

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

OFFICE OF COMPLIANCE AND INSPECTION

In Re: City of Warwick

File Nos.: OCI-WP-16-15

X-ref RIPDES RIR040031

CONSENT AGREEMENT

A. INTENT & PURPOSE

This Agreement is entered by and between the Rhode Island Department of Environmental Management's Office of Compliance & Inspection ("RIDEM") and the City of Warwick ("Warwick"). This Agreement is entered in accordance with Section 42-17.1-2 et seq. of the Rhode Island General Laws ("R.I. Gen. Laws") for the purpose of resolving the alleged violations set forth in a Notice of Violation ("NOV") issued to Warwick by the RIDEM on _____. By entering into this Agreement, Warwick does not admit to any wrongdoing and makes no admission of liability. The parties understand and acknowledge that an amicable resolution of this dispute is in the public interest and best serves to preserve and enhance the environmental quality of waterways in Warwick.

B. STIPULATED FACTS

- (1) WHEREAS, on 19 December 2003, the RIDEM issued Rhode Island Pollutant Elimination System ("RIPDES") General Permit Number RIR040000 entitled "Storm Water Discharge from Small Municipal Separate Storm Sewer Systems and from Industrial Activity at Eligible Facilities Operated by Regulated Small MS4s" (the "General Permit").
- (2) WHEREAS, the General Permit authorizes the discharge of stormwater from small municipal separate storm sewer systems ("MS4s") that are operated by municipalities.
- (3) WHEREAS, on 17 March 2004, the Respondent obtained coverage under the General Permit through the submission of a Notice of Intent ("NOI") and Stormwater Management Program Plan ("SWMPP") to the RIDEM.
- (4) WHEREAS, for the purposes of this Agreement, the separate storm sewer system covered under the General Permit means the system as defined in Rule 31(b)(19) of the RIDEM's *Regulations for the Rhode Island Pollutant Discharge Elimination System*, except for those roadways that are listed on the Rhode Island Department of Transportation website as the "State-Maintained Roads in Rhode Island" and the list of roadways in a document entitled "PRIVATE ROADS IN THE CITY OF WARWICK", which is attached hereto and incorporated herein as Attachment A (the "MS4").

- (5) WHEREAS, the RIDEM received a copy of a report entitled "Drainage Assessment for Brushneck Cove Stormwater Management Improvements, Asylum Road, Warwick, Rhode Island NOVEMBER 2011", that was prepared by Crossman Engineering, Inc.. The portions of the report that are pertinent to this Agreement are attached hereto and incorporated herein as Attachment B.
- (6) WHEREAS, the RIDEM received a copy of a report entitled "Tuscatucket Brook Watershed Stormwater Attenuation and Source Reduction Strategy Final Report May 2011", that was prepared by Comprehensive Environmental Inc. (the "Tuscatucket Plan"). The portions of the Tuscatucket Plan that are pertinent to this Agreement are attached hereto and incorporated herein as Attachment C.
- (7) WHEREAS, Warwick submitted to the RIDEM a proposal to complete construction of the bio-retention and vegetative swales along Suburban Parkway in the Oakland Beach neighborhood. The proposal is attached hereto and incorporated herein as Attachment D.
- (8) WHEREAS, Warwick submitted to the RIDEM a conceptual plan to provide stormwater treatment at the intersection of Oakland Beach Avenue and Stender Boulevard. The proposal is attached hereto and incorporated herein as Attachment E.
- (9) WHEREAS, Warwick submitted to the RIDEM a map of Warwick entitled, "City of Warwick, Rhode Island Stormwater Inventory - Inspection Area Map," that identifies 3 geographic areas, which are defined as "2016 Inspection Area", "2017 Inspection Area", and "2018 Inspection Area". The map is attached hereto and incorporated herein into Attachment A.
- (10) WHEREAS, Warwick provided to the RIDEM a street sweeping tracking system that is sufficient to document the date, location, and miles of sweeping of all roads that are covered under the General Permit (the "Street Sweeping Tracking System").
- (11) WHEREAS, on _____, the RIDEM issued a NOV to Warwick alleging certain violations of Rhode Island's Water Pollution Act, the RIDEM's *Water Quality Regulations* and the RIDEM's *Regulations for the Rhode Island Pollutant Discharge Elimination System*. The violations pertained to the alleged failure to comply with the General Permit.
- (12) WHEREAS, in lieu of proceeding with an administrative adjudicatory hearing or other legal actions on the NOV and to affect a timely and amicable resolution of the NOV, the RIDEM and Warwick hereby agree that it is in the best interest of the parties and in the public interest to resolve the issues alleged in the NOV.
- (13) WHEREAS, the RIDEM finds that this Agreement is a reasonable and fair settlement and adequately protects the public interest in accordance with Rhode Island's Water Pollution Act and the RIDEM's *Water Quality Regulations* and the RIDEM's *Regulations for the Rhode Island Pollutant Discharge Elimination System*.

