Memorandum

MIAMI-DADE COUNTY

Date: July 10, 2007

Agenda Item No.8(D)(1)(A)

To: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Resolution Authorizing the County Mayor or His Designee to Execute Contract Number GC678 with the Florida Department of Environmental Protection (FDEP) for the Storage Tank System Compliance Verification Program in Miami-Dade County

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Recommendation
It is recommended that the Board of County Commissioners approve the attached resolution authorizing the County Mayor or his designee to execute Contract Number GC678 with the Florida Department of Environmental Protection (FDEP) for the Storage Tank System Compliance Verification Program in Miami-Dade County

Scope
This contract provides for performing storage tank compliance activities countywide.

Fiscal Impact/Funding Source
Miami-Dade County will receive an estimated $830,000 to $860,000 per year for the ten years the contract will be in effect. There are no matching funds required for this contract.

Track Record/Monitor
The Director of the Department of Environmental Resources Management will monitor this contract.

Background
On October 7, 1997, the Board of County Commissioners approved Resolution No. R-1104-97 ratifying the County Manager's action in executing a contractual agreement (Contract Number GC508) with the FDEP to provide funding for Storage Tank System Compliance Verification Program Activities in Miami-Dade County for a ten (10) year period. Due to the successful completion of the work under Contract Number GC508, the FDEP has offered to utilize Miami-Dade County to provide similar services for another ten (10) year period. The services provided under Contract Number GC678 include performing storage tank compliance activities, conducting certain enforcement actions for violation of state and local law, and performing subsequent inspections to determine if corrective action has been taken.

This Agreement shall be retroactively effective to July 1, 2007.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: July 10, 2007

FROM: R.A. Cuevas, Jr.
Acting County Attorney

SUBJECT: Agenda Item No. 8(D)(1)(A)

Please note any items checked.

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 8(D)(1)(A)

07-10-07

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE COUNTY MAYOR OR HIS DESIGNEE TO EXECUTE CONTRACT NUMBER GC678 WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) FOR THE STORAGE TANK SYSTEM COMPLIANCE VERIFICATION PROGRAM IN MIAMI-DADE COUNTY; AND AUTHORIZING THE COUNTY MAYOR OR HIS DESIGNEE TO EXECUTE AMENDMENTS TO THIS AGREEMENT AND TO EXERCISE THE CANCELLATION PROVISIONS CONTAINED THEREIN

WHEREAS, this Board desires to accomplish the purpose outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby authorizes the County Mayor or his designee to execute Florida Department of Environmental Protection (FDEP) Contract Number GC678 for the Storage Tank System Compliance Verification Program in Miami-Dade County, in substantially the form attached hereto and made a part thereof; and authorizes the Mayor or his designee to execute amendments to this agreement and to exercise the cancellation provisions contained therein. This approval shall be retroactively effective to July 1, 2007.

The foregoing resolution was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman
Barbara J. Jordan, Vice-Chairwoman

Jose "Pepe" Diaz	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Joe A. Martinez	Dennis C. Moss
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 10th day of July, 2007. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. PST

Peter S. Tell

DEP CONTRACT NO. GC678
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
AGREEMENT FOR STORAGE TANK SYSTEM
COMPLIANCE VERIFICATION PROGRAM
FOR DADE COUNTY

CONTRACTOR

MIAMI-DADE COUNTY
Miami-Dade County DERM
701 NW 1st Court, Suite 400
Miami 33136

FEID NO.: **59-6000573**

In consideration of the mutual benefits to be derived herefrom, the Florida Department of Environmental Protection ("DEP" or "Department") does hereby retain Miami-Dade County ("CONTRACTOR") for the specific purposes and duties as outlined herein within Dade County and the parties do hereby agree as follows:

INTRODUCTION

1. To assist the CONTRACTOR in complying with the terms and conditions established herein, standard program terminology used throughout this Contract is defined and provided in Attachment A, Standard Contract Definitions, attached hereto and made a part hereof.

2. It is hereby understood and agreed that all references in this Contract to Florida Statutes (F.S.) and the Florida Administrative Code (F.A.C.) shall be for the laws, rules and guidance documents in effect at the time work is performed by the CONTRACTOR.

SCOPE OF SERVICES

3. Perform compliance inspections within the jurisdictional (geographical) boundaries of the specified counties, including facilities registered to the CONTRACTOR as required by an executed Task Assignment(s) at the following Chapter 376, F.S., facilities: storage tanks regulated pursuant to Sections 376.30 – 376.317, F.S. (excluding cattle dip vats, dry-cleaning facilities and designated Brownfields) and Chapters 62-761 and 62-762, F.A.C., including mineral acid tanks regulated by the DEP in accordance with Sections 376.320 - 376.326, F.S. In addition, perform closure inspections, installation inspections, discharge inspections, re-inspections, and emergency response activities, as applicable, in accordance with each Task Assignment. All inspections shall be performed by an individual(s) in a position equivalent to an Environmental Specialist I level or higher. Beginning on the effective date of this Contract, the CONTRACTOR is authorized to enter private property in order to carry out inspections pursuant to Sections 403.091 and 403.858, Florida Statutes.

4. Inspection Priorities. Inspections should be performed in accordance with each executed Task Assignment in the following priority order:

   A. Perform a discharge inspection at all facilities with known or suspected discharges involving free product within twenty-four (24) hours of receipt of notification. Prepare and send a Site Assessment Report request letter to the facility owner and operator, if appropriate, and as directed by the DEP Task Manager.

   B. Perform a discharge inspection at all facilities with known or suspected discharges within ten (10) working days of receipt of notification. Prepare and send a Site Assessment Report

request letter to the facility owner and operator, if appropriate, and as directed by the DEP Task Manager.

C. Perform all closure inspections at known storage tank system closure activities.

D. Perform all installation inspections of known new installations to ensure that the system or system component is properly constructed and installed in accordance with Chapters 62-761 and 62-762, F.A.C., as applicable.

E. Perform routine compliance inspections and required re-inspections of facilities listed on each executed Task Assignment based on resources and priorities. Facilities not inspected during the current executed Task Assignment, will be prioritized to be inspected during the subsequent Task Assignment. This list will include all facilities with at least one single-walled regulated system.

F. Re-inspections should be performed as needed to verify compliance of items identified as requiring a re-inspection, as referenced in the "Storage Tank System Program Violation List" (Guidance Document A). All violations, regardless of severity, which solely involve notification or reporting, will not require a re-inspection, unless otherwise required in Guidance Document A. The CONTRACTOR will not be required to perform a re-inspection if the CONTRACTOR and the DEP's Task Manager agree that it is unwarranted.

5. Site inspections responsibilities shall include:

A. Contacting facility owners or operators, verbally or in writing, to schedule compliance inspections, installation inspections, closure inspections, discharge inspections, and re-inspections. The DEP Task Manager may require written notification of inspections if verbal methods have proven unsatisfactory.

B. With the exception of CONTRACTOR-owned/operated facilities, meeting with the owners, operators, and/or other authorized representatives of all regulated facilities for the purpose of determining compliance with Chapters 62-761 and 62-762, F.A.C., and Chapter 376, F.S.

