

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: August 22, 2023

Consent                 Regular  
 Ordinance               Public Hearing

**Department: Facilities Development & Operations**

**I. EXECUTIVE BRIEF**

**Motion and Title: Staff recommends motion to receive and file:** a Site Access Agreement with Florida Department of Environmental Protection ("FDEP") for 2700 6<sup>th</sup> Avenue South, Lake Worth Beach, FL, FDEP Facility ID: 508623183, which has no fiscal impact on the County, for as long as is necessary to assess, remove, monitor and remediate the contamination to the Property.

**Summary:** In accordance with County PPM CW-O-051, all delegated contracts, agreements and grants must be submitted by the initiating department as a receive and file agenda item. The attached standard Site Access Agreement has been fully executed on behalf of the Board of County Commissioners by the County Administrator or designee, who in this case was the Director of the Facilities Development and Operations Department. Resolution (R-2015-1613) established a new standard form Agreement for use with the Florida Department of Environmental Protection (FDEP) and its contractors to assess, remove, monitor and remediate contamination on County-owned property. The Site Access Agreement is an FDEP standard form, and is required for FDEP to solicit a contractor, who will actually complete the remediation activities. The County enters into a separate Entry Agreement with each contractor before the contractor commences work. The remediation work is done at no cost to the County. The duration of the Site Access Agreement with FDEP is for so long as it is necessary to access, remove, monitor and remediate contamination on the property. The executed documents are now being submitted to the Board to receive and file. **(FDO Admin) District 3 (MWJ)**

**Background & Justification:** FDEP maintains a program to assess, remove, monitor and remediate contamination on properties eligible under the state-funded Petroleum Restoration Program. FDEP requires completion of its standard form, which the County Attorney's Office has approved for use in these transactions.

**Attachments:**

Site Access Agreement with Florida Department of Environmental Protection ("FDEP") for 2700 6th Avenue South, Lake Worth Beach, FL, FDEP Facility ID: 508623183

Recommended By: *M. S. Esmon* *M. S. Esmon* 7/18/23  
Department Director Date

Approved By: *R. Baker* 7/27/23  
County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

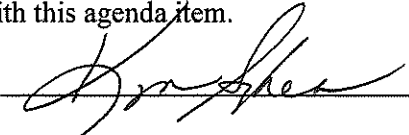
Fiscal Years	2023	2024	2025	2026	2027
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes \_\_\_\_\_ No X  
 Does this item include the use of federal funds: Yes \_\_\_\_\_ No X

Budget Account No:  
 Fund \_\_\_\_\_ Dept \_\_\_\_\_ Unit \_\_\_\_\_ Revenue Source \_\_\_\_\_  
 Fund \_\_\_\_\_ Dept \_\_\_\_\_ Unit \_\_\_\_\_ Revenue Source \_\_\_\_\_

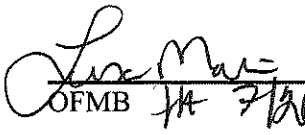
**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

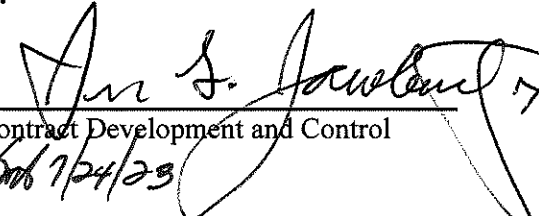
\*There is no fiscal impact associated with this agenda item.

C. Departmental Fiscal Review: 

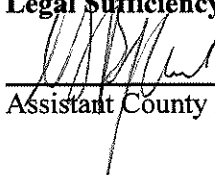
**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development Comments:**

 7/20/2023  
 OFMB HA 7/20 Edw  
 7-20-23

 7/24/23  
 Contract Development and Control  
 7/24/23

**B. Legal Sufficiency:**

 7/25/23  
 Assistant County Attorney for M Jones

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

**This summary is not to be used as a basis for payment.**



**Petroleum Restoration Program  
SITE ACCESS AGREEMENT**

1. The Parties. The undersigned real property owner, Palm Beach County  
[Insert name of each property owner(s) as listed on the deed]

