

MEMORANDUM

Agenda Item No. 8(I)(1)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: January 20, 2021

FROM: Geri Bonzon-Keenan
Successor County Attorney

SUBJECT: Resolution authorizing the County Mayor to execute four settlement agreements between the Florida Department of Environmental Protection and Miami-Dade County, by and through the Miami-Dade Police Department, for civil penalties and costs imposed for storage tank violations; and further authorizing the County Mayor to allocate \$33,000.00 to satisfy the civil penalties and costs

Resolution No. R-22-21

The accompanying resolution was prepared by the Miami-Dade Police Department and placed on the agenda at the request of Prime Sponsor Commissioner Joe A. Martinez.


Geri Bonzon-Keenan
Successor County Attorney

GBK/smm

Memorandum



Date: January 20, 2021

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Resolution Authorizing the County Mayor or County Mayor’s Designee to Execute a Settlement Agreement between the Florida Department of Environmental Protection and Miami-Dade County, through the Miami-Dade Police Department

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the County Mayor or County Mayor’s designee to execute four settlement agreements from the Florida Department of Environmental Protection (FLDEP) to settle civil penalties levied by the FLDEP for storage tank violations at four Miami-Dade Police Department (MDPD) facilities and authorizing the County Mayor or County Mayor’s designee to allocate \$33,000.00 from the MDPD’s general operating fund to pay the penalties and costs outlined in the settlement offer letters.

Scope

The impact of this item is limited to the MDPD.

Delegation of Authority

The County Mayor or County Mayor’s designee is authorized to execute the settlement agreements, as described in the offer letters from the FLDEP, to satisfy the civil penalties levied on the MDPD for the violations identified in the letters and described below. The County Mayor or County Mayor’s designee is further authorized to allocate \$33,000.00 from the MDPD’s general operating fund to pay the penalties and costs outlined in the settlement offer letters.

Fiscal Impact/Funding Source

The total amount for the penalties and costs, as outlined in the settlement letters, is \$33,000.00. This amount will be paid from the MDPD general operating fund.

Track Record/Monitor

In order to ensure that the MDPD completes its required performance pursuant to the settlement offers, Assistant Director Gustavo Knoepffler, of the MDPD’s Departmental Services, will track and monitor compliance.

Background

The FLDEP is responsible for ensuring that residents and businesses comply with environmental regulations through site visits and technical support. FLDEP inspects permitted facilities, responds to reports of environmental damage, and conducts compliance assistance and enforcement. On November 20, 2019, FLDEP inspected the storage tanks containing fuel for backup generators at four MDPD facilities: Intracoastal District Station, Kendall District Station, Northwest District Station, and South District Station.

At the Intracoastal District Station, the FLDEP inspector found the following violations:

- Failure to provide approved overfill protection for shop fabricated tank systems. 2018 and 2019 Annual Operability Tests (AOT) for the Krueger level gauge were not available at the time of inspection and the AST was filled above the 95% level.
- Shop fabricated storage tank system release detection devices not tested annually. 2018 and 2019 Annual Operability Tests (AOT) for the Comp Ap Remote Annunciator RA15 alarm console were not available at the time of inspection.
- Fillbox covers not marked according to requirements for shop fabricated tank systems. The spill bucket fill cover was not API color coded.

At the Kendall District Station, the FLDEP inspector found the following violations:

- Exterior Coatings not maintained to prevent corrosion for shop fabricated storage tank systems. AST was in fair condition with debris on the topside, a few areas of rust and metal wasting at the base.
- Fillbox covers not marked according to requirements for shop fabricated tank systems. The spill bucket fill cover was not API color coded.
- Failure to provide approved overfill protection for shop fabricated tank systems. 2018 and 2019 Annual Operability Tests (AOT) for the Krueger level gauge were not available at the time of inspection.
- Shop fabricated storage tank system release detection devices not tested annually. 2018 and 2019 Annual Operability Tests (AOT) for the Comp Ap Remote Annunciator RA15 alarm console were not available at the time of inspection.

At the Northwest District Station, the FLDEP inspector found the following violations:

- Shop fabricated storage tank system release detection devices not tested annually. 2018 and 2019 Annual Operability Tests (AOT) for the Comp Ap Remote Annunciator RA15 alarm console were not available at the time of inspection.
- Failure to provide approved overfill protection for shop fabricated tank systems. 2018 and 2019 Annual Operability Tests (AOT) for the Krueger level gauge were not available at the time of inspection. Krueger level gauge indicated the AST was filled above 95% at the time of inspection.

At the South District Station, the FLDEP inspector found the following violations:

- Failure to provide approved overfill protection for shop fabricated tank system in 2018 and in 2019.
- Failure to provide Annual Operability for Baldor Interstitial Monitoring in 2018 and in 2019.
- Registration Form not completed correctly.

The FLDEP sent separate Compliance Assistance offers for each facility to the MDPD on December 5, 2019, December 11, 2019, and December 19, 2019. Separate warning letters were also sent to the MDPD on January 24, 2020, January 27, 2020, and February 11, 2020.

All of the violations at each facility were eventually corrected. However, despite MDPD's resolution of the violations, FLDEP has determined that the MDPD remains subject to civil penalties, and has levied fines for the violations pursuant to the following schedule:

Intracoastal District Station:

\$4,000.00 for violation of Chapter 62-762.501(2)(e)4., Florida Administrative Code (FAC)
\$4,000.00 for violation of Chapter 62-762.601(7), FAC
\$1,000.00 for violation of Chapter 62-762.501(2)(f)2, FAC
\$500.00 for costs and expenses to the FLDEP in investigating the matter
Total: \$9,500.00

Kendall District Station:

\$4,000.00 for violation of Chapter 62-762.501(2)(e)4., FAC
\$4,000.00 for violation of Chapter 762.601(7), FAC
\$1,000.00 for violation of Chapter 62-762.701(4)(c), FAC
\$1,000.00 for violation of Chapter 62-762.501(2)(f)2, FAC
\$500.00 for costs and expenses to the FLDEP in investigating the matter
Total: \$10,500.00

Northwest District Station:

\$4,000.00 for violation of Chapter 62-762.501(2)(e)4., FAC
\$4,000.00 for violation of Chapter 762.601(7), FAC
\$500.00 for costs and expenses to the FLDEP in investigating the matter
Total: \$8,500.00

South District Station:

\$4,000.00 for violation of Chapter 62-762.501(2)(e)4., FAC
\$500.00 for costs and expenses to the FLDEP in investigating the matter
Total: \$4,500.00

The MDPD will avoid such fines in the future by reviewing all registration forms for accuracy, seeking the assistance of qualified outside contractors as needed, and performing the following each year in January:

- Completing the required Annual Operability Test on the designated primary overflow protection and the release detection systems.
- Inspecting fill box covers ensuring they are marked according to requirements.
- Evaluating all storage tanks for compliance with set requirements and addressing any concerns in a timely manner.