C. Distributing registration forms to all unregistered facilities that become known to the CONTRACTOR as they are discovered, performing compliance inspections at all unregistered facilities that are subject to Chapters 62-761 and/or 62-762, F.A.C., as they are discovered, and taking appropriate measures where required to bring these facilities into compliance.

E. Completing all inspection reports using the Florida Inspection Reporting for Storage Tanks (FIRST) database and in accordance with the minimum standards referenced in the "FIRST User's Guide" (Guidance Document B).

F. Responding to complaints by performing a complaint investigation, documenting actions taken and maintaining appropriate copies of all complaint information as directed by the DEP Task Manager.

G. Responding to requests for public assistance both in the office and during inspections.

H. Completing Storage Tank System Leak Autopsy Report Forms in electronic format and submitting them to the DEP Contract Manager within ten (10) days of the Discharge Inspection. Submit the complete electronic form with comments, the Discharge Reporting Form (DRF) and photographs.

I. Completing an Underwriters Laboratories (UL) Flex-Pipe Incident Notification Form upon the discovery of any structural or material compatibility problems involving Flex-Pipes and

submitting them to the DEP Contract Manager within ten (10) days of discovery. A copy should also be submitted to UL.

6. Perform Level 1 and Level 2 enforcement actions in accordance with Attachment C, Petroleum Storage Tank System Compliance Enforcement Actions, attached hereto and made a part hereof.

7. Assessment of Performance Levels.

   A. The CONTRACTOR shall perform inspections as directed in the previously stated Priority Order in paragraph 4, above, and assess performance levels monthly to determine its progress towards completion of each Task Assignment. Upon discovery of any problems that would delay or prevent the timely progress and completion of each Task Assignment, the CONTRACTOR shall notify the DEP Task Manager.

   B. Following the effective date of each Task Assignment, the CONTRACTOR should have completed the following percentage of the required routine compliance inspections unless otherwise indicated in the Task Assignment:

      (1) After four (4) months, thirty-three percent (33%) of inspections should have been completed.

      (2) After eight (8) months, sixty-six percent (66%) of inspections should have been completed.

      (3) After twelve (12) months, one hundred percent (100%) of inspection should have been completed.

   C. If the actual number of required routine compliance inspections falls below twenty percent (20%) for the fourth month, thirty percent (30%) for the fifth month, forty percent (40%) for the sixth month, forty-eight percent (48%) for the seventh month, fifty-seven percent (57%) for the eighth month, sixty-five percent (65%) for the ninth month, seventy-three percent (73%) for the tenth month or eighty-two percent for (82%) the eleventh month, then the CONTRACTOR shall submit a Corrective Action Plan, within ten (10) days of receipt of a written request from the DEP Task Manager, to the DEP Task Manager describing the steps that will be taken to meet the terms of the Task Assignment.

   D. If there is any indication that other required inspections or activities are not being performed, the DEP Task Manager may request the submission of a Corrective Action Plan.

   E. The DEP Task Manager shall be responsible for reviewing the plan and notifying the CONTRACTOR if the plan is approved or in need of revision.

   F. If the CONTRACTOR does not successfully implement the Plan as approved by the DEP Task Manager for the remaining months of the Task Assignment, the DEP may withhold further payment of monthly invoices until such time as the CONTRACTOR comes into compliance with those performance levels as outlined in paragraph 7.B., above.

   G. A completion rate of 100 percent is required for those activities described in Paragraph 3, above, and as set forth in each Task Assignment, unless otherwise indicated in the Task Assignment.

   H. In the event the CONTRACTOR is unable to meet 100% performance levels set forth in the Task Assignment, the DEP reserves the right to seek cost recovery according to the percentage of the amount identified in each executed Task Assignment, unless failure of the CONTRACTOR to perform is documented to be beyond the foreseeable control of the Contract (i.e. a force majeure event).

8. The DEP shall authorize the CONTRACTOR to provide services under this Contract utilizing the Task Assignment Notification Form, attached hereto and made a part hereof as Attachment B. The CONTRACTOR acknowledges that no work shall be performed until a Task Assignment authorizing work has been fully executed by the DEP and the CONTRACTOR. If, during the term of an executed Task Assignment, a modification of the Task Assignment is needed, the DEP may issue a new Task Assignment Form clearly marked with the original task number and the appropriate amendment number, detailing the revised description of the work to be performed. As with the original Task Assignment, all amendments to Task Assignments must be executed by both the DEP and the CONTRACTOR prior to the work being performed.

CONTRACTOR RESPONSIBILITIES

9. The CONTRACTOR shall administer the compliance verification program, provide technical assistance, and perform level 1 and Level 2 enforcement actions. Data generated from all inspections conducted under the direction of the DEP shall be entered into FIRST prior to the submittal of an invoice to the District. The CONTRACTOR shall also conduct "Discharge Prevention Response Certificate (DPRC) Inspections" (Guidance Document H) at all applicable facilities pursuant to Rule 62N-16.032, F.A.C.

10. The CONTRACTOR shall comply with all provisions of this Contract, verify facility compliance with Chapter 376, F.S., Chapters 62-761, 62-762, and 62N-16.032, F.A.C., and be knowledgeable of the differences between the state and federal environmental statutes and rules applicable to underground storage tanks.

11. The CONTRACTOR shall require that qualified individuals perform field inspections and that they receive training on Chapters 62-761, 62-762, and 62N-16.032, F.A.C., Chapter 376, F.S., RCRA Subtitle I standards and DEP enforcement procedures.

12. The CONTRACTOR shall provide a sufficient number of qualified staff to satisfactorily complete all the responsibilities included in this Contract. All individuals hired after the effective date of this Contract shall possess qualifications equivalent to DEP position levels as specified in this Contract.

13. All field inspectors and enforcement personnel shall attend and complete scheduled storage tank inspector training courses and pass any examinations. If the employee fails to pass, the employee may take the examination at the next offered training class. During this period the employee may continue to perform inspections. However, subsequent failure to provide certified inspectors will result in a reduction of the fixed price negotiated in the Task Assignment.

14. The CONTRACTOR shall determine the accurate latitude and longitude coordinates for each facility inspected using DEP-approved procedures (Source Water Assessment Program (SWAP) Webpoint) and ensure the proper entry of this data into the DEP inspection database.

15. The CONTRACTOR shall review closure reports filed by facility owners or operators to insure that the DEP's "Storage Tank System Closure Requirements" (Guidance Document C) have been followed. In cases where these requirements have not been met, the CONTRACTOR shall initiate Level 1 and Level 2 enforcement actions to compel compliance. In cases where these requirements have been met and none the of DEP's cleanup target levels have been exceeded, the CONTRACTOR shall issue a Closure Report Review Letter for the system or component described in the Closure Report indicating the Closure Report meets the requirements of Chapter 62-761 and/or 62-762, F.A.C. In cases where cleanup target levels have been exceeded, follow further direction from the DEP Task Manager.

