



FLORIDA DEPARTMENT OF Environmental Protection

South District
Post Office Box 2549
Fort Myers, FL 33902-2549
SouthDistrict@FloridaDEP.gov

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

November 2, 2021

Karen Berry, Vice President
Fairmount Utilities
P.O. Box 488
Avon Park, FL 33826-0488
E-mail: karenjoeberry@yahoo.com

Re: Highlands County – DW Program
OGC Case No. 21-0225
Fairmount Utilities WWTP (LFCO); Facility ID FLA014387

Dear Ms. Berry:

Enclosed is the signed and entered copy of Consent Order OGC Case No. 21-0225 to resolve the above referenced case. This copy is for your records. Please note that all compliance dates begin from the date of entry of this Order, which is November 2, 2021.

If you have any questions, please contact Heidi Hoffman at Heidi.Hoffman@FloridaDEP.gov or 239-344-5684. Your cooperation in resolving this case is appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Iglehart", with a long horizontal stroke extending to the right.

Jon M. Iglehart
Director of District Management
South District
Florida Department of Environmental Protection

Enclosure(s): Executed Consent Order

cc: Allen Slater (via e-mail: allen.slater@frwa.net)

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	SOUTH DISTRICT
)	
v.)	OGC FILE NO. 21-0225
)	
FAIRMOUNT UTILITIES THE 2 ND , INC.)	
_____)	

CONSENT ORDER

This Consent Order (Order) is entered into between the State of Florida Department of Environmental Protection (Department) and Fairmount Utilities the 2nd, Inc. (Respondent) to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent admits 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 Order.
2. Respondent is a person within the meaning of Section 403.031(5), F.S.
3. Respondent is the owner and is responsible for the operation of the Fairmount Utilities the 2nd, Inc., a 0.040 MGD annual average daily flow (AADF) activated sludge domestic wastewater treatment plant with effluent disposal to two percolation ponds having a combined capacity of 0.040 MGD (Facility). The Facility is operated under Wastewater Permit No. FLA014387 (Permit), which was issued on August 1, 2016 and expired on September 20, 2021. The Facility is located at U. S. 27 North of Sebring Lots 428 & 429 Sebring, in Highlands County, Florida (Property). Respondent owns the Property on which the Facility is located.
4. The Department finds that the following violation(s) occurred:
 - a) Respondent reported 12 unauthorized discharges from the collection system between July 26, 2020 to October 12, 2020, in violation of Rule 62-

604.130(1) F.A.C. and Section 403.161(1)(a) F.S. Spill details are in Exhibit B attached and incorporated to this order.

1. Of the 12 unauthorized discharges, 11 spills were raw wastewater that occurred at the same location, meeting the criteria of chronic spills.
 2. Of the 12 unauthorized discharges, 6 spills were reported as multi-day spills of raw wastewater, all of which occurred at the same location on September 20, 2020, September 30, 2020, October 5, 2020, October 6, 2020, October 7, 2020, and October 8, 2020.
- b) Respondent failed to prepare, maintain, or update required contingency plans. The Sanitary Sewer Response Plan did not provide the operator with adequate information during an emergency, in violation of Rules 62-604.500(4)(b) F.A.C. and 62-600.720(1)(b) F.A.C.
 - c) Respondent failed to adequately respond to an emergency and bring the emergency situation under control, in violation of Rules 62-604.500(4)(b) F.A.C. and 62-600.720(1)(b) F.A.C.
 - d) Respondent failed to provide adequate pumping capability at the lift station resulting in overflows at manholes in August 2020, September 2020 and October 2020 in violation of Rule 62-604.400(2)(a) F.A.C.
 - e) Respondent failed to maintain equipment in a condition to enable the intended function in violation of Rule 62-604.130(6) F.A.C.
 - f) Respondent failed to submit a renewal application 180 days before the expiration date of the permit, violating Rule 62-620.335(1) F.A.C., and failed to make the application complete before the expiration date of the permit, violating Rule 62-620.335(4) F.A.C. Therefore, the renewal application was not timely and sufficient which is necessary to extend permit coverage as authorized by Rule 62-620.335(3) F.A.C. The facility is currently operating without a valid permit, in violation of Rule 62-620.300(2) F.A.C.

