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Docket No. CWA-03-2021-0039DN FILED January 26, 2021 2:02 PM U.S. EPA Region III, Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

Philadelphia, Pennsylvania 19103-2029

In the Matter of:	:	
	:	
City of Pittsburgh	:	**U.S. EPA Docket No. CWA-03-2021-0039DN**
414 Grant Street	:	
Pittsburgh, Pennsylvania 15219	:	**Proceeding under Section 309(a)**
	:	**of the Clean Water Act**
AND	:	
	:	
Pittsburgh Water and Sewer Authority	:	**ADMINISTRATIVE ORDER ON CONSENT**
1200 Penn Avenue	:	
Pittsburgh, Pennsylvania 15222	:	
	:	
Respondents	:	
	:	

I. PRELIMINARY STATEMENT

1. The United States Environmental Protection Agency ("EPA") has made the following findings of fact and issues this Administrative Order on Consent ("AOC") pursuant to the authority vested in the Administrator of EPA under Section 309(a) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1319(a). This authority has been delegated by the Administrator to the Regional Administrator of EPA Region III, and further delegated to the Director, Enforcement & Compliance Assurance Division, Region III.

2. Section 309(a) of the CWA, 33 U.S.C. § 1319(a), provides, *inter alia*, that whenever on the basis of any information available to him the Administrator finds that any person is in violation of any permit condition or limitation implementing certain sections of the CWA, in a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342, he shall issue an order requiring such person to comply with such section or requirement.

3. The City of Pittsburgh ("City") and the Pittsburgh Water and Sewer Authority ("PWSA") (collectively, "Respondents") have agreed to the issuance of this AOC.

II. STATUTORY AND REGULATORY BACKGROUND

4. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant (other than dredged or fill material) from a point source into waters of the United States except in compliance with a permit issued pursuant to the National Pollutant Discharge Elimination System ("NPDES") program under Section 402 of the CWA, 33 U.S.C. § 1342.

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5. Section 402 of the CWA, 33 U.S.C. § 1342(a), provides that the Administrator of EPA, or a state upon approval by EPA, may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit.

6. Pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b), EPA authorized the Pennsylvania Department of the Environment Protection ("PADEP") to issue NPDES permits in the Commonwealth of Pennsylvania.

7. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and 40 C.F.R. §§ 122.2 and 122.26 provide that, with some exceptions not relevant here, storm water discharges are "point sources" subject to NPDES permitting requirements under Section 402(a) of the CWA, 33 U.S.C. § 1342(a).

8. 40 C.F.R. § 122.2 states, in relevant part: "Discharge of a pollutant means: a) any addition of any 'pollutant' or combination of pollutants to waters of the United States from any point source. . . . This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. . . ."

9. "Storm water" (or "stormwater") is defined as "storm water runoff, snow melt runoff and surface runoff and drainage." 40 C.F.R. § 122.26(b)(13).

10. 40 C.F.R. § 122.26(b)(8)(i) defines the term "municipal separate storm sewer system" or "MS4" as including, *inter alia*, "a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains): (i) owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States."

11. 40 C.F.R. § 122.26(b)(16) defines the term "small municipal separate storm sewer system" as "all separate storm sewers that are: (i) Owned or operated by the United States, a State, city, town, borough . . . or other public body (created by or pursuant to State law) having jurisdiction over disposal of . . . storm water. . . .; [and] (ii) Not defined as 'large' or 'medium' municipal separate storm sewer systems."

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12. 40 C.F.R. § 122.26(b)(17) defines the term "Small MS4" as "a small municipal separate storm sewer system."

13. Small MS4s are regulated pursuant to Section 402(p) of the CWA, 33 U.S.C. § 1342(p) and the regulations promulgated thereunder.

14. Pursuant to 40 C.F.R. § 122.26(a)(9)(i), small MS4s require an NPDES permit if they are required to be regulated pursuant to 40 C.F.R. § 122.32.

