

ADVANCED CLEANUP APPLICATION FOR REDEVELOPMENT

In accordance with Chapter 2017-95, Laws of Florida, the Florida Department of Environmental Protection (“**Department**”) is accepting Advanced Cleanup (AC) applications for Redevelopment from facility owners, operators or persons otherwise responsible for site rehabilitation at facilities eligible for restoration funding under the Abandoned Tank Restoration Program (ATRP), Early Detection Incentive (EDI) Program, Innocent Victim Program (IVP), Petroleum Cleanup Participation Program (PCPP), or Petroleum Liability and Restoration Insurance Program (PLRIP). **Applications will be accepted on a First-Come, First-Serve (FCFS) basis beginning July 3, 2017.**

One paper copy and one electronic copy of all applications must be submitted in a sealed envelope and contain the non-refundable application review fee of \$250.00 as described below. FCFS order will be determined by the date the complete application is received by the Department. Pursuant to Chapter 2017-95, Laws of Florida, the Department is authorized to enter into contracts for a total of up to **\$5 million** of advanced cleanup work for redevelopment per fiscal year, with a **\$1 million** limitation per applicant per facility per fiscal year.

NOTE: THE APPLICANT SHOULD ENCLOSE THE APPLICATION PACKAGE AND LIMITED CONTAMINATION ASSESSMENT REPORT IN A SEALED ENVELOPE. The package will not be opened until it has been date stamped.

I. GENERAL SITE INFORMATION

Facility Identification No.: _____

Facility Name: _____

Facility Address: _____

Real Property Owner(s): _____

Real Property Owner’s Address: _____

Real Property Owner’s Phone Number: _____

Real Property Owner’s Email: _____

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II. APPLICANT INFORMATION

Name of Applicant: _____

(if different than the Real Property Owner in Section I.)

Applicant's Address: _____

Applicant's Phone Number: _____

Applicant's Email: _____

Applicant's Relationship to the Facility *(mark appropriate choice)*

Real Property Owner

Real Property Operator

Real Property Owner and Operator

Person otherwise Responsible for Rehabilitation (attach an explanation and documentation supporting this relationship)

III. ELIGIBILITY

In order to be considered for AC Redevelopment, applicants must have an ATRP, EDI, IVP, PCPP or PLRIP eligibility. Applicants in the ATRP, IVP or PLRIP must make deductible payments **prior to** application submission. Applicants in PLRIP, if not PLRIP applicant, must provide information that the PLRIP applicant was notified of the ACR package submission. Applicants with a PCPP eligibility must meet the 25-percent (25%) co-payment requirement.

Abandoned Tank Restoration Program (ATRP)

Early Detection Incentive Program (EDI)

Innocent Victim Program (IVP)

Petroleum Cleanup Participation Program (PCPP)

Petroleum Liability and Restoration Insurance Program (PLRIP)

If AC Applicant is not PLRIP Applicant, written documentation that the PLRIP applicant was notified is attached to this application.

IV. APPLICANT'S REDEVELOPMENT COMMITMENT

Per Chapter 2017-95, Laws of Florida, the Applicant must submit:

- 1) A certification to the Department stating that the Applicant has the prerequisite authority to enter into an AC agreement with the Department,
- 2) Redevelopment and site rehabilitation milestones,
- 3) Documentation, in the form of a letter from the local government having jurisdiction over the area where the property is located, which states the local government is in agreement with or approves the proposed redevelopment and the proposed

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- redevelopment complies with applicable laws and requirements for such redevelopment, and
- 4) A demonstrated, reasonable assurance that the Applicant has sufficient financial resources to implement and complete the redevelopment project.

For more specific examples of these requirements please reference the PRP website.

V. CONTRACTOR RECOMMENDATION

The Contractor performing the work with an ACR Agreement must be a current Agency Term Contractor (ATC) with the Department. The Applicant may choose to submit a completed and signed Site Contractor Recommendation Sheet with the AC application to recommend an ATC.

VI. LIMITED CONTAMINATION ASSESSMENT REPORT (LCAR)

The purpose of the LCAR is to support the proposed course of action and the associated cost estimate. A LCAR is required as part of the application package for the Advanced Cleanup Program as stated in Section 376.30713, F.S. The LCAR must be sufficient and conform to the requirements set forth in the LCAR Guidance document, dated February 14, 2017, and the required information and data for the application package. If not, the application may be returned as insufficient. If there are any conflicts between that guidance and the instructions in the AC package, the instructions in the AC package shall govern.

