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VIA ELECTRONIC CORRESPONDENCE

December 22, 2017

CCN: 61576  
File No: 8.DC.52 & 77

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

Chief, Clean Water Enforcement Branch  
Water Protection Division  
Attn: Brad Ammons  
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Southeast District – West Palm Beach  
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West Palm Beach, FL 33406  
Attn: Compliance/Enforcement Section  
[Jason.Andreotta@dep.state.fl.us](mailto: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 VI, Paragraph 19(i) – Specific Capital Improvement Project**  
**Section VIII – Supplemental Environmental Project**  
**Section XX – Modification**  
**Request for Schedule Modifications**

*AMM*

Dear Sir/Madam:

Miami Dade County (County) continues to be fully engaged with the successful implementation and compliance of the above referenced Consent Decree (CD). Specifically, with the execution of the eighty-one (81) capital improvement projects included in Appendix D which have an approximate total cost of \$1.55 billion, and the Supplemental Environmental Project (SEP) included in Appendix E. As of today, eighteen (18) projects with a total cost of \$224M have been completed and more than forty (40) projects with an approximate total cost of \$1.07 billion are currently in the procurement and construction phases. Despite the significant efforts and progress up to date, the County has encountered challenges that have delayed the completion of certain capital improvement projects.

In accordance with the provisions of Section XX (Modifications) and Section VI, Paragraph 19(i) (Specific Capital Improvement Projects), of the CD, and pursuant to our discussions during our December 7, 2017 conference call, the County requests modifications to the schedule of forty two (42) projects contained in Appendix D and the SEP included in Appendix E of the CD. This correspondence summarizes the basis for this request.

While setting up the process to address all the CD projects, the County recognized the need to bring on additional staff to meet the aggressive schedules mandated by the CD. This was achieved by contracting with a professional consultant team of experts (led by AECOM) to assist the County in Program and Construction Management and oversight of multiple Design Services contracts. The process for hiring Engineering firms in the State of Florida is regulated under Florida Statute 287.055 "The Consultants Competitive Negotiation Act". To comply with the act (as detailed in the First Status Report to the Court dated August 29, 2014), the County experienced a lengthy delay in procuring the Program Management and Design Professional Firms. This resulted in a late start in the validation and design of multiple projects. In addition, dates for downstream activities have been affected as has been presented in the County's requests for modification.

To optimize program execution, the original eighty-one (81) CD projects were split into one hundred seventy-nine (179) individual projects as a result of: 1) multiple project components being performed by different entities, i.e. in-house vs. Contractors, 2) multiple components located far from each other, such as in the case of the smaller pump stations and CD Capital Improvement Project 4.9 Asbestos Containing (AC) pipelines, 3) multiple components required to be performed either in phases or during separate dry seasons due to operational concerns.

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Through the CD Program validation process, most of the projects have undergone scope of work changes. In addition, consideration of the County's Ordinance to proactively address sea level rise, the assessment and decision to build new facilities (e.g. new Pump Station (PS) #0301 and new thickening/dewatering buildings), and evaluation of potential adoption of new technology, have and are effectively extending the schedule of the projects.

Furthermore, in many instances, the permitting process has been cumbersome and prolonged due to additional requirements not initially anticipated. Some examples include: changes in the County's hydraulic models (static to dynamic model) which necessitated updates of project model runs for the Pump Stations (PSs) and Force Mains (FMs), tree and property boundary surveys at the plants requiring six month updates, multiple agency review of permits that must be performed in series, and coordination with various municipalities.

Compounding the late start of CD implementation, scope changes, and permitting delays, the County has experienced difficulties in procurement. On September 3, 2014, the County proactively developed and approved an Ordinance to accelerate CD projects through the procurement process (the "Acceleration Ordinance"). The County's standard procurement process requires contracts to be reviewed by a commission committee and subsequently by the Board of County Commissioners ("BCC")

prior to being awarded and executed. The Acceleration Ordinance authorizes the County Mayor or his designee to take certain actions, including the award and execution of contracts, which are subject to ratification by the BCC. However, for the County Mayor or his designee to award such a contract, there must be no bid protests, the contractor must meet certain ratings and submit required documentation and the base value of a recommended award cannot exceed the base estimate by more than ten percent (10%). Unfortunately, the County has experienced all the above listed exceptions and other extenuating circumstances on multiple occasions. This has resulted in the County submitting to EPA and FDEP potential delay and delay notifications due to bid protests, unavoidable re-bids, non-responsive bidders, and bids over 10% of the Opinion of Construction Cost (OPCC). The County has tried to mitigate delays by overlapping and expediting project phases to meet the final CD milestone.

