

EXECUTIVE CHAMBER

CITY OF WARWICK



RHODE ISLAND

SCOTT AVEDISIAN
MAYOR

Honorable Warwick City Council Members

RE: PCR-70-16, A Resolution Relative to Authorize the Mayor to Execute a Consent Agreement with the RI Department of Environmental Management

Dear Madam President and Fellow City Councilors:

The City of Warwick was issued a RI Pollutant Discharge Elimination System General Permit (Number RIR040031) on December 19, 2003 (the "General Permit"), by the RI Department of Environmental Management ("RIDEM"). The General Permit was issued pursuant to the authority created by several federal and state laws and regulations which control discharges from small municipal separate storm sewer systems ("MS4") owned and maintained by Warwick. Since issuance of the General Permit, the City has endeavored to meet the MS4 discharge performance conditions. However, with the advent of the Great Recession and other competing priorities for scarce municipal resources, Warwick fell behind in its obligations set forth in the General Permit. As a consequence, RIDEM was compelled to demand Warwick's compliance with the General Permit obligations.

Late last year, my office was informed that RIDEM would be issuing Warwick a Notice of Violation ("NOV") for their failure to remain in compliance with their MS4 obligations under the terms of the General Permit and subsequent regulatory controls. Warwick was neither singled out nor alone in their situation. The US Environmental Protection Agency has had to take enforcement action against the RI Department of Transportation and RIDEM has taken action against other RI communities on this same issue. While this information does not negate Warwick's liability to perform to its obligations under the MS4 program, it does illustrate other government bodies were similarly challenged during this unprecedented period of scarce resources. RIDEM and the City have worked cooperatively over the last several months to resolve violations pertaining to the City's MS4 permit.

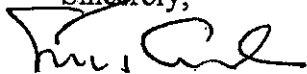
Warwick has a choice in this situation – it can either dispute the NOV and the significant fines sought by the RIDEM for non-compliance or enter into a consent agreement with the RIDEM to avoid litigation over the NOV and better control its environmental and financial futures. Avoiding litigation and the payment of fines to the State's General Treasury will allow Warwick instead to invest those resources into environmental quality improvements to its many waterways, lakes, streams and rivers. In furtherance of this later opportunity, over the past six months I directed staff to work with RIDEM and am presenting several documents and supporting information to the City Council for their review, discussion and requested action. Enclosed with this letter, you will find a copy of the NOV to be issued on or about June 7, 2016,

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by the RIDEM in this matter. You will also find a consent agreement to avoid the punitive edicts contained in the NOV and, instead, allow the City to pursue several environmental improvement projects to not only meet its MS4 obligations but also make investments in the future health of the City's waterways for future generations. RIDEM and the City believe that this consent agreement is fair and reasonable and provides an adequate timeframe to allow the City to complete the work required to get into compliance with its permit. RIDEM Director Janet Coit and I will make a short presentation to the City Council and explain our viewpoints, and technical resource staff from RIDEM and the City will also be available to answer any questions of the City Council. In addition to the NOV and consent agreement, you will also find two ordinance amendments to begin the process to improve Warwick's waterways.

I look forward to our discussion on this most important issue at your June 6th meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Avedisian". The signature is stylized and written over the word "Sincerely,".

Scott Avedisian, Mayor

THE CITY OF WARWICK
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RESOLUTION OF THE CITY COUNCIL

No. Date

Approved. Mayor

RESOLUTION RELATIVE TO AUTHORIZE THE EXECUTION OF A
CONSENT AGREEMENT BETWEEN THE
CITY OF WARWICK AND RIDEM

RESOLVED, that

WHEREAS, on December 19, 2003, the RI Department of Environmental Management (“DEM”) issued Rhode Island Pollutant Discharge Elimination System General Permit Number RIR040031 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”); and

WHEREAS, the General Permit authorizes the discharge of storm water from the small municipal separate storm sewer system (“MS4”) that is owned and operated by Warwick; and

WHEREAS, Part I.C.2 of the General Permit required the MS4 operator to submit a completed Notice of Intent (the “NOI”) and Storm Water Management Program Plan (the “SWMPP”) to the DEM within 90 days of the effective date of the General Permit to obtain coverage under the General Permit; and

WHEREAS, on March 17, 2004, the City of Warwick (“Warwick”) submitted an NOI and SWMPP to the DEM; and

WHEREAS, in the Fall of 2015, DEM informed Warwick of their intention to proceed and issue a Notice of Violation (“NOV”) against Warwick for allegedly not complying with certain requirements of the General Permit; and

WHEREAS, in lieu of adversarial proceeding to contest the alleged violations, Warwick and the DEM desire to avoid costly and uncertain conflict and, in the alternative, to enter a consent agreement to settle their differences over the MS4 issue (the “Consent Agreement”); and

WHEREAS, the Consent Agreement contains certain terms and conditions which Warwick voluntarily agrees to perform to avoid the imposition of a possible fine and to undertake several important projects and initiatives to improve water quality in the City’s water bodies; and

1 WHEREAS, DEM and Warwick agree that the proposed actions set forth in the Consent
2 Agreement are in the public's interest and would constitute more effective and meaningful ac-
3 tions to improve water quality in the City than a contested legal process which would not result
4 in effective, meaningful and timely water quality improvements; and
5

6 WHEREAS, resolving this matter in a timely and certain manner is important to the
7 health, safety and welfare of the citizens of Warwick and the State of Rhode Island.
8

9 NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Warwick
10 hereby concurs with the general terms and conditions of the Consent Agreement presented to re-
11 solve this dispute and hereby authorize the Mayor of the City of Warwick to acknowledge such
12 concurrence by signing the Consent Agreement and perform all other necessary action to perfect
13 this authorization in this matter on behalf of the City of Warwick.
14

15 This Resolution shall take effect upon passage.
16

17 SPONSORED BY: COUNCILMAN COLANTUONO
18 ON BEHALF OF MAYOR AVEDISIAN

19 COMMITTEE: INTERGOVERNMENT
20
21