- (14) WHEREAS, on June 6, 2016, the City Council for Warwick reviewed the terms and conditions of this Agreement and determined the same to be fair and reasonable, in the best interest of Warwick, and contains appropriate and meaningful actions to improve water quality in the community, and duly authorized the Mayor to execute this Agreement on behalf of Warwick and perform and undertake any and all necessary actions to further implement and comply with the terms and conditions contained herein.

C. AGREEMENT

- (1) JURISDICTION – The RIDEM has jurisdiction over the subject matter of this Agreement and has personal jurisdiction over Warwick. Warwick has the legal authority and has been duly authorized to enter into this Agreement.
- (2) FORCE and EFFECT – This Agreement shall have the full force and effect of a final compliance order issued after a full hearing on the merits pursuant to the Administrative Procedures Act, R.I. Gen. Laws Section 42-35-1 et seq. and R.I. Gen. Laws Section 42-17.7-1 et seq. from which no timely appeal was taken, and which is enforceable in Superior Court in accordance with R.I. Gen. Laws Section 42-17.1-2(21)(vi).
- (3) APPLICATION – The provisions of this Agreement shall apply to and be binding upon the RIDEM, Warwick and its agents, servants, employees, successors, assigns and all persons, firms and corporations acting under, through and for Warwick in the performance of work relating to or impacting the requirements of this Agreement.
- (4) CONDITIONS –
- (a) Warwick shall complete the following actions to comply with the Order section of the NOV:
- (i) **Within 30 days of execution of the Agreement and annually thereafter**, implement the Street Sweeping Tracking System;
 - (ii) **By 10 March 2017 and annually thereafter**, submit the MS4 Annual Report to the RIDEM. The MS4 Annual Report shall be developed in a manner that fulfills the General Permit and include all the information within the document entitled "Compliance Reporting Requirements", which is attached hereto and incorporated herein as Attachment F;
 - (iii) **By 31 August 2016**, adopt an Illicit Discharge Detection and Elimination ("IDDE") ordinance that prohibits illicit connections and non-stormwater discharges to the MS4 and has an adequate mechanism to ensure compliance, and submit to the RIDEM the ordinance and a letter from the City Solicitor certifying that the ordinance was duly adopted and provides the authority for Warwick to carry out the requirements of the General Permit;

