



# FLORIDA DEPARTMENT OF Environmental Protection

Central District Office  
3319 Maguire Blvd., Suite 232  
Orlando, Florida 32803

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Shawn Hamilton**  
Secretary

December 20, 2021

Shawn Boyle, City Manager  
City of Winter Springs  
1126 E. State Road 434  
Winter Springs, FL 32708  
[sboyle@winterspringsfl.org](mailto:sboyle@winterspringsfl.org)

Re: Winter Springs West WWTF  
DW Facility ID #FLA011067  
OGC Case #21-1055

Dear Mr. Boyle:

Enclosed is the executed Consent Order to resolve the above referenced case. This copy is for your records.

Should you have any questions or comments, please contact Jenny E. Farrell at 407-897-4173 or via e-mail at [Jenny.E.Farrell@floridadep.gov](mailto:Jenny.E.Farrell@floridadep.gov).

Your cooperation in this matter will be appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "AW 7L".

*On behalf of:*

Aaron Watkins  
Director, Central District

Enclosure: Executed LFCO OGC#21-1055 with Exhibit A & B

cc: Jason Norberg, City of Winter Springs, [jnorberg@winterspringsfl.org](mailto:jnorberg@winterspringsfl.org)  
Lea Crandall, OGC  
FDEP: Zoey Carr; Daun Festa; Katrina Kasemir; Jenny E. Farrell; David Smicherko

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT )  
OF ENVIRONMENTAL PROTECTION )  
v. )  
CITY OF WINTER SPRINGS )  
\_\_\_\_\_ )

IN THE OFFICE OF THE  
CENTRAL DISTRICT

OGC FILE NO. 21-1055

**CONSENT ORDER**

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

The Department finds, and 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 Order.

2. Respondent is a municipal corporation of the State of Florida and 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 Winter Springs West Wastewater Treatment Plant (WWTF), a 2.07 million gallons per day (MGD) annual average daily flow (AADF) dual-train contact stabilization domestic WWTF consisting of influent screening, aeration, secondary clarification, filtration, chlorination, aerobic digestion, and dewater of biosolids with a slow-rate public access reuse system (R-001), a slow-rate restricted sprayfield public access system (R-002), and a rapid infiltration basin (RIB) system (R-003) (Facility). The Facility is operated under Wastewater Permit No. FLA011067 (Permit), which includes Permit Revision FLA011067-026-DW1/MR issued on March 12, 2020 and a Temporary Operation Modification issued on September 15, 2021. The Permit was

issued on January 21, 2014 and will expire on January 15, 2024. The Facility is located at 1000 West State Road 434, Winter Springs, FL 32708, in Seminole County, Florida (Property).

Respondent owns the Property on which the Facility is located.

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

a) During a file review conducted by the Department on January 4, 2021, the following violations were noted:

1) The Respondent failed to report multiple unauthorized discharges of less than 1,000 gallons of partially treated effluent to the Department within 24 hours of discovery, in violation of Rule 62-620.610(20), F.A.C.:

i) A letter submitted to the Department on December 28, 2020, reported multiple unauthorized discharges that occurred at low lying manholes at the Facility on 11/11/2020, 11/22/2020, 11/24/2020, and 11/25/2020.

ii) A letter submitted to the Department on December 28, 2020, reported multiple unauthorized discharges that occurred at the aeration basins at the Facility on 11/13/2020, 12/06/2020, 12/09/2020, and 12/12/2020.

2) On January 2, 2021, the Department was notified of an unauthorized discharge of approximately 10,000 - 15,000 gallons of partially treated effluent that impacted Lake Audubon, via the state watch office (SWO #2021-7), in violation of Rule 62-620.610(5), F.A.C.

b) During a complaint inspection performed on January 6, 2021, the following violations were noted:

1) Several dead fish were observed in Lake Audubon, is located to the east of the Facility on private property, in violation of Rule 62-620.610(5), F.A.C.

2) Excessive odors were noted beyond the boundaries of the Facility, at the southwest end of Lake Audubon, in violation of Rule 62-600.400(2)(a), F.A.C.

c) During a Compliance Evaluation Inspection conducted on January 12, 2021 and file review, the following violations were noted:

1) According to onsite personnel, comments in the operations and maintenance logbook, and Discharge Monitoring Reports (DMRs) reviewed it was discovered that flow had been bypassing the filtration and chlorination systems in November and December 2020 for multiple days due to the lack of flow report for Total Plant Flow (FLW-1), located at the end of the chlorine contact chamber, in violation of Rule 62-620.610(22), F.A.C.

