

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

UNITED STATES OF AMERICA and)
The STATE OF MISSISSIPPI,)
)
Plaintiffs,)
)
v.)
)
The CITY OF HATTIESBURG, MISSISSIPPI,)
)
Defendant.)
_____)

Case No. 2:20-cv-00158-KS-MTP

CONSENT DECREE

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I. INTRODUCTION

A. WHEREAS, Plaintiff United States of America, on behalf of the United States Environmental Protection Agency (the “EPA”), has filed a complaint concurrently with this Consent Decree, alleging that Defendant, the City of Hattiesburg, Mississippi (the “City”), has violated and continues to violate Section 301 of the Clean Water Act (“CWA”), 33 U.S.C. § 1311, and terms and conditions of its National Pollutant Discharge Elimination System (“NPDES”) permits issued under Section 402 of the CWA, 33 U.S.C. § 1342; and seeking injunctive relief and civil penalties pursuant to Sections 309(b) and (d) of the CWA, 33 U.S.C. §§ 1319(b) and (d);

B. WHEREAS, Plaintiff the State of Mississippi, acting through the Mississippi Commission on Environmental Quality and the Mississippi Department of Environmental Quality (“MDEQ”) (collectively, the “State”), joined in the Complaint and seeks injunctive relief and civil penalties for the City’s alleged violations of the Mississippi Air and Water Pollution Control Law, Miss. Code Ann. § 49-17-1, *et seq.* (“MAWPCL”);

C. WHEREAS, the State is also a Plaintiff in this action and is joined as a party under Section 309(e) of the CWA, 33 U.S.C. § 1319(e), which requires the state in which a municipality is located to be joined as a party whenever the municipality is a party to a civil action brought by the United States under Section 309 of the CWA;

D. WHEREAS, the State has been authorized by the EPA to administer the NPDES program in Mississippi pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b);

E. WHEREAS, the City is a “municipality” pursuant to Section 502 of the CWA, 33 U.S.C. § 1362;

F. WHEREAS, the City’s Wastewater Collection and Transmission System (“WCTS”) transports wastewater to the City’s two wastewater treatment plants, the Hattiesburg South Wastewater Treatment Plant (“South Lagoon”) and the Hattiesburg North Wastewater Treatment Plant (“North Lagoon”);

G. WHEREAS, the South Lagoon and its related WCTS are regulated pursuant to NPDES Permit number MS0020303, and the North Lagoon and its related WCTS are regulated pursuant to NPDES Permit number MS0020826;

H. WHEREAS, the Mississippi Commission on Environmental Quality and the City have entered into Agreed Order No. 6034 11, dated October 5, 2011, as amended on February 13, 2012, August 12, 2014, and December 7, 2016, regarding the compliance issue of wastewater discharges from the South Lagoon and the North Lagoon under the NPDES Permits referenced in Paragraph G above;

I. WHEREAS, the EPA and the State have determined, based upon information provided by the City, that the City has had hundreds of unauthorized Sanitary Sewer Overflows (“SSOs”) since January 1, 2012;

J. WHEREAS, the City represents that based on previous investigations, including those conducted pursuant to the City's Comprehensive Sewer and Water Improvements Project ("COMSWIP"), the City identified and completed within the past several years certain sanitary sewer projects costing approximately \$21-\$25 million including several projects to address conditions that caused SSOs in the WCTS. Such completed sanitary sewer projects are more particularly described and depicted on a map as set forth in Appendix A, attached hereto and incorporated herein;

K. WHEREAS, the EPA and the State have determined that the City has no effective system of SSO reporting or record-keeping, and has thus failed to comply with the reporting requirements of its NPDES Permits;

L. WHEREAS, the United States and the State contend that these SSOs and reporting failures are violations of the CWA, MAWPCL, and the City's NPDES Permits;

M. WHEREAS, the City does not admit any liability to the United States or the State arising out of the transactions or occurrences alleged in the Complaint or in this Section of the Consent Decree;

N. WHEREAS, the Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and will avoid litigation between the Parties and that this Consent Decree is fair, reasonable, and in the public interest;

NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law except as provided in Section II, and with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

II. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action, pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and over the Parties. This Court has supplemental jurisdiction over the state law claims asserted by the State pursuant to 28 U.S.C. § 1367. Venue lies in this District pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and 28 U.S.C. §§ 1391(b) and 1395(a), because the violations alleged in the Complaint are alleged to have occurred in, and the City conducts business in, this judicial district. For purposes of this Decree, or any action to enforce this Decree, the City consents to the Court's jurisdiction over this Decree, over any such action, and over the City and consents to venue in this judicial district.

2. For purposes of this Consent Decree, the City agrees that the Complaint states claims upon which relief may be granted pursuant to Sections 309(b) and (d) of the CWA, 33 U.S.C. §§ 1319(b) and (d), and Miss. Code Ann. § 49-17-29 and § 49-17-43.

III. APPLICABILITY

3. The obligations of this Consent Decree apply to and are binding upon the United States and the State, and upon the City and any successors, assigns, or other entities or persons otherwise bound by law.

4. No transfer of ownership or operation of any portion of the Sewer System, whether in compliance with the procedures of this Paragraph or otherwise, shall relieve the City of its obligation to ensure that the terms of the Decree are implemented. At least thirty (30) Days prior to such transfer, the City shall provide a copy of this Consent Decree to the proposed transferee and shall simultaneously provide written notice of the prospective transfer, together with a copy of the proposed written agreement, to the United States and MDEQ, in accordance with Section XVII (Notices). Any attempt to transfer ownership or operation of the Sewer System without complying with this Paragraph constitutes a violation of this Decree.

5. The City shall provide a copy of this Consent Decree to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this Decree, as well as to any contractor retained to perform work required under this Consent Decree. The City shall condition any such contract upon performance of the work in conformity with the terms of this Consent Decree.

6. In any action to enforce this Consent Decree, the City shall not raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

IV. OBJECTIVES

7. The objective of this Consent Decree is for the City to eliminate SSOs, and to achieve and maintain full compliance with the CWA, the MAWPCL, and the NPDES Permits. All plans, measures, reports, construction, maintenance, operational requirements, and other obligations in this Consent Decree or resulting from the activities required by this Consent Decree shall be designed to achieve this objective, including the goal of eliminating all SSOs.

V. DEFINITIONS

8. Terms used in this Consent Decree that are defined in the CWA or in regulations promulgated pursuant to the CWA (including, without limitation, those terms defined in Section 502 of the CWA, 33 U.S.C § 1362, and at 40 C.F.R. § 122.2) shall have the meanings assigned to them in the CWA or such regulations, unless otherwise provided in this Decree. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

a. “Building Backup” shall mean a wastewater release or backup into a building that is caused by blockages, flow conditions, or other malfunctions in the Wastewater Collection and Transmission System. A wastewater backup or release that is caused by blockages, flow conditions, or other malfunctions of a portion of a Private Lateral located on private property outside of the City’s right-of-way or easement is not a Building Backup.

- b. “Calendar Quarter” shall mean the three (3)-month periods ending on March 31, June 30, September 30, and December 31.
- c. “Calendar Year” shall mean the twelve (12)-month period starting on January 1 and ending on December 31.
- d. “Certification” or “certify” when used in this Consent Decree shall require the City to comply with Paragraph 17 of this Consent Decree.
- e. “The City” or “Defendant” shall mean the City of Hattiesburg, Mississippi, a municipal corporation, including all of its departments, agencies, instrumentalities such as the Water and Sewer Department, and any successor thereto.
- f. “Complaint” shall mean the complaint filed by the United States and the State in this action.
- g. “COMSWIP” shall mean the City’s Comprehensive Sewer and Water Improvements Project.
- h. “Consent Decree” or “Decree” shall mean this Decree and all appendices attached hereto (listed in Section XXVI). In the event of a conflict between this document and any appendix, this document shall control.
- i. “CWA” shall mean the Clean Water Act, as amended, 33 U.S.C. §§ 1251, *et seq.*
- j. “Date of Lodging” shall mean the date this Consent Decree is filed for lodging with the Clerk of the Court for the United States District Court for the Southern District of Mississippi.
- k. “Day” shall mean a calendar day unless expressly stated to be a business day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next business day.
- l. “Deliverable” shall mean any written document required to be prepared and/or submitted by or on behalf of the City pursuant to this Consent Decree.
- m. “EPA” shall mean the United States Environmental Protection Agency and any of its successor departments or agencies.
- n. “Effective Date” shall have the definition provided in Section XVIII.
- o. “Excessive Infiltration/Inflow” or “Excessive I/I” shall have the meaning provided in 40 C.F.R. § 35.2005(b)(16).

p. “Force Main” shall mean any pipe which is owned and/or operated by the City that receives and conveys, under pressure, wastewater from the discharge side of a pump. A Force Main is intended to convey wastewater under pressure.

q. “Gravity Sewer Line” or “Gravity Sewer” shall mean any pipe which is owned and/or operated by the City that receives, contains and conveys wastewater not normally under pressure, but is intended to flow unassisted under the influence of gravity.

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

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

t. “I/I” shall mean the total quantity of water from Infiltration, Inflow, and rainfall dependent Infiltration and Inflow without distinguishing the source.

u. “MAWPCL” shall mean the Mississippi Air and Water Pollution Control Law, Miss. Code Ann. § 49-17-1 *et seq.*

v. “Major Gravity Line” shall mean any of the following:

- (1) all Gravity Sewer Lines that are twelve (12) inches in diameter or larger;
- (2) all Gravity Sewer Lines that convey wastewater from one pumping station service area to another pumping station service area; and
- (3) all Gravity Sewer Lines that have caused or contributed, or that the City knows will likely cause or contribute to capacity-related SSOs.

w. “MOM” or “Management, Operations, and Maintenance” shall mean a program of accepted industry practices to properly manage, operate and maintain sanitary wastewater collection, transmission and treatment systems, investigate capacity-constrained areas of these systems, and respond to SSO events.

x. “Month” shall mean one (1) calendar month running from the numbered day to the same numbered day of the following calendar month, regardless of whether the particular month has 28, 29, 30 or 31 days. In the event a triggered event would occur on a day of the month which does not exist (for example, on February 30), then the event shall be due on the first day of the following month (for example, March 1).

y. “MDEQ” shall mean the Mississippi Department of Environmental Quality and the Mississippi Commission on Environmental Quality, collectively, and any successor departments or agencies of the State.

z. “NPDES” shall mean the National Pollutant Discharge Elimination System authorized under Section 402 of the CWA, 33 U.S.C. § 1342.

aa. “NPDES Permits” shall mean NPDES permit No. MS0020303 issued to the City pursuant to Section 402 of the Clean Water Act, 33 U.S.C. § 1342, for the South Lagoon, and NPDES permit No. MS0020826 issued to the City pursuant to Section 402 of the Clean Water Act, 33 U.S.C. § 1342, for the North Lagoon, and any future extended, modified, or reissued permits.

bb. “Paragraph” shall mean a portion of this Decree identified by an Arabic numeral.

cc. “Parties” shall mean the United States of America on behalf of the EPA, the State acting through MDEQ, and the City.

dd. “Plaintiffs” shall mean the United States of America on behalf of the EPA, and the State acting through MDEQ.

ee. “Private Lateral” shall mean that portion of a sanitary sewer conveyance pipe that extends from the wastewater main to the single-family, multi-family, apartment, or other dwelling unit or commercial or industrial structure to which wastewater service is or has been provided.

ff. “Prohibited Bypass” shall mean the intentional diversion of waste streams from any portion of a treatment facility which is prohibited pursuant to the terms set forth at 40 C.F.R. § 122.41(m).

gg. “Public Document Repository” or “PDR” shall mean the Office of the City Clerk located at Hattiesburg City Hall, 200 Forrest Street, Hattiesburg, Mississippi, 39401 and the City’s website, www.hattiesburgms.com.

hh. “Pump Station” shall mean facilities which are owned and/or operated by the City comprised of pumps which lift wastewater to a higher hydraulic elevation, including all related electrical, mechanical, and structural systems necessary to the operation of that pump station.

