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VIA ELECTRONIC CORRESPONDENCE

March 17, 2021

CCN: 63750
File No: 8.DC.21.52

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Tom Mariani
Washington, D.C. 20044-7611
RE: DOJ No. 90-5-1-1-4022/1
Tom.Mariani@usdoj.gov

Chief, Clean Water Enforcement Branch
Water Protection Division
Attn: Brad Ammons
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Florida Department of Environmental Protection
Southeast District – West Palm Beach
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
Attn: Compliance/Enforcement Section
Jason.Andreotta@dep.state.fl.us

**RE: Consent Decree (Case: No. 1:12-cv-24400-FAM),
Reference DOJ Case No. 90-5-1-1-4022/1,
Section XI, Paragraph 52 – Potential Delay,
Section XVII, Paragraph 77 – Notices, Failure to Meet Compliance Date and Update
of Delay for Consent Decree Appendix D-2, Capital Improvement Projects 1.11
General Electrical at SDWWTP**

Dear Sir/Madam:

In accordance with the provisions of Section XI, Paragraph 52 of the above referenced Consent Decree (CD), on June 28, 2019, Miami-Dade County (County) notified the United States Environmental Protection Agency (EPA) and Florida Department of Environmental Protection (FDEP) of a Potential Delay of CD Capital Improvement Project (CIP) Project 1.11(1.1) Substations 9 thru 12. Additional delays were reported on January 15, 2021 during the Procurement phase of CD 1.11(1.2) Generator Repairs. The delays will cause this project to miss the CD compliance date of March 26, 2021.

In accordance with Section XI, Paragraph 52, this update letter shall further describe and explain the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; County's rationale for attributing such delay to a force majeure event if it intends to assert such a claim; a statement as to whether, in the opinion of the County, such event may cause or contribute to an endangerment to public health or the environment, and documentation to support the force majeure claim.

Background

The CD project description for 1.11 is the rehabilitation and replacement of electrical controls and wiring as needed. The project is being executed through three separate child projects or subprojects:

- CD 1.11(1.1) – Substations 9 through 12. Phase: Construction, 8.5% completed. Notice to Proceed (NTP) issued September 8, 2020 and Contract Substantial Completion is expected April 30, 2022.
- CD 1.11(1.2) – Generator Repairs. Phase: Procurement. Award was rescinded and bid solicitation cancelled on December 24, 2020. Bid documents were revised and issued to procurement on February 22, 2021. Bid solicitation was advertised on March 18, 2021, and bids are due April 23, 2021.
- CD 1.11(2) – Replacement of primary feeders from Main Switchgear A & B to Effluent Pump Station Pumps 1 through 6 (Part of Project CD 1.05(2) Effluent Pumps Station). Phase: Construction, 58.5% completed. The NTP was issued October 3, 2019 and Contract Substantial Completion is expected December 16, 2021.

Explanation and description of the reasons for the delay

Project CD 1.11 has encountered delays during the Procurement Phase. During the initial bid for project CD 1.11(1.2), the County issued a Notice of Project Cancellation for all bids on March 3, 2020 due to lowest bidder not being able to provide an extension of their bid bond. The County accelerated the re-bid process and advertised the project on March 12, 2020. A total of five bids were received on June 2, 2020. After an evaluation of the bids, the County issued a Recommendation for Award Letter to the second lowest bidder on August 18, 2020. Following several meetings and review of supplemental documentation provided by the second lowest bidder, the County rescinded their Recommendation for Award on December 24, 2020, due to post-bid conditions being required by the second lowest bidder that were not consistent with the terms and conditions of the bid solicitation. Therefore, the project was rebid and advertised on March 18, 2021.

Action taken or to be taken to prevent or minimize the delay

As per the latest delay reported for Project CD 1.11(1.2), the County has updated the bid documentation and re-advertised, bids are expected to be received on April 23, 2021. The County will continue to closely monitor progress in the procurement phase and will report any further delays to EPA immediately when it becomes known to the County.

Anticipated duration of the delay

The time impact of completing the procurement phase will remain undetermined until the County is able to issue a NTP to a responsible and responsive bidder for this project. The County will notify once the project is completed.

Schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay

The County will take the following steps to prevent or mitigate delay or the effect of the delay:

1. County continues to closely oversee the procurement phase and expedite the NTP if possible
2. County to work with the Contractors to mitigate any additional delays once construction begins
3. County to report further delays to EPA when issue arises

Cause or contribution to an endangerment to public health, welfare or the environment

Improvements performed under CD CIP 1.11 are needed to prevent failure of electrical controls or wiring which could result in plant shutdowns, wastewater overflows and effluent violations. There is no indication that delays in General Electrical present an immediate endangerment to the public health, welfare or the environment.

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

Should you have any questions regarding this matter, please call me at (786) 552-8571.

Sincerely,



Josenrique Cueto P.E., ENV SP, LEED® Green Associate
Interim Director, Miami-Dade Water and Sewer Department

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