16. The CONTRACTOR shall maintain files on regulated facilities for inspection reports, noncompliance letters, warning letters, or any other related enforcement documentation, telephone logs and written correspondence from the facility that may not be available in FIRST. In the event a case referral to

the DEP District Office for further enforcement is necessary, a case summary, a copy of any documents pertinent to the case that are not available in FIRST, and a letter of referral shall be submitted to the DEP District Office in accordance with the "Guidelines for Case Referrals" (Guidance Document I).

17. Facility files must be kept until the site has been determined closed. Once the facility has been closed for five (5) years, the records shall be sent to the DEP Contract Manager in Tallahassee for preservation, unless the CONTRACTOR is subject to more stringent local record retention requirements. Copies can be maintained by the CONTRACTOR at the CONTRACTOR's expense. If, for any reason, the DEP's contractual arrangement with the CONTRACTOR to perform the inspection program (through this Contract or any future contracts) ceases, the CONTRACTOR shall return all original facility files to the DEP Task Manager within 30 calendar days of Contract expiration or termination.

18. The CONTRACTOR shall provide complete copies of discharge packages (discharge reporting form, discharge inspection report, Site Assessment Request letter (if required)) to the DEP Task Manager and DEP Contract Manager within thirty (30) days of receipt of the reported discharge.

19. The CONTRACTOR shall provide attendance of at least one program staff member at scheduled meetings and at scheduled teleconferences, including the Tanks Conference. The DEP Task Manager may authorize attendance at a location other than the District Office. The CONTRACTOR shall provide attendance of additional staff members as requested by the DEP.

20. The CONTRACTOR shall maintain a current set of the reference standards as contained in Chapters 62-761 and 62-762, F.A.C.

21. The CONTRACTOR shall ensure that all field personnel receive the health and safety training required to meet OSHA standards (an initial 24 or 40 hour course within 6 months of employment under this Contract, followed by an annual 8 hour refresher course).

22. The CONTRACTOR shall supervise the Local Compliance Program with an individual at a minimum equivalent to the DEP's Environmental Specialist III personnel category.

23. The CONTRACTOR shall perform all clerical activities for the above-mentioned tasks, by an individual at a minimum equivalent to a Secretary Specialist level or higher.

24. The CONTRACTOR shall provide copies of applicable rules, inspection forms, and other program/public assistance information to the public and regulated interests. However, this provision does not authorize photocopying of reference documents in violation of copyright law.

25. The CONTRACTOR shall use recycled paper for all program correspondence and documents.

26. The CONTRACTOR shall maintain financial books, records, and documents directly pertinent to performance under this Contract in accordance with generally accepted accounting principles consistently applied. All books, records, and documents pertinent to performance under this Contract shall be maintained for the entire term of this Contract and for five years following the expiration or termination of this Contract. The DEP, the State, or their authorized representatives shall have access to such records for audit purposes during the entire term of this Contract and for five years following the expiration or termination of this Contract. A penalty of 8.3% of the current Task Assignment amount will be assessed for each year that shows insufficient record keeping.

27. The CONTRACTOR shall maintain a separate account (Trust Fund or Cost Center) within the CONTRACTOR's accounting system for the receipt and disbursement of funds provided under this Contract so as to trace and monitor Inland Protection Trust Fund (IPTF) expenditures.

28. The CONTRACTOR shall provide a Statement of Revenue, Expenses and Fund Balance utilizing the "Guidelines for Preparing Year End Financial Statement" (Guidance Document G) for the period of the executed Task Assignment within forty-five (45) days of payment of the twelfth invoice for the current Task Assignment. If the CONTRACTOR fails to timely provide a Statement of Revenue, Expenses and Fund Balance within the forty-five (45) day period, the CONTRACTOR will be assessed a five percent (5%) penalty based on the current Task Assignment amount. The penalty amount will be subtracted from Invoice Number 12 in the current Task Assignment Year. The CONTRACTOR is still obligated to provide the Statement of Revenue, Expenses and Fund Balance to the DEP even if the CONTRACTOR provides this statement after the 45-day deadline and is assessed the five percent (5%) penalty.

29. If the CONTRACTOR's fund balance is less than or equal to ten percent (10%) of its current year Task Assignment, the CONTRACTOR may retain the surplus provided that such surplus must be used pursuant to the provisions of this Contract, the Task Assignment and Section 376.3071, F.S. If the CONTRACTOR's fund balance is greater than ten percent (10%) of its current year Task Assignment amount, the CONTRACTOR shall refund to the DEP any and all amounts in excess of ten percent (10%) of the current year Task Assignment amount. However, the CONTRACTOR can submit to the DEP, with the Fund Balance Report, a written proposal to retain the funds that exceed the ten percent (10%) of the current year Task Assignment. The DEP, at its sole discretion, will then determine whether the CONTRACTOR may retain the funds greater that ten percent (10%) of the current year Task Assignment.

30. The CONTRACTOR shall not allocate funding to non-program activities outside the scope of this Contract or any Task Assignment. Sections 376.3071 and 376.11, F.S., prohibit the use of IPTF and Florida Coastal Protection Trust Fund (FCPTF) moneys for purposes other than those specified in these sections.

31. Access to DEP databases shall be made by using an Internet connection. Therefore, the CONTRACTOR is responsible for subscribing to and paying for all charges related to use of the services of a reputable Internet service provider. The CONTRACTOR must have a dedicated Internet line for FIRST.

32. Guidance Documents. The CONTRACTOR agrees that the services required under this Contract shall be performed in accordance with the guidance documents listed below in accordance with the provisions of this Contract. The CONTRACTOR acknowledges that these documents may be amended and the services required under this Contract shall be performed in accordance with the versions in effect at the time work is performed by the CONTRACTOR. The CONTRACTOR hereby acknowledges receipt of the following guidance documents:

A. Guidance Document A -- Storage Tank System Program Violation List
B. Guidance Document B -- Florida Inspection Reporting for Storage Tanks (FIRST) User Requirements
C. Guidance Document C -- Storage Tank System Closure Requirements
D. Guidance Document D -- Compliance Verification Program Local Program Review Form
E. Guidance Document E -- Contractual Services Invoice
F. Guidance Document F -- Level of Effort Guidance
G. Guidance Document G -- Guidelines for Preparing Year End Financial Statement
H. Guidance Document H -- Discharge Prevention Response Certificate (DPRC) inspections
I. Guidance Document I -- Guidelines for Case Referrals
J. Guidance Document J -- DEP Directive 923: Settlement Guidelines for Civil and Administrative Penalties

33. The CONTRACTOR shall provide a written response to the Program Review findings conducted in accordance with paragraph 42, below, and at a minimum, provide details on any corrective actions that will be implemented.

34. The CONTRACTOR shall submit a satisfactory Corrective Action Plan to the DEP Task Manager upon notification of a score below seventy-five (75) on the Program Review within fourteen (14) calendar days of notification of the score. Because a score below 75 reflects an unacceptable level of performance, if the CONTRACTOR receives a score below 75, a penalty of 8.3% of the current Task Assignment amount will be assessed. The penalty amount will be subtracted from Invoice Number 12 in the current Task Assignment Year.

