

STATE OF CALIFORNIA  
STATE WATER RESOURCE CONTROL BOARD

In the matter of: ) Order No. WQ 2013-0009-EXEC  
)  
)  
CITY OF MAYWOOD ) Settlement Agreement and Stipulation for  
) Entry of Administrative Civil Liability Order;  
) [Proposed] Order  
)

**Section I: Introduction**

This Order on Stipulation and Settlement Agreement (“Order”) is entered into by and between the Enforcement Staff of the State Water Resource Control Board (“Enforcement Staff”) and the City of Maywood (“Settling Respondent”) (Collectively “Parties”) and is presented to the State Water Board. The Enforcement Staff has alleged violations against the Settling Respondent as set forth in the pre-complaint letter and attached draft administrative civil liability complaint dated July 23, 2012, which is attached hereto as Exhibit A.

**Section II: Recitals**

1. The Settling Respondent owns a sanitary sewer collection system (collection system), comprised of more than one mile of pipes that convey wastewater to a publicly owned treatment facility that currently serves the homes and businesses located in the City of Maywood.
2. On July 10, 2010, pursuant to the State Water Resource Control Board Order No. 2006-003-DWQ (Sanitary Sewer System WDR, hereafter SSS WDRs) and its related Monitoring and Reporting Program Order No. 2008-0002-EXEC (hereafter, Amended MRP), the Settling Respondent enrolled its sanitary sewer collection system.
3. On July 20, 2010 Enforcement Staff issued a Notice of Violation and request for information pursuant to California Water Code §13267 to the Settling Respondent. The Notice of Violation outlined the Settling Respondent’s failure to comply with the SSS WDRs for the City of Maywood by: (1) Failing to complete a required Sewer System Management Plan (SSMP) and timely certify any of the required SSMP elements in CIWQS; (2) Failing to complete and annually update the SSS WDRs required “Collection System Questionnaire”; and (3) Failing to provide any of the elements required under Amended MRP.
4. In addition, pursuant to California Water Code §13267 the NOV requested technical reports set forth in the order.
5. On July 20, 2011 State Water Board representatives attempted to inspect the Settling Respondent’s sanitary sewer system.

6. On July 23, 2012, Enforcement Staff sent the Settling Respondent a pre-complaint letter and attached draft administrative civil liability complaint to in part, address substantial violations of Water Quality Order No. 2006-003-DWQ (Sanitary Sewer System WDR) and its related Monitoring and Reporting Program Order No. 2008-0002-EXEC.

7. The Parties have engaged in discussions concerning the Enforcement Staff's allegations and agree to settle the matter without administrative action or resorting to civil litigation by presenting this Stipulated Order to the State Water Board. Enforcement Staff believes that this resolution is fair and reasonable, is in the public interest, and comports with the State Water Resources Control Board's Water Quality Enforcement Policy (Enforcement Policy).

8. To resolve by consent and without further administrative proceedings, the Parties have agreed to the imposition of penalties for violation set forth in the draft complaint and included in Exhibit A, in the amount of FOUR THOUSAND FIVE HUNDRED DOLLARS (\$4500).

9. In addition, the Parties stipulate to the issuance of Time Schedule Order (TSO), ordering compliance with the tasks and the requirements set forth in the order. The proposed TSO is attached hereto as Exhibit B. Notably, the TSO sets forth future stipulated penalties for failure to comply with the monitoring and reporting requirements set forth in Water Quality Order No. 2006-0003-DWQ (Sanitary Sewer System WDR) and its related Monitoring and Reporting Program Order No. 2008-0002-EXEC.

### **Section III: Stipulations**

The Enforcement Staff recommend issuance of this Stipulated Order to effectuate the settlement:

10. This Stipulated Order is entered into by the Parties, in part, to resolve by consent and without further administrative proceedings alleged violations of the SSS WDRs and Amended MRP.

11. **Administrative Civil Liability:** The City of Maywood hereby agrees to the imposition of an administrative civil liability totaling \$4,500. Within thirty (30) days of the effective date of this Stipulated Order, the City of Maywood agrees to remit, by check, FOUR THOUSAND FIVE HUNDRED DOLLARS (\$4,500), payable to the State Water Pollution Cleanup and Abatement Account, and shall indicate on the check the number of this Stipulated Order. The City of Maywood shall send the original signed check to the State Water Resources Control Board, Sacramento, Division of Administrative Services, Accounting Branch 1001 I Street, 18<sup>th</sup> Floor, Sacramento, California 95814, and shall send a copy to Anna Kathryn Benedict, Office of Enforcement, 1001 I Street, 16<sup>th</sup> Floor, Sacramento, California 95814.