JD Patterson
Chief Public Safety Officer



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: January 20, 2021

FROM: 
Gen Bonzon-Keenan
Successor County Attorney

SUBJECT: Agenda Item No. 8(I)(1)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(I)(1)
1-20-21

RESOLUTION NO. R-22-21

RESOLUTION AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE FOUR SETTLEMENT AGREEMENTS BETWEEN THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND MIAMI-DADE COUNTY, BY AND THROUGH THE MIAMI-DADE POLICE DEPARTMENT, FOR CIVIL PENALTIES AND COSTS IMPOSED FOR STORAGE TANK VIOLATIONS; AND FURTHER AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO ALLOCATE \$33,000.00 TO SATISFY THE CIVIL PENALTIES AND COSTS

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board authorizes the County Mayor or County Mayor's designee to execute the four attached settlement agreements between the Florida Department of Environmental Protection and Miami-Dade County, by and through the Miami-Dade Police Department, to settle civil penalties and costs levied by the Florida Department of Environmental Protection for storage tank violations at four Miami-Dade Police Department facilities, and further authorizes the County Mayor or the County Mayor's designee to allocate \$33,000.00 from the Miami-Dade Police Department's general operating fund to satisfy the civil penalties and costs as part of the settlement agreements.

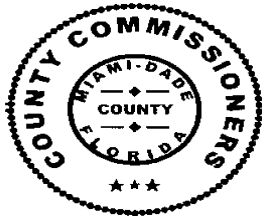
The foregoing resolution was offered by Commissioner **Rebeca Sosa**,
 who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman**
 and upon being put to a vote, the vote was as follows:

Jose "Pepe" Diaz, Chairman	aye		
Oliver G. Gilbert, III, Vice-Chairman	aye		
Sen. René García	aye	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Joe A. Martinez	aye
Kionne L. McGhee	aye	Jean Monestime	aye
Raquel A. Regalado	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 20th day of January, 2021. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
 BY ITS BOARD OF
 COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK



By: **Melissa Adames**
 Deputy Clerk

Approved by County Attorney as
 to form and legal sufficiency.
 Javier Zapata



FLORIDA DEPARTMENT OF Environmental Protection

Southeast District Office
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
561-681-6600

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

August 25, 2020

Alfredo Ramirez, III, Director
Miami-Dade Police Department
9105 NW 25 Street
Doral, FL 33157
nir@mdpd.com

SUBJECT: Department of Environmental Protection v. Miami-Dade Police Department
OGC File No.: 20-0911
Miami-Dade Police Department Intracoastal Station
Tank Facility ID: 9814205

Mr. Ramirez:

The State of Florida Department of Environmental Protection (“Department”) finds that Miami-Dade Police Department (“Respondent”) failed to: perform Annual Operability Tests on the designated primary overfill protection device in 2018 and 2019, ensure the tank is not filled passed the 95% level, mark the fill box cover in accordance with *Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals*, API RP 1637, (R2012), 3rd Edition, July 2006, and perform the Annual Operability Testing of release detection systems in 2018 and 2019. Before sending this letter, the Department requested that the Respondent undertake certain actions to resolve the violation(s). These actions have since been completed. However, due to the nature of the violation(s), the Respondent remains subject to civil penalties. The Respondent is also responsible for costs incurred by the Department during the investigation of this matter.

The Department’s Offer

Based on the violations described above, the Department is seeking \$9,000.00 in civil penalties and \$500.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$ 9,500.00. The civil penalties are apportioned as follows: \$4,000.00 for violation of Chapter 62-762.501(2)(e)4., Florida Administrative Code (F.A.C.), \$4,000.00 for Violation of Chapter 62-762.601(7), F.A.C. and \$1,000.00 for Violation of Chapter 62-762.501(2)(f)2, F.A.C.

In lieu of making cash payment of \$9,000.00 in civil penalties as set forth in the paragraph above, Respondent may elect to off-set this amount by implementing an in-kind penalty project,

which must be approved by the Department. An in-kind project must be either an environmental enhancement, environmental restoration or a capital/facility improvement project and may not be a corrective action requirement of the Order or otherwise required by law. The Department may also consider the donation of environmentally sensitive land as an in-kind project. The value of the in-kind project shall be one and a half times the civil penalty off-set amount, which in this case is the equivalent of at least \$13,500.00. If Respondent chooses to implement an in-kind project, Respondent shall notify the Department of its election by certified mail within 15 days of the effective date of this Consent Order. Notwithstanding the election to implement an in-kind project, payment of the remaining \$500.00 in costs must be paid within 30 days of the effective date of the Consent Order. If Respondent elects to implement an in-kind project as provided in the paragraph above, then Respondent shall comply with all the requirements and time frames in Exhibit A entitled In-Kind Projects.

Respondent's Acceptance

If you wish to accept this offer and fully resolve the enforcement matter pending against the Respondent, please sign this letter and return it to the Department at Southeast District Office, 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406 or SED.Tanks@floridadep.gov within 15 calendar days of the mailing date of this offer. The Department will then countersign it and file it with a designated clerk of the Department. Once the document is filed with the designated clerk, it will constitute a final order of the Department pursuant to Section 120.52(7), F.S. and will be effective unless a request for an administrative hearing is filed by a third party in accordance with Chapter 120, F.S. and the attached Notice of Rights.

Daniella Levine Cava 

By accepting this offer you, ~~Carlos A. Gimenez~~ [Type or Print Name], Designated Representative for Miami-Dade County:

- (1) certify that you are authorized and empowered to negotiate, enter into, and accept the terms of this offer in the name and on behalf of Respondent;
- (2) acknowledge and waive Respondent's right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this offer, once final;
- (3) acknowledge and waive Respondent's right to an appeal pursuant to Section 120.68, F.S.; and
- (4) acknowledge that payment of the above amount does not constitute a waiver of the Department's right, if any, to recover emergency response related costs and expenses for this matter.