2) Facility failed to report several abnormal events and/or malfunctions (unauthorized discharges, effluent exceedances, and treatment bypasses) during the months of November and December 2020 to the Department as required, in violation of Rule 62.620.610(20), F.A.C.

3) During the DMR review period multiple reporting/transcription errors were noted from February 2020 to January 2021, in violation of Rule 62-620.610(18)(a), F.A.C.

4) The current public access reuse operating protocol was not available onsite at the time of inspection, in violation of Rule 62-610.320(6)(a), F.A.C.

5) The 2019 and 2020 Annual Reuse Reports were not submitted in a timely manner, in violation of Rule 62-610.870(3)(b), F.A.C.

6) The bi-annual pathogen monitoring report was not submitted in a timely manner, in violation of Rule 62-610.463(4)(a), F.A.C.

7) The fecal coliform grab not collected as often as required for R-001 on the November 2020 DMR, in violation of 62-620.610(18)(a), F.A.C.

8) The following plant processes and/or equipment were not operating as designed, in violation of Rule 62-620.610(7), F.A.C.

i) Mixed liquor was noted to be discharging from a section of the aeration tank to the ground,

ii) Solids were noted on the surface of the clarifier in Plant #1,

iii) Solids were noted in the clarifier weir in Plant #1,

iv) Solids were noted on the surface of the sand filters,

v) Solids were noted in the Transfer Pump Station

9) Excessive odors were noted beyond the boundaries of the Facility, in violation of Rule 62-600.400(2)(a), F.A.C.

10) Multiple treatment plant failures were noted since the end of October 2020 when the facility diverted all flows to Plant #1, for the construction work in Plant #2, in violation of Rule 62-620.610(7), F.A.C., see below:

i) Multiple clogs in internal tank piping due to accumulated grit/debris in Plant #1,

ii) Main air header failure due to underground corrosion in piping,

iii) Plant #1 clarifier drive unit failures

11) The following effluent exceedances were noted during the DMR file review from February 2020 to January 2021:

**Table 1 - Winter Springs West Effluent Exceedances from February 2020 to January 2021**

| Monitoring Period | Parameter                            | Monitoring Site  | Monitoring Location | Result       | Limit      | Rule Citations   |
|-------------------|--------------------------------------|------------------|---------------------|--------------|------------|--|
| April 2020        | Fecal Coliform Maximum               | R001             | EFA-1               | 60 #/100mL   | 25 #/100mL | Rule 62-600.440(6)(a)2, F.A.C.<br>Rule 62-600.440(6)(a)1, F.A.C.<br>Rule 62-600.440(5)(a)4, F.A.C. |
| November 2020     | Total Suspended Solids (TSS) Maximum | R001             | EFB-1               | 153 mg/L*(9) | 5.0 mg/L   | Rule 62-610.460(1), F.A.C.<br>Rule 62-600.420(3)(b)2, 3, & 4, F.A.C.                               |
|                   | CBOD Monthly Average                 | R001, R002, R003 | EFA-1               | 32.8 mg/L    | 30.0 mg/L  |  |