35. The CONTRACTOR is responsible for the professional quality, technical accuracy, and coordination of all reports and other services furnished by the CONTRACTOR under this Contract. The CONTRACTOR shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its reports and other services.

DEP RESPONSIBILITIES

36. The DEP shall administer the "Storage Tank Training Course" to provide inspector training for all CONTRACTOR inspectors and enforcement personnel.

37. The DEP shall serve in an advisory capacity to the CONTRACTOR. The DEP shall make legal interpretations of DEP rules, which shall be binding with respect to the CONTRACTOR's ordinances to the extent that those ordinances adopt the provisions of Chapters 62-761 and 62-762, F.A.C., as required by this Contract.

38. The DEP shall review completed inspection reports when and as deemed necessary.

39. The DEP shall provide program and regulatory guidance for the CONTRACTOR. The DEP shall provide training in new technology and program management changes at the Annual Program and Supervisors' Meetings.

40. The DEP shall conduct enforcement activities for violations of Chapters 62-761 and 62-762, F.A.C., when case referrals are properly made and forwarded to the District Office in accordance with the "Guidelines for Case Referrals" (Guidance Document I).

41. The DEP shall provide information to the CONTRACTOR about DEP registered storage tank system equipment, alternate procedures (waivers, variances, or registrations), licensed Pollutant Storage Systems Contractors (PSSC), and Registered Precision Tank Testers.

42. At least once annually, the DEP shall perform a Program Review using the "Compliance Verification Program Local Program Review Form" (Guidance Document D), and provide a copy of the Program Review findings to the CONTRACTOR upon completion of the Program Review. The CONTRACTOR shall be notified at least fourteen (14) calendar days prior to a review of the CONTRACTOR's hard copy facility files so that the CONTRACTOR may make arrangements to have files and personnel available for the review as needed. The DEP may conduct inspections, including accompanied inspections and follow-up inspections, at any reasonable time. In addition, the DEP may also conduct facility file reviews through FIRST at any time. The DEP Task Manager may perform additional program reviews, as deemed necessary, to insure the required performance of the CONTRACTOR. The DEP Task Manager may forgo a Program Review for the next Task Assignment for a CONTRACTOR that receives a score of 95 or greater on the Program Review during the current Task Assignment.

TERM OF CONTRACT

43. This Contract shall become effective on the date of execution or July 1, 2007, whichever is later; and shall remain in effect until June 30, 2017. In accordance with Section 287.058(2), F.S., the CONTRACTOR shall not be eligible for reimbursement for services rendered prior to the execution date of this Contract and the execution of a Task Assignment. The DEP anticipates Task Assignments will be executed no later than July 1 of each year detailing the requirements for the

next twelve (12) month period. Task Assignment performance periods may not extend beyond the completion date of the Contract established above. This Contract may be renewed for an additional term not to exceed the original Contract period or three (3) years, whichever is longer. Renewal of this Contract shall be in writing and subject to the same terms and conditions of this Contract. All renewals are contingent upon satisfactory performance by the CONTRACTOR and the availability of funds.

NOTICES

44. Any and all notices shall be delivered to the parties at the following addresses:

Contractor	Department
Joseph Stilwell	Mr. Marshall Mott-Smith
Miami-Dade County	Department of Environmental Protection
Miami-Dade County DERM	Bureau of Petroleum Storage Systems
701 NW 1st Court, Suite 400	2600 Blair Stone Road, MS4525
Miami, Florida 33136	Tallahassee, Florida 32399-2400

COMPENSATION

45. For satisfactory performance, DEP agrees to compensate the CONTRACTOR on a fixed price basis as described by each executed Task Assignment. It is hereby understood and agreed by both parties that the compensation provided under this Contract shall not exceed the amount negotiated in each executed Task Assignment for each specified period. The DEP's calculation of the fixed price identified above is outlined in the executed Task Assignment Notification Form.

46. The State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature and continuation of other funding presently anticipated.

PAYMENTS

47. The CONTRACTOR shall submit monthly invoices in the amount specified in the executed Task Assignment. Each invoice shall be submitted using the "Contractual Services Invoice" (Guidance Document E). Each invoice is due no later than the 15th day of the month following the month of services. Travel expenses associated with the annual meeting, Tanks Program Supervisor's Meetings, and travel required for inspections, enforcement re-inspections, district coordination, training and monthly teleconferences are included in the monthly payment schedule and no additional travel expenses will be authorized. Each invoice must be submitted in detail sufficient for pre-audit and post-audit review. A final invoice for each Task Assignment must be submitted as directed by the DEP prior to the completion date of the end of the executed Task Assignment to assure the availability of funding for payment. The DEP shall pay all satisfactory invoices in accordance with Section 215.422, F.S. Two copies of each invoice shall be submitted to:

    Department of Environmental Protection
    Southeast District Office
    Attn.: Send to the DEP Task Manager's Attention
    400 Congress Avenue, Suite 200
    West Palm Beach, Florida 33401

48. Pursuant to Section 215.422, Florida Statutes, the DEP's Task Manager shall have five (5) working days, unless otherwise specified herein, to inspect and approve the services for payment; the DEP must submit a request for payment to the Florida Department of Financial Services within twenty (20) days; and the Department of Financial Services is given ten (10) days to issue a warrant. Days are calculated from the latter date the invoice is received or services received, inspected, and approved. Invoice payment requirements do not start until a proper and correct invoice has been received. Invoices which have to be returned to a contractor for correction(s) will result in a delay

the payment. A Vendor Ombudsman has been established within the Florida Department of Financial Services who may be contacted if a contractor is experiencing problems in obtaining timely payment(s) from a State of Florida agency. The Vendor Ombudsman may be contacted at 850-410-9724 or 1-800-848-3792.

49. In accordance with Section 215.422, Florida Statutes, the DEP shall pay the CONTRACTOR, interest at a rate as established by Section 55.03(1), Florida Statutes on the unpaid balance, if a warrant in payment of an invoice is not issued within forty (40) days after receipt of a correct invoice and receipt, inspection, and approval of the goods and services. Interest payments of less than $1 will not be enforced unless a contractor requests payment. The interest rate established pursuant to Section 55.03(1), Florida Statutes may be obtained by calling the Department of Financial Services, Vendor Ombudsman at the telephone number provided above or the DEP's Procurement Section at 850-245-2361.

REPORTS AND DELIVERABLES

50. The DEP Task Manager shall review the monthly invoice for accuracy and completeness and review such things as the number of inspections completed in the FIRST application before the monthly invoice is forwarded to the ***Bureau of Petroleum Storage Systems*** in Tallahassee, Florida for processing. The DEP has ten (10) working days from the receipt of all deliverables and reports to review the work performed by the CONTRACTOR during the invoice period. If the CONTRACTOR fails to perform as directed by the terms of this Contract, the DEP shall return the unpaid invoice and/or reports and deliverables to the CONTRACTOR documenting the areas in which the CONTRACTOR has failed to meets its contractual obligations.