The Department acknowledges that the Respondent's acceptance of this offer does not constitute an admission of liability for the violation(s) referenced above.

Respondent's Performance

After signing and returning this document to the Department,

- (1) If an in-kind project is elected to offset the civil penalty, Respondent must pay \$500.00 in full within 30 calendar days of the Department's final agency action on this order.
- (2) If an in-kind project is not elected within 15 days as outlined above, Respondent shall pay \$9,500.00 in full within 30 calendar days of the Department's final agency action on this Order.
- (3) Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/> It will take a number of days after this order is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

The Department may enforce the terms of this document, once final, and seek to collect monies owed pursuant to Sections 120.69 and 403.121, F.S.

Until clerked by the Department, this letter is only a settlement offer and not a final agency action. Consequently, neither the Respondent nor any other party may request an administrative hearing to contest this letter pursuant to Chapter 120, F.S. Once this letter is clerked and becomes a final order of the Department, as explained above, the attached Notice of Rights will apply to parties, other than the Respondent, whose interests will be substantially affected.

Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

Please be aware that if the Respondent declines to respond to the Department's offer, the Department will assume that the Respondent is not interested in resolving the matter and will proceed accordingly.

If you have any questions, please contact Juliana Suarez-Mitnik at 561-681-6614 or at Juliana.Suarez@floridadep.gov.

Sincerely,



Jason Andreotta
District Director
Southeast District

ec: Greg Kennedy, FDEP/SED
Juliana Suarez-Mitnik, FDEP/SED
Jorge Bello, MDPD
Eddie Pantoja, MDPD
William J. Toledo, MDPD
William A. Calabrese, MDPD

Greg.A.Kennedy@floridadep.gov
Juliana.Suarez@floridadep.gov
J.Bello@mdpd.com
EPantoja@mdpd.com
WJToledo@mdpd.com
WCalabrese@mdpd.com

FOR THE RESPONDENT:
Daniella Levine Cava

I, Carlos A. Gimenez *RG* [Type or Print Name], **HEREBY ACCEPT**
THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.

By: _____
[Signature]

Date: _____

Title: Mayor, Miami-Dade County
[Type or Print]

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this ____ day of _____, _____, in _____
County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Jason Andreotta
Director
Southeast District

Filed, on this date, pursuant to section 120.52, F.S., with the designated Department Clerk,
receipt of which is hereby acknowledged.

Clerk

Date

Attachments: Notice of Rights
 Exhibit A

Final clerked copy furnished to:

Lea Crandall, Agency Clerk
Shirley Richards, FDEP/SED
Greg Kennedy, FDEP/SED
Juliana Suarez-Mitnik, FDEP/SED
Jorge Bello, MDPD
Eddie Pantoja, MDPD
William J. Toledo, MDPD
William A. Calabrese, MDPD

lea.crandall@floridadep.gov
Shirley.Richards@floridadep.gov
Greg.A.Kennedy@floridadep.gov
Juliana.Suarez@floridadep.gov
J.Bello@mdpd.com
EPantoja@mdpd.com
WJToledo@mdpd.com
WCalabrese@mdpd.com

NOTICE OF RIGHTS

Persons who are not parties to this Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Order means that the Department's final action may be different from the position it has taken in the Order.

The petition for administrative hearing must contain all of the following information:

- a) The OGC Number assigned to this Order;
- b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;
- c) An explanation of how the petitioner's substantial interests will be affected by the Order;
- d) A statement of when and how the petitioner received notice of the Order;
- e) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;
- f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Order; and
- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Order.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at the address indicated above. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under Sections 120.569 and 120.57, Florida Statutes. Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.

Exhibit A
In-Kind Projects

I. Introduction
Proposal

a. Within 60 days of the effective date of this Consent Order, Respondent shall submit, by certified mail, a detailed in-kind project proposal to the Department for evaluation. The proposal shall include a summary of benefits, proposed schedule for implementation and documentation of the estimated costs which are expected to be incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the in-kind project.

b. If the Department requests additional information or clarification due to a partially incomplete in-kind project proposal or requests modifications due to deficiencies with Department guidelines, Respondent shall submit, by certified mail, all requested additional information, clarification, and modifications within 15 days of receipts of written notice.

c. If upon review of the in-kind project proposal, the Department determines that the project cannot be accepted due to a substantially incomplete proposal or due to substantial deficiencies with minimum Department guidelines; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the proposal. Respondent shall correct and redress all the matters at issue and submit, by certified mail, a new proposal within 30 days of receipt of written notice. In the event that the revised proposal is not approved by the Department, Respondent shall make cash payment of the civil penalties within 30 days of Department notice. Respondent shall make payment by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/> It will take a number of days after this order is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

d. Within 120 days of the effective date of this Consent Order, Respondent shall obtain approval for an in-kind project from the Department. If an in-kind project proposal is not approved by the Department within 120 days of the effective date of this Consent Order, then Respondent shall make cash payment of the civil penalties within 30 days of Department notice. Respondent shall make payment by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/> It will take a number of days after this

order is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

e. Within 180 days of obtaining Department approval for the in-kind proposal or in accordance with the approved schedule submitted pursuant to paragraph I. a. above, Respondent shall complete the entire in-kind project.

f. During the implementation of the in-kind project, Respondent shall place appropriate sign(s) at the project site indicating that Respondent's involvement with the project is the result of a Department enforcement action. Respondent may remove the sign(s) after the project has been completed. However, after the project has been completed Respondent shall not post any sign(s) at the site indicating that the reason for the project was anything other than a Department enforcement action.

g. In the event, Respondent fails to timely submit any requested information to the Department, fails to complete implementation of the in-kind project or otherwise fails to comply with any provision of this paragraph, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalties shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$9,000.00 penalty, no additional penalties shall be assessed under paragraph the Department's Offer paragraph for failure to complete the requirement of this paragraph.

h. Within 15 days of completing the in-kind project, Respondent shall notify the Department, by certified mail, of the project completion and request a verification letter from the Department. Respondent shall submit supporting information verifying that the project was completed in accordance with the approved proposal and documentation showing the actual costs incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the project.

i. If upon review of the notification of completion, the Department determines that the project cannot be accepted due to a substantially incomplete notification of completion or due to substantial deviations from the approved in-kind project; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the project. Respondent shall correct and redress all the matters at issue and submit, by certified mail, a new notification of completion within 15 days of receipt of the Department's notice. If upon review of the new submittal, the Department determines that the in-kind project is still incomplete or not in accordance with the approved proposal, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalty shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$9,000.00, no additional penalties shall be assessed under the "Department's Offer" paragraph for failure to complete the requirements of this paragraph.



