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13 SUNCOAST WATERKEEPER, OUR CHILDREN'S EARTH FOUNDATION,
and ECOLOGICAL RIGHTS FOUNDATION

14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE MIDDLE DISTRICT OF FLORIDA
16

17 SUNCOAST WATERKEEPER, OUR) Case No.:
CHILDREN'S EARTH FOUNDATION,)
18 AND ECOLOGICAL RIGHTS) [Proposed] CONSENT DECREE
FOUNDATION,)
19)
Plaintiffs,)
20)
v.)
21)
CITY OF ST. PETERSBURG,)
22)
Defendant.)
23)
_____)

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25
26
27
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1 WHEREAS, on __, 2016, Plaintiffs Suncoast Waterkeeper ("SCWK"), Our Children's
2 Earth Foundation ("OCE"), and Ecological Rights Foundation ("EcoRights"), (collectively
3 "Environmental Groups") filed this action against defendant City of St. Petersburg ("the City")
4 pursuant to the citizen suit provision of the Clean Water Act ("CWA"), 33 U.S.C. §§ 1251, *et seq.*,
5 alleging raw sewage and wastewater discharges in violation of the CWA;

6 WHEREAS, the Environmental Groups allege that the City has discharged pollutants
7 without a permit in violation of CWA section 301(a), 33 U.S.C. § 1311(a);

8 WHEREAS, the City receives wastewater from several wastewater collection agencies,
9 including its own wastewater collection system plus the City of Gulfport, Pinellas County
10 Utilities, Pinellas Park, St. Pete Beach, South Pasadena, Treasure Island, Tierra Verde
11 (unincorporated), Bear Creek (unincorporated) and other unincorporated areas that discharge
12 wastewater to St. Petersburg's publicly owned treatment works ("the POTW"). (collectively
13 "Satellites"), with a total population of approximately _____. Each Satellite owns and operates its
14 own wastewater collection system, which delivers wastewater to the City's wastewater collection
15 and treatment system. The Satellites' and the City's connected wastewater collection and treatment
16 systems are referred to collectively herein as the "Greater St. Petersburg Sanitary Sewer System;"

17 WHEREAS, Inflow and Infiltration ("I&I") of stormwater into the Greater St. Petersburg
18 Sanitary Sewer System and private sewer laterals during wet weather events via mis-connections,
19 cracks and other imperfections in system pipes, joints and manholes can lead to a large increase in
20 the volume of wastewater flow in the Greater St. Petersburg Sanitary Sewer System that
21 occasionally has exceeded the capacity of the system and caused the discharge of raw or partially
22 treated sewage to waters of the United States, storm drains, public streets, and private property;

23 WHEREAS, successful implementation of a viable remedy to the I&I problem, related wet
24 weather sewage spills and discharges, and CWA violations identified in the Environmental Groups
25 Complaint requires the active participation of the Satellites;

26 WHEREAS, the City does not admit any liability for the transactions or occurrences
27 alleged in the Complaint;

28

1 WHEREAS, the parties agree and the Court by entering this Consent Decree finds that
2 settlement of the action, without further protracted litigation, is fair, reasonable and in the public
3 interest;

4 NOW, THEREFORE, without adjudication of any issue of fact or law, except as
5 specifically provided herein, and upon the consent and agreement of the parties to this Consent
6 Decree by their authorized officials;

7 IT IS ADJUDGED, ORDERED AND DECREED THAT:

8 **I. GENERAL OBJECTIVES**

9 1. The objectives of this Consent Decree are:

- 10 a. To ensure that the City continues to improve its efforts to comply with the CWA;
11 b. To ensure that the City continues to use, implement, and improve ways, means, and
12 methods to prevent or reduce wastewater spills; and
13 c. To further the goals and objectives of the CWA.

14 **II. DEFINITIONS**

15 2. Unless otherwise expressly defined herein, terms used in this Consent Decree
16 which are defined in the CWA or in regulations or rules promulgated under the CWA have the
17 meaning assigned to them in the statutes or regulations or rules. Whenever terms listed below are
18 used in this Consent Decree, the following definitions apply:

19 “Acute Defect” shall mean a failing in a sewer pipe in need of an urgent response to
20 address an imminent risk of a sewage spill.

21 “Building/Private Property Backup” shall mean a sewage spill overflow in the form of
22 wastewater release or backup into a building or onto private property that is caused by blockages,
23 flow conditions, or other malfunctions in the WCTS. A wastewater backup or release that is
24 caused by blockages, flow conditions, or other malfunctions of a Private Lateral is not a
25 Building/Private Property Backup for purposes of this Decree.

26 “Consent Decree” means this Consent Decree and any attachments or documents
27 incorporated by reference.

28

1 “Day” means a calendar day. In computing any period of time under this Consent Decree,
2 where the last day of such period is a Saturday, Sunday, or Federal or State Holiday, the period
3 runs until the close of business on the next day that is not a Saturday, Sunday, or Federal or State
4 Holiday.

5 “Design Storm” means the storm event utilized by the City in designing the WCTS and
6 WRFs, which shall be a ten (10) year, twenty-four (24) hour storm event occurring simultaneously
7 across the City’s sewersheds. [the Environmental Groups envision further discussion on this point,
8 starting with what Design Storm the City has historically utilized].

9 “Force Main” means the pipelines within the WCTS that convey wastewater under
10 pressure from the discharge side of a pump or pneumatic ejector to a discharge point.

11 “FOG” means fats, oil, and grease.

12 “Gravity Sewer Line” shall mean a pipe that receives, contains and conveys wastewater not
13 normally under pressure, but is intended to flow unassisted under the influence of gravity. Gravity
14 sewer lines are typically not intended to flow full under normal operating conditions.

15 “Infiltration” shall mean water other than wastewater that enters a sewer system (including
16 sewer service connections and foundation drains) from the ground through such means as
17 defective pipes, pipe joints, connections, or manholes, as defined by 40 C.F.R. § 35.2005(b)(20).

18 “Inflow” shall mean water other than wastewater that enters the WCTS (including sewer
19 service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard
20 drains, area drains, drains from springs and swampy areas, manhole covers, cross connections
21 between storm sewers and sanitary sewers, catch basins, cooling towers, stormwater, surface
22 runoff, street wash waters, or drainage, as defined by 40 C.F.R. § 35.2005(b)(21).

23 “Inflow and Infiltration” or “I&I” shall mean the total quantity of water from both
24 Infiltration and Inflow without distinguishing the source.

25 “NAPOT” shall be defined for single speed pumps as the daily average total pump
26 operating hours for the previous twelve (12) months divided by one less than the total number of
27 pumps installed at the station unless otherwise subsequently agreed to by the parties in writing.

28

1 For multi-speed or variable speed pumps, Defendants shall calculate the pump operating time
2 based upon power consumption unless otherwise subsequently agreed to by the parties in writing.

3 “Normal in-line storage capacity” shall mean the available storage capacity within the
4 gravity sewer system which discharges to a pump station to the extent that such storage does not i)
5 impede the flow of wastewater from a service connection to the Defendant’s sewer system which
6 could result in a backup of wastewater in a customer’s premises ii) cause a spill from the POTW,
7 or iii) cause the wastewater level within the WCTS at any point to exceed four (4) feet below the
8 manhole or pump station top elevation.

9 “PACP” shall refer to the National Association of Sewer Service Companies Pipeline
10 Assessment and Certification Program rating system.

11 “POTW” means all City WRFs and any City owned Wastewater Collection and
12 Transmission System (WCTS).

13 “Peak Flow” shall mean the greatest flow in a sewer line averaged over a sixty (60) minute
14 period as a result of the design event as determined by modeling or measurement.

15 "Private lateral" shall mean that portion of a sanitary sewer conveyance pipe extending
16 from any structure that under governing law is owned by or is otherwise the responsibility of a
17 third-party.