12. **Compliance with Applicable Laws:** The City of Maywood understands that payment of administrative civil liability in accordance with the terms of this Stipulated Order is not a substitute for compliance with applicable laws, and that continuing violations of the type alleged in the Complaint, subject to the conditions in Paragraph 15 below, may subject the City of Maywood to further enforcement, including additional administrative civil liability.

13. **Party Contacts for Communications related to this Stipulated Order:**

**For the State Water Resources Control Board-Office of Enforcement:**

Anna Kathryn Benedict  
Senior Staff Counsel  
Office of Enforcement  
State Water Resources Control Board  
1001 "I" Street, 16<sup>th</sup> Floor  
Sacramento, California 95814  
(916) 323-6846  
[abenedict@waterboards.ca.gov](mailto:abenedict@waterboards.ca.gov)

Jim Fischer  
Office of Enforcement/Special Investigations Unit  
State Water Resources Control Board  
1001 "I" Street, 16<sup>th</sup> Floor  
Sacramento, California 95814  
(916) 341-5548  
[Jim.Fischer@waterboards.ca.gov](mailto:Jim.Fischer@waterboards.ca.gov)

**For the City of Maywood:**

Lilian Myers  
City Manager-City of Maywood  
4319 E. Slauson Ave.  
Maywood, CA 90270  
(323) 562-5712  
[lmyers@cityofmaywood.org](mailto:lmyers@cityofmaywood.org)

14. **Attorney's Fees and Costs:** Each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.

15. **Matters Addressed by Stipulation:** Upon the State Water Board's adoption, this Stipulated order represents a final and binding resolution and settlement of the violations alleged in the Complaint, and all claims, violations or causes of action that could have been asserted against the owner or operator as of the effective date of this Stipulated Order based on the specific facts alleged in the Complaint or this Stipulated Order ("Covered Matters"). The provisions of this Paragraph are expressly conditioned on the full payment of the administrative civil liability, in accordance with Paragraph 11.

16. **Public Notice:** The Discharger understands that this Stipulated Order will be noticed for a 30-day public review and comment period prior to consideration by the State Water Board, or its delegee. The Prosecution Staff will promptly notify the Discharger of any comments received during the 30-day public review period and will immediately communicate those comments to the Discharger. The Discharger agrees that they may not rescind or otherwise withdraw their

approval of this proposed Stipulated Order. If significant new information is received during the 30-day public review and comment period that reasonably affects presenting this Stipulated Order to the State Water Board, or its delegee, for adoption, the Director of the Office of Enforcement may unilaterally declare this Stipulated Order void and decide not to present it to the State Water Board, or its delegee.

17. **Publicity:**

- a. **Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for adoption of the settlement by the Parties and review by the public, as reflected in this Stipulated Order, will be adequate. In the event procedural objections are raised prior to the Stipulated Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree or adjust the procedure as necessary or advisable under the circumstances.
- b. **No Waiver of Right to Enforce:** The failure of the Prosecution Staff to enforce any provision of this Stipulated Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of the Order. The failure of the Prosecution Staff to enforce such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order.
- c. **Interpretation:** This Stipulated Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party. The City of Maywood is represented by counsel in this matter.
- d. **Modification:** This Stipulated Order shall not be modified by any of the Parties by oral representation made before or after its execution. All modifications must be signed in writing by the Parties and approved by the Parties.

18. **If Order Does Not Take Effect:** In the event that this Stipulated Order does not take effect, the Parties acknowledge that they expect to proceed with issuance of the ACL Complaint, unless the parties agree otherwise. The Parties agree that all oral and written statements and agreement made during the course of settlement discussions will not be admissible as evidence in the hearing. Notwithstanding objections on the admissibility of settlement discussions as evidence in a hearing, the Parties agree to waive any and all objections based on settlement communications in this matter, including, but not limited to:

- a. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.

19. **Admission of Liability:** In settling this matter, the City of Maywood recognizes that in the event of any future enforcement actions by the State Water Board or the Regional Water Board, this Stipulated Order may be used as evidence of a prior enforcement action consistent with Water Code section 13385(e) or Water Code section 13327.

20. **Waiver of Right to Petition:** The City of Maywood hereby waives its right to petition the adoption of the Stipulated Order for review by the State Water Resources Control Board, and further waives its right, if any, to appeal the same to a California Superior Court and/or any California appellate level court.