FLORIDA DEPARTMENT OF Environmental Protection

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

Southeast District Office
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
561-681-6600

August 25, 2020

Alfredo Ramirez, III, Director
Miami-Dade Police Department
9105 NW 25 Street
Doral, FL 33157
nir@mdpd.com

SUBJECT: Department of Environmental Protection v. Miami-Dade Police Department
OGC File No.: 20-0913
Miami-Dade Police Department Kendall Station
Tank Facility ID: 9814206

Mr. Ramirez:

The State of Florida Department of Environmental Protection ("Department") finds that Miami-Dade Police Department ("Respondent") failed to: perform Annual Operability Tests on the designated primary overfill protection device in 2018 and 2019, mark the fill box cover in accordance with *Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals*, API RP 1637, (R2012), 3rd Edition, July 2006, perform the Annual Operability Testing of release detection systems in 2018 and 2019 and maintain exterior coatings to prevent corrosion. Before sending this letter, the Department requested that the Respondent undertake certain actions to resolve the violation(s). These actions have since been completed. However, due to the nature of the violation(s), the Respondent remains subject to civil penalties. The Respondent is also responsible for costs incurred by the Department during the investigation of this matter.

The Department's Offer

Based on the violations described above, the Department is seeking \$10,000.00 in civil penalties and \$500.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$10,500.00. The civil penalties are apportioned as follows: \$4,000.00 for violation of Chapter 62-762.501(2)(e)4., Florida Administrative Code (F.A.C.), \$4,000.00 for Violation of Chapter 62-762.601(7), F.A.C., \$1,000.00 for Violation of Chapter 62-762.701(4)(c)., F.A.C. and \$1,000.00 for Violation of Chapter 62-762.501(2)(f)2., F.A.C.

In lieu of making cash payment of \$10,000.00 in civil penalties as set forth in the paragraph above, Respondent may elect to off-set this amount by implementing an in-kind penalty project, which must be approved by the Department. An in-kind project must be either an environmental enhancement, environmental restoration or a capital/facility improvement project and may not be a corrective action requirement of the Order or otherwise required by law. The Department may also consider the donation of environmentally sensitive land as an in-kind project. The value of the in-kind penalty project shall be one and a half times the civil penalty off-set amount, which in this case is the

equivalent of at least \$15,000.00. If Respondent chooses to implement an in-kind project, Respondent shall notify the Department of its election by certified mail within 15 days of the effective date of this Consent Order. Notwithstanding the election to implement an in-kind project, payment of the remaining \$500.00 in costs must be paid within 30 days of the effective date of the Consent Order. If Respondent elects to implement an in-kind project as provided in the paragraph above, then Respondent shall comply with all the requirements and time frames in Exhibit A entitled In-Kind Projects.

Respondent's Acceptance

If you wish to accept this offer and fully resolve the enforcement matter pending against the Respondent, please sign this letter and return it to the Department at Southeast District Office, 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406 or SED.Tanks@floridadep.gov within 15 calendar days of the mailing date of this offer. The Department will then countersign it and file it with a designated clerk of the Department. Once the document is filed with the designated clerk, it will constitute a final order of the Department pursuant to Section 120.52(7), F.S. and will be effective unless a request for an administrative hearing is filed by a third party in accordance with Chapter 120, F.S. and the attached Notice of Rights.

Daniella Levine Cava
By accepting this offer you, ~~Carlos A. Gimenez~~  [Type or Print Name], Designated Representative for Miami-Dade County:

- (1) certify that you are authorized and empowered to negotiate, enter into, and accept the terms of this offer in the name and on behalf of Respondent;
- (2) acknowledge and waive Respondent's right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this offer, once final;
- (3) acknowledge and waive Respondent's right to an appeal pursuant to Section 120.68, F.S.; and
- (4) acknowledge that payment of the above amount does not constitute a waiver of the Department's right, if any, to recover emergency response related costs and expenses for this matter.

The Department acknowledges that the Respondent's acceptance of this offer does not constitute an admission of liability for the violation(s) referenced above.

Respondent's Performance

After signing and returning this document to the Department,

- (1) If an in-kind project is elected to offset the civil penalty, Respondent must pay \$500.00 in full within 30 calendar days of the Department's final agency action on this order.
- (2) If an in-kind project is not elected within 15 days as outlined above, Respondent shall pay \$10,500.00 in full within 30 calendar days of the Department's final agency action on this Order.

- (3) Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/>. It will take a number of days after this order is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

The Department may enforce the terms of this document, once final, and seek to collect monies owed pursuant to Sections 120.69 and 403.121, F.S.

Until clerked by the Department, this letter is only a settlement offer and not a final agency action. Consequently, neither the Respondent nor any other party may request an administrative hearing to contest this letter pursuant to Chapter 120, F.S. Once this letter is clerked and becomes a final order of the Department, as explained above, the attached Notice of Rights will apply to parties, other than the Respondent, whose interests will be substantially affected.

Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

Please be aware that if the Respondent declines to respond to the Department's offer, the Department will assume that the Respondent is not interested in resolving the matter and will proceed accordingly.

If you have any questions, please contact Juliana Suarez-Mitnik at 561-681-6614 or at Juliana.Suarez@floridadep.gov.