- (iv) **By 30 September 2016**, adopt an ordinance to implement a process for reviewing all construction projects with land disturbance equal to or greater than 1 acre for soil erosion, runoff, and sediment control and control of other wastes at construction sites, and to perform inspections and enforcement to ensure sediments are adequately controlled during construction, and submit to the RIDEM the ordinance and a letter from the City Solicitor certifying that the ordinance was duly adopted and provides the authority for Warwick to carry out the requirements of the General Permit;
- (v) **By 31 December 2016**, adopt an ordinance and **within 4 months thereafter**, promulgate regulations to implement a procedure for review and inspection of all construction projects with land disturbance equal to or greater than 1 acre to address post-construction Best Management Practices ("BMPs") for the control of stormwater runoff from new development and redevelopment projects, ensure that new development proposes no net increase of Total Phosphorus or Bacteria, and ensure that redevelopment reduces Total Phosphorus and Bacteria to the maximum extent practicable as required by an applicable Total Maximum Daily Load ("TMDL"), and submit to the RIDEM the ordinance and a letter from the City Solicitor certifying that the ordinance was duly adopted and provides the authority for Warwick to carry out the requirements of the General Permit;
- (vi) Implement the IDDE requirements of the General Permit as follows:
 - 1. **Within 60 days of execution of the Agreement**, submit to the RIDEM an IDDE Plan for screening and monitoring of MS4 outfalls and interconnections, investigation of sub-catchment areas, and removal of illicit discharges that is consistent with a document entitled EPA New England Bacterial Source Tracking Protocol Draft January 2012", which is attached hereto and incorporated herein as Attachment G, and this Agreement. Warwick shall amend its SWMPP to incorporate the revised IDDE Plan within 30 days of the RIDEM's approval. The IDDE Plan must include, but is not limited to, the requirements, guidelines, procedures, and deadlines in a document entitled "IDDE Plan Requirements", which is attached hereto and incorporated herein as Attachment H ;
 - 2. **Within 60 days of the RIDEM's approval of the IDDE Plan**, initiate the investigation of high priority outfalls and portions of the MS4 identified in a document entitled "IDDE Investigation Priorities List, City of Warwick, January 2016", which is attached hereto and incorporated herein as Attachment I. Investigations shall be completed in accordance with the timeframes in the approved IDDE Plan;

3. **By 10 March 2017 and annually thereafter**, provide to the RIDEM a report of the results of the IDDE investigations, the revised ranking of priorities, and the revised implementation schedule with the MS4 Annual Report in accordance with Attachment F.
- (vii) **By 31 July 2016**, establish procedures to maintain an inventory of municipally-owned and privately-owned structural controls that discharge to the MS4 (both baseline existing conditions and as they are constructed) and to ensure adequate maintenance practices are followed;
 - (viii) **By 31 December 2016 and annually thereafter**, conduct street sweeping twice annually in the Gorton, Sand, and Warwick Pond watersheds, in accordance with the list of streets that is attached hereto and incorporated herein as Attachment J;
 - (ix) Complete the requirements of Paragraphs C(4)(a)(x)-(xii) in accordance with the following schedule:
 1. **By 31 December 2016**, complete 2016 Inspection Area as shown on Attachment A;
 2. **By 31 December 2017**, complete 2017 Inspection Area as shown on Attachment A;
 3. **By 31 December 2018**, complete 2018 Inspection Area as shown on Attachment A;
 - (x) Submit to the RIDEM electronically in an ArcGIS compatible format, using RI State Plane Coordinate system - feet, NAD1983, a GIS map of all outfalls, receiving waters, drainage systems, and the contributing drainage areas to the MS4 outfalls in the specified inspection area. The map shall include, but not be limited to, locations of all catch basins, manholes, pipes, culverts, swales, and ditches contributing to the MS4 outfalls located in the specified inspection area. Warwick shall field verify flow direction and connectivity by, at a minimum, visual observation of the invert elevation of pipes connected to each catch basin, the connectivity of each catch basin with the ultimate discharge/outfall, identify interconnections with other MS4s (for example, the Rhode Island Department of Transportation and the City of Cranston), and inspect all city-owned catch basins and manholes for illicit connections and non-stormwater discharges.
 - (xi) **By the deadlines in Paragraph C(4)(a)(ix) above and annually thereafter**, inspect all catch basins and manholes for sediment accumulation and clean as necessary. Increased inspections and maintenance should be considered. After at least 2 consecutive years of operational data has been collected, Warwick may submit a request for approval for a lesser frequency of inspection based on evidence indicating the system does not require annual cleaning.