Another challenge has been the limited number of contractors, market saturation and the County's Miscellaneous Construction Contracts Program, which is mandated by County ordinance to provide contracting opportunities for Small Business Enterprises ("SBE") was used to procure many of the CIP projects. Complying with this requirement has resulted in multiple delay and potential delay notifications. This method of procurement for SBEs is somewhat different from methods used for traditional, larger projects. It requires smaller contractors to comply with some non-traditional means and methods. Compliance with this program proved challenging for some of the SBE contractors and resulted in performance and resource shortfalls, ultimately causing delay of some projects.

Additional challenges include unforeseen conditions such as contamination, pipe failure, underground structures encountered during construction and wet weather restrictions, among others. These challenges have been described in the delay and potential delay letters submitted to EPA and FDEP to date.

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Attachment 1 presents the forty-three (43) projects for which a schedule modification is requested. The projects are grouped into three categories. The first category highlighted in purple, represents projects under the Wastewater Treatment Plant Thickening/Dewatering contract. The second category highlighted in green, represents projects for which EPA and FDEP have already been notified of anticipated delays, however, additional time is required. The third group in white represents projects that require extensions based on anticipated delays.

Attachment 2 includes a list of projects that have been completed and for which requested time extensions are pending resolution.

Based on the reasons stated in this letter, the County respectfully requests EPA and FDEP, approval of the modifications of final deadlines for the projects included in Attachments 1 and 2. All the requested schedule modifications are within the 15-year period established in the CD for the completion of capital improvement projects included in Appendix D and Appendix E.

Should you have any questions regarding this matter, please call me at (786) 552-8204.

I certify under penalty of law that this document was 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.