21. **Covenant Not to Sue:** The City of Maywood agrees to a covenant not to sue or pursue any administrative or civil claim(s) against any State Agency or the State of California, their officers, Board Members, employees, representatives, agents or attorneys arising out of or relating to any Covered Matters.

22. **State Water Board and Regional Water Board is not Liable:** Neither the Regional Water Board nor the State Water Board, members of their respective staff, attorneys or representatives shall be liable for any injury or damage to persons or property resulting from acts or omissions by the City of Maywood, their directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulated Order.

23. **Authority To Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Stipulated Order on behalf of and to bind the entity on whose behalf he or she executes the Order.

24. **No Third Party Beneficiaries:** This Stipulated Order is not intended to confer any rights or obligations on any third party or parties, and no third party or parties shall have any right of action under this Stipulated Order for any cause whatsoever.

25. **Effective Date:** This Stipulated Order shall be effective and binding on the Parties upon the date the State Water Resources Control Board, or its delegee, enters the Order.

26. **Counterpart Signatures:** This Stipulated Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document.

#### **Order of the State Water Resources Control Board**

27. The Parties believe that settlement of this matter is in the best interest of the People of the State. Therefore, to settle the Complaint, the City of Maywood hereby agrees to comply with the terms and conditions of this Order.

28. The terms of the forgoing stipulation are fully incorporated herein and made part of this Order.

29. This Stipulated Order is severable; should any provision be found invalid the remainder shall remain in full force and effect.

30. This is an action to enforce the laws and regulations administered by the State Water Board. The State Water Board finds that issuance of this Order is exempt from the provisions of

the California Environmental Quality Act (Public Resources Code, sections 21000 et seq.), in accordance with section 15321(a)(2) Title 14, of the California Code of Regulations.

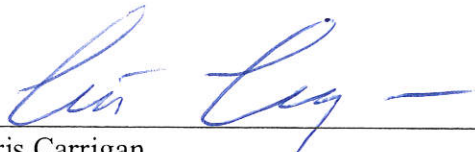
31. The Parties agree that the State Water Resources Control Board has subject matter jurisdiction over the matters alleged in the complaint and personal jurisdiction over the Parties to this Stipulated Order.

32. The State Water Resources Control Board is authorized to refer this matter directly to the Attorney General for enforcement if the City of Maywood fails to perform any of its obligations under the Stipulated Order.


33. Fulfillment of the City of Maywood's obligations under the Stipulated Order constitutes full and final satisfaction of any and all liability for each claim in the Complaint in accordance with the terms of the Stipulated Order.

**IT IS HEREBY STIPULATED:**


**State Water Resources Control Board Enforcement Staff**

By:   
Cris Carrigan  
Director


Date: 1/31/13

By:   
Anna Kathryn Benedict  
Counsel to the Enforcement Staff

Date: December 26, 2012

By:   
Lilian Myers  
City Manager – City of Maywood

Date: 1-14-13

Approved as to Form:   
Richard L. Adams II  
City Attorney - City of Maywood

the California Environmental Quality Act (Public Resources Code, sections 21000 et seq.), in accordance with section 15321(a)(2) Title 14, of the California Code of Regulations.

31. The Parties agree that the State Water Resources Control Board has subject matter jurisdiction over the matters alleged in the complaint and personal jurisdiction over the Parties to this Stipulated Order.

32. The State Water Resources Control Board is authorized to refer this matter directly to the Attorney General for enforcement if the City of Maywood fails to perform any of its obligations under the Stipulated Order.

33. Fulfillment of the City of Maywood's obligations under the Stipulated Order constitutes full and final satisfaction of any and all liability for each claim in the Complaint in accordance with the terms of the Stipulated Order.

**IT IS HEREBY STIPULATED:**

**State Water Resources Control Board Enforcement Staff**

By: \_\_\_\_\_  
Cris Carrigan  
Director

Date: \_\_\_\_\_

By: Anna Kathryn Benedict  
Anna Kathryn Benedict  
Counsel to the Enforcement Staff

Date: December 26, 2012

By: \_\_\_\_\_  
Lillian Myers  
City Manager – City of Maywood

Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Richard L. Adams II  
City Attorney - City of Maywood

Pursuant to CWC section 13323 and Government Code section 11415.60, **IT IS HEREBY ORDERED** on behalf of the State Water Resources Control Board.