|                                |  |                  |                 |                |           |   |
|--------------------------------|--|------------------|-----------------|----------------|-----------|---|
|                                | CBOD Weekly Average                    | R002             | EFA-1           | 41.5 mg/L      | 40.0 mg/L | Rule 62-600.420(3)(a)1, 2, 3, & 4, F.A.C. |
|                                | CBOD Maximum                           | R001, R002, R003 | EFA-1           | 76.0 mg/L      | 60.0 mg/L |   |
|                                | pH Minimum                             | R001, R002, R003 | EFA-1           | 5.74 s.u.      | 6.0 s.u.  | Rule 62-600.445, F.A.C.                   |
|                                | Total Residual Chlorine Minimum        | R001             | EFA-1           | 0.0 mg/L* (13) | 1.0 mg/L  | Rule 62-620.350(5), F.A.C.,               |
|                                |  | R002, R003       | EFA-1           | 0.0 mg/L* (11) | 0.5 mg/L  | Rule 62-600.440(6)(b), F.A.C.             |
|                                | Total Suspended Solids Monthly Average | R002, R003       | EFA-1           | 62.6 mg/L      | 30.0 mg/L | Rule 62-610.460(1), F.A.C.                |
|                                | Total Suspended Solids Weekly Average  | R002, R003       | EFA-1           | 173 mg/L       | 45.0 mg/L | Rule 62-600.420(3)(b)2, 3, & 4, F.A.C.    |
| Total Suspended Solids Maximum | R002, R003                             | EFA-1            | 173 mg/L        | 60.0 mg/L      |           |   |
| December 2020                  | CBOD Monthly Average                   | R001, R002, R003 | EFA-1           | 43.5 mg/L      | 30.0 mg/L | Rule 62-600.420(3)(a)1, 2, 3, & 4, F.A.C. |
|                                | CBOD Weekly Average                    | R001, R003       | EFA-1           | 99.5 mg/L      | 45.0 mg/L |   |
|                                |  | R002             | EFA-1           | 99.5 mg/L      | 40.0 mg/L |   |
|                                | CBOD Maximum                           | R001, R002, R003 | EFA-1           | 123 mg/L       | 60.0 mg/L |   |
|                                | Total Suspended Solids Maximum         | R001             | EFA-1           | 182 mg/L*(12)  | 5.0 mg/L  | Rule 62-610.460(1), F.A.C.                |
|                                | pH Minimum                             | R001, R002, R003 | EFA-1           | 4.72 s.u.*(15) | 6.0 s.u.  | Rule 62-600.445, F.A.C.                   |
| pH Maximum                     | R001, R002, R003                       | EFA-1            | 11.66 s.u.*(15) | 8.5 s.u.       |           |   |

|              |  |                  |               |                 |                         |  |
|--------------|--|------------------|---------------|-----------------|-------------------------|--|
|              | Total Residual Chlorine Minimum        | R001             | EFA-1         | 0.0 mg/L*(4)    | 1.0 mg/L                | Rule 62-620.350(5), F.A.C., Rule 62-600.440(6)(b), F.A.C.                |
|              |  | R002, R003       | EFA-1         | 0.0 mg/L*(4)    | 0.5 mg/L                |  |
|              | Total Suspended Solids Monthly Average | R002, R003       | EFA-1         | <43.9 mg/L      | 30.0 mg/L               | Rule 62-610.460(1), F.A.C.   |
|              | Total Suspended Solids Weekly Average  | R002, R003       | EFA-1         | 151 mg/L*(12)   | 45.0 mg/L               | Rule 62-600.420(3)(b)2, 3, & 4, F.A.C.                                   |
|              | Total Suspended Solids Maximum         | R002, R003       | EFA-1         | 151 mg/L*(12)   | 60.0 mg/L               |  |
| January 2021 | CBOD Annual Average                    | R001, R002, R003 | EFA-1         | 35.1 mg/L       | 20.0 mg/L               | Rule 62-600.420(3)(a)1, 2, 3, & 4, F.A.C.                                |
|              | CBOD Monthly Average                   | R001, R002, R003 | EFA-1         | 35.1 mg/L       | 30.0 mg/L               |  |
|              | CBOD Weekly Average                    | R001, R003       | EFA-1         | 50.2 mg/L       | 45.0 mg/L               |  |
|              |  | R002             | EFA-1         | 50.2 mg/L       | 40.0 mg/L               |  |
|              | Total Suspended Solids Maximum         | R001             | EFA-1         | 332 mg/L*(13)   | 5.0 mg/L                | Rule 62-610.460(1), F.A.C.<br><br>Rule 62-600.420(3)(b)2, 3, & 4, F.A.C. |
|              | Fecal Coliform Maximum                 | R001             | EFA-1         | >20,000 #/100mL | 25 #/100mL              | Rule 62-600.440(6)(a)2, F.A.C.   |
|              |  | R002, R003       | EFA-1         | >20,000 #/100mL | 800 #/100mL             | Rule 62-600.440(6)(a)1, F.A.C.   |
|              | Fecal Coliform % Non-Detectable        | R001             | EFA-1         | 67%             | 75%                     | Rule 62-600.440(5)(a)4, F.A.C.   |
| pH Minimum   | R001, R002, R003                       | EFA-1            | 5.95 s.u.     | 6.0 s.u.        | Rule 62-600.445, F.A.C. |  |
| pH Maximum   | R001, R002, R003                       | EFA-1            | 9.25 s.u.*(2) | 8.5 s.u.        |                         |  |