("Owner"), hereby give(s) permission to the State of Florida, Department of Environmental Protection (FDEP)

("Department") and all of it's Contractors, subcontractors, and vendors ("Contractor"), to enter the Owner's property

("the Property") 2700 6th Ave S, Lake Worth, FL  
[Insert property address]

with FDEP Facility ID# 508623183  
[Insert FDEP Facility ID#]

The Property. Owner owns the certain parcel(s) 00-43-44-28-00-001-3020  
[Insert parcel number(s) from Property Appraiser's website]

of real property located at 2700 6th Ave S, Lake Worth, FL  
[Insert physical mailing address]

Palm Beach County, Florida (the "Property"), depicted on the attached legal description  
[Insert Florida County]

as Exhibit "A." *[Attach a legal description of the Property –from the most current deed and or a survey sketch/map of the property with GPS or other locational information]*

2. Permissible Activities. This Site Access Agreement ("Agreement") is limited to activities which may be performed by the Department or its Contractors pursuant to Chapter 62-780, Florida Administrative Code (F.A.C.), without cost to the Owner (unless required in a separate agreement) to locate contamination, determine contamination levels and, when necessary, remove and remediate contamination which may be performed by the Department and its Contractor. If the contamination is eligible for state funding, nothing herein is intended to modify the requirements and limitations of the eligibility program or order. The following activities are included in this Agreement but are not limited to this list:

- conduct soil, surface, subsurface, and groundwater investigations, including but not limited to entry by a drill rig vehicle and/or support vehicles;
- install and remove groundwater monitoring wells;
- use geophysical equipment;
- use an auger for collecting soil and sediment samples;
- locate existing wells;
- collect waste, soil, and water samples;
- remove, treat and/or dispose of contaminated soils and water;
- remove contaminated soil by digging with backhoes, large diameter augers and similar equipment;
- install, operate, and remove remedial equipment;
- install and remove utility connections;
- trenching for connection of remediation wells to equipment; and
- conduct surveys, prepare site sketches, and take photographs.

3. Duration and Termination of Access. This Agreement is granted, without any fee or charge to the Department or Contractor, for so long as is necessary to assess, remove, monitor and remediate the contamination on the Property. Access shall be allowed for the Department (including its employees, contracted site managers with Teams 5 and 6 and local governments, and contractors performing work for the Department under an environmental forensics site investigation contract, if applicable) immediately upon the execution of this Agreement. However, access for a Site Rehabilitation Contractor can be contingent upon the Owner timely entering into an additional separate site access agreement with only the Site Rehabilitation Contractor (if the Owner wants a separate agreement with the Site Rehabilitation Contractor please check the appropriate box at the end of this document). Such agreement with a Site Rehabilitation Contractor is not binding upon the Department. This Agreement shall continue until the Department's entry of a site rehabilitation completion order pursuant to Rule 62-780.680, Florida Administrative Code, or low-scored site initiative no further action order pursuant to Section 376.3071(12)(b), Florida Statutes ("Order"). At which time the Owner shall be provided a copy of the Order and this Agreement shall be automatically terminated.

4. Work Performed during Business Hours. The Department and Contractor may enter the Property during normal business hours and may also make arrangements to enter the Property at other times after agreement from the Owner.

5. [Reserved]

6. Activities Comply with Applicable Laws. The Department and Contractor agree that any and all work performed on the Property and in association with this Agreement shall be done in a good, safe, workmanlike manner, and in accordance with applicable federal and state statutes, rules and regulations.

7. Proper Disposal of Contaminated Media. The Department and Contractor shall ensure that soil cuttings, any work materials, and water generated shall be disposed of in accordance with Environmental Laws. All soil cuttings, waste materials and development water generated shall be promptly removed from the Property.

8. Property Restoration. The Department shall pay the reasonable costs of restoring the Property as nearly as practicable to the conditions which existed before activities associated with contamination assessment or remedial action were taken.

9. Owner's Non-Interference. The Owner shall not interfere with the Department or Contractor when performing the Permissible Activities. Owner shall not damage any equipment including wells, piping, and remediation system that may be located on the Property. Owner shall notify the Department 90 days prior to commencement of any construction, demolition or other work on the Property that may damage or destroy any part of the equipment installed under this Agreement. If the Department anticipates that the remediation equipment will not be used for over one calendar year, the Owner can request removal of the remediation equipment if it is interfering with the

operation of the business or with planned construction activities.