Thomas Howard  
Thomas Howard  
Executive Director

Date: 3/28/13



EXHIBIT "A"

Pre-Complaint Letter Dated July 23, 2012 and  
Draft Administrative Civil Liability Complaint



State Water Resources Control Board

CONFIDENTIAL-SETTLEMENT DISCUSSIONS

July 23, 2012

Certified Mail  
No. 7004 1160 0002 0465 8383

Ms. Lillian Myers  
City Manager  
City of Maywood  
4319 E. Slauson Avenue  
Maywood, California 90270

RE: NOTICE OF PROPOSED ENFORCEMENT ACTION, OFFER TO ENGAGE IN  
PRE-FILING SETTLEMENT DISCUSSIONS

Dear Ms. Myers:

The Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) and the State Water Resources Control Board's (State Water Board) Office of Enforcement are pursuing administrative enforcement relating to the City of Maywood's failure to comply with State Water Board Order 2006-0003-DWQ, the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems. This order was adopted by the State Water Board on May 2, 2006, and the City of Maywood enrolled on July 10, 2006. Enforcement is being pursued against the City of Maywood for violations of Prohibition C.1 and D.1 of the order, section 301 of the federal Water Pollution Control Act, and Water Code sections 13267 and 13376, relative to the City of Maywood's failure to provide a compliance plan, failure to report discharges in the California Integrated Water Quality System (CIWQS) dating back to May 2, 2007, and several discharges which occurred in 2009 and 2011.

I have attached a draft copy of the administrative civil liability complaint, which provides a detailed explanation of the violations.<sup>1</sup> Failure to comply with a Water Code section 13267 investigator order regarding submission of a compliance plan, failure to update and maintain CIWQS reports, and failure to return to compliance, each carry a penalty of a thousand dollars (\$1,000) per day and the due date for each was in 2010. In addition, under Water Code section 13350(a)(1), each discharge subjects the City of Maywood to liability in the amount of \$5,000 per day.

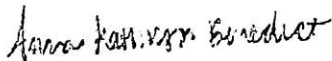
<sup>1</sup> The attached complaint is a draft. The State Water Board reserves the right to revise, change, or modify the complaint at any time prior to issuance.

CHARLES R. HOPPIN, CHAR RIVAS, THOMAS HOWARD, EXECUTIVE DIRECTOR

1071 First Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 127, Sacramento, CA 95812-0127 | www.waterboards.ca.gov

Prior to prosecuting this violation, we offer you an opportunity to discuss the facts regarding the alleged violations and the appropriate remedy. If you wish to avail the City of Maywood of this opportunity, please contact me on or before **August 6, 2012**, by phone at (916) 323-6848, or by email at [Abenedict@waterboards.ca.gov](mailto:Abenedict@waterboards.ca.gov). Failure to contact me by this date will result in the issuance of an Administrative Civil Liability Complaint.

Sincerely,



**Anna Kathryn Benedict**  
Senior Staff Counsel  
**Office of Enforcement**

cc: *(via email only)*

Ms. Paula Rasmussen  
Assistant Executive Officer  
Los Angeles Regional Water Board  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, California 90013  
[PRasmussen@waterboards.ca.gov](mailto:PRasmussen@waterboards.ca.gov)

Mr. Hugh Marley  
Senior Engineering Geologist  
Los Angeles Regional Water Board  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, California 90013  
[HMarley@waterboards.ca.gov](mailto:HMarley@waterboards.ca.gov)

Ms. Julie Berrey  
Environmental Scientist  
State Water Resources Control Board  
1001 I Street, Floor 16  
Sacramento, California 95814  
[JBerrey@waterboards.ca.gov](mailto:JBerrey@waterboards.ca.gov)

Attachment: Draft Complaint No. R4-2012-XXXX

**CONFIDENTIAL DRAFT-SETTLEMENT DISCUSSIONS**

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
LOS ANGELES REGION**

In the matter of:

) Complaint No. R4-2012-XXXX

)

City of Maywood

) Violation of Order No. 2006-0003-DWQ, Waste  
) Discharge Requirements for Sanitary Sewer  
) Systems

The chief prosecutor of the Regional Water Quality Control Board, Los Angeles Region (Regional Board) hereby gives notices that:

1. This Complaint is issued under the authority of California Water Code section 13323 to the City of Maywood (Discharger) to assess administrative civil liability pursuant to Water Code sections 13268, 13350 and 13271.
2. The Discharger is alleged to have violated provisions of the law for which the Regional board may impose civil liability pursuant to Water Code sections 13268, 13350 and 13271. This Complaint proposes to assess the Discharger \$ \_\_\_\_\_ in administrative civil liability for the violations based on the considerations described herein. The deadline for public comments on this Complaint is 5:00 p.m. on \_\_\_\_\_.
3. The Dischargers owns and operates a sewage collection system near 4319 East Slauson Avenue, Maywood, California.
4. Unless waived, a Regional Hearing Panel will hold a hearing on this Complaint on \_\_\_\_\_, at 9:00 a.m. at a location to be determined. The Discharger of its representative(s) will have an opportunity to be heard and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board. Not less than 10 days before the hearing date, an agenda for the meeting will be available on the Regional Board's website at:

[http://www.waterboards.ca.gov/losangeles/board\\_info/agenda/index.shtml](http://www.waterboards.ca.gov/losangeles/board_info/agenda/index.shtml)

5. The Discharger must submit any written evidence and/or information concerning this Complaint to the Regional Board no later than 5:00 p.m. on \_\_\_\_\_, for the Hearing Panel's consideration. Any written evidence submitted to the Regional board after this date and time may not be accepted or responded to in writing.
6. At the hearing, the Regional Board will consider whether to affirm, reject, or modify the proposed civil liability (including an increase in the amount of the civil liability up to the statutory maximum), or refer the matter to the Attorney General to have a Superior Court consider enforcement. The Discharger can waive its right to a hearing to contest the allegations contained in this Complaint by submitting a signed waiver and paying the civil liability in full or by taking other actions as described in the attached waiver form.

7. If this matter proceeds to hearing, the Prosecution Team reserves the right to seek an increase in the civil liability amount to cover the costs of enforcement incurred subsequent to the issuance of this administrative civil liability complaint through hearing. The enforcement costs can be considered as an additional factor as justice may require.
8. Regulations of the United States Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act. Accordingly, interested persons will be given thirty (30) days to comment on any proposed settlement of this Complaint.
9. Issuance of this Complaint is an enforcement action and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.) pursuant to title 14, California Code of Regulations section 15308 and section 15321, subsection (a)(2).

#### Statement of Regulatory Authority

10. On July 10, 2010, the Discharger enrolled in State Water Resources Control Board order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems adopted by the State Board on May 2, 2006. The Discharger is required to operate and maintain its sewage collection system in compliance with requirements of Order No. 2006-0003-DWQ.
11. Prohibition C.1 of Order No. 2006-0003-DWQ, states "[a]ny SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited."
12. Provision D.1 of Order No. 2006-0003-DWQ, states "[t]he Enrollee must comply with all conditions of this Order. Any noncompliance with this order constitutes a violation of the California Water Code and is grounds for enforcement action."
13. Section 301 of the Federal Water Pollution Control Act (33 U.S.C. § 1311)(Clean Water Act) and Water Code Section 13376 prohibit the discharge of pollutants to surface water except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. Order No. 2006-0003-DWQ is not an NPDES permit.

#### STATEMENT OF WATER CODE SECTIONS UPON WHICH LIABILITY IS BEING ASSESSED

14. An administrative civil liability may be imposed pursuant to the procedures described in Water Code section 13323. The proposed liability is being assessed pursuant to Water Code sections 13268, 13350, and 13271.
15. Pursuant to Water Code § 13268(a)(1), any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or failing or refusing to furnish a statement of compliance as required by subdivision (b) of section 13399.2 is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b). Subdivision (b)(1) states that civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.
16. Pursuant to Water Code § 13350(a), a person who in violation of a waste discharge requirement, discharges waste, or causes or permit waste to be deposited where it is discharged, into the water of the state is subject to administrative civil liability pursuant to Water Code section 13350(e)(1), in an amount not to exceed the sum of five thousand dollars (\$5000) for each day the violation occurs.