15. 40 C.F.R. § 122.32(a)(1) states: "(a) Unless you qualify for a waiver under paragraph (c) of this section, you are regulated if you operate a small MS4, including but not limited to systems operated by federal, State, Tribal, and local governments, including State departments of transportation; and: (1) Your small MS4 is located in an urbanized area as determined by the latest Decennial Census by the Bureau of the Census. (If your small MS4 is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated). . . ."

16. 40 C.F.R. § 122.34(a) provides: "*General requirements.* For any permit issued to a regulated small MS4, the NPDES permitting authority must include permit terms and conditions to reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. Terms and conditions that satisfy the requirements of this section must be expressed in clear, specific, and measurable terms. Such terms and conditions may include narrative, numeric, or other types of requirements (*e.g.*, implementation of specific tasks or best management practices (BMPs), BMP design requirements, performance requirements, adaptive management requirements, schedules for implementation and maintenance, and frequency of actions)."

17. Pursuant to its authority under the CWA and the NPDES program approval, PADEP issued to the Respondents NPDES Permit No. PAI136133, an Individual Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems ("the 2004 Permit"). The effective date of the 2004 Permit was September 29, 2004, with an expiration date of March 9, 2008.

18. PADEP administratively extended the 2004 Permit until June 30, 2020.

19. Pursuant to its authority under the CWA and the NPDES program approval, the PADEP issued to Respondents NPDES Permit No. PAI136133, Individual Permit to Discharge Stormwater from Small Municipal Separate Storm Sewer Systems ("the 2020 Permit"). The effective date of the Permit was July 1, 2020 with an expiration date of June 30, 2025.

20. NPDES Permit No. PAI136133 authorizes discharges from a regulated small MS4, when in accordance with the conditions and terms of the Permit.

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21. The City and PWSA are "municipalities" within the meaning of Section 502(4) of the CWA, 33 U.S.C. § 1362(4).

22. Respondents are "persons" within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5) and 40 C.F.R. § 122.2.

23. At all times relevant herein, upon information and belief, Respondents owned or operated a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that discharges to waters of the United States.

24. At all times relevant herein, upon information and belief, Respondents owned or operated a "municipal separate storm sewer system" or "MS4", as that term is defined at 40 C.F.R. § 122.26(b)(8)(i), located in the City of Pittsburgh, Allegheny County, Pennsylvania.

25. At all times relevant to this AOC, the Respondents have discharged stormwater from the MS4 to the Monongahela River, Thompson Run, Chartiers Creek, Ohio River, Allegheny River, Glass Run, Streets Run, Sawmill Run, and Nine Mile Run.

26. The Monongahela River, Thompson Run, Chartiers Creek, Ohio River, Allegheny River, Glass Run, Streets Run, Sawmill Run, and Nine Mile Run are "water[s] of the United States" within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

27. On December 6 and 7, 2016, representatives of EPA Region III and EPA contractors from Eastern Research Group, Inc. (jointly "the Inspection Team" or "the inspectors") conducted an inspection of the MS4 (hereinafter, "the Inspection") to assess compliance with the 2004 NPDES Permit No. PAI136133.

28. Following the Inspection, the Inspection Team prepared an inspection report, dated January 2017 ("the Inspection Report"), which included multiple observations regarding Respondents' compliance with the requirements of the 2004 Permit. EPA sent a copy of the Inspection Report to the Respondents on February 27, 2017.

29. Respondents were presented with the opportunity to provide to EPA a response to the Inspection Report by March 20, 2017. EPA received no response from Respondents.

30. On May 19, 2017, EPA sent an Opportunity to Confer letter to the Respondents, communicating alleged violations of the CWA and the 2004 Permit observed during the Inspection.

31. EPA received the Respondents' response to the Opportunity to Confer letter on June 5, 2017. This response indicated that the Respondents were developing and/or implementing new procedures to address the alleged violations communicated in the May 2017 Opportunity to Confer letter.

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32. On September 6, 2017, EPA sent to Respondents a follow-up letter to the Opportunity to Confer letter. In this letter, EPA requested documentation of the procedures referenced in Respondents' June 2017 response, to evaluate whether the new procedures had been implemented and whether these practices satisfied the Permit requirements. EPA also requested documentation related to Respondents' NPDES Permit renewal application that was due September 16, 2017.