Having reached a resolution of the matter Respondent and the Department mutually agree and it is

ORDERED:

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

(A) Respondent shall obtain a valid permit issued by the Department for its wastewater facility in accordance with Rule 62-620 F.A.C.	December 31, 2021
(B) Respondent shall submit to the Department a plan and schedule (I&I Plan) to reduce infiltration and inflow (I&I) into the collection system.	November 30, 2021
(C) Provide a written Capacity, Management, Operation, and Maintenance (CMOM) program to the Department. Fully implement the CMOM in accordance with US EPA document 305-B-05- 002 dated January 2005 (“Guide for Evaluating Capacity, Management, Operation, and Maintenance (CMOM) Programs at Sanitary Sewer Collection Systems”).	March 31, 2022 December 31, 2022
(D) Respondent shall provide to the Department an updated Sanitary Sewer Overflow Response Plan (SORP) which includes the following components: (i) The steps staff shall follow upon discovery of an unauthorized discharge, with the goal of immediately limiting the threat to public health and the environment by stopping the discharge, limiting the extent of impacts, and controlling public access to impacted areas; (ii) Where and how staff may rapidly access information regarding the locations of pipes, valves, pumps, and other components of the system for purposes of responding to an unauthorized discharge; (iii) Who has authority to direct a response, including acquiring equipment or materials, mobilizing and directing staff and contractors, and initiating required notifications; (iv) How internal communications will be conducted, beginning with notification of the person authorized to direct the response when an unauthorized discharge is discovered; (v) How and when sampling of surface waters will be	January 31, 2022

<p>conducted, who will collect samples and how the samples will be handled and transported to a certified laboratory, and what parameters will be analyzed, with analyses to include E. coli for Class III fresh waters and Class I potable water supplies, Enterococci for Class III marine waters, and fecal coliform and Enterococci for Class II shellfish harvesting waters, Total Nitrogen and Total Phosphorus. Sampling locations should be selected to reflect background conditions not receiving effluent or sewage and an area within 10 meters of the point in which the effluent or sewage entered the waterbody.</p> <p>(vi) Where and how equipment or materials may be obtained, how staff may be dispatched, and how contractors may be mobilized to respond to the discharge and to repair the damage or correct the problem that resulted in the discharge;</p> <p>(vii) How and when the required notifications will be made and updates provided to the Department, other regulatory agencies, and the public.</p>	
<p>(E) Respondent shall provide to the Department an updated Emergency Operations Plan (EOP) to address larger events such as hurricanes, flooding, or significant power outages. The EOP shall be designed to build on the SORP and shall include the following components:</p> <p>(i) Numbers and type of portable or fixed generators, bypass pumps, vacuum trucks, transport vehicles, personnel, and quantities of fuel to be kept in readiness for emergencies, and how items will be mobilized and deployed to keep pump stations and wastewater treatment and disposal operating during a significant power outage event,</p> <p>(ii) What outside resources, such as contractors, Mutual Aid Agreements or FlaWARN, may be called upon when needed, how the request for assistance is handled, what documentation is necessary as work proceeds, and how the outside assistance will be supervised, accounted for, and coordinated with Respondent's own equipment and personnel,</p> <p>(iii) A public education campaign with 3 components: 1) outreach to customers via social media and other means prior to hurricane season, addressing sanitary sewer overflow prevention through maintenance of service connections and grease traps, not opening cleanouts or manholes, and</p>	<p>January 31, 2022</p>

<p>preventing blockages, 2) outreach as a predicted event approaches (e.g., hurricane), addressing what customers should do or should avoid to prevent or be prepared for sanitary sewer overflows, and how customers can get information regarding their system before the storm, 3) outreach after the event, addressing how to deal with backups and floodwaters, proper cleanup, health precautions, and how to get information about the sewer system’s status or report problems.</p>	
<p>(F) Provide a final report indicating that all repairs in the Atlantic Pipe proposal to fix areas related to the series of SSOs in August, September and October 2020 and proactive maintenance work for the manhole to manhole lining project were completed. Include a summary report of the lines that were videoed and all repairs that have been completed.</p>	<p>November 30, 2021</p>
<p>(G) Provide a copy of an updated Operation and Maintenance Manual for the facility.</p>	<p>December 31, 2021</p>
<p>(H) Provide a copy of an updated Operation and Maintenance Manual for the collection system.</p>	<p>December 31, 2021</p>
<p>(I) Respondent shall submit an updated “Collection System Operation and Maintenance Performance Report” for its collection system in accordance with the following requirements:</p> <ul style="list-style-type: none"> • The report shall be jointly prepared by staff responsible for operation of these facilities, by the permittee or the permittee’s delegated representative. • The report shall evaluate the capability of all the collection system components to function as intended for the next five years. • The report shall identify physical, capacity, performance, and operation and maintenance problems and deficiencies which need immediate attention and areas which are potential problems. The report shall identify the consequences if these problems and deficiencies are not corrected in a timely fashion. • The report shall provide recommendations for corrective actions. • The report shall be signed by the owner and the facility’s lead operator. 	<p>January 31, 2021</p>

