

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

| | | |
|------------------------------|---|----------------------|
| STATE OF FLORIDA, DEPARTMENT |) | IN THE OFFICE OF THE |
| OF ENVIRONMENTAL PROTECTION |) | SOUTHEAST DISTRICT |
| |) | |
| v. |) | OGC FILE NO. 16-1487 |
| |) | |
| CITY OF FORT LAUDERDALE |) | |
| _____ |) | |

CONSENT ORDER

This Consent Order (Order) is entered into between the State of Florida Department of Environmental Protection (Department) and the City of Fort Lauderdale (Respondent) to reach settlement of certain matters at issue between the Department and the Respondent.

The Department finds and the Respondent neither admits nor denies the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida’s air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes (F.S.), and the rules promulgated and authorized in Title 62, Florida Administrative Code (F.A.C.). The Department has jurisdiction over the matters addressed in this Consent Order.

2. The Respondent is a municipal corporation in the State of Florida and a person within the meaning of Section 403.031(5), F.S.

3. The Respondent is the owner and is responsible for the operation of the following:

a) The G.T. Lohmeyer Wastewater Treatment Plant, a 56.6 million gallons per day, pure oxygen activated sludge facility with secondary effluent disposed of via 5 deep injection wells (Facility). The Facility is operated under Wastewater Permit No. FLA041378-014 (Permit), which was issued by the Department on May 4, 2016, and will expire on September 6, 2021. The Facility is located at 1765 SE 18th Street, Fort Lauderdale, Florida, 33309, in Broward County, Florida (Property). The Respondent owns the Property on which the Facility is located.

b) The domestic wastewater collection and transmission system (Collection System) serves the Respondent and its customers. The Collection System delivers the collected wastewater to the Facility for treatment and disposal.

4. The Department makes the following findings of fact and conclusions of law to which the Respondent neither admits nor denies:

a) During the period from January 1, 2014 to the effective date of this Consent Order, the City released untreated wastewater from the Collection System into surface waters and/or groundwaters of the State as follows:

| Date | Volume (gallons) | Date | Volume (gallons) | Date | Volume (gallons) | Date | Volume (gallons) |
|-----------|------------------|----------|------------------|----------|------------------|----------|------------------|
| 02/05/17 | 123,041 | 12/30/16 | 17,460 | 10/29/15 | 177,250 | 12/22/14 | 73,815 |
| 4/28/17 | 1,500 | 12/19/16 | 145,887 | 10/26/15 | 100,965 | 11/16/14 | 4,200 |
| 4/30/17 | 1,350 | 12/17/16 | 2,545,560 | 10/23/15 | 279,930 | 07/16/14 | 46,575 |
| 5/19/17 | 9,874 | 12/01/16 | 4,820 | 10/20/15 | 13,500 | 07/10/14 | 24,480 |
| 5/26/17 | 154,270 | 07/18/16 | 79,800 | 10/14/15 | 1,000 | 05/18/14 | 212,500 |
| 6/14/17 | 3,000 | 06/23/16 | 10,620,000 | 10/08/15 | 2,000 | 05/06/14 | 4,000 |
| 6/19/17 | 3,900 | 06/23/16 | 3,217,501 | 09/28/15 | 76,308 | 03/31/14 | 1,600 |
| 6/30/17 | 3,000 | 6/23/16 | 852,499 | 09/20/15 | 2,000 | | |
| 8/4/2017 | 2,000 | 06/22/16 | 1,000 | 09/06/15 | 10,000 | | |
| 8/28/2017 | 100,000 | 03/18/16 | 94,828 | 08/19/15 | 8,000 | | |
| 8/30/2017 | 1,000 | 02/16/16 | 1,820,000 | 07/31/15 | 3,600 | | |
| 8/31/2017 | 23,730 | 02/14/16 | 1,000 | 07/05/15 | 5,000 | | |
| | | 01/07/16 | 6,525 | 06/29/15 | 3,335 | | |
| | | | | 05/09/15 | 50,400 | | |
| | | | | 04/30/15 | 25,000 | | |
| | | | | 01/26/15 | 1,500 | | |
| | | | | 01/22/15 | 12,900 | | |

b) The Department finds that the foregoing releases in Paragraph 4(a) violate Rule 62-604.130, F.A.C.