33. EPA received Respondents' response to the follow up letter on October 2, 2017. This response provided documentation that indicated Respondents had addressed some, but not all, of the violations communicated in the May 2017 Opportunity to Confer letter.

34. On February 26, 2020, pursuant to its authority under Section 308 of the CWA, 33 U.S.C. § 1318, EPA issued an Information Requirement Letter to the Respondents. This Information Requirement Letter requested updates on eight components of the Respondents' MS4 program.

35. EPA received a partial response to the Information Requirement Letter from Respondents on April 2, 2020, and a complete response on May 2, 2020.

36. On June 30, 2020, EPA issued a Notice of Noncompliance to the Respondents for violations of the 2004 Permit that were previously identified as potential violations in the Opportunity to Confer letter. The Notice of Noncompliance requested, among other things, that the Respondents (1) submit to EPA within 45 days of receipt of the letter a plan and schedule for developing and implementing a program for conducting inspections and enforcement regarding construction erosion and sediment ("E&S") controls and post-construction BMPs and (2) develop and implement the program within 180 days of receipt of the letter.

37. On August 17, 2020, EPA received the Respondents' response to the Notice of Noncompliance. In the response, Respondents provided a schedule of activities to develop and implement a program for conducting inspections of construction E&S controls and post-construction BMPs. The schedule extended from February 7, 2020 through July 31, 2021. However, the schedule did not include implementation of an enforcement program.

III. PERMIT REQUIREMENTS

38. Part A. Stormwater Management Program, 2. Minimum Control Measures of the 2004 Permit requires, among other requirements, Permittees to (1) implement procedures for site inspection and enforcement of construction E&S control measures and (2) enforce a program that addresses post-construction runoff and ensures the long-term operations and maintenance of post-construction stormwater controls.

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39. Part A. Stormwater Management Program, 3. Use of the DEP Stormwater Management *Protocol* to Meet the Minimum Control Measure Requirements of the 2004 Permit states that "Permittees may elect to implement the *Protocol* to meet the 6 Minimum Control Measure requirements. The *Protocol* becomes a part of the Individual Permit coverage for those permittees who elect to do so." In the Individual Permit application submitted by Respondents on September 5, 2003, the Respondents elected to use the DEP Stormwater Management *Protocol* ("the Protocol") for all six minimum control measures. Therefore, implementation of the Protocol is part of the 2004 Permit requirements.

40. In the Construction Stormwater Management Minimum Control Measure section of the Protocol, Permittees are required, among other things, to "Enact, implement, and enforce a stormwater control ordinance using DEP model language."

41. In the Post-Construction Stormwater Runoff Management Minimum Control Measure section of the Protocol, Permittees are required, among other things, to "Enact, implement, and enforce a stormwater control ordinance," using DEP model language

42. Part C.I.B.4.c of the 2020 Permit requires, among other requirements, Permittees to "Enact, implement and enforce an ordinance or SOP to require the implementation and maintenance of E&S control BMPs, including sanctions for non-compliance, as applicable."

43. Part C.I.B.5.a of the 2020 Permit requires, among other requirements, Permittees to "Enact, implement and enforce an ordinance or SOP to require post-construction stormwater management from new development and redevelopment projects, including sanctions for non-compliance."

44. Part C.I.B.5.c of the 2020 Permit requires, among other requirements, Permittees to "Ensure adequate O&M of all post-construction stormwater management BMPs that have been installed at development or redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale."

45. Title Thirteen: Stormwater Ordinance for the City of Pittsburgh, Pennsylvania Code of Ordinances ("Stormwater Ordinance"), Section §1304.07 states that "the City or its designated representative may conduct inspections during construction as it deems appropriate. If inspections performed by the City reveal deficiencies from the submitted and approved SWM site plan, the City may request corrective actions. Any corrective action shall be at the cost of the stormwater facility owner," and "After receipt of the completion certification by the City, the City will conduct a final inspection, and may conduct inspections thereafter to ensure proper functioning and compliance with approved plans."