## ALLEGED VIOLATIONS

17. The Sanitary Sewer Systems WDR requires all public agencies that own or operate a sanitary sewer system comprised of more than one mile of pipes that convey wastewater to a publicly owned treatment facility to apply for coverage under the Sanitary Sewer Systems WDR. These public agencies are required to file a Notice of Intent to Comply with the Terms of the Statement General Waste Discharge Requirements for Sanitary Sewer Systems (NOI) for each individual sanitary sewer collection system owned or operated by the public agency. The City of Maywood filed an NOI with the State Water Board and enrolled the following sanitary sewer collection system in the Sanitary Sewer Systems WDR: Maywood City CS, 4SSO10409.
18. All enrollees must use the online California Integrated Water Quality System (CIWQS) database to enter facility and organizational information. Enrollees must also enter details of all sanitary sewer overflows (SSOs). For any calendar month(s) without SSOs, enrollees must enter "No-spill" certifications.
19. On July 20, 2010 a Notice of Violation (NOV) and California Water Code § 13267 request was send to the City of Maywood. The NOV outlined the City of Maywood's failure to comply with the Sanitary Systems WDR for Maywood City, CS, 4SSO10409 by: (1) Failing to timely certify any of the required Sewer System Management Plan (SSMP) elements in DIWQS); (2) Failing to complete an annually update the "Collection System Questionnaire"; and (3) Failing to provide any of the elements required under the Sanitary Sewer Systems WDR, Monitoring and Reporting Program (MRP), No. 2008-0002-EXEC.
20. In addition, pursuant to California Water Code § 13267 the NOV requested technical reports set forth in the order.
21. On July 20, 2011 State Water Board representatives attempted to inspect Maywood City's sanitary sewer system. The State Water Board representatives discussed the NOI, NOV and SSSWDRs with Maywood's City Manager and requested the SSMP and copies of all sewer call outs.
22. In response to the inspection and interview on July 25, 2011 Maywood City provided a 2-page "Emergency Sewer Spillage Incident Report Log" in which five SSOs took place in 2011. None of these SSOs were reported into CIWQS as of July 16, 2012.
23. On September 2, 2011 Maywood City provided a copy of its SSMP. The report is incomplete and it was not certified by the City Counsel.

### Summary of Violations of Prohibitions, Provisions, and Requirements Applicable to the Dischargers

24. VIOLATION: The Discharger violated CWA § 13267 by failing to submit a compliance plan for Maywood City CS, 4SSO10409.
25. VIOLATION: The Discharger violated CWA § 13267 by failing to submit historic SSO reports dating back to May 2, 2007, historic "No Spill Certifications" dating back to May 2, 2007, not completing the "Collection System Questionnaire" and certifying the Sewer System Management Plan (SSMP) elements.
26. VIOLATION: The Discharger violated CWA § 13267 by failing to submit a written letter to the State Water Board stating that Maywood City has returned to compliance.
27. VIOLATION: The Discharger violated Prohibition C.1 of order No. 2006-0003-DWA, Water code Section 13376, and section 301 of the Clean Water Act on September 12, 2009-September 14, 2009 by
28. VIOLATION: The Discharger violated Prohibition C.1 of order No. 2006-0003-DWA, Water code Section 13376, and section 301 of the Clean Water Act on March 8, 2011

29. VIOLATION: The Discharger violated Prohibition C.1 of order No. 2006-0003-DWA, Water code Section 13376, and section 301 of the Clean Water Act on March 31, 2011 by discharging an unknown amount of grease and waste into storm drains, which flow to waters of the state.
30. VIOLATION: The Discharger violated Prohibition C.1 of order No. 2006-0003-DWA, Water code Section 13376, and section 301 of the Clean Water Act on May 25, 2011 by discharging an unknown amount of grease and waste into storm drain, which flow to waters of the state.
31. VIOLATION: The Discharger violated Prohibition C.1 of order No. 2006-0003-DWA, Water code Section 13376, and section 301 of the Clean Water Act on June 1, 2011 by discharging an unknown amount of grease and waste into storm drain, which flow to waters of the state.
32. VIOLATION: The Discharger violated Prohibition C.1 of order No. 2006-0003-DWA, Water code Section 13376, and section 301 of the Clean Water Act on July 11, 2011 by discharging an unknown amount of grease and waste into storm drain, which flow to waters of the state.
33. VIOLATION: The Discharger violated the MRP section A 4-5 of Order no. 2006-0003-DWQ by failing to report and certify the SSOs set forth in paragraphs 27-32.
34. VIOLATION: The Discharger violated CWA section 13271(a)(1) by failing to notify CalEMA of the discharges/SSOs set forth in paragraphs 27 and 29.

#### FACTORS CONSIDERED IN DETERMINING ADMINISTRATIVE CIVIL LIABILITY

35. Pursuant to Water Code section 13350, subdivision (f) and section 13351, in determining the amount of any civil liability, the Regional Board is required to take into account the nature, circumstances, extent, and gravity of the violations, whether the discharges are susceptible to cleanup or abatement, the degree of toxicity of the discharges, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations, and other matters that justice may require.
36. On November 17, 2009, the State Water Board adopted Resolution No. 2009-0083 amending the Water quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on May 20, 2010. The Enforcement Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in Water Code section 13350(f) and section 13351. The entire Enforcement Policy can be found at:

[http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/enf\\_policy\\_final111709.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf)

37. The required factors have been considered for the alleged violation using the methodology in the Enforcement Policy, as explained in detail in Exhibit A and summarized in Exhibit B, attached hereto and incorporated herein by this reference.