5. This Consent Order has been entered into by the Respondent for the purposes of settlement only. Accordingly, neither the recitals nor the Department's findings in this Consent Order, nor the terms and conditions of this Consent Order, nor the Respondent's compliance with those terms and conditions, shall be construed in any legal or administrative action, proceeding

or litigation, as an admission that the Respondent has violated any statute, regulation, or ordinance or has otherwise committed a breach of any duty at any time, or of any fact, inference or conclusion of law.

Having reached a resolution of the matter, the Respondent and the Department mutually agree and it is hereby **ORDERED**:

6. Respondent shall comply with the following corrective actions within the stated time periods:

a) No later than February 28th, 2018, the Respondent shall replace approximately 1900 linear feet (lf) of 12” diameter force main at high risk of failure along Las Olas Blvd. The cost of this project is estimated at \$1,500,000.00.

b) No later than May 31st, 2018, the Respondent shall replace approximately 11,620 lf of failing 30” diameter force main that connects Repump Station A, located on Sistrunk Blvd, to the force main located at the intersection of SW 6th Ave and 7th St. The cost of this project is estimated at \$8,700,000.00.

c) No later than September 30th, 2020, the Respondent shall complete the pump station rehabilitation and replacement projects listed in *Exhibit A: Phase I Projects*, in order to facilitate existing flows capacity and future projected increase in demands.

d) No later than September 30th, 2020, the Respondent shall complete the infiltration/inflow (I/I) projects listed in *Exhibit B: Phase I Projects*, in order to reduce flows and lower peak demands and stresses on the system during rain events.

e) No later than September 30th, 2026, the Respondent shall complete the following force main rehabilitation projects listed in *Exhibit C of Phase II Projects*, in order to repair and/or replace the infrastructure with the highest risk of failure.

f) **Existing Schedule:** Within 90 days of the effective date of this Consent Order, the Respondent shall provide to the Department the existing schedule for repair, upgrade, or replacement of existing Collection System assets during the next 2 years, including schedules for repair, upgrade, or replacement of the existing force mains, gravity mains, isolation and other control valves, air release valves, access and conflict manholes, and pump stations.

g) **Mapping Plan:** Within 9 months of the effective date of this Consent Order, the Respondent shall submit a Plan to the Department for review and comment detailing

how the Respondent will develop a complete map of the existing Collection System within the City's geographic boundaries, including all existing or in-construction force mains, gravity mains, isolation and other control valves, air release valves, access and conflict manholes, pump stations, and directional flow routes of each of these components to pump stations and the receiving Facility. The Department will provide comments on the Mapping Plan within 30 days of submittal by Respondent. Mapping will include both existing and under-construction components. Directional flows, including flows to any alternate Facility not belonging to the Respondent, will be shown on the maps. Inactive mains and related appurtenances with shut-off valves should be illustrated and highlighted to define their unique operationally inactive status. Maps will be maintained in such a manner that they can be accessed quickly and easily by maintenance and repair crews at all times and from multiple locations, to facilitate prompt and efficient responses to emergencies. As new construction is completed, the Respondent will incorporate as-built drawings of the new components into the maps. Within 21 months of the effective date of this Consent Order, the Respondent shall certify to the Department in writing that mapping is complete in accordance with the terms of this paragraph. Respondent shall contemporaneously provide the Department with a description of the storage and retrieval methods and the availability of the maps to City field staff.

h) **Force Main Condition Assessment:** Within 10 months of the effective date of this Consent Order, the Respondent shall submit to the Department for review and comment a plan for completing an assessment of the current condition of all force mains in the collection system within the Respondent's jurisdiction, in sufficient detail that the resulting assessment can be used to schedule improvements of aging or deteriorating pipes, connections, valves, and appurtenances. The plan shall include the methods to be used and a schedule for conducting the assessment. The Department will provide comments on the Force Main Condition Assessment within 30 days of submittal by Respondent. The final completion date for the assessment shall be no later than 18 months from the date of Respondent's receipt of Department comments on the plan. Within 60 days of completion of the assessment, the Respondent shall submit to the Department a report summarizing the results of the condition assessment.

i) **Asset Management and CMOM Program Development Plan:** Within 11 months of the effective date of this Consent Order, the Respondent shall submit for

