

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION)	IN THE OFFICE OF THE SOUTHWEST DISTRICT
)	
v.)	OGC FILE NO. 16-1280
)	
CITY OF ST. PETERSBURG)	

FIRST AMENDMENT TO CONSENT ORDER

Pursuant to a request by the City of St. Petersburg (“Respondent or City”) to amend the Consent Order to provide additional detail to the inflow and infiltration reduction projects, the addition of an infrastructure project, and notification process changes in the Consent Order OGC No. 16-1280, effective July 26, 2017 (“Original Order or Order”) the State of Florida Department of Environmental Protection (“Department”) finds that the request is made in good faith and is reasonable. It is hereby agreed between the parties that this First Amendment to the Consent Order shall amend the Original Order only to the extent specifically stated herein, and that all the provisions of the Original Order not addressed shall herein remain in full force and effect

Having reached a resolution of the matter, Respondent and the Department mutually agree and it is **ORDERED** that the following paragraphs of the Original Order be changed as follows:

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

e. In order to balance wet weather flow between the Southwest and Northwest Facilities during wet weather events, Respondent shall construct and operate an additional lift station and force main estimated to cost \$7.5 million. This new lift station is proposed to be located in the Southwest St. Petersburg area. Respondent shall obtain substantial completion of the project by October 31, 2021; and

f. The City’s Fats, Oils, and Grease (FOG) Program shall include a schedule for implementing measures for expanded residential outreach to educate the public about reducing FOG discharges to the collection system from residential sources, which shall include

communications to residents in areas where the City has discovered repeat FOG problems and posting of educational materials on the City's website. The FOG Program shall further include a protocol for communication between food service establishment (FSE) inspectors responsible for enforcing the City's Grease Management Ordinance (Municipal Code, Chapter 27, Article III, Division 4) and the Water Resources Department ("WRD"), including protocols for notifying WRD of FOG violations and for inspecting, tracking and monitoring gravity lines that could be affected by FOG from those sources. The Root Control Program shall provide for regularly scheduled root cleaning in certain repeat problem areas. The Routine Sewer Cleaning Program shall provide for a routine 5-year cleaning cycle on gravity lines, with more frequent routine cleaning of repeat problem areas. The City shall implement the above measures for FOG, roots and routine sewer cleaning by December 15, 2018. As part of the Integrated Water Resources Master Plan, Respondent shall add provisions to its SSAMP for a FOG Program, Roots Program and Routine Sewer Cleaning Program.

g. On June 1, 2019, Respondent shall submit to the Department a status update on the Integrated Water Resources Master Plan for evaluating current and future capabilities of Respondent's Facilities and Systems referenced in paragraph 3 and 4. No later than December 31, 2019, Respondent shall complete and submit to the Department the Integrated Water Resources Master Plan which will provide for 1) modelling of the Facilities and Systems to determine the Facilities required to meet the planned level of service; 2) a long term Capital Improvement Plan ("CIP") for implementing identified potable water, reclaimed water, stormwater, and wastewater projects; 3) an assessment of needs to optimize and prioritize the investment into the System to maximize the benefits to meet environmental compliance and City needs; 4) Integrated plan to provide funding for the construction and processes to manage stormwater and wastewater projects; 5) a plan that incorporates the findings of the Flow Mitigation Report referenced below, to provide for the priority and schedule for further projects and management to reduce stormwater inflow and infiltration into the Systems; 6) measures for continued routine maintenance of the wastewater collection/transmission systems pursuant to applicable generally recognized industry standards; and 7) identify the necessary annual level of maintenance and capital expenditure necessary to properly maintain the Systems in the long term. As part of its Integrated Water Resources Master Plan, Respondent shall establish a Sewer System Asset Management Plan ("SSAMP") setting forth

