



Elizabeth S. Campbell
District One

Lois Benson
District Two

Elvin McCorvey
District Three

Dale Perkins
District Four

Larry Walker
District Five

ECUA Mission Statement

The Mission of the Emerald Coast Utilities Authority is to promote the quality of life of the Emerald Coast by providing water, wastewater, and sanitation services in an effective and efficient manner.

AGENDA

A REGULAR MEETING OF THE
EMERALD COAST UTILITIES AUTHORITY BOARD
THURSDAY, MARCH 29, 2012
ECUA BOARD ROOM
9250 HAMMAN STREET
ELLYSON INDUSTRIAL PARK
3:00 P.M.

1. CALL TO ORDER
2. INVOCATION AND PLEDGE OF ALLEGIANCE
3. ADOPTION OF AGENDA
4. PRESENTATIONS:
 - (a) 2012 National Environmental Achievement Award from the National Association of Clean Water Agencies
5. APPROVAL OF MINUTES: Regular Board meeting of February 23, 2012, pg. 4
6. OPERATIONAL ITEMS:
 - (a) Escambia County CDBG Fire Hydrant Program – 2011 Program Year, pg. 11
 - (b) State Revolving Fund Loan Agreement-Amendment #2, pg. 14
 - (c) ECUA Septage Treatment and Receiving Program, pg. 16

- (d) Adoption of Resolution 12-05 – A PRELIMINARY RATE SETTING RESOLUTION PROVIDING FOR NOTICE AND PUBLIC HEARING CONCERNING THE PROPOSED ESTABLISHMENT OF REVISED CHARGES FOR THE DISPOSAL OF DOMESTIC SEPTAGE OR GREASE TRAP WASTE, pg. 21
 - (e) Proposed amendments to City of Pensacola Code, pg. 22
 - (f) Draft Consent Order from Florida Department of Environmental Protection, pg. 29
 - (g) Renewal of Contract for Legal Services – Odom & Barlow - *HANDOUT*
7. INFORMATIONAL REPORTS: (None)
 8. EXECUTIVE DIRECTOR’S REPORT:
 - (a) Expenditures approved by the Executive Director – Main Street WWTP Replacement project, pg. 55
 - (b) Notification of Emergency Purchase – Repair of dryer #1, pg. 56
 - (e) Notification of Expenditures approved by the Executive Director, pg. 57
 9. ATTORNEY’S REPORT
 10. UNFINISHED BUSINESS
 11. NEW BUSINESS
 12. BOARD COMMUNICATIONS
 13. OPEN FORUM
 14. ADJOURNMENT

The next regular meeting of the Emerald Coast Utilities Authority Board is scheduled for Thursday, **April 26, 2012 at 3:00 p.m.** in the ECUA Board Room at 9250 Hamman Street, Ellyson Industrial Park.

Any person who decides to appeal any decision made by ECUA with respect to any matter considered at this meeting or hearing will need a record of the proceedings thereof. Since ECUA does not make verbatim records of its proceedings, such person may need to independently secure such a record, which should include the testimony and evidence on which the appeal is to be based.

Pursuant to the U.S. Americans with Disabilities Act, the ECUA will make reasonable modifications for access to ECUA services, programs, and activities by any qualified individual with a disability. Please call (850) 476-5110 (voice callers) or 1-800-955-8771 (TDD) for further information. Requests must be made at least 48 hours in advance of the event in order to allow the ECUA sufficient time to provide the requested accessibility.

GUIDELINES FOR OPEN FORUM

1. Presentations are limited to **three** minutes.
2. The Chairman may extend the time allowed if the Chairman determines an extension is necessary in order to allow sufficient time for a presentation. In this event, all persons addressing the same issue shall be allowed a similar extension of time.
3. If a large number of persons have indicated their desire to speak, the Chairman may reduce the time allowed for presentations in order to avoid unduly prolonging the meeting.
4. Presentations are limited to agenda items or other issues related to ECUA.
5. Comments of a personal nature concerning any individual or comments or actions which are disruptive will not be permitted.

MINUTES OF THE EMERALD COAST UTILITIES AUTHORITY BOARD MEETING
HELD THURSDAY, FEBRUARY 23, 2012 AT 3:00 P.M. IN THE ECUA BOARD
ROOM AT 9250 HAMMAN STREET, ELLYSON INDUSTRIAL PARK, PENSACOLA,
FL

Members present: Elvin McCorvey, Chairman
Elizabeth S. Campbell, Vice Chairman
Lois Benson
Dale Perkins
Larry Walker

Counsel present: Bradley S. Odom

Staff present: Stephen E. Sorrell, Executive Director
Debra Buckley, Director of Finance
Tim Haag, Director of Communications and
Government Affairs
Linda Iversen, Executive Assistant to the Board
Bill Johnson, Director of Engineering
Jim Roberts, Public Information Officer
Randy Rudd, Deputy Executive Director-Shared
Services

ITEM 1 – CALL TO ORDER

Chairman McCorvey called the regular meeting of the Emerald Coast Utilities Authority Board to order at approximately 3:00 p.m.

ITEM 2 – INVOCATION AND PLEDGE OF ALLEGIANCE

Dr. Walker provided the invocation and led the Pledge of Allegiance.

ITEM 3 – ADOPTION OF AGENDA

Chairman McCorvey requested that Item 7(g) be moved to follow item 5.

A motion was made by Mr. Perkins, seconded by Dr. Walker, to adopt the agenda as presented and amended. Motion carried 5-0.

ITEM 4 – COMMUNICATIONS AND PRESENTATIONS

None.

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ITEM 5 – APPROVAL OF MINUTES

A motion was made by Ms. Benson, seconded by Dr. Walker, to approve the minutes of the regular Board meeting of January 26, 2012 as presented. Motion carried 5-0.

ITEM 6 - REPORT OF THE CITIZENS' ADVISORY COMMITTEE 02/15/12

F. Presentation by Malcolm Pirnie - Inflow and Infiltration Program Update

Presentation in Committee only – no action taken.

G. Pharmaceuticals Take-Back Program – Discussion

Discussion in Committee only – no action taken.

H. Main Street WWTP Property

A motion was made by Ms. Benson, seconded by Mr. Perkins, that ECUA go on record that it is objecting to the proposed changes to the Land Development Code in that it is overly restrictive and devalues the Main Street property. Motion carried 5-0.

Ms. Benson reported that she contacted members of the County Commission and the County Administrator as to the proposed changes and the position of the ECUA.

ITEM 7 - OPERATIONAL ITEMS:

(a) St. Joseph sewer expansion – Change order no. 2

A motion was made by Ms. Benson, seconded by Ms. Campbell, to authorize the Executive Director to execute a change order with Utility Service Company in the amount of \$57,404.61 for paving associated with the St. Joseph Street Sewer Expansion, with funding from CIP Project CS317. Motion carried 5-0.

(b) Award of bid: Innerarity Point Road watermain upgrades

A motion was made by Ms. Benson, and seconded, to award the contract for Innerarity Point Road Watermain Upgrades to Evans Contracting, the lowest bidder, for the Base Bid plus Additive Alternate Bids I and II in the

Board meeting 02/23/12

amount of \$424,749.00, with funds allocated from CIP Project RW306Q. Motion carried 5-0.

(c) Award of purchase: Replacement vehicles-fiscal year 2012

A motion was made by Dr. Walker, seconded by Ms. Campbell, to approve staff to utilize state purchasing contracts to purchase replacement vehicles for fiscal year 2012 in the amount of \$1,188,898 which is approved and available in the fiscal year 2012 CIP budget for vehicle replacement, with funding from CIP Project RA209, and declare all vehicles listed for replacement as surplus. Motion carried 5-0.

(d) Easement agreement – Gulf Power Company

A motion was made by Mr. Perkins, seconded by Ms. Benson, to approve the easement agreement and authorize the Executive Director to execute that document.

An amendment was made to grant the Executive Director the power to rescind approval of the easement as he sees fit. The vote on the amendment carried 5-0.

The vote on the motion as amended carried 5-0.

Mr. Sorrell reported on the outcome of the meeting between ECUA staff and City of Pensacola staff regarding the proposed City changes to the City's Land Development Code. Mr. Sorrell stated that the City is willing to work with the ECUA and they are willing to make changes to the Code to something that ECUA can live with.

Mr. Barry Tweedie commented on the Board's discussion relative to the proposed changes to the Land Development Code.

Discussion was held concerning the granting of a 10 foot easement to Gulf Power along the entire southern portion of the Main Street WWTP property, with Ms. Benson requesting that the attorney and/or staff get with Gulf Power and express the concerns the Board has regarding possible structures being placed on the easement.

(e) Procurement guidelines and thresholds

A motion was made by Dr. Walker, seconded by Ms. Campbell, to revise the ECUA purchasing policy as outlined. Motion carried 3-2 with Ms. Benson and Mr. Perkins voting against the motion.

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- a. Increase the threshold for purchases requiring more than one quote from \$1,000.00 to \$2,500.00 per transaction.
 - b. Increase the limits of the architectural, engineering and surveying services for construction projects from \$120,000.00 to \$325,000.00 and planning or study services from \$6,000.00 to \$35,000.00.
 - c. Increase the amount of construction and repair costs from \$15,000.00 to \$100,000.00 before requiring Payment and Performance bonds.
 - d. Increase the Executive Director's authority to approve construction projects and change orders from \$50,000.00 to \$100,000.00.
- (f) Adoption of Resolution 12-03

Although reflected in agenda order in these minutes, this item was considered following Item 6.

A motion was made by Mr. Perkins, seconded by Ms. Benson, to adopt Resolution 12-03 - A RESOLUTION AUTHORIZING THE LEASING OF COMPRESSED NATURAL GAS VEHICLES. Motion carried 5-0.

(g) Adoption of Resolution 12-04

Although reflected in agenda order in these minutes, this item was considered following Item 5.

Mr. Mitch Owens, ECUA Financial Advisor, and Mr. Richard Lott, ECUA Bond Counsel, provided an overview of the sanitation system bond refunding, outlining how the transaction will occur and the benefits to ECUA. Mr. Owens stated that ECUA would see a savings of approximately \$680,000, or 7.9%, which includes all closing costs. Also, Mr. Owens indicated that the transfer will be completed on March 1.