Department review and comment a plan to develop an Asset Management and Capacity, Management, Operations and Maintenance Program (AM and CMOM Program). The Department will provide comments on the AM and CMOM Plan within 30 days of submittal by Respondent. The plan shall describe how the Respondent will develop the AM and CMOM Program, including the items required in Subpara. 6(k) below, and follow the Environmental Protection Agency's (EPA) guidance in the following references, available along with additional references via www.epa.gov:

- EPA 305-B-05-002, *Guide for Evaluating Capacity, Management, Operation, and Maintenance (CMOM) Programs at Sanitary Sewer Collection Systems*
- EPA 816-F-08-014, *Asset Management: A Best Practices Guide*

j) **Capacity Evaluation:** Within 20 months of the effective date of this Consent Order, the Respondent shall complete an evaluation of the capacity of the Collection System, including all existing force mains, gravity mains, and pump stations. Within 22 months of the effective date of this Consent Order, the Respondent shall submit to the Department a report summarizing the results of the capacity evaluation, specifically identifying any assets with insufficient capacity for current and known projected demands over the next 10 years.

k) **Asset Management and CMOM Program:** Within 18 months of Respondent's receipt of the Department's comments on the AM and CMOM Program Development Plan required in Subpara. 6(i) above, the Respondent shall submit for Department review and comment the written AM and CMOM Program for ongoing management of the Collection System. The Department will provide comments on the AM and CMOM Program within 30 days of submittal by Respondent. The Program shall be consistent with the EPA guidance referenced in Subpara. 6(i) above, and shall include the following:

- i) a description of grease trap ordinance requirements and the compliance monitoring and enforcement program conducted by the Respondent;
- ii) a description of how and when information from the mapping, capacity evaluation, force main condition assessment, manufacturer's maintenance and replacement recommendations, spill data, gravity sewer information, and other pertinent sources will be stored, periodically updated, and used in the ongoing Program;
- iii) a description of how repairs, upgrades, and replacement of

Collection System assets will be determined to be needed, prioritized, authorized, and funded, with priority given to those assets identified as critical within the City's Master Plan.

l) **Asset Management and CMOM Program Schedules:** At the time Respondent submits the Asset Management and CMOM Program to the Department for review and comment, Respondent shall also submit for Department review and approval (the Department shall provide a written response to the Respondent within 30 days of receipt) the Asset Management and CMOM Program Schedules listed below:

i) a schedule for implementing the AM and CMOM Program, including when any software upgrades or integrations needed for initial implementation of the Program will be completed and put into service, when databases the software relies upon will be populated with the information from the sources listed in 6(k)(ii) above, and when the AM and CMOM Program will be fully incorporated into planning, funding, procuring resources, and scheduling work;

ii) a schedule showing the completion date for construction of each Phase II Improvement Project identified in Exhibit C;

iii) a schedule for any other projects that need to be added to Phase II, as identified by the Force Main Condition Assessment.

m) Unless otherwise specified herein, Respondent has the right to challenge any final agency action including any determination by the Department hereunder, pursuant to Chapter 120 Fla. Stat. At the election of either the Respondent or Department, the Respondent and Department shall schedule an informal meeting to attempt a good faith resolution of any disputes that may arise under decision made hereunder; thereafter to the extent that the Respondent or Department remain aggrieved, the Department and Respondent may exercise any rights they may have under applicable statutes and administrative code rules.

n) Upon approval by the Department, the AM and CMOM Program implementation schedule and the Phase II improvements schedule shall be incorporated herein as enforceable parts of this Consent Order. It is the Respondent's responsibility to complete planning, budgeting and funding allocation, permitting, procurement, bidding and awarding each project, and initiation of construction on a schedule that will result in completion of construction by the dates required in this Consent Order. However, subsequent changes to schedules adopted

pursuant to this Consent Order may be modified by mutual agreement of the Parties in writing.

o) Every 6 calendar months after the effective date of this Consent Order, the Respondent shall submit to the Department a written progress report on the status and progress of projects being completed under this Consent Order, including the following information:

i) the status of compliance or noncompliance with the applicable requirements of this Consent Order, and any reasons for noncompliance;

ii) the status of each of the Phase I and II projects listed in Exhibit A, B, and C; and

iii) a projection of the work the Respondent will perform pursuant to this Consent Order during the 12-month period following the report.

p) The Respondent shall submit progress reports to the Department on or before July 31, for the period from January 1 through June 30, and on or before January 31, for the period from July 1 through December 31 each year.