ii. “Sanitary Sewer Overflow” or “SSO” shall mean any discharge of wastewater to waters of the United States or the State from the City’s Sewer System through a point source not specified in any NPDES permit, as well as any overflow, spill, or release of wastewater to public or private property from the Sewer System that may not have reached waters of the United States or the State, including all Building Backups.

jj. “SCADA” shall mean supervisory control and data acquisition.

kk. “Section” shall mean a portion of this Decree identified by a Roman numeral.

ll. “Sewershed” shall mean the subdivisions of the City’s WCTS containing sewers that are primarily hydraulically linked.

mm. “Sewer System” shall mean the WCTS and the WWTPs.

nn. “State” shall mean the State of Mississippi, including all of its departments, agencies, and instrumentalities.

oo. “Timely” when applied to the submittal of a Deliverable shall mean submitted no later than the deadline established in this Consent Decree (or in a document approved pursuant to this Consent Decree) and containing all of the elements pertaining to the submittal as set forth in this Consent Decree (or in a document approved pursuant to this Consent Decree). “Timely” when applied to the implementation of any Work shall mean implemented no later than the deadline established in this Consent Decree (or in a document approved pursuant to this Consent Decree) and in accordance with the elements pertaining to such Work as set forth in this Consent Decree (or in a document approved pursuant to this Consent Decree).

pp. “United States” shall mean the United States of America, acting on behalf of the EPA.

qq. “Wastewater Collection and Transmission System” or “WCTS” shall mean the municipal wastewater collection, retention and transmission system, including all pipes, Force Mains, Gravity Sewer Lines, Pump Stations, pumps, manholes, and appurtenances thereto, which are owned and/or operated by the City.

rr. “Wastewater Treatment Plants” or “WWTPs” shall mean devices or systems used in the storage, treatment, recycling, and reclamation of municipal wastewater. For purposes of this Consent Decree, this definition shall include all facilities owned, managed, operated, and/or maintained by the City, including but not limited to the South Lagoon and the North Lagoon, and all components of such sewage treatment plants.

ss. “Work” shall mean all activities the City is required to perform under this Consent Decree.

VI. REVIEW OF DELIVERABLES/CERTIFICATION OF DELIVERABLES

9. Public Document Repository/ Public Review Requirement. The City shall post on its website instructions for how the public can request email notices of future Deliverables. Prior to the submission of each Deliverable to the EPA and MDEQ, the City shall post a copy of the Deliverable in its PDR and provide notice of such action by email to all parties who have requested such notice. The City shall also send to the PDR, prior to the submission of each Deliverable to the EPA and MDEQ, a memorandum containing a brief synopsis of the Deliverable and instructions on how to find the Deliverable on the City’s website. The City shall

post on its website instructions for submitting comments, and shall allow the public a period of thirty (30) Days to comment on, the following Deliverables: (i) the Priority Areas Evaluation Report(s)/Rehabilitation Plan(s) required under Paragraph 21; (ii) the Sewer Overflow Response Plan required under Paragraph 23.a.; (iii) the Emergency Response Plan required under Paragraph 23.b.; and (iv) the Fats, Oils and Grease Control Program required under Paragraph 23.g. After the thirty (30)-Day comment period, the City shall consider public comments for a period of at least fifteen (15) Days before submitting the Deliverable to the EPA and MDEQ. Within seven (7) Days after submitting a Deliverable to the EPA and MDEQ, the City shall place a copy of the submitted version of the Deliverable in its PDR. Within seven (7) Days after the EPA's approval, approval contingent upon conditions, or modification by the EPA, the City shall place a copy of such final version of the Deliverable in its PDR. The City shall maintain in its PDR until termination of this Consent Decree all written comments received from the EPA and MDEQ along with all submitted versions of Deliverables.

10. Copy to MDEQ. The City shall provide a copy of any Deliverable to MDEQ at the same time such Deliverable is due to the EPA.

11. EPA Action on Deliverables. After review of any Deliverable that is required to be submitted pursuant to this Consent Decree, the EPA, after consultation with MDEQ, shall in writing:

- a. approve the submission;
- b. approve the submission upon specified conditions;
- c. approve part of the submission and disapprove the remainder; or
- d. disapprove the submission.

12. Approved Deliverables. If a Deliverable is approved by the EPA pursuant to Paragraph 11.a, the City shall take all actions required by the Deliverable in accordance with the schedules and requirements of the Deliverable as approved. If the Deliverable is conditionally approved or approved only in part, pursuant to Paragraph 11.b or 11.c, the City shall, upon written direction from the EPA, after consultation with MDEQ, take all actions required by the approved plan, report, or other item that the EPA, after consultation with MDEQ, determines are technically severable from any disapproved portions, subject to the City's right to dispute only the specified conditions or the disapproved portions, under Section XIII of this Consent Decree (Dispute Resolution). Following the EPA approval of any Deliverable or portion thereof, such Deliverable or portion thereof so approved shall be incorporated into and become enforceable under this Consent Decree.

13. Disapproved Deliverables. If the submission is disapproved in whole or in part pursuant to Paragraph 11.c or 11.d, the City shall, within thirty (30) Days or such other time as the EPA and the City agree to in writing, correct all deficiencies and resubmit to the EPA the Deliverable, or disapproved portion thereof, for approval, in accordance with Paragraphs 11 and 12. If the resubmission is approved in whole or in part, the City shall proceed in accordance with Paragraph 12.

14. Stipulated Penalties Accruing. Any stipulated penalties applicable to the original Deliverable, as provided in Section XI of this Decree, shall accrue during the thirty (30)-Day period or other specified period, but shall not be payable unless the resubmission is untimely or is disapproved in whole or in part; provided that, if the original submission was so deficient as to constitute a material breach of the City's obligations under this Decree, the stipulated penalties applicable to the original submission shall be due and payable notwithstanding any subsequent resubmission.

15. Resubmitted Deliverable. If a resubmitted Deliverable, or portion thereof, is disapproved in whole or in part, the EPA, after consultation with MDEQ, may again require the City to correct any deficiencies, in accordance with preceding Paragraph 13, or may itself correct any deficiencies, subject to the City's right to invoke Dispute Resolution and the right of the EPA to seek stipulated penalties as provided in preceding Paragraph 14. Upon the EPA's correction of any deficiencies, such resubmitted plan, report, or other item, or portion thereof will be incorporated into and become enforceable under this Consent Decree and shall be implemented by the City according to the approved schedule, subject to the City's right to invoke Dispute Resolution pursuant to Section XIII.

16. Timing of Review of Deliverables. If the EPA issues written comments and decisions on any Deliverable more than ninety (90) Days after receipt of such submission, any subsequent deadline or milestone that is dependent upon such comments or decisions shall be extended. The length of the extension shall be determined by calculating the number of Days between the EPA's receipt of the submission and the date of the EPA's written response, less ninety (90) Days. Within thirty (30) Days of the date that the City knows or should know of a deadline or milestone that the City believes is extended under this Paragraph, the City shall inform the EPA, in writing, of its belief and the amount of time the City believes the deadlines or milestones are extended. If the EPA disagrees with the City's determination that a deadline is dependent upon such comments or decisions, the EPA shall inform the City in writing. The City may dispute the EPA's conclusion regarding whether a deadline is dependent upon such comments or decisions pursuant to Section XIII of this Consent Decree (Dispute Resolution).

17. Certification. In all Deliverables, notices, documents or reports submitted to the United States and State pursuant to this Consent Decree, the City shall, by a senior City management official, sign and certify such notices, documents and reports as follows:

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 have no personal knowledge that the information submitted is other than 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.

VII. COMPLIANCE REQUIREMENTS

18. Obligation to Perform Work. No later than the Effective Date, the City shall begin to implement the Work pursuant to this Consent Decree. All Work identified in this Section VII shall be completed no later than one hundred ninety-six (196) Months after the Effective Date. All Work shall be performed using sound engineering practices to ensure that construction, management, operation and maintenance of the Sewer System complies with the CWA and the objective of this Consent Decree, including practices to improve the resilience of the Sewer System. Sound engineering practices may include, but are not limited to, appropriate provisions of the Handbook: Sewer System Infrastructure Analysis and Rehabilitation, EPA/625/6-91/030, 1991; Existing Sewer Evaluation and Rehabilitation, WEF MOP FD-6, 2009; EPA's guidance: Computer Tools for Sanitary Sewer System Capacity Analysis and Planning, EPA/600/R-07/111, October 2007; the most current edition of MDEQ's Guidance for the Design of Publicly Owned Wastewater Facilities; EPA's Creating Resilient Water Utilities (CRWU) Initiative, found at <https://www.epa.gov/crwu>; and EPA's Climate Resilience Evaluation and Awareness Tool Version 3.0 (CREAT 3.0), referenced at EPA 815-B-16-004, May 2016 and currently at <https://www.epa.gov/crwu/build-climate-resilience-your-utility>; and the Pump Stations evaluations shall be consistent with the Pumping Systems chapter of the most current version of Water Environment Federation's Manual of Practice FD-4, Design of Wastewater and Stormwater Pumping Stations.

19. Early Action Projects. Based on previous investigations conducted pursuant to the City's COMSWIP, the City has identified certain rehabilitation and other projects that are intended to address conditions that are causing SSOs in the WCTS and other violations alleged in the Complaint which shall be referred to as "Early Action Projects." The Early Action Projects are set forth and described on Appendix B, attached hereto and incorporated herein. The City shall complete each of these Early Action Projects in accordance with the deadlines set forth in Appendix B which do not extend past December 31, 2024. Any change to this list of projects or deadlines approved by the EPA shall not constitute a material modification to this Consent Decree as set forth in Section XX (Modifications) below.

20. Priority Areas Sanitary Sewer Evaluation/Rehabilitation ("SSER") Work Plan. Within nine (9) Months after the Effective Date of this Consent Decree, the City shall submit to the EPA for review and approval a SSER Work Plan that complies with the objective of this Consent Decree, and that provides for the assessment, analysis, and rehabilitation of the WCTS infrastructure in the two "Priority Areas" defined in Paragraph 21 to, among other things, address I/I, structural defects, and the other conditions causing, or that are likely to cause, SSOs. The SSER Work Plan shall establish procedures for setting priorities and expeditious schedules for undertaking the components in Paragraphs 20.a through 20.h below in the Priority Areas taking into consideration the nature and extent of customer complaints; flow monitoring, including flow isolation studies; location and cause of SSOs; any remedial measures already undertaken; field crew work orders; any preliminary sewer assessments; locations closer to the Leaf and Bouie Rivers; locations near surface waters that have been included on MDEQ's CWA Section 303(d) list of impaired waters for pathogens; and areas that have been identified as potentially having environmental justice issues (minority and/or low income neighborhoods). The SSER Work Plan shall also include performance goals for each of the components of the SSER Work Plan set forth below and procedures for analysis of the effectiveness of completed rehabilitation in the

Priority Areas. The SSER Work Plan shall include the following components for the Priority Areas:

a. Corrosion Defect Identification. The Corrosion Defect Identification component of the SSER Work Plan shall establish standard procedures for inspecting and identifying WCTS infrastructure in the Priority Areas that is either corroded or at risk of corrosion. The Corrosion Defect Identification component shall include a system for prioritizing repair of existing corrosion defects, corrosion identification forms, and procedures for a corrosion defect analysis.

b. Manhole Condition Assessment and Rehabilitation. The Manhole Condition Assessment and Rehabilitation component of the SSER Work Plan shall establish standard procedures for the condition assessment of manholes within the Priority Areas. This component shall include manhole inspection forms and procedures for a manhole defect analysis. This component shall also establish a process for setting manhole rehabilitation priorities and expeditious schedules; shall establish an ongoing inventory of manhole rehabilitation, including identification of the rehabilitation techniques to be used; and shall require an analysis of the effectiveness of completed rehabilitation.

c. Flow Monitoring. The Flow Monitoring component of the SSER Work Plan shall establish procedures for initiating routine flow monitoring during dry and wet weather to support engineering analyses for the Priority Areas related to Sewer System capacity and peak flow studies, including information from remote monitoring equipment installed in the Priority Areas. Dry weather monitoring shall be carried out so as to allow the characterization of base flows and I/I rates within the Priority Areas. Wet weather monitoring shall be conducted periodically during events of sufficient duration and intensity that cause significant I/I into the Priority Areas. The procedures shall identify the process used to establish flow monitoring locations, appropriate flow monitoring techniques, sewer cleaning associated with flow monitoring and a procedure for rainfall measurement.

