately pay the Designated Contractor shall be considered a material breach of this Agreement pursuant to paragraph 13.

11. In accordance with Section 376.30711, F.S., it is unlawful for the Participant to receive any remuneration, in cash or in kind, from a Designated Contractor performing cleanup activities subject of this Agreement.

12. The Participant 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 of Florida or their authorized representatives shall have access, without cost, except reasonable costs associated with photocopying such records, to such records for audit purposes during the term of this Agreement and for five years following termination of this Agreement.

#### TERMINATION OF AGREEMENT AND REMEDIES FOR BREACH OF AGREEMENT.

13. This Agreement may be terminated for material breach of obligations by either Party. 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 14 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 Participant is in material breach of this Agreement, the Department reserves the right to exercise all remedies at law and equity, including but not limited to a suit for specific performance. In the event that the

Participant determines that the Department is in material breach of this Agreement, the Participant reserves the right to exercise all remedies at law and equity.

14. The Department reserves the right to unilaterally cancel this Agreement for refusal by the Participant 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 Participant in conjunction with this Agreement.

15. The parties hereto agree to waive any right to jury trial under this Agreement.

NOTICES.

16. Any notice or written communication required or permitted hereunder between the Parties shall be considered delivered when posted by Certified Mail, Return Receipt Requested, or delivered in person to the appropriate Party Representative. The Department shall give reasonable notice (and not less than any notice 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:

Michael E. Ashe, Chief  
Bureau of Petroleum Storage Systems  
Department of Environmental Protection  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400  
Phone (850) 245-8821

For the Participant:

Douglas Seaman  
Nassau County Road and Bridges  
37356 Pea Farm Road  
Hilliard, Florida 32046  
Phone (904) 491-3606

AMENDMENTS.

17. Any amendment to this Agreement must be in writing and signed by the Parties.

ASSIGNMENT.

18. This Agreement shall not be assigned by either Party without prior written consent of the non-assigning Party. Any assignment of this Agreement by the Participant will necessitate an ability to pay determination by the Department of the assignee and may result in changes to the Agreement with respect to the required cost share obligation of the assignee, based on the assignee's ability to pay the cost share amount.

CHOICE OF LAW/FORUM

19. The parties hereby agree that any and all actions or disputes arising out of this Agreement shall be governed by the laws of the State of Florida; and any such actions shall be brought in Leon County, Florida.

RESPONSIBILITY FOR SITE REHABILITATION WHERE CLEANUP COSTS EXCEED SPENDING LIMITATIONS.

20. In accordance with Section 376.3071(13)(f), F.S., in the event that the funding limitations specified in Section 376.3071(13), F.S., are exhausted or exceeded prior to completion of site rehabilitation, the Participant shall be obligated to continue site rehabilitation activities in accordance with Section 376.3071(5), F.S., and Chapter 62-770, F.A.C. If the Participant (or other responsible parties) fails to timely continue the site rehabilitation activities, the Department and its agent(s) are permitted to continue performing assessment and remedial activities that the Department, at its sole discretion, deems appropriate. The Department may designate its own contractor(s) to undertake site rehabilitation actions without the approval of the Participant or any other responsible party. The Department or its agent(s) will perform any assessment and remedial activities that the Department, at its sole discretion, deems appropriate to address the remaining petroleum contamination. As such, the Department, at its sole discretion, may choose to undertake assessment or cleanup activities that are less stringent than the requirements of Chapters 62-770 and 62-777, F.A.C., and which may not result in the issuance of a Site Rehabilitation Completion Order. Pursuant to Section 376.3071(7)(b), F.S., the Department will seek recovery for all sums expended by the Department for actions taken pursuant to this paragraph. Therefore, the Department explicitly reserves its right to seek recovery from the Participant or any other responsible party that amount which was expended by the Department in these matters.

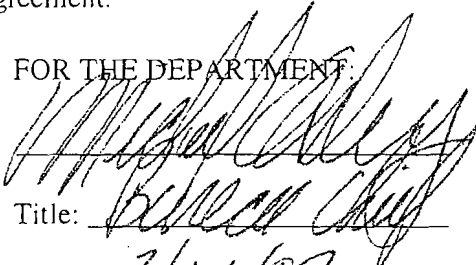
ENTIRE AGREEMENT.

21. It is hereby understood and agreed that this Agreement states the entire agreement and that the Parties are not bound by any stipulations, representations, agreements or promises, oral or otherwise, not printed in this Agreement.