7. Notwithstanding any other time periods described above, Respondent shall complete all corrective actions required by Paragraph 6 on or before September 30, 2026, and be in full compliance with Chapter 62-604, F.A.C., other than those excused delays agreed to by the Parties, as described in Paragraph 17.

8. Within 180 days of the effective date of this Consent Order, Respondent shall submit to the Department an updated written estimate of the total cost of the corrective actions in Subpara. 6(a) through 6(l), including costs of the Phase I improvements. Within 180 days of the completion of the Force Main Condition Assessment, Respondent shall submit to the Department an updated written estimate of the total cost of the Phase II projects in Exhibit C, along with the costs for any other assets in need of repairs, rehabilitation, or replacement as identified by the Force Main Condition Assessment. Each written estimate shall identify the information Respondent relied upon to provide the estimate.

9. Respondent agrees to pay to the Department stipulated penalties in the amount of \$100.00 per day for each and every day Respondent fails to comply with paragraphs 6 through 8 and 26 of this Consent Order.

10. For each day an unauthorized discharge from the Facility or the Collection System occurs during the effective period of this Consent Order, that do not qualify as Excusable

Discharges, as defined in subparagraph 10.b), below, Respondent agrees to pay stipulated penalties as follows:

| a) | <u>Amount per day per Discharge</u> | <u>Discharge Volume</u> |
|----|-------------------------------------|------------------------------|
| | \$500.00 | Up to 5,000 gallons |
| | \$1,000.00 | 5,001 to 10,000 gallons |
| | \$2,500.00 | 10,001 to 25,000 gallons |
| | \$5,000.00 | 25,001 to 100,000 gallons |
| | \$10,000.00 | In Excess of 100,000 gallons |

b) The Department will evaluate each spill on a case-by-case basis to determine whether the spill was beyond Respondent's reasonable control; whether Respondent is exercising prudent wastewater utility practices to reduce the frequency of spills; and whether Respondent took timely and appropriate actions to reduce the environmental impact of the spill(s). A stipulated penalty will be applied to any spill where Respondent fails to provide the Department with sufficient information to demonstrate that the spill qualifies as an Excusable Discharge. For the purposes of this Order, an Excusable Discharge is a spill that resulted from a temporary, infrequent incident that was beyond the reasonable control of Respondent.

Excusable Discharges include, but are not limited to the following:

i) Extraordinary acts of nature, including but not limited to, rainfall equal to or 6 inches of rain in a 24-hour period, hurricanes, tropical storms, extreme high-tide events, tornadoes, wild fires, lightning strikes, or events where a State of Emergency is declared;

ii) Actions by third parties unrelated to Respondent, including construction accidents, vehicular accidents, or vandalism; actions related to a contractor acting on behalf of Respondent is not an Excusable Discharge.

iii) Blockages that could not be prevented by reasonable measures and due diligence;

iv) Unexpected sudden structural, mechanical, or electrical failure that could not be avoided by reasonable measures and due diligence; and

v) Spills that are attributable to parts of the Collection System that are undergoing rehabilitation that could not be avoided by reasonable measures and due diligence.

11. The Department may demand stipulated penalties on an annual basis at any time after violations occur beginning upon the effective date of this Order. Respondent shall pay

stipulated penalties owed within 60 days of the Department's issuance of written demand for payment, and shall do so as further described in paragraph 14, below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Consent Order. Any stipulated penalties assessed under this Paragraph shall be in addition to civil penalties agreed to in Paragraph 12 of this Order.

12. Within 90 days of the effective date of this Order, Respondent shall pay the Department \$339,577.00 in settlement of the regulatory matters addressed in this Consent Order. This amount includes \$334,577.00 for civil penalties and \$5,000.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order.

13. In lieu of making cash payment of \$334,577.00 in civil penalties as set forth in Paragraph 12 above, Respondent may elect to off-set this amount by implementing an in-kind penalty project, which must be approved by the Department. An in-kind project must be either an environmental enhancement, environmental restoration or a capital/facility improvement project. The Department may also consider the donation of environmentally sensitive land as an in-kind project. The value of the in-kind penalty project shall be one and a half times the civil penalty off-set amount, which in this case is the equivalent of at least \$501,865.50. If Respondent chooses to implement an in-kind project, Respondent shall notify the Department of its election by certified mail within 15 days of the effective date of this Consent Order. If Respondent elects to implement an in-kind project as provided in this Paragraph, then Respondent shall comply with all the requirements and time frames in Exhibit D entitled In-Kind Projects. Notwithstanding the election to implement an in-kind project, payment of the remaining \$5,000.00 in costs must be paid within 30 days of the effective date of this Consent Order.