the measures and implementation schedules for the City's maintenance and operation of its publicly owned treatment works ("POTW"), including provisions for a gravity sewer line and manhole inspections and response program; a force main condition assessment and cleaning program; a pump station condition assessment and repair, replacement and rehabilitation program; a Rainfall Derived Infiltration and Inflow ("RDII") evaluation and reduction plan; FOG and root control programs; a sewer cleaning program; and information management system that is regularly updated and linked to required GIS layers. The SSAMP shall be consistent with the Integrated Water Resources Master Plan recommendations. The Integrated Water Resources Master Plan shall include: (i) a schedule and budget for implementation of its SSAMP and for operating and maintaining its POTW, and (ii) determination of financial resources to implement its SSAMP and operate and maintain its POTW, including evaluation of increases in funding for sewer facilities. Following submittal of its CIP as required above in this paragraph, Respondent shall annually update its CIP for: implementing identified potable water, reclaimed water, stormwater, and wastewater projects. The CIP will incorporate, funding for repairs needed pursuant to the SSAMP inspection/assessments process and for all other commitments under this Order; and

h. As part of the Integrated Water Resources Master Plan, Respondent shall add provisions to its SSAMP for a Pump Station Condition Assessment and Repair, Replacement and Rehabilitation Program, which shall specify methods and a time schedule for assessments of the condition and performance of the City's pump stations. "Pump Stations" shall mean facilities comprised of pumps that lift wastewater to a higher hydraulic elevation, including all related electrical, mechanical, and structural systems necessary to the operation of that pumping station. The Pump Station Condition Assessment and Repair, Replacement and Rehabilitation Program shall: (1) include evaluation of condition of electrical, mechanical, and structural systems, (2) ensuring appropriate maintenance of spare parts inventory, (3) evaluate and, as necessary, update or improve utilization of SCADA alarm systems, (4) evaluate the need for and, as necessary, ensure backup power generation, and (5) evaluate and, as necessary, ensure availability of portable pumps to address pump station failures. Respondent shall include in this program an appropriate repeat cycle for pump station condition assessment. By October 31, 2018, Respondent shall commence pump station condition assessments and institute repairs, rehabilitation or replacement when the assessment indicates such actions are warranted; and

i. As part of the Integrated Water Resources Master Plan, Respondent shall add provisions to its SSAMP for a Rainfall Derived Infiltration and Inflow (“RDII”) Evaluation and Reduction Plan. This Plan shall require evaluation of the sources and extent of contribution from RDII to the collection system flow (the collection system means sewer main lines, sewer lateral lines, and manholes) via evaluation of sewer line condition, smoke testing, flow metering, evaluation of MS4 mapping, and other appropriate methodologies.

1) Phase 1 Infiltration Screening Study: The RDII Plan shall include a Phase 1 Infiltration screening study for each flow meter basin (where permanent flow meters are installed) or pump station service area that shall consist of an infiltration measurement/estimate based upon night-time flow divided by the length-diameter of the gravity sewer line in the service area. For the Phase 1 Infiltration Screening Study, the one test of each flow meter basin shall use continual flow measurement for two nights (12:00 am through 5:59 am) taken: one during the dry season and one during the wet season. Units shall be in gpd/inch diameter miles.

2) Phase 2 Infiltration Screening Study: For any flow meter basin or pump station service area showing excessive infiltration from the Phase 1 study, the City shall perform an additional assessment of infiltration and RDII sources and potential remedies for reducing these flows for each flow meter / pump station service area. The excessive infiltration screening threshold for the Phase 2 RDII evaluation will be determined during the IWRMP and SSAMP process.

1. From 2018 through 2023, the City commits to spending \$16 million per year (adjusted on an annual basis starting on July 1, 2018, by the United States Government Bureau of Labor Statistics, CPI for All Urban Customers: Water and Sewage Maintenance) on pipe and lateral lining and replacement (including private laterals as determined appropriate by the City), and manhole rehabilitation (collectively Maintenance). In addition to this 5-year commitment, the City shall as part of the Integrated Water Resources Master Plan identify the necessary annual level of Maintenance and capital expenditure necessary to properly maintain the Systems in the long term. The Integrated Water Resource Master Plan shall include the review and consideration of the I/I reduction data that is currently being gathered by the City's consultants in establishing