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46. Section §1305.03 of the Stormwater Ordinance states, "The landowner or the owner's designee (including the City for dedicated and owned facilities) shall inspect [stormwater management] SWM BMPs, facilities and/or structures installed under this Ordinance according to the following frequencies, at a minimum, to ensure the BMPs, facilities and/or structures continue to function as intended: annually for the first five (5) years, once every three (3) years thereafter, and during or immediately after the cessation of a ten-year or greater storm. A written inspection report shall be created to document each inspection. The inspection report shall contain the date and time of the inspection, the individual(s) who completed the inspection, the location of the BMP, facility or structure inspected, observations on performance, and recommendations for improving performance, if applicable. Inspection reports shall be kept onsite and furnished to City/PWSA inspectors upon request."

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Count I
Failure to Conduct Inspections and Enforcement of Construction E&S Control Measures and Post-Construction Stormwater Management BMPs

47. The information and allegations in the Paragraphs above are incorporated herein by reference.

48. At the time of the Inspection on December 6 and 7, 2016, representatives from the City of Pittsburgh stated that the City relied on Allegheny County Conservation District to conduct reviews of E&S control plans and E&S control inspections during active construction. This agreement was initially formalized under a Memorandum of Understanding ("MOU"). The MOU had expired prior to the time of Inspection.

49. At the time of Inspection on December 6 and 7, 2016, representatives from the City stated:

    a. There was no protocol established or entity identified to conduct regular inspections, or system in place to monitor privately-owned stormwater management BMPs following construction.
    b. The City was not inspecting municipally-owned stormwater control facilities at least annually.
    c. The City did not have a detailed schedule for inspection and maintenance of all stormwater facilities, and instead performed this work on an as-needed basis.

50. In their June 5, 2017 response to the Opportunity to Confer Letter, the Respondents stated:

    a. The City's Department of Public Works budgeted for an Environmental Enforcement Inspector position within the City's Department of Permits, Licenses, and Inspections.

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b. The City was seeking a qualified individual for the position and expected to start operation and maintenance inspections as soon as possible.
c. PWSA conducts multiple inspections of its drainage facilities, but informal inspections of other municipally owned stormwater facilities are not documented.
d. The City planned to implement a formal stormwater facility documentation process for incorporation into the NPDES Permit renewal application due September 16, 2017.

51. In its September 6, 2017 follow-up letter to the Opportunity to Confer Letter, EPA requested verification that the Environmental Enforcement Inspector position within the City's Department of Permits, Licenses, and Inspections had been filled.

52. In their October 2, 2017 response letter, Respondents stated that the Environmental Enforcement Inspector position was budgeted for in the 2017 budget but had not yet been filled by the City of Pittsburgh.

53. In its Information Requirement Letter dated February 26, 2020, EPA requested documentation from Respondents to confirm that the Environmental Enforcement Inspector position has been filled.

54. In their May 2, 2020 response to the Information Requirement Letter, Respondents stated:

a. They determined that the Environmental Enforcement Inspector position was not suited to be within the Departments of Permits, Licenses and Inspections because this Department could not enforce the plumbing code and stormwater permitting requirements. Therefore, the funding for the position was removed from the City of Pittsburgh's budget.
b. The legal authority to enforce stormwater management falls under Allegheny County Health Department Plumbing Code. Respondents stated that they were working with Allegheny County Health Department and Allegheny County Conservation District to define agency responsibilities in stormwater enforcement.

55. On June 30, 2020, EPA issued a Notice of Noncompliance to the Respondents for their failure to conduct inspections and enforcement of construction E&S control measures and post-construction stormwater management BMPs.

56. In their August 17, 2020 response to the Notice of Noncompliance, the Respondents stated that they were in the process of addressing the violations set forth in the Notice of Noncompliance, and provided a schedule of activities to develop and implement a program for conducting inspections of construction E&S controls and post-construction BMPs. The schedule extended from February 7, 2020 through July 31, 2021. However, the schedule did not include ultimate implementation of an enforcement program.

