MODEL - Effective Date: October 2, 2023

Brownfield Site Rehabilitation Agreement (BSRA) for Resource Conservation and Recovery Act (RCRA) Sites and Attached Instructions

**NOTE:**

1. This model RCRA BSRA supersedes any previously distributed models. This model RCRA BSRA should be used as the template beginning on October 2, 2023. However, if a RCRA BSRA has been drafted with an earlier template, the Florida Department of Environment Protection (FDEP) will with work with the Person Responsible For Brownfield Site Rehabilitation (PRFBSR) to make the appropriate changes.
2. Remove the attached instructions (these instructions and the instructions associated with each attachment) and delete all language in **{ }** or **[ ],** but not **( )** before finalizing the document.
3. Complete the Checklist provided at <https://floridadep.gov/waste/waste-cleanup/documents/brownfield-site-rehabilitation-agreement-checklist>.
4. Submit a completed electronic Word or Word-compatible copy or a hard copy of the draft RCRA BSRA with all attachments and the completed Checklist to the FDEP Brownfields (BF) Program Manager and the RCRA Environmental Administrator (Tallahassee) for review. Please include a cover letter or email which provides contact information for the person(s) coordinating the RCRA BSRA for the PRFBSR and indicate when the RCRA BSRA needs to be executed (for example, by the end of the current calendar year or some other date). Please do not send RCRA BSRAs directly to the FDEP Office of General Counsel (OGC).
5. The model includes optional language in a few places throughout the document. Please work with the FDEP BF Program Manager and RCRA Program to determine the correct language for your project.
6. The FDEP BF Program Manager will provide the Brownfield ID numbers during review of the draft BSRA.
7. Due to the large number of BSRAs and amendments submitted at the end of each calendar year, FDEP recommends that RCRA BSRAs and RCRA BSRA amendments that need to be executed by the end of the calendar year, be submitted to the BF Program Manager and the RCRA Program no later than October 1.

BEFORE THE STATE OF FLORIDA

DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN RE**: [Insert Name of the Person(s) or Entity Responsible for Brownfield Site Rehabilitation]**

 **[Insert Brownfield Site Name]**

 **[Insert Brownfield Site Address, City, State, Zip Code]**

 [Insert Brownfield Area Name]

 **[Insert Brownfield Area Identification Number: “BFXXXXXXXXX”]**

 **[Insert Brownfield Site Identification Number: “BFXXXXXXXXX”]**

**[Insert RCRA Permittee/Order Name (consistent with 8700-12FL form]**

 **[Insert RCRA Identification Number – FLXXXXXXXXXX]**

 **[Insert OGC Tracking Number - provided by FDEP during review of draft]**

BROWNFIELD SITE REHABILITATION AGREEMENT PURSUANT TO §376.80(5) and §403.722(1), Florida Statutes (F.S.)

WHEREAS, the Brownfields Redevelopment Act was enacted to reduce public health and environmental hazards on existing commercial and industrial sites by offering incentives to encourage responsible persons to voluntarily develop and implement cleanup plans; and

WHEREAS, the Department of Environmental Protection (“Department”) is the administrative agency of the State of Florida having the power and duty to protect Florida’s environment and to administer and enforce the provisions of Chapters 403 and 376, F.S., and the rules promulgated thereunder, Chapters 62-730, 62‑777 and 62‑780, Florida Administrative Code (F.A.C.), as the same may be amended from time to time; and

WHEREAS, the Department has jurisdiction over the matters addressed in this Brownfield Site Rehabilitation Agreement (“BSRA”) at a site subject to the Resource Conservation and Recovery Act (“RCRA”) (together called a “RCRA BSRA”);

WHEREAS, the Department has the authority, pursuant to §376.81, F.S., to establish by rule, criteria for determining the rehabilitation program tasks that comprise a site rehabilitation program and the level at which a rehabilitation program task and a site rehabilitation program may be deemed complete; and

WHEREAS, the Department has the authority, pursuant to §403.722(1), F.S., to require permits for hazardous waste disposal, storage, and treatment facilities;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, it is agreed as follows:

This RCRA BSRA is entered into between the Department and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **{insert the full legal name of the entity entering into the BSRA and the state in which that entity is registered, i.e., ABC, Corporation, a Florida for-profit corporation}**, hereinafter the Person Responsible for Brownfield Site Rehabilitation (“PRFBSR”) (collectively referred to as the “parties”), for the rehabilitation of a brownfield site within a designated brownfield area pursuant to §376.80(5), F.S. The Department and the PRFBSR agree to the following:

1. DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Department is the agency of the State of Florida with authority and power to enforce the provisions of Chapters 376 and 403, F.S.

1. PERSON RESPONSIBLE FOR BROWNFIELD SITE REHABILITATION

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is the PRFBSR {{OR if multiple parties will be sharing the PRFBSR responsibilities, “are jointly the PRFBSRs”. }} as defined in §376.79(15), F.S., for the real property described in the map and legal description in **Attachment A** (the “Brownfield Site”), incorporated herein, that has been designated by the **{Insert “City of” or “\_\_\_\_\_\_\_\_ County”}** in ResolutionNumber **{insert resolution number and date approved here; if there is more than one resolution associated with the brownfield area, all resolution numbers and approval dates should be listed here}** as a brownfield area as defined in §376.79(5), F.S. **Attachment A** is a composite exhibit that includes: (a) the legal description and map of the Brownfield Site; and (b) the **{insert** “**city” or “county”}** resolution(s) with all attachments including the map of the designated brownfield area. The brownfield site consists of \_\_\_\_\_\_\_ acres. {**If the legal boundaries of the brownfield site and the brownfield area are the same, include the following sentence:}** The legal boundaries of the brownfield site and the brownfield area are the same.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is the Owner/Operator of the Facility under the RCRA Permit/Consent Order Number ##### (see **Attachment I,** incorporated herein)and Rule 62-730.020, F.A.C. Note that the legal boundary of the Brownfield Site/Area, may be different from the boundary of the RCRA Facility as defined in 40 Code of Federal Regulations (CFR) Section 260.10.

