

STATE OF FLORIDA STORAGE TANK LOCAL GOVERNMENT GUARANTEE WITHOUT STANDBY TRUST MADE BY LOCAL GOVERNMENT

Reference: 40 CFR 280.106(e)

Guarantee made this _____ by _____,
[Date] [Name of guaranteeing entity]

herein referred to as guarantor, to the Florida Department of Environmental Protection (DEP) and to any and all third parties, and obliges, on behalf of _____,
[Local government owner or operator]

herein referred to as the "owner or operator".

Recitals

(1) Guarantor meets or exceeds _____.
[Insert appropriate phrase from the following:
"the local government bond rating test requirements of 40 CFR 280.104", or
"the local government financial test requirements of 40 CFR 280.105", or
"the local government fund under 40 CFR 280.107(a), (b) or (c)"]

(2) The owner or operator owns or operates the following storage tank(s) covered by this guarantee:

Facility/Tank Schedule

[List information for each facility. See Instruction #6 on page *i* for details. Indicate "See attachment identifying instrument and dated [date]" if required.]

<u>DEP FacID</u> (for sites in Florida)	<u>Facility Name and Site Address</u> (for all sites covered)	<u>Number of Tanks or Tank I.D. Nos.</u>

This guarantee satisfies 40 CFR Part 280, Subpart H requirements for assuring funding for

_____ [Insert "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by"]

_____ arising from operating the above identified storage

[Insert "accidental discharges" or "sudden accidental discharges" or "nonsudden accidental discharges" or leave blank if only corrective action is covered]

tank(s) in the amount of:

Per Occurrence: \$ _____ **Annual Aggregate:** \$ _____

(3) Incident to our substantial governmental relationship with the owner or operator Guarantor guarantees to the DEP and to any and all third parties that:

In the event that the owner or operator fails to provide alternate coverage within 60 days after receipt of a notice of cancellation of this guarantee and the DEP Secretary or the Secretary's designee ("designee") has determined or suspects that a discharge has occurred at an storage tank covered by this guarantee, the guarantor, upon written instructions from the DEP Secretary or designee, shall make funds available to pay for corrective actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

In the event that the DEP Secretary or designee determines that the owner or operator has failed to perform corrective action (if covered) for discharges arising out of the operation of the above-identified tank(s) in accordance with 40 CFR Part 280, Subpart F, the guarantor, upon written instructions from the DEP Secretary or designee, shall make funds available to pay for corrective actions in an amount not to exceed the coverage limits specified above.

If the owner or operator fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by _____

[Insert "accidental discharges" or "sudden accidental discharges" or "nonsudden accidental discharges" or leave blank if only corrective action is covered and this paragraph is not applicable]

arising from the operation of the above identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the DEP Secretary or designee, shall make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

(4) Guarantor agrees that, if at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (1), guarantor shall send within 120 days of such failure, by certified mail, notice to the owner or operator, as evidenced by the return receipt.

(5) Guarantor agrees to notify the owner or operator by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming guarantor as debtor, within 10 days after commencement of the proceeding.

(6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of the owner or operator pursuant to 40 CFR Part 280.

(7) Guarantor agrees to remain bound under this guarantee for so long as the owner or operator must comply with the applicable financial responsibility requirements of 40 CFR Part 280, Subpart H for the above identified tank(s), except that guarantor may cancel this agreement by sending notice by certified mail to the owner or operator such cancellation to become effective no earlier than 120 days after receipt of such notice by the owner or operator as evidenced by the return receipt.

(8) The guarantor's obligation does not apply to any of the following:

- (a) Any obligations of the owner or operator under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;
- (b) Bodily injury to an employee of the owner or operator arising from, and in the course of, employment by the owner or operator;
- (c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
- (d) Property damage to any property owned, rented, loaned to, in the care of, custody, or control of, or occupied by the owner or operator that is not the direct result of a discharge from a storage tank;
- (e) Bodily damage or property damage for which the owner or operator is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 40 CFR 280.93 and/or paragraph 62-762.421(3)(c), F.A.C.

(9) Guarantor expressly waives notice of acceptance of this guarantee by the DEP by any or all third parties, or by the owner or operator.

The person whose signature appears below hereby certifies that the wording of this instrument is identical to the wording as adopted and incorporated by reference in Rule(s) 62-761.420 and/or 62-762.421, F.A.C.

[Name of Guarantor]

[Signature of Authorized Representative of Guarantor]

[Telephone Number]

[Name and Title]

[Email Address]

[Address]

[Signature of Witness or Notary]

[Date of Witness or Notary]

[Printed name of Witness or include Notary Seal]