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57. Based upon the information described above, Respondents failed to implement the Stormwater Ordinance in accordance with the requirements of the Protocol of the 2004 Permit and Parts C.I.B.4.c and C.I.B.5.a of the 2020 Permit.

58. Based upon the information described above, Respondents failed to conduct inspections and enforcement of construction E&S controls and post-construction stormwater management BMPs in accordance with Part A. Stormwater Management Program, 2. Minimum Control Measures of the 2004 Permit and Parts C.I.B.4.c, C.I.B.5.a, and C.I.B.5.c of the 2020 Permit.

59. Respondents' failure to conduct inspections and enforcement of construction E&S controls and post-construction stormwater management BMPs in accordance Part A. Stormwater Management Program, 2. Minimum Control Measures of the 2004 Permit and Parts C.I.B.4.c, C.I.B.5.a, and C.I.B.5.c of the 2020 Permit constitutes a violation of the Permit and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

V. ORDER

AND NOW, Pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), Respondents are hereby ORDERED to do the following:

60. Respondents shall develop and implement a program for conducting inspections and enforcement of (1) construction erosion and sediment controls and (2) post-construction BMPs, in accordance with the schedule attached to this AOC as Attachment A.

61. Respondents shall achieve the following milestones by the deadlines specified below:
    a. Submission of amended unified Stormwater Code to City Council by July 1, 2021.
    b. City administration submission of the budget request to City Council to increase capacity for inspections and enforcement by December 31, 2021.
    c. Implementation of procedures with the capability to implement an inspection and enforcement program in accordance with Permit requirements by January 28, 2022. This may include implementation of MOUs with Allegheny County Conservation District, Allegheny County Health Department, and other agencies, as necessary, to ensure the Respondents retain oversight and responsibility of the programs.
    d. Complete implementation of the inspection and enforcement program and staff in place for construction E&S controls and post-construction stormwater management BMPs by March 31, 2022.

62. Respondents shall submit quarterly progress reports to EPA for a period of two years after the effective date of this AOC. These reports shall be due on March 31, June 30, September 30, and December 31 each year. These reports shall be submitted in accordance with Paragraphs 68 and 69. These reports shall include, at a minimum:
    a. Activities completed during the reporting period;
    b. Dates by which the activities were completed;

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c. Any barriers to the timely completion of activities encountered; and
d. Activities currently in progress.

63. Any notice, submission, certification, data presentation, or other document submitted by Respondents to EPA pursuant to this AOC which discusses, describes, demonstrates, or supports any finding or makes any representation concerning Respondents' compliance or non-compliance with any requirements of this AOC shall be certified by either a principal executive officer or ranking elected official. The aforesaid certification shall provide the following statement above the signature of the responsible corporate officer signing the certification on behalf of Respondent:

> *I certify under penalty of law that this document and all attachments are true, accurate and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared 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 the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.*

Signature: _____
Name: _____
Title: _____

64. Any notice, submission, certification, data presentation, or other document submitted by Respondents to EPA pursuant to this AOC shall be sent via-email transmission to the attention of:

Shane McAleer (3ED32)
Environmental Engineer / Inspector
NPDES Section, Water Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-2029
mcaleer.shane@epa.gov

and

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Natalie Katz (3RC40)
Sr. Asst. Regional Counsel
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
katz.natalie@epa.gov

VI. GENERAL PROVISIONS

65. Issuance of this AOC is intended to address the violations described herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Further, EPA reserves any rights and remedies available to it under the CWA, 33 U.S.C. §§ 1251-1388, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this AOC, following its effective date (as defined below).

66. This AOC does not constitute a waiver or modification of the terms or conditions of the Respondents' Permit. Compliance with the terms and conditions of this AOC does not relieve Respondents of their obligations to comply with any applicable federal, state, or local law, regulation or permit.

67. By signing this AOC, Respondents neither admit nor deny the specific factual allegations set forth in this AOC.

68. Respondents waive any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondents may have with respect to any issue of fact or law set forth in this AOC, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

69. EPA reserves all existing inspection authority otherwise available to EPA pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, or pursuant to any other statute or law.