d. Closed Circuit Television (“CCTV”) Inspection. The CCTV inspection component of the SSER Work Plan shall establish standard procedures for CCTV inspection within the Priority Areas to support sewer assessment and rehabilitation activities, and shall include procedures for CCTV cleaning and a process for the retention and retrieval of CCTV inspection data.

e. Gravity Sewer Line Defect Analysis and Rehabilitation. The Gravity Sewer Line Defect Analysis component of the SSER Work Plan shall establish standard procedures for analysis of Gravity Sewer Line defects within the Priority Areas which may vary depending on the size of the pipe. Such procedures shall include Private Lateral investigations to identify sources of I/I to the WCTS in the Priority Areas. The Gravity Sewer Line Defect Analysis component shall establish standard defect codes, defect identification procedures and guidelines, and a standardized process for cataloging Gravity Sewer Line defects. This component shall also establish a process for setting Gravity Sewer Line rehabilitation priorities; shall establish an ongoing inventory of

Gravity Sewer Line rehabilitation, including identification of the rehabilitation techniques to be used; and shall require an analysis of the effectiveness of completed rehabilitation.

f. Smoke Testing. The Smoke Testing component of the SSER Work Plan shall establish standard procedures for smoke testing of the Gravity Sewer Lines within the Priority Areas to identify sources of I/I, including cross connections and other unauthorized connections. Such procedures shall include Private Lateral investigations to identify sources of I/I.

g. Force Main Condition Assessment and Rehabilitation. The Force Main Condition Assessment and Rehabilitation component of the SSER Work Plan shall establish standard procedures for the condition assessment of Force Mains within the Priority Areas. This component shall include inspection forms and procedures for a Force Main defect analysis. This component shall also establish a process for setting Force Main rehabilitation priorities; shall establish an ongoing inventory of Force Main rehabilitation, including identification of the rehabilitation techniques to be used; and shall require an analysis of the effectiveness of completed rehabilitation.

h. Pump Station Performance and Rehabilitation. The Pump Station Performance and Rehabilitation component of the SSER Work Plan shall establish standard procedures for the evaluation of Pump Station performance and Pump Station adequacy within the Priority Areas. The Pump Station Performance and Rehabilitation component shall include:

- (1) The use of pump run time meters; pump start counters; computation of Nominal Average Pump Operating Time ("NAPOT"); root cause failure analysis protocols; and appropriate remote sensing such as SCADA;
- (2) The evaluation of station capacity, as described in the *Pumping Systems* chapter of the most current version of WEF's Manual of Practice FD-4, *Design of Wastewater and Stormwater Pumping Stations*;
- (3) The evaluation of critical response time, defined as the time interval between activation of the high wet well level alarm and the first (1st) SSO, under peak flow conditions;
- (4) The evaluation of station conditions, based upon both physical inspection and recent operating and mechanical failure history during at least the past five (5) years;
- (5) The evaluation of station design and equipment, including redundancy of pumps and electrical power supply, and other equipment installed, based upon Chapter 40, *Wastewater Pumping Stations* of the most recent edition of *Recommended Standards for Wastewater Facilities* by the Great Lakes-Upper Mississippi River

Board of State and Provincial Public Health and Environmental Managers (commonly known as the “Ten State Standards”);

- (6) The evaluation of the ability of maintenance personnel to take corrective action within the critical response time calculated for each Pump Station; and
- (7) A process for setting Pump Station rehabilitation priorities and expeditious schedules and an ongoing inventory of Pump Station rehabilitation, including identification of the rehabilitation techniques to be used, and an analysis of the effectiveness of completed rehabilitation.

21. Priority Areas Evaluation Report/Rehabilitation Plan. For purposes of implementing the SSER Work Plan under this Consent Decree, the City has already prioritized certain Sewersheds within the WCTS into two (2) Priority Areas for all of the sewer assessment and rehabilitation work pursuant to the SSER Work Plan under this Consent Decree. This prioritization was based on existing information including the location and frequency of past SSOs and the other criteria set forth in Paragraph 20 above. These two (2) “Priority Areas” are shown on the maps in Appendix C, attached hereto and incorporated herein. The Priority Areas represent approximately forty-three percent (43%) of the WCTS by linear foot, and the vast majority of the City’s wet weather capacity related SSOs. The City shall complete the assessment of Priority Area 1 pursuant to the SSER Work Plan on or before thirty-two (32) Months after the Effective Date. The City shall complete the assessment of Priority Area 2 pursuant to the SSER Work Plan on or before forty-five (45) Months after the Effective Date. Within three (3) Months after completion of the assessment of a Priority Area as set forth above pursuant to the SSER Work Plan, the City shall submit to the EPA for review and approval a Priority Area Evaluation Report/Rehabilitation Plan setting forth the results of the assessment for that Priority Area and proposed rehabilitative and corrective actions and schedules in order to meet the objective of this Consent Decree. The Parties acknowledge and agree that this Consent Decree does not require the City to develop or implement a hydraulic model for purposes of implementing the SSER Work Plan. Upon approval by the EPA, the City shall implement the remedial measures in the approved Priority Areas Rehabilitation Plan portion of this submittal in accordance with the schedule contained therein for the two Priority Areas.

a. Priority Areas Evaluation Report. The Priority Area Evaluation Report portion of this submittal shall include, at a minimum, the following:

- (1) A thorough analysis of historical and current flow monitoring, inspection, rainfall and other data, including data collected during the evaluation of the Priority Areas;
- (2) Identification of areas within the Priority Areas with Excessive I/I, such that these conditions are causing and/or contributing to SSOs and/or Prohibited Bypasses at a WWTP;

- (3) Identification of sources of I/I within the Priority Areas, if identifiable, by manhole/line segment, street address, type (Infiltration or Inflow), source (e.g., “wall leakage”), and estimated flow from the source;
- (4) Identification of cross-connections between the WCTS within the Priority Areas and the City’s municipal separate storm sewer system;
- (5) Identification and quantification of SSOs within the Priority Areas, including all potential SSOs identified pursuant to implementation of the SSER Work Plan;
- (6) Identification of portions of the WCTS within the Priority Areas in which physical degradation is causing or contributing to SSOs;
- (7) Results of average and peak daily dry and wet weather flow measurements within the Priority Areas;
- (8) A determination of maximum Infiltration rate within the Priority Areas during periods of high ground water (in gpd/inch diameter-mile);
- (9) A determination of maximum hourly Inflow rate during wet weather for various storm durations and intensities (in gpd/inch diameter-mile);
- (10) A determination of peaking factors for the Priority Areas (the ratio of measured peak flow to average dry weather flow as measured through the duration of the evaluation);
- (11) A summary of flow monitoring activities within the Priority Areas, to include, at a minimum, a map showing the location and type of each flow meter, problems encountered and deviations from the SSER Work Plan, and a description of flow monitor calibration activities, including any scatter graphs and calibration and verification graphs;
- (12) A summary of field investigative activities performed within the Priority Areas to include, at a minimum: type of activity; number of activities performed (e.g., “100 out of 500 manholes inspected”), observations made under each activity (inspection procedure), and summaries of the results;
- (13) A summary of the structural defects identified in the WCTS within the Priority Areas to include, at a minimum: number of each type of defect by line segment, manhole number or street address, and estimates of peak flow or impact on WCTS capacity (as

appropriate) from defects in each line segment, based on a consistently applied set of stated criteria as set forth in the SSER Work Plan;

- (14) Identification of all portions of the WCTS within the Priority Areas with insufficient capacity to convey peak flows without experiencing surcharge sufficient to cause a SSO under either projected peak flows or projected average conditions or both;
- (15) A description of future projected flows within the Priority Areas;
- (16) Information on the predicted (e.g. Manning equation) and actual peak flow capacity of all Major Gravity Lines (by segment), all Force Mains, siphons, and Pump Stations within the Priority Areas;
- (17) Summaries of the number and footage of sewer segments surcharged, and the number of structures at which a SSO might be expected to occur under each condition investigated within the Priority Areas;
- (18) Mapping for each condition investigated, illustrating each pipe segment operating in surcharge, and each manhole or structure at which a SSO might be expected to occur within the Priority Areas;
- (19) Information regarding the Pump Station evaluation within the Priority Areas as required by Paragraph 20.h above; and
- (20) A summary of any capital projects implemented within the Priority Areas since commencement of the SSER Work Plan.

b. Priority Areas Rehabilitation Plan. The Priority Areas Rehabilitation Plan portion of this submittal shall include, at a minimum, the following:

- (1) Identification of specific measures and schedules that, when implemented, will result in adequate capacity in the WCTS within the Priority Areas to collect, convey and treat anticipated peak flows, without SSOs or Prohibited Bypasses at a WWTP;
- (2) Identification of the degree to which sources of Excessive I/I within the Priority Areas shall be removed, and the degree to which Excessive I/I removal within the Priority Areas is expected to alleviate capacity constraints, and propose specific remedial measures and schedules that will address those capacity limitations not expected to be addressed by Excessive I/I removal within the Priority Areas (anticipated I/I removal rates used in the development of the Priority Areas Rehabilitation Plan shall reflect current industry practice);

- (3) Identification of specific remedial measures and schedules to address capacity limitations within the Priority Areas that may also include increases in Pump Station and sewer line capacity, construction of storage or equalization basin facilities, or increases in WWTP capacity;
- (4) Identification of all measures and schedules necessary to eliminate all cross-connections between the WCTS within the Priority Areas and the City's municipal separate storm sewer system;
- (5) Identification of all measures and schedules necessary to eliminate all SSOs within the Priority Areas caused by physical degradation of sewers, inadequate Pump Station capacities, or inadequate Pump Station reliability;
- (6) Prioritized schedules for remedial measures within the Priority Areas based upon likely relative human health and environmental impact risks, SSO frequencies, and SSO volumes;
- (7) A description of the methodology used to apply the prioritization factors in Paragraph 21.b(6) above for the Priority Areas;
- (8) Estimated capital, operations and maintenance, and present value costs for each identified remedial measure within the Priority Areas in consistent, year-specific dollars;
- (9) Identification of the dates for preliminary design, complete design, complete permitting, contract award, construction commencement, and construction completion dates for each measure proposed within the Priority Areas; and
- (10) An expeditious schedule such that design, construction, and placement in service of all proposed measures shall be completed within one hundred fifty-six (156) Months after the Effective Date of this Consent Decree for Priority Area 1; and within one hundred ninety-two (192) Months after the Effective Date of this Consent Decree for Priority Area 2.

22. Priority Areas Rehabilitation Report. Within four (4) Months after completion of all remedial measures set forth in the Priority Areas Rehabilitation Plan for a particular Priority Area, the City shall submit to the EPA for review and approval a Priority Areas Rehabilitation Report summarizing the implementation of the Priority Areas Rehabilitation Plan. Such summary shall include, at a minimum, the following:

- a. Identification of specific measures taken to achieve, and an analysis of whether such measures resulted in, adequate capacity in the WCTS within the Priority Area to collect and convey and treat anticipated peak flows, without SSOs or Prohibited Bypasses at a WWTP;

b. An analysis of the degree to which sources of Excessive I/I were removed within the Priority Areas, and the degree to which Excessive I/I removal alleviated capacity constraints; and

c. Identification of all measures taken within the Priority Areas to eliminate, and an analysis of whether such measures resulted in the elimination of, all cross-connections and SSOs caused by physical degradation of sewers, inadequate Pump Station capacities, or inadequate Pump Station reliability.