- (xii) Establish and maintain an inventory of municipally-owned and privately-owned structural controls that drain to the MS4 (both baseline existing conditions and as they are constructed) and implement procedures to ensure adequate maintenance practices are followed;
- (xiii) Complete the dry weather surveys of all outfalls for the parameters listed in Attachment H, Part B and as required by the General Permit in accordance with the following schedule:
 - 1. **By 31 October 2017**, complete 2016 Inspection Area as shown on Attachment A;
 - 2. **By 31 October 2018**, complete 2017 Inspection Area as shown on Attachment A;
 - 3. **By 31 October 2019**, complete 2018 Inspection Area as shown on Attachment A;
- (xiv) In the Oakland Beach neighborhood and Tuskatucket Brook Watershed
 - 1. **By 30 September 2016**, complete construction of the retrofit to existing drainage systems in Asylum Road as shown on Attachment B.
 - 2. **By 31 December 2016**, complete the asphalt removal projects at the locations listed below. Each project shall include the complete removal of asphalt, the use of proper erosion, sediment, and runoff controls, and revegetation and stabilization of the areas:
 - 1. Hewett Street – approximate area 110 feet by 20 feet
 - 2. Crockett Street – approximate area 35 feet by 24 feet
 - 3. Develop and implement the following in the Oakland Beach neighborhood:
 - a. **By 30 June 2017**, complete construction of the bio-retention and vegetative swales along Suburban Parkway as shown on Attachment D;
 - b. **By 30 June 2018**, complete design and construction of the stormwater treatment improvements at the intersection of Oakland Beach Avenue and Stender Boulevard, as shown on Attachment E;
 - c. **Within 12 months of execution of this Agreement**, initiate a pollution prevention program targeted at businesses and residents that informs the community on how to become involved in the stormwater program. At a minimum, the program must:

- i. Establish a working group to initiate pollution prevention program targeted at businesses and residents;
 - ii. Involve the public by holding an annual public meeting with stakeholders;
 - iii. Deliver public outreach materials to private/commercial property owners annually, regarding, but not limited to, the following topics: managing stormwater from parking lots, encouraging more frequent sweeping and litter control;
 - iv. Initiate a public parking lot maintenance program that provides public awareness and outreach of options available to the commercial or residential property owners;
 - v. Develop low impact development ("LID") and BMP pilot projects, such as a downspout disconnection program that provides public awareness and outreach, and development of a manual with a menu of options available to the commercial or residential property owner;
 - vi. Maintain a webpage regarding pollution prevention of stormwater on Warwick's website and ensure that education and outreach materials are available online and accessible via Warwick's website; and
- d. **Within 18 months of execution of this Agreement**, implement storm drain stenciling and install increased signage and pet-waste disposal stations.
4. Develop and implement the recommendations in the Tuscatucket Plan, including, but not limited to:
- a. **By 31 December 2018**, design and construct the 8 recommended structural controls in the Tuscatucket Brook Watershed, in accordance with the schedule that is included in a document entitled "Tuscatucket Brook Watershed-High Priority", which is attached hereto and incorporated herein as Attachment K;
 - b. **Within 6 months of execution of this Agreement**, develop and implement the following recommended non-structural practices as described in Section 5.4 of Attachment C:
 - i. Implement a public education and outreach program in this watershed to promote good landscape management and use community based social marketing.
 - ii. Install storm drain markers or stencils.

iii. Promote LID throughout the watershed.

