

**STATE OF RHODE ISLAND  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

**OFFICE OF COMPLIANCE AND INSPECTION**

**In Re: City of Warwick**

**File No.: OCI-WP-22-229**

**X-ref RIPDES RI0100234**

**AAD No.: 23-002/WRE**

**CONSENT AGREEMENT**

**A. INTENT & PURPOSE**

This Consent Agreement (“Agreement”) is entered by and between the Rhode Island Department of Environmental Management (“RIDEM”) and the City of Warwick, Rhode Island (“Respondent”). The Agreement is entered in accordance with Section 42-17.1-2 et seq. of the Rhode Island General Laws (“R.I. Gen. Laws”) for the purpose of resolving the alleged violations set forth in a Notice of Violation (“NOV”) issued to Respondent by RIDEM on 2 March 2023.

**B. STIPULATED FACTS**

- (1) WHEREAS Respondent owns a wastewater collection and treatment system (“Facility”).
- (2) WHEREAS the Facility includes the Cedar Swamp Force Main (“CSFM”).
- (3) WHEREAS on 30 September 2019, RIDEM issued to Respondent Rhode Island Pollutant Discharge Elimination System Permit No. RI0100234 (“Permit”), which became effective on 1 January 2020.
- (4) WHEREAS the Permit authorizes Respondent to discharge treated wastewater from the Facility to Pawtuxet River through outfall 001A.
- (5) WHEREAS the Permit does not authorize Respondent to discharge wastewater from the Facility to any other waters of the State or from any location other than outfall 001A.
- (6) WHEREAS on 17 September 2022, RIDEM received from Respondent a written report of a sanitary sewer overflow that occurred from 12 September 2022 through 14 September 2022 that impacted Warwick Pond, Buckeye Brook, Old Mill Creek, Mill Cove, and Upper Narragansett Bay. The report stated that the cause of the overflow was a corroded crown on a section of the CSFM.

- (7) WHEREAS on or about 29 September 2022, Respondent submitted to RIDEM a proposal and plans titled *Cedar Swamp Force Main Rehabilitation – Contract No. 94* to rehabilitate CSFM (“Contract No. 94”).
- (8) WHEREAS on 29 November 2022, RIDEM approved Contract No. 94.
- (9) WHEREAS on 2 March 2023, RIDEM issued a NOV to Respondent alleging certain violations of the Permit and Rhode Island's *Water Pollution Act* (“WP Act”), *Water Quality Regulations* (250-RICR-150-05-1) (“WQ Rules”), *Regulations for the Rhode Island Pollutant Discharge Elimination System* (250-RICR-150-10-1) (“RIPDES Rules”), and *Rules and Regulations for the Operation and Maintenance of Wastewater Treatment Facilities* (250-RICR-150-10-4) (“O&M Rules”).
- (10) WHEREAS Respondent requested an administrative hearing with the Administrative Adjudication Division (“AAD”) to contest the NOV.
- (11) WHEREAS AAD is a division of RIDEM.
- (12) WHEREAS in lieu of proceeding to an administrative adjudicatory hearing on the NOV and to effect a timely and amicable resolution of the NOV, RIDEM and Respondent hereby agree that it is in the best interest of the parties and in the public interest to resolve the issues raised in the NOV.
- (13) WHEREAS RIDEM finds that the Agreement is a reasonable and fair settlement and adequately protects the public interest in accordance with the WP Act, WQ Rules, RIPDES Rules, and O&M Rules.
- (14) WHEREAS Respondent finds that the Agreement is reasonable and fair and enters into the Agreement with full knowledge and understanding of its terms.

### C. AGREEMENT

- (1) RIDEM has jurisdiction over the subject matter of the Agreement and has personal jurisdiction over Respondent.
- (2) The Agreement shall have the full force and effect of a final compliance order issued after a full hearing on the merits pursuant to the Administrative Procedures Act, R.I. Gen. Laws Section 42-35-1 et seq. and R.I. Gen. Laws Section 42-17.7-1 et seq. from which no timely appeal was taken, and which is enforceable in Superior Court in accordance with R.I. Gen. Laws Section 42-17.1-2(21)(vi).
- (3) The provisions of the Agreement shall apply to and be binding upon RIDEM, Respondent and its agents, servants, employees, successors, assigns and all persons, firms and corporations acting under, through and for Respondent in the performance of work relating to or impacting the requirements of the Agreement.