A motion was made by Mr. Perkins, seconded by Ms. Benson, to adopt Resolution 12-04 – A RESOLUTION OF THE EMERALD COAST UTILITIES AUTHORITY PROVIDING FOR THE ISSUANCE FROM TIME TO TIME OF SANITATION SYSTEM REVENUE BONDS TO PAY THE COST OF CERTAIN CAPITAL IMPROVEMENTS TO THE SANITATION SYSTEM OF THE ISSUER AND TO PAY THE COST OF REFUNDING CERTAIN OUTSTANDING OBLIGATIONS OF THE ISSUER; AUTHORIZING THE ISSUANCE OF A NOT EXCEEDING \$8,800,000

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SANITATION SYSTEM REFUNDING REVENUE BOND, SERIES 2012, FOR THE PURPOSE OF REFUNDING THE SANITATION SYSTEM IMPROVEMENT AND REFUNDING REVENUE BONDS, SERIES 1998; PLEDGING THE NET REVENUES OF THE SANITATION SYSTEM TO SECURE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS OF THE HOLDERS OF BONDS; AWARDING THE 2012 BOND; FIXING THE DATE, DENOMINATION, MATURITY, INTEREST RATE, INTEREST PAYMENT DATES AND REDEMPTION PROVISIONS WITH RESPECT TO THE 2012 BOND; AUTHORIZING OTHER ACTION IN CONNECTION WITH THE DELIVERY OF THE 2012 BOND; AND PROVIDING AN EFFECTIVE DATE. Motion carried 5-0.

ITEM 8 - INFORMATIONAL REPORTS:

None.

ITEM 9 - EXECUTIVE DIRECTOR'S REPORT:

The following reports were presented for information only and did not require action.

- (a) Expenditures approved by the Executive Director – Main Street WWTP Replacement project

Mr. Sorrell provided an additional update on the meeting with the City of Pensacola staff relative to proposed changes to the City's Land Development Code, stating the City is willing to work with ECUA so that the Main Street property will not be devalued.

Staff was requested to provide the results of the negotiations with the City to the Board.

Mr. Sorrell also reported that a draft Consent Order from the Florida Department of Environmental Protection on inflow and infiltration of the ECUA system has been received and that staff is negotiating a timeframe of 15 years. Once negotiations are complete, the document will be presented to the Board for approval.

ITEM 10 - ATTORNEY'S REPORT

Mr. Odom reported the following:

Board meeting 02/23/12

- (1) That they were able to secure a dismissal of an alleged discrimination case that was pending in Federal Court with ECUA owing nothing.
- (2) Regarding a case of alleged discrimination that was investigated by the EEOC, it was determined that there was no cause and ECUA was not in the wrong and was in compliance with all of the laws.
- (3) An employee appeal that was discharged to an administrative law judge who found that the employee was properly charged and that the employee did in fact do what he had been accused of and that the termination was upheld.

Mr. Odom further stated that in all three cases brought against ECUA, and in three separate instances, ECUA was found to be in compliance with all laws, rules and regulations and that is a credit to the organization - that arbitrary and capricious decisions are not being made, but are being done based upon sound, reason, fact, etc.

(4) Mr. Odom stated that there was a decision rendered by the Federal Court regarding the Numeric Nutrient Criteria (NNC) case and the part that ECUA was most concerned, the stream criteria that has been established, was stricken down by the Court as being arbitrary and capricious.

ITEM 11 - UNFINISHED BUSINESS

Mr. Sorrell informed the Board of recent hires and promotions, highlighting their skills, knowledge and abilities.

Dr. Walker commented that the Board should be proud and pleased with the quality of people that are working for ECUA.

Chairman McCorvey suggested that the recently promoted employees be invited to appear before the Board.

ITEM 12 - NEW BUSINESS

None.

ITEM 13 - BOARD COMMUNICATIONS

Ms. Benson reported on her successful recent trip to Tallahassee seeking legislative changes to particular laws regarding the designation of what

Board meeting 02/23/12

is considered a manufacturing business. Ms. Benson further suggested that ECUA look at other applicable laws that could be improved and that would allow ECUA to better do what it does.

Chairman McCorvey provided a report on his recent trip to the NACWA conference held in Los Angeles, CA, at which he accepted on ECUA's behalf an award for the Main Street WWTP replacement project.

Mr. Tim Haag provided additional comments on the award and advised that the NACWA would be conducting a Pre-treatment Workshop in Pensacola at the beach May 9-12. Tours of the new Central Water Reclamation Facility would be offered to those attending the workshop.

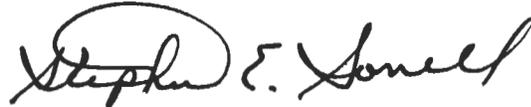
ITEM 14 - OPEN FORUM

None.

ITEM 15 - ADJOURNMENT

There being no further business to come before the regular meeting of the Emerald Coast Utilities Authority Board, Chairman McCorvey declared the meeting adjourned at approximately 4:03 p.m.

Respectfully submitted,



Stephen E. Sorrell
Executive Director

APPROVED BY THE ECUA BOARD
IN REGULAR SESSION ON _____.

- () Without corrections/amendments.
- () With corrections/amendments being:



MEMORANDUM

TO: Emerald Coast Utilities Authority Board

DATE: March 29, 2012

SUBJECT: Escambia County CDBG Fire Hydrant Program – 2011 Program Year (RW909J)

Background:

The ECUA and Escambia County have been working together since the 1991 program year to coordinate annual CDBG-funded improvements to ECUA's water distribution system. These efforts are focused on upgrading our distribution lines and installing fire hydrants to improve fire protection in eligible areas.

The County has established funds for its 2011 Program Year at \$151,500. Those areas involved are shown on the attached drawing. The agreement between the County and ECUA was presented to and approved by the Escambia County Board of Commissioners at their meeting on February 16, 2012. The ECUA staff and counsel have reviewed this contract and believe it is acceptable.

Issue:

The issue is to consider entering into a contract with Escambia County for the 2011 program year to make CDBG-funded improvements to provide fire protection.

Option 1:

Enter into a contract with Escambia County for the 2011 CDBG Fire Hydrant Program for construction of water system improvements.

Supporting Data:

CDBG funds are used to upgrade existing water lines and install fire hydrants to enhance fire protection in Block Grant areas. Engineering and construction administration services will be provided by ECUA.

Option 2:

Take some other action.

Emerald Coast Utilities Authority Board

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March 29, 2012

Subject: Escambia County CDBG Fire Hydrant Program – 2011 Program Year

Supporting Data:

N/A.

Policy Implications:

None.

Financial Impact:

Escambia County will provide \$151,500 in CDBG funds to be used to make improvements to the water system necessary to place additional fire hydrants into service and provide improved fire protection.

Origin:

Staff, this is an approved CIP project.

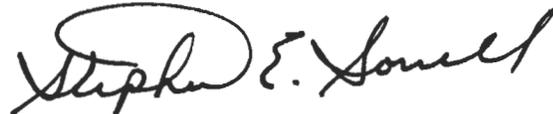
Staff Contact:

William E. Johnson, Director of Engineering, 969-3310.

Recommendation:

That the Board authorize the Executive Director to enter into a contract with Escambia County and proceed with the project through bidding for work related to the 2011 CDBG Fire Hydrant Program.

Respectfully submitted,

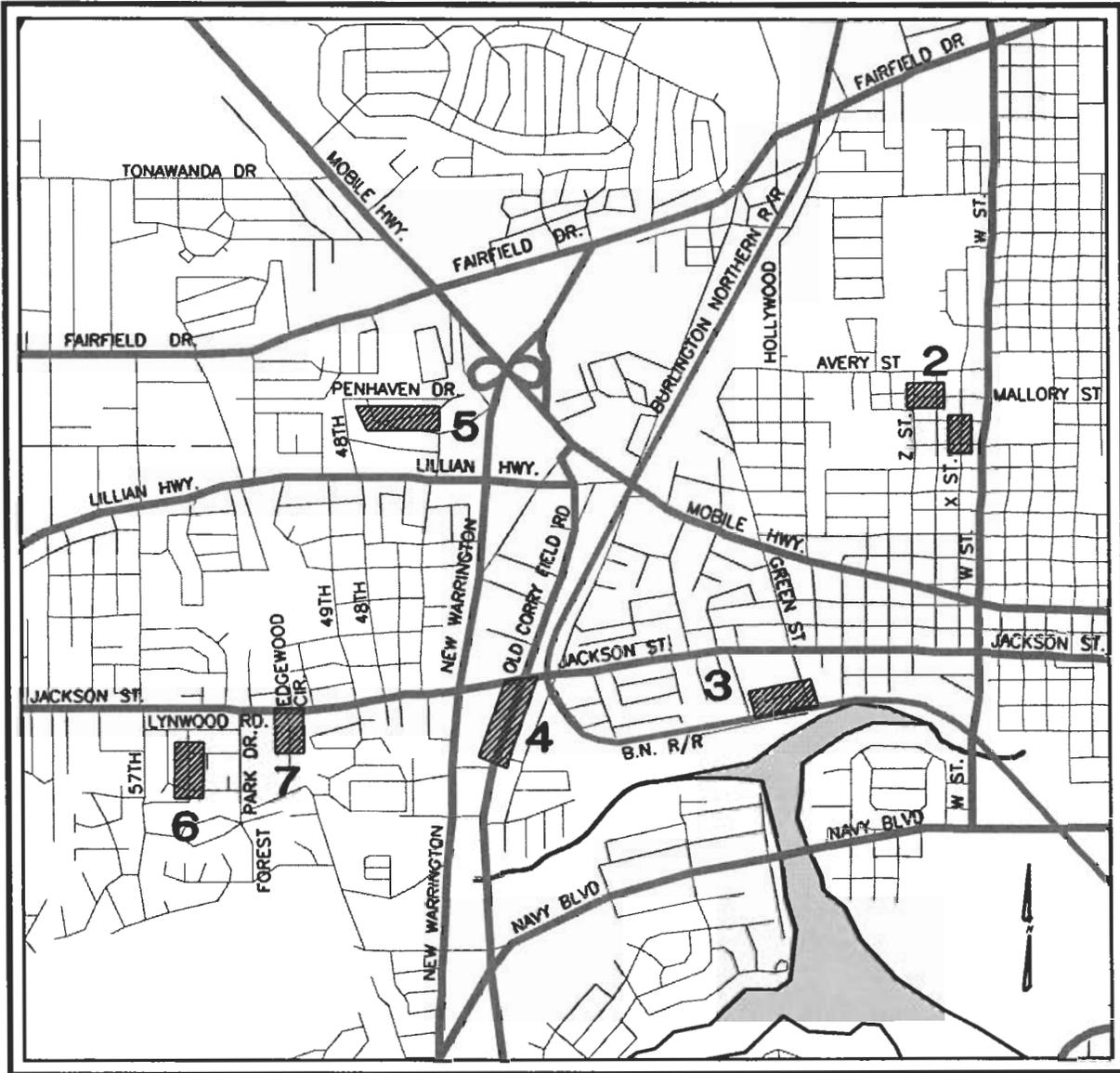


Stephen E. Sorrell
Executive Director

SES/WEJ/BJR

Attachment

EXHIBIT A



ESCAMBIA COUNTY CDBG FIRE HYDRANT PROGRAM 2011 PROGRAM YEAR

- MALLORY & X STREET _____ 2
- FRONTERA CIRCLE _____ 3
- OLD CORRYFIELD ROAD _____ 4
- RANDOLPH DRIVE _____ 5
- CLAIRMONT DRIVE _____ 6
- S. EDGEWOOD CIRCLE _____ ADDITIVE BID 7