18 "Public lateral" shall mean that portion of a sanitary sewer conveyance pipe connecting to
19 sewer main lines that under governing law is owned by or is otherwise the responsibility of the
20 City.

21 “Pumping Station” shall mean facilities comprised of pumps that lift wastewater to a
22 higher hydraulic elevation, including all related electrical, mechanical, and structural systems
23 necessary to the operation of that pumping station.

24 “Rainfall derived infiltration and inflow” or (RDII)" shall mean I&I that is caused by
25 rainfall.

26 “Satellite” shall mean each city or other jurisdiction that owns or operates a sewage
27 collection system from which St. Petersburg’s POTW receives wastewater. As of the Effective
28 Date of this Consent Decree, the Satellites are the cities of Gulfport, Pinellas County Utilities,

1 Pinellas Park, St. Pete Beach, South Pasadena, Treasure Island, Tierra Verde (unincorporated),
2 Bear Creek (unincorporated) and other unincorporated areas that discharge wastewater to St.
3 Petersburg’s POTW.

4 “Sewer line segment” means any section of publicly-owned sewer line or pipe located
5 between: (1) two manholes holes; (2) a pump station and a manhole; (3) a pump station or a
6 manhole and a headworks structure; or (4) a sewer line or pipe otherwise identifiable as a discrete
7 section.

8 “Spill” or “spills” means the discharge, release, or spill of sewage, including wastewater or
9 sewage sludge, slurry, or solids, from any portion of the WCTS or WRFs, including spills to
10 waters of the United States, other surface waters, or any other location outside of the WCTS or
11 WRFs. “Spill” or “spills” shall further mean the unauthorized discharge of sewage that has been
12 bypassed around any portion of the WRFs.

13 “SSAMP” means the City’s duly adopted Sewer System Asset Management Plan.

14 “Wastewater Collection and Transmission System” or “WCTS” means all pipes, manholes,
15 sewer lines, pump stations, force mains and appurtenances thereto under ownership or operation of
16 the City designed or used to convey domestic, commercial, or industrial wastewater to any
17 wastewater reclamation facility (WRF) owned and operated by the City and any injection wells or
18 other appurtenances used to dispose of treated wastewater.

19 “Waters of the United States” has the meaning defined in 33 C.F.R. § 328.3(a) and 40
20 C.F.R. § 230.3(s).

21 The “Wastewater Reclamation Facilities (WRFs)” means the Albert Whitted Water
22 Reclamation Facility, the Northeast Water Reclamation Facility, the Northwest Water
23 Reclamation Facility, the Southwest Water Reclamation Facility, and the St. Petersburg Master
24 Reuse System.

25 “Wholesale Customer” shall mean those entities serviced on a bulk and/or wholesale rate
26 by the Defendant’s WCTS and/or WRFs.

27 **III. JURISDICTION AND VENUE**

28

1 12. It is the goal of this Consent Decree to reduce the City’s sewage spills to zero over
 2 time. To approach the goal of zero spills, the City shall use its best efforts to attain the following
 3 Spill Reduction Performance Goals:

4 a. Reduction of total number of spills [NOTE: For purposes of determining whether the
 5 City has met these goals, only the number of spills per year targets shall be considered. The values
 6 of spills per 100 miles of gravity sewer line per year are provided for illustration purposes only.]:

7

8 **Spill Reduction Table**

9 Year	Number of Spills	Spills/100 miles gravity line/year (approximate)
10 2017		[To be discussed]
11 2018		
12 2019		
13 2020		
14 2021		
15 2022		
16 2023		
2024		
2025		
2026		

17 b. Limitation of total spills exceeding 1000 gallons to no more than the following:

18 Year	Total Spills Exceeding 1000 Gallons
19 2017	[To be discussed]
20 2018	
21 2019	
22 2020	
23 2021	
24 2022	
25 2023	
26 2024	
27 2025	
28 2026	

1 c. No capacity-related spills after 20__ [date to be discussed] except caused by storm
2 events exceeding the Design Storm.

3 d. No spills repeated within one year from the same sewer line segment or manhole in
4 2018 and subsequent years.

5 13. Failure to attain the Spill Reduction Performance Goals set forth in this Part VI
6 shall not constitute a violation of this Consent Decree, but shall be used (1) as a benchmark in
7 evaluation of whether the City has designed and is implementing an adequate Sewer System Asset
8 Management Program as required under this Consent Decree and (2) one of the criteria to be
9 considered in any Dispute Resolution proceeding under Part XXX (DISPUTE RESOLUTION) of
10 this Decree concerning whether the City has designed and is implementing an adequate Sewer
11 System Asset Management Plan as required under this Consent Decree.

12 14. For purposes of determining compliance with the Spill Reduction Performance
13 Goals, the Parties assume the WCTS currently consists of xx miles of sewer main lines.

14 15. Further, as specified in paragraph 93 of this Decree, the Spill Reduction
15 Performance Goals of this Part VI shall be relevant to termination of this Consent Decree.

16 **VII. SPILL REDUCTION ACTION PLAN**

17 16. If any Consent Decree Compliance Reports provided by the City to the
18 Environmental Groups documents that the City has failed to meet the then-applicable Spill
19 Reduction Performance Goals, the City shall submit to the Environmental Groups within ninety
20 (90) days of submitting any Consent Decree Compliance Reports (or such other time as the Parties
21 agree upon in writing) a Spill Reduction Action Plan that specifies the actions taken in the prior
22 calendar year pursuant to the Consent Decree and additional measures to be taken during the next
23 calendar year and thereafter, which are designed to achieve compliance with the Spill Reduction
24 Performance Goals set forth in this Consent Decree. The Spill Reduction Action Plan shall include
25 a proposed schedule for implementation of all actions proposed.

26 17. Spill Reduction Action Plans shall be subject to approval pursuant to Part XXVIII
27 (SUBMITTALS AND APPROVALS). The City shall as a requirement of this Consent Decree
28

1 implement any Spill Reduction Action Plans adopted pursuant to Part XXVIII (SUBMITTALS
2 AND APPROVALS).

3 18. The City shall address in the Spill Reduction Action Plan the various elements of
4 such a plan that it believes will be necessary to achieve future compliance with the Spill Reduction
5 Performance Goals. The City may include any or all elements in the Spill Reduction Action Plan
6 in its SSAMP Program.

7 19. If additional funding is necessary to implement the Spill Reduction Action Plan the
8 City shall seek such funding as soon as is practical. If the City seeks financing, but is
9 unsuccessful, the City will disclose in the Spill Reduction Action Plan the extent of its efforts,
10 including any circumstances beyond its control which could not have been reasonably foreseen or
11 prevented by the exercise of due diligence.

12 **VIII. SEWER SYSTEM ASSET MANAGEMENT PLAN**

13 20. The City shall maintain a comprehensive SSAMP that fully complies with the
14 Consent Decree and any administrative orders issued by the Florida Department of Environmental
15 Protection. The City shall update the SSAMP as needed to remain in full compliance with the
16 Consent Decree and any administrative orders issued by the Florida Department of Environmental
17 Protection. The SSAMP shall set forth the measures and implementation schedules for the
18 measures that the City is and will in the future employ to attain a well-maintained and operated
19 POTW. The SSAMP shall further be designed to obtain the Spill Reduction Performance Goals
20 and meeting these goals shall be a criterion for determining the adequacy of the SSAMP.

21 21. Within sixty (60) days of execution of the Consent Decree, the City shall submit to
22 the Environmental Groups in accord with PART XXVIII (SUBMITTALS AND APPROVALS)
23 an SSAMP Improvement Work Plan which proposes a timeline for adopting each of the plans and
24 programs specified in Parts IX-XXII below, which shall be included as components of its SSAMP.
25 In addition, the City shall submit to the Environmental Groups in accord with PART XXVIII
26 (SUBMITTALS AND APPROVALS) each component of its SSAMP specified in Parts IX-XXII
27 below within ten (10) business days of adding such component to its SSAMP.