(J) Complete the recommended corrective actions for all of the problems and deficiencies identified in the "Collection System Operation and Maintenance Performance Report" as needing immediate attention.	May 31, 2022
(K) Submit a plan to complete all of the recommended corrective actions listed in the "Collection System Operation and Maintenance Performance Report" within a reasonable time.	May 31, 2022
(L) Provide a maintenance schedule for maintaining emergency pumping capability at the lift station, consistent with the manufacturer's recommendations.	December 31, 2021
(M) Submit an estimate of the corrective action investment and the total investment in SSO reduction related to this Order.	December 3, 2021
(N) Every quarter submit in writing to the Department a report containing information concerning the status and progress of projects completed under this order. Include upcoming sewer maintenance repairs, planned or scheduled televising and mapping updates conducted or completed. The report shall include projection of the work to be performed pursuant to this Order.	December 31, 2021 March 31, 2022 June 30, 2022 September 30, 2022 And so on until the Consent Order is closed.
(O) Provide the monthly report provided to the Utility Owner, as outlined on page 5 (of 33) of the O & M Manual, regarding design standards, physical condition and the costs of operations and repairs.	Ongoing - at the end of each calendar month, beginning November 30, 2021. And so on until the Consent Order is closed.
(P) Evaluate the operation of the pump station in the sewer system and provide records regarding the pump station operation, as outlined on page 11 (of 33) of the O & M Manual, indicating the readings, monitoring pump cycles and the general maintenance of each pump. The report shall include a check on the lift station and a flow rate check.	Ongoing - at the end of each calendar month, beginning November 30, 2021. And so on until the Consent Order is closed.
(Q) Provide a report, documenting the current condition of the 48 manholes and 8" terracotta pipes described in the 2018 Emergency Response Plan - Vulnerability Assessment of the Collection System (page 97 of 135).	December 31, 2021

6. Notwithstanding the time periods described in the paragraphs above, Respondent shall complete all corrective actions required by paragraph 5 on or before December 31, 2022, and be in full compliance Section 403.161(1)(a), F.S., and Rule 62-604, F.A.C., regardless of any intervening events or alternative time frames imposed in this Order.

7. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$18,561.05 in settlement of the regulatory matters addressed in this Order. This amount includes \$18,061.05 for civil penalties and \$500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order. The civil penalty in this case includes 4 violations that each warrant a penalty of \$2,000.00 or more.

8. In lieu of making the cash payment of \$18,061.05 in civil penalties as set forth in paragraph 7 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 \$27,091.58. 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. Notwithstanding the election to implement an in-kind project, payment of the \$500.00 in costs must be paid within 30 days of the effective date of the Consent Order.

9. If Respondent elects to implement an in-kind project as provided in paragraph 8, then Respondent shall comply with all of the requirements and time frames in Exhibit A entitled In-Kind Projects attached and incorporated to this Order.

10. Respondent agrees to pay the Department stipulated penalties in the amount of \$250.00 per day for each and every day Respondent fails to timely comply with any of the requirements of this Consent Order, other than unauthorized discharges. For unauthorized discharges from any part of any of the Respondent's wastewater collection and transmission

systems, wastewater treatment works, reuse or disposal systems, conveyance or storage systems, and residual management systems, Respondent agrees to pay stipulated penalties to the Department as follows:

Stipulated penalties shall be assessed according to the volume of the discharge and the number of days the discharge continued and/or impacted surface water, as shown below:

<u>Amount p/day p/discharge</u>	<u>Discharge Volume</u>
\$1000.00	up to 5,000 gallons
\$2,000.00	5,001 to 10,000 gallons
\$5,000.00	10,001 to 25,000 gallons
\$10,000.00	25,001 to 100,000 gallons
\$15,000.00	in excess of 100,000 gallons

The Department may demand stipulated penalties at any time after violations occur. Respondent shall pay stipulated penalties owed within 30 days of the Department's issuance of written demand for payment, and shall do so as further described in paragraph 13, below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Order. Any stipulated penalties assessed under this paragraph shall be in addition to the civil penalties agreed to in paragraph 7 of this Order.