23. Management, Operations and Maintenance Programs. The City shall develop and implement the Management, Operations and Maintenance (“MOM”) programs as provided below. All MOM programs shall be developed in accordance with EPA Region 4 guidance attached hereto and incorporated herein as Appendix D. The City shall ensure that each MOM program has a written, defined purpose; a written, defined goal; is documented in writing with specific detail; is implemented by trained personnel; has established performance measures; and has written procedures for periodic review. The Parties recognize that the City may need or want to revise the MOM Programs set forth below during the term of this Consent Decree. Such revisions shall not be considered modifications to the Consent Decree for purposes of Section XX (Modification). The City must obtain the EPA's prior written approval of any revision to the substance of any MOM Program required by this Consent Decree and shall place copies of any such revised Program in the PDR in accordance with the provisions of Section VI. The City may make non-substantive changes to any MOM Program required by this Consent Decree without the EPA's approval and shall provide a copy of any revised Program to the EPA and MDEQ, and place a copy of any such revised Program in the PDR within seven (7) Days after making such revision.

a. Sewer Overflow Response Plan (“SORP”). Within three (3) Months after the Effective Date of this Consent Decree, the City shall submit to the EPA for review and approval, a SORP that will establish timely and effective methods and means of responding to, cleaning up, and/or minimizing the impact of SSOs; timely reporting of the location, volume, cause, impact, and other pertinent SSO information to the appropriate regulatory agencies; and timely and effective notification of SSOs to potentially impacted public. At minimum, the SORP shall include and provide for the following:

- (1) Within twenty-four (24) hours of the time the City first becomes aware of a SSO to waters of the United States or the State or of a SSO that will endanger public health or the environment, the City shall provide in an oral report to MDEQ the location of the SSO by street address or any other appropriate method (e.g., latitude-longitude). The oral report shall be given to MDEQ through calling (601) 961-5682.
- (2) Within five (5) days of the time the City first becomes aware of a SSO to waters of the United States or the State or of a SSO that will endanger public health or the environment, the City shall also provide a written report to MDEQ for the SSO. The City shall

maintain a copy of any written reports prepared pursuant to this Paragraph for a period of not less than five (5) years from the date of the SSO. The written report shall contain the following:

- (a) The location of the SSO by street address, or any other appropriate method (e.g., latitude-longitude);
 - (b) The estimated date and time when the SSO began and stopped, or if it is still an active SSO, the anticipated time to stop the SSO;
 - (c) The steps taken to respond to the SSO;
 - (d) The name of the receiving water, if applicable;
 - (e) An estimate of the volume (in gallons) of sewage spilled;
 - (f) A description of the WCTS component from which the SSO was released (such as manhole, crack in pipe, Pump Station wet well or constructed overflow pipe);
 - (g) Subject to available information, an estimate of the SSO's impact on public health and to water quality in the receiving water body;
 - (h) The cause or suspected cause of the SSO;
 - (i) The date of the last SSO at the same point;
 - (j) The steps taken or to be taken to reduce, prevent, or eliminate, reoccurrence of the SSO;
 - (k) A list of all notifications to the public and other agencies or departments; and
 - (l) The steps taken or to be taken to clean up any surfaces that have been in contact and/or contaminated by the SSO.
- (3) Procedures for documenting and reporting SSOs based on demonstrable evidence that a SSO occurred regardless of whether City personnel directly witnessed the SSO occurring.
- (4) The City shall maintain for all SSOs for a period of not less than five (5) years from the date of the SSO all records documenting the steps that have been and will be taken to prevent the SSO from recurring, including work order records associated with investigation and repair activities related to the SSO. The City

shall also maintain for a period of not less than five (5) years from the date of the SSO a list and description of complaints from customers or others regarding the SSO.

- (5) The SORP shall provide procedures for responding to all SSOs to minimize the environmental impact and potential human health risk of SSOs. At a minimum, such response procedures shall include:
- (a) A detailed description of the actions the City will undertake to immediately provide notice to the public when appropriate (through the local news media or other means including signs or barricades to restrict access) of a SSO;
 - (b) A detailed description of the actions the City will undertake to provide notice to appropriate federal, state or local agencies/authorities;
 - (c) A detailed plan (including the development of response standard operating procedures) to minimize the volume of untreated wastewater transmitted to the portion of the WCTS impacted by the events precipitating the SSO to minimize overflow volumes;
 - (d) A particular description of the City's response to Building Backups, including the timeframe for responses and the measures to be taken to clean up Building Backups found to be caused by conditions in the City's Sewer System, including procedures necessary to disinfect and/or remove items potentially contaminated by Building Backups such as wet vacuuming or other removal of spillage, wiping floors and walls with cleaning solution and disinfectant, flushing out and disinfecting plumbing fixtures, carpet cleaning and/or replacement and other appropriate measures to disinfect and/or remove items potentially contaminated by Building Backups; and a description of the City's follow-up process to ensure adequacy of cleanup;
 - (e) A detailed plan of the resources to be used to correct or repair the condition causing or contributing to the SSO;
 - (f) A detailed plan to ensure the preparedness, including response training of City employees and personnel of other affected agencies, necessary for the effective implementation of the SORP in the event of a SSO and establishing procedures and providing adequate training to response personnel for estimating SSO volumes;

(g) A list of those SSO locations within the area of the WCTS served by each Pump Station that have been recorded as overflowing more than once within the previous twelve (12) month period and/or those locations at which a SSO is likely to occur first in the event of a Pump Station failure; and

(h) Pump Station emergency bypass/pump-around strategies, and procedures.

b. Emergency Response Plan. Within three (3) Months after the Effective Date of this Consent Decree, the City shall submit to the EPA for review and approval an Emergency Response Plan. The Plan shall address both routine and catastrophic emergencies. Routine emergencies include such situations as overflowing manholes, line breaks, localized electrical failure and Pump Station outages. Catastrophic emergencies include floods, tornados, earthquakes or other natural events, serious chemical spills and widespread electrical failure. The Plan shall address areas of vulnerability and determine the effect of such a failure to operations, equipment and public safety and health based upon such factors as topography, weather, sewer system size, and other site specific factors. The Plan shall include standard forms. The Plan shall have the following components:

- (1) The WWTP component of the Emergency Response Plan shall establish standard operating procedures for use in emergency situations, including changes in process controls.
- (2) The WCTS component of the Emergency Response Plan shall establish standard operating procedures for use in emergency operations, including identification of the actions staff should take in the event of emergency situations (specific to the type of emergency that could occur); criteria for initiating and ceasing emergency operations; identification of appropriate repair equipment and sources thereof; and instructions on how to operate equipment and systems during an emergency when they are not functioning as intended but are not fully inoperable.
- (3) In addition to the reporting requirements set forth in Section X (Reporting Requirements), the City shall establish, in coordination with Public Health Authorities:
 - (a) Criteria to be used as the basis for immediately notifying the public and other impacted entities, such as users with a downstream water intake, of an emergency situation caused by a SSO, Prohibited Bypass, or effluent limit violation;
 - (b) A list identifying, by name, phone number and pager number, all the City staff who are responsible for notifying the public;

- (c) A list identifying, by name and phone number, all Public Contacts, including local media outlets, who must be contacted during an emergency situation;
 - (d) A list identifying the City staff who are authorized to make public statements during emergency situations; and
 - (e) Pre-scripted news releases for various types of emergency situations.
- (4) In addition to the notification requirements set forth in the NPDES Permits, and the reporting requirements set forth in Section X (Reporting Requirements), the City shall establish, in coordination with Public Health Authorities:
- (a) Criteria to be used as the basis for immediately notifying regulatory authorities, MDEQ, the City and the Public Health Authorities of any emergency situation caused by a SSO, Prohibited Bypass, or effluent limit violation;
 - (b) A list identifying, by name, phone number and pager number, all the City staff who are responsible for notifying the regulatory authorities;
 - (c) A list identifying, by name and phone number, all officials who must be contacted; and
 - (d) Standard reporting forms.

c. Information Management System (“IMS”) Program. Within forty-eight (48) Months after the Effective Date of this Consent Decree, the City shall submit to the EPA for review and approval, an IMS Program, as more particularly described below. At a minimum, the IMS Program shall include the following:

- (1) A management IMS component to provide City managers with guidance and instruction to adequately evaluate operations, maintenance, customer service, and Sewer System rehabilitation activities so that overall Sewer System performance can be determined and utility planning can be conducted. This IMS component shall utilize management reports and standard management forms.
- (2) An operations IMS component to provide City managers and field supervisors with guidance to adequately track scheduled operational activities and to enhance operational performance. This IMS component shall utilize operating reports and standard operation forms used by field personnel and shall provide for field supervisor review.

- (3) A maintenance IMS component to provide City managers and field supervisors with guidance to adequately track scheduled maintenance activities and to enhance maintenance performance. This IMS component shall utilize maintenance reports and standard maintenance forms used by field personnel. The system shall provide for field supervisor review.
- (4) A description of what information will be fed into the system, how it will be entered and by what means it will be recorded.
- (5) A description of the management reports that will be generated from the input data (i.e., work reports), including examples and periodicity for review of such reports.
- (6) A description of the work reports that will be prepared and submitted, including examples and periodicity for review of such reports.
- (7) Standard forms that will be used by both field personnel and management for the Program, where applicable.
- (8) A detailed description of how the records will be maintained.
- (9) If computer software will be utilized, a description of the software to be used with cited references for software training and procedures for utilizing the software.
- (10) Implementation of improvements to the City's current Geographic Information Systems ("GIS") mapping system on or before twenty-eight (28) Months after the Effective Date of this Consent Decree as follows:
 - (a) An updated GIS database to include all as-builts and Active As-built Supplemental Information System ("AAS IS") forms, including new and corrected asset attribute data;
 - (b) Streamlining of the GIS data entry process for new assets, including electronic as-built data and necessary standards so that all new assets are added to the GIS system within ninety (90) calendar days of their activation in the field;
 - (c) Simplification of the AAS IS process to facilitate wider usage;
 - (d) Development of a "flagging process" for damage investigators to note GIS inaccuracies;

- (e) Provision for additional GIS training and refresher training;
 - (f) Use of online access to GIS maps to facilitate more widespread access to GIS resources to remote staff; and
 - (g) Determination via suitable as-built drawings, or GPS or traditional surveying field measurements, elevations of all manhole rim elevations and sewer inverts at connections to manholes and Pump Stations and their inclusion into GIS.
- (11) Development and implementation of performance indicators to provide City managers with guidance to adequately evaluate data collected in the IMS for use in determining the condition of the Sewer System and an evaluation of the City's MOM programs. Performance indicators shall include, without limitation, the linear footage of Gravity Sewer Line and Force Main inspections, the linear footage of Gravity Sewers cleaned, the number of manholes inspected, the number of manholes cleaned/maintained, the number of inverted siphons inspected, the number of inverted siphons cleaned/maintained, the number of SSOs per mile of Gravity Sewer, the number of SSOs per mile of Force Main, the number of SSOs per Pump Station, per capita wastewater flow, NPDES Permit effluent compliance and such other performance indicators as the City may suggest and the EPA approves.
- (12) Maintenance activity tracked by type (corrective, preventative, and emergency).

d. Sewer Mapping Program. Within twenty-eight (28) Months after the Effective Date of this Consent Decree, the City shall submit to the EPA for review and approval, a Sewer Mapping Program to update its Sewer System maps and update the capabilities and procedures for utilization of the City's future Geographic Information System ("GIS") map of the City's WCTS. At minimum, the Sewer Mapping Program shall:

- (1) Enable the City to produce maps of the WCTS using GIS technology;
- (2) Enable the City to produce maps showing the location of all manholes, Gravity Sewer Lines, Pump Stations, Force Mains, valves, inverted siphons and the WWTPs;
- (3) Enable the City to produce maps capable of integrating electronically the locations of sewer service connections on lines that are televised;

- (4) Enable the City to produce maps that include attribute data for the City's WCTS including, but not limited to, size, material, estimated age or age range, slope, invert elevation, and rim elevation;
- (5) Enable the City to produce maps that delineate the spatial boundaries of all Sewersheds within the WCTS;
- (6) Enable the City to produce maps that can integrate electronically available maps that show the location of surface streets and street addresses, permitted Fats, Oils and Grease ("FOG"; see Paragraph 23.g) customers, surface water bodies and political boundaries;
- (7) Enable the City to produce maps in a manner that will allow use by all Sewer System operation and maintenance crew leaders in the field;
- (8) Allow entry and mapping of work orders to identify and track problems geographically such as stoppages, service interruptions, and SSOs, and to assist in the planning and scheduling of maintenance;
- (9) Include written standard operating procedures for use of the program, the acquisition and entry of updated mapping data for new assets or changes to existing assets, and updates to system software;
- (10) Include locations of each permitted FOG establishment; and
- (11) Include an expeditious schedule for the completion of the electronic mapping of Priority Area 1 no later than thirty-eight (38) Months after the Effective Date, of Priority Area 2 no later than forty-eight (48) Months after the Effective Date, and of the rest of the Sewer System no later than fifty-eight (58) Months after the Effective Date.