- (xv) **By 31 December 2019**, submit to the RIDEM a TMDL Implementation Plan ("IP") for the TMDL Implementation Plan Group 1 waterbody segments listed in a document entitled "Warwick TMDL Implementation Plan Groups", which is attached hereto and incorporated herein as Attachment L.
- (xvi) **By 31 December 2020**, submit to the RIDEM a TMDL IP for the TMDL Implementation Plan Group 2 waterbody segments listed in Attachment L.
- (xvii) **By 31 December 2021**, submit to the RIDEM a TMDL IP for the TMDL Implementation Plan Group 3 waterbody segments listed in Attachment L.
- (xviii) **By 31 December 2022**, submit to the RIDEM a TMDL IP for the TMDL Implementation Plan Group 4 waterbody segments listed in Attachment L.
- (xix) The TMDL IPs required in Paragraphs C(4)(a)(xv)-(xviii) shall meet the requirements of the document entitled, "TMDL Implementation Plan Requirements", which is attached hereto and incorporated herein as Attachment M, and include the following:
 - 1. All recommendations and requirements in the TMDLs consistent with the assumptions and recommendations of those TMDLs that apply to Warwick;
 - 2. For each waterbody segment, Warwick shall select a combination of structural stormwater controls and enhanced non-structural Best Management Practices ("BMPs") that collectively achieve the most stringent level of control for pollutant load reduction requirements in such TMDLs as listed in a document entitled "Warwick Percent Reduction TMDL Loads", which is attached hereto and incorporated herein as Attachment N, and a document entitled "Impervious Cover Standard", which is attached hereto and incorporated herein as Attachment O, to the maximum extent practicable, unless the RIDEM approves an alternative level of control.
 - 3. An assessment of the pollutant load reductions achieved and an assessment of compliance with the requirements in Attachment N and Attachment O. Warwick shall use the procedures specified in a document entitled "Methodologies for Calculating Pollutant Load Reductions Achieved for Structural Stormwater Controls and Enhanced Non-Structural BMPs and Methodologies for Calculating Runoff Volume Reduction and Peak Flow Attenuation Factors for the Impervious Cover Standard", which is attached hereto and

incorporated herein as Attachment P, to calculate the pollutant removal, runoff volume reduction, and peak flow attenuation achieved by structural stormwater controls and enhanced non-structural BMPs, unless the RIDEM approves an alternative methodology.

4. Implementation of all planned enhanced non-structural BMPs within 3 months of approval by the RIDEM for enhanced non-structural BMPs that are not implemented on a seasonal basis, or no later than the next implementation season following the approval for enhanced non-structural BMPs that are implemented on a seasonal basis. Implementation of all enhanced non-structural BMPs shall continue annually thereafter or as specified in the approved TMDL IP.
5. A schedule for implementation of the proposed structural stormwater controls, including interim design milestones and proposed construction start and completion dates. In developing the schedule, Warwick shall target completion of higher priority projects within 4 years of the RIDEM's approval and all projects within 8 years of the RIDEM's approval of the TMDL IP. Warwick shall provide an explanation of its schedule, including the prioritization of projects and the rationale for the schedule. In developing the schedule, Warwick will consider constructing the controls as part of other planned infrastructure improvement projects, and comply with the objective of providing for consistent progress over time in completing construction of the controls.
6. TMDL Implementation Plan amendments. If, in the course of design or construction work and associated efforts, Warwick concludes that a particular structural control proposed in a TMDL IP is infeasible, Warwick shall explain the reasons for its conclusion and, to the maximum extent practicable, propose alternate structural controls and/or enhanced non-structural BMPs to replace the infeasible structural control. If, in the course of design or construction work and associated efforts, Warwick concludes that the level of control that a particular structural control will provide is substantially less than was estimated in the current TMDL IP, Warwick shall explain the reasons for its conclusion and, to the maximum extent practicable, propose additional structural controls and/or enhanced non-structural BMPs to compensate for the decrease. In either case, Warwick shall submit the documentation of its conclusions and its proposals for alternate or additional controls in proposed TMDL IP amendment/s. For alternate or additional controls, the proposed TMDL IP amendment/s shall include the information specified in Paragraphs 9, 12, and 13 of Attachment M. The proposed TMDL IP amendment/s shall be submitted as soon as possible, but no later than the due date of the next annual MS4 Annual Report following the Warwick's conclusion that a particular proposed TMDL IP structural

control is infeasible or will provide substantially less control than was estimated in the TMDL IP.