11. In lieu of making cash payment of the amount required under paragraph 10 (stipulated penalties) above, the Department, at its discretion, may allow Respondent to off-set this amount by implementing an in-kind 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 and may not be a corrective action requirement of this Consent Order or otherwise required by law. 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 portion of the stipulated penalty amount for which the approved project off-sets. The Respondent shall request consideration of applying stipulated penalties toward an in-kind project within 15 days of notification by the Department that stipulated penalties are being assessed under paragraph 10. If acceptable, the

Respondent shall comply with all the requirements and timeframes in Consent Order Exhibit A, entitled In-Kind Projects. If not acceptable, the Respondent will pay the stipulated penalties within 30 days of receipt of the Department's notification that applying the stipulated penalties to an in-kind project is not acceptable.

12. In the event that Respondent elects to off-set civil penalties, including stipulated penalties, by implementing an in-kind penalty project which is approved by the Department, during the period that this Consent Order remains in effect or during the effective date of any Department issued Permit to Respondent whichever is longer (Prohibited Transfer Duration), Respondent shall not transfer or use funds obtained by the Respondent from the collection of sewer rates for any purpose not related to the management, operation, or maintenance of the Sewer System or to any capital improvement needs of the Sewer System (hereinafter, Prohibited Transfer). Respondent shall annually certify to the Department using the Annual Certification Form located within Exhibit A to this Consent Order that no Prohibited Transfer has occurred. In the event of any Prohibited Transfer, the In-Kind project option shall be forfeited, and entire civil penalty shall immediately become due and owing to the Department irrespective of any expenditures by the Respondent in furtherance of the In-Kind project.

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

14. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Heidi Hoffman, Environmental Specialist II, Department of Environmental Protection, South District Office, P.O. Box 2549, Fort Myers, Florida 33902-2549.

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

16. In the event of a sale or conveyance of the Facility or of the Property upon which the Facility is located, if all of the requirements of this Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the Facility or Property, (a) notify the Department of such sale or conveyance, (b) provide the name and address of the purchaser, operator, or person(s) in control of the Facility, and (c) provide a copy of this Order with all attachments to the purchaser, operator, or person(s) in control of the Facility. The sale or conveyance of the Facility or the Property does not relieve Respondent of the obligations imposed in this Order.

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 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 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 provision or 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 Order, hereby conditionally 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 Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

19. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This 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 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 Order.

21. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$15,000.00 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. 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 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. 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 name and address of each agency affected and each agency's file or identification number, if known;
- b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; 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; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- c) A statement of when and how the petitioner received notice of the agency decision;
- d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

- f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at Agency_Clerk@FloridaDEP.gov, 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 Department of Environmental Protection, P.O. Box 2549, Fort Myers, FL 33901-2549 or via email at SouthDistrict@FloridaDEP.gov. 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>

FOR THE RESPONDENT:

Karen M. Berry
Karen M. Berry
Owner of Fairmount Utilities the 2nd, Inc.

11/01/2021
Date

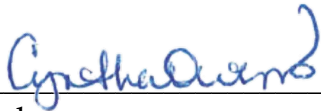
DONE AND ORDERED this 2nd day of November, 2021, in Lee County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Jon M. Iglehart
Director of District Management
South District

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



Clerk

November 2, 2021

Date

Attachments: Exhibit A: In-Kind Projects
Exhibit B: Table of SSO's from July 26, 2020 to October 12, 2020

Copies furnished to:

Lea Crandall, Agency Clerk
Mail Station 35

Exhibit A

In-Kind Projects

I. **Introduction**

Proposal

a. Within 60 days of the effective date of this Consent Order, or, of the Department's notification that applying stipulated penalties to an in-kind project is acceptable, Respondent 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.

Proposal Certification Form

b. The proposal shall also include a Certification by notarized affidavit from a senior management official for _____ (insert name of Respondent) who shall testify as follows:

My name is _____ (print or type name of senior management official) and do hereby testify under penalty of law that:

A. I am a person with management responsibilities for _____ (print or type name of Respondent) budget and finances. During the eighteenth month period prior to the effective date of Consent Order OGC Case No.: _____ there has not been any transfer or use of funds obtained by the _____ (print or type name of Respondent) from the collection of sewer rates for any purpose not related to the management, operation, or maintenance of the Sewer System or to any capital improvement needs of the Sewer System.

B. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowingly submitting false information in this certification.

Sworn to and subscribed before me, by means of physical presence or online notarization, this ____ day of _____, 20__ by

Personally, known or by Production of the following Identification _____

Notary Public, State of Florida

Printed/typed or stamped name:

My Commission Expires: _____

Commission/Serial No.: _____

Annual Certification Form

My name is _____ (print or type name of senior management official) and do

hereby testify under penalty of law that:

A. I am a person with management responsibilities for _____ (print or type name of Respondent) budget and finances. During the twelve month period immediately preceding the notary date on this Certification, there has not been any transfer or use of funds obtained by the _____ (print or type name of Respondent) from the collection of sewer rates for any purpose not related to the management, operation, or maintenance of the Sewer System or to any capital improvement needs of the Sewer System.

B. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowingly submitting false information in this certification.

Sworn to and subscribed before me, by means of physical presence or online notarization, this ____ day of _____, 20__ by

Personally, known or by Production of the following Identification _____

Notary Public, State of Florida

Printed/typed or stamped name:

My Commission Expires: _____

Commission/Serial No.: _____

c. 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, Respondent shall submit, by certified mail, all requested additional information, clarification, and modifications within 15 days of receipts of written notice.

d. 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; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the proposal. Respondent shall correct and redress all the matters at issue and submit, by certified mail, a new proposal within 30 days of receipt of written notice. In the event that the revised proposal is not approved by the

Department, Respondent shall make cash payment of the civil penalties as set forth in paragraphs 7 and 10 above, within 30 days of Department notice.

e. Within 120 days of the effective date of this Consent Order, or, of the Department's notification that applying stipulated penalties to an in-kind project is acceptable Respondent shall obtain approval for an in-kind project from the Department. If an in-kind project proposal is not approved by the Department within 120 days of the effective date of this Consent Order, or, of the Department's notification that applying stipulated penalties to an in-kind project is acceptable then Respondent shall make cash payment of the civil penalties as set forth in paragraphs 7 and 10 above, within 30 days of Department notice.

f. Within 180 days of obtaining Department approval for the in-kind proposal or in accordance with the approved schedule submitted pursuant to paragraph 2(a) above, Respondent shall complete the entire in-kind project.

g. During the implementation of the in-kind project, Respondent shall place appropriate sign(s) at the project site indicating that Respondent's involvement with the project is the result of a Department enforcement action. Respondent may remove the sign(s) after the project has been completed. However, after the project has been completed Respondent shall not post any sign(s) at the site indicating that the reason for the project was anything other than a Department enforcement action.

h. In the event, Respondent 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 Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the entire amount of civil penalties and stipulated penalties due, no additional penalties shall be assessed under paragraphs 7 and 10 for failure to complete the requirements of Exhibit A.

i. Within 15 days of completing the in-kind project, Respondent shall notify the Department, by certified mail, of the project completion and request a verification letter from the Department. Respondent 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.

j. 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; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the project. Respondent shall correct and redress all the matters at issue and submit, by certified mail, a new notification of completion within 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 Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and

Respondent timely remits the entire amount of civil penalties and stipulated penalties due, no additional penalties shall be assessed under paragraphs 7 and 10 for failure to complete the requirements of Exhibit A.

Exhibit B

Table of SSO's from July 26, 2020 to October 12, 2020

SWO #	Incident Start Date	Incident End Date	Number of Days Discharging	Reached Surface Water?	Spill Volume (gallons)	Reported Recovered Volume (gallons)	Spill Characteristic	Location
None	7/26/2020	7/27/2020	1	N	200	0	Partially Treated	2800 Georgia St
2020-4101	8/4/2020	8/5/2020	1	N	1200	0	Raw Wastewater	Seattle Street (2 Manholes near Lift Station)
2020-5176	9/20/2020	9/21/2020	2	N	2000	0	Raw Wastewater	Seattle Street (Manholes near Lift Station)
None	9/25/2020	9/25/2020	1	N	900	0	Raw Wastewater	Seattle Street (Manholes near Lift Station)
None	9/27/2020	9/27/2020	1	N	800	0	Raw Wastewater	Seattle Street (Manholes near Lift Station)
None	9/28/2020	9/28/2020	1	N	900	0	Raw Wastewater	Seattle Street (Manholes near Lift Station)
2020-5460	9/30/2020	10/1/2020	2	N	1500	0	Raw Wastewater	Seattle Street (Manholes near Lift Station)

None	10/5/2020	10/6/2020	2	N	900	0	Raw Wastewater	Seattle Street (Manholes near Lift Station)
None	10/6/2020	10/7/2020	2	N	950	0	Raw Wastewater	Seattle Street (Manholes near Lift Station)
2020-5600	10/7/2020	10/8/2020	2	N	1200	0	Raw Wastewater	Seattle Street (Manholes near Lift Station)
2020-5620	10/8/2020	10/9/2020	2	N	950	0	Raw Wastewater	Seattle Street (Manholes near Lift Station)
2020-5677	10/12/2020	10/12/2020	1	N	1200	0	Raw Wastewater	Seattle Street (Manholes near Lift Station)