Sincerely,



Jason Andreotta
District Director
Southeast District

cc: Greg Kennedy, FDEP/SED
Juliana Suarez-Mitnik, FDEP/SED
Jorge Bello, MDPD
Eddie Pantoja, MDPD
William J. Toledo, MDPD
William A. Calabrese, MDPD

Greg.A.Kennedy@floridadep.gov
Juliana.Suarez@floridadep.gov
J.Bello@mdpd.com
EPantoja@mdpd.com
WJToledo@mdpd.com
WCalabrese@mdpd.com

FOR THE RESPONDENT:

Daniella Levine Cava

I, Carlos A. Gimenez  [Type or Print Name], **HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By: _____
[Signature]

Date: _____

Title: Mayor, Miami-Dade County
[Type or Print]

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this ____ day of _____, ____, in _____ County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Jason Andreotta
District Director
Southeast District

Filed, on this date, pursuant to section 120.52, F.S., with the designated Department Clerk, receipt of which is hereby acknowledged.

Clerk

Date

Attachments: Notice of Rights
 Exhibit A

Final clerked copy furnished to:

Lea Crandall, Agency Clerk
Shirley Richards, FDEP/SED
Greg Kennedy, FDEP/SED
Juliana Suarez-Mitnik, FDEP/SED
Jorge Bello, MDPD
Eddie Pantoja, MDPD
William J. Toledo, MDPD
William A. Calabrese, MDPD

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Juliana.Suarez@floridadep.gov
J.Bello@mdpd.com
EPantoja@mdpd.com
WJToledo@mdpd.com
WCalabrese@mdpd.com

NOTICE OF RIGHTS

Persons who are not parties to this Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Order means that the Department's final action may be different from the position it has taken in the Order.

The petition for administrative hearing must contain all of the following information:

- a) The OGC Number assigned to this Order;
- b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;
- c) An explanation of how the petitioner's substantial interests will be affected by the Order;
- d) A statement of when and how the petitioner received notice of the Order;
- e) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;
- f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Order; and
- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Order.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at the address indicated above. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under Sections 120.569 and 120.57, Florida Statutes. Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.

Exhibit A
In-Kind Projects

I. Introduction
Proposal

a. Within 60 days of the effective date of this Consent Order, Respondent shall submit, by certified mail, a detailed in-kind project proposal to the Department for evaluation. The proposal shall include a summary of benefits, proposed schedule for implementation and documentation of the estimated costs which are expected to be incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the in-kind project.

b. If the Department requests additional information or clarification due to a partially incomplete in-kind project proposal or requests modifications due to deficiencies with Department guidelines, Respondent shall submit, by certified mail, all requested additional information, clarification, and modifications within 15 days of receipts of written notice.

c. If upon review of the in-kind project proposal, the Department determines that the project cannot be accepted due to a substantially incomplete proposal or due to substantial deficiencies with minimum Department guidelines; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the proposal. Respondent shall correct and redress all the matters at issue and submit, by certified mail, a new proposal within 30 days of receipt of written notice. In the event that the revised proposal is not approved by the Department, Respondent shall make cash payment of the civil penalties within 30 days of Department notice. Respondent shall make payment by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/> It will take a number of days after this order is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

d. Within 120 days of the effective date of this Consent Order, Respondent shall obtain approval for an in-kind project from the Department. If an in-kind project proposal is not approved by the Department within 120 days of the effective date of this Consent Order, then Respondent shall make cash payment of the civil penalties within 30 days of Department notice. Respondent shall make payment by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/> It will take a number of days after this order is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

e. Within 180 days of obtaining Department approval for the in-kind proposal or in accordance with the approved schedule submitted pursuant to paragraph I. a. above, Respondent shall complete the entire in-kind project.

f. During the implementation of the in-kind project, Respondent shall place appropriate sign(s) at the project site indicating that Respondent's involvement with the project is the result of a Department enforcement action. Respondent may remove the sign(s) after the project has been completed. However, after the project has been completed Respondent shall not post any sign(s) at the site indicating that the reason for the project was anything other than a Department enforcement action.

g. In the event, Respondent fails to timely submit any requested information to the Department, fails to complete implementation of the in-kind project or otherwise fails to comply with any provision of this paragraph, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalties shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$10,000.00 penalty, no additional penalties shall be assessed under paragraph the Department's Offer paragraph for failure to complete the requirement of this paragraph.

h. Within 15 days of completing the in-kind project, Respondent shall notify the Department, by certified mail, of the project completion and request a verification letter from the Department. Respondent shall submit supporting information verifying that the project was completed in accordance with the approved proposal and documentation showing the actual costs incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the project.

i. If upon review of the notification of completion, the Department determines that the project cannot be accepted due to a substantially incomplete notification of completion or due to substantial deviations from the approved in-kind project; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the project. Respondent shall correct and redress all the matters at issue and submit, by certified mail, a new notification of completion within 15 days of receipt of the Department's notice. If upon review of the new submittal, the Department determines that the in-kind project is still incomplete or not in accordance with the approved proposal, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalty shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$10,000.00, no additional penalties shall be assessed under the "Department's Offer" paragraph for failure to complete the requirements of this paragraph.



FLORIDA DEPARTMENT OF Environmental Protection

Southeast District Office
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
561-681-6600

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

August 24, 2020

Alfredo Ramirez, III, Director
Miami-Dade Police Department
9105 NW 25 Street
Doral, FL 33157
nir@mdpd.com

SUBJECT: Department of Environmental Protection v. Miami-Dade Police Department
OGC File No.: 20-0924
Miami-Dade Police Department Northwest Station
Tank Facility ID: 9814207

Mr. Ramirez:

The State of Florida Department of Environmental Protection ("Department") finds that Miami-Dade Police Department ("Respondent") failed to: perform Annual Operability Tests on the designated primary overfill protection device in 2018 and 2019, ensure the tank is not filled passed the 95% level and perform the Annual Operability Testing of release detection systems in 2018 and 2019. Before sending this letter, the Department requested that the Respondent undertake certain actions to resolve the violation(s). These actions have since been completed. However, due to the nature of the violation(s), the Respondent remains subject to civil penalties. The Respondent is also responsible for costs incurred by the Department during the investigation of this matter.

The Department's Offer

Based on the violations described above, the Department is seeking \$8,000.00 in civil penalties and \$500.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$8,500.00. The civil penalties are apportioned as follows: \$4,000.00 for violation of Chapter 62-762.501(2)(e)4., Florida Administrative Code (F.A.C.) and \$4,000.00 for Violation of Chapter 62-762.601(7), F.A.C.