- (xx) Warwick shall amend its SWMPP to incorporate RIDEM-approved TMDL IPs (including Operation and Maintenance ("O&M") Plans) within 30 days of the RIDEM's approval of each TMDL IP. The SWMPP may be amended by incorporating the TMDL IPs by reference. A list of the TMDL IPs incorporated by reference shall be provided in the MS4 Annual Report. The Respondent shall implement the TMDL IPs, including the O&M Plans, in accordance with the schedules included in the approved TMDL IPs, as approved by the RIDEM, which schedules may be modified pursuant to Paragraph D(10) below.
- (xxi) For new construction or re-construction by Warwick, where the newly constructed or re-constructed infrastructure will discharge any pollutants of concern to an Impaired Water Body Segment directly or indirectly, Warwick shall implement structural stormwater controls and may implement enhanced non-structural BMPs that will, to the maximum extent practicable, support the achievement of the pollutant load reduction and other requirements of Paragraph C(4)(a)(xix). Warwick will also consider the implementation of structural stormwater controls in connection with pavement management and other infrastructure development projects that are not new construction or re-construction, including, but not limited to, preservation projects such as mill & overlay, level & overlay, thin overlay, in-place recycling, and reclamation projects, and repair of existing drainage system components at the same line and grade, and, if practical, implement them as part of such projects.
- (b) The schedules, reports and other documents that Warwick is required to submit to the RIDEM in accordance with Paragraph C(4)(a) above are subject to the RIDEM's review and approval. Upon review, the RIDEM shall provide written notification to Warwick either granting formal approval or stating the deficiencies therein. Within 14 days (unless a longer time is specified) of receiving a notification of deficiencies, Warwick shall submit to the RIDEM revised schedules, reports, documents or additional information necessary to correct the deficiencies.
- (c) Upon the RIDEM's approval of the schedules, reports and other documents, Warwick shall complete all work required in accordance with the approved schedule.
- (d) Penalty - In lieu of a penalty for non-compliance, and in consideration that the NOV issued in this matter was not prosecuted or that any determination of liability was reached on the merits, and in further consideration that the parties agree an amicable resolution is in the best interest of the public and will more effectively preserve and enhance the environmental quality of Warwick's water

bodies, a series of supplemental environmental projects shall be initiated and carried out by Warwick, as set forth in Attachment S, which is attached hereto and incorporated herein. For each supplemental environmental project ("SEP"), Warwick shall be given a credit for the SEP (the "SEP Credit").

- (i) **By 30 September 2017**, Warwick shall complete SEP #1 entitled "Rocky Point Pool Area". Warwick estimates this SEP is \$100,000. Warwick shall receive a credit of \$100,000 for this SEP.
 - (ii) **By 31 December 2016**, Warwick shall complete SEP #2 entitled "Oakland Beach-Trash Receptacles". Warwick estimates that the cost of this SEP is \$70,000. Warwick shall receive a credit of \$70,000 for this SEP.
 - (iii) **By 31 December 2017**, Warwick shall complete SEP #3 entitled "Buckeye Brook-Waterway Study". Warwick estimates that the cost of this SEP is \$40,000. Warwick shall receive a credit of \$40,000 for this SEP.
 - (iv) **By 31 December 2016**, Warwick shall complete SEP #4 entitled "Edgewater Drive-Roadway Abandonment". Warwick estimates that the cost of this SEP is \$8,000. Warwick shall receive a credit of \$8,000 for this SEP.
 - (v) **By 31 December 2016**, Warwick shall complete SEP #5 entitled "Midgely Avenue-Roadway Abandonment". Warwick estimates that the cost of this SEP is \$8,000. Warwick shall receive a credit of \$8,000 for this SEP.
 - (vi) **By 31 December 2017**, Warwick shall complete SEP #6 entitled "Lippitt School-Demonstration Project". Warwick estimates that the cost of this SEP is \$5,000. Warwick shall receive a credit of \$5,000 for this SEP.
- (e) If Warwick fails to timely complete a SEP, the RIDEM shall notify Warwick that it intends to rescind the SEP Credit. Within 14 days of Warwick's receipt of written notification by the RIDEM that the RIDEM intends to rescind the SEP Credit, Warwick shall either complete the SEP or demonstrate that good cause exists for the delay in completing the SEP. If Warwick fails to complete the SEP or does not demonstrate good cause for the delay within said 14 days, Warwick shall, within 10 days of Warwick's receipt of a written notification from the RIDEM, submit to the RIDEM a check in the amount of the SEP Credit after which Warwick shall be under no further obligation to complete the SEP.
- (f) Penalties that Warwick agrees to pay in this Agreement are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
- (g) In the event that Warwick fails to remit to the RIDEM a payment on or before its due date, that payment will be considered late and Warwick will be in default. If the payment is not received within 30 days of its due date, interest shall begin to accrue on the entire unpaid balance at the rate of 12 percent per annum.