FOR THE PARTICIPANT:

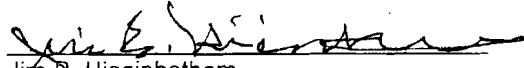
~~\_\_\_\_\_~~  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

FOR THE DEPARTMENT:

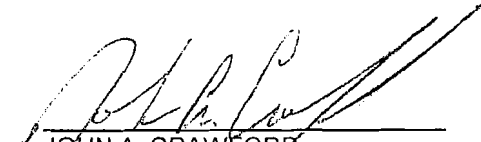
  
Title: General Chief  
Date: 3/26/07

NASSAU COUNTY SIGNATURES  
ON ATTACHED PAGE

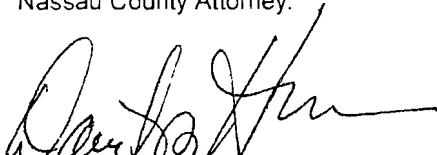
Board of County Commissioners  
Nassau County, Florida

  
Jim B. Higginbotham  
Its: Chairman

Attest as to Chairman's  
Signature:

  
JOHN A. CRAWFORD  
Its: Ex-Officio Clerk

Approved as to form and legality by the  
Nassau County Attorney:

  
DAVID A. HALLMAN

ATTACHMENT A  
HISTORICAL DOCUMENTATION

Petroleum Contamination Assessment Report; Hilliard Road Maintenance Camp; prepared by Law Engineering; September 1, 1992

Interoffice Memo (Department of Environmental Regulation) from Tom Stodd to Jan Brewer; November 17, 1992; Comment/Review Letter for Petroleum Contamination Assessment Report prepared by Law Engineering dated September 1, 1992

Contamination Assessment Report Addendum, Hilliard Maintenance Camp; prepared by Law Engineering; August 12, 1993

Interoffice Memo (Department of Environmental Regulation) from Tom Stodd to Brian Kelley; September 16, 1993; Comment/Review Letter for Contamination Assessment Report Addendum prepared by Law Engineering dated August 12, 1993

Report of Supplemental Environmental Services, Hilliard Maintenance Camp; prepared by Law Engineering; March 21, 1994

Memorandum (Department of Environmental Protection) from Todd Stodd to Brian Kelley; May 17, 1994; Comment/Review Letter for Report of Supplemental Environmental Services prepared by Law Engineering dated March 21, 1994

Limited Scope Remedial Action Plan, Hilliard Maintenance Camp; prepared by Law Engineering; April 18, 1995

Comment/Review Letter from Department of Environmental Protection to Law Engineering for Limited Scope Remedial Action Plan prepared by Law Engineering dated April 18, 1995

Limited Contamination Assessment Report, Hilliard Maintenance Camp; prepared by Matanzas Geosciences; December 5, 2006



ATTACHMENT B  
SITE REHABILITATION STRATEGY

The following summarizes the proposed remediation activities and associated costs for the Hilliard Maintenance Yard located at 2496 Eastwood Road, Hilliard, Nassau County, Florida, based on the information presented in the Limited Contamination Assessment Report, dated December 5, 2006.

- Injection of ORC-Advanced over a 45 ft. by 70 ft. area in the vicinity of MW-8. The injection grid will consist of 30 points with 10 to 12 foot spacings. The ORC-Advanced product will be injected over the six- to ten-foot depth interval.
- Three years of Natural Attenuation Quarterly Monitoring will be conducted at the facility and will include monitor wells MW-7H, MW-8H, MW-10H, MW-12H, and MW-13HR.

The following is an estimated cost for the initial groundwater treatment followed by three years of monitoring activities: **\$63,815.00**

- ORC-Advanced Injection = **\$20,815.00**
  - Two-day contractor oversight
  - Drilling subcontractor
  - ORC-Advanced
- Year 1 Sampling Activities (includes retainage) = **\$16,000.00**
  - Proposal Preparation, File review, and Site Health and Safety Plan Prep
  - Four personnel mobilizations
  - Total of 20 groundwater samples collected (5 samples per quarter) and a total of 28 water level only gauging
  - Level 1 Natural Attenuation Plan
  - Three quarterly reports plus one annual monitoring report
- Year 2 Sampling Activities (includes retainage) = **\$13,500.00**
  - Four personnel mobilizations
  - Total of 20 groundwater samples collected (5 samples per quarter) and a total of 28 water level only gauging
  - Three quarterly reports plus one annual monitoring report
- Year 3 Sampling Activities (includes retainage) = **\$13,500.00**
  - Four personnel mobilizations
  - Total of 20 groundwater samples collected (5 samples per quarter) and a total of 28 water level only gauging
  - Three quarterly reports plus one annual monitoring report