the annual level of Maintenance and capital expenditures necessary to continue to reduce I/I within the wastewater collection system. The Maintenance shall target the areas of greatest I/I first. No later than January 31, 2022, the City shall complete the Maintenance in the targeted collection system areas as recommended in the Flow Mitigation Report and in accordance with the annual funding commitments made herein; and

m. No later than June 30, 2020, Respondent shall pass an ordinance regarding the replacement of private laterals that contribute I/I to the City's Systems. By October 15, 2018, the City shall start giving notice to property owners found with defective private laterals in need of repair or replacement and tracking those properties in its information system; and

n. Gravity Sewer Line and Manhole Inspections and Response Program. By October 1, 2023, Respondent shall have completed an initial 5-year inspection of all the City's gravity sewer lines and manholes, at a rate of approximately 20% of the gravity sewer lines and manholes inspected each year for 5 years. "Gravity Sewer Line" shall mean a pipe that receives, contains and conveys wastewater not normally under pressure, but is intended to flow unassisted under the influence of gravity. Such inspection shall be with CCTV inspection of gravity sewer lines, with Pipeline Assessment Certification Program (PACP) and Manhole Assessment Certification Program (MACP) condition assessments and grading system under NASSCO guidelines. CCTV inspection of gravity lines will include, to the extent feasible, examination of public lateral sewer lines by pausing at public laterals to estimate lateral infiltration and by turning CCTV cameras toward the public lateral lines where they enter the main lines. The City shall prioritize areas for inspection which are identified as areas of high groundwater infiltration or high rain-derived infiltration and inflow, according to data developed under the Wet Weather Overflow Mitigation Program – Phase II. After the initial 5-year inspection of the entire system (City's gravity sewer lines and manholes), Respondent shall perform continuous 10-year inspection cycles of all of the City's gravity sewer lines and manholes under the PACP/MACP standards, at a rate of 10% of the gravity sewer lines and manholes inspected each year. Once the City is in a 10-year inspection cycle, QTV may only be used to inspect gravity lines that are new or newly-lined within the last 5 years. Any gravity sewer line where the passage of the CCTV camera was blocked by the condition (including roots and debris) of the pipe or the camera was unable to view the pipe walls and joints due to high flows shall result in the sewer line segment being defined as failed and

shall be repaired or replaced within twelve (12) months of the failed attempt to inspect that line and re-inspected within five (5) years. The City shall take corrective action (i.e., lining, repair, replacement or rehabilitation) on the gravity lines and manholes based on the findings of the PACP/MACP assessments and consistent with industry standards and professional engineering judgment indicating appropriate corrective action, and it shall document the corrective actions taken or scheduled to be taken. Nothing herein prohibits the City from addressing defects at any time, regardless of the status of inspection work or Prioritization Plan. Respondent's SSAMP shall include a Gravity Sewer Line and Manhole Inspection and Response Program, which shall include gravity sewer line inspection via CCTV and visual inspection of manholes under National Association of Sewer Service Companies ("NASSCO") standards and standard operating procedure to remediate defects; and

o. Respondent shall complete Microbial Testing of the following areas identified in Respondent's Water Quality Report Card as needing further investigation: (i) Salt Creek (ii) Fossil Park Lake, (iii) 54th Street Canal, (iv) 45th Street Canal, (v) Clam Bayou, (vi) Lake Maggiore, (vii) Booker Creek, and (viii) South Side of 38th Ave; Respondent shall budget up to \$800,000 for this task. If the Microbial Testing indicates the presence of fecal indicator bacteria in excess of the 10% threshold value for Class III Fresh Waters (62-302.530, F.A.C.) or action values for "Healthy Beaches Program" for Marine Waters then Microbial Source Tracking of the waterbody will be implemented to completion; and

q. Beginning 30 days from the effective date of this Order and continuing semiannually thereafter, the Respondent shall submit a written report (Implementation Report) to the Department summarizing the status of implementing Paragraph 6 and proposing any modifications deemed essential to minimize wastewater overflows from the Systems and Facilities (i.e. the Implementation Report shall be due on January 28 and July 28 each year during the pendency of this Order). Any modifications are subject to Department approval. The Implementation Report shall also include a projection of the work to be performed during the following year; and

r. Critical force mains for purposes of this Paragraph refers to the force mains associated with the twenty-two (22) pump stations located at the following addresses: 4200 sunrise Dr S, 101 Elcan Blvd SE, 500 Snell Isle Blvd NE, 3501 Poplar St NE, 5002 Shore Acres Blvd NE,