The LCAR **MUST PROVIDE SUFFICIENT SOIL AND GROUNDWATER DATA** to **characterize** and **delineate** the contamination at the site and contamination migrating off the site so that a reasonable remediation strategy and cost estimate can be developed. Along with any available historical data, soil laboratory analytical data no older than five (5) years for historic contaminated areas must be provided and be sufficient to justify the proposed remedial activity for soil cleanup. The latest groundwater analytical data presented in the LCAR must not be older than 270 days from the time of the application per Chapter 62-780.700(3)(c), F.A.C. All soil and groundwater data must be presented in proper Table and Figure format. If, in the determination of the Department, the LCAR is insufficient and does not meet the requirements set forth in Section VI of this application, the application shall be deemed insufficient and will be returned to the applicant. Any costs incurred related to conducting the requirements of the LCAR are not payable from the Inland Protection Trust Fund (IPTF) which supports the AC Program.

VII. PROPOSED COURSE OF ACTION

The applicant must provide the proposed course of action including the total estimated cleanup cost using rates not exceeding ATC Schedule of Pay Items unit rates and the timetable for conducting the activities described in the proposed course of action. If the proposed course of action does not include the required cost estimate and timetable, the submittal will be deemed non-responsive and returned to the Applicant. The Advanced Cleanup Redevelopment Agreement (“**Agreement**”) requires the parties to continue with the work under the Agreement regardless of changes in ranking or score.

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VIII. NON-REFUNDABLE APPLICATION REVIEW FEE

All applicants must include a cashier's check or money order (**DO NOT SEND CASH OR PERSONAL OR CORPORATE CHECKS**) issued to the "*Florida Department of Environmental Protection*" in the amount of \$250.00 to cover the non-refundable application review fee in order for the application to be reviewed for responsiveness. Failure to submit the non-refundable application review fee, as required above, shall result in the application package being disqualified from further consideration. Remitter of the application fee must be the Applicant. If an ATC is the Remitter, then an invoice with a cancelled check must be submitted showing where the Applicant has paid the ATC. All applicants submitting incomplete application packages shall forfeit the non-refundable application review fee of \$250.00.

IX. SITE ACCESS AGREEMENT

Site Access Agreements must be submitted with the application and be **signed by each Property Owner** of the Facility (or an authorized representative). This agreement is between the Property Owner(s) and the Department. The Site Access Agreement can be the current Petroleum Restoration Program (PRP) agreement or similar agreement not in violation of state law

X. PAST PERFORMANCE CONSIDERATIONS

In situations where previous AC Agreements with the Applicant(s) for a specific facility have failed to reach the agreed upon endpoint, the Department may discuss with the Applicant other approaches to successful remediation.

In situations where the ATC has performed "poorly" (based on the average of their Contractor Performance Evaluations (CPE) of work performed), the Department may request the Applicant recommend another ATC.

XI. CONFLICT OF INTEREST

The Department believes that the president or manager of an ATC who is also an owner, president or manager of the Limited Liability Corporation (LLC) that owns the source property eligible for a state-funded cleanup constitutes a conflict of interest pursuant to the "Amended and Restated Agency Term Contract" (ATC), Paragraph 30. Subparagraph 30.A. of the ATC states that the contractor will not "acquire any interest which would conflict in any manner or degree with its performance of this" ATC. Contractors are then instructed by Subparagraph 30.B. to notify the Department of any "contractual or other business relationships between the Contractor... and any of the persons or entities who are, or may be, responsible for contamination of a site on which it is assigned work."

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Subparagraph 30.D. defines a business relationship and a contractor or subcontractor 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.”

If there is the appearance of a potential conflict of interest, among the affiliates and/or the contractor, the Applicant shall be given three (3) business days from date of notification by the Department to provide documentation that proves otherwise. The documentation must prove to the satisfaction of the Department there is no conflict of interest. If the Applicant fails to produce documentation to the Department’s satisfaction within the state timeframe, the application will be rejected in its entirety.

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XII. APPLICANT'S CERTIFICATION

The undersigned applicant hereby certifies that he or she has the authority to negotiate and enter into an advanced cleanup contract for redevelopment with the Department and qualifies as an applicant pursuant to Section 376.30713(2), F.S., and furthermore confirms that;

I UNDERSTAND THAT I MAY NOT RECEIVE ANY REMUNERATION (i.e. anything of value), IN CASH OR IN KIND, DIRECTLY OR INDIRECTLY, FROM A PETROLEUM SITE REHABILITATION AGENCY TERM CONTRACTOR PERFORMING SITE CLEANUP ACTIVITIES IN THE PETROLUEM RESTORATION PROGRAM. This prohibition does not allow accepting free assistance from an ATC to prepare an Advanced Cleanup application. If an ATC assisted you with this application, please provide a copy of the cancelled check or other proof of payment to that contractor for the services provided.

Signature of Applicant

Date

Print Name of Applicant

Applicant's Title
(If Applicant's name is not listed with the Florida Division of Corporations, provide documentation or legal opinion from the entity's attorney of evidence of authority to bind the corporation, LLC, etc.)

Name of Corporation, LLC or Partnership
(if applicable)