MEMORANDUM

TO: Emerald Coast Utilities Authority Board
DATE: March 29, 2012
SUBJECT: Amendment 2 to the State Revolving Fund Loan Agreement

Background:

In 2008, ECUA and the Florida Department of Environmental Protection entered into a State Revolving Fund Loan (SRF) Agreement whereby ECUA obtained \$7,078,786 to be used in conjunction with the Main Street Wastewater Treatment Plant Replacement Project. In 2011, that agreement was amended to include another \$15,000,000; other changes were also made to the agreement. This year, the Department has authorized another \$10,000,000 disbursement. The current interest rate for borrowing these funds is 2.01%, but is subject to change after March 31, 2012.

Acceptance of the low interest rate SRF funds has allowed the ECUA to utilize the bank loan funds originally obtained for the Main Street WWTP project for ECUA Board approved capital improvement projects. This process has significantly reduced the financial costs of the projects since the fees associated with the issuance of bonds have been avoided. Moreover, the interest rate associated with the SRF funds is significantly lower than bond or bank loan financial transactions.

Issue:

The issue is to consider authorizing the Executive Director with legal counsel approval to execute Amendment 2 to the Loan Agreement WW816100.

Option 1:

Authorize the execution of Amendment 2 to the SRF Loan Agreement.

Supporting Data:

The funding made available through Amendment 2 will still be a very favorable rate even if it changes.

Emerald Coast Utilities Authority Board

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March 29, 2012

Subject: Amendment 2 to the State Revolving Fund Loan Agreement

Option 2:

Refuse to authorize the execution of Amendment 2.

Supporting Data:

This option is not recommended.

Policy Implications:

None.

Financial Impact:

The interest rate that is tied to the proposed amendment to the SRF Loan Agreement will provide lower interest payments for the ECUA's financing for the Main Street WWTP replacement project. The principle available through this amendment (\$10,000,000) will be used in place of funding that had been available through the bank loan for the Main Street project. Those funds will be reallocated to provide funding for ECUA Board approved Capital Improvement Program (CIP) project included in the fiscal year 2012 budget.

Origin:

The Florida Department of Environmental Protection.

Staff Contact:

Debra Buckley, Director of Finance, 969-3320.

Recommendation:

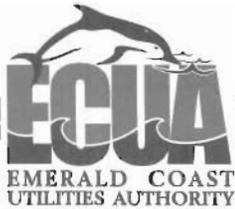
That the Board approve Amendment 2 to SRF Loan Agreement WW816100, and authorize the Executive Director and legal counsel to execute the agreement.

Respectfully submitted,



Stephen E. Sorrell
Executive Director

SES/DB/rb



MEMORANDUM

TO: Emerald Coast Utilities Authority Board

DATE: March 29, 2012

SUBJECT: New Septage Treatment System - CWRP

Background:

Beginning in late 1992, ECUA began accepting septage wastes for treatment and disposal at the Warrington Facilities. Three years later, ECUA began accepting grease trap wastes in addition to septage. Following the disposal system at Warrington, the ECUA placed a septage and grease trap treatment system into service at the Main Street WWTP in late 1997. The Board approved Resolution No. 03-01, in January 2003, which established a rate of \$55.00 per thousand gallons to accept and treat these wastes.

This service was discontinued by ECUA in November of 2005 when the septage and grease trap waste receiving and treatment operation was moved to the ECUA's former Cantonment Wastewater Treatment Plant site. ECUA agreed to a contract with the Zachary Company of Northwest Florida, LLC, for use of the site and for them to receive and treat septage and grease trap wastes.

Operation of this site has been problematic to say the least. Zachary's operation of the facility has resulted in a proposed consent order with FDEP, legal action by Escambia County, odor complaints, ongoing groundwater contamination issues, and process upsets of the Bayou Marcus Water Reclamation Facility from materials likely discharged from the Zachary Company. Additionally, the treatment provided by Zachary has been minimal with rough screening being the only treatment that is being performed. It would thus appear that the needs of the public for proper, lawful, and appropriate septage treatment and disposal services are not being adequately met by the private sector at this time. Considering the problems with the existing Zachary operation, ECUA staff has been evaluating septage treatment systems for our operation at the CWRP.

Issue:

The issue is to consider whether to conclude that the needs of the public for septage treatment and disposal services are not being adequately met by the private sector at this time and whether to therefore provide proper treatment services for septage, portable toilet, and grease trap wastes, and to establish a CIP budget for that

treatment. Additionally, it would be necessary to establish a revised rate for processing and disposing of septage, portable toilet, and grease trap wastes reflecting the actual costs of treatment by the ECUA should the decision be made to accept and treat it.

Option 1:

Establish an enterprise operation within the ECUA to accept the responsibility to provide proper treatment services for septage, portable toilet, and grease trap wastes, and establish a project budget with a capital cost of \$1.84 million and set a base rate to accept and treat the waste at \$81.00 per thousand gallons, during normal operating days/hours, and 150% of the rate (\$121.50) afterhours, during weekends and holidays.

Supporting Data:

Staff requested the preparation of a feasibility analysis by Baskerville-Donovan to consider ECUA's accepting septage, portable toilet and grease trap wastes, and to evaluate various pieces of equipment for this use. The feasibility study was completed in March and includes a recommendation for specific equipment, and a budget for this equipment construction and installation. The study included an evaluation of three different manufacturers' equipment, including site visits and detailed interviews with operators at the various sites. These visits included ECUA personnel in order to evaluate equipment performance, reliability and maintenance issues. This was necessary due to the difficult waste products, and the highly variable waste stream and the maintenance-intensive nature of the equipment. The report recommended a specific type and manufacturer of equipment and site work at the CWRP, which yields an associated capital cost that totals \$1.84 million.

In order to accept wastes in the interim, ECUA will need to refurbish certain equipment. There are costs associated with refurbishing and installing this equipment at the new CWRP while the recommended equipment is being manufactured and installed. These costs are illustrated above.

Additionally, the feasibility study recommended a user fee to support the capital costs plus operations, maintenance and replacement costs of this equipment. This rate structure should provide a recovery of the capital investment within five years. This cost analysis recommended an initial charge of \$81.00 per thousand gallons for this service (including a budget for operation staff time and maintenance personnel necessary to maintain and operate the equipment.) The charge would be in effect during normal operating hours which are usually Monday-Friday from 7 a.m.–5 p.m. A charge of 150% of the rate (\$121.50) would apply afterhours, on weekends and holidays. This fee is less than what is currently being charged to the haulers, especially to ECUA which has been

levied with a surcharge for disposal of lift station cleanings in excess of \$2,000.00 per load for approximately 3,000 gallons.

Option 2:

Do nothing and allow the private sector to continue to operate the sole facility for septage, portable toilets, and grease trap wastes disposal in the service area.

Supporting Data:

This would avoid the capital cost and some operation and maintenance costs. However, it should be noted that most of the treatment, other than coarse screening, is already being provided by ECUA's treatment plants and we are not receiving appropriate income for this treatment.

It is significant to note that the Zachary Company's operation of the Cantonment Wastewater Treatment Facility is currently the only facility in Northwest Florida that is willing or capable of handling septage, portable toilet, and grease trap waste, i.e., it is the only facility in the area being operated by the private sector to provide this service. Zachary's operations, however, have been extremely problematic. Escambia County has sued for injunctive relief to preclude certain activities there. The Florida Department of Environmental Protection has found Zachary's operations at that facility to constitute numerous violations of applicable laws, rules, and regulations. ECUA has also provided Zachary with formal notice of the actions which it must take in order to preclude ECUA's finding that it is in violation of the lease agreement for that facility.

ECUA requires restaurants that discharge into our sewer collection system to have their facilities regularly pumped out as part of the existing Fats Oils and Grease (FOG) program. Critical to that program is having a facility at which those wastes can be received, processed, and handled in conformance with all applicable laws, rules, and regulations. Currently this need does not appear to being met by the private sector.

Option 3:

Take some other action.

Supporting Data:

N/A.

Policy Implications:

None, as we previously accepted septage and grease. Moreover, ECUA's lease of the Cantonment WWTP to the Zachary Company expressly provides that ECUA reserved the right to receive, process, and dispose of septage at any time in the event it determined, in its sole discretion, that the needs of the public for septage treatment and disposal services were not being adequately met by Zachary or any other service provider in the private sector.

Financial Impact:

The estimated project cost is \$1.84 million. There currently is not an established CIP project budget for this item. The estimated funds can be temporarily transferred from existing CIP projects where the appropriated funds have not yet been spent and this project can be funded in next year's CIP budget and the funds transferred back. Alternatively, the funds can be transferred from Project Contingencies. The fees recommended by this item should cover the capital and maintenance costs of this program and have a net zero financial impact including capital amortization over five years.

Origin:

Staff, in response to the current problems experienced through the provision of these services through a private sector agent.

Staff Contacts:

Donald Palmer, Director of Water Reclamation, 969-6637.
Ned McMath, Deputy Executive Director-Utility Operations, 969-6631.