1. PRFBSR’S DUTIES

The PRFBSR agrees:

* 1. to conduct “site rehabilitation” of any “contaminated site(s)” as defined in §376.79, F.S., whose source originates on the real property described in **Attachment A as the Brownfield site.**  If such contaminated site(s) extend(s) beyond the boundary of the Brownfield site, then PRFBSR agrees to conduct site rehabilitation to address the entire contaminated site. [*Where the Brownfield Site/Area does not match the RCRA Facility Boundary, Attachment A must clearly demarcate the RCRA Solid Waste Management Unit(s) and/or Area(s) of Concern addressed by the RCRA BSRA. Please discuss with the BF Program Manager and RCRA Program]*;
	2. to conduct corrective action (“site rehabilitation”) and comply with all requirements in accordance with the RCRA Permit/Consent Order Number #####­­­­­­­­­­­­­ and Chapter 62-730, F.A.C., which includes 40 CFR § 264.100 Corrective Action Program and §264.101 Corrective Action for Solid Waste Management Units. RCRA BSRAs are administered under both the Brownfields and RCRA programs. Where there is a conflict between the programs, the more stringent provisions are applicable;
	3. to conduct site rehabilitation and submit technical reports and rehabilitation plans in a timely manner according to the attached brownfield site rehabilitation schedule agreed upon by the parties, **Attachment B** incorporated herein;
	4. to conduct site rehabilitation activities under the observation of professional engineers or professional geologists, as applicable, who are registered in accordance with the requirements of Chapters 471 or 492, F.S., respectively. Submittals provided by the PRFBSR must be signed and sealed by a professional engineer registered under Chapter 471, F.S., or by a professional geologist registered under Chapter 492, F.S., as applicable, certifying that the submittal and associated work comply with the laws and rules of the Department and those governing the profession. Upon completion of the approved remedial action, a professional engineer registered under Chapter 471, F.S., or a professional geologist registered under Chapter 492, F.S., as applicable, must certify that the corrective action was, to the best of his or her knowledge, completed in substantial conformance with the plans and specifications approved by the Department;
	5. to conduct site rehabilitation in accordance with Chapter 62-160, F.A.C., as the same may be amended from time to time;
	6. to obtainany local, state or federal approvals or permits required for the site rehabilitation work and to conduct the necessary site rehabilitation consistent with local, state, and federal laws, rules and ordinances. All site rehabilitation shall be consistent with the cleanup criteria in §376.81, F.S.; the requirements of Chapters 62-730, F.A.C., Hazardous Waste; 62‑780, F.A.C., Contaminated Site Cleanup Criteria; and 62-777, F.A.C., Contaminant Cleanup Target Levels; as the same may be amended from time to time;
	7. to allow access by the Department during the entire site rehabilitation process, as evidenced by the attached documentation, **Attachment C,** incorporated herein, establishing that such site access has been secured by agreement with the **real property owner**. Upon the transfer of any real property interest in any portion of the Brownfield Site before site rehabilitation is complete, the PRFBSR shall notify the Department at least 30 days before the date that such an interest is effective. With notice the PRFBSR shall provide a copy of an access agreement in substantially the same form as that in **Attachment C** with any successor in interest to the **real property owner** of the Brownfield Site or with any party with a real property interest in the Brownfield Site after the effective date of this agreement, granting such access to the Department;
	8. to consider appropriate pollution prevention measures and to implement those that the PRFBSR determines are reasonable and cost-effective, taking into account the ultimate use or uses of the real property described in **Attachment A**. Local pollution prevention programs as well as state pollution prevention programs are available to assist in determining pollution reduction measures. The Department recommends that the PRFBSR contact the Department’s Waste Reduction and Registration Program or Hazardous Waste Program and Permitting at the following websites: <https://floridadep.gov/waste/waste-reduction> and <https://floridadep.gov/waste/permitting-compliance-assistance/content/hazardous-waste-management-main-page> for recommendations on waste minimization and waste management and for assistance with pollution prevention measures. Such measures may include improved inventory or production controls and procedures for preventing loss, spills, and leaks of hazardous waste and materials, and include the goals for the reduction of releases of toxic materials; and
	9. ***{Insert the following paragraph for sites that are subject to an existing Consent Order:}*** that upon the execution of this RCRA BSRA the terms and conditions of Consent Order ***{insert Consent Order Number and execution date}***, on the real property as described in **Attachment A**, shall remain in effect and shall be equivalent to a RCRA Permit. If there are any conflicting provisions between the Consent Order and this RCRA BSRA, the Consent Order shall be controlling. In the event the Department determines that PRFBSR is not in compliance with the terms and conditions of this RCRA BSRA, subject to the provisions of Paragraphs **11** and **19** hereof, the PRFBSR agrees that the terms and conditions of the Consent Order remain in full force and effect. ***{If the Brownfield Site at issue is not subject to an existing Consent Order, then delete this paragraph.}***

1. CERTIFICATION

***[Please use one of following paragraphs, as appropriate:]***

The PRFBSR, in accordance with the provisions of § 376.80(5), F.S., certifies that he/she has consulted with the local government with jurisdiction over the brownfield area about the proposed redevelopment of the brownfield site, that the local government is in agreement with or approves the proposed redevelopment, and that the proposed redevelopment complies with applicable laws and requirements for such redevelopment. Documentation that supports this certification is provided as **Attachment D**.

**[Or, use the following paragraph if the PRFBSR is a local government that has jurisdiction over the property]**

The PRFBSR is the local government with jurisdiction over the real property described in **Attachment A.** Therefore, the PRFBSR certifies that the proposed redevelopment complies with applicable laws and requirements for such redevelopment. Documentation provided that describes the proposed redevelopment is provided as **Attachment D**.

1. SITE CONTRACTOR

The PRFBSR must ensure that the contractor who is performing the majority of the site rehabilitation program tasks pursuant to this RCRA BSRA or supervising the performance of such tasks by licensed subcontractors in accordance with the provisions of § 489.113(9), F.S., has provided certification to the Department that the contractor meets the requirements listed below. If the identity of the contractor is known at the time of the execution of this RCRA BSRA, a Brownfields Redevelopment Program Contractor Certification Form (CCF) shall be submitted as **Attachment E** to this RCRA BSRA. If the contractor has not yet been determined, the PRFBSR shall ensure that the CCF is submitted to the BF Program Manager and RCRA Environmental Administrator and approved by the Department before the contractor begins performing any site rehabilitation tasks at the site.

The PRFBSR must submit to the Department documentation as **Attachment F**, which shows a National Environmental Laboratory Accreditation Program (“NELAP”)-recognized authority has accredited the laboratory(s) that will perform the analyses required by this agreement.

Any contractor that performs site rehabilitation tasks at a contaminated site originating on the real property as described in **Attachment A** shall provide documentation in accordance with the provisions of the paragraph above and with **Attachments E and F,** if applicable, showing that any contractor that performs site rehabilitation tasks:

(a) meets all certification and license requirements imposed by law; and

(b) performs, or has laboratory analyses performed, pursuant to NELAP certification requirements and performs, or has field sampling work performed, in accordance with the Standard Operating Procedures provided in Chapter 62-160, F.A.C., as amended, if applicable to performance of site rehabilitation tasks.