|  |  |            |       |               |           |  |
|--|--|------------|-------|---------------|-----------|--|
|  |  | R001       | EFA-1 | 0.0 mg/L*(18) | 1.0 mg/L  | Rule 62-620.350(5), F.A.C.,            |
|  | Total Residual Chlorine Minimum        | R002, R003 | EFA-1 | 0.0 mg/L*(17) | 0.5 mg/L  | Rule 62-600.440(6)(b), F.A.C.          |
|  | Total Suspended Solids Monthly Average | R002, R003 | EFA-1 | <58.5 mg/L    | 30.0 mg/L | Rule 62-610.460(1), F.A.C.             |
|  | Total Suspended Solids Weekly Average  | R002, R003 | EFA-1 | 204 mg/L      | 45.0 mg/L | Rule 62-600.420(3)(b)2, 3, & 4, F.A.C. |
|  | Total Suspended Solids Maximum         | R002, R003 | EFA-1 | 204mg/L       | 60.0 mg/L |  |

12) During the DMR review it was noted that substandard public access reuse water was discharged to the public access reuse system multiple days in November 2020, December 2020, and January 2021. During this time, it did not appear that the substandard effluent reject procedures were followed as per the current operating protocol on file with the Department, in violation of Rule 62-610.463(2), F.A.C.

13) Substandard effluent was sent to the public access reuse north pond and public access reuse ground storage tank, in violation of Rule 62-620.610(7), F.A.C.

14) Solids were noted in the Dayron RIBs during an additional reconnaissance inspection conducted on January 13, 2021, in violation of Rule 62-610.523(6) & (7).

15) The following ground water exceedances were noted by the Department during the DMR file review from first quarter 2020 through fourth quarter 2020:

**Table 2 - Winter Springs West Groundwater Exceedances from 2020 Quarter 1 to 2020 Quarter 4**

| Monitoring Period | Parameter      | Monitoring Well Number | Result     | Limit     | Rule Citations          |
|-------------------|----------------|------------------------|------------|-----------|-------------------------|
| 2020 QTR 1        | Fecal Coliform | MWC-4                  | 45 #/100mL | 4 #/100mL | Rule 62-550.828, F.A.C. |
| 2020 QTR 1        | pH             | MWC-5                  | 5.4 s.u.   | 6.5 s.u.  |                         |
| 2020 QTR 2        | Fecal Coliform | MWC-2                  | 6 #/100mL  | 4 #/100mL |                         |



|            |                |       |            |           |
|------------|----------------|-------|------------|-----------|
| 2020 QTR 2 | Fecal Coliform | MWC-4 | 10 #/100mL | 4 #/100mL |
| 2020 QTR 2 | Fecal Coliform | MWC-5 | 9 #/100mL  | 4 #/100mL |
| 2020 QTR 3 | Fecal Coliform | MWC-4 | 45 #/100mL | 4 #/100mL |
| 2020 QTR 3 | pH             | MWC-5 | 5.4 s.u.   | 6.5 s.u.  |
| 2020 QTR 4 | Nitrate as N   | MWC-2 | 620 mg/L   | 10 mg/L   |
| 2020 QTR 4 | Fecal Coliform | MWC-2 | 84 #/100mL | 4 #/100mL |
| 2020 QTR 4 | Nitrate as N   | MWC-3 | 13.2 mg/L  | 10 mg/L   |
| 2020 QTR 4 | pH             | MWC-3 | 6.3 s.u.   | 6.5 s.u.  |
| 2020 QTR 4 | Nitrate as N   | MWC-4 | 13.2 mg/L  | 10 mg/L   |
| 2020 QTR 4 | pH             | MWC-4 | 6.3 s.u.   | 6.5 s.u.  |
| 2020 QTR 4 | pH             | MWC-5 | 6.1 s.u.   | 6.5 s.u.  |

16) According to notes on the fourth quarter 2020 DMR, MWI-5 was damaged and samples could not be collected, in violation of Rule 62-520.600 and 62-4.070(3), F.A.C.

d) During a reconnaissance inspection conducted on January 28, 2021, the following violations were noted:

1) At the time of inspection in-line and bench field meter comparisons were reviewed for November and December 2020, several transcription errors, acceptance criteria violations, and missing information was noted, in violation of Rule 62-160.210(1), F.A.C.

2) During the review of the operation and maintenance logbook for November and December 2020, several significant maintenance issues were ongoing at this facility and the entries recorded were very inconsistent, vague, and did not provide clarity, in violation of Rule 62-602.650(4), F.A.C.

e) During a reconnaissance inspection conducted on February 11, 2021, the following violations were noted:

1) The field meter calibration/verification logs were reviewed at the time of inspection and the following required information was not located on this

documentation: standards lot numbers, standards expiration dates, and bench meter serial numbers, in violation of Rule 62-160.240(1), F.A.C.

2) Routine composite sampler maintenance records were not provided, in violation of Rule 62-160.210(1), F.A.C.

3) According to a review of the operation and maintenance logbook, the reject valve activity data, the monitoring strip chart data, and reject setpoint discussion, it appears that the several procedures were not being followed as outlined in the current operating protocol, in violation of Rule 62-610.320(6)(a), F.A.C.

4) During the review of the effluent land application site disposal logs and the flow data reported on the November 2020 DMR, the Dayron RIB (FLW-8) flow values calculated on the disposal logs did not match values reported on Part B of the DMR, in violation of Rule 62-620.610(18)(a), F.A.C.

5) Current flow meter calibration documentation was not provided for all permitted compliance flow meters, in violation of Rule 62-620.350(1), F.A.C.

5. This Order has been entered into by the Respondent for the purpose of settlement only. Accordingly, neither the recitals nor the Department's findings in this Order, nor the terms and conditions of this Order shall be construed in any legal proceeding or administrative action, proceeding or litigation as an admission that the Respondent has violated any statute, regulation, ordinance or permit condition. Respondent and the Department do not intend this provision to apply to any non-compliance by Respondent with this Order.

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

**ORDERED:**

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

7. By July 31, 2022, Respondent shall complete the items listed in permit revision FLA011067-026-DW1/MR issued on March 12, 2020 and adhere to the temporary operation modification issued on September 15, 2021.

8. By December 31, 2021, Respondent shall plug the line to the abandoned golf course ponds from the Facility and revise the operating protocol to reflect this change and include routine plug monitoring. Department approval must be obtained before any use of this line occurs.

9. Within 30 days after completion of the construction, Respondent shall submit to the Department a Certification of Completion, prepared and sealed by a professional engineer registered in the State of Florida, stating that modifications to the Facility, effluent disposal system, and collection system have been constructed in accordance with the provisions of the Permit.

10. Within 30 days after completion of the construction outlined in paragraph 7, Respondent shall submit a revised map of all valves and piping at the Facility.

11. Within 180 days of the effective date of this Order, Respondent shall develop and implement a training program that includes but is not limited to the following main subjects: Recordkeeping and Reporting, Calibration and Verification of Field Meter Equipment, Public Access Reuse Operating Protocol, and Preventive and Routine Maintenance of Equipment. Within 30 days of completion of training, submit a syllabus and list of attendees to the Department.

12. Every quarter after the effective date of this Order and continuing until all corrective actions have been completed, Respondent shall submit to the Department a written report containing information about the status and progress of projects being completed under this Order, information about compliance or noncompliance with the applicable requirements of this Order, including construction requirements and effluent limitations, and any reasons for noncompliance. These reports shall also include a projection of the work Respondent will perform pursuant to this Order during the 12-month period which will follow the report.

Respondent shall submit the reports to the Department within 30 days of the end of each quarter.

13. Notwithstanding the time periods described in the paragraphs above, Respondent shall complete all corrective actions required by paragraphs 6-10 within the respective deadlines specified thereunder shall constitute full compliance with Rule 62-620, F.A.C., regardless of any intervening events or alternative time frames imposed in this Order, other than those excused delays agreed to by the Parties, as described in paragraph 27.

14. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$150,417.65 in settlement of the regulatory matters addressed in this Order. This amount includes \$149,417.65 for civil penalties and \$1,000.00 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 9 violations that each warrant a penalty of \$2,000.00 or more.