9110 3rd St N, 3801 30th Ave N, 8320A Elbow Lane N, 601 Grevilla Ave S, 4015 9th St S MLK St, 5499 4th St S, 1942 Serpentine Dr S, 6100 Pinellas Bayway S, 4950 54th Ave S, 10201 9th ST N, 11801A 28th St N, 6901 Park Cir S (Pas Ave/2nd St), 9600 San Martin Blvd N (C.R. 823), 512 Sands Point Dr, 340 Carillon Park Way N, 9399 28th St N, and 601 8th Ave SE. Within twelve (12) months of the effective date of this Order, Respondent shall perform a desktop assessment of all force mains, and within two (2) years of the effective date of this Order, Respondent shall clean all Critical force mains, and thereafter re-assess these Critical force mains every 5 years. Within 6 months of completing any Critical force main condition assessments, Respondent shall add to its CIP any force main repair, rehabilitation or replacement projects warranted based on the results of Respondent's force main condition assessment. Respondent shall identify and ensure the proper GIS mapping of its force main condition assessment and cleaning as part of Respondent's Information Management System, including (a) the location of all force mains within the Systems, (b) all force main line air release valves (ARVs), and (c) all force main line operation valves; and

s. By December 31, 2019, Respondent shall install elapsed time meters on each pump station with fixed speed pumps with pump horsepower in excess of 25hp for purposes of tracking the Nominal Average Pump Operating Time (NAPOT) such that when the NAPOT exceeds 10 hours/day, the City should investigate potential sources and remedies for high NAPOT runtimes. For purposes of this Paragraph, "NAPOT" shall be defined for single speed pumps as the daily average total pump operating hours for the previous twelve (12) months divided by one less than the total number of pumps installed at the station, calculated monthly on a rolling basis, unless otherwise subsequently agreed to by the parties in writing. For multi-speed or variable speed pumps, Respondents shall calculate the pump operating time based upon power consumption unless otherwise subsequently agreed to by the parties in writing. By May 30, 2019, Respondent shall install permanent flow meters throughout the system, in locations recommended by its consultant for the Wet Weather Flow Mitigation Program – Phase II, in order to monitor system response to wet weather events and detect problems within the Systems.

8. Public Advisories and Notification Protocol: By October 31, 2018, for Non-SSO Water Quality Monitoring, the Respondent shall commence notifying the Pinellas County Department of Health and applying the "Healthy Beaches" protocol for advisories/notification to the public when sampling conducted in "Recreational" and "Background" monitoring areas

indicates high levels of indicator bacteria in excess of 10% threshold value for Class III Fresh Waters (62-302.530, F.A.C.) or action values for "Healthy Beaches Program" for Marine Waters for the following locations: Weedon Island Park, Fossil Park, Salt Creek Park, Walter Fuller Park, Jungle Prada Park, Grandview Park, Bay Vista Park, Clam Bayou Nature Preserve and Sunset Park. For SSOs and Unauthorized Discharges, the Respondent shall follow the protocol for advisories/notification to the public outlined in Respondent's 2018 Capacity, Management, Operation, and Maintenance (CMOM) Program. Respondent shall amend its 2017 Sewage Spill Response Contingency Plan to add a section for the public notification protocol described in Respondent's 2018 CMOM and shall implement such protocol. Advisories and notifications should include notifying the public as soon as possible through social media, calls or emails to neighborhood associations, website, press releases, posters and signs at access points controlled by the City.