In lieu of making cash payment of \$8,000.00 in civil penalties as set forth in the paragraph above, Respondent may elect to off-set this amount by implementing an in-kind penalty project, which must be approved by the Department. An in-kind project must be either an environmental enhancement, environmental restoration or a capital/facility improvement project and may not be a corrective action requirement of the Order or otherwise required by law. The Department may also consider the donation of environmentally sensitive land as an in-kind project. The value of the in-kind penalty project shall be one and a half times the civil penalty off-set amount, which in this case is the equivalent of at least \$12,000.00. If Respondent chooses to implement an in-

kind project, Respondent shall notify the Department of its election by certified mail within 15 days of the effective date of this Consent Order. Notwithstanding the election to implement an in-kind project, payment of the remaining \$500.00 in costs must be paid within 30 days of the effective date of the Consent Order. If Respondent elects to implement an in-kind project as provided in the paragraph above, then Respondent shall comply with all the requirements and time frames in Exhibit A entitled In-Kind Projects.

Respondent's Acceptance

If you wish to accept this offer and fully resolve the enforcement matter pending against the Respondent, please sign this letter and return it to the Department at Southeast District Office, 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406 or SED.Tanks@floridadep.gov within 15 calendar days of the mailing date of this offer. The Department will then countersign it and file it with a designated clerk of the Department. Once the document is filed with the designated clerk, it will constitute a final order of the Department pursuant to Section 120.52(7), F.S. and will be effective unless a request for an administrative hearing is filed by a third party in accordance with Chapter 120, F.S. and the attached Notice of Rights.

Daniella Levine Cava, Mayor

By accepting this offer you, Carlos A. Gimenez, Mayor  [Type or Print Name], Designated Representative for Miami-Dade County:

- (1) certify that you are authorized and empowered to negotiate, enter into, and accept the terms of this offer in the name and on behalf of Respondent;
- (2) acknowledge and waive Respondent's right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this offer, once final;
- (3) acknowledge and waive Respondent's right to an appeal pursuant to Section 120.68, F.S.; and
- (4) acknowledge that payment of the above amount does not constitute a waiver of the Department's right, if any, to recover emergency response related costs and expenses for this matter.

The Department acknowledges that the Respondent's acceptance of this offer does not constitute an admission of liability for the violation(s) referenced above.

Respondent's Performance

After signing and returning this document to the Department,

- (1) If an in-kind project is elected to offset the civil penalty, Respondent must pay \$500.00 in full within 30 calendar days of the Department's final agency action on this order.
If an in-kind project is not elected within 15 days as outlined above, Respondent shall pay \$8,500.00 in full within 30 calendar days of the Department's final agency action on this Order.

- (2) Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/>. It will take a number of days after this order is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

The Department may enforce the terms of this document, once final, and seek to collect monies owed pursuant to Sections 120.69 and 403.121, F.S.

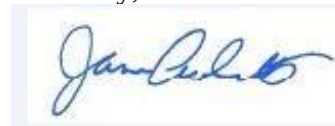
Until clerked by the Department, this letter is only a settlement offer and not a final agency action. Consequently, neither the Respondent nor any other party may request an administrative hearing to contest this letter pursuant to Chapter 120, F.S. Once this letter is clerked and becomes a final order of the Department, as explained above, the attached Notice of Rights will apply to parties, other than the Respondent, whose interests will be substantially affected.

Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

Please be aware that if the Respondent declines to respond to the Department's offer, the Department will assume that the Respondent is not interested in resolving the matter and will proceed accordingly.

If you have any questions, please contact Juliana Suarez-Mitnik at 561-681-6614 or at Juliana.Suarez@floridadep.gov.

Sincerely,



Jason Andreotta
Director
Southeast District

ec: Greg Kennedy, FDEP/SED
Juliana Suarez-Mitnik, FDEP/SED
Jorge Bello, MDPD
Eddie Pantoja, MDPD
William J. Toledo, MDPD
William A. Calabrese, MDPD

Greg.A.Kennedy@floridadep.gov
Juliana.Suarez@floridadep.gov
J.Bello@mdpd.com
EPantoja@mdpd.com
WJToledo@mdpd.com
WCalabrese@mdpd.com

FOR THE RESPONDENT:

Daniella Levine Cava, Mayor 
I, ~~Carlos A. Gimenez~~ [Type or Print Name], **HEREBY ACCEPT**
THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.

By: _____ Date: _____
[Signature]

Title: Mayor, Miami-Dade County
[Type or Print]

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this _____ day of _____, 20____, in _____ County,
Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Jason Andreotta
Director
Southeast District

Filed, on this date, pursuant to section 120.52, F.S., with the designated Department Clerk,
receipt of which is hereby acknowledged.

Clerk

Date

Attachments: Notice of Rights
 Exhibit A

Final clerked copy furnished to:

Lea Crandall, Agency Clerk
Shirley Richards, FDEP/SED
Greg Kennedy, FDEP/SED
Juliana Suarez-Mitnik, FDEP/SED
Jorge Bello, MDPD
Eddie Pantoja, MDPD

lea.crandall@floridadep.gov
Shirley.Richards@floridadep.gov
Greg.A.Kennedy@floridadep.gov
Juliana.Suarez@floridadep.gov
J.Bello@mdpd.com
EPantoja@mdpd.com

William J. Toledo, MDPD
William A. Calabrese, MDPD

WJToledo@mdpd.com
WCalabrese@mdpd.com

NOTICE OF RIGHTS

Persons who are not parties to this Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Order means that the Department's final action may be different from the position it has taken in the Order.

The petition for administrative hearing must contain all of the following information:

- a) The OGC Number assigned to this Order;
- b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;
- c) An explanation of how the petitioner's substantial interests will be affected by the Order;
- d) A statement of when and how the petitioner received notice of the Order;
- e) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;
- f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Order; and
- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Order.
- i)

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at the address indicated above. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under Sections 120.569 and 120.57, Florida Statutes. Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.