Interest will accrue at this rate beginning with the day after the due date specified in this Agreement until such date all past due installment payments and interest owed are remitted. Interest shall be calculated using the following generally established accounting principle:

Interest due = (number of days late/365) x (0.12) x (amount of unpaid balance)

- (h) All penalty payments shall be in the form of a check payable to the R.I. General Treasurer-Water and Air Protection Account. All payments shall be delivered to:

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

D. COMPLIANCE

- (1) EFFECT OF COMPLIANCE – Compliance with and fulfillment of this Agreement shall be deemed to resolve all issues raised in the NOV.
- (2) RELEASE FROM REQUIREMENTS OF THE AGREEMENT – Upon the RIDEM’s determination that Warwick has satisfactorily complied with the requirements of this Agreement expressed as “annually thereafter”, Warwick is released from its responsibility to continue to comply with said provisions under this Agreement.
- (3) FAILURE TO COMPLY – In the event that Warwick fails to comply with items specified in Section C (4)(a) of the Agreement, Warwick shall pay a stipulated penalty of \$500 per month for each and every month during which the noncompliance continues, except that the RIDEM may, for good cause shown, defer or reduce such penalty. The payment of a penalty in accordance with this section shall not preclude the RIDEM from seeking any other appropriate remedy (e.g., injunctive relief in Superior Court).
- (4) COMPLIANCE WITH OTHER APPLICABLE LAWS – Compliance with the terms of this Agreement does not relieve Warwick of any obligation to comply with any other applicable laws or regulations administered by, through or for the RIDEM or any other governmental entity.
- (5) ADDITIONAL ENFORCEMENT ACTIONS – Upon a determination by the Director that there is a threat to the public health or the environment, or upon discovery of any new information, the RIDEM reserves the right to take additional enforcement actions as provided by statute or regulation, including, but not limited to, the issuance of “Immediate Compliance Orders” as authorized by R.I. Gen. Laws Section 42-17.1-2(21). This Agreement shall not restrict any right to hearing or other right available by statute or regulation that Warwick may have regarding any new enforcement action commenced by the RIDEM after the execution of this Agreement.

- (6) FUTURE ACTIVITIES AND UNKNOWN CONDITIONS – This Agreement shall not operate to shield Warwick from liability arising from future activities, as of the date of execution of this Agreement.
- (7) SCOPE OF THE AGREEMENT – The scope of the Agreement is only violations alleged in the NOV.
- (8) NOTICE AND COMMUNICATION – Communications regarding this Agreement shall be directed to (or their successors):

David E. Chopy, Chief
RIDEM Office of Compliance and Inspection
235 Promenade Street
Providence, RI 02908-5767
(401) 222-1360 ext. 7400

Mary E. Kay, Executive Legal Counsel
RIDEM Office of Legal Services
235 Promenade Street
Providence, RI 02908-5767
(401) 222-6607 ext. 2304

Eric Earls, City Engineer
Warwick City Hall
3275 Post Road
Warwick, RI 02886
(401) 738-2000

Peter Ruggiero, City Solicitor
Warwick City Hall
3275 Post Road
Warwick, RI 02886
(401) 738-2000

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

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

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

For the City of Warwick

By: _____
Honorable Scott Avedisian, Mayor
(Duly Authorized by PCR-2016-0000)

Dated: _____

*For the State of Rhode Island Department of
Environmental Management*

By: _____
David E. Chopy, Chief
Office of Compliance and Inspection

Dated: _____