EQUIPMENT

51. Upon satisfactory completion of this Contract, the CONTRACTOR may retain ownership of the non-expendable personal property or equipment purchased under this Contract. However, the CONTRACTOR shall complete and sign a Property Reporting Form, DEP 55-212, provided as Attachment D, and forward it along with the appropriate invoice to the DEP's Contract Manager. The following terms shall apply:

    A. The CONTRACTOR shall have use of the non-expendable personal property or equipment for the authorized purposes of the contractual arrangement as long as the required work is being performed.

    B. The CONTRACTOR is responsible for the implementation of adequate maintenance procedures to keep the non-expendable personal property or equipment in good operating condition.

    C. The CONTRACTOR is responsible for any loss, damage, or theft of, and any loss, damage or injury caused by the use of, non-expendable personal property or equipment purchased with state funds and held in his possession for use in a contractual arrangement with the DEP.

    D. In the event that the DEP determines a need to loan equipment needed for the completion of services under this Contract to the CONTRACTOR, a DEP Property Loan Agreement shall be completed and maintained in the Contract file.

    E. If the CONTRACTOR fails to perform its obligations under this Contract, the CONTRACTOR shall deliver possession and custody of all such equipment to the nearest District Office location, unless otherwise agreed, within thirty (30) calendar days of Contract termination.

MANAGEMENT

52. The DEP Contract Manager is Marshall T. Mott-Smith, Phone (850) 245-8842 or Suncom 205-8842. The CONTRACTOR's Contract Manager is Joseph Stilwell, Phone 305-372-6977. Each Task Assignment will identify the DEP Task Manager and the CONTRACTOR's Task Manager. All matters relating to a specific Task Assignment shall be directed to the DEP Task Manager for appropriate action or disposition. All matters relating to this Contract shall be directed to the DEP Contract Manager.

TERMINATION

53. Either party may terminate this Contract for its convenience by giving the other party thirty (30) days written notice. If termination is effected by the DEP, the CONTRACTOR shall be compensated for work satisfactorily completed and irrevocable commitments made. If termination is effected by the CONTRACTOR, the CONTRACTOR shall be compensated for work satisfactorily completed.

54. If the CONTRACTOR fails to perform in a timely and proper manner, in the judgment of the DEP, the DEP may terminate this Contract by thirty (30) days written notice, specifying the effective time/date of termination. In this event, the CONTRACTOR shall be compensated for any work satisfactorily completed.

55. This Contract may be terminated by the DEP for refusal by the CONTRACTOR to allow public access to all documents, papers, letters, or other material made or received by the CONTRACTOR in conjunction with this Contract, unless the records are exempt from Section 24(a) of Article 1 of the State Constitution and Section 119.07(1), Florida Statutes.

56. It is hereby understood and agreed that in the event the DEP makes a clear determination that the CONTRACTOR has breached this Contract to the extent that the CONTRACTOR is (at the sole discretion of the DEP) inadequate to administer the Storage Tank System Compliance Verification Program, compliance inspections, and preliminary enforcement activities under Chapters 62-761 and 62-762, F.A.C., and Chapter 376, F.S., for regulated storage tank systems in its jurisdiction, or that such program is being carried out in a manner inconsistent with the requirements of this Contract, the DEP may, as an alternative to termination of this Contract, and at the DEP's sole discretion, require corrective measures to be taken by the CONTRACTOR within a reasonable period of time, not to exceed 45 days. In the event the CONTRACTOR fails to take such necessary corrective action within the time required, the DEP may terminate this Contract in accordance with paragraph 54, above.

ADDITIONAL PROVISIONS

57. All services shall be performed by the CONTRACTOR to the satisfaction of the Secretary of the DEP or his/her designated representative.

58. The DEP and the CONTRACTOR may at any time, by written order designated to be a change order, make any change in the work within the general scope of the Contract (e.g., specifications, time, method or manner of performance, requirements, etc.). Changes to Task Assignment Notification Forms issued by the DEP shall be evidenced by an amendment to the Task Assignment as described in paragraph no. 8, above. All change orders are subject to mutual agreement of both parties and shall be evidenced in writing. Any change order, which causes an increase or decrease in the CONTRACTOR's cost or time, shall require an appropriate adjustment and modification (amendment) to this Contract.

59. The CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, which would conflict in any manner or degree with the performance of services required.

60. The CONTRACTOR warrants that no person or agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee except bona fide employees or agencies maintained by the CONTRACTOR for the purpose of securing business.

61. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for Category Two for a period of 36 months from the date of being placed on the convicted vendor list.

62. The CONTRACTOR shall comply with all federal, state and local rules and regulations in providing services to the DEP under this Contract. The CONTRACTOR acknowledges that this requirement includes compliance with all federal, state and local health and safety rules and regulations.

63. No delay or failure to exercise any right, power or remedy accruing to either party upon breach or default by either party under this Contract, 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.

64. This Contract is an exclusive contract for services and the CONTRACTOR may not be subcontract, assign, or transfer, in whole or in part, any work under this Contract without the prior written consent of the DEP.

65. Discriminatory Practices.

    A. No person, on the grounds of race, creed, color, national origin, age, sex, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Contract.

    B. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, and may not submit bids on leases of real property to a public entity. The Florida Department of Management Services is responsible for maintaining the discriminatory vender list and intends to post the list on its website. Questions regarding the discriminatory vender list may be directed to the Florida Department of Management Services, Office of Supplier Diversity at 850-487-0915.

66. To the extent required by law, the CONTRACTOR will be self-insured against, or will secure and maintain during the life of this Contract, Workers' Compensation Insurance for all its employees connected with the work under this Contract. In case any work is subcontracted, the CONTRACTOR shall require the subcontractor similarly provide Workers' Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the CONTRACTOR. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation law. In case any class of employees engaged in hazardous work under this Contract is not protected under Workers' Compensation statutes, the CONTRACTOR shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the DEP, for the protection of his employees not otherwise protected.

67. For purposes of this Contract, the CONTRACTOR is not authorized to issue variances or waivers pursuant to Section 120.542, F.S., to issue declaratory statements pursuant to Section 120.565, F.S., or the County equivalent of these provisions where the affect would be to issue a variance, waiver or declaratory statement of a state law or rule that has been adopted as a County ordinance.

68. Nothing in this Contract shall be considered an approval by the DEP of equivalent, more stringent or extensive local programs pursuant to Section 376.317, F.S.

LIABILITY

69. The CONTRACTOR, as an independent contractor and not an agent, representative, or employee of the DEP, agrees to carry adequate liability and other appropriate forms of insurance. The DEP shall have no liability except as specifically provided in this Contract.

70. Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, F.S.

SEVERABILITY

71. In the event one or more provisions of this Contract are declared invalid, the balance of this Contract shall remain in full force and effect.

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ENTIRE AGREEMENT

It is hereby understood and agreed that this Contract states the entire agreement and that the parties are not bound by any stipulations, representations, agreements, or promises, oral or otherwise, not printed in this Contract. This Contract may be modified by written amendment executed by the parties hereto.