28

1 22. The SSAMP and Improvement Work Plan and each of the components of the
2 SSAMP specified in Parts IX-XXII below shall be subject to approval pursuant to Part XXVIII
3 (SUBMITTALS AND APPROVALS). The City shall implement as a requirement of this Consent
4 Decree the SSAMP Improvement Work Plan and each of the components of the SSAMP specified
5 in Parts IX-XXII below adopted pursuant to Part XXVIII (SUBMITTALS AND APPROVALS).

6 **IX. GRAVITY SEWER LINE AND MANHOLE INSPECTION AND CONDITION**
7 **ASSESSMENT PROGRAM**

8 23. By [date to be determined], the City shall add provisions to its SSAMP for a
9 Gravity Sewer Line and Manhole Hole Inspection and Condition Assessment Program. This
10 program shall include comprehensive gravity sewer line inspection via CCTV and visual
11 inspection of manholes. CCTV inspection of gravity lines will include, to the extent feasible,
12 examination of lateral sewer lines (*e.g.*, by turning CCTV cameras into the lateral lines where they
13 enter the main lines). The City shall complete CCTV inspection and condition assessment of all its
14 sewer main lines and visual inspection and condition assessment of manholes such that the City
15 shall have CCTV inspection data for all of its sewer main lines and manholes that is no more than
16 four years old.

17 24. Any sewer line where the passage of the CCTV camera was blocked by the
18 condition of the pipe shall result in the Sewer Line Segment being defined as failed. Within three
19 (3) months of failed attempt to inspect that line, the City shall repair that sewer line in such
20 fashion as to allow inspection and shall re-inspect that line before the end of the four (4) year
21 inspection cycle.

22 25. This program shall further include grading of the condition of gravity sewer lines
23 in given sewersheds according to a specified grading system such as PACP within 60 days of
24 completing CCTV inspection of such sewersheds. The City shall further adopt and utilize an
25 objective grading system for its concurrent assessment of sewer manholes within such sewersheds.
26 In accord with the time frames established pursuant to paragraph 35 or no less frequently than
27 biennially, the City shall add to its CIP any gravity sewer main or lateral sewer line repair,
28

1 rehabilitation or replacement projects warranted based on the results of the City’s gravity sewer
2 line condition assessment.

3 **X. FORCE MAIN CONDITION ASSESSMENT PROGRAM**

4 26. By [date to be determined], the City shall add provisions to its SSAMP for a Force
5 Main Condition Assessment Program for comprehensive condition assessments of all its sewer
6 force mains by [date to be discussed]. This Program shall identify and ensure the proper mapping
7 in GIS as part of the City’s Information Management System: (a) all force mains within the
8 WCTS ensure that their location (b) all force main line air release valves (ARVs), and (c) all force
9 main line operation valves. This Program shall further include an appropriate repeat cycle for
10 future force main condition assessment. Within six months of completing any force main
11 condition assessments, the City shall add to its CIP any force main repair, rehabilitation or
12 replacement projects warranted based on the results of the City’s force main condition assessment.

13 **XI. SYSTEM EVALUATION AND CAPACITY ASSURANCE PLAN**

14 27. By [date to be determined], the City shall add provisions to its SSAMP for a
15 System Evaluation and Capacity Assurance Plan (“SECAP”). The SECAP will include an accurate
16 and reasonably detailed assessment of WCTS flow correlated with rainfall events and the ability
17 of the WCTS and WRFs to manage those flows. The SECAP shall further include analysis of the
18 contribution from each of the Satellites to wet weather flow in St. Petersburg’s WCTS and to the
19 WRFs. To this end, the SECAP shall mandate: (a) gathering of sufficiently robust flow meter data
20 over several storm events, including flow meter data revealing the wet weather flow contribution
21 from the Satellites to St. Petersburg’s WCTS and to the WRFs (b), gathering of contemporaneous
22 rainfall data from rain gauges and, where available, Doppler radar (including rainfall data in the
23 Satellites geographic area), (c) development of hydrographs correlating flow in St. Petersburg’s
24 WCTS and to the WRFs and the contribution of flow from the Satellites with rainfall data, and (d)
25 system-wide flow modeling and accompanying predictions of system flow, including flow
26 contributions from the Satellites, under varying rainfall scenarios and identification of areas of
27 predicted surcharge or sewage spills under various rainfall scenarios.

28

1 The SECAP shall further include analysis of whether there are any pump stations that are or that
2 are modeled to have wet well wastewater elevations reaching to within 4 feet of the rim of such
3 wet wells during storms not exceeding the Design Storm or pumps running for Nominal Average
4 Pump Operating Time (NAPOT) exceeding 10 hours. The SECAP shall require remedial measures
5 to reduce the NAPOT of any stations operating at or above 10 hours.

6 The SECAP shall provide for analysis via a dynamic/time series computer model whether the
7 WCTS can convey wastewater to the WRFs during the design event with each pump station
8 operating at firm capacity (one pump out of service) and without exceeding the Normal In-line
9 Storage Capacity of the WCTS.

10 28. The SECAP shall further provide for identification and evaluation of the efficacy
11 and cost of measures that should be implemented to address any identified WCTS or WRFs
12 capacity shortfall (including measures that the Satellites should implement), such as measures to
13 increase effective system capacity (via relief sewers, flow storage, or flow equalization), reduce
14 rainfall-derived infiltration and inflow (“RDII”), restrict flow contribution from the Satellites
15 (through such measures as increasing charges for flow contribution from the Satellites), or both.

16 29. The City shall not authorize any new or modified sewer service connections that
17 would add flow to any pump stations not in compliance with the requirements of the Consent
18 Decree or any portion of the WCTS not shown to have adequate capacity to convey additional
19 sewage without causing flow related spills or to any WRF lacking adequate capacity to treat peak
20 flows without causing spills.

21 **XII. RAINFALL DERIVED INFILTRATION AND INFLOW (RDII)**
22 **EVALUATION AND REDUCTION PLAN**

23 30. By [date to be determined], the City shall add provisions to its SSAMP for a
24 Rainfall Derived Infiltration and Inflow (“RDII”) Evaluation and Reduction Plan. This Plan shall
25 require evaluation [by date to be discussed] of the sources and extent of contribution from RDII to
26 WCTS flow (including RDII from both sewer main lines, public and private sewer lateral lines,
27 storm drain cross connections, roof leaders, sump pumps and other sources of inflow into the
28 WCTS) via evaluation of sewer line condition, smoke testing, flow metering, evaluation of MS4

1	PACP Grade 5 Structural Defect – Immediate Failure Likely	Repair, rehabilitate or replace sewer	ASAP (no more than 90 days)	N/A
2				
3	PACP Grade 5 Structural Defect – Immediate Failure Unlikely	Repair, rehabilitate, replace, or re- inspect sewer	2 years	Re-inspect within one year if corrective action not taken
4				
5	PACP Grade 4 Structural Defect	Repair, rehabilitate, or re- inspect sewer	5 years	Re-inspect within three years if corrective action not taken
6				
7	PACP Grade 1 or 2 or 3 Structural Defect or PACP Grade 1 or 2 Maintenance Defect	Inspect Sewer with CCTV	CCTV as recommended in PACP	N/A
8				
9				

10
11 36. When performing any CIP projects, the City shall comply with the Florida General Permit
12 for Stormwater Discharges Associated with Large and Small Construction Activities (DEP
13 Document No. 62-621.300(4)(a), effective February 2015) to ensure compliance with State and
14 Federal Law. The City shall also implement construction stormwater Best Management Practices
15 at CIP construction projects sufficient to ensure compliance with all applicable municipal codes.

