A FRAMEWORK FOR INITIAL DISCUSSIONS WITH COLORADO SPRINGS

1. **Stop "Grandfathering" of Waivers**

   - City must agree to end "grandfathering" of waivers for installing permanent stormwater control BMPs at previously approved developments.

2. **Put City's Stormwater Management Program "Back on Track"**

   - The City must agree to take reasonable steps to bring its stormwater management program into compliance with its MS4 permit going forward. These steps might include the following:
     - Modify the City's 2016 Stormwater Program Improvement Plan (SwPIP) to Provide training to personnel for all types of inspections and pollution prevention;
     - Complete the City's inventory of all types of stormwater assets with information needed for tracking to ensure proper oversight and maintenance;
     - Provide a specific procedure for responding to illicit discharges; and
     - Giving inspectors legal authority to enforce construction runoff requirements based on immediate field evidence;

     - Develop and implement a Grading and Erosion Control (GEC) Plan SOP for active construction sites and ensure that future GEC Plans satisfy the criteria set forth in the 2014 DCM Vol. II and 2010 Subdivision Checklist.
     - A subset of GEC Plans approved by the City will be subjected to a third-party audit for review and feedback to inform the development of training for City Engineer Plan Reviewers.
     - Provide adequate external and internal training of City Engineer Plan Reviewers and Field Inspectors
     - Develop an internal supervisory audit program for Field Inspectors
     - Create and maintain a database to track construction site noncompliance to identify chronic noncompliance.
     - Maintain robust inspection recordkeeping and reporting.

3. **Mitigate Ongoing Impacts of Past Violations**

   - City must agree to undertake a program of identifying and then mitigating ongoing adverse effects of its past violations, principally its failure to require permanent BMPs or adequate BMPs at new development and redevelopment projects.
   - This program would proceed in two phases: (1) understanding the scope of the problems created by the City's past violations; and (2), mitigating those problems.

4. **Supplemental Environmental Projects**

- The City will have the option to perform supplemental environmental projects (SEPs).
- SEPs are not available as a result of a court judgment, but SEPs may be used in a settlement context and have proven to be successful in addressing concerns and needs of affected downstream communities and other stakeholders. For example, SEPs could be included in a settlement to address erosion in Fountain Creek. Likewise, SEPs could be used to provide additional projects for the benefit of Pueblo County and/or the water district.
- This is one key advantage for all of the parties involved in the litigation.

5. **Civil Penalty**

- The City will have to pay an appropriate civil penalty. SEPs may be able to reduce a penalty, provided that they are consistent with EPA's SEP policy.
- We recommend tabling any discussion of penalty with the City until progress is made on the other four elements.

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