MIAMI-DADE COUNTY
Miami-Dade County DERM

By: _____
*Title

Date: _____

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

_____
Chief, Bureau of Petroleum Storage Systems

Date: 4-20-07

_____
Marshall Mott-Smith, DEP Contract Manager

_____
DEP Contracts Administrator

Approved as to form/legality:

_____
DEP Assistant General Counsel

*For contracts with governmental boards/commissions: If someone other than the Chairman signs this Contract, a resolution, statement or other document authorizing the person to sign the Contract on behalf of the CONTRACTOR must accompany the Contract.

List of Attachments included as part of this Contract:

Attachment	Description (include number of pages)
Attachment A	Standard Contract Definitions (5 pages)
Attachment B	Task Assignment Notification Form (1 Page)
Attachment C	Petroleum Storage Tank System Compliance Enforcement Actions (3 Pages)
Attachment D	Property Reporting Form (1 Page)

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ATTACHMENT A

STANDARD CONTRACT DEFINITIONS

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
Storage Tank Program
Contractor

Clean Closure Review Letter

A letter sent by the contractor to storage tank system owners notifying them that their Closure Assessment Report has been reviewed and that no cleanup is required based on the data submitted.

Cleanup Notification Letter

A letter sent by the contractor based on the review of Closure Assessment Reports or Discharge Inspections informing owners of their responsibility to proceed with a cleanup of their site in accordance with Chapter 62-770, F.A.C., or wait for Department authorization to proceed with cleanup in accordance with Section 376.30711, Florida Statues (F.S.)

Closure Event

The closure of a tank(s) or component(s) from a single excavation or location (Aboveground Storage Tank) during a continuous time period.

Closure Inspection

An inspection performed during or after a storage tank system closure event in order to determine if the system was closed in accordance with Department rules. Additional site visits may be needed to complete the closure inspection form for a closure event. No compliance inspection will be performed at a closed facility after a closure inspection.

Complaint

An expression of dissatisfaction received by DEP or local government personnel from a person who is concerned about a storage tank system installation, removal, operation, or contamination situation.

Complaint Investigation

All work associated with responding to verbal or written complaints and inquiries including the investigation and reporting of possible violations of storage tank system rules and suspected releases. The contractor shall conduct complaint investigations for any complaints received from any source or as requested by the Department. The investigation should include a complete and thorough Chapter 62-761 and 62-762, F.A.C. inspection for regulated facilities as appropriate. Inspections of regulated and unregulated facilities should be conducted using the FIRST system.

Complaint Referral

If it is determined to be beyond the scope of authority of the contractor, a complaint may be referred to the Department District Office or other appropriate agency. The referrals shall include copies of all forms and documented findings of the investigation as required by the Department.

Compliance Verification Program

A locally administered program for the inspection of storage tanks as authorized in 376.303(1)(a) F.S. The purpose of this program is to determine and enforce compliance with Chapter 62-761, F.A.C.

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Compliance without Enforcement (CWOE)

A return to full compliance without formal enforcement. Full compliance can be verified through a re-inspection, closure or installation inspection, receipt of records in the county office, or the receipt of any other information, through the mail, during a meeting, or a site visit, that indicates a facility, previously determined to be out-of-compliance is now in-compliance. Once a case has been referred to the Department's District Office for formal enforcement, it is no longer a CWOE.

Contractor-owned Facility

A regulated facility owned or directly controlled by the local county government (the Contractor).

Discharge Inspection

An inspection performed by the contractor as a result of a notification of a discharge from a regulated facility or a potentially regulated facility. A compliance inspection where a discharge is initially noted will only be counted as a compliance inspection and a Discharge Report Form inspection would not be required. A discharge discovered at any other time would require a separate inspection within ten (10) working days of reporting.

Ecosystems Management and Restoration Trust Funds

Any fund with disbursements made in a manner consistent with the intent of Section 403.1651, Florida Statutes.

Environmental Specialist I

An Environmental Specialist I must have:

-A bachelor's degree from an accredited college or university with a major in one of the physical or natural sciences or engineering; or
-A master's degree from an accredited college or university in one of the physical or natural sciences or engineering; or
-Professional experience in environmental protection, regulation or health; one of the physical or natural sciences; or engineering can substitute on a year-for-year basis for the required college education.

Note: Substitutions for qualified personnel can be made at the written discretion of the Department based on the tenure of professional experience in a directly related field.

Environmental Specialist II

An Environmental Specialist II must have:

-A bachelor's degree from an accredited college or university with a major in one of the physical or natural sciences or engineering and two years of professional experience in environmental protection, regulation or health; one of the physical or natural sciences; or engineering; or
-A master's degree from an accredited college or university in one of the physical or natural sciences or engineering and one year of professional experience as described above; or
-A doctorate degree from an accredited college or university in one of the physical or natural sciences or engineering; or
-One year of experience as an Environmental Specialist I with the State of Florida; or
-Professional experience in environmental protection, regulation or health; one of the physical or natural sciences; or engineering can substitute on a year-for-year basis for the required college education.

Note: Substitutions for qualified personnel can be made at the written discretion of the Department based on the tenure of professional experience in a directly related field.

Environmental Specialist III

An Environmental Specialist III must have:

-A bachelor's degree from an accredited college or university with a major in one of the physical or natural sciences or engineering and three years of professional experience in environmental protection, regulation or health; one of the physical or natural sciences; or engineering; or
-A master's degree from an accredited college or university in one of the physical or natural sciences or engineering and two years of professional experience as described above; or
-A doctorate degree from an accredited college or university in one of the physical or natural sciences or engineering; or
-Two years of experience as an Environmental Specialist I or higher with the State of Florida; or
-Professional experience in environmental protection, regulation or health; one of the physical or natural sciences; or engineering can substitute on a year-for-year basis for the required college education.

Note: Substitutions for qualified personnel can be made at the written discretion of the Department based on the tenure of professional experience in a directly related field.

Environmental Supervisor II

An Environmental Supervisor II must have:

-A bachelor's degree from an accredited college or university with a major in one of the physical or natural sciences or engineering and three years of professional experience in environmental protection, regulation or health; one of the physical or natural sciences; or engineering; or
-A master's degree from an accredited college or university in one of the physical or natural sciences or engineering and two years of professional experience as described above; or
-A doctorate degree in one of the physical or natural sciences or engineering; or
-Two years of experience as an Environmental Specialist I or higher with the State of Florida; or
-Professional experience in environmental protection, regulation of health; one of the physical or natural sciences; or engineering can substitute on a year-for-year basis for the required college education.

An Environmental Supervisor II must supervise at least two professional environmental positions to be classified as an Environmental Supervisor II. If this criterion is not met, the position must be classified as an Environmental Specialist III (see requirements above).

Note: Substitutions for qualified personnel can be made at the written discretion of the Department based on the tenure of professional experience in a directly related field.