16 37. The City shall include in any updated CIP it adopts pursuant to the Consent Decree
17 updated provisions specifying: repairs, replacements, or rehabilitation of those sewer lines that
18 cannot be kept free of stoppages by a reasonable program of maintenance and other capital
19 improvements (such as new or replacement manholes, improved or expanded pump stations, or
20 flow storage and equalization facilities) as needed to avoid line breakages or collapse, any projects
21 needed to continue to ensure adequate WCTS flow conveyance capacity and address any newly
22 developed excessive I/I problems, and all capital projects otherwise needed to attain Spill
23 Reduction Performance Standards.

24 38. In assessing the need for and design of CIP projects the District shall consider the
25 effects of global climate change, and how such change may affect rainfall patterns, groundwater
26 levels, RDII, and sea level rise.

27 **XV. FOG PROGRAM**

1 39. By [date to be determined], the City shall add provisions to its SSAMP for a FOG
2 Program. This Program shall include a schedule for implementing measures for expanded
3 residential outreach to educate the public about reducing FOG discharges to the WCTS from
4 residential sources. At a minimum, the City’s residential outreach effort shall consist of
5 semiannual mailing or hand delivery of leaflets to residential customers (and more frequent
6 communications to residents in areas where the City has discovered repeat FOG problems),
7 posting of educational materials on the City’s website, and providing educational materials to
8 public and private schools and grocery stores concerning not discharging FOG to the WCTS. The
9 City shall provide grease receptacles on an appropriately targeted basis to residents along with
10 instructions for use.

11 40. This Program shall further include any revisions to existing City ordinances
12 necessary to ensure that food service establishments (FSEs) with the potential to discharge FOG to
13 the WCTS are required to install, operate and maintain grease interceptors sized in accordance
14 with Uniform Plumbing Code (“UPC”) specifications unless the City finds that the business
15 cannot feasibly install an interceptor due to physical constraints. In such case, the City shall
16 require the FOG related business to install an appropriately sized grease trap device instead.

17 41. This Program shall further include City inspections of FSEs at least once per year
18 and City inspections of FSEs that are known to be sources of FOG loading to the WCTS
19 (“Commercial FOG Hot Spots”) more frequently. If an FSE fails an inspection or is determined to
20 be the source of a FOG related sewage spill, the City shall ensure that such business is inspected
21 monthly until the findings of three (3) consecutive inspections demonstrate the business is meeting
22 FOG ordinance and program requirements. The City shall further require all FOG related
23 businesses that have failed more than one FOG inspection within two years to install grease
24 interceptors sized in accordance with UPC specifications unless the City finds that the business
25 cannot feasibly install an interceptor due to physical constraints. If the City finds that a FOG
26 related business that has caused a FOG-related sewage spill has already installed a grease
27 interceptor or grease trap (“grease removal device” or “GRD”) that conforms to the UPC and is
28 otherwise appropriately sized, the City shall ensure that the business increases the frequency in

1 which the business cleans its GRD as needed to prevent future excess FOG discharges to the
2 WCTS.

3 **XVI. ROUTINE SEWER CLEANING PROGRAM**

4 42. By [date to be determined], the City shall add provisions to its SSAMP for a
5 Routine Sewer Cleaning Program to commence on [date to be discussed] that includes scheduled
6 routine cleaning of all of its gravity sewers once every four (4) years, with more frequent cleaning
7 of certain gravity sewers. The Routine Sewer Cleaning Program shall include “Hot Spot Cleaning”
8 of certain gravity lines on three (3) month, six (6) month, and twelve (12) month cleaning cycles,
9 and more frequent cleaning cycles if necessary to prevent sewer line conditions that risk sewer line
10 blockages from root intrusion or build-up of debris or FOG. The City shall include in its Hot Spot
11 Cleaning efforts any main line Sewer Line Segment that experiences blockages caused by roots,
12 debris, FOG, or poor pipe conditions at no less than a three (3) month cleaning frequency. Any
13 main line Sewer Line Segment receiving a PACP maintenance grade of four (4) or five (5) during
14 condition assessments shall be included in the Hot Spot cleaning effort at no less than a three (3)
15 month cleaning frequency. Any main line Sewer Line Segment receiving a PACP maintenance
16 grade of three (3) shall be added to the Hot Spot cleaning effort at no less than a six (6) month
17 cleaning frequency. Main line Sewer Line Segments that receive a Sewer Cleaning Result Matrix
18 score of “heavy,” as described in the Sewer Cleaning Results Matrix below, shall be added to the
19 Hot Spot cleaning effort at an initial six (6) month cleaning frequency. Cleaning frequency for
20 Sewer Line Segments that are designated for Hot Spot cleaning shall be modified based on the
21 Sewer Cleaning Results Matrix.

22 43. This Program shall include recording of all observations made by the City's sewer
23 cleaning crews regarding the extent and nature of materials removed during the cleaning process.
24 The observations shall be recorded in the City’s computerized information management system.
25 The City shall maintain or change the frequency of its Hot Spot cleaning for a Sewer Line
26 Segment based on the Sewer Cleaning Results Matrix below in accordance with the section
27 labeled “Action.”

28 **Sewer Cleaning Results Matrix**

	Clear	Light	Moderate	Heavy
Debris	No observable debris	Minor amount of debris 1 pass	Moderate amounts of debris 2-3 passes	Significant amounts of debris More than 4 passes Operator concern for future stoppage
Grease	No observable grease	Minor amounts of grease 15 minutes or less to clean 1 pass	Small “chunks” No “logs” 15-30 minutes to clean 2-3 passes	Big “chunks” or “logs” More than 4 passes Operator concern for future stoppage
Roots	No observable roots	Minor amounts of roots 1 pass	Thin stringy roots No “clumps” 2-3 passes	Thick roots Large “clumps” More than 4 passes Operator concern for future stoppage
Debris: Structural pipe fragments soil, rock, etc.	No observable materials	Specify material (if possible) Minor amounts of material	Specify material Moderate amounts of material per line segment	Specify material Significant amounts of material per line segment Operator concern for future stoppage
Action	Decrease frequency to next lower frequency after 3 consecutive results (e.g., 6 months to 12 months)	Continue current maintenance frequency	Increase current maintenance frequency to next higher frequency (e.g., 6 months to 3 months, or more frequently if necessary)	Increase current maintenance frequency to next higher frequency (e.g., 6 months to 3 months or more frequently if necessary)

44. Changes in cleaning frequency based upon cleaning results shall be as follows:
- a. No reduction in cleaning frequency shall be made in a Sewer Line Segment with a previous history of sewage spills without the approval of an appropriate WCTS maintenance supervisor (or appropriate title);
 - b. Three (3) consecutive results of “clear” will cause the cleaning frequency to be reduced to the next lower cleaning frequency;

1 c. Results of “moderate” or “heavy” will cause the cleaning frequency of the Sewer Line
2 Segment to be increased to the next highest frequency.

3 45. The City shall institute and maintain a quality assurance/quality control program (“QA/QC
4 Program”) adequate to ensure proper and complete cleaning of sewers. The QA/QC Program shall
5 consist of spot-checking the cleaning quality in a minimum of xx (xx) [number to be discussed]
6 Sewer Line Segments of the cleaned sewers on a monthly basis using CCTV to ensure adequate
7 cleaning. If the cleaning is found to be inadequate, the Sewer Line Segment will be re-cleaned
8 within thirty (30) days. If more than one of the spot-checked Sewer Line Segments require re-
9 cleaning in any given month, spot-checking of the system shall be increased to xx (xx) [number to
10 be discussed] Sewer Line Segments. Where spot-checking of the system has increased to xx (xx)
11 Sewer Line Segments pursuant to this section, such spot checking will not be reduced to xx (xx)
12 Sewer Line Segments until three (3) consecutive months show that one Sewer Line Segment or
13 less inspected requires re-cleaning. If a required inspection frequency increase is identified by a
14 single crew, the increased inspection schedule will only apply to that crew.

