

**F. Consent Agenda - Natural Resources Management  
ITEM 1.**



**AGENDA REPORT  
August 20, 2019**

**Authorization of County Manager to sign Access Agreements and Related Documents with the Florida Department of Environmental Protection**

---

**SUBJECT:**

Authorize the County Manager to sign Florida Department Environmental Protection (FDEP) Site Access Agreements and related documents to allow representatives of the State's Petroleum Restoration Program to enter County owned lands to assess the need for remediation activities.

**FISCAL IMPACT:**

There is no known fiscal impact to the General Fund

**DEPT/OFFICE:**

Natural Resources Management

**REQUESTED ACTION:**

It is requested that the Board authorize the County Manager, or his/her designee, to sign Property Access Agreements and Related Documents with the Florida Department of Environmental Protection (FDEP) relating to the Petroleum Restoration Program, for County owned lands. An example agreement is attached for a County owned site at 810 Barnes Boulevard, Rockledge. Access will allow representatives of the State to determine if remediation of petroleum is needed and if the site qualifies for a state-funded clean-up program.

**SUMMARY EXPLANATION and BACKGROUND:**

The County owns several sites where petroleum was stored in the past and spills or leaks occurred. The state has several programs for cleaning up petroleum contamination. Site assessment is needed to determine if a specific site needs remediation and qualifies for state funded clean-up. To perform the assessment, the state needs access to the site. This is granted through a program application form that is signed by a representative of the County (example attached).

It is requested that the Board authorize the County Manager, or his/her designee, to sign Site Assessment and Property Access Agreements with the Florida Department of Environmental Protection and other documents related to the Petroleum Restoration Program, for County owned lands. Example agreements are attached for a County owned site at 810 Barnes Boulevard, Rockledge. Access will allow representatives of the State to determine if remediation of petroleum is needed and if the site qualifies for a state-

funded clean-up program.

**CLERK TO THE BOARD INSTRUCTIONS:**

None

**ATTACHMENTS:**

**Description**

- ▣ **FDEP-Low Scored Site Initiative (LSSI) Application**
- ▣ **Brevard Co. Property Appraiser Property Details**
- ▣ **FDEP Site Access Agreement**



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

August 21, 2019

MEMORANDUM

TO: Virginia Barker, Natural Resources Management Director

RE: Item F.1., Access Agreements and Related Documents with the Florida Department of Environmental Protection (FDEP)

The Board of County Commissioners, in regular session on August 20, 2019, authorized the County Manager, or his designee, to sign Property Access Agreements and related documents with FDEP relating to the Petroleum Restoration Program for County owned lands, to allow representatives of the State to determine if remediation of petroleum is needed or if the site qualifies for a State-funded clean-up program. Enclosed is a fully-executed Site Access Agreement.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/kp

Encl. (1)



## Petroleum Restoration Program SITE ACCESS AGREEMENT

1. **The Parties.** The undersigned real property owner, Brevard County ("**Owner**"), hereby give(s) permission to the State of Florida, Department of Environmental Protection (FDEP) ("**Department**") and its Contractor, subcontractors, and vendors ("**Contractor**"), to enter the Owner's property ("the Property") 810 Barnes Blvd, Rockledge, Brevard County, Florida 32926 with FDEP Facility ID# 058842416.

The Property. Owner owns the certain parcel(s) 25-36-21-00-278 of real property located at 810 Barnes Blvd, Rockledge, Brevard County, Florida 32926 (the "**Property**"), depicted on the attached legal description as Exhibit "A."

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 or is statutorily required for FPLRIP or ATRP programs) to locate contamination, determine contamination levels and, when necessary, remove and remediate contamination which may be performed by the Department and its Contractor. This access is provided only for the contamination either eligible for a state-funded cleanup or is being investigated pursuant to a consent order with the Department. 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 and contracted site managers with Teams 5 and 6 or local government, if applicable) immediately upon the execution of this Agreement. However, access for a Contractor can be contingent upon the Owner timely entering into a separate site access agreement with the Contractor (if the Owner wants a separate agreement with the Contractor please check the appropriate box at the end of this document). Such agreement with a 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

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://depdms.dep.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? Note: Additional requirements must be on a separate page titled Exhibit B and include the facility ID#, owner signature and date on the page.