#### PROPOSED ADMINISTRATIVE CIVIL LIABILITY

38. Based on consideration of the above facts, the applicable law, and after applying the Enforcement Policy methodology, the Chief Prosecutor of the Regional Board proposes

that civil liability be imposed administratively on the Discharger in the amount of \$\_\_\_\_\_.

39. Notwithstanding the issuance of this Complaint, the Regional Board retain the authority to assess additional administrative civil liability for violations of the requirements of Order No. 2006-0003-DWQ, Water code sections 13376, 13267, 13271, and/or Section 301 of the Clean Water Act for which liability has not yet been assessed or for violations that may subsequently occur.



EXHIBIT "B"

Time Schedule Order

CALIFORNIA WATER CODE SECTION 13308 TIME SCHEDULE ORDER

ORDER NO. 2006-0003-DWQ

REQUIRING

CITY OF MAYWOOD TO COMPLY WITH A TIME SCHEDULE  
ORDER TO COMPLY WITH STATE WATER RESOURCES CONTROL BOARD.

This Order is issued to the City of Maywood (hereinafter "Maywood") and is based on provisions of California Water Code ("Water Code") section 13308 which authorizes the State Water Resources Control Board ("State Board") to issue a Time Schedule Order.

The State Water Board finds that:

1. The Settling Respondent owns a sanitary sewer collection system (collection system), comprised of more than one mile of pipes that convey wastewater to a publicly owned treatment facility that currently serves the homes and businesses located in the City of Maywood.
2. On July 10, 2010, pursuant to the State Water Resource Control Board Order No. 2006-003-DWQ (Sanitary Sewer System WDRs, hereafter, SSS WDRs) and its related Monitoring and Reporting Program Order No. 2008-0002-EXEC (Amended MRP), the Settling Respondent enrolled its sewer collection system with the State Water Board.
3. On July 20, 2010 Enforcement Staff issued a Notice of Violation and request for information pursuant to California Water Code §13267 to the Settling Respondent. The Notice of Violation outlined the Settling Respondent's failure to comply with the Sanitary Systems SSS WDRs for the City of Maywood by: (1) Failing to complete a required Sewer System Management Plan (SSMP) and timely certify any of the required SSMP elements in CIWQS; (2) Failing to annually update the SSS WDRs required "Collection System Questionnaire"; and (3) Failing to provide any of the elements required under the Amended MRP.

In addition, pursuant to California Water Code §13267 the NOV requested technical reports set forth in the order.

4. On July 20, 2011 State Water Board representatives attempted to inspect the Settling Respondent's collection system.

5. On July 23, 2012, Enforcement Staff sent the Settling Respondent a pre-complaint letter and attached draft administrative civil liability complaint to in part, address substantial violations of Water Quality Order No. 2006-003-DWQ (SSS WDRs) and Amended MRP.
6. The Parties have engaged in discussions concerning the Enforcement Staff's allegations and agree to settle the matter without administrative action or resorting to civil litigation by presenting this Stipulated Order to the State Water Board. Enforcement Staff believes that this resolution is fair and reasonable, is in the public interest, and comports with the State Water Resources Control Board's Water Quality Enforcement Policy (Enforcement Policy).

### **REGULATORY CONSIDERATIONS**

7. Water Code section 13308 states, in relevant part, "[i]f the regional board determines there is a threatened or continuing violation of any ..... any order issued under Section 13267 or 13383, the regional board may issue an order establishing a time schedule and prescribing a civil penalty which shall become due if compliance is not achieved in accordance with that time schedule.
8. Water Code section 13308 subdivision (b) states, in relevant part, "[t]he amount of the penalty may not exceed ten thousand dollars (\$10,000) for each day in which the violation occurs."
9. The state board may exercise the powers of a regional board under this section if the violation or threatened violation involves requirements prescribed by an order issued by the state board.
10. As a result of the events discussed in this Order, the State Board finds there is a threatened or continuing violation of an order issued under Section 13267 and/or 13383.
11. The penalties provided under Water Code section 13308 subdivision (b) are specified below for the tasks required to achieve accelerated compliance with the tasks and facility improvements required by the State Water Resource Control Board Order No. 2006-003-DWQ (Sanitary Sewer System WDR) and its related Monitoring and Reporting Program Order No. 2008-0002-EXEC. The specified penalty of one thousand dollars (\$1,000) per day for each day in which the violation occurs has been stipulated to by the City of Maywood and is not intended to punish nor redress previous violations.
12. The Discharger owns and operates the collection system. Monitoring reports and other technical reports are necessary to determine compliance with the terms of this Order, Water Quality Order No. 2006-003-DWQ (Sanitary Sewer System WDR) and its related Monitoring and Reporting Program Order No. 2008-0002-