1. CONTINUOUS COMPLIANCE

During the entire site rehabilitation process, the PRFBSR agrees to ensure that the contractor continues to comply with the requirements of **Paragraph 5** of this RCRA BSRA pursuant to the requirements of §376.80(6), F.S.

1. VOLUNTARY CLEANUP TAX CREDIT PROGRAM

Not all activities that are approved or performed in association with a RCRA BSRA are eligible for the state's Voluntary Cleanup Tax Credit (VCTC). In accordance with § 376.30781, F.S., only the costs of voluntary cleanup activity incurred and paid by the applicant that are integral to site rehabilitation or for solid waste removal are eligible for the VCTC. **{If there are multiple PRFBSRs, include the following sentence:** Applicants will work together to jointly request tax credits pursuant to §376.30781(3)(b), F.S.**}** "Site rehabilitation" as defined in §376.79(19), F.S., means the assessment of site contamination and the remediation activities that reduce the levels of contaminants at a site through accepted treatment methods to meet the cleanup target levels established for that site. For RCRA sites, the term includes removal, decontamination, and corrective action of releases of hazardous substances. “Solid waste removal” as defined in §376.30781(3), F.S., means removal of solid waste from the land surface or excavation of solid waste from below the land surface and removal of the solid waste from the brownfield site.

Contamination assessment or remediation paid for by the State of Florida for a discharge that is eligible for a state-funded cleanup under the Drycleaning Solvent Cleanup Program (DSCP) or one of the Petroleum Restoration Program’s (PRP) eligibility programs, may not be used to calculate a tax credit. Likewise, expenses incurred that are statutorily-required to participate in the DSCP (i.e., deductibles) or one of the PRP eligibility programs (i.e., deductibles, review fees, limited contamination assessment reports, and co-payments), are not eligible for the state's VCTC. Nothing contained herein is intended to limit the VCTC otherwise available to the PRFBSR under applicable law.

RCRA regulatory requirements under Rules 62-730.226 (Financial Assurance), and 62-730.220 (Applications for Permits and Other Authorizations), F.A.C., are not eligible for VCTC. Only costs directly associated with corrective action conducted under Rule 62-730.225, F.A.C., are eligible for VCTC.

General information about the VCTC Program is available at <https://floridadep.gov/waste/waste-cleanup/content/voluntary-cleanup-tax-credit>.

For specific questions regarding the VCTC Program, please contact the Department’s Waste Cleanup Program at (850) 245-8958.

1. ADVISORY COMMITTEE

The PRFBSR shall establish an advisory committee pursuant to the requirements of §376.80(4), F.S., for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area, future land use, local employment opportunities, community safety, and environmental justice. The advisory committee should include residents within or adjacent to the brownfield area, businesses operating within the brownfield area, and others deemed appropriate. However, if an appropriate local advisory committee already exists, this committee may be used for requesting public participation and for the purposes of complying with this paragraph.

The PRFBSR shall provide the advisory committee a copy of the final proposed draft RCRA BSRA with attachments and a copy of the executed RCRA BSRA. When the PRFBSR submits a site assessment report or the technical document containing the proposed course of action following site assessment to the Department for review, the PRFBSR shall hold a meeting or attend a regularly scheduled meeting to inform the advisory committee of the findings and recommendations in the site assessment report or the technical document containing the proposed course of action following site assessment.

The names, addresses, contact information, and applicable affiliation for each advisory committee member is included as **Attachment G**.

1. INDEMNIFICATION

The PRFBSR shall save and hold harmless and indemnify the Department against any and all liability, claims, judgments or costs of whatsoever kind and nature for injury to, or death of any person or persons and for the loss or damage to any property resulting from the use, service, operation or performance of work under the terms of this RCRA BSRA and from the negligent acts or omissions of the PRFBSR or its employees, agents, contractors, subcontractors, or other representatives, to the extent allowed by law.

1. LIABILITY PROTECTION

The liability protection provided under §376.82, F.S., shall become effective upon execution of this RCRA BSRA and shall remain effective, provided the PRFBSR complies with the terms of this RCRA BSRA.

Notwithstanding the above, the PRFBSR shall remain liable for corrective action under RCRA pursuant to the terms of the Permit/Consent Order Number #####.

***{For multiple PRFBSRs use:}*** Notwithstanding the above, PRFBSRs shall remain jointly and severally liable for corrective action under RCRA pursuant to the terms of the Permit/Consent Order Number #####.

1. TERMINATION

Pursuant to §376.80(8), F.S., if the PRFBSR fails to comply with this RCRA BSRA, the Department shall notify the PRFBSR and allow 90 days for the PRFBSR to return to compliance with the provision at issue or to negotiate a modification to the RCRA BSRA with the Department for good cause shown. If an imminent hazard exists, the 90-day grace period shall not apply. If the project is not returned to compliance with this RCRA BSRA and a modification cannot be negotiated, the Department may terminate this RCRA BSRA.

The PRFBSR may terminate this RCRA BSRA at any time upon written notice to the Department.

Termination of this RCRA BSRA by either party will revoke the immunity provision of §376.82, F.S. Upon termination of this RCRA BSRA, the RCRA Permit/Consent Order Number ##### willreturn immediately to full force and effect. **(Termination of the RCRA BSRA does not terminate the RCRA Permit/Consent Order.)**

1. IMMINENT HAZARD

Nothing herein shall be construed to limit the authority of the Department to undertake any action in response to, or to recover the costs of responding to, conditions at or from the real property described in **Attachment A** that require the Department to take action to abate an imminent hazard to the public health, welfare or the environment.

1. RELEASE OF LIABILITY

Upon successful completion of this RCRA BSRA as evidenced by the issuance of a Site Rehabilitation Completion Order (SRCO) for each contaminated site originating from the real property described in **Attachment A**, the PRFBSR and his or her successors and assigns, shall be relieved from further liability for site rehabilitation as described in paragraph 3.a. of this RCRA BSRA to the Department and third parties and of liability in contribution to any other party who has or may incur cleanup liability for the contaminated site(s).

**[*Insert the following paragraph if a Permit/Consent Order is applicable*:** The Department will release the Respondent to Permit/Consent Order #####, and his or her successors and assigns, from its corrective action obligations pursuant to the Permit/Consent Order for the real property covered by this RCRA BSRA upon issuance of the SRCO issued pursuant to this RCRA BSRA.**]**

Where the real property described in **Attachment A** differs from the RCRA Facility Boundary, the RCRA Permit/Consent Order remains in effect for the Solid Waste Management Units (SWMUs) and Areas of Concern (AOCs) beyond the property boundary described in **Attachment A**.