Exhibit A
In-Kind Projects

I. Introduction
Proposal

a. Within 60 days of the effective date of this Consent Order, Respondent shall submit, by certified mail, a detailed in-kind project proposal to the Department for evaluation. The proposal shall include a summary of benefits, proposed schedule for implementation and documentation of the estimated costs which are expected to be incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the in-kind project.

b. If the Department requests additional information or clarification due to a partially incomplete in-kind project proposal or requests modifications due to deficiencies with Department guidelines, Respondent shall submit, by certified mail, all requested additional information, clarification, and modifications within 15 days of receipt of written notice.

c. If upon review of the in-kind project proposal, the Department determines that the project cannot be accepted due to a substantially incomplete proposal or due to substantial deficiencies with minimum Department guidelines; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the proposal. Respondent shall correct and redress all the matters at issue and submit, by certified mail, a new proposal within 30 days of receipt of written notice. In the event that the revised proposal is not approved by the Department, Respondent shall make cash payment of the civil penalties within 30 days of Department notice. Respondent shall make payment by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/> It will take a number of days after this order is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

d. Within 120 days of the effective date of this Consent Order, Respondent shall obtain approval for an in-kind project from the Department. If an in-kind project proposal is not approved by the Department within 120 days of the effective date of this Consent Order, then Respondent shall make cash payment of the civil penalties within 30 days of Department notice. Respondent shall make payment by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/> It will take a number of days after this order is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

e. Within 180 days of obtaining Department approval for the in-kind proposal or in accordance with the approved schedule submitted pursuant to paragraph I. a. above, Respondent shall complete the entire in-kind project.

f. During the implementation of the in-kind project, Respondent shall place appropriate sign(s) at the project site indicating that Respondent's involvement with the project is the result of a Department enforcement action. Respondent may remove the sign(s) after the project has been completed. However, after the project has been completed Respondent shall not post any sign(s) at the site indicating that the reason for the project was anything other than a Department enforcement action.

g. In the event, Respondent fails to timely submit any requested information to the Department, fails to complete implementation of the in-kind project or otherwise fails to comply with any provision of this paragraph, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalties shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$8,000.00 penalty, no additional penalties shall be assessed under paragraph the Department's Offer paragraph for failure to complete the requirement of this paragraph.

h. Within 15 days of completing the in-kind project, Respondent shall notify the Department, by certified mail, of the project completion and request a verification letter from the Department. Respondent shall submit supporting information verifying that the project was completed in accordance with the approved proposal and documentation showing the actual costs incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the project.

i. If upon review of the notification of completion, the Department determines that the project cannot be accepted due to a substantially incomplete notification of completion or due to substantial deviations from the approved in-kind project; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the project. Respondent shall correct and redress all the matters at issue and submit, by certified mail, a new notification of completion within 15 days of receipt of the Department's notice. If upon review of the new submittal, the Department determines that the in-kind project is still incomplete or not in accordance with the approved proposal, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalty shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$8,000.00, no additional penalties shall be assessed under the "Department's Offer" paragraph for failure to complete the requirements of this paragraph.



FLORIDA DEPARTMENT OF Environmental Protection

Southeast District Office
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
561-681-6600

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

August 24, 2020

Alfredo Ramirez, III, Director
Miami-Dade Police Department
9105 NW 25 Street
Doral, FL 33157
nir@mdpd.com

SUBJECT: Department of Environmental Protection v. Miami-Dade Police Department
OGC File No.: 20-0925
Miami-Dade Police Department South Station
Tank Facility ID: 9814209

Mr. Ramirez:

The State of Florida Department of Environmental Protection ("Department") finds that Miami-Dade Police Department ("Respondent") failed to perform Annual Operability Tests on the designated primary overfill protection device in 2018 and 2019. Before sending this letter, the Department requested that the Respondent undertake certain actions to resolve the violation(s). These actions have since been completed. However, due to the nature of the violation(s), the Respondent remains subject to civil penalties. The Respondent is also responsible for costs incurred by the Department during the investigation of this matter.

The Department's Offer

Based on the violations described above, the Department is seeking \$4,000.00 in civil penalties and \$500.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$4,500.00. The civil penalties are apportioned as follows: \$4,000.00 for violation of Chapter 62-762.501(2)(e)4, F.A.C.

In lieu of making cash payment of \$4,000.00 in civil penalties as set forth in the paragraph above, Respondent may elect to off-set this amount by implementing an in-kind penalty project, which must be approved by the Department. An in-kind project must be either an environmental enhancement, environmental restoration or a capital/facility improvement project and may not be a corrective action requirement of the Order or otherwise required by law. The Department may also consider the donation of environmentally sensitive land as an in-kind project. The value of the in-kind penalty project shall be one and a half times the civil penalty off-set amount, which in this case is the equivalent of at least \$6,000.00. If Respondent chooses to implement an in-kind

project, Respondent shall notify the Department of its election by certified mail within 15 days of the effective date of this Consent Order. Notwithstanding the election to implement an in-kind project, payment of the remaining \$500.00 in costs must be paid within 30 days of the effective date of the Consent Order. If Respondent elects to implement an in-kind project as provided in the paragraph above, then Respondent shall comply with all the requirements and time frames in Exhibit A entitled In-Kind Projects.

Respondent's Acceptance

If you wish to accept this offer and fully resolve the enforcement matter pending against the Respondent, please sign this letter and return it to the Department at Southeast District Office, 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406 or SED.Tanks@floridadep.gov within 15 calendar days of the mailing date of this offer. The Department will then countersign it and file it with a designated clerk of the Department. Once the document is filed with the designated clerk, it will constitute a final order of the Department pursuant to Section 120.52(7), F.S. and will be effective unless a request for an administrative hearing is filed by a third party in accordance with Chapter 120, F.S. and the attached Notice of Rights.

Daniella Levine Cava, Mayor 

By accepting this offer you, Carlos A. Gimenez, Mayor [Type or Print Name], Designated Representative for Miami-Dade County:

- (1) certify that you are authorized and empowered to negotiate, enter into, and accept the terms of this offer in the name and on behalf of Respondent;
- (2) acknowledge and waive Respondent's right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this offer, once final;
- (3) acknowledge and waive Respondent's right to an appeal pursuant to Section 120.68, F.S.; and
- (4) acknowledge that payment of the above amount does not constitute a waiver of the Department's right, if any, to recover emergency response related costs and expenses for this matter.

The Department acknowledges that the Respondent's acceptance of this offer does not constitute an admission of liability for the violation(s) referenced above.

Respondent's Performance

After signing and returning this document to the Department,

- (1) If an in-kind project is elected to offset the civil penalty, Respondent must pay \$500.00 in full within 30 calendar days of the Department's final agency action on this order.

