



RISK MANAGEMENT DIVISION

JOHN PETRELLI, DIRECTOR

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(407) 836-9640 • FAX (407) 836-9630

MEMORANDUM

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: John Petrelli, CPCU, AIC, ARM, AICM

DATE: August 2, 2023

SUBJECT: Former Orange County Fire Station #72

A handwritten signature in cursive script, appearing to read "Petrelli", written in black ink.

On May 23, 2023, the Board approved the Property Owner Conditional Closure Agreement for the property located at 3410 Conway Road, Orlando, Florida, which Orange County previously operated as Fire Station #72. After the Board's approval of the agreement, staff submitted it to the Florida Department of Environmental Protection ("FDEP") for approval. FDEP recently informed staff that the contractor recommended by Orange County and the current property owner in the Property Owner Conditional Closure Agreement is not an approved Agency Term Contractor for the Central Region. As such, staff request the Board's approval of a revised Property Owner Conditional Closure Agreement allowing FDEP to select a competitively procured contractor for the site rehabilitation activities.

ACTION REQUESTED

Approval and execution of the revised Petroleum Restoration Program Property Owner Conditional Closure Agreement (Agreement) for PCPP discharges between 7-Eleven, Inc., Orange County, Florida, and Florida Department of Environmental Protection and authorization for staff to submit the revised Property Owner Conditional Closure Agreement.



FLORIDA DEPARTMENT OF Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

PETROLEUM RESTORATION PROGRAM

PROPERTY OWNER CONDITIONAL CLOSURE AGREEMENT (Agreement) for PCPP discharges

{{Instructions and the process to completing and implementing this Agreement pursuant to Rule 62-772.401(3), F.A.C. are in a separate document and are not intended to modify the terms of this Agreement.}} This agreement is to be used in conjunction with the Petroleum Cleanup Participation Agreement when the Risk Management Option II is selected as the cost savings for the discharge.

The Real Property Owner (Owner), 7-Eleven, Inc. and the Responsible Party (RP), if applicable Orange County, Florida, and the Florida Department of Environmental Protection (FDEP) enter into this Conditional Closure Agreement for Petroleum Cleanup Participation Program discharges (CCA for PCPP) to perform work for the facility located at 3400 Conway Road, Orlando, Florida, FDEP # 8520431 for discharge(s) 10/8/1993. The Owner and, if applicable, RP, agree to a Conditional Closure (Site Rehabilitation Completion Order with Conditions) which uses appropriate controls to close the assessment and remediation of a contaminated site using Risk Management Option II as described in Rule 62-780.680(2), Florida Administrative Code (F.A.C.), where alternative cleanup target levels above the levels in Chapter 62-777, F.A.C., are established for soil and ground water. These alternative cleanup target levels are based on site conditions and the establishment of an institutional and, if necessary, an engineering control. An example of an institutional control is a restrictive covenant with a ground water use prohibition. An example of an engineering control is an impervious surface or cap (such as a paved parking lot) which prevents exposure to contaminated soil and/or prevents rainwater from infiltrating into the soil. Nothing in this Agreement changes the eligibility requirements or priority scoring of the discharges eligible for FDEP funding under the Petroleum Restoration Program. The Owner must have already submitted or is submitting with this agreement a site access agreement (SAA) allowing the FDEP access to the Property, otherwise this request will be rejected. This CCA for PCPP is part of composite Exhibit A of the owner/RP signed PCPP Agreement.

Does the Owner/RP have a present or anticipated contractual or other business relationship with the recommended contractor? ☐ YES ☒ NO

If Yes, explain _____

Note: Contractor is deemed to have had a business relationship with one of the responsible parties for site contamination if it has had a relationship with a parent organization, or subsidiary, a predecessor or a successor of such party, or if it has been engaged by independent legal representatives on behalf of any such parties. In addition, Contractor will be conclusively determined to have a conflict of interest with regard to any site, if it has given or offered remuneration, in cash or in kind, directly or indirectly, to the site owner or operator, or his or her designee to obtain the work associated with such site.

The Owner, and if applicable RP, and the FDEP agree to the following:

1. The Owner must maintain the restrictions in the Interim Restrictive Covenant [or CSX Memorandum of Understanding (MOU) in the case of CSX owned property]. These restrictions and the covenant cannot be removed without express, written permission from the FDEP Petroleum Restoration Program. Upon recording of the covenant these restrictions will be listed in the FDEP's Institutional Control Registry.
2. Upon achieving the Conditional Closure requirements pursuant to RMO II, per Chapter 62-780, F.A.C., the Owner and the FDEP will either amend or release the interim restrictive covenant [or CSX MOU] based upon the actual circumstances of the remaining contamination and risk.
3. The FDEP will provide funding for costs associated with obtaining a Professional Land Survey (PLS) or specific purpose survey, title report, and recording fees as funding permits within the cap. No costs will be provided by the FDEP for the maintenance of engineering controls, if any, or attorney's fees (the assistance of an attorney is not required to implement this Agreement).
4. In exchange for executing and abiding by the PCPP Agreement the Owner may choose to recommend an FDEP Petroleum Restoration Program Agency Term Contractor (Contractor). Contractor Recommendation (Attachment B) is attached to this Agreement. The Owner may change its recommendation and later recommend another Contractor based on the Contractor's documented poor performance but this Conditional Closure Agreement and Interim Restrictive Covenant [or CSX MOU] will stay in place once executed. Property owner confirms that it has not been given or offered remuneration, in cash or in kind, directly or indirectly, from any FDEP Agency Term Contractor that Applicant may recommend to the FDEP as the contractor.
5. If a Contractor is recommended (see paragraph 4), and such Contractor will not provide the best value to the state for a particular scope of work, the FDEP reserves the right to competitively procure any proposed cleanup activity that meets and/or exceeds the current monetary threshold for e-Quotes in accordance with Section 287.057, F.S.

I, the Property Owner of the above facility, agree that the FDEP may perform assessment and cleanup activities to achieve a Conditional Closure (explained above). I understand that these closure options require that I execute a restrictive covenant (attached) now and may also require that I also maintain the restrictive covenant (or equivalent institutional control) and an engineering control after closure.

7-Eleven, Inc. - Richard Ingram
Sr. Director Development Strategy and Support

Richard Ingram

7-12-2023

Property Owner Name & Title (if applicable)

Signature

Richard Ingram
Attorney-in-Fact

Date

(If property is owned or the responsible party is an LLC, corporation, partnership or company, the person signing must be authorized by that entity to sign. The Department will check sunbiz.org for evidence of such authorization. If the person signing is not listed with the Department of State on sunbiz.org, the signatory will be asked to provide evidence of its authority to sign and bind the entity owner.)

I, the Responsible Party for the discharge(s) at the above referenced facility, agree that the FDEP may perform assessment and cleanup activities to achieve a Conditional Closure (explained above).

Bryan W. Brooks County Administrator

Bryan W. Brooks

8-22-2023

Responsible Party Name & Title (if applicable)

Signature

Date



Attachment B- Conditional Closure Agreement Contractor Recommendation

[This Attachment is not recorded in the county land records]

Site Name: 7-Eleven #3528 / Former Fire Station #72 FDEP Facility ID#: 8520431
Site Address: 3400 Conway Rd / 3410 Conway Rd, Orlando, FL 32812 Parcel ID #: 08-23-30-000-00-055 / 08-23-30-000-00-054
Property Owner Name & Title: 7-Eleven, Inc.
Property Owner Representative Name & Title: Richard Ingram, Sr. Director Development Strategy and Support
Property Owner (or Representative) Phone No. & Email: (972) 828-7755, richard.ingram@7-11.com

IF APPLICABLE:

Responsible Party Name & Title: Orange County, Florida c/o Risk Management Division
Responsible Party Representative Name & Title: Tisha Pence, Environmental Loss Prevention Coordinator
Responsible Party (or RP Representative) Phone No. & Email: 407-836-9638 / tisha.pence@ocfl.net

Select one of the Contractor options listed below:

- ☒ Allow the FDEP to select a competitively procured contractor for the next scope of work in accordance with s. 287.057, F. S.
☐ Recommend an FDEP PRP Agency Term Contractor (ATC) from within the same region as the Facility listed in the Conditional Closure Agreement:

ATC Name: _____ FDEP Contractor ID#: _____
ATC Representative Name & Title: _____
ATC Representative Phone No. & Email: _____

Any recommendation to change the ATC will occur in a manner that allows any work scoped through a Purchase Order (PO) to be completed, unless the Property Owner or, if applicable, Responsible Party can provide evidence of poor performance, in which case the FDEP will determine whether or not to cancel the remaining work under that PO. Additionally, I understand that if a Conditional Closure Agreement has been executed, the Contractor may be changed but the Conditional Closure Agreement remains in place.

Richard Ingram,
7-Eleven, Inc. Sr. Director Development Strategy and Support
Print Property Owner Name & Title (if applicable) Signature Richard Ingram Date 7-12-2023
Attorney-in-Fact

IF APPLICABLE:

Bryan W. Brooks County Administrator
Print Responsible Party Name & Title (if applicable) Signature Bryan W. Brooks Date 8-22-2023



This completed Agreement including Attachment B is part of Exhibit A of the PCPP Agreement and should be sent with the PCPP Agreement to the email mailbox DWM_PRP_PCPP@floridadep.gov or mailed to the letterhead address, Mail Station 4540, **Attention: Grace Rivera**. Questions about PCPP Conditional Closure Contractor recommendations may be referred to Grace Rivera at (850) 245-8882, or at grace.rivera@floridadep.gov.