e. Gravity Sewer System Operations and Maintenance Program. Within thirty-six (36) Months after the Effective Date of this Consent Decree, the City shall submit to the EPA for review and approval, a Gravity Sewer System Operations and Maintenance Program to address SSOs, particularly those caused by FOG, roots and/or debris obstructions. At a minimum, the Gravity Sewer System Operations and Maintenance Program shall include the following:

- (1) Written preventative operations and maintenance schedules and procedures which shall be scheduled appropriately and shall include, but not be limited to, written procedures for the following:

- (a) Inspection and maintenance of all Gravity Sewers, manholes and inverted siphons;
 - (b) Identifying and documenting Gravity Sewer, manhole and inverted siphon conditions, including grease, roots, and/or debris accumulation;
 - (c) Identifying maintenance needs; and
 - (d) Scheduling preventative maintenance work/cleaning which the City may schedule in connection with the SSER Work Plan as described in Paragraph 20 above.
- (2) An engineering evaluation of potential sulfide and corrosion control options and a summary report of findings, including a recommendation of the preferred sulfide and corrosion control method(s); provided, however, that such corrosion control options and methods shall not apply to components made of plastic or other similar materials.
- (3) Prioritization for evaluating the Gravity Sewers based upon the size of the pipe (e.g., starting with the larger pipes and work back to smaller pipes), location of SSOs, community input or other criteria the City finds appropriate.
- (4) Inspection of Gravity Sewers, manholes, and inverted siphon easements, including inspection of creek crossings, canal crossings, stream bank encroachment toward Gravity Sewers, manholes and inverted siphons, and easement accessibility (including the need to control vegetative growth or encroachment of man-made structures or activities that could threaten the integrity of the affected Gravity Sewer, manhole, or inverted siphon). Inspections shall include written reports, and where appropriate, representative photographs or videos of appurtenances being inspected (Gravity Sewers, manholes, inverted siphons, creek crossings, canal crossings, etc.). Inspectors shall promptly report any observed SSOs to their area supervisors and shall record any evidence of SSOs which may have occurred since the last inspection. Any observed SSO shall be promptly reported in accordance with the SORP.
- (5) A schedule for the maintenance of easements.
- (6) A staffing and funding plan sufficient in structure, skills, numbers and funding to allow completion of the operation and maintenance activities required by this Paragraph 23.e.

- (7) Data attributes for the City's mapping program allowing program data to be compared in the City's IMS against other pertinent data such as the occurrence of SSOs, including repeat SSO locations and permit violations.
- (8) An inventory management system that includes:
 - (a) A list of critical equipment and critical spare parts;
 - (b) A list of where critical spare parts and critical equipment may be secured to allow repairs in a reasonable amount of time for those spare parts and critical equipment that are not stored by the City, including spare pipe having a diameter of 24 inches or greater; the list shall also set forth an inventory of spare parts and critical equipment stored by the City, as applicable; and
 - (c) Written procedures for updating the critical spare parts and equipment inventories in the IMS.
- (9) Reports which list equipment problems and the status of work orders generated during the prior Month.

f. Pump Station Operations and Preventative Maintenance Program. Within twenty-one (21) Months after the Effective Date of this Consent Decree, the City shall submit to the EPA for review and approval, a Pump Station Operations and Preventative Maintenance Program to facilitate proper operation and maintenance activities associated with the Pump Stations within the WCTS. At a minimum, the Pump Station Operations and Preventative Maintenance Program shall include the following:

- (1) Identification of the means and modes of communication between Pump Stations, field crews, and supervising staff.
- (2) Technical specifications of each Pump Station within the WCTS.
- (3) A description of each Pump Station monitoring system which shall continuously monitor, report, and transmit information for each Pump Station.
- (4) Written preventative operations and maintenance schedules and procedures which shall be scheduled appropriately and shall include, but not be limited to, written procedures for periodic service and calibration of instrumentation such as flow meters, liquid level sensors, alarm systems, elapsed time meters, and remote monitoring equipment. Such written preventative operations and maintenance schedules and procedures shall also include predictive (including non-physical inspections) and/or physical inspection and service for all Pump Stations including, but not limited to:

- (a) Reading, recording and maintaining records of information from the elapsed time meters and pump start counters;
 - (b) Observing and documenting wet well conditions, including grease and/or debris accumulation;
 - (c) Checking and re-setting, as necessary to improve system performance, wet well pumping points (e.g., floats);
 - (d) Checking, recording and maintaining records of system pressure(s);
 - (e) Checking SCADA and/or alarm components;
 - (f) Checking stand-by power sources;
 - (g) Checking motor electrical system, including, but not limited to, line voltage on each leg quarterly, current draw on each leg quarterly, and resistance of windings on each leg quarterly; and
 - (h) Identifying maintenance needs.
- (5) Written standard emergency/reactive operations and maintenance procedures. The City may use portable pumps, portable generators or alternative power sources as it deems appropriate. At a minimum, the standard emergency/reactive Pump Station operating procedures shall include:
- (a) Criteria used to determine the need for emergency operations and maintenance;
 - (b) Initiation/use of stand-by power (e.g., portable generators), where applicable;
 - (c) Initiation/use of portable pump (e.g., bypass/pump-around operations), where applicable;
 - (d) Evaluation of the need for additional equipment for emergency/reactive operations, including, but not limited to, additional portable generators and/or additional portable pumps (for pump-around operations);
 - (e) Evaluation of the need for on-site standby power (e.g., on-site generator and/or second electrical feed from the power grid) for each Pump Station should the City choose, not to have a portable pump available for the Pump Station; and

- (f) Establishing standard forms, reporting procedures and performance measures for emergency/reactive operations and maintenance.
- (6) An inventory management system that includes:
 - (a) A list of critical equipment and critical spare parts;
 - (b) A list of where critical spare parts and critical equipment may be secured to allow repairs in a reasonable amount of time for those spare parts and critical equipment that are not stored by the City; the list shall also set forth an inventory of spare parts and critical equipment stored by the City, as applicable; and
 - (c) Written procedures for updating the critical spare parts and equipment inventories in the IMS.
- (7) Reports which list equipment problems and the status of work orders generated during the prior Month.
- (8) A staffing and funding plan sufficient in structure, skills, numbers and funding to allow completion of the operations and maintenance activities required by this Paragraph 23.f.

g. Fats, Oils and Grease (“FOG”) Control Program. Within eighteen (18) Months after the Effective Date of this Consent Decree, the City shall submit to the EPA for review and approval a FOG Control Program. At a minimum, the FOG Control Program shall apply City-wide and include the following:

- (1) A FOG characterization study that shall identify the sources of FOG causing problems in the WCTS and the most appropriate method or mechanism for addressing those sources.
- (2) The legal authority to control the discharge of FOG into the WCTS, including the ability to implement a permit and enforcement program for commercial and industrial sources.
- (3) Specification of accepted devices to control the discharge of FOG into the WCTS.
- (4) Establishment of standards for the design and construction of FOG control devices including standards for capacity and accessibility, site map, design documents and as-built drawings.
- (5) Establishment of FOG control device management, operations and maintenance standards, or best management practices, that address onsite record keeping requirements, cleaning frequency, cleaning standards, use of additives, and ultimate disposal.

- (6) Establishment of construction inspection protocols, including scheduling, inspection report forms, and inspection record keeping requirements, to assure that FOG control devices are constructed in accordance with established design and construction standards.
- (7) Establishment of compliance inspection protocols, including scheduling, inspection report forms, and inspection record keeping requirements to assure that FOG control devices are being managed, operated and maintained in accordance with the established management, operation and maintenance standards or best management practices.
- (8) Establishment of a FOG disposal manifest system, with the included requirements that FOG and septage not be comingled and that the point of origin be specified on the manifest.
- (9) Establishment of an enforcement program, including specific enforcement mechanisms, to ensure compliance with the FOG Control Program.
- (10) Establishment of a compliance assistance program to facilitate training of FOG generators and their employees.
- (11) Establishment of a comprehensive public education program directed at reducing the amount of FOG entering the WCTS from residences.
- (12) Establishment of staffing (technical and legal) and equipment requirements to ensure effective implementation of the FOG Control Program.
- (13) A regularly maintained list of current commercial establishment FOG generators including a description of their FOG generating processes and estimated average quantity of FOG generated daily.
- (14) Establishment of performance indicators to be used by the City to measure the effectiveness of the FOG Control Program.
- (15) A schedule to review, evaluate and revise the FOG Control Program on at least an annual basis. Any revisions to the FOG Control Program shall be submitted to the EPA in accordance with Paragraphs 9 through 15 and 83 of this Consent Decree.

Within six (6) Months after the EPA's approval of the FOG Control Program, the City shall enact the necessary City ordinances for the immediate implementation of the Program. After the ordinances become effective as provided by State law, the City shall implement the FOG Control Program, which shall be incorporated into, and become enforceable under, this Consent Decree.

h. Training Program. Within thirty-two (32) Months after the Effective Date of this Consent Decree, the City shall submit to the EPA for review and approval a Training Program, including a schedule for full implementation of the program not to exceed twelve (12) Months after its approval by the EPA. The Training Program shall include, at a minimum, the following:

- (1) Technical Training. The technical training component shall include, at a minimum, the following:
 - (a) Employee technical training and refresher technical training requirements (curriculum) that ensure that each City employee has a level of knowledge, commensurate with duties, of the overall functions of the City's infrastructure;
 - (b) A description of outside technical training and networking opportunities, such as conferences and seminars, that are made available to City employees;
 - (c) A description of the extent to which employee certification, at the State or at the City level, is required as a basis for obtaining or maintaining a position;
 - (d) Records of technical training, including on-the-job training, which shall be maintained in an information management system and shall describe the degree to which completed technical training and on-the-job training is tied to promotion and pay; and
 - (e) A description of the technical training required before an employee can undertake specific work assignments or tasks.
- (2) Skills Training. The skills training component shall include, at a minimum, the following:
 - (a) Employee skills training and refresher skills training requirements (curriculum) that ensure that each City employee has a level of knowledge, commensurate with duties, of the specific equipment to be used and the procedures to be followed in carrying out duties;
 - (b) A description of outside skills training opportunities, such as manufacturers' training, that are made available to employees;
 - (c) A description of the extent to which employee certification, at the State or at the City level, is required as a basis for obtaining or maintaining a position;

- (d) Records of skills training, including on-the-job training, which shall be maintained in an information management system) and shall describe the degree to which completed skills training and on-the-job training is tied to promotion and pay; and
 - (e) A description of the skills and on-the-job training required before an employee can undertake specific work assignments or tasks.
- (3) Safety Training. The safety training component shall include, at a minimum, the following:
- (a) Employee safety training and refresher safety training requirements (curriculum) that ensure that each City employee has level of knowledge regarding on-the-job safety that is commensurate with the employee's equipment and work environment;
 - (b) A description of the extent to which employee safety certification at the State or at the City level is required as a basis for obtaining or maintaining a position;
 - (c) Records of safety training, including on-the-job training, which shall be maintained in an information management system and shall describe the degree to which completed safety training and on-the-job training is tied to promotion and pay; and
 - (d) A description of the safety training required before an employee can undertake specific work assignments or tasks.

i. Priority Areas Chronic SSO Advanced Remote Monitoring Program.