Recommendation:

That the Board (1) conclude that the needs of the public for septage treatment and disposal services are not being adequately met by the private sector; (2) conclude that it is necessary that ECUA provide domestic septage, portable toilet, and grease trap waste disposal services; (3) establish a new CIP project with a budget of \$1.84 million with funding through transfers from existing CIP projects for septage, portable toilet, and grease waste disposal facilities; (4) initiate the process to adopt an initial base rate of \$81.00 per 1,000 gallons during normal operating hours, and 150% of that rate (\$121.50) afterhours, during weekends and holidays, for processing and disposing of septage and grease trap wastes; and (5) authorize the Executive Director to purchase

Emerald Coast Utilities Authority Board

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March 29, 2012

Subject: New Septage Treatment System - CWRP

materials, supplies, equipment and professional services as necessary to proceed with construction of the authorized septage, portable toilet, and grease trap waste treatment system, with funding from the newly established CIP project.

Respectfully submitted,

A handwritten signature in black ink, reading "Stephen E. Sorrell". The signature is written in a cursive style with a large, prominent initial "S".

Stephen E. Sorrell
Executive Director

SES:NMC:DCP

RESOLUTION
NO. 12-05

A RESOLUTION
TO BE ENTITLED

A PRELIMINARY RATE SETTING RESOLUTION PROVIDING FOR NOTICE AND PUBLIC HEARING CONCERNING THE PROPOSED ESTABLISHMENT OF NEW AND REVISED CHARGES FOR THE DISPOSAL OF DOMESTIC SEPTAGE, PORTABLE TOILET, AND GREASE TRAP WASTE.

BE IT RESOLVED BY THE EMERALD COAST UTILITIES AUTHORITY:

Section I. Purpose. The purpose of this Resolution is to provide for notice and public hearing concerning the proposed establishment of new and revised charges for the disposal of domestic septage, portable toilet, and grease trap waste.

Section II. Proposed Septage or Grease Trap Waste Disposal Charges. It is proposed that the rates and charges reflected in Section 14-52 of the ECUA Code be amended so as to establish new and revised charges for the disposal of domestic sewage, portable toilet, and grease trap waste, as follows:

D. *Disposal of Domestic Septage, Portable Toilet, and Grease Trap Waste:* The charge for the disposal of domestic septage, portable toilet, and grease trap waste is eighty-one dollars (\$81.00) per one thousand (1,000) gallons during normal operating hours, i.e., non-holiday weekdays from 7:00 a.m. to 5:00 p.m., and \$121.50 per one thousand (1,000) gallons at all times outside the normal operating hours defined above.

* * *

G. [Deleted].

Section III. Notice and Public Hearing. The Executive Director is authorized and directed to publish and give notice of a public hearing on the foregoing to be held at 3:00 p.m. on Thursday, April 26, 2012, in the Board meeting room of the Emerald Coast Utilities Authority at 9250 Hamman Street, Pensacola, Florida.

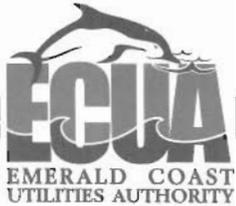
Elvin McCorvey, Board Chairman

ATTEST:

Stephen E. Sorrell, P.E., M.P.A., Executive Director

Adopted on: March 29, 2012

Prepared by: Bradley S. Odom, Esq.



MEMORANDUM

TO: Emerald Coast Utilities Authority Board
 DATE: March 29, 2012
 SUBJECT: Proposed Amendments to City of Pensacola Code

In January, the Pensacola City Council considered an amendment to the City's Code to establish the Maritime Redevelopment District, which would include the property of the former Main Street Wastewater Treatment Plant. The proposed Code amendments also sought to establish form-based standards for new development in the new district. These standards were perceived to restrict potential redevelopment options on the ECUA's property and thus had the potential to negatively impact the value of the property. Based on the presentation of ECUA's concerns to the City Council, the Council delayed action on the proposed amendments. The City staff was directed to discuss the matter with ECUA staff, and to allow ECUA the opportunity to develop acceptable language that may be included in the City's proposed Code amendments.

The attachment includes revised language for the Board's consideration. In developing the proposed edits, staff considered discussion comments from the Citizens' Advisory Committee, including: spacing of entrances on street-fronting facades, possible first floor uses on the principal streets within the proposed Maritime Redevelopment District, and singling out the ECUA site with respect to the total number of residential units in the build-out scenario for the District.

These proposed edits are presented for the Board's review and discussion, with the plan to forward comments and edits to the City staff for inclusion in their proposed amendments to the City Code. The edits by the ECUA staff are in bold italicized print and marked with arrow designations. These provide the necessary flexibility to the proposed Land Development Code so the City can satisfy most of its concerns while not overly restricting the development of the Main Street WWTP site.

Respectfully submitted,

A handwritten signature in black ink that reads 'Stephen E. Sorrell'. The signature is written in a cursive style with a large, looped initial 'S'.

Stephen E. Sorrell
 Executive Director

SES:TMH:tmh

Attachment

Sec. 12-2-22. - ~~Governmental center district.~~ (Maritime Redevelopment District? ; Park District ? Maritime Gateway District? Spring West District? Garden South District? Garden Redevelopment District? ;

(A) *Purpose of district.* The purpose for the establishment of this overlay district is to ~~provide the~~ promote and encourage redevelopment of a centralized area for government related land use; of the existing urban commercial areas and neighborhoods surrounding the Community Maritime Park and to encourage a coordinated architectural character within the district. The additional objectives of this district are to provide a mixture of residential, office and commercial uses that complement the residential and mixed-use character of the district; encourage quality redevelopment and the renovation of existing structures; promote multimodal transportation and create high-quality urban streetscapes by using buildings, sidewalks, and street trees to form a pleasant, convenient and safe environment designed for pedestrians, bicyclists, public transit, and automobiles; and to promote retail and office uses that serve the surrounding neighborhoods and enhance the existing commercial areas and the Community Maritime Park.

(1) Definitions.

(a) Awning: An architectural projection roofed with material supported entirely from the exterior wall of a building.

(b) Colonnade or Arcade: A covered, open-air walkway at standard sidewalk level attached to or integral with the building frontage; the structure overhead is supported architecturally by columns or arches along the sidewalk.

(c) Glazing: The design and placement of windows and entrances with clear glass in a building facade.

(d) Stoop: A small platform, entrance stairway at a house door, or both, covered by a secondary roof or awning. The stoop projects from the primary building plane.

(e) Principal Streets: Those portions of ~~Government Street~~, Spring Street, Main Street, A Street, Garden Street and Reus Street within the District.

(B) *Procedure for review and approval of plans.*

(1) *Submission of plans.* Every application for a building permit to erect, construct, renovate and/or alter an exterior of a building, or sign, located or to be located in the district shall be accompanied by plans for the proposed work. As used herein, "plans" shall mean drawings or sketches with sufficient detail to show, as far as they relate to exterior appearance, the architectural design of the building or sign, (both before and after the proposed work is done in the cases of altering, renovating, demolishing or razing a building or structure) including proposed materials, textures and colors, and the plat plan or site layout, including all site improvements or features such as walls, fences, walks, terraces, plantings, accessory buildings, paved areas, signs, lights, awnings, canopies, screening and other appurtenances. Such plans shall be promptly forwarded by the building official to the

Planning Board architectural review board. The building official or his designee shall serve as secretary to the board.

(2) Review and approval by the Planning Board architectural review board. All such plans shall be subject to review and approval by the Planning Board architectural review board as established in section 12-13-2 3 and in accordance with the provisions of section 12-2-10(A)(4)(a) through (e), applicable to the historic zoning districts. The board shall adopt written rules and procedures for abbreviated review for paint colors, minor repairs, emergency repairs and minor deviations in projects already approved by the board. This process may authorize the board to designate one of its members to undertake such abbreviated review without the necessity for review by the entire board, ~~, provided, however such abbreviated review process shall require review by the director of the downtown improvement board and the staff of the Historic Pensacola Preservation Board. If agreement cannot be reached as it pertains to an abbreviated review by the board designee, director of the downtown improvement board, Historic Pensacola Preservation Board staff and secretary to the architectural review board then the matter will be referred to the full board for a decision.~~

(3) Notification and building permit. ~~Upon receiving the order of the board, the board's secretary shall thereupon notify the applicant of the board's decision. If the board approves the plans, and if all other requirements of the city have been met, the building official shall issue a permit for the proposed building or sign. If the board disapproves the plans, the building official shall not issue such permit. In a case where the board disapproves the plans, the secretary of the board shall furnish the applicant with a copy of the board's written order, and may at the discretion of t~~ The board may include recommendations for changes necessary to be made before the board will reconsider the plans.

(4) — Failure to review plans. ~~If no action upon plans submitted to the board has been taken at the expiration of thirty one (31) days from the date of submission of the application for a building permit and required plans to the board, such plans shall be deemed to have been approved, and if all other requirements of the city have been met, the building official shall issue a permit for the proposed building or sign.~~

(C) — Decisions. ~~Every decision of the board, in their review of plans for building or signs located or to be located in the district shall be in the form of a written order stating the finding of the board, its decision and the reasons therefore. The board may at its discretion make recommendations for changes necessary to be made before the plans will be reconsidered. If recommendations for changes are made by the board, they may be general in scope and compliance with them shall only qualify the plans for reconsideration by the board but compliance with recommendations shall not bind or stop the board from disapproving the plans under reconsideration.~~

(a) — Proposed plans shall be approved unless the board finds that the proposed erection, construction, renovation and/or alteration is not compatible with the built environment of the governmental center district.

~~(b) — The board shall not consider interior design or plan. The board shall not exercise any control over land use, such as is governed by the city's zoning ordinance, Chapters 12-2 and 12-3 hereof, or over construction, such as is governed by the city's building codes.~~

~~(c) — Plans for proposed new or altered signs shall be approved unless the board finds that the sign is inconsistent with the theme and character of the district, or that such sign does not comply with the requirements of the code or with any of the following provisions:~~

~~1. — The board may adopt and promulgate rules and regulations controlling the number and size of signs, their heights and materials, relating such rules to the number of square feet served, frontage, and type of business. Such rules and regulations shall be subject to review and approval by the city council.~~

~~2. — Within the governmental center district, roof signs, flashing and/or rotating signs, and signs protruding into or overhanging the public right-of-way are hereby prohibited except as set forth herein.~~

~~3. — Signs existing prior to February 22, 1979, may remain until the business for which the sign was erected ceases to do business at that location or until the property on which such sign is located is acquired for a public purpose, whichever shall first occur.~~

~~4. — On application to the approval of the board, rules relating to the number and size of signs may be waived for grand openings, special sales, going out-of-business sales, and similar occasions when consistent with the city code.~~

(C) Regulations and guidelines for any development within the District. In addition to the Design Standards and Guidelines contained in Section 12-2-82 of this Chapter, the following requirements shall apply. These regulations and guidelines are intended to address the design and construction of elements common to any development within the District. Infill development in the District shall follow principles of good urban design and form, not suburban form.