10. In any event, by December 31, 2022, and thereafter, the Facilities and Systems shall be in compliance with all Department rules that are the subject of this Order.

11. Within 180 days of the effective date of this Order, Respondent shall submit a written estimate of the total cost of the corrective actions required by this Order to the Department. The written estimate shall identify the information the Respondent relied upon to provide the estimate.

14. Respondent was assessed by the Department \$810,000.00 as a civil penalty for the violations in paragraph 5.

Notwithstanding, Respondent's failure to properly budget or appropriate funds will not act to relieve or excuse Respondent for the non-performance of its obligations hereunder.

Persons who are not parties to this First Amendment to the Consent Order, but whose substantial interests are affected by this First Amendment to the Consent Order, have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on the First Amendment to the Consent Order. The Petition must contain the information set forth below and 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 the Department of Environmental Protection, Southwest District Office, 13051 North Telecom Parkway, Suite 101, Temple Terrace, Florida, 33637-0926. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

- a) The name, address and telephone number of each petitioner, the Department's First Amendment to the Consent Order identification number and the county in which the subject matter or activity is located;
- b) A statement of how and when each petitioner received notice of the First Amendment to the Consent Order;
- c) A statement of how each petitioner's substantial interests are affected by the First Amendment to the Consent Order;
- d) A statement of the material facts disputed by petitioner, if any;
- e) A statement of facts which petitioner contends warrant reversal or modification of the First Amendment to the Consent Order;
- f) A statement of which rules or statutes petitioner contends require reversal or modification of the First Amendment to the Consent Order;
- g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the First Amendment to the Consent Order.
- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the First Amendment to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action on the First Amendment to the Consent Order may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject of the First Amendment to the Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right

such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, F.A.C.

A person whose substantial interests are affected by the First Amendment to the Consent Order may file a timely petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes, or may choose to pursue mediation as an alternative remedy under Section 120.573, Florida Statutes, before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for pursuing mediation are set forth below.

Mediation may only take place if the Department and all the parties to the proceeding agree that mediation is appropriate. A person may pursue mediation by reaching a mediation agreement with all parties to the proceeding (which include the Respondents, the Department, and any person who has filed a timely and sufficient petition for a hearing) and by showing how the substantial interests of each mediating party are affected by the First Amendment to the Consent Order. The agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, MS #35, Tallahassee, Florida 32399-3000, within 10 days after the deadline as set forth above for the filing of a petition.

The agreement to mediate must include the following:

- a) The names, addresses, and telephone numbers of any persons who may attend the mediation;
- b) The name, address, and telephone number of the mediator selected by the parties, or a provision for selecting a mediator within a specified time;
- c) The agreed allocation of the costs and fees associated with the mediation;
- d) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation;
- e) The date, time, and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen;
- f) The name of each party's representative who shall have authority to settle or recommend settlement;
- g) Either an explanation of how the substantial interests of each mediating party will be affected by the action or proposed action addressed in this notice of intent or a

statement clearly identifying the petition for hearing that each party has already filed, and incorporating it by reference; and


h) The signatures of all parties or their authorized representatives.

As provided in Section 120.573, Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Florida Statutes, for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above, and must therefore file their petitions within 21 days of receipt of this notice. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57, Florida Statutes, remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

This First Amendment to the Consent Order is final agency action of the Department pursuant to Section 120.69, Florida Statutes, 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, Florida Statutes. Upon the timely filing of a petition this First Amendment to the Consent Order will not be effective until further order of the Department.

October 4, 2018
Date

FOR RESPONDENT:


Rick Kriseman
Mayor
City of St. Petersburg

DONE AND ORDERED this 12th day of October, 2018 in Hillsborough County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


Mary E. Yeargan, PG
Director
Southwest District

FILED, on this date, pursuant to Section 120.52, FLA. STAT., with the designated Department Clerk, receipt of which is hereby acknowledged.

Oct 12, 2018
Date


Clerk

Copies furnished to:
Lea Crandall, Agency Clerk, Mail Station 35