This release of liability is subject to the reopener provisions of §376.82(3), F.S.

1. GOVERNING LAW

This RCRA BSRA has been delivered in the State of Florida and shall be construed in accordance with the laws of Florida andanyapplicable local regulations. Wherever possible, each provision of this RCRA BSRA shall be interpreted in such manner as to be effective and valid under applicable law. If any provision of this RCRA BSRA shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this RCRA BSRA. Any action hereon or in connection herewith shall be brought in ***[Insert either Leon County or the county where the brownfield site is located]***, Florida.

1. SUBMITTALS

The PRFBSR shall submit a copy of any certifications or documentation required in the RCRA BSRA and all data, reports, responses, addenda, or modifications to reports and plans required by this RCRA BSRA to:

**Michell Smith**

**Environmental Administrator**

**Hazardous Waste Program and Permitting, M.S. 4560**

**Department of Environmental Protection**

**2600 Blair Stone Road, Tallahassee, Florida 32399-2400**

**Michell.M.Smith@dep.state.fl.us**

With a courtesy electronic (digital) copy to:

**Kelly Crain**

**FDEP Brownfields Program Manager**

**Kelly.Crain@dep.state.fl.us**

All electronic copies of documents shall be in the format listed in **Attachment H,** incorporated herein. Time frames for the Department’s review of technical reports and plans and submittal of documents by the PRFBSR shall be governed by the schedule in **Attachment B**. After final Department approval of each report or plan, an electronic copy shall be submitted to the Department within 30 days. The electronic copy of the report shall be submitted in the format listed in **Attachment H**.

1. ASSIGNMENT

The PRFBSR shall not assign any rights or responsibilities under this RCRA BSRA to any other party without the written consent of the Department and the local government with jurisdiction over the real property described in **Attachment A.** However, the Department shall not withhold its consent to such an assignment if: (a) the proposed assignee meets all of the eligibility criteria under §376.82, F.S.; (b) the proposed assignee has agreed, in writing, to assume all obligations of the PRFBSR under the terms of this RCRA BSRA; and (c) the assignment of PRFBSR obligations under any agreement with the local government with jurisdiction over the real property has been approved, in writing, by the local government.

1. WAIVER

By entering into this RCRA BSRA, the PRFBSR waives its right to challenge the contents of this RCRA BSRA in an administrative hearing afforded by §120.569 and §120.57, F.S., or an appeal afforded by the terms of §120.68, F.S. This RCRA BSRA does not deny the PRFBSR a right to challenge the Department’s actions taken pursuant to this RCRA BSRA. No delay or failure to exercise any right, power or remedy accruing to either party upon breach or default by either party under this RCRA BSRA, shall impair any such right, power or remedy of either party; nor shall such delay or failure be construed as a waiver of any such breach or default, or any similar breach or default thereafter.

1. EFFECTIVE DATE AND ADMINISTRATIVE HEARING

This RCRA BSRA (Order) is final and effective on the date of execution unless a timely petition for an administrative hearing is filed under §§120.569 and 120.57, F.S., within 21 days after the date of receipt of notice of agency action. Upon the timely filing of such petition, this RCRA BSRA will not be effective until further order of the Department. The liability protection for the PRFBSR pursuant to §376.82(2), F.S., becomes effective upon execution of the RCRA BSRA. The procedures for petitioning a hearing are set forth below.

Please be advised that mediation of this decision pursuant to §120.573, F.S., is not available.

How to Request an Extension of Time to File a Petition for Hearing:

For good cause shown, pursuant to Rule 62-110.106(4), F.A.C., the Department may grant a request for an extension of time to file a petition for hearing. Such a request shall be filed with (received by) the Agency Clerk of the Department in the Office of the General Counsel at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within **21** days of receipt of this RCRA BSRA. Petitioner shall mail a copy of the request to the PRFBSR at the time of filing. Timely filing a request for an extension of time tolls the time period within which a petition for administrative hearing must be made.

How to File a Petition for Administrative Hearing:

A person whose substantial interests are affected by this RCRA BSRA may petition for an administrative proceeding (hearing) under §§120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed with (received by) the Agency Clerk of the Department in the Office of the General Counsel at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within **21** days of receipt of this RCRA BSRA. Petitionershall mail a copy of the petition to the PRFBSR at the time of filing. Failure to file a petition within this time period shall constitute a waiver of any right to request an administrative proceeding under Chapter 120, F.S.

Pursuant to §120.569(2), F.S., and Rule 28‑106.201, F.A.C., a petition for administrative hearing shall contain the following information:

1. The name, address, any e-mail address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner’s representative, if any; the PRFBSR’s name and address; the Department’s Brownfield Area and Brownfield Site Identification Numbers; and the name and address of the Brownfield Site; the name and address of each agency affected;

2. A statement of when and how each petitioner received notice of the Department’s action or proposed action;

3. An explanation of how each petitioner’s substantial interests will be affected by the Department’s action or proposed action;

4. A statement of the disputed issues of material fact, or a statement that there are no disputed facts;

5. A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the Department’s action or proposed action;

6. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the Department’s action or proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

7. A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Department’s action or proposed action.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department’s final action may be different from the position taken by it in this RCRA BSRA. Persons whose substantial interests will be affected by any such final decision of the Department have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

#### JUDICIAL REVIEW

Except for the PRFBSR, any party has the right to seek judicial review of this RCRA BSRA under §120.68, F.S., by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Agency Clerk of the Department in the Office of the General Counsel at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The notice of appeal must be filed within **30** days after this RCRA BSRA is filed with the clerk of the Department (see below).

#### CONTACTS FOR GENERAL AND LEGAL QUESTIONS

Any questions about the content of this RCRA BSRA, the Department’s review of the RCRA BSRA, or technical questions should be directed to the Environmental Administrator, Hazardous Waste Program and Permitting and the Brownfields Program Manager referenced in **Paragraph 15** of this RCRA BSRA or to the PRFBSR’s representative at:

**[Insert PRFBSR’s representative name,**

**Mailing address, Email address,**

**Phone number].**

Questions regarding legal issues should be referred to the Department’s Brownfields Program Attorney in the Office of General Counsel at (850) 245‑2242. Contact with any of the above does not constitute a petition for administrative hearing or request for an extension of time to file a petition for administrative hearing.