- (2) If an in-kind project is not elected within 15 days as outlined above, Respondent shall pay \$4,500.00 in full within 30 calendar days of the Department's final agency action on this Order.
- (3) Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/> It will take a number of days after this order is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

The Department may enforce the terms of this document, once final, and seek to collect monies owed pursuant to Sections 120.69 and 403.121, F.S.

Until clerked by the Department, this letter is only a settlement offer and not a final agency action. Consequently, neither the Respondent nor any other party may request an administrative hearing to contest this letter pursuant to Chapter 120, F.S. Once this letter is clerked and becomes a final order of the Department, as explained above, the attached Notice of Rights will apply to parties, other than the Respondent, whose interests will be substantially affected.

Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

Please be aware that if the Respondent declines to respond to the Department's offer, the Department will assume that the Respondent is not interested in resolving the matter and will proceed accordingly.

If you have any questions, please contact Juliana Suarez-Mitnik at 561-681-6614 or at Juliana.Suarez@floridadep.gov.

Sincerely,



Jason Andreotta
Director
Southeast District

ec: Greg Kennedy, FDEP/SED
Juliana Suarez-Mitnik, FDEP/SED
Jorge Bello, MDPD
Eddie Pantoja, MDPD
William J. Toledo, MDPD
William A. Calabrese, MDPD

Greg.A.Kennedy@floridadep.gov
Juliana.Suarez@floridadep.gov
J.Bello@mdpd.com
EPantoja@mdpd.com
WJToledo@mdpd.com
WCalabrese@mdpd.com

FOR THE RESPONDENT:

Daniella Levine Cava

I, Carlos A. Gimenez [Type or Print Name], **HEREBY ACCEPT**
THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.

By: _____
[Signature]

Date: _____

Title: Mayor, Miami-Dade County
[Type or Print]

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this ____ day of _____, _____, in Orange County,
Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Jason Andreotta
Director
Southeast District

Filed, on this date, pursuant to section 120.52, F.S., with the designated Department Clerk,
receipt of which is hereby acknowledged.

Clerk

Date

Attachments: Notice of Rights
 Exhibit A

Final clerked copy furnished to:

Lea Crandall, Agency Clerk
Shirley Richards, FDEP/SED
Greg Kennedy, FDEP/SED
David Maloney, FDEP/SED
Eddie Pantoja, MDPD
William J. Toledo, MDPD
William A. Calabrese, MDPD

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Shirley.Richards@floridadep.gov
Greg.A.Kennedy@floridadep.gov
David.Maloney@floridadep.gov
EPantoja@mdpd.com
WJToledo@mdpd.com
WCalabrese@mdpd.com

NOTICE OF RIGHTS

Persons who are not parties to this Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Order means that the Department's final action may be different from the position it has taken in the Order.

The petition for administrative hearing must contain all of the following information:

- a) The OGC Number assigned to this Order;
- b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;
- c) An explanation of how the petitioner's substantial interests will be affected by the Order;
- d) A statement of when and how the petitioner received notice of the Order;
- e) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;
- f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Order; and
- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Order.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at the address indicated above. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under Sections 120.569 and 120.57, Florida Statutes. Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.

Exhibit A
In-Kind Projects

I. Introduction
Proposal

a. Within 60 days of the effective date of this Consent Order, Respondent shall submit, by certified mail, a detailed in-kind project proposal to the Department for evaluation. The proposal shall include a summary of benefits, proposed schedule for implementation and documentation of the estimated costs which are expected to be incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the in-kind project.

b. If the Department requests additional information or clarification due to a partially incomplete in-kind project proposal or requests modifications due to deficiencies with Department guidelines, Respondent shall submit, by certified mail, all requested additional information, clarification, and modifications within 15 days of receipt of written notice.

c. If upon review of the in-kind project proposal, the Department determines that the project cannot be accepted due to a substantially incomplete proposal or due to substantial deficiencies with minimum Department guidelines; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the proposal. Respondent shall correct and redress all the matters at issue and submit, by certified mail, a new proposal within 30 days of receipt of written notice. In the event that the revised proposal is not approved by the Department, Respondent shall make cash payment of the civil penalties within 30 days of Department notice. Respondent shall make payment by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldeportal.com/go/pay/>. It will take a number of days after this order is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

d. Within 120 days of the effective date of this Consent Order, Respondent shall obtain approval for an in-kind project from the Department. If an in-kind project proposal is not approved by the Department within 120 days of the effective date of this Consent Order, then Respondent shall make cash payment of the civil penalties within 30 days of Department notice. Respondent shall make payment by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldeportal.com/go/pay/>. It will take a number of days after this

order is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

e. Within 180 days of obtaining Department approval for the in-kind proposal or in accordance with the approved schedule submitted pursuant to paragraph I. a. above, Respondent shall complete the entire in-kind project.

f. During the implementation of the in-kind project, Respondent shall place appropriate sign(s) at the project site indicating that Respondent's involvement with the project is the result of a Department enforcement action. Respondent may remove the sign(s) after the project has been completed. However, after the project has been completed Respondent shall not post any sign(s) at the site indicating that the reason for the project was anything other than a Department enforcement action.

g. In the event, Respondent fails to timely submit any requested information to the Department, fails to complete implementation of the in-kind project or otherwise fails to comply with any provision of this paragraph, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalties shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$4,000.00 penalty, no additional penalties shall be assessed under paragraph the Department's Offer paragraph for failure to complete the requirement of this paragraph.

h. Within 15 days of completing the in-kind project, Respondent shall notify the Department, by certified mail, of the project completion and request a verification letter from the Department. Respondent shall submit supporting information verifying that the project was completed in accordance with the approved proposal and documentation showing the actual costs incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the project.

i. If upon review of the notification of completion, the Department determines that the project cannot be accepted due to a substantially incomplete notification of completion or due to substantial deviations from the approved in-kind project; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the project. Respondent shall correct and redress all the matters at issue and submit, by certified mail, a new notification of completion within 15 days of receipt of the Department's notice. If upon review of the new submittal, the Department determines that the in-kind project is still incomplete or not in accordance with the approved proposal, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalty shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$4,000.00, no additional penalties shall be assessed under the "Department's Offer" paragraph for failure to complete the requirements of this paragraph.