15. Respondent agrees to pay the Department stipulated penalties in the amount of \$1,000.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraphs 6-12 of this Order. Additionally, Respondent shall pay the Department stipulated penalties for any discharges of wastewater from the Winter Springs West WWTF and/or the Winter Springs West collection/transmission system. Respondent shall pay penalties as follows:

**Table 3 - Stipulated Penalty Payments per Volume**

| <b><u>Amount per day per discharge</u></b> | <b><u>Discharge Volume</u></b> |
|--|--------------------------------|
| \$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                                   | 25,001 to 100,000 gallons      |
| \$15,000                                   | in excess of 100,000 gallons   |

The Department may demand stipulated penalties on a semi-annual basis at any time after violations occur. 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 16, 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 14 of this Order.

16. 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.

17. Except as otherwise provided, all submittals and payments required by this Order shall be sent to [DEP\\_CD@floridadep.gov](mailto:DEP_CD@floridadep.gov), David Smicherko, Compliance Assurance Program Manager, Department of Environmental Protection, Central District, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803.

18. In lieu of making cash payment of \$149,417.65 in civil penalties as set forth in Paragraph 14 above, Respondent may elect to off-set the amount of \$149,417.65 by implementing a Pollution Prevention (P2) Project, which must be approved by the Department. P2 is a process improvement that reduces the amount of pollution that enters the environment; by conserving resource (including water, raw materials, chemicals, and energy) use, or by minimizing waste generation (including domestic and industrial wastewater, solid and hazardous waste, and air emissions). A P2 Project must reduce pollution or waste within the process beyond what is required by federal, state, or local law, in order to be eligible for civil penalty offset under this Order. If Respondent chooses to implement a P2 Project, Respondent shall notify the Department of its election by certified mail within 15 days of the

effective date of this Order. Within 30 days of the effective date of this Order, Respondent must pay a total of \$1,000.00 for costs and expenses incurred by the Department, during the investigation of this matter, and the preparation and tracking of this Order.

19. If Respondent elects to implement a P2 Project as provided in paragraph 18, Respondent shall submit a completed P2 Project Plan (Plan) within 45 days of the effective date of this Order. The Plan must be completed using **Exhibit A**, "P2 Project Plan" template.

20. In the event the Department requires additional information to process the Plan described in Paragraph 19, Respondent shall provide a modified Plan containing the information requested by the Department within 30 days of the date of the request.

21. If any balance remains after the entire P2 credit is applied to the allowable portion of the civil penalty, Respondent shall pay the difference within 30 days of written notification by the Department to Respondent that the balance is due.

22. In lieu of making cash payment of \$149,417.65 in civil penalties as set forth in paragraph 14 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 and may not be a corrective action requirement of the 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 civil penalty off-set amount, which in this case is the equivalent of at least \$224,126.47. 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 remaining \$1,000.00 in costs must be paid within 30 days of the effective date of the Consent Order.

23. If Respondent elects to implement an in-kind project as provided in paragraph 22, then Respondent shall comply with all the requirements and time frames in **Exhibit B** entitled In-Kind Projects.

24. 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 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 on Exhibit B to this 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.

25. 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.

26. 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.

27. 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, as described in paragraph 17, 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.

28. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this 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 Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

29. 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.



30. 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.

31. 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.

32. 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.

33. 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.

34. 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.

35. 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.

36. Respondent shall publish the following notice in a newspaper of daily circulation in Seminole County, Florida. The notice shall be published one time only within 30 days of the effective date of the 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 ORDER

The Department of Environmental Protection ("Department") gives notice of agency action of entering into a Consent Order with CITY OF WINTER SPRINGS pursuant to section 120.57(4), Florida Statutes. The Consent Order addresses the Facility spills, maintenance, and operational violations at Winter Springs West Wastewater Treatment Facility, 1000 West State Road 434, Winter Springs, FL 32708. 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, Central District, 3319 Maguire Blvd. Suite 232, Orlando, FL 32803.

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](mailto: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 Central District, 3319 Maguire Blvd. Suite 232, Orlando, FL 32803. 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.