YES

NO

B. Do you wish to participate or provide input with respect to rehabilitation of this facility?

YES

NO

C. Do you wish to exercise the option to reject one Contractor prior to assignment of work?

YES

NO

D. Do you want the Contractor to contact you to obtain a separate site access agreement? Note: Additional site access agreements must be completed between the owner and Contractor within ninety (90) calendar days.

YES

NO

22. Well Permits. The Owner authorizes the Department and its Contractor to act as its agent in signing all required forms and documents necessary for obtaining applicable permits related to well construction, repair, maintenance, modification, and abandonment pursuant to Chapter 373, Florida Statutes.

Exhibit A

Legal Description: Part Of SW 1/4 Of NW 1/4 & Part Of SE 1/4 Of Se 1/4 Of NE 1/4 Of Sec 20 As

Desc In Orb 3463 Pg 134 Par 19 In Sec 20



# FLORIDA DEPARTMENT OF Environmental Protection

Ron DeSantis  
Governor

Jeanette Nuñez  
Lt. Governor

Noah Valenstein  
Secretary

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

## PETROLEUM RESTORATION PROGRAM

### LOW-SCORED SITE INITIATIVE APPLICATION & CONTRACTOR SELECTION SHEET

The Low-Scored Site Initiative (LSSI) Applicant responsible for the eligible petroleum discharge(s) may use this 3-page application to select a qualified Contractor pursuant to Chapter 62-772, F.A.C., Procurement Procedures for the Department of Environmental Protection's (FDEP) Petroleum Restoration Program (PRP) to implement a LSSI assessment and/or remediation at the site referenced below, provided that the PRP determines that such activities are appropriate. If the applicant is not the real property owner, a copy of the responsible party agreement or other documentation demonstrating the Applicant's responsible party status must be submitted with this application. Completed forms must be accompanied by a cost proposal and should be sent to the letterhead address, Mail Station 4580, Attention: Rob Perlowski. If you would like to discuss this with an FDEP representative, please call Graham Witt at 850-222-6446 x5001, Chris Bayliss at 850-245-8866, or Joel Johnson at 850-877-1133 x3701.

#### Part 1. FDEP Facility Name and Identification # (required)

- a. Name of Facility/Site: Sunshine Food Mart #100
- b. FDEP Facility Identification #: 058842416

**Part 2. Real Property Identification and Current Ownership Verification (required):** This information must match that listed in the applicable County Property Appraiser's Office or provide updated information by submitting a copy of the latest deed recorded with the County records.

- a. Real Property Street Address of Record: 810 Barnes Boulevard, Rockledge FL 32955
- b. Parcel # or Property Identification # of Record: 25-36-21-00-278
- c. Legal Property Description of Record (may attach legible copy): Part Of SW 1/4 Of NW 1/4 & Part Of SE 1/4 Of Se 1/4 Of NE 1/4 Of Sec 20 As Desc In Orb 3463 Pg 134 Par 19 In Sec 20
- d. Name of Current Real Property Owner(s) of Record: Brevard County Board of County Commissioners

Mailing Address (required): 345 Wenner Way, Cocoa, FL 32955 C/O Asset Management

Telephone # (required): (321) 633-2077

E-Mail Address: corrina.gumm@brevardFL.gov

- e. If There is Any Reason Why the Property Appraiser's Records May Not Be Accurate, Provide an Explanation and Attach Documentation:

\_\_\_\_\_  
\_\_\_\_\_

**REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY**

**Part 3. Entity Applying for LSSI (required)**

a. Name of the Entity Applying for LSSI (if business, include name/title of representative):

Brevard County BOCC

b. (Check One):  Current Real Property Owner Or  Other Responsible Party

c. Contact Information of the LSSI Applicant:

Mailing Address (required): 2725 Judge Fran Jamieson Way, Bldg. A, Room 201, Viera FL 32940

Telephone # (required): (321) 6332077

E-Mail Address: corrina.gumm@brevardFL.gov

**Part 4. LSSI Contractor Selection (required):** Please check one of the options below. You may request that the FDEP select the cleanup contractor or you may select a specific cleanup contractor.