1. ENTIRETY OF AGREEMENT

This RCRA BSRA represents the entire agreement of the parties. Any alterations, variations, changes, modifications or waivers of provisions of this RCRA BSRA shall only be valid when they have been reduced to writing, duly signed by each of the parties hereto, and attached to the original of this RCRA BSRA, unless otherwise provided herein.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

 IN WITNESS WHEREOF, each of the parties has made and executed this Resource Conservation and Recovery Act Brownfield Site Rehabilitation Agreement on the date set forth for each signature of each representative below and with its signature indicates it is duly authorized to execute same.***{Please ensure the person signing has the authority to sign on behalf of the entity; see link to FDEP’s Example Signature Blocks and Certifications available at*** [**https://floridadep.gov/ogc/ogc/documents/example-signature-blocks-and-certifications**](https://floridadep.gov/ogc/ogc/documents/example-signature-blocks-and-certifications)**. *}***

PERSON RESPONSIBLE FORSTATE OF FLORIDA DEPARTMENT OF

BROWNFIELD SITE REHABILITATION ENVIRONMENTAL PROTECTION

ENTITY NAME,

*[State] [for profit or not-for-profit] [corporation, LLC, etc*.]

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (PRFBSR Authorized Signatory) Director, Division of Waste Management

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

 (Print Signatory’s Name & Title) (Print Director’s Name)

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Approved as to form and legality:

(Address)

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

(City, State, Zip Code) FDEP Brownfield Program Attorney

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

(Telephone)

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

FDEP RCRA Program Attorney

FILING AND ACKNOWLEDGMENT FILED, on this date, pursuant to §120.52 Florida Statutes, with the designated

 Department Clerk, receipt of which is hereby acknowledged.

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

 Clerk (or Deputy Clerk)

 Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

cc: Michell Smith, FDEP RCRA Program Manager

 Kelly Crain, FDEP Brownfields Program Manager

 Justin Cross, FDEP Government Analyst II, Brownfields Program

 Megan Johnson, FDEP Environmental Consultant, Brownfields Program

 FDEP OGC Brownfields Program Attorney

 FDEP OGC RCRA Program Attorney

List of Attachments

Attachment A - Local Government Resolution for the Brownfield Area and Map and Legal Description of the Brownfield Site

Attachment B - Brownfield Site Rehabilitation Schedule

Attachment C - Site Access Agreement

Attachment D - Certification of Redevelopment Agreement

Attachment E - Contractor Certification Form

Attachment F - Quality Assurance Certificate

Attachment G - Advisory Committee Members

##### Attachment H - Format for Submittal of Technical Documents

Attachment I - RCRA Permit/Consent Order

Attachment J - Publication of Notice *{Optional; delete if not published.}*

# Delete the instructions (after the attachment title) on each attachment page before finalizing the document.

BROWNFIELD SITE REHABILITATION AGREEMENT FOR RCRA SITES

**INSTRUCTIONS**

For electronic copies of the latest Florida Brownfields Redevelopment Program Guidance Manual and examples of various forms used within the RCRA BSRA, visit the Website address:

<https://floridadep.gov/waste/waste-cleanup/content/brownfields-program>

**INDEX**

|  |  |  |
| --- | --- | --- |
|  | Title of Attachment  | Reference Page in Instructions |
|  | Attachment A: Local Government Resolution For The Brownfield Area and Map and Legal Description of the Brownfield Site | i |
|  | Attachment B: Brownfield Site Rehabilitation Schedule (Suggested Time Frames) | ii |
|  | Attachment C: Site Access Agreement | v |
|  | Attachment D: Certification of Redevelopment Agreement | viii |
|  | Attachment E: Contractor Requirement Form  | ix |
|  | Attachment F: Quality Assurance Certificate | xi |
|  | Attachment G: Advisory Committee Members | xii |
|  | Attachment H: Format of Submittal of Technical DocumentsAttachment I: RCRA Permit/Consent Order  | xiiixiv |
|  | Attachment J: Publication of Notice (Optional) | xv |
|  |  |  |
|  |  |  |
|  |  |  |

**ATTACHMENT A - -** **LOCAL GOVERNMENT RESOLUTION FOR THE BROWNFIELD AREA AND MAP AND LEGAL DESCRIPTION OF THE BROWNFIELD SITE**

**Attachment A** shall include a copy of the local government resolution, including the resolution’s attachments, that designated the brownfield area pursuant to §376.80, F.S. **Attachment A** shall also include a map and legal description of the brownfield site. The map of the brownfield site shall clearly delineate the boundaries of the brownfield site. The number of acres shall also be recorded. The information provided in the attachment shall be compatible with the Department’s Geographic Information System (GIS).

 **ATTACHMENT B - - BROWNFIELD SITE REHABILITATION SCHEDULE**

1. The PRFBSR who wishes to conduct cleanup pursuant to the Brownfields Redevelopment Act must propose a brownfield site rehabilitation schedule as required by §376.80(5)(a), F.S. The schedule shall address each of the contamination assessment and remedial action tasks including milestones for completion of each task, submittal of technical reports and rehabilitation plans and the Department’s review time frames for review of reports or plans. The approved schedule shall be submitted as **Attachment B** and incorporated into the RCRA BSRA. All contamination assessment and remedial action tasks set forth therein shall be conducted in a timely manner and in accordance with the approved schedule for site rehabilitation.
2. Table I on the following page contains examples of submittals or suggested review time frames for reports, as applicable, submitted by the PRFBSR for review by the Department and initiation of applicable activities by the PRFBSR. **Table I schedule may be modified to more accurately represent the site activities but must be approved by the RCRA Program Environmental Administrator**. However, the PRFBSR’s actions or document submittal time frames shall not exceed the time frames in Chapter 62‑780, F.A.C., without Department approval.