- (4) **Within 9 months of execution of the Agreement**, Respondent shall complete all work in Contract No. 94 to rehabilitate the CSFM as evidenced by the submission of a letter to RIDEM certifying that all the work is complete.
- (5) Penalty – Respondent shall pay **\$50,000** in administrative penalties as follows:
- (a) **Upon execution of the Agreement by Respondent**, Respondent shall submit a check to RIDEM for \$50,000 to perform a Supplemental Environmental Project (“SEP”). The SEP will include, but not be limited to, conducting at least 1 shellfish transplant in both calendar year 2024 and calendar year 2025.
  - (b) The SEP shall be administered by the Narragansett Bay Commission (“NBC”).
  - (c) The check shall be made payable to the Narragansett Bay Commission and the memo of check shall state: “Supplemental Environmental Project Shellfish Transplant Funding”.
  - (d) NBC shall make payments to eligible fishermen in line with criterion previously established by RIDEM in prior transplant programs and perform all ancillary support for the transplant including, but not limited to, bag counting, paperwork and check cutting.
  - (e) Penalties that Respondent agrees to pay in the Agreement are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
  - (f) The check shall be delivered to:

Administrator, RIDEM Office of Compliance and Inspection  
235 Promenade Street  
Providence, RI 02908-5767

D. COMPLIANCE

- (1) Compliance with and fulfillment of the Agreement shall be deemed to resolve all issues raised in the NOV.
- (2) If Respondent fails to comply with the items in subsection C (4) of the Agreement, Respondent shall pay a stipulated penalty of \$1,000 per month for each month during which the noncompliance continues, except that RIDEM may, for good cause shown, defer or reduce such penalty. The payment of a penalty in accordance with this section shall not preclude RIDEM from seeking any other appropriate remedy (e.g., injunctive relief in Superior Court).
- (3) Compliance with the terms of the Agreement does not relieve Respondent of any obligation to comply with any other applicable laws or regulations administered by, through or for RIDEM or any other governmental entity.

- (4) Upon a determination by the Director that there is a threat to the public health or the environment, or upon discovery of any new information, RIDEM reserves the right to take additional enforcement actions as provided by statute or regulation, including, but not limited to, the issuance of “Immediate Compliance Orders” as authorized by R.I. Gen. Laws Section 42-17.1-2(21). The Agreement shall not restrict any right to hearing or other right available by statute or regulation that Respondent may have regarding any new enforcement action commenced by RIDEM after the execution of the Agreement.
- (5) The Agreement shall not operate to shield Respondent from liability arising from future activities, as of the date of execution of the Agreement.
- (6) The scope of the Agreement is limited to violations alleged in the NOV.
- (7) Communications regarding the Agreement shall be directed to:

**Christina Hoefsmit, Deputy Administrator**  
RIDEM Office of Compliance and Inspection  
235 Promenade Street  
Providence, RI 02908-5767  
(401) 222-1360 ext. 2772023  
[christina.hoefsmit@dem.ri.gov](mailto:christina.hoefsmit@dem.ri.gov)

**Jenna Giguere, Esquire**  
RIDEM Office of Legal Services  
235 Promenade Street  
Providence, RI 02908-5767  
(401) 222-6607 ext. 2772306  
[jenna.giguere@dem.ri.gov](mailto:jenna.giguere@dem.ri.gov)

**Betty Anne Rogers, Executive Director**  
125 Arthur W. Devine Boulevard  
Warwick, RI 02886  
(401) 739-4949  
[bettyanne.rogers@warwickri.com](mailto:bettyanne.rogers@warwickri.com)

All communications regarding compliance with the Agreement shall be forwarded to the above-referenced addressees by certified mail.

- (8) The Director may, for good cause shown, defer any of the compliance dates prescribed herein. Good cause for deferral of any compliance date shall be forwarded to RIDEM in writing at least 15 days prior to the prescribed deadline.
- (9) The Agreement may be amended by agreement of the parties in writing.
- (10) The Agreement shall be deemed entered as of the date of execution by all parties.

**IN WITNESS WHEREOF, the undersigned consent to this Agreement in substance and in form.**

For Respondent

By: \_\_\_\_\_  
Betty Anne Rogers, Executive Director  
Warwick Sewer Authority

Dated: \_\_\_\_\_

In my capacity, as Executive Director of the Warwick Sewer Authority, I hereby aver that I am authorized to enter into this Agreement and thereby bind Respondent to satisfy any obligation imposed upon it pursuant to said Agreement.

**STATE OF RHODE ISLAND**

**COUNTY OF** \_\_\_\_\_

In \_\_\_\_\_, in said County and State, on this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me personally appeared Betty Anne Rogers, the Executive Director of the Warwick Sewer Authority, to me known and known by me to be the party executing the foregoing instrument on behalf of Respondent, and she acknowledged said instrument by her executed, to be her free act and deed in said capacity and the free act and deed of Respondent.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

For the State of Rhode Island, Department of  
Environmental Management

By: \_\_\_\_\_

David E. Chopy, Administrator  
Office of Compliance and Inspection

Dated: \_\_\_\_\_