Who is selecting the contractor?  Current Real Property Owner Or  Other Responsible Party

**Select only one of the contractor options listed below:**

A PRP Agency Term Contractor: Co. Name: ARCADIS U.S., Inc. DEP Contractor ID #: 145

A qualified PRP Contractor, provided that pricing levels & conditions can be negotiated on the best terms to the DEP:

Co. Name: \_\_\_\_\_ DEP Contractor ID#: \_\_\_\_\_

Rep. Name & Title: \_\_\_\_\_

Rep. Phone # & E-mail: \_\_\_\_\_

The FDEP will select qualified PRP Contractor through an informal request for quote in accordance with Rule 60A-1.002, F.A.C.

The Owner authorizes the Department and the Contractor to act as its authorized representative in signing all required forms and documents necessary for obtaining applicable permits related to environmental infrastructure improvements including well construction, repair, maintenance, modification, and abandonment pursuant to Chapter 373, F.S.”

**REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY**

**Part 5. Real Property Owner Affidavit (required):** This certificate must be completed and signed by the current real property owner in the presence of a witness if participating in the Petroleum Restoration Program's Low-Scored Site Initiative. No work will be authorized on your site until this sheet is accepted by the Department. The contractor selection option chosen above cannot be changed once this LSSI Application and Contractor Selection Sheet has been approved by the PRP unless poor performance by the contractor is affirmatively demonstrated. The name in Part 5.a. must match that listed in Part 2.d.

- a. I, Frank Abbate, County Manager hereby certify that:  
(Current Real Property Owner)
- b. If I selected a contractor, that the contractor selected in Part 4 of this form is authorized to perform work in the Petroleum Restoration Program's Low-Scored Site Initiative on the real property identified in Parts 1 and 2 of this form.
- c. That the contractor I selected, if applicable, has not offered any remuneration in cash or in kind directly or indirectly in exchange for selecting them as my contractor.
- d. If applicable, that I have not solicited or accepted remuneration in cash or in kind directly or indirectly from the contractor in exchange for selecting them as my contractor.
- e. That I acknowledge that soliciting or accepting remuneration in cash or in kind directly or indirectly in exchange for selection of a contractor is prohibited pursuant to Section 376.3071(6), F.S., and may result in the loss of eligibility for State funded petroleum contamination cleanup assistance at this site.
- f. That I have read and understand the site closure endpoints and the contractor selection options available under LSSI and that I agree to accept a LSSI No Further Action closure if the criteria specified in paragraph 376.3071(12)(b), Florida Statutes are met.
- g. **I acknowledge that if site closure endpoints are not achieved under the Low-Scored Site Initiative then applicable deductibles must be paid and any co-payments or cost share requirements will be required on subsequent state funded work.**
- h. That the information listed above is true and correct to the best of my knowledge.

*Frank Abbate*

08/20/2019

Signature of the Current Real Property Owner

Date

## Brevard County Board of County Commissioners

Print Current Real Property Owner Name and, if property owner is a corporation, LLC or other entity, title

*Donna Scott*

08/20/2019

Signature of Witness to the Owner's Signature

Date

*Donna Scott*

Print Witness Name

*donna.scott@brevardclerk.us (32)637-2001*

Witness email address

Witness phone number



# Brevard County Property Appraiser

Titusville • Merritt Island • Viera • Melbourne • Palm Bay

Phone: (321) 264-6700

<https://www.bcpao.us>

## PROPERTY DETAILS

Account	2510585
Owners	Brevard County
Mailing Address	345 Wenner Way C/O Asset Management Cocoa FL 32926
Site Address	810 Barnes Blvd Rockledge FL 32955
Parcel ID	25-36-21-00-278
Property Use	8020 - County Owned Land - Vacant
Exemptions	EXCO - County Owned Property
Taxing District	43E0 - Rockledge
Total Acres	0.48
Subdivision	--
Site Code	0382 - Barnes Blvd
Plat Book/Page	--
Land Description	Part Of SW 1/4 Of NW 1/4 & Part Of SE 1/4 Of SE 1/4 Of NE 1/4 Of Sec 20 As Desc IN Orb 3463 Pg 134 Par 19 IN Sec 20