15 46. If routine sewer cleaning or Hot Spot cleaning of a Sewer Line Segment or area cannot be
16 properly accomplished due to sewer line condition or access limitations, the condition of the
17 segment shall be considered failing and shall be repaired within ninety (90) days of discovery of
18 the sewer defect.

19 47. The City shall identify the sewer lines cleaned and the results of its QA/QC Program each
20 year in the Consent Decree Compliance Reports required by Part XXII of this Consent Decree.

21 48. If the City’s Routine Cleaning Program fails to reduce the sewage spill rate to that required
22 by the Spill Reduction Performance Standards in Part VI of this Consent Decree (SPILL
23 REDUCTION PERFORMANCE GOALS) by [date to be discussed], the City shall evaluate its
24 current cleaning protocols and revise cleaning protocols within thirty (30) days. The new protocols
25 shall be provided to the Environmental Groups for review and comment.

26 **XVII. ROOT CONTROL PROGRAM**

27 49. By [date to be determined], the City shall add provisions to its SSAMP for a Root Control
28 Program to commence on [date to be discussed] that includes regularly scheduled mechanical root

1 cleaning of any Sewer Line Segment that receives a PACP grade of four (4) or five (5) due to root
2 infiltration during condition assessments, any Sewer Line Segment that experiences a sewage spill
3 caused by root infiltration, and any Sewer Line Segment that receives a sewer cleaning result of
4 “heavy” for roots at an initial twelve (12) month cleaning frequency. The City may supplement
5 mechanical root cleaning with chemical root control, but shall not use chemicals as part of its root
6 control program in a fashion that would cause such chemicals to pass through the WRFs to which
7 the WCTS discharges or interfere with treatment provided by the WRFs. To the extent the City
8 employs chemical root control, the City shall apply the least toxic chemicals available and shall
9 apply them in the most minimal manner consistent with effective root removal.

10 **XVIII. SEWAGE SPILL RESPONSE CONTINGENCY PLAN**

11 50. By [date to be determined], the City shall add provisions to its SSAMP for a Sewage Spill
12 Response Contingency Plan. This Plan shall provide for procedures to respond to gravity sewer
13 line breaks, force main ruptures, pump station failures, excessive infiltration and inflow, sewer
14 line blockages, and other contingencies that may cause sewage spills from the POTW. Such
15 procedures shall be designed to minimize discharge to waterways, prevent public exposure to the
16 spill (including by Building/Private Property Backups), and return any failed components of the
17 POTW to full service as rapidly as possible. The Plan must be: (1) specific to the location; (2)
18 prepared in accordance with good engineering practices; (3) have the full approval of management
19 at a level of authority to commit the resources to fully implement the plan; and (4) be readily
20 accessible so that it is a source of usable information for employees or response personnel during
21 an actual emergency.

22 51. With respect to force mains and pump stations, the Plan shall contain a description of each
23 force main and pump station, including, at a minimum, the location, diameter, length, material,
24 schematic drawings, elevations, design pressures, fittings, redundant or parallel force mains,
25 locations of storm drain inlets and waterways, and a map of the pump station and force main
26 service area, including nearby gravity sewers and pump stations and force mains or other
27 structures that may be used for diversion of flows from the damaged or defective force main or
28 pump station. Diagrams shall be included, depicting all valve couplings and fittings that may be

1 used in an emergency response to contain or divert sewage from the damaged or defective force
2 main or pump station.

3 52. The Plan shall further specify:

4 a. utilization of SCADA tied in with an alarm system to monitor the following conditions
5 at all pump stations: wet well levels, pump operation and flow conditions as means to
6 notify the City of potential pump station failures or contingency conditions that are causing
7 or risk causing sewage spills. The Plan shall specify the schedule for installation or
8 upgrading of SCADA/alarm systems within [deadline to be discussed] to the extent these
9 are not already in place and fully functional;

10 b. The City's spill response process (including specifying the steps that the City
11 anticipates taking in the event of a force main, pump station, or gravity sewer line failure)
12 such as alternatively hauling sewage by truck, diverting sewage flow within the system
13 around the failure point, shutting down pumps, diverting sewage to redundant or parallel
14 force mains or other redundant WCTS components, employing spill containment
15 procedures (including locations and volumes of containment structures) and procedures for
16 capturing and returning spilled sewage to the POTW, notifying industrial and commercial
17 dischargers and residential customers in the service area to minimize water usage, and
18 cleanup and decontamination of spill sites;

19 c. Procedures by which crews and equipment are called out to respond to sewage spills,
20 and where response equipment is located;

21 d. Target response times and how staffing plans are expected to successfully achieve the
22 target;

23 e. Available spare parts, repair equipment, and supplies that can be used in the event of a
24 pump station or force main failure for termination of the spill, repair of the force main,
25 containment and diversion of sewage, and return of the pump station or force main to full
26 operation. The Plan must further specify maintenance of parts, equipment and supplies that
27 include, at a minimum, portable pumps, flat hoses, temporary pipelines, sand bags,
28 replacement pipe, valves, and repair kits.

1 53. The Plan shall specify implementation of a public information campaign to notify the
2 public about procedures to follow if a member of the public discovers sewage flows in public
3 areas or Building/Private Property Backups that may be caused by defects in the POTW. The City
4 shall publicize a City 24-hour hotline to handle public calls relating to spills. The City shall further
5 publicize the names and telephone numbers of persons with primary responsibility for spill
6 response. The City shall ensure that persons with primary responsibility for spill response are
7 available on 24-hour call, 7 days a week, and shall provide 24-hour telephone numbers for such
8 persons.

9 54. The Plan shall further provide for the City to notify members of the public as soon as
10 possible, but in no case more than 12 hours of any sewage spill reaching waters potentially used
11 by the public for water contact recreation or a source of drinking water by such means as notices
12 on the City's website, e-mail messages to persons requesting to be placed on a list of persons
13 receiving notice of sewage spills, posts on social media, press releases circulated to appropriate
14 local television, radio and print media outlets, and posters or warning signs placed near affected
15 waters. The Plan shall further provide for prompt notification of any sewage spills from the
16 POTW to the Florida Department of Environmental Protection and any other state or federal
17 agency as required by law.

18 **XIX. INFORMATION MANAGEMENT PROGRAM**

19 55. By [date to be determined], the City shall add provisions to its SSAMP for an Information
20 Management Program which shall include a continuously updated computerized data and
21 information system, linked to GIS, to record and track pertinent asset management, operations,
22 and maintenance. This information system shall be used in conjunction with the City's GIS
23 database to track and make readily available to relevant City employees and contractors
24 information concerning sewage spill history, sewer line cleaning, sewer line and manhole spot
25 repairs, sewer line CCTV inspections, gravity and force main sewer line condition assessment,
26 sewer line rehabilitation and replacement projects, pump station condition assessments, pump
27 station repair projects and other information necessary to plan system operation and maintenance
28 and capital improvement.

1 56. As part of this program, the City shall update its current GIS database to include all of the
2 information listed below by [date to be discussed]. The City shall regularly revise and update the
3 GIS database as the City acquires new information. The GIS database shall include all WCTS
4 attributes that will facilitate WCTS operation and maintenance. Such system attributes include:
5 sewer line diameters, lengths, sewer line slope, service area covered by line segment and
6 corresponding land use, manhole locations and depth, conflicting utilities, whether a sewer line is
7 located in a right-of-way or an easement; and sewer lines and manhole construction material, year
8 of construction, inspection history, cleaning history and repair history. The City shall further
9 include in its GIS database, as appropriate: manhole attributes such as type, material, lid size,
10 manhole diameter, rim elevation, and bottom elevation as well as any known structural defects;
11 and mechanical, electrical, and instrumental data for pump stations.