(1) Building relationship to the street.

(a) All non-residential buildings shall have a main entrance facing the street, and first floor multi-family units shall have an individual entrance on the street.

(b) The length of street fronting facade without an intervening entrance shall not exceed 150 feet. Additionally, blank walls shall not exceed a length of fifty (50) feet, or twenty (20) percent of the length of the building facing the street, whichever is less, and receive design treatment to increase pedestrian comfort and interest. *The*

Planning Board, in the review and consideration of the design of a specific development or site plan, may waive or adjust this spacing requirement.

(c) Sidewalk connections to the public sidewalk must be provided from all main building entrances that face the street. These connections shall provide at least 5 feet of unobstructed width and be aligned to minimize walking distance.



- (d) Front porches for multi-family uses.
a. Residential units on the first floor along a street shall have individual front porches.
b. Front porches shall have a minimum surface area of 25 square feet with a minimum depth of 5 feet and a minimum width of 5 feet.
c. Front porches shall *may* be open and not air conditioned or enclosed with operable windows.
d. Front porches may only be screened where they are located behind the build-to line.

(f) Articulation of stories. The area between the first and second building floors along all street frontages shall be architecturally delineated.

(g) Buildings shall define primary street edges with parking located to the rear of the building; parking may be conditionally located to the side of buildings on secondary streets with Planning Board approval.

(h) Developments shall contribute to the pedestrian urban experience with *and* buildings fronting streets, build-to-lines of 10' being complied with per the Dense Business Area requirements, sidewalks, commercial storefronts or residential stoops and details such as awnings, canopies and arcades and create active, urban street edges with commercial storefronts, and residential stoops and porches fronting streets and sidewalks.

(2) First floor uses.

(a) Principal streets: first-story uses with street frontage shall *be only include but not be limited to* retail, restaurants, ~~lodging, research~~, office, institutional, or residential. *Other uses may be considered and allowed by the Planning Board.*

(b) Outdoor seating may encroach into the adjacent sidewalk provided that a minimum clear width of 5' is maintained for pedestrian access and the business shall provide the City with proof of insurance for the subject area.

(c) Balconies, marquees, projecting signs, and awnings may encroach into the sidewalk zone up to a distance of half the required sidewalk dimension, provided that they are at least 9' above the grade of the sidewalk.

(3) Walls, Fences and Mechanical Equipment.

(a) Fences made of chain-link (wholly or in part) are prohibited.

(b) Mechanical equipment shall not be permitted between any building and Principal streets.

(c) Screening that exceeds the height of the *ground level* equipment shall be required if the equipment is visible from the street or adjacent properties.

(d) Certain elements of the building shall not be considered as mechanical equipment, such as rain barrels or cisterns but shall be designed as part of the building and with the same materials and colors, and shall not require screening.

(e) Chiller Plants and similar utility structures shall not be permitted between any building and Principal street. Opaque walls a minimum of six feet in height shall be provided between the chiller and a private or public street.

(f) Rooftop mechanical equipment. All rooftop mechanical equipment shall be screened from public view from both above and below by integrating it into building and roof design.

(g) Utilities and service areas. Building sites shall locate service elements like trash dumpsters, loading docks and mechanical equipment away from the street front and pedestrian routes *if possible*. These areas shall be screened from public view.

(h) All telephones, vending machines, or any facilities dispensing merchandise, or a service on private property, shall be confined to a space built into the building or buildings or enclosed in a separate structure compatible with the main building(s). All exterior forms, attached or not to buildings shall be in conformity to and secondary to the building. They shall be designed and located to be an asset to the aesthetics of the site and to the District.

(3) Signs. Sign Regulations in Chapter 12-4 and the following additional regulations shall apply within the District:

(a) Signs shall be externally lit. Internally lit signs shall only be permitted with Planning Board approval of a waiver.

(b) Finish materials shall consist of the following:

1. Wood: painted and natural
2. Metal: painted or unpainted
3. Painted or rubberized canvas
4. Strip lighting with the appearance of neon (including individual channel letter signs that are internally illuminated and may have plastic faces)
5. Engraving directly on the façade surface
6. Wood-like materials
7. Lettering on transparent windows or doors
8. Vinyl lettering with a painted appearance

(4) Redevelopment opportunities *within the Maritime Redevelopment District, such as the ECUA site* will present transformative opportunities for the District. ~~The Urban Core CRA Plan proposes a high density build out scenario totaling 1,535 residential units, on the subject property and other adjacent property owned by the City of Pensacola~~ which is in line with Zimmerman/Volk's residential. Higher density development patterns are desirable

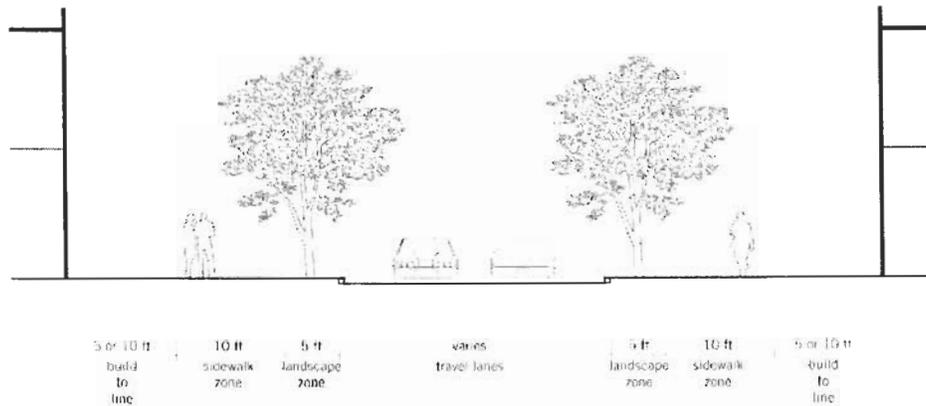
for these properties this property and elsewhere in the District. Density bonuses as authorized by the City's Comprehensive Plan will be available for developments that conform with the recommendations contained in the Urban Core CRA Plan.

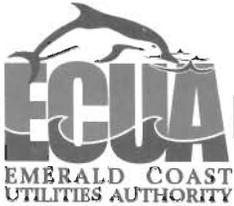


(D) Disqualification of member from voting. Any member of the board who shall be employed to design or construct a building or who shall have any proprietary tenancy or personal interest in such building requiring approval of plans by the board shall be disqualified from voting thereon.

(E) Boundaries of the district. The boundaries of the ~~governmental center~~ district shall be as outlined on Map 12-2.2.

(Ord. No. 45-96, § 5, 9-12-96)





MEMORANDUM

TO: Emerald Coast Utilities Authority Board

DATE: March 29, 2012

SUBJECT: Draft Consent Order from Florida Department of Environmental Protection

Background:

During the fifteen-month period of March 2009 to May 2010, the ECUA experienced and reported over 100 unauthorized wastewater releases from its wastewater facilities or collection system. The majority of those spills (or sanitary sewer overflows – SSOs) were determined by the Florida Department of Environmental Protection (FDEP) to be beyond the control of the ECUA. The FDEP determined that 24 of the spills were within the reasonable control of the ECUA.

As a result of these spills, the FDEP prepared a draft consent order (CO) for corrective actions by ECUA to mitigate and reduce the number of future discharges. The ECUA received that draft CO on August 22, 2011, and had subsequent meetings with FDEP to discuss the terms proposed. Several important items that are mandated are as follows:

- a. A comprehensive evaluation of the entire wastewater collection system.
- b. A corrective action plan that lists the deficiencies in the collection system and actions ECUA proposes to undertake to reduce spills and improve the function of the system.
- c. A requirement for repair and rehabilitation of the most significant deficiencies in the collection system contributing to the majority of the spills (priority projects).
- d. A requirement for repair and rehabilitation of the secondary deficiencies in the collection system (remaining projects).
- e. Stipulated penalties (fines) for spills that occur in the future from any of the facilities or the collection system that do not qualify as excusable discharge. In lieu of making cash payments ECUA may elect to implement an in-kind penalty project.

The ECUA responded to the draft CO, with the main issue being the schedule for achieving the required items. The FDEP has issued two subsequent iterations of the draft CO based on ECUA's comments. We received the most recent draft CO on March

Emerald Coast Utilities Authority Board

Page 2

March 29, 2012

Subject: Draft Consent Order from Florida Department of Environmental Protection

21, 2012, and staff is in general agreement with FDEP on the schedule for completion of the corrective actions. The current draft of the CO establishes a total of sixteen years from the effective date of the CO to complete the work. As you probably recall, the original draft document from FDEP required a seven (7) year timeframe for completion.

This draft Consent Order is presented to the Board for discussion purposes at this time. Any Board –recommended changes will be incorporated into our response to FDEP for consideration. I anticipate being able to present the final Consent Order from FDEP to the Board in April 2012 for approval.

Respectfully submitted,

A handwritten signature in black ink, reading "Stephen E. Sorrell". The signature is written in a cursive style with a large, looping initial "S".

Stephen E. Sorrell
Executive Director

SES:NM

Attachment

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	NORTHWEST DISTRICT
)	
vs.)	OGC FILE NO. 11-0982
)	
EMERALD COAST UTILITIES)	
AUTHORITY)	
_____)	

CONSENT ORDER

This Consent Order (“Order”) is entered into between the State of Florida Department of Environmental Protection (“Department”) and Emerald Coast Utilities Authority (referred to as “Respondent” or “ECUA”) to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent neither admits nor denies the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida’s air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes (“F.S.”), and the rules promulgated and authorized in Title 62, Florida Administrative Code (“F.A.C.”). The Department has jurisdiction over the matters addressed in this Order.
2. Respondent is a person within the meaning of Section 403.031(5), F.S.
3. Respondent is the owner and is responsible for the operation of the ECUA Bayou Marcus Water Reclamation Facility (“Bayou Marcus Facility”), an 8.2 million gallon per day (“MGD”) annual average daily flow domestic wastewater treatment plant with dechlorinated effluent discharged to receiving wetlands. The Bayou Marcus Facility is operated under Wastewater Permit No. FL0031801 (“Bayou Marcus Permit”), which was issued on November 16, 2007, and will expire on November 15, 2012. The Bayou Marcus Facility is located at 3050 Fayal Drive, Pensacola, in Escambia County, Florida 32526, and further described as, Escambia County Property Appraiser’s Parcel Number 08-2S-31-1000-000-007 (“Bayou Marcus

Property"). Respondent owns the Bayou Marcus Property on which the Bayou Marcus Facility is located.