Florida Inspection Reporting of Storage Tanks (FIRST)

FIRST is an information gathering application utilized by inspectors in the field to input data on the conditions of any facility state-wide? The information is collected by the inspectors in all 67 counties using a laptop computer and then transferred to Tallahassee via the internet multiple times daily.

Installation Inspections

The initial inspections performed at new facilities at the time of installation in order to determine if the storage systems will be installed in accordance with Department rules.

Level 1 Enforcement

The minimum level of enforcement responsibility that a local government must perform as part of the Compliance Verification Program. The Department has the responsibility for the lead in enforcement actions. The contractor shall follow department enforcement guidelines and updates thereto as specified in the DEP Enforcement Manual. The contractor is responsible for:

1. Issuing Noncompliance and Warning Letters.
2. Conducting or participating in informal compliance or technical meetings with owner/operators to resolve violations.
3. Documentation of phone calls, meetings, etc., to prepare enforcement referrals to the Department.
4. On site inspections and re-inspections.
5. Testifying at hearings, witnessing as requested.

Level 2 Enforcement

The highest level of enforcement for a contracted local government where the contractor has the enforcement lead and enforcement is carried out under the contractor's ordinance. The contractor must also:

1. Take the lead in the discovery process.
2. Be responsible for judicial remedies, including the determination of civil penalties, injunctive relief, and assessment of damages.
3. Complete Consent Orders, Notices of Violation, and Final Orders.
4. Perform post judgment enforcement activities.
5. Obtain inspection warrants as needed.

Non-compliance Letter

A letter sent to a facility owner/operator after discovery of a violation or problem at a facility.

Public Assistance

Public assistance includes all work related to providing technical, regulatory and other information to citizens, government officials, associations, planning councils, and consultants in order to implement the storage tank program for above and underground storage tank systems. Examples include rule interpretation meetings or calls, speeches, presentations, and meetings with local officials.

Regulated Chapter 62-761 and 62-762, F.A.C. Facilities

A regulated facility, which has at least one storage tank system that stores a regulated substance that is either in-service, temporarily out-of-service, or unmaintained, and includes federal facilities.

Registered Improperly Closed Facility

A facility with one or more storage tank systems, which have been registered as being closed; where there is no information or confirmation regarding the closure. If there are regulated active tanks at this facility it should be counted under the regulated (Chapter 62-761 and 62-762, F.A.C.) facilities category. These facilities should only be inspected once and are normally only counted during the first contract year if applicable.

Re-inspection

A follow-up inspection performed by the contractor to verify correction of noncompliance items requiring verification at the site for storage tank system rules. Re-inspections are required for all violations identified as having a moderate or major potential for harm to the environment and moderate or major extent of deviation from the regulations, as references in the Storage Tank Penalty Guidelines and Assessments Memo. All violations, regardless of severity involving notification or reporting will not require a re-inspection.

Routine Compliance Inspection

An inspection performed at a Chapter 62-761 or 62-762, F.A.C. regulated facility during the contract period, for which a Storage Tank Facility Compliance Report Inspection Form has been completed. Routine compliance inspections do not include enforcement-related re-inspections.

1. Unregistered Facility Compliance Inspection

A routine compliance inspection conducted at a site that contains one or more petroleum storage systems that are regulated under Chapter 62-761 or 62-762, F.A.C. and has not been registered with DEP as a regulated facility.

Secretary Specialist

One year of secretarial or office clerical experience and attainment of a typing score of at least 35 correct words per minute on the typing test administered by an office of the Job Service of Florida, the state employment service of another state, or the central personnel agency of another state. Possession of a Certified Professional Secretary Certificate; or College education can substitute at the rate of 30 semester or 45 quarter hours for the year of required experience; or Vocational/technical training in the area of secretarial science or office/business studies can substitute at the rate of 720 classroom hours for the year of required work experience; or A high school diploma or its equivalent can substitute for the one year of work experience.

Warning Letter

A formal letter sent certified mail to a facility owner/operator when violations have not been resolved as a result of a noncompliance letter or if the violation merits more stringent enforcement. These letters should follow a format approved by DEP's Office of General Counsel.

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Attachment B

Florida Department Of Environmental Protection
Task Assignment Notification Form for Dade County

Contract No. GC678 Task No. _____ Amendment No. ____ Date _____

Performance Period: Effective the date of execution of this Task Assignment or July 1, _____ whichever is later, and shall remain in effect until June 30, _____.

Description: (Additional Pages May be Utilized)

_____

_____

_____

Payment Schedule:

Task Managers:

DEP Task Manager:_____ Phone: _____

Contractor Task Manager:_____ Phone:_____

Authorization:

_____ _____
DEP Contract Manager Date

_____ _____
Contractor's Contract Manager Date

_____ _____
DEP Budget Representative Date

Funding:

Org. Code	E.O.	Object Code	Module	Special Category	Year	Amount
37						$
37						$

Notes:

CC: DEP Procurement Section (MS 93)
Finance & Accounting, Contracts Disbursement Section (MS 78) - 2 Copies
DEP Task Manager
Contractor Task Manager

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ATTACHMENT C

Petroleum Storage Tank System
Compliance Enforcement Actions

The CONTRACTOR agrees to provide the following services:

1. Perform Level 1 and Level 2 enforcement activities for all facilities in Dade County to verify and require compliance with the provisions of Chapter 376, Florida Statutes (F.S.), and Chapters 62-761 and 62-762, Florida Administrative Code (F.A.C.) or the county's equivalent regulations.

2. Level 1 enforcement actions.

   A. These actions shall include investigation and documentation of violations of Chapters 62-761 and 62-762, F.A.C., or the county's equivalent regulations, preparation of noncompliance letters and related activities as described in Attachment A, "Standard Contract Definitions," and in accordance with the "Storage Tank System Program Violation List" (Guidance Document A) and "Level of Effort Guidance" (Guidance Document F).

   B. An individual(s) in a position equivalent to an Environmental Specialist II level or higher shall conduct Level 1 enforcement activities. Noncompliance letters may be prepared and sent by an individual(s) at the Environmental Specialist I level under the direction of an individual at the Environmental Specialist II level or higher.

   C. All enforcement documents shall be on DEP forms, in DEP format, or have DEP approval.

   D. All noncompliance letters shall be issued through FIRST in such a way as to ensure the database's capture of these activities for report purposes.

   E. Any penalties assessed under this Attachment shall be in accordance with "DEP Directive 923: Settlement Guidelines for Civil and Administrative Penalties" (Guidance Document J).

3. Level 2 enforcement actions.

   A. These actions shall include initiation and completion of administrative and judicial enforcement actions as lead party; preparing, delivering, and executing enforcement documents including Warning letters, Consent Orders, Notices of Violation, and Final Orders; taking lead responsibility in the discovery process; determining appropriate judicial remedies, including civil penalties, injunctive relief, and assessment of damages; and performing post-judgment enforcement activities.

   B. All Level 2 enforcement actions shall be conducted under the supervision of an attorney licensed to practice law in the State of Florida and employed by the CONTRACTOR.

   C. All enforcement documents shall be on DEP forms, in DEP format, or have DEP approval unless documents are being filed as part of a legal proceeding in which case the rules of procedure for the body before which the legal proceeding is taking place shall apply.