Within twelve (12) Months after the Effective Date of this Consent Decree, the City shall submit to the EPA for review and approval a list of SSO locations in the WCTS within the Priority Areas that have experienced more than one (1) wet-weather related SSO in the previous twelve (12)-month period (Chronic SSO List). The City shall designate on the Chronic SSO List which SSO locations it proposes to install and maintain manhole and/or sewer surcharge level remote monitoring devices in accordance with the provisions of this Paragraph 23.i. For those SSO locations not so designated, the City shall include along with and as a part of the Chronic SSO List Deliverable a demonstration that such remote devices are not necessary because either the City has a definitive, detailed plan and expeditious deadline for addressing the cause of the SSO at that location, the SSOs at that location were the result of an extraordinary rain event such as a hurricane or tropical storm, or two (2) or more SSO locations are related in such a manner that a single remote monitoring device can provide the required real-time alert for likely SSOs at the multiple locations. The Chronic SSO List Deliverable shall also include a description of the thresholds (Thresholds) to be established for the remote monitoring devices that will trigger real-time alerts of a likely SSO event or events. The

City shall install and maintain manhole and/or sewer surcharge level remote monitoring devices at the SSO locations so designated on the Chronic SSO List in accordance with the provisions of this Paragraph 23.i within four (4) Months of the EPA's approval of the Chronic SSO List.

- (1) The remote monitoring devices shall monitor sewer surcharge levels and shall be designed to send to the City real-time alerts of a likely SSO event or events when the Thresholds specified by the City are attained and/or exceeded, thereby improving the City's responsiveness to SSOs and sewer operations with the goal of preventing SSOs from occurring at these SSO locations.
- (2) The City shall expeditiously inspect a SSO location after a remote monitoring device indicates that the applicable Threshold has been attained and/or exceeded for that SSO location. The City shall keep records with respect to all remote monitoring devices and SSO locations for a period of at least five (5) years. The City shall report all surcharge conditions identified by the remote monitoring devices in the Quarterly Reports pursuant to Paragraph 38.a of this Consent Decree. The City shall report all SSOs discovered pursuant to the remote monitoring devices in accordance with the NPDES Permits, the SORP, and the Quarterly and Annual Reports pursuant to Paragraphs 38.a and 38.c of this Consent Decree.
- (3) If the City elects to monitor multiple SSO locations through a single remote monitoring device, the City shall expeditiously inspect all such related SSO locations when the applicable remote monitoring device indicates that the specified Thresholds have been attained and/or exceeded. The City shall also evaluate the benefits of this technology and other remote wastewater detection technologies for continued use within the WCTS to increase efficiency in SSO prevention/response.
- (4) One (1) year after the EPA's approval of the initial Chronic SSO List above and each year thereafter, the City shall submit to the EPA for review and approval an annual update to the Chronic SSO List that provides for the following:
 - (a) The identification of additional SSO location in the WCTS that experienced more than one (1) wet-weather related SSO in the previous twelve (12)-month period. The City shall designate on the updated Chronic SSO List which of these new SSO locations it proposes to install and maintain manhole and/or sewer surcharge level remote monitoring devices in accordance with the provisions of this Paragraph 23.i. For those new SSO locations not so designated, the City shall include along with and as a part of the updated Chronic SSO List a demonstration that

such remote devices are not necessary because either the City has a definitive, detailed plan and expeditious deadline for addressing the cause of the SSO at that location, the SSOs at that location were the result of an extraordinary rain event such as a hurricane or tropical storm, or two (2) or more SSO locations are related in such a manner that a single remote monitoring device can provide the required real-time alert for likely SSOs at the multiple locations. The City shall then install and maintain manhole and/or sewer surcharge level remote monitoring devices at such new SSO locations within four (4) Months after the EPA's approval of the updated Chronic SSO List.

(b) If applicable, a demonstration that remote monitoring devices at a particular SSO location(s) on the Chronic SSO List should be removed from the list because the cause of the SSO at the particular location(s) has been appropriately addressed and such location(s) has not experienced more than one (1) wet-weather related SSO in the previous twelve (12)-Month period.

(c) If applicable, a demonstration that, as an alternative to placing a remote monitor at each SSO location on the Chronic SSO list as otherwise required by this Paragraph 23.i, remote monitoring devices should be removed because two (2) or more SSO locations are related in such a manner that a single remote monitoring device can provide the required real-time alert for likely SSOs at the multiple SSO locations.

24. Permits. Where any compliance obligation under this Section requires the City to obtain a federal, state, or local permit or approval, the City shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. The City may seek relief under the provisions of Section XII (Force Majeure) for any delay in the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if the City has submitted timely and complete applications and has taken all other actions necessary to obtain all such permits or approvals.

VIII. CIVIL PENALTY

25. Within thirty (30) Days after the Effective Date, the City shall pay the sum of \$165,600 as a civil penalty as follows: \$82,800 to the United States and \$82,800 to the State.

26. The City shall pay the civil penalty due to the U.S. Department of Justice account either by use of <https://www.pay.gov> to the U.S. Department of Justice account, or by FedWire Electronic Funds Transfer ("EFT"), in accordance with instructions provided to the City by the Financial Litigation Unit ("FLU") of the United States Attorney's Office for the Southern District of Mississippi after the Effective Date. The payment instructions provided by the FLU shall include a Consolidated Debt Collection System ("CDCS") number, which the City shall use

to identify all payments required to be made in accordance with this Consent Decree. The FLU will provide the payment instructions to:

Mayor, City of Hattiesburg
Post Office Box 1898
Hattiesburg, MS 39403-1898
(601) 545-4501
mayor@hattiesburgms.com

on behalf of the City. The City may change the individual to receive payment instructions on their behalf by providing written notice of such change to the United States and the EPA in accordance with Section XVII (Notices). At the time of payment, the City shall send notice that payment has been made: (i) to the EPA via email at cinwd_acctsreceivable@epa.gov or via regular mail at the EPA Cincinnati Finance Office, 26 W. Martin Luther King Drive, Cincinnati, Ohio 45268; (ii) to the United States via email or regular mail in accordance with Section XVII; and (iii) to the EPA in accordance with Section XVII. Such notice shall reference the CDCS Number and DOJ case number 90-5-1-1-10964. In the event that full cash payment to the United States is not made within thirty (30) Days of the Effective Date, the City shall also pay to the United States interest on the balance due from the original due date to the date of payment, at the rate calculated pursuant to 28 U.S.C. § 1961.

27. The City shall pay the civil penalty due to MDEQ by check payable to the “Mississippi Department of Environmental Quality.” The check shall reference the case name and civil action number herein and shall be sent to: Mississippi Department of Environmental Quality, Attn: Jennifer Parish, P.O. Box 2339 Jackson, Mississippi 39225. In the event that full cash payment to MDEQ is not made within thirty (30) Days of the Effective Date, the City shall also pay to MDEQ interest on the balance due from the original due date to the date of payment, at the rate calculated pursuant to 28 U.S.C. § 1961.

IX. SUPPLEMENTAL ENVIRONMENTAL PROJECT

28. The City shall satisfactorily implement and complete the Supplemental Environmental Project (“SEP”) in accordance with all provisions of Appendix E of this Consent Decree, attached hereto and incorporated herein. The SEP shall be completed in accordance with the schedule set forth in Appendix E.

29. As more particularly described in Appendix E, the SEP shall consist of projects to reduce extraneous flows entering the WCTS through defective private laterals and through illicit connections from residential properties the owners of which face financial hardship as determined under Section B of Appendix E. The total expenditure for the SEP shall be not less than \$220,800, exclusive of certain costs detailed in Section C of Appendix E. The City may use contractors or consultants in planning and implementing the SEP.

30. With regard to the SEP, the City certifies the truth and accuracy of each of the following:

- a. That all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that the City in good faith estimates that the cost to implement the SEP is \$220,800.
- b. That, as of the date of executing this Decree, the City is not required to perform or develop the SEP by any federal, state, or local law or regulation and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum.
- c. That the SEP is not a project that the City was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Decree.
- d. That the City has not received and will not receive credit for the SEP in any other enforcement action.
- e. That the City will not receive any reimbursement for any portion of the SEP from any other person.
- f. That the City is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP and that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could fund the same activity as the SEP. For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, or federally-guaranteed loan guarantee, or other mechanism for providing federal financial assistance whose performance period has not yet expired.

31. "Satisfactory completion" of the SEP shall include the completion of a minimum number of forty-five (45) repairs or replacements of defective private laterals or removals of illicit connections, and a minimum expenditure of \$220,800 of eligible SEP costs.

32. SEP Completion Report. Within thirty (30) Days after the date set for completion of the SEP, the City shall submit a SEP Completion Report to the EPA for review and approval. The SEP Completion Report shall contain all of the following information:

- a. A detailed description of the SEP as implemented.
- b. A description of any problems encountered in completing the SEP and the solutions thereto.
- c. An itemized list of all eligible SEP costs expended.
- d. Certification that the SEP has been fully implemented pursuant to the provisions of this Decree.

e. A description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).

33. The EPA may, in its sole discretion, require information in addition to that described in the preceding Paragraph, in order to evaluate the City's SEP Completion Report.

34. After receiving the SEP Completion Report, the EPA shall notify the City whether or not the City has satisfactorily completed the SEP. If the City has not completed the SEP in accordance with this Consent Decree, stipulated penalties may be assessed under Section XI of this Consent Decree.

35. Disputes concerning the satisfactory performance of the SEP and the amount of eligible SEP costs may be resolved under Section XIII of this Decree (Dispute Resolution). No other disputes arising under this Section shall be subject to Dispute Resolution.

36. Each submission required under this Section shall be signed by an official with knowledge of the SEP and shall bear the certification language set forth in Paragraph 17.

37. Any public statement, oral or written, in print, film, or other media, made by the City making reference to the SEP under this Decree from the date of its execution of this Decree shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action, United States et al. v. City of Hattiesburg, taken on behalf of the U.S. Environmental Protection Agency and the Mississippi Department of Environmental Quality to enforce the Clean Water Act and the Mississippi Air and Water Pollution Control Law."

X. REPORTING REQUIREMENTS

38. The City shall submit the following reports:

a. Quarterly Reports. Beginning one (1) Month after the first Calendar Quarter following the Effective Date of this Consent Decree, and one (1) Month after each subsequent Calendar Quarter thereafter until termination of the Consent Decree, the City shall submit to the EPA for review and approval a Quarterly Report that shall include the date, time, location, source, estimated duration, estimated volume, receiving water (if any), and cause of all SSOs occurring in the applicable three (3)-Month period in a tabulated electronic format. When available pursuant to Paragraph 23.i of this Consent Decree, each Quarterly Report shall also include information on all surcharge conditions identified by the remote monitoring devices as required pursuant to Paragraph 23.i of this Consent Decree.

b. Semi-Annual Reports. Beginning one (1) Month after the first two (2) Calendar Quarters following the Effective Date of this Consent Decree, and one (1) Month after each subsequent two (2) Calendar Quarters until termination of the Consent Decree, the City shall submit to the EPA for review and approval a Semi-Annual Report. Each Semi-Annual Report shall include, at a minimum:

- (1) A description of projects and activities completed and milestones achieved during the previous applicable six (6)-Month period pursuant to the requirements of this Consent Decree, in Gantt chart or similar format, including a description of the status of compliance or non-compliance with the requirements of this Consent Decree and, if applicable, the reasons for non-compliance. If any non-compliance cannot be fully explained at the time the report is due, the City shall include a statement to that effect in the report. The City shall investigate to determine the cause of the non-compliance and then shall submit an amendment to the report, including a full explanation of the cause of the non-compliance, within thirty (30) Days after submission of the Semi-Annual Report.
- (2) A summary of significant projects and activities anticipated to be performed, and milestones anticipated to be achieved, in the successive applicable six (6)-Month period to comply with the requirements of this Consent Decree, in Gantt chart or similar format.
- (3) Any additional information the City determines is appropriate to demonstrate that the City is implementing the remedial actions required under this Consent Decree in an adequate and timely manner.

c. Annual Reports. Beginning two (2) Months after the first full Calendar Year, and two (2) Months after each subsequent Calendar Year until termination of this Consent Decree, the City shall submit to the EPA for review and approval an Annual Report. Each Annual Report shall cover the most recent applicable Calendar Year and shall include, at a minimum:

- (1) A summary of the MOM Programs implemented or modified pursuant to this Consent Decree, including a comparison of actual performance with any performance measures that have been established.
- (2) A trends analysis of the number, volume, duration, and cause of the City's SSOs for the previous two Calendar Years updated to reflect the SSOs that occurred during the previous twelve (12)-Month period except that the first Annual Report shall only include the first twelve (12) Months.