14. Respondent shall make all payments required by this Consent Order by cashier's check, money order, City check or on-line payment. Cashier's check, money order, or City check shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Consent Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal: <http://www.fldepportal.com/go/pay/>. It will take several days after this Order is final, effective,

and filed with the Clerk of the Department before ability to make online payment is available.

15. Except as otherwise provided, all submittals required by this Order shall be submitted via email at sed.wastewater@dep.state.fl.us, or sent to Wastewater Compliance Assurance Program, Department of Environmental Protection, 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406.

16. Respondent shall allow all authorized representatives of the Department access to the Facilities and the Properties at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules and statutes administered by the Department.

17. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay in complying with the requirements of this Consent Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines shall be considered circumstances beyond the control of Respondent (unless the cause of the contractor's late performance was also beyond the contractor's control). Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department by the next working day of the event and shall, within seven calendar days, notify the Department in writing of (a) the anticipated length and cause of the delay, (b) the measures taken or to be taken to prevent or minimize the delay, and (c) the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The agreement to extend compliance must identify the provisions extended, the new compliance date or dates, and the additional measures Respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

18. The Department, for and in consideration of the complete and timely performance

by Respondent of all the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for the violations described above up to the date of the filing of this Consent Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Consent Order.

19. This Consent Order is a settlement of the Department's civil, administrative, and delegated authority arising under Chapter 403, Florida Statutes, to resolve the matters addressed herein. This Consent Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Consent Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

20. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or rules administered by the Department that are not specifically resolved by this Consent Order.

21. Respondent is fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per day per violation, and criminal penalties.

22. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, F.S., on the terms of this Order other than a dispute as described in paragraph 6(l).. Respondent also acknowledges and waives its right to appeal the terms of this Order pursuant to section 120.68, F.S.

23. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

24. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to sections 120.69 and 403.121, F.S. Failure to comply with the terms of this Order constitutes a violation of section 403.161(1)(b), F.S.

25. This Consent Order is a final order of the Department pursuant to section 120.52(7), F.S., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon

the timely filing of a petition, this Consent Order will not be effective until further order of the Department.

26. Respondent shall publish the following notice in a newspaper of daily circulation in Broward County, Florida. The notice shall be published one time only within 15 days of the effective date of the Consent Order. Respondent shall provide a certified copy of the published notice to the Department within 10 days of publication.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF CONSENT AGREEMENT

The Department of Environmental Protection (“Department”) gives notice of agency action of entering into a Consent Order with the City of Fort Lauderdale, pursuant to section 120.57(4), Florida Statutes. The Consent Order addresses alleged unpermitted wastewater and effluent discharges from the City’s wastewater facilities and associated wastewater collection/transmission systems to State waters, and the implementation plan to minimize further discharges. The Consent Order is 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 Department of Environmental Protection, Southwest District Office, 13051 North Telecom Parkway, Temple Terrace, Florida 33637-0926.

Persons who are not parties to this Consent Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Consent Order means that the Department’s final action may be different from the position it has taken in the Consent Order.

The petition for administrative hearing must contain all of the following information:

- a) The OGC Number assigned to this Consent Order;
- b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner’s representative, if any, which shall be the address for service purposes during the course of the proceeding;
- c) An explanation of how the petitioner’s substantial interests will be affected by the

Consent Order;

- d) A statement of when and how the petitioner received notice of the Consent Order;
- e) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;
- f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Consent Order.
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Consent Order; and
- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Consent Order.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at Florida Department of Environmental Protection, Southwest District Office, 13051 North Telecom Parkway, Temple Terrace, Florida 33637-0926. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under sections 120.569 and 120.57, Florida Statutes. Before the deadline for filing a petition, a person whose substantial interests are affected by this Consent Order may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in section 120.573, Florida Statutes and Rule 62-110.106(12), Florida Administrative Code.