## VALUE SUMMARY

Category	2019	2018	2017
Market Value	\$156,430	\$156,430	\$140,790
Agricultural Land Value	\$0	\$0	\$0
Assessed Value Non-School	\$156,430	\$149,890	\$136,270
Assessed Value School	\$156,430	\$156,430	\$140,790
Homestead Exemption	\$0	\$0	\$0
Additional Homestead	\$0	\$0	\$0
Other Exemptions	\$156,430	\$149,890	\$136,270
Taxable Value Non-School	\$0	\$0	\$0
Taxable Value School	\$0	\$0	\$0

## SALES/TRANSFERS

Date	Price	Type	Parcel	Deed
01/07/2014	--	CA	Vacant	7107/2970
10/29/2013	--	QC	Vacant	7078/2270
04/27/2004	\$385,000	WD	Improved	5282/0050
03/30/1998	\$460,000	WD	Improved	3820/2754
03/30/1995	\$600,000	WD	Improved	3463/0134
07/01/1987	\$1,250,000	PT	--	2818/0136
07/01/1987	--	PT	--	2818/0145
12/01/1976	\$37,000	--	--	1694/0826

No Data Found

## INSTRUCTIONS FOR COMPLETION OF SITE ACCESS AGREEMENT

This agreement is required to allow FDEP and the Agency Term Contractor (ATC) personnel to enter your property to perform remediation services. Upon issuance of a Closure Order, your site will be restored as nearly as practical to the conditions which existed before the activities, and the access agreement shall be terminated.

The Agreement includes 22 standard paragraphs. Alteration may not be made directly on the original agreement. In addition, there are four questions concerning owner access preference that must be answered by checking the corresponding boxes. Any additional requirements or agreements may not result in the FDEP incurring additional expenses. Please see the instructions following each question for more information.

- A. Are additional requirements attached to this agreement? Note: Additional requests must be on a separate page titled Exhibit B and include the facility ID#, owner signature and date on the page.

Some property owners require additional access conditions, such as those mandated in the *Jessica Lundsford Act* for school properties or have specific requirements regarding notification of work. Additional requirements may be requested on a separate signed and dated page to this agreement, to be titled Exhibit B. Such requests are subject to evaluation and approval by the Department. You will be informed if the Department cannot accept your request. Any changes or alterations to the standard access agreement must be made in Exhibit B, and not on the original agreement.

- B. Do you wish to participate or provide input with respect to rehabilitation of this facility?

If you wish to be in close communication with the ATC and receive notifications of work, copies of reports and recommendations for the site, select "yes" for this option. If you prefer to be hands off and let the ATC conduct all work as directed by the FDEP, please select "no."

- C. Do you wish to exercise the option to reject one Agency Term Contractor prior to assignment of work?

As required by legislation outlined in Chapter 62-772 Florida Administrative Code, FDEP will use a competitive procurement process to select an ATC to conduct the assessment/remediation activities. Checking "yes" for the above option allows you to be informed by FDEP which ATC is selected before they are authorized to initiate activities, and reject one selected ATC, if you so choose.

- D. Do you want the Contractor to contact you to obtain a separate site access agreement? Note: Additional site access agreements between the owner and ATC must be completed within ninety (90) calendar days.

If "yes" is selected, you will be contacted by the ATC to discuss the terms of your additional site access agreement prior to beginning any work at your site. The State of Florida does not review or give advice regarding these separate agreements. If you choose to do this, the separate access agreement cannot contradict, and must be subservient to, the agreement between the owner and the FDEP.