39. Except as otherwise provided in the SORP or ERP, whenever any violation of this Consent Decree or any other event affecting the City's performance under this Consent Decree or its NPDES Permits may pose an immediate threat to the public health or welfare or the environment, the City shall notify, pursuant to Section XVII (Notices), the EPA and MDEQ orally or by electronic or facsimile transmission as soon as possible, but no later than twenty-four

(24) hours after the City first knew of the violation or event. This procedure is in addition to the requirements set forth in Paragraph 38.

40. All reports shall be submitted to the persons designated in Section XVII (Notices).

41. Each report by the City under this Section shall be submitted in accordance with the provisions of Paragraph 17 of this Consent Decree. The certification requirement in Paragraph 17 does not apply to emergency or similar notifications where compliance would be impractical, including notifications required under Paragraph 39. In addition, a copy of all reports submitted pursuant to this Section (X. Reporting Requirements) shall also be made available to the public in the PDR.

42. The reporting requirements of this Consent Decree do not relieve the City of any reporting obligations required by the Act or implementing regulations, or by any other federal, state, or local law, regulation, permit, or other requirement.

43. Any information provided pursuant to this Consent Decree may be used by the United States or the State in any proceeding to enforce the provisions of this Consent Decree and as otherwise permitted by law.

XI. STIPULATED PENALTIES

44. The City shall be liable for stipulated penalties to the United States and the State for violations of this Consent Decree as specified below, unless excused under Section XII (Force Majeure). A violation includes failing to perform any obligation required by the terms of this Decree, including any work plan or schedule approved under this Decree, according to all applicable requirements of this Decree and within the specified time schedules established by or approved under this Decree.

45. Late Payment of Civil Penalty. If the City fails to pay the civil penalty required to be paid under Section VIII (Civil Penalty) when due, the City shall pay a stipulated penalty of \$1,000 per Day for each Day that the payment is late.

46. The following stipulated penalties shall accrue for each violation identified below:

a. SSOs Reaching Waters. For each SSO that reaches waters of the United States or the State, a stipulated penalty may be assessed as follows:

<i>If SSO Occurs in:</i>	<i>Penalty Per Violation Per Day:</i>
Calendar Years 2021-2023	\$500
Calendar Years 2024 until Termination	\$1,000

b. Failure to Timely Submit Deliverable. For each day the City fails to Timely submit any Deliverable, a stipulated penalty for each such Deliverable may be assessed as follows:

<i>Period of Noncompliance:</i>	<i>Penalty Per Deliverable Per Day:</i>
1-30 days	\$500
31-60 days	\$1,000
More than 60 days	\$2,000

c. Failure to Timely Implement Work. For each day the City fails to Timely implement any Work, daily stipulated penalties may be assessed for each such item of Work as follows:

<i>Period of Noncompliance:</i>	<i>Penalty Per Violation Per Day:</i>
1-30 days	\$500
31-60 days	\$1,000
61 days -180 days	\$2,000
More than 180 days	\$5,000

d. Failure to Timely Report SSOs. For each SSO that the City fails to Timely report in a Quarterly Report as set forth in Paragraph 38.a of this Consent Decree, a stipulated penalty of \$5,000 may be assessed.

e. Failure to Timely Implement SEP Milestones. For each Day the City fails to Timely implement a SEP milestone set forth in Section IX or Appendix E, daily stipulated penalties may be assessed as follows:

<i>Period of Noncompliance:</i>	<i>Penalty Per Violation Per Day:</i>
1-30 days	\$500
More than 30 days	\$1,000

f. Failure to Satisfactorily Complete the SEP. For the SEP identified in Section IX and Appendix E, if the City fails to satisfactory complete the SEP as described, a stipulated penalty of \$242,880, minus any creditable expenditures as determined by the EPA, and minus any stipulated penalties already paid under Paragraph 46.e, may be assessed.

47. Stipulated penalties under this Section shall begin to accrue on the Day after performance is due or on the Day a violation occurs, whichever is applicable, and shall continue

to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for separate violations of this Consent Decree.

48. The City shall pay any stipulated penalty within thirty (30) Days of receiving a United States' written demand. The City shall pay fifty (50) percent of the total stipulated penalty amount due to the United States and fifty (50) percent to the State.

49. The United States may in the unreviewable exercise of its discretion, reduce or waive any stipulated penalties otherwise due under this Consent Decree.

50. Stipulated penalties shall continue to accrue as provided in Paragraph 47, during any Dispute Resolution, but need not be paid until the following:

a. If the dispute is resolved by agreement of the Parties or by a decision of the EPA, after consultation with MDEQ, and is not appealed to the Court, the City shall pay accrued penalties determined to be owing, together with interest, within thirty (30) Days of the effective date of the agreement or the receipt of the EPA's decision or order.

b. If the dispute is appealed to the Court and the United States prevails in whole or in part, the City shall pay all accrued penalties determined by the Court to be owing, together with interest, within sixty (60) Days of receiving the Court's decision or order, except as provided in subparagraph c, below.

c. If any Party appeals the District Court's decision, the City shall pay all accrued penalties determined to be owing, together with interest, within fifteen (15) Days of receiving the final appellate court decision.

51. The City shall pay stipulated penalties owing to the United States in the manner set forth and with the confirmation notices required by Paragraph 26, except that the transmittal letter shall state that the payment is for stipulated penalties and shall state for which violation(s) the penalties are being paid. The City shall pay stipulated penalties owing to the State in the manner set forth in Paragraph 27.

52. If the City fails to pay stipulated penalties according to the terms of this Consent Decree, the City shall be liable for interest on such penalties, as provided for in 28 U.S.C. § 1961, accruing as of the date payment became due. Nothing in this Paragraph shall be construed to limit the United States or the State from seeking any remedy otherwise provided by law for the City's failure to pay any stipulated penalties.

53. The payment of penalties and interest, if any, shall not alter in any way the City's obligation to complete the performance of the requirements of this Consent Decree.

54. Non-Exclusivity of Remedy. Stipulated penalties are not the United States' exclusive remedy for violations of this Consent Decree. Subject to the provisions of Section XV (Effect of Settlement/Reservation of Rights), the United States expressly reserves the right to seek any other relief it deems appropriate for the City's violation of this Decree or applicable law, including but not limited to an action against the City for statutory penalties, additional injunctive relief, mitigation or offset measures, and/or contempt. However, the amount of any

statutory penalty assessed for a violation of this Consent Decree shall be reduced by an amount equal to the amount of any stipulated penalty assessed and paid pursuant to this Consent Decree.

XII. FORCE MAJEURE

55. “Force majeure,” for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of the City, of any entity controlled by the City, or of the City’s contractors, that delays or prevents the performance of any obligation under this Consent Decree despite the City’s best efforts to fulfill the obligation. The requirement that the City exercise “best efforts to fulfill the obligation” includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any such event (a) as it is occurring and (b) following the potential force majeure, such that the delay and any adverse effects of the delay are minimized. “Force Majeure” does not include the City’s financial inability to perform any obligation under this Consent Decree.

56. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a force majeure event, the City shall provide notice orally or by electronic or facsimile transmission to the EPA and MDEQ, within 72 hours of when the City first knew that the event might cause a delay. Within seven (7) days thereafter, the City shall provide in writing to the EPA and MDEQ an explanation and description of 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; the City’s rationale for attributing such delay to a force majeure event if it intends to assert such a claim; and a statement as to whether, in the opinion of the City, such event may cause or contribute to an endangerment to public health, welfare or the environment. The City shall include with any notice all available documentation supporting the claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude the City from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. The City shall be deemed to know of any circumstance of which the City, any entity controlled by the City, or the City’s contractors knew or should have known.

57. If the EPA, after a reasonable opportunity for review and comment by MDEQ, agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by the EPA, after a reasonable opportunity for review and comment by MDEQ, for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. The EPA will notify the City in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

58. If the EPA, after a reasonable opportunity for review and comment by MDEQ, does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, the EPA will notify the City in writing of its decision.

59. If the City elects to invoke the dispute resolution procedures set forth in Section XIII (Dispute Resolution), it shall do so no later than fifteen (15) days after receipt of the EPA's notice. In any such proceeding, the City shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that the City complied with the requirements of Paragraphs 55 and 56. If the City carries this burden, the delay at issue shall be deemed not to be a violation by the City of the affected obligation of this Consent Decree identified to the EPA and the Court.

XIII. DISPUTE RESOLUTION

60. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. The City's failure to seek resolution of a dispute under this Section shall preclude the City from raising any such issue as a defense to an action by the United States to enforce any obligation of the City arising under this Decree.

61. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when the City sends the United States and the State a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed twenty (20) Days from the date the dispute arises, unless that period is modified by written agreement between the United States and the City. The United States shall consult with the State during the period of informal negotiations. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States shall be considered binding unless, within forty-five (45) Days after the conclusion of the informal negotiation period, the City invokes formal dispute resolution procedures as set forth below.

62. Formal Dispute Resolution. The City shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by serving on the United States and the State a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting the City's position and any supporting documentation relied upon by the City.

63. The United States shall serve its Statement of Position within sixty (60) Days of receipt of the City's Statement of Position. The United States' Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the United States. If within five (5) Days of receiving the United States' Statement of Position, the City requests to confer, the United States agrees to confer (in person or by telephone) with the City, but such a conference shall be concluded no later than twenty-one (21) Days after the issuance of the United States' Statement of Position. Within fourteen (14) Days after the conclusion of the conference, the United States will either reaffirm its Statement of Position or issue an amended Statement of Position. If the United States fails to either reaffirm or amend its Statement of Position within this fourteen (14)

Day period, its Statement of Position shall be deemed reaffirmed. The United States' Statement of Position shall be binding on the City, unless the City files a motion for judicial review of the dispute in accordance with the following Paragraph.

64. The City may seek judicial review of the dispute by filing with the Court and serving on the United States and the State, in accordance with Section XVII (Notices), a motion requesting judicial resolution of the dispute. If the City did not request to confer with the United States pursuant to preceding Paragraph, the City's motion must be filed within ten (10) Days of receipt of the United States' Statement of Position pursuant to the preceding Paragraph. If the City requested to confer with the United States pursuant to the preceding Paragraph, the City's motion must be filed within ten (10) Days after the expiration of the fourteen (14) Day period following the conference during which the United States either reaffirms or amends its Statement of Position. The motion shall contain a written statement of the City's position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree. The motion may not raise any issue not raised in informal dispute resolution pursuant to Paragraph 61, unless the United States raises a new issue of law or fact in the Statement of Position.

65. The United States shall respond to the City's motion within the time period allowed by the Local Rules of this Court. The United States shall consult with the State during preparation of its response. The City may file a reply memorandum, to the extent permitted by the Local Rules.

66. Standard of Review. Except as otherwise provided in this Consent Decree, in any other dispute brought under Paragraph 62, the City shall bear the burden of demonstrating that its position complies with this Consent Decree and that it is entitled to relief under applicable principles of law. The United States reserves the right to argue that its position is reviewable only on the administrative record and that it must be upheld unless arbitrary and capricious or otherwise not in accordance with law.

67. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of the City under this Consent Decree, unless and until final resolution of the dispute so provides. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first Day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in Paragraph 50. If the City does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section XI (Stipulated Penalties).

XIV. INFORMATION COLLECTION AND RETENTION

68. The United States, the State, and their representatives, including attorneys, contractors, and consultants, shall have the right of entry into any facility covered by this Consent Decree, at all reasonable times, upon presentation of credentials, to:

- a. monitor the progress of activities required under this Consent Decree;

- b. verify any data or information submitted to the United States or the State in accordance with the terms of this Consent Decree;
- c. obtain samples and, upon request, splits of any samples taken by the City or its representatives, contractors, or consultants;
- d. obtain documentary evidence, including photographs and similar data; and
- e. assess the City's compliance with this Consent Decree.