4. Respondent is the owner and is responsible for the operation of the ECUA Main Street Wastewater Treatment Facility ("Main Street Facility"), a 20 MGD annual average daily flow domestic wastewater treatment facility with dechlorinated effluent discharged to Pensacola Bay. The Main Street Facility is operated under Wastewater Permit No. FL0021440 ("Main Street Permit"), which was issued on June 28, 2007 and will expire on June 27, 2012. The Main Street Facility is located at 401 West Government Street, Pensacola, in Escambia County, Florida 32502, and further described as, Escambia County Property Appraiser's Parcel Number 00-0S-00-9070-010-033 ("Main Street Property"). Respondent owns the Main Street Property on which the Main Street Facility is located.

5. The Main Street Facility has since ceased operation as a wastewater treatment facility, with the flow being diverted to a new wastewater treatment facility. The new facility is known as the ECUA Central Water Reclamation Facility ("Central Facility"). The Respondent is the owner and is responsible for the operation of the Central Facility, a 22.5 MGD annual average daily flow domestic wastewater treatment facility with chlorinated effluent discharged to either nearby industries, specifically, Gulf Power - Plant Crist or International Paper - Pensacola Mill, or restricted access slow-rate land application system. The Central Facility is operated under Wastewater Permit No. FL0559351 ("Central Facility Permit"), which was issued on September 4, 2007, and will expire on September 3, 2012. The Central Facility is located at 2980 Old Chemstrand Road, Cantonment, in Escambia County, Florida 32533, and further described as, Escambia County Property Appraiser's Parcel Number 30-1N-30-1000-000-004 ("Central Property"). Respondent owns the Central Property on which the Central Facility is located.

6. Respondent is the owner and is responsible for the operation of the ECUA Pensacola Beach Wastewater Treatment Plant ("Pensacola Beach Facility"), a 2.4 MGD monthly average daily flow domestic wastewater treatment facility with dechlorinated effluent discharged to either the Santa Rosa Sound or a slow-rate public access reuse system.

The Pensacola Beach Facility is operated under Wastewater Permit No. FL0024007 ("Pensacola Beach Permit"), which was issued on December 18, 2009 and will expire on December 17, 2014. The Pensacola Beach Facility is located at 53 Via De Luna Drive, Pensacola, in Escambia County, Florida 32561, and further described as, Escambia County Property Appraiser's Parcel Number 28-2S-26-1140-000-039 ("Pensacola Beach Property"). Respondent owns the Pensacola Beach Property on which the Pensacola Beach Facility is located.

7. In this Order, "Facilities" shall refer to the Bayou Marcus Facility, Central Facility, and Pensacola Beach Facility, and "Properties" shall refer to the Bayou Marcus Property, Central Property, and Pensacola Beach Property.

8. From March 2009 to May 2010, the Respondent reported to the Department over one hundred unauthorized wastewater releases ("spills") from the Facilities or the collection/transmission systems connected to the Facilities ("Collection System"). Twenty-four (24) of the reported spills were determined to be within the reasonable control of the Respondent. Refer to **Exhibit I** for a list of these spills.

9. The Department finds that the following violations occurred:

- a) Eleven spills from the Collection System exhibited samples exceeding fecal coliform bacteria levels of 800 Most Probable Number, which is a violation of the bacteriological water quality criteria in Rule 62-302.530(6), F.A.C.;
- b) Respondent's 24 spills of untreated wastewater from the Collection System violated Rule 62-604.130(1), F.A.C., which prohibits the release of excreta, sewage, or other wastewaters or residuals without providing proper treatment;
- c) Respondent's Collection System allowed 24 spills and, therefore, was not maintained to provide proper, uninterrupted service in violation of Rules 62-604.500(2)-(3), F.A.C.;
- d) Lastly, Respondent's failure to comply with Department rules is a violation of Section 403.161(1)(b), F.S.

10. This Order includes penalties for the 24 spills, requires corrective actions to reduce the likelihood of future spills, and establishes a stipulated penalty schedule for any spills that occur during the completion of the corrective actions required in this Order.

11. The Respondent agrees to comply with the requirements in Paragraphs 12-34 in the interest of a cooperative resolution of this matter without further delay, expense, or litigation.

Having reached a resolution of the matter Respondent and the Department mutually agree and it is

ORDERED:

12. Respondent shall comply with the following corrective actions within the stated time periods:

a) Within 120 days of the effective date of this Order, Respondent shall submit a proposal (“Comprehensive Evaluation Plan”) to the Department detailing how Respondent plans to conduct a Comprehensive Evaluation of the entire Collection System. The Comprehensive Evaluation Plan shall:

i. Provide a map of the entire Collection System, identifying each sewer basin in the Collection System and the number and location of lift stations, and indicate which facility accommodates the flow from each sewer basin. It shall also indicate which lift stations are on the supervisory control and data acquisition system, any backup power sources available to lift stations, or other provisions to provide uninterrupted pumping capabilities;

ii. Include the current methods for calculating spill amounts, methods for tracking spills and incident complaints, and the current spill response and remediation practices being utilized by Respondent;

iii. Describe techniques that will be used to evaluate the Collection System, such as the conventional industry standards of flow and rainfall monitoring, smoke testing, visual inspection of pipes and manholes, dye testing, night flow isolation, closed circuit television inspection, and building inspections, and include a justification for why the chosen techniques are appropriate;

iv. Describe current preventative maintenance practices or programs intended to address any problems in the Collection System, including, but not limited to, those related to capacity, inflow/infiltration, and impacts from excess fats, oils and greases ("FOG"), and include a Collection System inspection schedule;

v. Provide information and data on all previously identified problem areas contributing to spills in the Collection System based on historical knowledge, and/or Collection System evaluations conducted by the Respondent prior to the effective date of this Order with corrective actions that remain to be completed to address these identified problem areas;

vi. Describe how Respondent will locate any unidentified problem areas that may be contributing to spills in the Collection System; and

vii. Provide a detailed timeline and schedule for completion of the Comprehensive Evaluation within three years of the effective date of this Order, including specific evaluation locations and the materials and equipment to be used in the evaluation.

b) If the Department determines that the Comprehensive Evaluation Plan is deficient, the Department will notify Respondent in writing providing an explanation of the deficiencies. Respondent shall submit a revised Comprehensive Evaluation Plan and completion schedule to the Department within 60 days receipt of written notice.

c) Within five years of submitting a satisfactory Comprehensive Evaluation Plan, Respondent shall complete a comprehensive evaluation ("Comprehensive Evaluation") of the entire Collection System associated with the Facilities to determine the causes of the spills and the locations of the deficiencies in the Collection System contributing to the spills.

d) Within 180 days of the Department's written acknowledgement that the Comprehensive Evaluation has been completed, Respondent shall provide the Department with a corrective action plan ("Corrective Action Plan") that is based on the findings of the Comprehensive Evaluation required by paragraph 12.c) above. The Corrective Action Plan shall:

- i. Summarize the results of the Comprehensive Evaluation of each sewer basin in the Collection System, describe in detail the techniques used to evaluate the Collection System, and include a justification for why the techniques were used;
- ii. Identify the cause or causes of spills that have occurred since May 15, 2010;
- iii. List all deficiencies in the Collection System, and their locations, that were identified during the Comprehensive Evaluation, clearly specifying which deficiencies have been corrected and which deficiencies remain for each sewer basin in the Collection System;
- iv. Identify the areas in the Collection System with problems related to capacity, inflow/infiltration, and FOG, and any areas needing further investigation;
- v. Describe any corrective actions that have been implemented since May 15, 2010 to improve the function of Respondent's Collection System and explain how and to what extent these measures have reduced the average volume and frequency of spills;
- vi. Identify any additional corrective actions Respondent plans to undertake to further reduce spills and improve the functioning of the Collection System;
- vii. Identify which, if any, of the remaining Collection System deficiencies Respondent has prioritized for repair and rehabilitation ("Priority Projects"), and explain how completion of each Priority Project will reduce future spills. The Priority Projects as determined by the completion of a Comprehensive Evaluation and incorporated with the Corrective Action Plan should focus on correcting the Collection System deficiencies that are contributing to the majority of non-excusable spills;
- viii. Provide a schedule for completing the Priority Projects within five years of Department's written acknowledgement that the Corrective Action Plan is acceptable Department, as indicated in subparagraph 12.f), below;
- ix. Detail whether the Priority Projects will require a permit and whether this permit will be issued by the Respondent or the Department, and, if a project is already permitted, the permit number will be included; and

x. Define a long term, system wide plan and comprehensive assessment and maintenance program to be implemented for prevention of future spills.

e) The Department will review the Corrective Action Plan to determine whether Respondent has satisfactorily completed the Comprehensive Evaluation and has identified appropriate Priority Projects and other measures for reducing spills and improving the functioning of the Collection System. The Department will notify Respondent in writing of any deficiencies in the submitted Corrective Action Plan. Respondent shall respond to written requests for additional information within 60 days of receipt of the request.

f) Within five years of submitting a satisfactory Corrective Action Plan, Respondent shall complete the Priority Projects. Respondent shall submit notification to the Department of Priority Project completion within 30 days of completion. The notification shall include the completion dates for each project. The Department recognizes that the nature of sewer rehabilitation requires bypassing of sanitary sewer flow with temporary measures (i.e. temporary bypass pump, generator, exposed above-ground piping, etc.) to keep service active for the Respondent's users. Upon due consideration of the potential risk to the environment, the Department may provide an alternate means of temporary/provisional approval to place the Collection System into service (i.e. e-mail, phone call, etc.) until such time as the official documentation can be provided by the Department. Furthermore, the aforementioned provisional approval does not relieve the Respondent of submitting the Notification of Completion within the timeframe required therein. In no case shall projects permitted by the Department be placed into service until the Department clears the project for use. Any project placed into service without Department clearance is subject to enforcement action. Any project placed into service without Department clearance is subject to enforcement action. The Department recognizes that normal maintenance and repair of the Collection System does not require formal notification, permitting, and approval to place into service.