27. Rules referenced in this Order are available at:

<http://www.dep.state.fl.us/legal/Rules/rulelist.htm>.

CITY OF FORT LAUDERDALE

ATTEST:

Jeffrey A. Modarelli, City Clerk
City Clerk

John P. "Jack" Seiler, Mayor
Mayor

(SEAL)

Lee R. Feldman, City Manager

Approved as to Legal Form

Rhonda Montoya Hasan
Assistant City Attorney

DONE AND ORDERED this # day of Month, 2017, in Palm Beach County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Jennifer K. Smith
District Director
Southeast District

Filed, on this date, pursuant to section 120.52, F.S., with the designated Department Clerk,
receipt of which is hereby acknowledged.

Clerk

Date

Copies furnished to:
Lea Crandall, Agency Clerk

Mail Station 35

EXHIBIT A
Phase I Projects

| Project # | Phase I Project Name | Description | Preliminary Cost Estimate |
|--|------------------------------|--|---------------------------|
| 454-P12124.454-6599 | Central Beach Alliance PSD41 | Replace pump station #PSD41 | \$2,200,000 |
| 454-P12202.454-6599 | Pump Station D-11 | Flow analysis & design for pump station rehabilitation | \$500,000 |
| 454-P12133.454-6599 | Pump Station A-13 | Redirect E of F for pump station A-13 | \$2,100,000 |
| 454-P11879.454-6599 | Pump Station B-10 | Rehabilitate pump station B-10 | \$1,500,000 |
| 454-P11881.454-6599 | Pump Station D-45 | Replace pump station D-45 | \$525,000 |
| Preliminary Cost Estimate for Phase I Projects listed here | | | \$6,825,000 |

EXHIBIT B
Phase I Projects

| Project # | Phase I Project Name | Description | Preliminary Cost Estimate |
|--|----------------------------------|---|---------------------------|
| 454-P11563.454-6599 | Victoria Park Sewer Basin A-19 | Rehabilitate main line sewers, manholes, and service laterals to reduce infiltration & inflow | \$5,352,000 |
| 454-P11566.454-6599 | Rio Vista Sewer Basin D-43 | Rehabilitate main line sewers, manholes, and service laterals to reduce infiltration & inflow | \$2,960,000 |
| 454-P11991.454-6599 | Downtown Pump Station A-7 | Rehabilitate main line sewers, manholes, and service laterals to reduce infiltration & inflow | \$8,224,000 |
| 454-P12049.454-6599 | Flagler Heights Sewer Basin A-21 | Rehabilitate main line sewers, manholes, and service laterals to reduce infiltration & inflow | \$883,000 |
| 454-P12055.454-6599 | Sewer Basin A-18 | Rehabilitate main line sewers, manholes, and service laterals to reduce infiltration & inflow | \$4,198,000 |
| 454-P12001.454-6599 | Sewer Basin D-40 | Rehabilitate main line sewers, manholes, and service laterals to reduce infiltration & inflow | \$100,000 |
| Preliminary Cost Estimate for Phase I Projects listed here | | | \$21,717,000 |

EXHIBIT C
Phase II Projects

| Phase II Project Name | Description | Preliminary Cost Estimate* |
|---|---|----------------------------|
| NE 25 th Ave. 24” Force Main | Replace or rehabilitate approx. 5,500 feet of RCP force main along NE 25 th Ave. | \$6,387,000 |
| NE 38 th St & NE 19 th Street 42” Force Main | Replace or rehabilitate approx. 8,000 feet of DIP force main along NE 38 th Street, and install 3,000 feet of new 24” force main along NE 19 th Street | \$9,326,000 |
| NW 5 th St., NW 9 th Ave., & W. Sistrunk Blvd. 30” Force Main | Replace or rehabilitate approx. 12,000 feet of CIP force main along NW 5 th St. & NW 9 th Ave., and install 6,000 feet of new 24” force main along Sistrunk Blvd. | \$11,769,000 |
| SE 10 th Ave. 48” Force Main | Replace or rehabilitate approx. 13,400 feet of DIP force main, and install 5,400 feet of parallel new 36” force main | \$17,746,000 |
| US 1 48” Force Main | Replace or rehabilitate approx. 6,000 feet of DIP force main, and install 5,100 feet of parallel new 48” force main along US 1 | \$6,910,000 |
| Treatment Plant to Injection Wells Effluent Force Main | Replace or rehabilitate the PCCP effluent force main leading from the G.T. Lohmeyer facility to the deep injection wells | \$3,142,000 |
| NW 13 th Ave. 24” Force Main | Replace or rehabilitate approx. 3,300 feet of CIP force main along NW 13 th Ave. | \$1,914,000 |
| NE 9 th St. to Birch Rd River Crossing 18” Force Main | Replace or rehabilitate approx. 1,000 feet of DIP force main river crossing from NE 9 th Street to Birch Road | \$434,000 |
| Preliminary Cost Estimate for Phase II Projects listed here* | | \$57,628,000 |

