

SECOND AMENDMENT TO JUNE 22, 2022
BACK RIVER WASTEWATER TREATMENT PLANT CONSENT ORDER

THIS SECOND AMENDMENT TO THE BACK RIVER WASTEWATER TREATMENT PLANT CONSENT ORDER (“Second Amendment”) is made as of January __, 2023, by and between the State of Maryland, Department of the Environment (“Department” or “MDE”), and the Mayor and City Council of Baltimore, Maryland (“Baltimore City,” and together with MDE, the “Parties”).

WHEREAS, reference is made to that certain Consent Order, which was issued to Baltimore City by MDE and made effective June 22, 2022, upon the approval of the Baltimore City Board of Estimates (“BoE”), and which was amended by the First Amendment to the Back River Wastewater Treatment Plant Consent Order, effective October 19, 2022, upon approval of the BoE (“First Amendment”);

WHEREAS, the Consent Order, as amended by the First Amendment, provides that it will remain in effect until it is either superseded by further order, terminated by mutual agreement, or December 31, 2022, provided that the Back River WWTP has, for a period of at least three months, maintained compliance with its Back River Discharge Permit effluent limits, including (i) the ENR monthly average concentration standards in the Back River Discharge Permit (i.e., 4.0 mg/L for total nitrogen and 0.2 mg/L for total phosphorus) for each month in a three consecutive month period; and (ii) all annual and seasonal loading limits in the Back River Discharge Permit calculated on a pro-rata basis for the same three-month period; and

WHEREAS, discharge monitoring reports demonstrate that the Back River WWTP has maintained compliance with its Discharge Permit effluent limits during the months of June through November, 2022, including (i) ENR monthly average concentration standards of 4 mg/L for total nitrogen and 0.2 mg/L for total phosphorus; and (ii) all annual and seasonal loading limits calculated on a pro-rata basis.

WHEREAS, assuming that the discharge monitoring report for the month of December 2022

demonstrates that the Back River WWTP has continued to maintain compliance with its Discharge Permit effluent limits, which will trigger the termination of the Consent Order, the Parties seek to extend the term of the Consent Order until April 30, 2023, to ensure the continued support of the Maryland Environmental Service (“MES”) at the plant.

NOW THEREFORE, in recognition and consideration of the above recitals, MDE and Baltimore City agree to amend the Consent Order. Accordingly, pursuant to § 9-252 of the Environment Article, the Secretary hereby ORDERS Baltimore City, and Baltimore City CONSENTS, that:

1. SECOND AMENDMENT. The provisions of the Consent Order, on page 6, lines 9 through 15, as amended by the First Amendment to the June 22, 2022 Back River Wastewater Treatment Plant Consent Order, stating the period the Consent Order will remain in effect, are hereby stricken and replaced with the following: “This Consent Order will remain in effect until seven days following the earliest occurrence of any of the following (each being a “Termination Event”): (1) it is superseded by further order of MDE or judicial consent decree to which MDE is a party; (2) it is terminated by mutual agreement of the parties; or (3) April 30, 2023, provided that verified discharge monitoring reports demonstrate that the Back River WWTP has for the immediately preceding three months maintained compliance with its Back River Discharge Permit effluent limits, including (i) the ENR monthly average concentration standards in the Back River Discharge Permit (i.e., 4 mg/L for total nitrogen and 0.2 mg/L for total phosphorus) for each month in the three consecutive month period; and (ii) all annual and seasonal loading limits in the Back River Discharge Permit calculated on a pro-rata basis for the same three-month period. If no Termination Event has occurred as of April 30, 2023, this Consent Order will remain in effect after that date, until seven days after verified discharge monitoring reports demonstrate that the Back River WWTP has for a period of three months maintained compliance with its Back River Discharge Permit effluent limits, including (i) the ENR

monthly average concentration standards in the Back River Discharge Permit (i.e., 4 mg/L for total nitrogen and 0.2 mg/L for total phosphorus) for each month in a three consecutive month period; and (ii) all annual and seasonal loading limits in the Back River Discharge Permit calculated on a pro-rata basis for the same three-month period (“Extended Termination Event”).”

2 Baltimore City shall submit this Second Amendment and the Second Revised Reimbursement Agreement to the BoE for approval at the next regularly scheduled meeting of the BoE following the execution of the Second Amendment and the Second Revised Reimbursement Agreement; provided, that, notwithstanding anything herein to the contrary:

- A. The Second Amendment (except for this paragraph 2) and the Second Revised Reimbursement Agreement shall not be effective until approved by the BoE;
- B. If the BoE votes not to approve the Second Amendment and the Second Revised Reimbursement Agreement, or if the BoE fails to approve the Second Amendment and the Second Revised Reimbursement Agreement on or before _____, this Second Amendment and the Second Revised Reimbursement Agreement shall be null and void;
- C. When this Second Amendment is approved by the BoE, it shall automatically come fully into force, without the need for any further act by any person; and
- D. Baltimore City represents and warrants that, except for the BoE’s approval of this Second Amendment and the Second Revised Reimbursement Agreement, no approval, authorization, or consent of any person or governmental entity is necessary for the execution and performance of this Second Amendment and the Second Revised Reimbursement Agreement by Baltimore City.

3. CONTINUING EFFECT OF CONSENT ORDER. Except as expressly amended hereby, the Consent Order remains in full force and effect in accordance with its original terms. The Consent Order, as amended by the First and Second Amendment, shall be construed as one order.

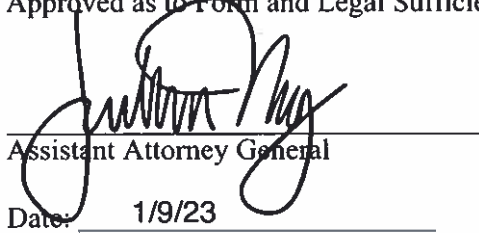
(signatures on the following page)

IT IS SO ORDERED BY THE
STATE OF MARYLAND,
DEPARTMENT OF THE ENVIRONMENT


Suzanne Dorsey, Acting Secretary

Date: 1-9-2023

Approved as to Form and Legal Sufficiency:


Assistant Attorney General
Date: 1/9/23

IT IS SO CONSENTED TO BY THE
MAYOR & CITY COUNCIL
OF BALTIMORE CITY


Jason Mitchell, Director
Department of Public Works

Date: January 10, 2023

Approved as to Form and Legal Sufficiency:


City Solicitor

Date: 1/10/23

Approved by the Board of Estimates:

Clerk

Date: _____