70. The undersigned representative of each Respondent certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this AOC and to execute and legally bind the party.

71. The provisions of this AOC shall apply to and be binding upon each Respondent and its officers, directors, employees, contractors, agents, trustees, successors and assigns of that Respondent.

72. Each Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete

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and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by a Respondent to the EPA regarding matters relevant to this AOC are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Each Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

73. Respondents may assert a business confidentiality claim covering part or all of the information which this AOC requires it to submit to EPA, but only to the extent and only in the manner described in Part 2 Subpart B of Title 40 of the C.F.R. The EPA will disclose information submitted under a confidentiality claim only as provided in Part 2 Subpart B of Title 40 of the C.F.R. If Respondents do not assert a confidentiality claim, EPA may make the submitted information available to the public without further notice to Respondent.

VI. EFFECTIVE DATE

This AOC is effective after receipt by Respondents of a fully executed document.

SO ORDERED: U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 01/26/2021 By: KAREN MELVIN Digitally signed by KAREN MELVIN Date: 2021.01.26 13:52:45 -05'00'

Karen Melvin
Director, Enforcement & Compliance Assurance Division
U.S. EPA – Region III

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AGREED TO:

For Respondent: CITY OF PITTSBURGH

Date: 1/20/2021 By: _____

William Peduto
Mayor

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AGREED TO:

For Respondent: PITTSBURGH WATER AND SEWER AUTHORITY

Date: 1/20/2021 By: William J. Pickering

William J. Pickering
Chief Executive Officer

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ATTACHMENT A

Pittsburgh Water and Sewer Authority - Stormwater Code and Ordinance Review and Update
Project Schedule - Updated: 12/22/2020

Task Description	Start Date	End Date	Meeting Date
Task 1 Technical Analysis			
1.1 Kickoff and Discovery Meeting			2/7/2020
1.2 Evaluation of Policy and Regulation Changes	2/10/2020	2/26/2021	
Internal AKRF Team - Policy Alternatives Exploration Workshop			3/4/2020
PWSA/City/AKRF Meeting to Discuss Policy Priorities			7/31/2020
Detailed Scoping of Additional Technical Analyses for Priority Policies	8/3/2020	8/25/2020	
Additional Technical Analyses for Priority Policies	8/26/2020	2/26/2021	
1.3 Technical Analysis: BMP Applicability	3/2/2020	7/31/2020	
1.4 Technical Analysis: Variability in SWM Requirements	7/20/2020	12/4/2020	
1.5 Analysis and Recommendations Report	10/19/2020	2/26/2021	
1.6 Updated PWSA Developer Manual Chapters	2/1/2021	5/31/2021	
1.7 Design Manual	2/1/2021	5/31/2021	
Task 2 Creation of Unified Stormwater Code			
2.1 Kickoff and Discovery Meeting			2/7/2020
2.2 Review Existing Code and Identify Conflicts and Overlap	2/10/2020	4/24/2020	
2.3 Identify Plan Review Thresholds and Applicability Triggers	3/2/2020	7/31/2020	
2.4 Evaluate Opportunities for Enhanced Co-benefits/Resiliency	8/26/2020	12/4/2020	
2.5 Evaluate Opportunities for Integration into ROW Policy	8/26/2020	12/4/2020	
2.6 Review of Regulatory Compliance Goals and Enhancement Options	8/26/2020	12/4/2020	
2.7 Develop Updated Stormwater Management Code	2/1/2021	7/31/2021	
Development of recommended code revisions for executive review	2/1/2021	3/15/2021	
Public notice of proposed amended code (21 days in advance of Planning Commission	4/27/2021	5/18/2021	
Submission of amended code to Planning Commission	4/27/2021	5/18/2021	
Public notice of proposed amended code (21 days in advance of City Council public	7/9/2021	7/31/2021	
Submission of amended code to City Council	7/9/2021	7/31/2021	
2.8 Summary of and Recommendations for Resolving Potential Conflicts	8/1/2020	2/26/2021	
2.9 Analysis of Agency Roles and Agreements (see Task 3)			
Task 3 Process Improvement Recommendations			
3.1 Kickoff and Discovery Meeting			2/7/2020
3.2 Review Existing Procedures for Approvals, Plan Review and Enforcement	9/14/2020	11/27/2020	
3.3 Develop Recommendations for Streamlining Including Integration with New Software	11/30/2020	2/26/2021	
3.4 Integration with Other Related Programs	11/30/2020	2/26/2021	
3.5 Development of Tiered Review Processes	8/26/2020	12/4/2020	
3.6 Legal Analysis for Proposed Improvements	1/4/2021	2/12/2021	
3.7 Staffing Requirements for Review, Inspections, and Enforcement	8/26/2020	12/4/2020	
3.8 Costs and Pricing for Services	1/25/2021	7/31/2021	
Task 4 Internal Policy Updates			
4.1 Kickoff and Discovery Meeting			2/7/2020
4.2 Analysis of Alternative Compliance Options	8/26/2020	12/4/2020	
4.3 Review of Draft MOU	5/4/2020	7/17/2020	
4.4 Develop Recommendations for SWM Responsibilities	9/14/2020	12/4/2020	
4.5 Staffing and Budget Requirements by Department	1/25/2021	7/31/2021	
Task 5 Stakeholder Communication			
5.1 Kickoff and Discovery Meeting			2/7/2020
Community Engagement Plan Development	3/2/2020	6/15/2020	
5.2 Introduction Meetings			
Agency Workgroup			2/7/2020
Stakeholder Workgroup			7/8/2020
5.3 Focused Workshops			
Stakeholder Focus Groups / Workshops	7/8/2020	9/30/2020	
Agency Staff Interviews	3/2/2020	10/31/2020	
5.4 Key Stakeholder Meetings			
Meeting 1			7/8/2020
Meeting 2			12/17/2020
Meeting 3			3/31/2021
5.5 Agency Work Group Meetings			
Meeting 1			5/5/2020
Meeting 2			8/6/2020
Meeting 3			12/15/2020
2021 Meetings - TBD			
5.6 Information Sessions (2)	6/1/2021	7/31/2021	