Sincerely,

  
Lynnette M. Ramirez, P.E.  
Senior Advisor, Capital Projects & Compliance

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Attachment 1 - CD Capital Improvement Projects Schedule Extensions Request										
CD Number	Title	Current Phase	CD Project Compliance Date	Anticipated/Actual Construction Start Date	Anticipated Construction End Date	Contingency Factor (Months)	New Recommended CD Project Compliance Date	Previously Requested EPA Extension	Justification	Previously Requested Extension Correspondence
1.06	Thickening Facility	Procurement	9/24/2022	5/7/2018	1/6/2021	24 Months	1/6/2023		Projects combined as one for operational efficiency, similar layout and equipment Procurement delays	
1.08	Dewatering Facility	Procurement	<del>11/28/2019</del> 12/04/2020 (Not Approved)	5/7/2018	1/6/2021	24 Months	1/6/2023	Previously requested new CD Project Compliance Date: 12/04/2020 Letter dated 3/31/2017	Projects combined as one for operational efficiency, similar layout and equipment Procurement delays	Request for Schedule Extension
2.12	Gravity Sludge Thickeners Plant 1	Procurement	4/23/2021	5/7/2018	1/13/2021	24 Months	1/13/2023		Projects combined as one for operational efficiency, similar layout and equipment Procurement delays	
2.13	Gravity Sludge Thickeners Plant 2	Procurement	<del>10/23/2019</del> 12/04/2020 (Not Approved)	5/7/2018	1/13/2021	24 Months	1/13/2023	Previously requested new CD Project Compliance Date: 12/04/2020 Letter dated 3/31/2017	Projects combined as one for operational efficiency, similar layout and equipment Procurement delays	Request for Schedule Extension
2.16	Dewatering Facility	Procurement	8/7/2021	5/7/2018	1/13/2021	24 Months	1/13/2023		Projects combined as one for operational efficiency, similar layout and equipment Procurement delays	
2.18	Odor Control Systems	Construction	<del>7/9/2020</del> 12/04/2020 (Not Approved)	5/7/2018	1/13/2021	24 Months	1/13/2023	Previously requested new CD Project Compliance Date: 12/04/2020 Letter dated 3/31/2017	Multiple child/sub projects Projects combined as one for operational efficiency, similar layout and equipment Procurement delays	Request for Schedule Extension
1.02	Oxygen Production	Procurement	<del>9/13/2019</del> 12/12/2019 (Approved)	7/16/2018	8/24/2020	18 Months (9 Months Re-Bid, 9 Months Construction Contingency)	2/25/2022	Previously requested new CD Compliance Date: 3/31/2021 Letter dated 10/31/2017	Procurement delays Bids cancelled and awaiting re-bid date	Delay Notification
1.09	FOG Removal Facility	Construction	<del>12/7/2017</del> 4/6/2018 (Approved)	6/30/2017	5/24/2018	12 Months	5/24/2019	Previously requested new CD Project Compliance Date: 04/06/2018 Letter dated 1/27/2017	Procurement delays Hurricane delay Construction delays Design changes	Force Majeure Notification
2.02	Building Improvements	Construction	9/6/2017	1/18/2017	3/25/2018	18 Months	9/26/2019	Previously requested new CD Compliance Date: 10/6/2017 Letter dated 11/3/2017	Contractor non-performance Re-design required	Update of Delay Notification
2.03	Headworks/Grit Basin Plant 1	Construction	10/22/2017	8/30/2016	6/19/2018	9 Months	3/16/2019	Previously requested new CD Compliance Date: 5/21/2018 Letter dated 11/7/2017	Design changes Unforeseen conditions Portions of work can only be performed during the dry season Hurricane delay	Failure to Meet Compliance Date Notification
2.04	Headworks/Grit Basin Plant 2	Construction	5/22/2018	8/30/2016	11/26/2018	9 Months	8/23/2019	Previously requested new CD Compliance Date: 4/12/2019 Letter dated 11/18/2017	Design changes Unforeseen conditions Portions of work can only be performed during the dry season Hurricane delay	Delay Notification
2.17	Chlorination Facilities	Construction	9/29/2017	4/18/2016	4/18/2018	6 Months	10/15/2018	Previously requested new CD Compliance Date: 12/31/2017 Letter dated 8/17/2017	Design changes Procurement delays Hurricane delay	Delay Notification
2.19	Co-Gen Improvements	Construction	3/31/2019	7/20/2017	5/22/2019	12 Months	5/21/2020	Previously requested new CD Compliance Date: 8/22/2019 Letter dated 5/18/2017	Procurement delays Hurricane delay	Potential Delay Notification

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CD Number	Title	Current Phase	CD Project Compliance Date	Anticipated/Actual Construction Start Date	Anticipated Construction End Date	Contingency Factor (Months)	New Recommended CD Project Compliance Date	Previous Requested EPA Extension	Justification	Previous Requested Extension Correspondence
2.22	Pump Station No.2	Construction	10/22/2017	1/24/2017	5/25/2018	12 Months	5/25/2019	Previously requested new CD Compliance Date: 4/30/2018 Letter dated 10/19/2017	Procurement delays Unforeseen conditions (contamination) Contractor non-performance	Update of Delay Notification
2.27	Oxygen Production	Procurement	12/30/2019	5/1/2018	2/14/2020	24 Months	2/13/2022	Previously requested new CD Compliance Date: 1/23/2021 Letter dated 12/15/2017	Procurement delays Scope change (cryogenic to VPSA)	Potential Delay Notification
4.05	South Dade 54 inch PCCP FM Rehabilitation	Construction	11/27/2017	10/19/2016	3/28/2018	9 Months	12/23/2018	Previously requested new CD Compliance Date: 6/1/2018 Letter dated 12/7/2017	Design changes Contractor initiated changes Pre-purchase material delays Hurricane delay	Failure to Meet Compliance Date Notification
5.01	Conversion of Sewage Pump Station 418 to Booster Station	Construction	11/24/2018	5/28/2016	10/22/2018	12 Months	10/22/2019	Previously requested new CD Compliance Date: 9/5/2019 Letter dated 12/13/2017	Unforeseen conditions Additional work required Sequencing requirements	Potential Delay Notification
5.04	Replacement of Switchgear PS#0414	Construction	5/9/2018	9/21/2017	9/18/2018	9 Months	6/15/2019	Previously requested new CD Compliance Date: 11/2/2018 Letter dated 11/21/2017	Procurement delays Delay caused by I/I	Delay Notification
5.06	Replacement of Switchgear PS#0416	Construction	5/9/2018	7/20/2017	9/16/2018	9 Months	6/13/2019	Previously requested new CD Compliance Date: 11/1/2018 Letter dated 11/9/2017	Procurement delays Hurricane delay Unforeseen condition (plug valves)	Delay Notification
5.07	Replacement of Switchgear and Rehabilitation of Wetwell PS#0417	Procurement	1/27/2019	6/1/2018	7/26/2019	12 Months	7/25/2020	Previously requested new CD Compliance Date: TBD, will provide update Letter dated 12/15/2017	Procurement delays NTP was not provided on 10/31/17 Awaiting re-bid date	Potential Delay Notification
5.09	Replacement of Pumping and Electrical Equipment at PS#0301	Design	5/9/2018	1/26/2019	1/24/2021	12 Months	1/24/2022	Submitted scope modification and schedule revision request for 10/25/2020 Letter dated 7/28/2017	Change of scope and revised baseline	Scope Modification Request and Schedule Revision Letter
5.11	Installation of 48 inch FM from Kendall Dr. to the Suction Side of PS#0536	Construction	5/9/2018	8/30/2017	5/18/2018	12 Months	5/18/2019	Previously requested new CD Compliance Date: 5/17/2017 Letter dated 12/11/2017	Design changes Procurement delays Hurricane delay Work can only be performed during the dry season	Delay Notification
5.12	Replacement of Switchgear at PS#0187	Construction	5/9/2018	3/9/2017	6/29/2018	9 Months	3/26/2019	Previously requested new CD Compliance Date: 11/9/2018 Letter dated 11/28/2017	Design changes Unforeseen conditions Procurement delays Hurricane delay	Delay Notification



CD Number	Title	Current Phase	CD Project Compliance Date	Anticipated/Actual Construction Start Date	Anticipated Construction End Date	Contingency Factor (Months)	New Recommended CD Project Compliance Date	Previous Requested EPA Extension	Justification	Previous Requested Extension Correspondence
5.16	Upgrade of PS#0198, 0437, 0466, 0680	Construction	12/31/2016	4/25/2016	3/1/2018	10 Months	12/31/2018	Previously requested new CD Project Compliance Date: 12/31/17 Letter dated 9/22/2017	Contractor non-performance	Update of Delay Notification
5.17	Upgrade of PS#0037, 0351, 0370, 0403	Construction	12/31/2017	5/9/2017	2/23/2018	9 Months	11/20/2018	Previously requested new CD Compliance Date: 3/30/2018 Letter dated 12/5/2017	Contractor non-performance Hurricane delay	Delay Notification
1.04	Chlorine Building	Pre -Design	6/1/2022	6/16/2020	8/7/2021	24 Months	8/7/2023		Potential project deferrals Delays to design start Anticipated future conflicts/changes	
1.07	Digesters and Control Building	Procurement	10/28/2021	8/10/2018	11/21/2021	24 Months	11/21/2023		Procurement delays Re-design to incorporate acid phase alternate Future unknown impact of Biosolids P3 project and potential date deferral	
2.01	Miscellaneous Electrical Improvements	Various	3/6/2020	Various	6/14/2020	12 Months	6/14/2021		Multiple child/sub projects Design delays Anticipated future conflicts/changes	
2.05	Oxygenation Trains Plant 1	Procurement	4/15/2018	12/29/2017	4/12/2018	12 Months	4/12/2019		Procurement delays Work can only be performed during the dry season	
2.08	Secondary Clairifiers Plant 2	Procurement	9/12/2023	8/24/2018	5/31/2023	18 Months	12/1/2024		Phasing/Operational Constraints Work can only be performed during the dry season	
2.10	Return Sludge Pump Stations Plant 2	Procurement	9/12/2023	8/24/2018	5/31/2023	18 Months	12/1/2024		Phasing/Operational Constraints Work can only be performed during the dry season	
2.11	Effluent Pump Station	Permitting	5/9/2020	10/26/2018	12/19/2019	18 Months	6/21/2021		Potential Impact from OOL Program with respect to change in motor Hp that may require design changes prior to award. Anticipated future conflicts/changes Electrical conduits are dependent on electrical ductbank installed as part of 2.27	
2.15	Digesters Plant 2	Construction Procurement Design Planning	8/19/2022	Various	6/18/2022	12 Months	6/18/2023		Multiple cluster projects Design changes (jet mixing to linear mixing) Unforeseen conditions (ductbank relocation, soil contamination)	
2.21	Pump Station No.1	Permitting	10/23/2019	7/12/2018	8/26/2019	18 Months	2/26/2021		Design Issues. Potential delay in permitting and procurement due to addition of temp odor control.	
3.02	Primary Clarifiers and Odor Control	Construction/ Procurement	4/18/2021	7/12/2018	4/6/2021	24 Months	4/6/2023		Phasing/Operational Constraints Work can only be performed during the dry season	