13. Every calendar quarter after the effective date of this Order, and continuing until all corrective actions in this Order have been completed, Respondent shall submit to the Department a written report ("Quarterly Report") containing information about the status and

progress of projects being completed under this Order and information about compliance or noncompliance with the applicable requirements of this Order, including construction requirements and any spills that have occurred during the quarter. Information in the report about spills will include the date and time of the spill, the location of the spill, approximate amount discharged (if known), destination of the spill (ground or surface water), any sample results obtained, clean-up and corrective actions performed, whether or not the spill was beyond Respondent's reasonable control, justification in order to be considered an excusable discharge ("Excusable Discharge") as defined in paragraph 17.b) below, any remaining corrective actions planned yet to be completed directly related to the spill, whether corrective actions require(d) a permit, if a permit is required whether the project is permitted by the Respondent or the Department and the corresponding permit number (if available), which facility the spill is associated with, the cause of the spill, and any other reasons for noncompliance. The Quarterly Report shall also include a projection of the work Respondent will perform pursuant to this Order during the 12-month period which will follow the Quarterly Report. Respondent shall submit Quarterly Reports to the Department no later than 60 days from the end of each quarter.

14. Notwithstanding the time periods described in the paragraphs above, Respondent shall complete all corrective actions required by paragraphs 12, 13, 15, 16, 17, and 34 within sixteen years of the effective date of this Order, regardless of any intervening events or alternative time frames imposed in this Order, other than those excused delays agreed to by the Department, as described in paragraph 24. In addition, if Respondent elects to complete in-kind projects, Respondent shall complete all corrective actions required by paragraphs 20 and 21 and Exhibits I & II and any additional projects identified in the Corrective Action Plan within sixteen years of the effective date of this Order, regardless of any intervening events or alternative time frames imposed in this Order, other than those excused delays agreed to by the Department, as described in paragraph 24.

15. Within 90 days of the effective date of this Order, Respondent shall pay the Department \$14,049.25 in settlement of the regulatory matters addressed in this Order. This

amount includes \$13,549.25 for civil penalties and \$500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order. The civil penalty in this case includes three violations that each warrant a penalty of \$2,000.00 or more.

16. Respondent agrees to pay the Department stipulated penalties in the amount of \$100.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraph(s) 12, 13, and 34 of this Order. The Department may demand stipulated penalties at any time after violations occur. Respondent shall pay stipulated penalties owed within 60 days of the Department's issuance of written demand for payment, and shall do so as further described in paragraphs 17, 18 and 19 below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Order. Any stipulated penalties assessed under this paragraph and paragraph 17, below, shall be in addition to the civil penalties agreed to in paragraph 15 of this Order.

17. For spills from any of the Facilities or the Collection System that do not qualify as Excusable Discharges, as defined in subparagraph 17.b), below, Respondent agrees to pay stipulated penalties accumulated annually as follows:

a)	<u>Amount per day per Discharge</u>	<u>Discharge Volume</u>
	\$500.00	Up to 5,000 gallons
	\$1,000.00	5,001 to 10,000 gallons
	\$2,500.00	10,001 to 25,000 gallons
	\$5,000.00	25,001 to 100,000 gallons
	\$10,000.00	in excess of 100,000 gallons

b) The Department will evaluate each spill on a case-by-case basis to determine whether the spill was beyond Respondent's reasonable control; whether Respondent is exercising prudent wastewater utility practices to reduce the frequency of spills; and whether Respondent took timely and appropriate actions to reduce the environmental impact of the spill(s). A stipulated penalty will be applied to any spill where Respondent fails to provide the Department with sufficient information to demonstrate that the spill qualifies as an Excusable Discharge. For the purposes of this Order, an Excusable Discharge is a spill that

resulted from a temporary, infrequent incident that was beyond the reasonable control of Respondent. Excusable Discharges include, but are not limited to the following:

- i. Extraordinary acts of nature, including rainfall equal to a minimum of a 10-year, 24-hour storm event, hurricanes, tropical storms, tornadoes, wild fires, lightning strikes, or other events where a State of Emergency is declared;
- ii. Actions by third parties unrelated to Respondent, including construction accidents, vehicular accidents, or vandalism; actions related to a contractor acting on behalf of Respondent is not an Excusable Discharge.
- iii. Blockages that could not be prevented by reasonable measures and due diligence; and
- iv. Unexpected sudden structural, mechanical, or electrical failure that could not be avoided by reasonable measures and due diligence.
- v. Spills that are attributable to parts of the Collection System that are undergoing rehabilitation.

18. Respondent shall make all payments required by this Order by cashier's check or money order. Payment instruments shall be made payable to the "Department of Environmental Protection" and shall include both "OGC File No. 11-0982" and the notation "Ecosystem Management and Restoration Trust Fund".

19. Except as otherwise provided, all submittals and payments required by this Order shall be sent to the Department of Environmental Protection, Northwest District, Water Facilities Program Administrator, 160 West Government Street, Suite 308, Pensacola, Florida 32502-5740.

20. In lieu of making cash payment of the amounts required under paragraphs 15 and 17 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. 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 portion of the penalty amount for which the Respondent wishes to off-set. If Respondent chooses to implement an in-kind project for civil penalties assessed under paragraph 15, Respondent shall notify the Department of its election by certified mail within 15 days of the effective date of this Order, or within 15 days of receipt of written demand for payment of additional stipulated penalties assessed per paragraph 17. 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 this Order.

21. If Respondent elects to implement an in-kind project as provided in paragraph 20 to off-set civil penalties assessed in paragraph 15, then Respondent shall comply with all of the requirements and time frames in Exhibit II entitled In-Kind Projects – Civil Penalties. If Respondent elects to implement an in-kind project as provided in paragraph 20 to off-set additional stipulated penalties for assessed penalties in paragraph 17, then Respondent shall comply with all of the requirements and time frames in Exhibit III entitled In-Kind Projects – Stipulated Penalties for Spills

22. Respondent shall allow all authorized representatives of the Department access to the Facilities and the Properties at reasonable times for the purpose of determining compliance with the terms of this Order and the rules and statutes administered by the Department.

23. In the event of a sale or conveyance of the Facilities or of the Properties upon which the Facilities is located, if all of the requirements of this Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the Facilities or Properties, (a) notify the Department of such sale or conveyance, (b) provide the name and address of the purchaser, operator, or person(s) in control of the Facilities, and (c) provide a copy of this Order with all attachments to the purchaser, operator, or person(s) in control of the Facilities. The sale or conveyance of the Facilities or the Properties does not relieve Respondent of the obligations imposed in this Order.

24. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay in

complying with the requirements of this Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines shall be considered circumstances beyond the control of Respondent (unless the cause of the contractor's late performance was also beyond the contractor's control). Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department by the next working day and shall, within seven calendar days notify the Department in writing of (a) the anticipated length and cause of the delay, (b) the measures taken or to be taken to prevent or minimize the delay, and (c) the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The agreement to extend compliance must identify the provision or provisions extended, the new compliance date or dates, and the additional measures Respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

25. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for the violations described above up to the date of the filing of this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

26. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement

of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

27. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or rules administered by the Department that are not specifically resolved by this Order.

28. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per day per violation, and criminal penalties.

29. Respondent acknowledges and waives its right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this Order. Respondent also acknowledges and waives its right to appeal the terms of this Order pursuant to Section 120.68, F.S.

30. Following the completion of the activities required by this Order, the Respondent may submit a written request asking the Department to confirm that the terms of this Order have been satisfied. The Respondent's request shall be supported by a report or other appropriate documentation concerning the activities that the Respondent has completed pursuant to this Order. The Department shall review the Respondent's request, the supporting documents, and any other relevant materials, and then the Department shall provide a written reply to the Respondent. If the Department agrees that the Respondent has complied with the requirements contained herein, the Department shall notify the Respondent in writing that the requirements in this Order have been satisfied and the Respondent has no further obligations to the Department under this Order. However, if the Department requires additional information to determine whether the terms of this Order have been satisfied, the Respondent shall provide a written response within 30 days of the request.

31. 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.

32. The terms and conditions set forth in this Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, F.S. Failure to comply with the terms of this Order constitutes a violation of Section 403.161(1)(b), F.S.

33. This Consent Order is a final order of the Department pursuant to Section 120.52(7), F.S., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition, this Consent Order will not be effective until further order of the Department.

34. Respondent shall publish the following notice in a newspaper of daily circulation in Escambia County, Florida. The notice shall be published one time only within 14 days of the effective date of this Order. Respondent shall provide a certified copy of the published notice to the Department within 30 days of publication.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE OF CONSENT ORDER

The Department of Environmental Protection (“Department”) gives notice of agency action of entering into a Consent Order, OGC File No. 11-0982, with Emerald Coast Utilities Authority pursuant to Section 120.57(4), Florida Statutes. The Consent Order addresses domestic wastewater spills associated with the ECUA Bayou Marcus, ECUA Central, and ECUA Pensacola Beach domestic wastewater treatment facilities at 3050 Fayal Drive, Pensacola, in Escambia County, Florida 32526, Parcel Number 08-2S-31-1000-000-007; 2980 Old Chemstrand Road, Cantonment, in Escambia County, Florida 32533, Parcel Number 30-1N-30-1000-000-004; and 53 Via De Luna Drive, Pensacola, in Escambia County, Florida 32561, Parcel Number 28-2S-26-1140-000-039, respectively. The Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, Northwest District, 160 West Government Street, Pensacola, Florida 32502-5740.

Persons who are not parties to this Consent 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 Consent Order means that the Department's final action may be different from the position it has taken in the Consent Order.

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

- a) The OGC Number assigned to this Consent 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 Consent Order;
- d) A statement of when and how the petitioner received notice of the Consent 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 Consent Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Consent 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 Consent Order.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the Florida Department of Environmental Protection, Northwest District, 160 West Government Street, Suite 308, Pensacola, Florida 32502-5740. 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.

Before the deadline for filing a petition, a person whose substantial interests are affected by this Consent Order may choose to pursue mediation as an alternative remedy under Section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in Section 120.573, Florida Statutes and Rule 62-110.106(12), Florida Administrative Code.

