

**BEFORE THE HEARING EXAMINER FOR THE BROWARD COUNTY
RESILIENT ENVIRONMENT DEPARTMENT
IN AND FOR BROWARD COUNTY, FLORIDA**

BROWARD COUNTY,

Petitioner,

vs.

NOTICE OF VIOLATION
NOV24-0002

CITY OF FORT LAUDERDALE and
RIC-MAN CONSTRUCTION FLORIDA, INC.,

Respondent.

_____ /

JOINT MOTION FOR AGREED FINAL ORDER

Petitioner, BROWARD COUNTY ("County"), by and through its Resilient Environment Department ("RED"), and Respondents, CITY OF FORT LAUDERDALE ("CITY") and RIC-MAN CONSTRUCTION FLORIDA, INC. ("RIC-MAN") (CITY and RIC-MAN are herein collectively referred to as the "Respondents"),¹ hereby file this Joint Motion for Agreed Final Order in the above-styled case pursuant to Subsection 27-21(d) of the Broward County Code of Ordinances ("Code") and state as follows:

1. This cause was set for hearing before a Hearing Examiner on June 27, 2024, on Notice of Violation NOV24-0002, which alleged seven Counts. Count 1 alleged Respondents violated Section 27-193(a) of the Code, which states:

It shall be unlawful for any person to discharge any substance in such quantities as may cause the receiving waters to be of quality less stringent than the water quality standards set forth in Section 27-195, or less stringent than allowed by effluent standards as established in Sections 27-196, or to cause pollution of water or a nuisance as defined in Section 27-4.

Counts 2, 4, and 5 alleged Respondents violated Section 27-27(a)(2) of the Code, which states:

(a) Violations: It shall be a violation of this chapter for any person: (2) To fail to obtain any license, environmental review approval, or any other approval required by this chapter or by rule or regulation, or to violate or fail to comply with any rule, regulation, order, license, certification,

¹ Petitioner and Respondent(s) are collectively referred to as the "Parties."

NOTICE OF VIOLATION: NOV24-0002
RESPONDENTS: CITY OF FORT LAUDERDALE and RIC-MAN CONSTRUCTION
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environmental review approval, or any other approval adopted or issued by RED pursuant to its lawful authority.

Count 3 alleged Respondents violated Section 27-333(a)(1) of the Code, which states:

No person shall cause, permit, suffer, allow, conduct or cause to be conducted impact, alteration, construction, demolition, dredging or filling in regulated aquatic or wetland resources, except in accordance with a currently valid environmental resource license issued by RED and all general and specific license conditions contained therein.

Count 6 alleged that City violated Section 27-27(a)(2) of the Code, which states:

(a) Violations: It shall be a violation of this chapter for any person: (2) To fail to obtain any license, environmental review approval, or any other approval required by this chapter or by rule or regulation, or to violate or fail to comply with any rule, regulation, order, license, certification, environmental review approval, or any other approval adopted or issued by RED pursuant to its lawful authority.

Count 7 alleged City violated Section 27-27(a)(7) of the Code, which states:

(a) Violations: It shall be a violation of this chapter for any person: ... (7) To fail to keep on site, maintain, make available, post or display records or documents required by a license or this chapter.

2. Notice of Violation NOV24-0002 alleged that at the River Oaks Stormwater Park and Preserve Folio numbers 504216000200; 504216000190; 504216460010; 504216000170; 504216000160; and 504216000141 and surrounding canals located at 2101 SW 19th Avenue, Fort Lauderdale, FL 33315 on or about January 30, 2022, to March 15, 2023, Respondents:

(a) discharged into the River Oaks Stormwater Park and Preserve and surrounding canals causing the receiving waters to be of quality less stringent than the water quality standards for turbidity on or about March 2, 2022, through March 15, 2023, as set forth in Section 27-195, or to cause pollution of water or a nuisance as defined in Section 27-4;