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CD Number	Title	Current Phase	CD Project Compliance Date	Anticipated/Actual Construction Start Date	Anticipated Construction End Date	Contingency Factor (Months)	New Recommended CD Project Compliance Date	Previous Requested EPA Extension	Justification	Previous Requested Extension Correspondence
3.03	Oxygenation Trains	Pre-Design	1/17/2024	12/3/2021	3/6/2024	24 Months	3/6/2026		Phasing/Operational Constraints Portions of work can only be performed during the dry season Potential project deferrals Delays to design start Anticipated future conflicts/changes	
3.04	Oxygen Production	Pre-Design	1/12/2024	12/3/2021	3/6/2024	24 Months	3/6/2026		Phasing/Operational Constraints Potential project deferrals Delays to design start Anticipated future conflicts/changes	
4.09	Replace Approximately 30 miles of AC FM Transmission System	Construction	10/8/2019	Various	10/18/2019	12 Months	10/17/2020		Permitting delays (hydraulic model update) Multiple projects county wide Procurement delays Road moratoriums	
4.10	Opa-Locka Airport 48" PCCP Force Main Replacement	Construction	1/28/2018	10/12/2016	1/28/2018	9 Months	10/25/2018		Unforeseen conditions Hurricane delay	
5.03	Upgrade of PS#0692	Procurement	1/27/2019	5/14/2018	6/18/2019	12 Months	6/17/2020		Permitting delays Operational constraints tied to Project 4.05	
5.05	Replacement of Switchgear and Rehabilitation of Wetwell PS#0415	Construction	1/27/2019	10/11/2017	12/6/2018	9 Months	9/2/2019		Permitting delays Procurement delays Unforeseen conditions	
5.18	Upgrade of PS#0441, 0491, 0710, 0827, 0852, 1236	Permitting	12/31/2018	5/7/2018	3/18/2019	9 Months	12/13/2019		Hurricane delay (affecting permitting) Multiple small contracts	
6.0 SEP	Supplemental Environmental Project (SEP)	Procurement	4/8/2019	1/17/2018	2/21/2019	9 Months	11/18/2019		Change of scope (addition of water main) Utility easement challenges Densely industrialized area	

Projects under the Thickening/Dewatering Contract  
 EPA has been notified, however, additional time is requested  
 Additional float is requested

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Attachment 2 - Projects Completed and Pending Resolution									
CD Number	Title	Original CD Project Compliance Date	Actual Construction Start Date	Actual Construction Completion Date	Approved CD Compliance Date	Days Past CD Compliance Date	Previous Requested EPA Extension	Justification	Correspondence
2.24	Gas Monitoring and Alarms	9/19/2017	4/13/2015	9/29/2017	9/19/2017	10 days	Previously requested new CD Project Compliance Date: 10/3/2017 Letter dated: 9/29/2017	Hurricane delay	Notification of Completion
4.8	Rehabilitation of 54-inch PCCP FM in the City of Miami	4/9/2017	3/12/2015	6/16/2017	5/28/2017	19 days	Previously requested new CD Project Compliance Date: 5/28/2017 Letter dated: 5/16/2017	Hurricane delay, defective isolation valve and pipe failure of the newly rehabilitated 54-inch force main at 25% of its rated pressure	Force Majeure Notification