35. Rules referenced in this Order are available at <http://www.dep.state.fl.us/legal/Rules/rulelistnum.htm>.

FOR THE RESPONDENT:

Mr. Edward McMath, P.E.
Deputy Executive Director
Emerald Coast Utilities Authority

DATE

.....
FOR DEPARTMENT USE ONLY

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

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Emile D. Hamilton
Director
Northwest 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

Copies furnished to:

Lea Crandall, Agency Clerk
Mail Station 35

Exhibit I

Paragraph 8 Spills

#	Date	Location	Approx. Amount (in gals)	Destination of Wastewater Release
1	6/1/2009	210 Cevallos Street	1,000	Ground
2	7/1/2009	2990 South Blue Angel Parkway	1,000	Ground
3	2/27/2010	Kingsfield Road and Pompano Road	1,000	Ground
4	4/29/2010	5540 Galvez St.	1,000	Ground
5	5/14/2010	9742 Harbor Place	1,500	Ground
6	4/25/2009	Blue Angle Parkway & Gulf Beach Hwy	6,000	Ground
7	6/26/2009	Gulf Beach Hwy & Flamingo St/ S.E. Corner	15,000	Ground
8	5/6/2010	2339 Osceola Blvd.	600	Surface Waters
9	7/17/2009	9 Mile Rd & University Parkway	250	Surface Waters
10	8/22/2009	Across from 7215 Pine Forest Rd.	500	Surface Waters
11	11/13/2009	Kingsfisher/Kingfisher Way	500	Surface Waters
12	1/10/2010	336 Ft. Pickens Road	500	Surface Waters
13	11/23/2009	8769 Meadowbrook Drive	600	Surface Waters
14	6/15/2009	2201 West Detroit Blvd.	900	Surface Waters
15	1/7/2010	Green Briar Blvd. (Dead End)	1,000	Surface Waters
16	3/30/2009	Triad Blvd. & Blue Angle Pkwy.	1,200	Surface Waters
17	11/25/2009	1800 Southbay Drive	1,350	Surface Waters
18	2/20/2010	Kingsfield Rd. and Eleven Mile Creek Rd.	2,500	Surface Waters
19	9/20/2009	4600 Twin Oaks Dr.	5,000	Surface Waters
20	9/30/2009	425 S. Pace Blvd. @ Relchhold Chemical Plant	10,000	Surface Waters
21	12/8/2009	246 Tree Swallow Drive	10,000	Surface Waters
22	7/25/2009	1505 Bayou Blvd.	20,000	Surface Waters
23	10/25/2009	6346 Summer Lakes Lane	68,400	Surface Waters
24	6/18/2009	13534 Perdido Key Dr.	125,000	Surface Waters

Exhibit II

In-Kind Projects - Civil Penalties

I. Introduction

An in-kind project to off-set civil penalties assessed in paragraph 15.

(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) that prevent(s) the acceptance of the proposal. Respondent shall correct and redress all of 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 as set forth in paragraph 15 above, within 30 days of Department notice.

(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 as set forth in paragraph 15 above, within 30 days of Department notice.

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

(f) During the implementation of the in-kind penalty 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 payment 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 \$13,549.25 penalty, no additional penalties shall be assessed under paragraph 15 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) that prevent the acceptance of the project. Respondent shall correct and redress all of 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 payment 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 \$13,549.25, no additional penalties shall be assessed under paragraph 15 for failure to complete the requirements of this paragraph.

Exhibit III

In-Kind Projects – Stipulated Penalties for Spills

I. Introduction

An in-kind project to off-set any additional assessed stipulated penalties for spills provided by paragraph 17.

(a) Within 60 days of receipt of written demand for the payment of stipulated penalties assessed under paragraph 17 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) that prevent(s) the acceptance of the proposal. Respondent shall correct and redress all of 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 assessed stipulated penalties for

spills as noted in the written demand for payment of stipulated penalties assessed under paragraph 17 above, within 30 days of Department notice.

(d) Within 120 days of receipt of written demand for the payment of stipulated penalties assessed under paragraph 17 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 receipt of written demand for the payment of stipulated penalties assessed under paragraph 17 of this Consent Order, then Respondent shall make cash payment of the assessed stipulated penalties for spills as noted in the written demand for payment of stipulated penalties assessed under paragraph 17 above, within 30 days of Department notice.

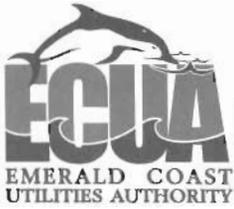
(e) Within 180 days of obtaining Department approval for the in-kind proposal or in accordance with the approved schedule submitted pursuant to paragraph (a) above, Respondent shall complete the entire in-kind project.

(f) During the implementation of the in-kind penalty 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 payment option shall be forfeited and the entire amount of the assessed stipulated penalties for spills as noted in the written demand for payment of stipulated penalties assessed under paragraph 17 above, 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 assessed stipulated penalties in full, no additional penalties shall be assessed under paragraph 17 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) that prevent the acceptance of the project. Respondent shall correct and redress all of 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 payment option shall be forfeited and the entire amount of the assessed stipulated penalties for spills as noted in the written demand for payment of stipulated penalties assessed under paragraph 17 above, 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 assessed stipulated penalties in full, no additional penalties shall be assessed under paragraph 17 for failure to complete the requirements of this paragraph.



MEMORANDUM

TO: Emerald Coast Utilities Authority Board

DATE: March 29, 2012

SUBJECT: Expenditures approved by the Executive Director - Main Street WWTP Replacement (CS141B)

At its October 28, 2004 meeting, the Board authorized the Executive Director to negotiate and enter into a contract with the highest-ranked firm (the team of Baskerville-Donovan, Inc./Hatch Mott MacDonald (BDI/HMM)) for engineering services on the replacement of the Main Street WWTP (MSP). On December 17, 2004, we signed a contract with BDI/HMM for preparation of a Facilities Plan; the contract has been amended numerous times for the performance of additional services related to the replacement of the plant.

To ensure timely response to time-sensitive issues involving the commitment of funds for the project, at its January 26, 2006 meeting, the Board authorized the Executive Director to approve contracts and expenditures related to the plant replacement, which exceed his current purchasing authority. Any such approvals are to be reported to the Board at its next meeting. This is the report covering the period February 9 through March 14, 2012.

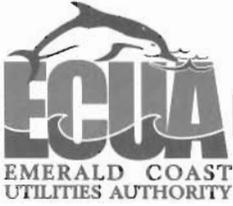
Emergency Operations Support Addition:

All Pro Sound – change order to the purchase order for the Board Room audio/visual (AV) system. The contract for the Emergency Operations Support building (EOS) did not include an AV system for the Board Room, as the thinking was the cost would be lower if purchased directly by ECUA near the end of construction to take advantage of the most recent advances in technology, which have a tendency to drop in price over time. All Pro had been previously issued a purchase order (PO) under the Owner Direct Purchase (ODP) program for the AV systems in the remainder of the addition. The system selected is one of several demonstrated to the staff and Board Chairman, it utilizes the latest digital technology, high resolution video equipment and will cost a lump sum amount of \$65,182.

Respectfully submitted,

Stephen E. Sorrell
Executive Director

SES/WEJ/SPH



MEMORANDUM

TO: Emerald Coast Utilities Authority Board

DATE: March 29, 2012

SUBJECT: Emergency Purchase Notification – Repair of dryer #1

Due to the nature of the damage to dryer #1 at the Central Water Reclamation Facility and the complex design of the shell and paddle system, Komline-Sanderson (Komline), the manufacturer of the dryer, requires pre-qualification of any mechanical contractor contracted to perform work on the dryers. In this instance, the work entailed labor and equipment to repair the damage and to apply additional alloy surface hardening to the internal paddles to mitigate potential future damage. The scope and complexity of the work was demanding and required proven experience working with Komline's proprietary hardening material.

Given the above, it was difficult to locate contractors in this area with the proper qualifications, willingness to sign a confidentiality agreement with Komline, and to have their welders and QA people pre-qualified by Komline, without any additional charge to ECUA.

Wiltew, Fabricated Structural Metal, Semmes, AL, met the pre-qualification criteria as set forth by Komline and was approved by them to make the necessary repairs on the dryer. This requirement by Komline was critical to maintain the warranty on the dryer. Based on previous work performed by Wiltew for ECUA, we were confident in their ability to perform this work efficiently and cost effectively.

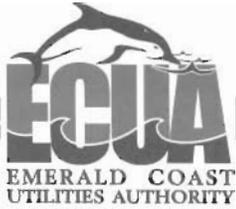
Due to the difficulty outlined above and the costs being incurred hauling sludge to the Perdido Landfill, we issued an Emergency Purchase Order to Wiltew in the amount of \$58,025. Funds were available in the operating budget to meet this expense.

This notification of emergency purchase is given as required by Section 13-2, paragraph (b) (2) of the *ECUA Code* and action by the Board is not required.

Respectfully submitted,

Stephen E. Sorrell
Executive Director

SES:GLP:sm



MEMORANDUM

TO: Emerald Coast Utilities Authority Board

DATE: March 29, 2012

SUBJECT: Notification of expenditures approved by the Executive Director-
Information only

Johnson Avenue Bridge Replacement - Utility Relocation

Escambia County is going to replace the bridge on Johnson Avenue just east of University Parkway. This bridge replacement will require the relocation of ECUA's 16" water main and 6" sewer force main that are currently attached to, or installed over, the existing bridge.

Based on our agreement with Escambia County, the County will include in their project plans and pay all costs associated with the relocation of the 16" water main. The County will also include in their project plans the relocation of the 6" force main. However, the costs associated with the force main relocation will be the responsibility of ECUA. The ECUA will simply reimburse the County for the force main relocation work after the project is competitively bid and the work is completed.

The budget needed for this force main relocation is estimated at \$80,000, with sufficient funding being available in CIP Project CR405 General Utility Relocates. It is the responsibility of the ECUA to relocate our sewer force main, and the best and most cost effective method is to include the work in the competitively bid County contract, and then reimburse the County for the costs. The work and cost sharing agreement with Escambia County described herein was approved by the Executive Director on March 14, 2012. This is information only, and action by the Board is not required.

Respectfully submitted,

A handwritten signature in black ink that reads 'Stephen E. Sorrell'. The signature is written in a cursive style with a large, looped initial 'S'.

Stephen E. Sorrell
Executive Director

SES:MH:mh