EXEC. Technical or monitoring reports required by this Order and the SSS WDRs and Amended MRP shall be submitted to the State Water Resources Water Board pursuant to the requirements of Water Code section 13267.

13. The issuance of this Order is an enforcement action by a regulatory agency and is exempt from provisions of the California Environmental Quality Act, pursuant to Section 15321 subdivision (a)(2), Title 14, California Code of Regulations.

**IT IS HEREBY ORDERED** that, pursuant to sections 13308 and 13267 of the Water Code and all applicable laws, the City of Maywood, its agents, successors, and assigns shall, in accordance with the following tasks, provide technical reports and required information pursuant to the time schedule described below in Table 1.

**Table 1 – Time Schedule**

Task	Deadline for Completion	Future Penalty for Non-Compliance
1. <i>Submission of historical Sanitary Sewer Overflow (SSO) reports and all applicable data dating back to May 2, 2007 including any applicable "no spill" certifications required dating back to May 2, 2007.</i>	28 February 2013	\$365,000
2. <i>Develop, obtain local governing board approval, and certify in CIWQS completion and implementation of all elements of a Sewer System Management Plan (SSMP)</i>	15 March 2013	\$365,000
16 <i>Completion and submission of the SSS WDRs required annual "Collection System Questionnaire."</i>	15 February 2013	\$365,000

14. All technical reports required herein that involve planning, investigation, evaluation, design, or other work requiring the proper application of engineering or geologic sciences, shall be prepared by, or under the supervision of, a California Registered Engineer or Registered Geologist (as applicable)

pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1, and shall be signed by a registered professional.

Any person signing a document submitted under this Order shall make the following certification:

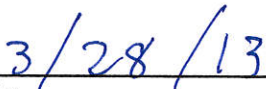
*"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*

15. In accordance with Water Code section 13308 subdivision (c), if the enforcement staff determines that the Discharger has failed to comply with the Order, the State Water Board may issue a complaint pursuant to Water Code section 13323 imposing the stipulated penalty amount described above in Table 1 of this Order.
16. In the event that compliance with any deadline set forth in the Order becomes impossible, despite the timely good faith efforts of the City of Maywood, due to circumstances beyond the control of City of Maywood or its agents, employees, contractors, consultants and any other person acting on the City of Maywood's behalf, and which could not have been reasonably foreseen and prevented or minimized by the exercise of due diligence by the City of Maywood, the City of Maywood shall notify the Enforcement Staff in writing within thirty (30) days of the date that the City of Maywood first knew of the event or circumstance that caused or would cause a violation this Order. The notice shall describe the reason for the nonperformance and specifically refer to this Paragraph. The notice shall describe the anticipated length of time the delay may persist, the cause or causes of the delay, the measures taken or to be taken by the to prevent or minimize the delay, the schedule by which the measures will be implemented, and the anticipated date of compliance. The City of Maywood shall adopt all reasonable measures to avoid and minimize such delays. The determination as to whether the circumstances were beyond the reasonable control of the City of Maywood and its agents will be made by the Enforcement Staff. Where the Enforcement Staff concurs that compliance was or is impossible, despite the timely good faith efforts of the City of Maywood, due to circumstances beyond the control of the City of Maywood that could not have been reasonably foreseen and prevented by the exercise of reasonable diligence by the City of Maywood, a new final compliance deadline shall be established. Where the Enforcement Staff does not concur that compliance was or is impossible, the matter will be scheduled for hearing before the State Water Board and no penalty imposed pursuant to Paragraph 11 unless the

State Water Board upholds the Enforcement Staff's determination. The City of Maywood acknowledges that this provision does not apply to any failure by the City of Maywood residents to approve an assessment and/or tax.

I, THOMAS HOWARD, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the State Water Resources Control Board.

  
\_\_\_\_\_  
Thomas Howard, Executive Director

  
\_\_\_\_\_  
Date