(b) discharged from dewatering activities into the wetland preserve known as River Oaks Stormwater Park and Preserve from January 30, 2022, through March 15, 2023, without a valid license from RED and in violation of the Dewatering Plan approved December 17, 2021, for the River Oaks Stormwater Improvements Broward County Dewatering Project ID 21165042;

NOTICE OF VIOLATION: NOV24-0002

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(c) caused, permitted, suffered, allowed, conducted, or caused to be conducted impact, alteration, construction, and/or dredging by placing gravel fill in regulated aquatic or wetland resources without a valid Environmental Resource License issued by RED;

(d) failed to notify RED within eight (8) hours when exceedances of water quality standards for turbidity occurred during dewatering activities in violation of Broward County General Condition No. 3 of Environmental Resource Permit No. ERP 06-80003-P/Surface Water Management License No. SWM2018-081-5 (issued 11/24/2020) and in violation of Condition No. 5 of the Dewatering Plan approved December 17, 2021, for the River Oaks Stormwater Improvements Broward County Dewatering Project ID 21165042;

(e) failed to monitor dewatering effluent between November 19, 2022, and February 26, 2023, during dewatering activities in violation of Condition No. 5 of the Dewatering Plan approved December 17, 2021, for the River Oaks Stormwater Improvements Broward County Dewatering Project ID 21165042;

(f) failed to comply with Aquatic Wetland and Resources Program: Standard Condition C.2. (Mitigation Conditions) of Environmental Resource Permit No. 06-07241-P/Surface Water Management License No. SWM2015-091-0/ Environmental Resource License No. DF13-1113 (issued 12/18/2015) by failing to prohibit activities detrimental to drainage, flood control, water conservation, erosion control, or fish and wildlife habitat conservation, or preservation of the wetland mitigation area known as River Oaks Stormwater Park and Preserve; and

(g) failed to keep copies on site of Environmental Resource Permit No. ERP 06-80003-P/Surface Water Management License No. SWM2018-081-5/ Environmental Resource License No. DF21-1148 (issued 11/24/2020) including the Modification issued 5/26/2021, as required by Aquatic Wetland and Resources Program: F. which states "A COPY OF THIS LICENSE SHALL BE KEPT ON SITE DURING ALL PHASES OF LICENSED CONSTRUCTION."

3. To further resolve this cause without the need of a hearing, the Parties agree to the terms of the proposed Agreed Final Order attached hereto as Exhibit A.
4. The Parties acknowledge they had the opportunity to seek and receive whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations which attach by entry of the proposed Agreed Final Order.

WHEREFORE, the Parties request that the Hearing Examiner enter the proposed Agreed Final Order and promptly render it in the files of County.

NOTICE OF VIOLATION: NOV24-0002
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Respectfully submitted by the Parties on this _____ day of _____, 2024.

**RESPONDENT
RIC-MAN CONSTRUCTION FLORIDA,
INC.**

By: _____
(Signature)

Print Name: _____

Title of Signatory: _____

Company: _____

**PETITIONER
BROWARD COUNTY**

Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
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By: _____
Alexis Marrero Koratich, Esq.
Assistant County Attorney
Florida Bar No. 1010273
Primary Email: akoratich@broward.org
Secondary Email: gbusacca@broward.org
Counsel for Broward County

**APPROVED AS TO FORM AND
CORRECTNESS:**

By: _____
Rhonda Montoya Hasan, Esq.
Assistant City Attorney
Florida Bar No. 863890
Counsel for City of Fort Lauderdale

**RESPONDENT
CITY OF FORT LAUDERDALE**

By: _____
(Signature)

Print Name: _____

Title of Signatory: _____

Company: _____

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AGREED FINAL ORDER

THIS CAUSE having come before the undersigned Hearing Examiner for the Broward County Resilient Environment Department ("Department"), on the joint motion of Petitioner, BROWARD COUNTY ("County"), and Respondents, CITY OF FORT LAUDERDALE ("CITY") and RIC-MAN CONSTRUCTION FLORIDA, INC. ("RIC-MAN") (CITY and RIC-MAN are herein collectively referred to as the "Respondents"),¹ and having been advised in the premises, the Joint Motion for Agreed Final Order is hereby GRANTED and the following is hereby ORDERED:

I. Penalties and Costs:

1. Respondents shall pay a civil penalty of \$162,450 and administrative costs of \$300, for a total of \$162,750, within thirty (30) days from the date this Agreed Final Order is rendered in the County's files.