69. Upon request, the City shall provide the EPA and MDEQ or their authorized representatives splits of any samples taken by the City. Upon request, the EPA and MDEQ shall provide the City splits of any samples taken by the EPA or MDEQ.

70. Until five (5) years after the termination of this Consent Decree, the City shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to the City's performance of its obligations under this Consent Decree. This information-retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, upon request by the United States or the State, the City shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

71. At the conclusion of the information-retention period provided in the preceding Paragraph, the City shall notify the United States and the State at least ninety (90) Days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding Paragraph and, upon request by the United States or the State, the City shall deliver any such documents, records, or other information to the EPA or MDEQ. The City may assert that certain documents, records, or other information is privileged under the attorney-client privilege or any other privilege recognized by federal law. If the City asserts such a privilege, it shall provide the following: (a) a title for the document, record, or information; (b) the date of the document, record, or information; (c) the name and title of each author of the document, record, or information; (d) the name and title of each addressee and recipient; (e) a description of the subject of the document, record, or information; and (f) the privilege asserted by the City. However, no documents, records, or other information created or generated pursuant to the requirements of this Consent Decree shall be withheld on grounds of privilege.

72. The City may also assert that information required to be provided under this Section is protected as Confidential Business Information ("CBI") under 40 C.F.R. Part 2. As to any information that the City seeks to protect as CBI under 40 C.F.R. Part 2, the City shall follow the procedures set forth in 40 C.F.R. Part 2. The City may also assert that information required to be provided under this Section is protected as "trade secrets" under Miss. Code Ann. Section 49-17-39. As to any information that the City seeks to protect as trade secrets under said Section 49-17-39, the City shall follow the procedures set forth in Section 49-17-39.

73. This Consent Decree in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States or the State pursuant to applicable federal or state laws, regulations, or permits, nor does it limit or affect any duty or obligation of the City to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, or permits.

XV. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

74. This Consent Decree resolves the civil claims of the United States and the State for the violations alleged in the Complaint filed in this action through the Date of Lodging of this Consent Decree.

75. The United States and the State reserve all legal and equitable remedies available to enforce the provisions of this Consent Decree. This Consent Decree shall not be construed to limit the rights of the United States or the State to obtain penalties or injunctive relief under the CWA, the MAWPCL, or their implementing regulations, or under other federal or state laws, regulations, or permit conditions, except as expressly specified in Paragraph 74. The United States and the State further reserve all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, the City's Sewer System, whether related to the violations addressed in this Consent Decree or otherwise.

76. In any subsequent administrative or judicial proceeding initiated by the United States or the State for injunctive relief, civil penalties, other appropriate relief relating to the Sewer System or the City's violations, the City shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States or the State in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to Paragraph 74.

77. This Consent Decree is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. The City is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits; and the City's compliance with this Consent Decree shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The United States and the State do not, by their consent to the entry of this Consent Decree, warrant or aver in any manner that the City's compliance with any aspect of this Consent Decree will result in compliance with provisions of the CWA, the MAWPCL, or with any other provisions of federal, State, or local laws, regulations, or permits.

78. Application for construction grants, State Revolving Loan Funds, or any other grants or loans, or other delays caused by inadequate facility planning or plans and specifications on the part of the City shall not be cause for extension of any required compliance date in this Consent Decree.

79. Nothing in this Consent Decree limits the rights or defenses available under Section 309(e) of the Clean Water Act, 33 U.S.C. § 1319(e), in the event that the laws of the State, as currently or hereafter enacted, may prevent the City from raising the revenues needed to comply with this Decree.

80. This Consent Decree does not limit or affect the rights of the City or of the United States or the State against any third parties, not party to this Consent Decree, nor does it limit the rights of third parties, not party to this Consent Decree, against the City, except as otherwise provided by law.

81. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

XVI. COSTS

82. The Parties shall bear their own costs of this action, including attorneys' fees, except that the United States and the State shall be entitled to collect the costs (including attorneys' fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by the City.

XVII. NOTICES

83. Unless otherwise specified in this Decree, whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made in writing and addressed as follows:

As to the United States:

By Mail:

EES Case Management Unit

Re: DJ # 90-5-1-1-10964

Environment and Natural Resources Division

U.S. Department of Justice

P.O. Box 7611

Washington, D.C. 20044-7611

By Email:

eescdcopy.enrd@usdoj.gov Re: DJ # 90-5-1-1-10964

And

Chief, Water Enforcement Branch

Enforcement and Compliance Assurance Division

U.S Environmental Protection Agency, Region 4

ATTN: Richard Elliott

61 Forsyth Street, S.W.

Atlanta, GA 30303

(404) 562-8691

As to the EPA:

Chief, Water Enforcement Branch
Enforcement and Compliance Assurance Division
U.S Environmental Protection Agency, Region 4
ATTN: Richard Elliott
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-8691

As to the State/MDEQ:

Chief, Environmental Compliance and Enforcement Division
Office of Pollution Control
Mississippi Department of Environmental Quality
P.O. Box 2261
Jackson, MS 39225-2261
(601) 961-5682

As to the City:

Mayor, City of Hattiesburg
Post Office Box 1898
Hattiesburg, MS 39403-1898
(601) 545-4501

Director of Engineering, City of Hattiesburg
Post Office Box 1898
Hattiesburg, MS 39403-1898
(601) 545-4540

84. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above.

85. Notices submitted pursuant to this Section shall be deemed submitted upon mailing, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing.

XVIII. EFFECTIVE DATE

86. The Effective Date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court or a motion to enter the Consent Decree is granted, whichever occurs first, as recorded on the Court's docket.

XIX. RETENTION OF JURISDICTION

87. The Court shall retain jurisdiction over this case until termination of this Consent Decree, for the purpose of resolving disputes arising under this Decree or entering orders

modifying this Decree, pursuant to Sections XIII and XX, or effectuating or enforcing compliance with the terms of this Decree.

XX. MODIFICATION

88. Except as otherwise set forth in Paragraphs 16, 23, or 57 of this Consent Decree, the terms of this Consent Decree, including any attached appendices, may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to this Decree, it shall be effective only upon approval by the Court. Non-material changes to this Consent Decree (including appendices) may be made by written agreement of the Parties without Court approval.

89. Any disputes concerning modification of this Decree shall be resolved pursuant to Section XIII (Dispute Resolution), provided, however, that, instead of the burden of proof provided by Paragraph 66, the Party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Federal Rule of Civil Procedure 60(b).

XXI. TERMINATION

90. This Consent Decree may be terminated when the United States determines that the City has satisfactorily completed the requirements of Section VII (Compliance Requirements), provided the City has fulfilled all other obligations of this Consent Decree, including payment of the civil penalty and any accrued stipulated penalties as required by this Consent Decree not waived or reduced by the United States. The City may serve upon the United States a Request for Termination, certifying that the City has satisfied those requirements, together with all necessary supporting documentation.

91. Following receipt by the United States of the City's Request for Termination, the Parties shall confer informally concerning the Request and any disagreement that the Parties may have as to whether the City has satisfactorily complied with the requirements for termination of this Consent Decree. If the United States, after consultation with the State, agrees that the Decree may be terminated, the United States and the City shall submit, for the Court's approval, a joint stipulation terminating the Decree.

92. If the United States, after consultation with the State, does not agree that the Decree may be terminated, the City may invoke Dispute Resolution under Section XIII. However, the City shall not seek Dispute Resolution of any dispute regarding termination until one hundred and twenty (120) Days after service of its Request for Termination.

XXII. PUBLIC PARTICIPATION

93. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) Days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. The City and the State each consents to entry of this

Consent Decree without further notice and agrees not to withdraw from or oppose entry of this Consent Decree by the Court or to challenge any provision of the Decree, unless the United States has notified the Parties in writing that it no longer supports entry of the Decree.

XXIII. SIGNATORIES/SERVICE

94. Each undersigned representative of the City, the State, the EPA, and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice, certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.

95. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis. The City agrees to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons. The City need not file an answer to the complaint in this action unless or until the Court expressly declines to enter this Consent Decree, in which case Defendant's answer would be due thirty (30) Days following the Court's order.

XXIV. INTEGRATION

96. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. Other than deliverables that are subsequently submitted and approved pursuant to this Decree, the Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Consent Decree.

XXV. HEADINGS

97. Headings to the Sections and subsections of this Consent Decree are provided for convenience and do not affect the meaning or interpretation of the provisions of this Consent Decree.

XXVI. FINAL JUDGMENT

98. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment of the Court as to the United States, the State, and the City.

XXVII. **APPENDICES**

99. The following Appendices are attached to and part of this Consent Decree:

“Appendix A” is a list of completed sewer improvement projects, including COMSWIP projects;

“Appendix B” is a list of the Early Action Projects;

“Appendix C” are maps of the Priority Areas;

“Appendix D” is the EPA Region 4 guidance on Capacity, Management, Operation, and Maintenance (“CMOM”) programs; and

“Appendix E” is the Supplemental Environmental Project.

Dated and entered this ____ day of _____, 20 ____.

UNITED STATES DISTRICT JUDGE
Southern District of Mississippi

WE HEREBY CONSENT to the entry of this Consent Decree in United States et al. v. City of Hattiesburg, Mississippi, subject to the public notice and comment provisions of 28 C.F.R. § 50.7:

FOR THE UNITED STATES OF AMERICA:

D. MICHAEL HURST, JR.
UNITED STATES ATTORNEY for the
Southern District of Mississippi

Date: 8/25/2020

/s/ Jennifer Case
JENNIFER CASE
Mississippi Bar Number 104238
Assistant United States Attorney
501 East Court Street, Suite 4.430
Jackson, Mississippi 39201
Telephone: (601) 965-4480
Email: JCase2@usa.doj.gov

WE HEREBY CONSENT to the entry of this Consent Decree in United States et al. v. City of Hattiesburg, Mississippi, subject to the public notice and comment provisions of 28 C.F.R. § 50.7:

FOR THE UNITED STATES OF AMERICA:

Date: 8/25/2020

BRUCE S. GELBER
Deputy Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

/s/ Valerie K. Mann
VALERIE K. MANN
DC Bar No. 440744
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Washington, DC 20044-7611
Telephone: (202) 616-8756
Facsimile: (202) 616-2427
Email: Valerie.mann@usdoj.gov

WE HEREBY CONSENT to the entry of this Consent Decree in United States et al. v. City of Hattiesburg, Mississippi, subject to the public notice and comment provisions of 28 C.F.R. § 50.7:

FOR PLAINTIFF UNITED STATES OF AMERICA (Continued):

Date: 8-14-2020



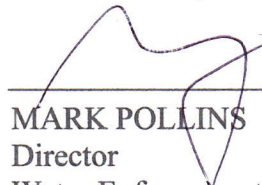
LEIF PALMER
Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Of Counsel:
SUZANNE K. ARMOR
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

WE HEREBY CONSENT to the entry of this Consent Decree in United States et al. v. City of Hattiesburg, Mississippi, subject to the public notice and comment provisions of 28 C.F.R. § 50.7:

FOR PLAINTIFF UNITED STATES OF AMERICA (Continued):

Date: July 29, 2020



MARK POLLINS
Director
Water Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency

Sarah Rae
Attorney-Adviser
Water Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency

WE HEREBY CONSENT to the entry of this Consent Decree in United States et al. v. City of Hattiesburg, Mississippi:

FOR PLAINTIFF STATE OF MISSISSIPPI BY AND THROUGH THE MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY AND THE MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY:

Date: 08/03/2020




GRETCHEN L. ZMITROVICH
MS Bar No. 101470
Senior Attorney
Office of Pollution Control
Mississippi Department of Environmental Quality
P.O. Box 2261
Jackson, Mississippi 39225
Telephone: (601) 961-5050
Facsimile: (601) 961-5674
Email: GZMITROVICH@mdeq.ms.gov

WE HEREBY CONSENT to the entry of this Consent Decree in United States et al. v. City of Hattiesburg, Mississippi:

FOR THE CITY OF HATTIESBURG:

Date: 8-6-2020



MAYOR TOBY BARKER
Post Office Box 1898
Hattiesburg, Mississippi 39403-1898
(601) 545-4501