

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

Celeste Philip, MD, MPH
State Surgeon General

Vision: To be the Healthiest State in the Nation

Florida Department of Health in Broward County
City of Fort Lauderdale – PWS# 4060486
June 23, 2017

City of Fort Lauderdale
c/o: Mr. Lee R. Feldman, ICMA-CM
City Manager
100 N. Andrews Avenue
Fort Lauderdale, FL 33301
LFeldman@fortlauderdale.gov

Subject: Florida Department of Health - Broward County v City of Fort Lauderdale; OGC File #SFCO-17-406PWS0486-D

Dear Mr. Feldman,

Enclosed for your review and signature is the Short-Form Consent Order drafted by the Department for the aforementioned case. This Consent Order represents the resolution acceptable to the Department in this matter.

The Florida Department of Health - Broward County (“Department”) finds that the City of Fort Lauderdale (“Respondent”):

- a. Failed to obtain a Certification of Construction Completion and Clearance from this Department prior to placing the water main extension into service for permit #0126081-508-DSGP, *Royal Palm Drive Bridge Replacement Project*, pursuant to Rule 62-555.345, Florida Administrative Code (F.A.C.).

Rule 62-555.345(1), F.A.C., requires certification from the Department before placing new or altered public water system components into operation. Furthermore, suppliers of water shall ensure that permittees have obtained written clearance from the Department before suppliers of water turn on water service to permittees, in accordance with Rule 62-555.345(5), F.A.C.

The Respondent has since provided the Department with documentation assuring that all work complies with the applicable requirements of Chapter 62-555, F.A.C. including the applicable requirements in the engineering references listed in Chapter 62-555.330, F.A.C.

Although there are no further actions required to correct the violations, the Respondent remains subject to civil penalties. The Respondent is also responsible for costs incurred by the Department during the investigation of this matter.

The Department's Offer

Based on the violations described above, the Department is seeking \$750.00 in civil penalties and \$250.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$1,000.00.

Respondent's Acceptance

If you wish to accept this offer and fully resolve the enforcement matter pending against the Respondent, please sign this letter and return it to the Florida Department of Health - Broward County, Environmental Engineering Section, 2421A S.W. 6th Avenue Ft. Lauderdale, Florida 33315 by **July 7, 2017**.

The Department will then countersign it and file it with the designated Clerk for the Department. Once the document is filed with the designated clerk, it will constitute a Final Order of the Department pursuant to Section 120.52(7), F.S. and will be effective unless a request for an administrative hearing is filed by a third party in accordance with Chapter 120, F.S. and the attached Notice of Rights.

By accepting this offer you, **Lee R. Feldman**, in your capacity as **City Manager**:

- a. Certify that you are authorized and empowered to negotiate, enter into, and accept the terms of this offer in the name and on behalf of the Respondent;
- b. Acknowledge and waive Respondent's right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this offer, once final; and
- c. Acknowledge and waive Respondent's right to an appeal pursuant to Section 120.68, F.S.

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

Respondent's Performance

After signing and returning this document to the Department,

Respondent must pay **\$1,000.00** in full by **July 7, 2017**.

The payment must: (a) be in the form of a cashier's check, money order or check issued by a governmental entity; (b) be payable to the "Florida Department of Health in Broward County"; (c) include the case number assigned above and (d) be sent to the Florida Department of Health - Broward County, Environmental Engineering Section, 2421A S.W. 6th Avenue Ft. Lauderdale, Florida 33315 by **July 7, 2017**.

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

This letter is only a settlement offer, it shall not constitute a final agency action unless and until the settlement offer is fully executed. Consequently, neither the Respondent nor any other party may request an Administrative Hearing to contest this letter pursuant to Chapter 120, F.S. Once the settlement offer is accepted and filed, it becomes a final order of the Department. The attached Notice of Rights will apply to persons whose interests will be substantially affected, as applicable under the law of the State of Florida.

Please be aware that if the Respondent declines to respond to the Department's offer by **July 7, 2017** the Department will assume that the Respondent is not interested in resolving the matter and will proceed accordingly.

Sincerely,



Andrew Frongello

Environmental Specialist III

Florida Department of Health - Broward County

CC: Paul Berg P.E., Public Works Director, City of Fort Lauderdale
Rick Johnson, Utilities Distribution and Collection Systems Manager, City of Fort Lauderdale
Miguel Arroyo, Water & Wastewater Treatment Manager, City of Fort Lauderdale
Rafael Reyes, Environmental Engineering Director, FDOH-Broward
Evelyn Valerio, Professional Engineer I, FDOH-Broward
Michele Piñeros, Environmental Specialist III, FDOH-Broward

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FOR THE RESPONDENT:

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

By: _____
[Signature]

Date: _____

Title: _____
[Type or Print]

FOR DEPARTMENT USE ONLY

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

FLORIDA DEPARTMENT OF HEALTH - BROWARD COUNTY

Rafael Reyes
Environmental Engineering Director
Florida Department of Health in Broward County

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

Clerk

Date

Attachments: Notice of Rights

NOTICE OF RIGHTS

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

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

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

The petition must be filed and received at the at the Department's Legal Office, 780 SW 24th Street Fort Lauderdale, FL 33315, within 21 days of receipt of this notice. A copy of the petition must also be mailed, at the time of filing to the Department's Environmental Engineering Section, at 2421A S.W. 6th Avenue Ft. Lauderdale, Florida 33315. Failure to file a petition and have same received by the Department within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under Sections 120.569 and 120.57, Florida Statutes. Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.