**Attachment B**

**Table I**

***{Suggested}* Brownfield Site Rehabilitation Schedule**

***{If PRFBSR is deviating from this schedule, please seek approval from the RCRA Program Environmental Administrator.}***

|  |  |  |
| --- | --- | --- |
| **Type of Report or Activity** | **PRFBSR Action or Submittal** **Time Frames** | **Department Review or Comment Time frames** |
| **Notice of Interim Source Removal Action or Emergency Response Action situations.** | **Within 24 hours of initiation of the action.** | **No comment required.** |
| **Interim Source Removal Proposal** | **When seeking approval before implementation of an alternative product recovery method, groundwater recovery, soil treatment or disposal technique (see Rule 62‑780.525, F.A.C.).** | **Within 30 days of receipt.** |
| **Interim Source Removal Plan** | **When seeking approval before implementation of an alternative product recovery method, groundwater recovery, soil treatment or disposal technique (62‑780.525, F.A.C.)** | **Within 30 days of receipt.** |
| **Interim Source Removal Status Report** | **Within 60 days of completion of source removal activities and every 60 days thereafter or when the field activity is terminated, whichever occurs first.** | **No comment required.** |
| **Interim Source Removal Report** | **Within 60 days of completion of interim source removal activities.** | **Within 60 days of receipt.** |
| **Site Rehabilitation Plan (SRP) or Combined Document; (Optional submittal)****(See Rule 62-780.450, F.A.C.)** | **Optional: SRP submitted within 270 days of executing RCRA BSRA. May include multiple tasks.** | **Within 60 days of receipt.** |
| **Site Assessment Report (SAR)** | **SAR submitted within 270 days of executing RCRA BSRA.** | **Within 60 days of receipt.** |
| **Risk Assessment Report (RAR)** | **Optional: (within 60 days of SAR approval.)** | **Within 90 days of receipt.** |
| **No Further Action (NFA) Proposal** | **When the site meets the criteria for NFA (See Rule 62‑780.680, F.A.C.).** | **Within 60 days of receipt.** |
| **Well Survey and Sampling Results pursuant to paragraph 62‑780.600(3)(h), F.A.C.** | **Within 60 days of discovery of contamination beyond the property boundaries** | **Within 60 days of receipt.** |
| **Natural Attenuation with Monitoring (NAM) Plan** | **When the site meets the criteria for Natural Attenuation with Monitoring (See Rule 62‑780.690, F.A.C.).** | **Within 60 days of receipt.** |
| **Natural Attenuation with Monitoring (NAM) Report** | **Within 60 days of sample collection.** | **No comment required.** |
| **Remedial Action Plan (RAP)** | **Within 90 days of approval of a SRP, SAR or RAR.** | **Within 60 days of receipt.** |
| **As-Built Drawings**  | **Within 120 days of initiating operation of the active remediation system.** | **No comment required.** |
| **Initiate Operation of Active Remedial Action** | **Within 120 days of RAP approval.** | **No comment required.** |
| **Proposals submitted pursuant to subsection 62-780.700(14), F.A.C.** | **Optional during active remediation**  | **Within 60 days of receipt** |
| **Remedial Action Status Report****(Monthly or quarterly status reports may be required for submittal - - depending on site conditions and Advisory Committee.)** | **Within 60 days of the anniversary date of initiating operation of active remediation system.** | **No comment required.** |
| **Post Active Remediation Monitoring (PARM) Plan**  | **When the site meets the criteria for NFA (see Rule 62‑780.680) or Leveling Off‑ (see Rule 62‑780.700(18), F.A.C.)** | **Within 60 days of receipt.** |
| **Post Active Remediation Monitoring (PARM) Report** | **Within 60 days of sample collection.** | **No comment required.** |
| **Leveling Off Determination** | **Within 60 days of sample collection.** | **Within 60 days of receipt.** |
| **Post Active Remediation Monitoring (PARM) Plan resampling proposal (Rule 62-780.750(4)(e), F.A.C.)** | **Within 60 days of sample collection.** | **Within 60 days of receipt.** |
| **Site Rehabilitation Completion Report (SRCR)** | **Within 60 days of the final sampling event. If SRCR not approved then submit modifications, etc. within 60 days of Department’s response.** | **Within 60 days of receipt. If the brownfield site meets the requirements of Chapter 62‑780, F.A.C., for the issuance of an SRCO, then an SRCO will be issued.**  |
| **Pilot Study Work Plan** | **When seeking approval before implementation of a Pilot Study pursuant to Rule 62-780.700(2), F.A.C.** | **Within 60 days of receipt.** |
| **Notices for Field Activities except for Start of Interim Source Removal or Emergency Response Action situations.** | **Within seven (7) days but not less than 24 hours prior notice to the Department to perform field activity.** | **No comment required.** |
| **Submittal to the Department of addenda, responses, or modification to plans or reports, pursuant to Chapter 62-780, F.A.C.** | **Within 60 days of receipt of the Department’s response.** | **Within the same time frame for review of the original submittal.** |
| **Submittal of Form and Actual Notice required in subsection 62‑780.220(2), F.A.C.** | **See text of rule for “Initial Notice of Contamination Beyond Property Boundaries” in subsection 62-780.220(2), F.A.C.** | **No comment required.** |
| **Submittal of Actual and Constructive Notice required in subsection 62‑780.220(3), F.A.C.** | **See text of rule for “Subsequent Notice of Contamination Beyond Source Property Boundaries for Establishment of a Temporary Point of Compliance (TPOC)” in subsection 62-780.220(3), F.A.C.** | **No comment required.** |
| **Submittal of Notice required in subsection 62-780.220(7), F.A.C.** | **See text of rule for requirement that PRFBSR provide notice of Department’s intent to approve site closure using institutional controls, institutional and engineering controls, or alternative cleanup target levels.**  | **No comment required.** |

 **ATTACHMENT C - - SITE ACCESS AGREEMENT**

The PRFBSR shall provide the Department with original copies of any site access agreement entered into between the PRFBSR and the owner(s) of all the individual parcels comprising the Brownfield site subject to this RCRA BSRA. These site access agreement(s) shall be incorporated as **Attachment C** and include acknowledgement that representatives from the Department shall be allowed access to the property upon request. A model of the Site Access Agreement is shown on the following page. This model must be used to grant site access for the Department, however, the agreement may be modified based on site-specific circumstances in coordination with the Department. **Please ensure the person signing the site access agreement has the necessary legal authority to sign on behalf of the entity.** **For more information, see the following link to the Department’s signature authority guidance:**

[**https://floridadep.gov/ogc/ogc/documents/example-signature-blocks-and-certifications**](https://floridadep.gov/ogc/ogc/documents/example-signature-blocks-and-certifications)

**SITE ACCESS AGREEMENT**

PERMISSION TO ENTER PROPERTY

BROWNFIELDS REDEVELOPMENT PROGRAM

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the real property owner (“undersigned” or “owner”), hereby grants permission to the State of Florida, Department of Environmental Protection (“Department”) and its agents and subcontractors to enter the undersigned’s property (“the property”) located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ , Parcel ID \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_as described in **Attachment A** attached to the RCRA BSRA for the brownfield site assigned the Brownfield Site Identification Number **{Insert Brownfield Site Identification Number here.}**, beginning on the date of execution of the RCRA BSRA and ending on such date as deemed appropriate by the Department or the successful completion of the RCRA BSRA, whichever occurs first.