12 57. The City shall employ its information management system: (a) to track the effectiveness of
13 the Routine Sewer Cleaning Program and Root Control Program and to assist in designing
14 optimum Routine Sewer Cleaning and Root Control Programs, (b) to track sewer line condition
15 assessment, (c) to track pump station condition assessment and pump station maintenance, (d) to
16 identify the need for and plan long-term capital improvement projects, (e) to track spare parts
17 inventories, and (f) to create and track the performance of work orders.

18 **XX. STAFFING AND ORGANIZATION EVALUATION**

19 58. By [date to be determined], the City shall add provisions to its SSAMP for a Staffing and
20 Organization Evaluation Plan. [Content to be discussed]

21 **XXI. PRIVATE LATERAL INSPECTION AND REMEDIATION PROGRAM**

22 59. By [date to be determined], the City shall add provisions to its SSAMP for a Private
23 Lateral Inspection and Remediation Program. This Program shall include adoption within ninety
24 (90) days of the Effective Date of this Consent Decree of amendments to the City's Municipal
25 Code to:

26 a. Require inspection of Private Laterals under the following circumstances: sale of a
27 property; obtaining a building permit if the value of the construction exceeds \$50,000; any
28 remodel to more than twenty-five percent (25%) of the square footage of the structure; any

- 1 repair or replacement made to the WCTS into which the Private Lateral discharges; smoke
- 2 testing or other City inspection activity that uncovers a defective Private Lateral, or an
- 3 sewage spill from a City sewer main line that was caused by roots, grease or debris
- 4 entering the main line through defects in a Private Lateral;
- 5 b. Set standards for evaluating the condition of Private Laterals subject to the provisions in
- 6 subsection (a) above;
- 7 c. Require any defects in the Private Lateral that causes the Private Lateral to fail the
- 8 inspection be repaired or replaced within ninety (90) days. Defects causing a Private
- 9 Lateral to fail the inspection shall include but not be limited to the following: pipe failure;
- 10 open joints; and/or openings in the pipe which allow root intrusion;
- 11 d. Require the owner of the Private Lateral, within one hundred twenty (120) days of
- 12 notification by the City, to remove roots from their laterals that are growing into the main
- 13 sewer as determined by the City and make all necessary repairs to the Private Lateral
- 14 necessary to prevent a reoccurrence of roots intrusion that reaches the main sewer;
- 15 e. Require all property owners or their contractors to insert a temporary trap downstream of
- 16 their Private Lateral when performing maintenance to remove a blockage, so to ensure any
- 17 root-ball, debris, or other item is not flushed into the Collection System and potentially
- 18 causing an additional blockage.

19 60. Within one hundred and twenty (120) days, adoption of measures to achieve effective
20 enforcement of the City’s Municipal Code provisions concerning Private Laterals and otherwise
21 remediating problems associated with Private Laterals. Such measures shall include requiring or
22 securing replacement of defective public and private laterals at the same time that the City is
23 replacing or rehabilitating any gravity sewer main (*i.e.*, replacement of any defective lateral line
24 that connects to a given sewer main line when that sewer main line is being replaced or
25 rehabilitated).

26 **XXII. FINANCIAL ASSURANCE PLAN**

27
28

1 61. By [date to be determined], the City shall add provisions to its SSAMP for a Financial
2 Assurance Plan. The Financial Assurance Plan shall schedule implementation of the following
3 tasks:

- 4 a. The City’s comprehensive evaluation of the long-term costs of implementing its
5 SSAMP and operating and maintaining its POTW;
- 6 b. The City’s evaluation of its current and projected future financial resources to
7 implement its SSAMP and operate and maintain its POTW; and
- 8 c. Evaluation of whether the City’s current sewer rates need to be increased to ensure
9 adequate financial resources to implement its SSAMP and operate its POTW, and if so, by
10 what schedule.

11 **XXIII. SUPPLEMENTAL ENVIRONMENTAL PROJECTS**

12 62. The City shall implement the Supplemental Environmental Project(s) (“SEP”) described
13 in Attachment I in accord with the timelines in Attachment I. The Parties agree that the SEP is
14 intended to secure significant environmental benefits to the watersheds and ocean waters in and
15 adjacent to the City. The City shall fund the SEP [in an amount to be discussed].

16 63. During the life of the Consent Decree, the City shall submit semi-annual SEP Reports to
17 the Environmental Groups detailing implementation of the SEPs and further documenting that the
18 City has funded the SEPs at the specified level. Such reports shall be due by March 31 and
19 September 31 of each calendar year this Consent Decree is in effect.

20 64. The City shall not refer to completion or implementation of the SEP required under this
21 Consent Decree in any representation to the public without explicitly stating in any such
22 representation that it undertook completion or implementation of the SEP in response to a CWA
23 enforcement action brought by the Environmental Groups.

24 65. For SEPs to meet the requirements of this Consent Decree, the following criteria must be
25 met:

- 26 a. Completion or implementation of the SEP(s) shall not be required under any state, local
27 or federal law or regulation;
- 28 b. The SEP(s) shall not be required by any other agreement to which the City is a party;

1 c. The City shall not have made a decision to complete or implement the SEP(s) prior to
2 the date this action was filed; and

3 d. The City shall not receive reimbursement from any person for SEP expenditures.

4 66. The parties agree that the SEP(s) in Attachment I meets these criteria as of the date of
5 execution of this Consent Decree. In its SEP Reports, the City shall certify in writing under
6 penalty of law that these criteria continue to be satisfied in full with respect to the SEP(s).

7 **XXIV. STIPULATED PAYMENTS**

8 67. If the City fails to comply with any requirement of this Decree related to implementation
9 of the following City obligations: Part VII (SPILL REDUCTION ACTION PLAN), Part VIII
10 (SEWER SYSTEM ASSET MANAGEMENT PLAN), Part XV (FOG PROGRAM), Part XVI
11 (ROUTINE SEWER CLEANING PROGRAM), Part XVII (ROOT CONTROL PROGRAM),
12 Part XVIII (SEWAGE SPILL RESPONSE CONTINGENCY PLAN), Part XIX
13 (INFORMATION MANAGEMENT PROGRAM REQUIREMENTS), Part XX (STAFFING
14 AND ORGANIZATIONAL EVALUATION REQUIREMENTS), Part IX (GRAVITY SEWER
15 LINE AND MAINTENANCE HOLE INSPECTION AND CONDITION ASSESSMENT
16 PROGRAM), Part X (FORCE MAIN CONDITION ASSESSMENT PROGRAM), Part XIII
17 (PUMP STATION CONDITION ASSESSMENT AND REPAIR, REPLACEMENT, AND
18 REHABILITATION PROGRAM), Part XI (SYSTEM EVALUATION AND CAPACITY
19 ASSURANCE PLAN), Part XIV (CAPITAL IMPROVEMENT PLAN REQUIREMENTS), and
20 Part XXI (PRIVATE LATERAL INSPECTION AND REMEDIATION PROGRAM
21 REQUIREMENTS); it shall pay stipulated payments for each day that the City remains in
22 noncompliance with the applicable requirement as provided by this Part as follows:

Period of Noncompliance	Penalty Per Violation Per Day
Days 1-30	\$750
Days 31-60	\$1,500
Days over 60	\$3,000

1 68. If the City fails to submit the Consent Decree Compliance Reports by the deadlines
2 provided herein, the City shall pay stipulated payments of \$150 per day accruing from the fifth
3 business day following the deadline for the Report.

4 69. If the City fails to provide payments required by this Consent Decree when due, the City
5 shall pay stipulated payments of \$150 per day accruing from the fifth business day following the
6 deadline for the payment.