10. Non-revocable. If Property is the source of the discharge that is eligible for State funded remediation pursuant to Chapter 376, Florida Statutes, access to the Property is required and Owner may not revoke this Agreement with the Department until the appropriate site rehabilitation completion order is issued under Chapter 62-780.680 or a low- scored site initiative order issued pursuant to Section 376.3071(12)(b), Florida Statutes, is final.

11. No Admission. The granting of this Agreement by the Owner is not intended, nor should it be construed, as an admission of liability on the part of the Owner for any contamination discovered on the Property.

12. Owner's Use of Property. The Owner retains the right to use the Property, and the Department and its Contractors will work with the Owner regarding minimizing activities that may interfere with the Owner's management and use of the Property. However, neither the Department nor the Contractor are responsible for any inconvenience, economic injury, or business damage that Owner may suffer due to the performance of any Permissible Activity. This agreement does not modify any legal right the parties may have regarding negligent acts.

13. Owner's Release of Claim. If Owner selected a qualified contractor (not an agency term contractor), the Owner hereby releases the Department from any and all claims against the Department performed by the Owner's selected contractor arising from or by virtue of, the Permissible Activities.

14. Injury to Department. The Owner shall not be liable for any injury, damage or loss on the Property suffered by the Department, Department employees or Contractors not caused by the negligence or intentional acts of the Owner's agents or employees.

15. Indemnification. The Department does not indemnify the Owner, see paragraph 16. The Contractor has indemnified the Department. However, if the Owner chooses to enter into a separate access agreement with the Contractor, the Contractor is not prohibited from indemnifying Owner as long as such indemnification does not conflict with the Contractor's indemnification of the Department. Where no conflicts exist, any subsequent indemnification by the Contractor to any party associated with the Permissible Activities is subservient and subordinate to the Contractor's indemnification of the Department.

16. Sovereign Immunity. The Department acknowledges and accepts its responsibility under applicable law (Section 768.28, Florida Statutes) for damages caused by the acts of its employees while on the Property.

17. Public Records. All documents created or received associated with the Permissible activities are a public record pursuant to Chapter 119, Florida Statutes. The Owner may retrieve any documents or other information related to the Permissible Activities online using the facility number reference above.

<http://depeds.deps.state.fl.us/Oculus/servlet/login?action=login>

18. Entire Agreement. This Agreement shall constitute the entire agreement between the Department and the Owner regarding this grant of access to the Department as stated herein. No

modification, amendment or waiver of the terms and conditions of this Agreement shall be binding upon Department unless approved in writing by an authorized representative of Owner and Department.

19. Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any action or proceeding arising from or relating to this Agreement shall be in the appropriate Florida court having jurisdiction located in Leon County, Florida.

20. Severability. Any provision of this Agreement that is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

21. No Third Party Beneficiaries. This Agreement is solely for the benefit of the parties hereto and their respective successors and assigns and shall not be deemed to confer upon third parties any remedy, claim, liability, or reimbursement, claim of action or other right.

- A. Are additional requirements attached to this agreement? If neither are checked, the Department will assume "NO." Note: Additional requirements must be on a separate page titled Exhibit B and include the facility ID#, owner signature and date on the page. If an Exhibit B is not submitted to the Department with the signed Site Access Agreement, the Department will consider that you have changed your selection from "YES" to "NO".

YES

NO

- B. Do you wish to participate or provide input with respect to rehabilitation of this facility? If neither are checked, the Department will assume "NO."

YES

NO

- C. If you wish to exercise the option to reject one Contractor prior to assignment of work, please enter an email address. JTierney@pbcgov.org  
If you do not have an email address, you can enter a telephone number or street address instead.

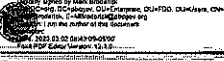
- D. Do you want the site rehabilitation Contractor to contact you to obtain a separate site access agreement? Note: Optional site access agreements between the owner and site rehabilitation Contractor must be completed within (90) calendar days. Since such an agreement is neither necessary nor required, state-funded site rehabilitation activities will begin whether or not you and the site rehabilitation Contractor have executed this optional agreement. Entities listed in paragraph 3 which this agreement provides immediate access for are excluded from this option of obtaining an additional site access agreement.