2. This permission is contemplated to be used for the following activities that may be performed by the Department, its agents, representatives or subcontractors:

a. Having access to areas where contamination may exist.

b. Investigation of soil and groundwater including, but not limited to, the installation of groundwater monitoring wells, the use of geophysical equipment, the use of an auger for collection of soil and sediment samples, the logging of existing wells, videotaping, preparation of site sketches, taking photographs, any testing or sampling of groundwater, soil, surface water, sediments, air, and other materials deemed appropriate by the Department and the like.

c. Removal, treatment and/or disposal of contaminated soil and water, which may include the installation of recovery wells or other treatment systems.

3. Upon completion of the investigation, the Department will restore the property as near as practicable to its condition immediately prior to the commencement of such activities.

4. The granting of this permission by the undersigned is not intended, nor should it be construed, as an admission of liability on the part of the undersigned or the undersigned’s successors and assigns for any contamination discovered on the property.

5. The Department, its agents, representatives or subcontractors may enter the property during normal business hours and may also make special arrangements to enter the property at other times after agreement from the undersigned.

6. The Department acknowledges and accepts any responsibility it may have under applicable law (Section 768.28, Florida Statutes) for damages caused by the acts of its employees acting within the scope of their employment while on the property.

7. In exercising its access privileges, the Department will take reasonable steps not to interfere with the Owner’s operations, or the remediation and redevelopment activities pursuant to the RCRA BSRA.

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

Signature of Real Property Owner Signature of Witness

Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title, if applicable\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

 Date

Accepted by the Department by the following authorized agent:

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

Signature of Department representative Signature of Witness

Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Title of Department representative

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

 Date Date

**ATTACHMENT D - - CERTIFICATION OF REDEVELOPMENT AGREEMENT**

The PRFBSR must certify that he or she has consulted with the local government with jurisdiction over the brownfield area about the proposed redevelopment of the brownfield site, that the local government is in agreement with or approves the proposed redevelopment, and that the proposed redevelopment complies with applicable laws and requirements for such redevelopment. The PRFBSR must document this certification by including one of the following as **Attachment D** of the RCRA BSRA:

* Reference to or a copy of a legally recorded or officially approved land use or site plan, a development order or approval, a building permit, or a similar official document issued by the local government that reflects the local government’s approval of proposed redevelopment of the brownfield site;
* A copy of the local government resolution designating the brownfield area that contains the proposed redevelopment of the brownfield site; or
* A letter from the local government that describes the proposed redevelopment of the brownfield site and expresses the local government’s agreement with or approval of the proposed redevelopment.

If the local government with jurisdiction over the site is also the PRFBSR, then the PRFBSR only needs to submit documentation that describes the redevelopment. However, please include a statement in **Attachment D** that indicates that the PRFBSR and the local government with jurisdiction are the same entity.

**ATTACHMENT E - - CONTRACTOR CERTIFICATION FORM**

The PRFBSR must ensure that any contractor performing site rehabilitation program tasks at or for the real property described in **Attachment A** has provided documentation and certification to the Department that the contractor meets the requirements of **Paragraph 5**, Site Contractor, of the RCRA BSRA. These requirements include all certification and licensing requirements and implementation of the Standard Operating Procedures (SOPs) for field sampling in accordance with Chapter 62-160, F.A.C. (A link to Chapter 62-160, F.A.C., is provided in the **Attachment F** instructions below). The Contractor Certification Form (CCF) shall be completed and submitted to the DEP’s RCRA Program Environmental Administrator in Tallahassee. The completed CCF shall be submitted on company letterhead as **Attachment E**.

If at the time of execution of the RCRA BSRA, the identity of a contractor is not known, the PRFBSR shall ensure that the required CCF is submitted to the Department prior to the contractor performing site rehabilitation program tasks at the site. The contractor is defined as the contractor responsible for performing the site rehabilitation program tasks at or for the real property described in **Attachment A**. The contractor may subcontract to other licensed contractors. See §489.113(9), F.S., for additional information.

# {Insert Contractor Company Letterhead}

# CONTRACTOR CERTIFICATION FORM

# Brownfields Redevelopment Program

Contractor Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Contractor Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Contact Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Fax No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Brownfield Site ID #: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

|  |  |  |
| --- | --- | --- |
| Contractor Certifies by Checking All Appropriate Boxes: | Yes | No |
|  |  |  |
| 1. It meets all certification and license requirements imposed by law. | [ ]  | [ ]  |
| 2. It performs or contracts laboratory analysis pursuant to National Environmental Laboratory Accreditation Program certification requirements and performs or contracts field-sampling work in accordance with the Standard Operating Procedures for Field Activities pursuant to Chapter 62-160, Florida Administrative Code.  | [ ]  | [ ]  |
| 3. It complies with all applicable OSHA regulations. | [ ]  | [ ]  |
| 4. Has the capacity to perform the majority of the site rehabilitation program tasks pursuant to a brownfield site rehabilitation agreement or supervise the performance of such tasks by licensed subcontractors in accordance with Section 489.113(9), Florida Statutes (F.S.). | [ ]  | [ ]  |

The person named below by signing as an “Officer of the Company” hereby certifies to the Florida Department of Environmental Protection (FDEP) that the Contractor named above meets the requirements for contractors participating in the Brownfields Redevelopment Program [Section 376.80(6), F.S.]:

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

Signature of Officer of the Company and Date Signed Print Name of Officer of the Company

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

Title of Officer of the Company

This form will be kept on file by the FDEP Tallahassee office. Contractors must immediately notify the FDEP (RCRA Program Environmental Administrator) of any change in the above criteria. The FDEP may order a suspension or cessation of work for failure of a contractor to maintain their required certification. Please return this form to the RCRA Program Environmental Administrator.

**ATTACHMENT F - - QUALITY ASSURANCE CERTIFICATE**

The PRFBSR shall submit to the Department documentation as **Attachment F**, showing that a NELAP-recognized accrediting authority (in Florida, the Department of Health, Environmental Laboratory Certification Program) has accredited the laboratory(s) performing analyses. Analytical methods capable of meeting the cleanup target levels in Chapter 62‑780, F.A.C., shall be used for all analyses. *Please do not provide, for the RCRA BSRA, a list of contaminants to be tested*.

For comprehensive information about the Chapter 62-160, F.A.C., a link to the Department’s field Standard Operating Procedures, and for the complete text of Chapter 62-160, F.A.C., visit:

<https://floridadep.gov/dear/quality-assurance>

The Department reserves the right to reject any results generated by the PRFBSR if any organization performs an activity that is not specifically approved in accordance with Chapter 62-160, F.A.C., if there is reasonable doubt as to the quality of the data or method used, if the sampling was not performed in accordance with the approved SOPs, if analysis was not performed in accordance with NELAP accreditation, or if the SOPs or NELAP accreditation of any organization expires.