7 70. If the City is not in full compliance with the requirements of any Spill Reduction Action
8 Plan pursuant to Part VII, the City shall pay stipulated payments for sewage spills from its
9 Collection System as follows: \$750 for each sewage spill under 500 gallons, \$3,000 for each
10 sewage spill greater than 500 gallons but under 5,000 gallons, \$7,500 for each sewage spill greater
11 than 5,000 gallons but under 10,000 gallons and \$15,000 for each sewage spill exceeding 10,000
12 gallons.

13 71. All stipulated payments begin to accrue automatically on the day after performance is due
14 or on the day a violation occurs, and continue to accrue through the final day of correction of the
15 violation. Stipulated payments shall not continue to accrue during any revision process and
16 Dispute Resolution proceeding under Part XXX (DISPUTE RESOLUTION) and shall not be
17 imposed if the Environmental Groups agrees to the revision or if the Environmental Groups fail to
18 prevail in the dispute. Nothing herein shall preclude the simultaneous accrual of separate
19 stipulated payments for separate violations of this Consent Decree.

20 72. The City shall pay stipulated payments to [to be discussed] to be used solely to fund
21 activities which benefit the watershed and ocean environments in and surrounding the City.
22 Payments shall be due within forty-five (45) days of written demand from the Environmental
23 Groups, unless the City seeks Dispute Resolution concerning the demand for payment. The City
24 shall provide notice to the Environmental Groups of any stipulated payments made pursuant to
25 this Part in accord with Part XXVIII (SUBMITTALS AND APPROVALS). All payments
26 pursuant to this paragraph shall be sent to:

27 [to be inserted]

28

1 The City shall concurrently send notice to the Environmental Groups that it has sent any such
2 payments to [to be inserted].

3 **XXV. ATTORNEYS FEES AND COSTS**

4 73. Within thirty (30) days of entry of this Consent Decree by the Court, the City shall pay the
5 Environmental Groups the sum of \$xx as costs of suit and \$xx as attorneys fees incurred through
6 the execution of this Consent Decree.

7 **XXVI. REPORTING**

8 74. During the life of the Consent Decree, the City shall provide to the Environmental Groups
9 annual Consent Decree Compliance Reports detailing its compliance with the Consent Decree.

10 Such Reports shall be due March 1st of each year. The Reports shall:

- 11 (a) Describe any changes made to the SSAMP or implementation of the SSAMP since the
12 prior report;
- 13 (b) Include tables comparing the City's spills with the Spill Reduction Performance Goals
14 set forth in paragraph 12;
- 15 (c) Discuss whether the City is in compliance with the Spill Reduction Performance Goals
16 set forth in paragraph 12, and if not, what steps the City is planning to come into
17 compliance with these Goals;
- 18 (e) Include as attachments any reports submitted to or received from the Florida
19 Department of Environmental Protection concerning the City's proper operation,
20 maintenance and capital improvement of its POTW.
- 21 (f) Pump station and capacity reports (reflecting monthly pump station runtimes).
- 22 (g) To the extent that a City report to the Florida Department of Environmental Protection
23 meets the requirements of this Section XI, the City may comply with this Section by
24 providing the Environmental Groups with a copy of the report in lieu of explanation
25 that the City would otherwise provide.

26
27 **XXVII. COMPLIANCE MONITORING FUND**

1 75. The City shall pay to the Environmental Groups \$____ to fund the Environmental Groups’
2 monitoring of Consent Decree compliance. The City’s first payment of \$__,000 shall be due
3 within sixty days of entry of the Consent Decree. The City’s second payment of \$__,000 shall be
4 due on January 2, 2018. The City’s third payment of \$__,000 shall be due on January 2, 2019. The
5 City’s fourth payment of \$__,000 shall be due on January 2, 2020. The City’s fifth payment of
6 \$__,000 shall be due on January 2, 2021.

7 **XXVIII. SUBMITTALS AND APPROVALS**

8 76. The Environmental Groups shall have the right to review and comment upon the submittals
9 required of the City pursuant to these provisions of the Consent Decree: Part VII (SPILL
10 REDUCTION ACTION PLAN), Part VIII (SEWER SYSTEM ASSET MANAGEMENT PLAN),
11 Part XV (RESIDENTIAL OUTREACH PROGRAM PLAN AND FOG ENFORCEMENT
12 PLAN), Part XVI (SEWER CLEANING PROTOCOLS), Part XX (STAFFING AND
13 ORGANIZATION PLAN)[*reserved*], Part X (FORCE MAIN CONDITION ASSESSMENT
14 PLAN AND FORCE MAIN CONDITION ASSESSMENT REPORT), Part XIII (PUMP
15 STATION CONDITION ASSESSMENT PLAN), Part XI (HYDRAULIC MODELING WORK
16 PLAN, CAPACITY ASSURANCE PLAN, AND FINAL COMPLIANCE REPORT), and Part
17 XXI (PRIVATE LATERAL PROGRAM) (“the Consent Decree Deliverables” or “the
18 Deliverables”). The Environmental Groups shall provide the City, in writing, with all
19 recommended revisions to the Consent Decree Deliverables within thirty (30) days of the
20 Environmental Groups' receipt of these Deliverables. The City shall consider each of the
21 Environmental Groups’ recommended revisions and indicate within thirty (30) days of receipt of
22 the Environmental Groups’ comments whether the City accepts each such recommendation for
23 revision, and if not provide a detailed explanation as to why the Environmental Groups’ comments
24 are being rejected. If the City does not accept the Environmental Groups’ recommendations, and
25 the Parties cannot informally resolve remaining differences promptly, then either Party may seek
26 Dispute Resolution pursuant to Part XXX (DISPUTE RESOLUTION) of this Consent Decree. In
27 such Dispute Resolution processes, to the extent the Parties do not dispute original provisions or
28 recommended revisions, the City shall implement all undisputed provisions or revisions. After the

1 Parties have reached agreement on the Consent Decree Deliverables or after Dispute Resolution
2 resolves any dispute concerning the Deliverables, the City shall implements the Deliverables as
3 enforceable requirements of this Consent Decree.

4 77. Except as otherwise expressly provided in this Consent Decree, whenever under the terms
5 of this Consent Decree a Consent Decree Deliverable, report, or other document is required to be
6 forwarded by one Party to another, it shall, to the extent feasible, be sent to the following
7 individuals as electronic computer files at the e-mail addresses specified below. If a given
8 document cannot be e-mailed, it shall be mailed to the following addresses. Any change in the
9 individuals designated by either Party must be made in writing to the other Parties.

10 As to Plaintiff:

11 Justin Bloom
12 P.O. Box 1028
13 Sarasota, FL 34230
14 E-mail: bloomesq1@gmail.com

15 Christopher Sproul
16 Environmental Advocates
17 5135 Anza St.
18 San Francisco, CA 94121
19 E-mail: csproul@enviroadvocates.com

20 Fredric Evenson
21 Ecology Law Center
22 P.O. Box 1000
23 Santa Cruz, CA 95061
24 E-mail: ecorights@earthlink.net

25 As to the City:

26 [Insert address]

27 78. Any notice, report, certification, data presentation or other document submitted by the
28 City under or pursuant to this Consent Decree, which discusses, describes, demonstrates, or
supports any finding or makes any representation concerning the City's compliance or non-
compliance with any requirement(s) of this Consent Decree shall contain the following
certification by the City, signed by a responsible City official:

“I certify under penalty of law that this document and all attachments were prepared under
my direction or supervision in accordance with a system designed to assure that qualified

1 personnel properly gather and evaluate the information submitted. Based on my inquiry of
2 the person or persons who manage the system, or those persons directly responsible for
3 gathering the information, the information submitted is, to the best of my knowledge and
4 belief, true, accurate and complete. I am aware that there are significant penalties for
5 submitting false information, including the possibility of fine and imprisonment for
6 knowing violations.”