YES

NO

**WITNESSES:**

Mark Broderick



Signature

Typed or Printed Name

Signature

Typed or Printed Name

**PALM BEACH COUNTY,  
A POLITICAL SUBDIVISION OF THE  
STATE OF FLORIDA**

By: *Isami Ayala-Collazo*  
Isami Ayala-Collazo, Director  
Facilities Development & Operations

**APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY**

Michael W. Jones  
By: Jones  
County Attorney

Accepted by the State of Florida Department of Environmental Protection:

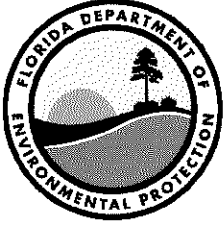
*Natasha Lampkin* for NL  
Natasha Lampkin  
Program Administrator  
Petroleum Restoration Program  
March 6, 2023

*Grace Rivera*  
Signature of Witness  
Grace Rivera  
3/6/2023  
Print Name Date

Attachments: Exhibit A- Legal description of the Property.

FDEP Coordinates (Degrees Minutes Seconds) for Facility Id.#: 508623183

Latitude 26° 36' 04.3428"  
Longitude 80° 05' 09.1642"



# FLORIDA DEPARTMENT OF Environmental Protection

Bob Martinez Center  
2600 Blair Stone Road  
Tallahassee, FL 32399

Ron DeSantis  
Governor

Jeanette Nuñez  
Lt. Governor

Noah Valenstein  
Secretary

## MEMORANDUM

**FROM:** Natasha Lampkin, Program Administrator, Petroleum Restoration Program  
Natasha Lampkin

Digitally signed by Natasha Lampkin  
Date: 2021.04.08 14:51:16 -04'00'

**SUBJECT:** Delegations of Authority

**DATE:** 4/8/2021

In accordance with DEP Directive 100, the following referenced delegation(s) are hereby delegated to the delegate(s) listed.

Delegation Reference	Delegate(s)
DEL-16 Permitting Authority: For their respective divisions, take agency action on all orders, certifications, agreements, permits, general permits, generic permits, exemptions, and exception applications, including modifications and extensions.	<ul style="list-style-type: none"> <li>• Ken Busen, Environmental Administrator, Petroleum Restoration Program</li> <li>• Susan Fields, Environmental Administrator, Petroleum Restoration Program</li> <li>• Blake Miller, Environmental Administrator, Petroleum Restoration Program</li> <li>• Matt Ingham, Environmental Administrator, Petroleum Restoration Program</li> </ul>

Limitations to the delegation(s): Limited to Initial and Follow-up Notice of Contamination Beyond Property Boundaries unless these notices are for a School Property; and Site Access Agreements. This delegation is for Petroleum Cleanup sites only and does **not** include any other agreements, orders, certifications, permits, exemptions, exceptions, modifications or extensions.

The exercise of these delegations shall be consistent with all applicable rules, statutes, administrative directives, policies and procedures. These delegations should be exercised with a high degree of judgment and caution. If there is any doubt whether exercising this delegated authority is inconsistent with any of the above limitations, the person whom the authority is delegated shall not exercise the authority without first consulting Natasha Lampkin, Program Administrator, Petroleum Restoration Program.

This delegation of authority revokes, replaces, and supersedes all previous delegations within the Petroleum Restoration Program.



Exhibit A

Legal Description:

28/29/31/32/33-44-43, PT OF GOV LTS 1, 2, 4 & SUBMRG LAND IN SEC 28, PT OF GOV LTS 2, 3 & SUBMRG LANDS IN SEC 29, PT OF SEC 31 LYG E OF CONGRESS AVE & N OF LANTANA RD R/WS, PT OF GOV LTS 2, 3, 4 & SUBMRG LANDS IN SEC 32 & PT OF GOV LT 1 & SUBMRG LANDS IN SEC 33 ALL K/A JOHN PRINCE PARK

Facility ID:508623183