**ATTACHMENT G - - ADVISORY COMMITTEE MEMBERS**

Local governments or PRFBSRs must establish an advisory committee or use an existing advisory committee that has formally expressed its intent to address redevelopment of the specific brownfield area for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area, future land use, local employment opportunities, community safety, and environmental justice. Such advisory committee should include residents within or adjacent to the brownfield area, businesses operating within the brownfield area, and others deemed appropriate. The names, addresses, and contact information for all Advisory Committee members shall be included in **Attachment G**. In addition, for each committee member please indicate whether that person is a resident within or adjacent to the brownfield area, owns or operates a business within the brownfield area, or whether the person is a member of an existing local government advisory committee. The PRFBSR must notify the advisory committee of the intent to rehabilitate and redevelop the site before executing the RCRA BSRA, and provide the committee with a copy of the draft plan for site rehabilitation which addresses elements required by §376.80(5), F.S. This includes disclosing potential reuse of the property as well as site rehabilitation activities, if any, to be performed.

The advisory committee shall have the opportunity to review any proposed redevelopment agreement prepared pursuant to §376.80(5)(i), F.S., and provide comments, if appropriate, to the board of the local government with jurisdiction over the brownfield area. The advisory committee shall be provided a copy of the executed brownfield site rehabilitation agreement, including all attachments. When the PRFBSR submits a site assessment report or the technical document containing the proposed course of action following site assessment to the Department, the PRFBSR must hold a meeting or attend a regularly scheduled meeting to inform the advisory committee of the findings and recommendations in the site assessment report or the technical document containing the proposed course of action following site assessment.

**ATTACHMENT H - - FORMAT FOR SUBMITTAL OF TECHNICAL DOCUMENTS**

1. One hard copy and one electronic copy of each report or proposal and final reports shall be submitted to the Department.
2. Where an electronic format exists of the records it may be used to transmit the data, file, report, document, map, plans, picture, record, or any other object that may be available in an electronic format. Electronic records shall be kept in industry standard non-proprietary formats: TIFF, GIF, JPEG, PDF, or in Microsoft Word, Microsoft Excel, and Microsoft Access not older than one (1) release behind the current.
3. Data requested shall be transmitted using available media such as Compact Disc (CD), Digital Versatile Disc (DVD), or File Transfer via a secured internet port (i.e. username/password encryption).
4. After final approval of each report, an electronic copy and one hard copy shall be submitted within 30 days.
5. The media shall include a file directory and specify the “naming convention”.
6. Final reports (any text files) must be in one of the approved formats.
7. Site maps and surveys shall be in TIFF, JPEG or PDF format.
8. Site-specific GIS data tables shall be in Excel or text (tab delimited) format.
9. The cover of the media shall include the Brownfield Site Name, Designated Brownfield Area, Date and Type of Report(s). The left inside cover of the media should list all the files located on the media.

**ATTACHMENT I -- RCRA Permit/Consent Order**

The PRFBSR must attach a copy of the RCRA Permit/Consent Order as Attachment I to this RCRA BSRA.

**OPTIONAL ATTACHMENT J -- PUBLICATION OF NOTICE (Optional for PRFBSR; if the PRFBSR chooses to publish notice, a copy of the notice should be attached to the RCRA BSRA.)**

If the PRFBSR wishes to publish notice of site rehabilitation activities once the PRFBSR and the Department have executed the RCRA BSRA, the Department recommends that the following notice be used. The notice may be published in a newspaper of daily circulation in the city and county where the site rehabilitation activities are taking place.

# MODEL NOTICE

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL Protection

NOTICE OF RESOURCE CONSERVATION AND RECOVERY ACT BROWNFIELD SITE REHABILITATION AGREEMENT

The Department of Environmental Protection gives notice of agency action of entering into a Resource Conservation and Recovery Act (hereinafter “RCRA”) Brownfield Site Rehabilitation Agreement (hereinafter “BSRA”) with *{****insert name of PRFBSR}*** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ pursuant to §§ 376.80(5) and 403.722(1), Florida Statutes (F.S.). The RCRA BSRA addresses the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ activities in the vicinity of *{****insert address of site listed in RCRA BSRA}***\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. This RCRA BSRA is made available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays at the Florida Department of Environmental Protection, RCRA Program Environmental Administrator, Hazardous Waste Program and Permitting, 2600 Blair Stone Road, M.S. 4560, Tallahassee, Florida 32399-2400.

 A person whose substantial interests are affected by this RCRA BSRA may petition for an administrative proceeding (hearing) under §§120.569 and 120.57, F.S. The Petition must contain the information set forth below and must be filed with (received by) the Agency Clerk of the Department in the Office of the General Counsel at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within **21** days of receipt of this notice. The Petitionershall mail a copy of the petition at the time of filing to the RCRA Program Environmental Administrator listed above at the address indicated and a copy to the Person Responsible for Brownfields Site Rehabilitation (“PRFBSR”) listed in the RCRA BSRA. Failure to file a petition within this time period shall constitute a waiver of any right to request an administrative proceeding under Chapter 120, F.S.

Pursuant to §120.569(2), F.S., and Rule 28‑106.201, F.A.C., a petition for administrative hearing shall contain the following information:

1. The name, address, any e-mail addresses, and telephone number of each petitioner; the name, address, and telephone number of the petitioner’s representative, if any; the PRFBSR’s name and address; the Department’s Brownfield Area and Brownfield Site Identification Numbers; the name and address of the Brownfield Site; and the name and address of each agency affected;

2. A statement of when and how each petitioner received notice of the Department’s action or proposed action;

3. An explanation of how each petitioner’s substantial interests will be affected by the Department’s action or proposed action;

4. A statement of the disputed issues of material facts, or a statement that there are no disputed facts;

5. A concise statement of the ultimate facts alleged, including a statement of the specific facts the petitioner contends warrant reversal or modification of the Department’s action or proposed action;

6. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the Department’s action or proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

7. A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Department’s action or proposed action.

If a Petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department’s final action may be different from the position taken by the Department in the RCRA BSRA. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject RCRA BSRA have the right to petition to become a party to the proceeding. This RCRA BSRA is final and effective on the date of execution. Timely filing a petition for administrative hearing postpones the date this RCRA BSRA takes effect until the Department issues either a final order pursuant to an administrative hearing or an Order Responding to Supplemental Information provided to the Department pursuant to meetings with the Department.