7 **XXIX. FORCE MAJEURE**

8 79. The City’s obligation to comply with one or more of the provisions of this Consent Decree
9 shall be deferred to the extent and for the duration that the delay in compliance is caused by an
10 event or circumstances beyond the reasonable control of the City or any entity controlled by the
11 City, including its contractors, and that could not have been reasonably foreseen and prevented by
12 the exercise of due diligence by the City. Delays due to unanticipated or increased costs or
13 expenses associated with the completion of any work or activity under this Consent Decree,
14 changed financial circumstances, the City's failure to make timely and bona fide applications and
15 to exercise diligent efforts to obtain permits, or normal inclement weather shall not, in any event,
16 be considered to be circumstances beyond the City's control.

17 80. If any event or circumstance occurs which causes or may cause a delay in the City's
18 compliance with any provision(s) of this Consent Decree and the City seeks relief under this Part
19 XIII:

- 20 a. The City shall provide written notice to the Environmental Groups within thirty (30)
21 days of the date that the City first knew of the event or circumstance or should have
22 known of the event or circumstance by the exercise of due diligence.
- 23 b. The City’s notice shall specifically refer to this Part of this Consent Decree and
24 describe the anticipated length of time the delay may persist, the cause or causes of the
25 delay, the measures taken or to be taken by the City to prevent or minimize the delay,
26 the schedule by which the measures will be implemented, and the anticipated date of
27 compliance. The City shall adopt all reasonable measures to avoid and minimize such
28 delays.

- 1 c. If the Environmental Groups agrees with the City's notice, the Parties shall submit a
2 stipulation to that effect to the Court, which shall be considered conclusive as to
3 whether the City's noncompliance with the Consent Decree may be excused or
4 modified due to force majeure.
- 5 d. If the Environmental Groups disagrees with the City's notice, either party may seek
6 Dispute Resolution under the procedures of Part XXX (DISPUTE RESOLUTION). In
7 such proceeding, the City shall bear the burden of proving that any delay of any
8 requirement of this Consent Decree was caused or will be caused by force majeure and
9 the extent of any delay attributable to such circumstances.

10 **XXX. DISPUTE RESOLUTION**

11 81. The Dispute Resolution procedure of this Part shall be the exclusive mechanism to resolve
12 any disputes arising under this Consent Decree.

13 82. Any dispute that arises under this Part shall initially be subject to a period of informal
14 negotiations, which shall not extend beyond sixty (60) days unless the Parties otherwise mutually
15 agree in writing to an extension of the informal negotiation period. The dispute shall be considered
16 to have arisen on the date one Party receives written notification from the other, specifically
17 referencing this Part of this Consent Decree, that there is a dispute.

18 83. If the Parties cannot resolve a dispute by informal negotiations under paragraph 82, then
19 either Party may file a Dispute Resolution motion with the Court. The motion shall refer to this
20 Part and shall set forth the nature of the dispute and a proposal for its resolution. The opposing
21 Party shall have thirty (30) days in which to file a response with an alternate proposal for
22 resolution.

23 84. The filing of a petition asking the Court to resolve a dispute shall not, in itself, postpone
24 any deadline for the City to meet its obligations under this Consent Decree. If the Environmental
25 Groups prevails on the dispute, then the deadlines shall remain as specified in this Consent
26 Decree. If the City prevails on the Dispute, deadlines relevant to the issue in dispute shall be tolled
27 for the time period when the issue was in dispute, except that deadlines shall not be tolled for any
28 measures or actions set forth in the City's proposal for dispute resolution that are consistent with

1 the Environmental Groups’ proposal for dispute resolution, provided that such consistent measures
2 or actions are severable from the disputed measures.

3 85. As to any and all disputes under this Part, the Court shall determine which proposed
4 resolution is most in keeping with the objectives, goals and requirements of this Consent Decree.

5 86. The prevailing party in any dispute shall be entitled to attorneys fees and costs in accord
6 with the standard established by 33 U.S.C. section 1365(d), as interpreted by prevailing case law.

7 **XXXI. INCORPORATION AND MODIFICATION**

8 87. This Consent Decree is the entire agreement between the Parties and no major
9 modifications to this Consent Decree shall be valid unless in writing, mutually agreed to and
10 executed by the Parties, and entered by Consent Decree of this Court, except that the Parties may
11 mutually agree in writing to minor modifications of this Consent Decree without further consent
12 of the Court and such written minor modifications shall be deemed incorporated into this Consent
13 Decree.

14 **XXXII. CONTINUING JURISDICTION**

15 88. The Court shall retain jurisdiction to enforce the terms and conditions of this Consent
16 Decree and to resolve disputes arising thereunder as may be necessary or appropriate for the
17 construction or execution of the Consent Decree up to and including the date of termination.

18 **XXXIII. RECORD RETENTION AND PUBLIC INFORMATION**

19 89. During the life of this Consent Decree, the City shall preserve at least one legible copy of
20 all non-privileged records and documents, including computer-stored information, in its
21 possession that document the City’s performance of its obligations under this Consent Decree.

22 **XXXIV. PAYMENTS**

23 90. All payments to the Environmental Groups shall be made by check made payable to
24 Environmental Advocates Attorney Client Trust Account and shall be sent via certified mail,
25 return receipt requested, to the following address:

26 Christopher A. Sproul
27 Environmental Advocates
28 5135 Anza Street
San Francisco, California 94121

1 **XXXV. EFFECTIVE AND TERMINATION DATES**

2 91. Pursuant to CWA section 505(c)(3), the Environmental Groups shall submit this executed
3 Consent Decree to the United States Environmental Protection Agency (“EPA”) and the United
4 States Department of Justice (“DOJ”) for a 45-day review and comment period, and the Court
5 shall not enter its judgment on consent until the expiration of this review and comment period. In
6 the event EPA or DOJ comments negatively on the provisions of this Agreement, the Parties agree
7 to meet and confer to attempt to resolve the issue(s) raised by EPA or DOJ.

8 92. The effective date of this Consent Decree shall be the date upon which the Consent Decree
9 is entered by the Court.

10 93. This Consent Decree shall terminate when the following conditions are met:

11 a. The City has met the final Spill Reduction Performance Goal in the preceding twelve
12 months;

13 b. The City has implemented in full all the requirements of the SSAMP for at least three
14 consecutive years;

15 c. The City has completed all the requirements related to SEPs specified in Part XXIII
16 (SUPPLEMENTAL ENVIRONMENTAL PROJECTS).

17 d. The City has made all payments required by Part XXV (ATTORNEYS FEES AND
18 COSTS), Part XXVII (COMPLIANCE MONITORING FUND) and Part XXIV (STIPULATED
19 PAYMENTS).

20 94. Alternatively, this Consent Decree shall terminate shall automatically terminate ten (10)
21 years from the Effective Date or the end of any ongoing Dispute Resolution proceeding,
22 whichever is later, unless the Court extends the termination date.

23 95. The City shall initiate termination by submitting certification to the Environmental Groups
24 that it has satisfied the conditions of termination set forth in this Part. If the Environmental Groups
25 agrees with the City's certification, then the Parties shall file a joint motion for termination of this
26 Consent Decree. If the Environmental Groups disagrees with the City’s certification, then the
27 matter shall be subject to the Dispute Resolution provisions of Part XXX (DISPUTE
28 RESOLUTION).

1 It is so Stipulated:

2 For Plaintiffs Suncoast Waterkeeper,
3 Our Children's Earth Foundation, and
4 Ecological Rights Foundation:

5 Dated: _____, 2016

Justin Bloom
Counsel for Plaintiffs

6 For Defendant City of St. Petersburg:

7 Dated: _____, 2016

[insert person]
[title]

8
9 Pursuant to the stipulation of the Parties, IT IS SO ORDERED.

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11 Dated: _____

United States District Court Judge

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