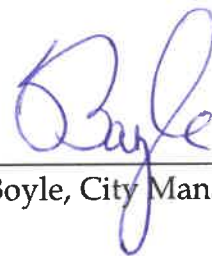
37. Rules referenced in this Order are available at

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

CITY OF WINTER SPRINGS:

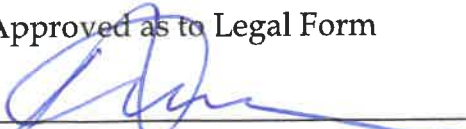


Christian Gowan, City Clerk



Shawn Boyle, City Manager


Approved as to Legal Form



Anthony A. Garganese, City Attorney

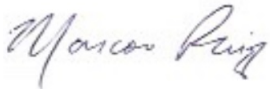
DONE AND ORDERED this 20 day of December, 2021, in Orange County,  
Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

 on behalf of

\_\_\_\_\_  
Aaron Watkins  
District Director  
Central District

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



\_\_\_\_\_  
Clerk

December 20, 2021

\_\_\_\_\_  
Date

Copies furnished to:

Lea Crandall, Agency Clerk  
Mail Station 35

[This template is to be used as a Long Form Consent Order Exhibit when regulatory corrective actions, or P2 Projects require time to be resolved or developed. This template must be completed to describe P2 Projects once identified. The document must be approved prior to P2 Project implementation. The Plan must contain the following information.]

**Exhibit A**

**P2 Project Plan (Plan)**

*(Note: Provide the information specified and delete existing text within parentheses)*

(Facility Name)

(Address)

(Telephone)

(Preparer Name/Title)

A. **Project Description:** (Summarize P2 Projects selected. Describe the processes or operations to be modified, and the specific changes to be made. Include details such as the specific equipment to be installed, materials to be substituted, and the actual changes to be made to processes or operations. Include manufacturer or vendor information, and specifications.)

B. **Environmental and Economic Benefits:** (Explain why and how each Project proposed constitutes P2.

Specify how each material, chemical, water and energy is saved, and from which processes or operations. Specify how each solid and hazardous waste, industrial wastewater and air emissions are generated, the waste type, and from which processes or operations. **Describe generally in paragraph format.**

Estimate the *annual* savings in *resources* - raw materials, chemicals, water, and energy at the process or operation front end. Estimate the *annual* reductions in *wastes* - solid and hazardous waste, wastewater, and air emission reductions at the process or operation back end.

Figures quoted should represent weights or volumes annually, and should be equalized for production rate changes. Associated cost savings should be included. **Describe specifically using the tables provided.**

Complete the first table for each per Project individually. Add or average corresponding figures from each Project table to complete the Plan table, *for multiple Projects.*)

| <i>(Project Name)</i>                         |                                    |       |           |                      |       |           |                       |
|---|------------------------------------|-------|-----------|----------------------|-------|-----------|-----------------------|
| <b>Annual Resource Consumption Comparison</b> |                                    |       |           |                      |       |           |                       |
| Item  | Quantity Used (gal/lb/kwh-specify) |       |           | Purchasing Cost (\$) |       |           | Percent (%) Reduction |
|   | Before                             | After | Reduction | Before               | After | Reduction |                       |
| Water   |                                    |       |           |                      |       |           |                       |
| Chemicals                                     |                                    |       |           |                      |       |           |                       |

| Materials                                  |  |       |           |                    |       |           |                       |
|--|--|-------|-----------|--------------------|-------|-----------|-----------------------|
| Energy                                     |  |       |           |                    |       |           |                       |
| Total Annual Cost Savings =                |  |       |           |                    |       |           |                       |
| <b>Annual Waste Generation Comparison</b>  |  |       |           |                    |       |           |                       |
| Item                                       | Quantity Generated (gal/lb/tons-specify) |       |           | Disposal Cost (\$) |       |           | Percent (%) Reduction |
|  | Before                                   | After | Reduction | Before             | After | Reduction |                       |
| Hazardous Waste                            |  |       |           |                    |       |           |                       |
| Industrial Wastewater                      |  |       |           |                    |       |           |                       |
| Solid Waste                                |  |       |           |                    |       |           |                       |
| Air Emissions                              |  |       |           |                    |       |           |                       |
| Total Annual Cost Savings =                |  |       |           |                    |       |           |                       |
| <b>Total Annual Avoided Cost Savings =</b> |  |       |           |                    |       |           |                       |