   D. All noncompliance letters shall be issued through FIRST in such a way as to ensure the database's capture of these activities for report purposes.

   E. Any penalties assessed under this Attachment shall be in accordance with "DEP Directive 923: Settlement Guidelines for Civil and Administrative Penalties" (Guidance Document J).

4. The CONTRACTOR must perform the enforcement actions specified in this Attachment under its own ordinances. Therefore, the CONTRACTOR must have and maintain provisions adopting Chapters 62-761 and 62-762, F.A.C., or their equivalent, and penalty authority equivalent to that set forth in Sections 403.141 and 403.161, F.S., as their own local ordinances during the term of this Contract. Failure to maintain such requirements shall result in the unilateral termination of this Contract by the DEP.

5. The CONTRACTOR must maintain the administrative organization, staff, financial and other resources necessary to effectively administer the requirements of this Attachment. Failure to do so is a material breach of this Contract.

6. This Attachment specifically does not include actions associated with the cleanup or enforcement of County-owned or operated petroleum storage systems or any discharge(s) associated with them.

7. If there is any indication that enforcement actions are not being performed or are inadequate; the DEP Task Manager may request the submission of a Corrective Action Plan. The DEP Task Manager shall be responsible for reviewing the plan and notifying the CONTRACTOR if the plan is approved or in need of revision.

CONTRACTOR RESPONSIBILITIES

8. The CONTRACTOR shall submit progress reports quarterly to the DEP Contract Manager and the DEP Task Manager. Such reports shall include a summary listing the status of each site's enforcement activities, if any, for the quarter.

9. The CONTRACTOR shall maintain files on all regulated facilities for inspection reports, noncompliance letters, warning letters, notices of violation, consent orders, final orders or any other related enforcement documentation, telephone logs and written correspondence from the facility. No later than 7 days following termination of this Contract, the CONTRACTOR shall deliver all documents related to active enforcement actions described in paragraphs 2 and 3 of this Attachment to the DEP Task Manager if this has not been done prior to this date.

10. The CONTRACTOR shall enter information regarding its compliance and enforcement activities as instructed by Guidance Document B.

11. For all hearings challenging agency actions initiated under this Attachment, the CONTRACTOR shall be responsible for preparation for the hearings, appearance at the hearings, discovery and the submittal of all pleadings to the hearing officer. In addition, the CONTRACTOR is responsible for all awards of costs and attorney fees awarded against the CONTRACTOR as a result of actions taken pursuant to this Contract.

12. The CONTRACTOR shall perform all clerical and data entry enforcement activities for the above-mentioned tasks.

DEPARTMENT RESPONSIBILITIES

13. The DEP shall provide program and regulatory guidance for the CONTRACTOR.

14. At the discretion of the DEP, the DEP may perform enforcement actions which would otherwise be performed by the CONTRACTOR:

    A. Where there is extensive enforcement history by the DEP for a particular site or sites that where deviation from the terms of this Attachment would result in more efficient administration of the enforcement program;

    B. Where potential for appearance of a conflict of interest could be resolved by deviation from the terms of this Attachment;

    C. In case of emergencies, such as a natural disaster; or

D. Upon the mutual agreement of the DEP and the CONTRACTOR.

15. The DEP shall perform all enforcement activities at CONTRACTOR-owned or operated petroleum storage systems.

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ATTACHMENT D

PROPERTY REPORTING FORM FOR DEP CONTRACT NO. GC678
(For Property With Contractor Assigned Property Control Numbers)

CONTRACTOR: List non-expendable equipment/personal property* costing $1,000 or more purchased under the above Contract. Also list all upgrades* under this contract, costing $1,000 or more, of property previously purchased under a DEP contract (identify the property upgraded and the applicable DEP contract on a separate sheet). Complete the serial no./cost, location/address and property control number columns of this form. The Contractor shall establish a unique identifier for tracking all personal property purchased under this Contract and shall report the inventory of said property, on an annual basis, to the Department's Project Manager, by DEP Contract number, no later than January 31st for each year this Contract is in effect.

DESCRIPTION	SERIAL NO./COST**	LOCATION/ADDRESS	CONTRACTOR ASSIGNED PROPERTY CONTROL NUMBER

*Not including software. **Attach copy of invoice, bill of sale, or other documentation to support purchase.

CONTRACTOR:	Contractor's Project Manager:	Date:

BELOW FOR DEP USE ONLY	
DEP CONTRACT MANAGER:	**Maintain this document with a copy of the invoices supporting the cost of each item identified above in your Contract file. If the Contract is a cost reimbursement Contract, make sure to send invoices supporting the cost of the items to Finance and Accounting for the processing of the Contractor's invoice for payment.**
DEP Contract Manager Signature:	Date:

DEP FINANCE AND ACCOUNTING: No processing required by Finance & Accounting as the Contractor is responsible for retaining ownership of the equipment/property upon satisfactory completion of the Contract.
DEP PROPERTY MANAGEMENT: No processing required by the Property Management section as the Contractor will retain ownership of the equipment/property upon satisfactory completion of the Contract.

MIAMI-DADE COUNTY

ATTACHMENT E

Office of the County Manager
111 NW 1st Street • Suite 2910
Miami, Florida 33128-1994
T 305-375-5311 F 305-375-1262

miamidade.gov

ADA Coordination
Agenda Coordination
Animal Services
Art in Public Places
Audit and Management Services
Aviation
Building
Building Code Compliance
Business Development
Capital Improvements
Citizens' Independent Transportation Trust
Commission on Ethics and Public Trust
Communications
Community Action Agency
Community & Economic Development
Community Relations
Consumer Services
Corrections & Rehabilitation
Cultural Affairs
Elections
Emergency Management
Employee Relations
Empowerment Trust
Enterprise Technology Services
Environmental Resources Management
Fair Employment Practices
Finance
Fire Rescue
General Services Administration
Government Information Center
Historic Preservation
Homeless Trust
Housing Agency
Housing Finance Authority
Human Services
Independent Review Panel
International Trade Consortium
Juvenile Services
Medical Examiner
Metro-Miami Action Plan
Metropolitan Planning Organization
Park and Recreation
Planning and Zoning
Police
Procurement Management
Property Appraisal
Public Library System
Public Works
Safe Neighborhood Parks
Seaport
Solid Waste Management
Strategic Business Management
Team Metro
Transit
Task Force on Urban Economic Revitalization
Vizcaya Museum And Gardens
Water & Sewer

State of Florida
Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Re: DEP Contract No. GC678

To Whom it May Concern:

Enclosed herewith is DEP Contract No. GC678. Please be advised that, with respect to Paragraph 67 therein, the Code of Miami-Dade County, Florida, does not have an equivalent of Section 120.542, F.S. and, therefore, this provision would be inapplicable to Chapter 24 of the Code of Miami-Dade County, Florida. Thank you.

Sincerely,

_____

County Mayor or Designee

MIAMI-DADE COUNTY
Delivering Excellence Every Day