II. Corrective Actions:

1. Cease all dewatering activities into the Preserve. Use only pre-authorized dewatering locations and monitor all discharges for compliance.
2. Apply for and obtain an Environmental Resource License to conduct a bathymetric survey, sediment testing/depth, vegetation habitat survey, survivorship analysis which shall also include a remediation plan of the wetland preserve known as River Oaks Stormwater Park and Preserve. The approved remediation plan shall be implemented within 120 days of license issuance.

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NOTICE OF VIOLATION: NOV24-0002

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3. Cease causing, permitting, suffering, allowing, conducting, or causing to be conducted impacts in regulated aquatic or wetland resources without a currently valid environmental resource license issued by RED.
4. Immediately notify the County in all circumstances when license/permit conditions cannot be met.
5. Monitor dewatering effluent as required in Condition No. 5 of the Dewatering Plan approved December 17, 2021, for the River Oaks Stormwater Improvements Broward County Dewatering Project ID 21165042.
6. Cease all activities detrimental to drainage, flood control, water conservation, erosion control, or fish and wildlife habitat conservation, or preservation of the wetland mitigation area.
7. Maintain copies of all licenses/permits/approvals and required daily turbidity and dewatering logs on site including but not limited to posting near or around the area of activity.

III. Other Terms and Conditions:

1. The Parties agree these amounts and corrective actions are reasonable and shall not contest them in any subsequent action, except that the County reserves the right to enforce the Agreed Final Order. Any extensions to the time frames identified in this Agreed Final Order must be approved by the County in writing.
2. The Parties agreed to waive their rights to an administrative hearing in this cause as set forth in Section 27-32 of the Broward County Code of Ordinances ("Code"), except as to an action for enforcement of this Agreed Final Order.
3. Entry of this Agreed Final Order does not relieve the Respondents of the need to comply with all applicable federal, state, or local laws, regulations, or ordinances. Respondents recognize their responsibility to take all reasonable measures necessary to prevent future violations of Chapter 27 of the Code. County hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit the future violation of applicable statutes or regulations, or to alleviate an immediate serious danger to the public health, safety, or welfare.
4. Respondents acknowledge and agree that failure to comply with this Agreed Final Order may result in the denial, suspension, or revocation of any license, permit, or approval pending or held by Respondent that is issued by the Department, pursuant to the Code.

NOTICE OF VIOLATION: NOV24-0002

RESPONDENTS: CITY OF FORT LAUDERDALE and RIC-MAN CONSTRUCTION
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5. County does not waive the following provisions of the Code: Subsections 27-4(20), 27-55(d)(7), and 27-63(b)(6) regarding habitual violators; Subsection 27-22(a)(5) regarding history of noncompliance; and Subsection 27-38(d) regarding habitual citation violators. This Agreed Final Order is considered a settlement agreement for the purpose specified in Subsection 27-4(20) of the Code.
6. The Parties acknowledge they had the opportunity to seek and receive whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations which attach by entry of this Agreed Final Order. The terms and language agreed to express the Parties' mutual intent and this Agreed Final Order shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other because of such party's preparation of this Agreed Final Order.

DONE and ORDERED this _____ day of _____, 2024.

Renee Clark, Esq.
Hearing Examiner

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2. Apply for and obtain an Environmental Resource License to conduct a bathymetric survey, sediment testing/depth, vegetation habitat survey, survivorship analysis which shall also include a remediation plan of the wetland preserve known as River Oaks Stormwater Park and Preserve. The approved remediation plan shall be implemented within 120 days of license issuance.

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