| <i>Summary of All P2 Projects</i>             |  |       |           |                      |       |           |                       |
|---|--|-------|-----------|----------------------|-------|-----------|-----------------------|
| <b>Annual Resource Consumption Comparison</b> |  |       |           |                      |       |           |                       |
| Item  | Quantity Used (gal/lb/kwh-specify)       |       |           | Purchasing Cost (\$) |       |           | Percent (%) Reduction |
|   | Before                                   | After | Reduction | Before               | After | Reduction |                       |
| Water   |  |       |           |                      |       |           |                       |
| Chemicals                                     |  |       |           |                      |       |           |                       |
| Materials                                     |  |       |           |                      |       |           |                       |
| Energy  |  |       |           |                      |       |           |                       |
| Total Annual Cost Savings =                   |  |       |           |                      |       |           |                       |
| <b>Annual Waste Generation Comparison</b>     |  |       |           |                      |       |           |                       |
| Item  | Quantity Generated (gal/lb/tons-specify) |       |           | Disposal Cost (\$)   |       |           | Percent (%) Reduction |
|   | Before                                   | After | Reduction | Before               | After | Reduction |                       |
| Hazardous Waste                               |  |       |           |                      |       |           |                       |
| Industrial Wastewater                         |  |       |           |                      |       |           |                       |
| Solid Waste                                   |  |       |           |                      |       |           |                       |
| Air Emissions                                 |  |       |           |                      |       |           |                       |
| Total Annual Cost Savings =                   |  |       |           |                      |       |           |                       |
| <b>Total Annual Avoided Cost Savings =</b>    |  |       |           |                      |       |           |                       |

C. **Project Cost:** (Include per Project the itemized, subtotal and Project total costs. A projected payback period in months or years needs to be included.)

Provide a grand total cost for all Projects and an averaged projected payback period, *for multiple Projects. Use list or table format for all.*)

D. **Implementation Schedule:** (Provide a brief discussion of the steps necessary to implement the Projects and expected time frames for completion. A table or list format is preferred. The schedule shall include a list of milestones with dates, or timeframes based on Plan approval date, including Progress and Final Report submittals. Provide a description of any anticipated problems and options. *The implementation should take no longer than six months to complete.*)

E. **Project Reporting:**

1. Within 90 days of approval of the Project Plan, the Respondent shall submit a P2 Project Progress Report to the Department that describes the Respondent's progress in implementing the P2 Project and meeting the requirements in the Plan, and includes a list of equipment ordered, purchased, and/or installed.

2. Within 180 days of approval of the Plan, the Respondent shall submit to the Department a P2 Project Final Report that includes the following.

a. A confirmation that the information presented in Sections A-C of the Summary is unchanged, or an updated version with the sections changed appropriately. A statement that the Project(s) was/were implemented successfully. An explanation of any problems encountered and corrections applied.

b. Attached expense reports, receipts, purchasing instruments and other documents itemizing costs expended on preparing and implementing the Project.

3. The Department shall review the Final Report and determine:

a. Whether the project was properly implemented; and

b. Which expenses apply toward pollution prevention credits.

4. A \$1.00 pollution prevention credit for each \$1.00 spent on applicable costs will be applied against the portion of the civil penalty that can be offset.

a. The following costs are allowable to offset the allowable amount of the civil penalty:

i. Preparation of the P2 Project;

ii. Design of the P2 Project;

iii. Installation of equipment for the P2 Project;

iv. Construction of the P2 Project;

v. Testing of the P2 Project;

vi. Training of staff concerning the implementation of the P2 Project; and

vii. Capital equipment needed for the P2 Project.

b. The following costs shall not apply toward P2 credit:

i. Costs incurred in conducting a waste audit;

ii. Maintenance and operation costs involved in implementing the P2 Project;

iii. Monitoring and reporting costs;

iv. Salaries of employees who perform their job duties;

v. Costs expended to bring the facility into compliance with current law, rules and regulations;

vi. Costs associated with a P2 Project that is not implemented;

vii. Costs associated with a P2 Project that has not been approved by the

Department; and

viii. Legal costs.

c. If any balance remains after the entire P2 credit is applied to the allowable portion of the civil penalty, Respondent shall pay the difference within 30 days of written notification by the Department to the Respondent that the balance is due.

5. The Department may terminate the P2 Project at any time during the development or implementation of it, if the Respondent fails to comply with the requirements in this document, act in good faith in preparing and implementing the project, or develop and implement the P2 Project in a timely manner. The Respondent may terminate the P2 Project at any time during its development or implementation.



Exhibit B

**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 the amount of \$149,437.65, 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 the amount of \$149,437.65, 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 \$149,437.65 penalty, no additional penalties shall be assessed for failure to complete the requirement of this paragraph.

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 \$149,437.65, no additional penalties shall be assessed for failure to complete the requirements of this paragraph.