* Preliminary costs assume complete replacement. The Force Main Assessment will determine work to be done on each project.

EXHIBIT D

In-Kind Projects

A. Within sixty (60) days of the effective date, the City shall submit, by certified mail, a detailed in-kind project proposal to the Department for evaluation. The proposal shall include a summary of benefits, proposed schedule for implementation and documentation of the estimated costs which are expected to be incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the in-kind project.

B. If the Department requests additional information or clarification due to a partially incomplete in-kind project proposal or requests modifications due to deficiencies with Department guidelines, The City shall submit, by certified mail, all requested additional information, clarification, and modifications within fifteen (15) days of receipt of written notice.

C. If upon review of the in-kind project proposal, the Department determines that the project cannot be accepted due to a substantially incomplete proposal or due to substantial deficiencies with minimum Department guidelines; The City shall be notified, in writing, of the reason(s) which prevent the acceptance of the proposal. The City shall correct and redress all of the matters at issue and submit, by certified mail, a new proposal within thirty (30) days of receipt of written notice. In the event that the revised proposal is not approved by the Department, The City shall make cash payment of the civil penalties as set forth in Paragraph 12 of this Consent Order, within thirty (30) days of Department notice.

D. Within one-hundred twenty (120) days of the Effective Date, the City shall obtain approval for an in-kind project from the Department. If an in-kind project proposal is not approved by the Department within one-hundred twenty (120) days of the Effective Date, then The City shall make cash payment of the civil penalties as set forth in Paragraph 12 of this Consent Order, within thirty (30) days of Department notice.

E. Within one-hundred eighty (180) days of obtaining Department approval for the in-kind proposal or in accordance with the approved schedule submitted pursuant to Paragraph A above, The City shall complete the entire in-kind project.

F. During the implementation of the in-kind project, The City shall place appropriate sign(s) at the project site indicating that The City's involvement with the project is the result of a

Department enforcement action. The City may remove the sign(s) after the project has been completed. However, after the project has been completed the City shall not post any sign(s) at the site indicating that the reason for the project was anything other than a Department enforcement action.

G. In the event the City fails to timely submit any requested information to the Department, fails to complete implementation of the in-kind project or otherwise fails to comply with any provision of this paragraph, the in-kind penalty project option shall be forfeited and the entire amount of civil penalties shall be due from the City to the Department within thirty (30) days of Department notice. If the in-kind penalty project is terminated and The City timely remits the \$334,577.00 penalty, no additional penalties shall be assessed under Paragraph 11 of this Consent Order for failure to complete the requirement of this paragraph.

H. Within fifteen (15) days of completing the in-kind project, the City shall notify the Department, by certified mail, of the project completion and request a verification letter from the Department. The City shall submit supporting information verifying that the project was completed in accordance with the approved proposal and documentation showing the actual costs incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the project.

I. If upon review of the notification of completion, the Department determines that the project cannot be accepted due to a substantially incomplete notification of completion or due to substantial deviations from the approved in-kind project, The City shall be notified, in writing, of the reason(s) which prevent the acceptance of the project. The City shall correct and redress all of the matters at issue and submit, by certified mail, a new notification of completion within fifteen (15) days of receipt of the Department's notice. If upon review of the new submittal, the Department determines that the in-kind project is still incomplete or not in accordance with the approved proposal, the in-kind penalty project option shall be forfeited and the entire amount of civil penalty shall be due from the City to the Department within thirty (30) days of Department notice. If the in-kind penalty project is terminated and the City timely remits the \$334,577.00, no additional penalties shall be assessed under Paragraph 11 of this Consent Order for failure to complete the requirements of this paragraph.