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

Philadelphia, Pennsylvania 19103-2029

In the Matter of:	:	
	:	
City of Pittsburgh	:	**U.S. EPA Docket No. CWA-03-2021-0039DN**
414 Grant Street	:	
Pittsburgh, Pennsylvania 15219	:	**Proceeding under Section 309(a)**
	:	**of the Clean Water Act**
AND	:	
	:	
Pittsburgh Water and Sewer Authority	:	**ADMINISTRATIVE ORDER ON CONSENT**
1200 Penn Avenue	:	
Pittsburgh, Pennsylvania 15222	:	
	:	
Respondents	:	
	:	

CERTIFICATE OF SERVICE

I certify that the enclosed Administrative Order on Consent was sent to the following persons by UPS Overnight Mail, at the following addresses:

Yvonne Hilton, Esq. and John Miller, Esq.
City of Pittsburgh
414 Grant Street
Pittsburgh, Pennsylvania 15219
Email: yvonne.hilton@pittsburghpa.gov and
john.miller@pittsburghpa.gov

Debbie Lestitian, Esq.
Pittsburgh Water and Sewer Authority
1200 Penn Avenue
Pittsburgh, Pennsylvania 15222
Email: dlestitian@pgh2o.com

David G. Ries, Esq.
Clark Hill
One Oxford Centre
301 Grant St., 14th Floor
Pittsburgh, Pennsylvania 15219
Email: dries@clarkhill.com

I certify that the enclosed Administrative Order on Consent was delivered to the following person by electronic mail, at the following addresses.

Regional Hearing Clerk (3RC00)
U.S. Environmental Protection Agency, Region III
Email: R3_Hearing_Clerk@epa.gov

I have also arranged for the Regional Hearing Clerk to distribute the Administrative Order by electronic mail to the persons listed above.

Date: 1/26/2021

By: Gloria DiBattista
NAME:
TITLE: