

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

	:		
In the Matter of:	:	<b>Proceeding to Assess Class I</b>	
	:	<b>Administrative Penalty Under</b>	
City of Annapolis, Maryland	:	<b>Section 309(g) of the Clean Water Act</b>	
City Hall Building	:		
160 Duke of Gloucester St.	:	Docket No. CWA-03-2019-0002	
Annapolis, Maryland 21401	:		
	:		U.S. EPA-REGION 3-RHC
	:		FILED-6MAR2019AM8:33
Respondent	:	<b>CONSENT AGREEMENT AND</b>	
	:	<b>FINAL ORDER</b>	
	:		

**CONSENT AGREEMENT AND FINAL ORDER**

**I. STATUTORY AUTHORITY**

1. This Consent Agreement and Final Order (“CAFO”) is entered into by the Director of the Water Protection Division, United States Environmental Protection Agency, Region III (“Complainant” or “EPA”) and City of Annapolis, a Municipal Corporation of the State of Maryland (“Respondent” or “City” or “Annapolis”), pursuant to Section 309(g) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (“Consolidated Rules”)*, 40 C.F.R. Part 22. The parties having agreed to settlement of violations of the Clean Water Act by Respondent, this CAFO simultaneously commences and concludes this action pursuant to 40 C.F.R. § 22.13(b) and 22.18(b)(2) & (3).
  
2. Pursuant to Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), as amended by the Debt Collection Improvement Act of 1996 (codified at 28 U.S.C. § 2461) and the subsequent Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, the Administrator of the EPA is authorized after March 15, 2004, to issue an order requiring compliance and/or assessing administrative penalties against any person who has violated Section 301(a) of the CWA by failing to obtain an NPDES permit or by discharging a pollutant into a water of the United States without an NPDES permit issued pursuant to Section 402 in an amount not to exceed \$16,000 per day for each violation that occurred before November 2, 2015 and assessed before August 1, 2016 and up to \$20,628 per day

for each violations that occurred after November 2, 2015 and was assessed on or after August 1, 2016 up to a total penalty amount of \$257,848.

## **II. EPA'S FINDINGS OF FACT AND JURISDICTIONAL ALLEGATIONS**

3. Annapolis is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).
4. At all times relevant to this CAFO, Respondent has owned and/or operated a municipal separate storm sewer system ("MS4") as that term is defined in 40 C.F.R. § 122.26(b)(8).
5. Respondent's MS4 is located within the geographic boundaries of the City.
6. Annapolis is located on the western side of the Chesapeake Bay, Maryland and encompasses a total area of 8.1 square miles. It is located in Anne Arundel County on the mouth of the Severn River. According to the U.S. Census Bureau, as of 2010, the city's population was estimated at 38,000.
7. Stormwater from the City drains to a number of water bodies, including the South and Severn Rivers and Spa and College Creeks in addition to numerous small tributary creeks and streams, which are considered "waters of the United States" within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7); 40 C.F.R. § 232.2; 40 C.F.R. § 122.2.
8. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant (other than dredged or fill material) from a point source into waters of the United States except in compliance with a permit issued pursuant to the National Pollutant Discharge Elimination System ("NPDES") program under Section 402 of the Act, 33 U.S.C. § 1342.
9. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit.
10. "Discharge of a pollutant" includes "any addition of any pollutant or combination of pollutants to waters of the United States from any point source." 40 C.F.R. § 122.2.
11. "Storm water" is defined as "storm water runoff, snow melt runoff and surface runoff and drainage." 40 C.F.R. § 122.26(b)(13).
12. The term "municipal separate storm sewer system" ("MS4") includes, "a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved



management agency under section 208 of the CWA that discharges to waters of the United States.” 40 C.F.R. § 122.26(b)(8)(i).

13. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), EPA authorized the Maryland Department of the Environment (“MDE”) to issue NPDES permits.
14. The MDE issued to Respondent an NPDES MS4 Discharge Permit No. MDR055500 which became effective on April 14, 2003, (hereinafter the “MS4 Permit”).
15. The expiration date of the MS4 Permit was April 14, 2008; however, Respondent submitted a renewal application to MDE, and the MS4 Permit has been administratively extended pending a final decision on the renewal application.
16. On November 27, 2013, a compliance inspection team comprised of EPA and authorized representatives of EPA inspected Respondent’s MS4 program (the “MS4 Inspection”).
17. The MS4 Inspection identified a number of alleged violations of Respondent’s NPDES permit and the CWA as described below.
18. EPA and Respondent have engaged in numerous good faith settlement discussions over the past few years, leading to the cooperative approach to resolve the alleged violations embodied in this CAFO.
19. The Respondent has indicated to EPA, and provided extensive documentation that demonstrates that since the alleged violations were identified by EPA, the City has taken steps necessary to address the alleged violations identified in this CAFO.

### **III. EPA’S CONCLUSIONS OF LAW**

20. Based on the MS4 Inspection and subsequent investigations, EPA determined that Respondent failed to develop, implement and maintain a program to identify and eliminate illicit non-stormwater discharges as required by Part III.C of the MS4 Permit.
21. Specifically, EPA determined that the City mapping and field verification was not adequate and field screening was insufficient and not consistent with the MS4 Permit requirements.
22. Additionally, discharges of vehicle wash water were observed from an Annapolis Department of Transportation facility.
23. Based on the MS4 Inspection and subsequent investigations, EPA determined that Respondent failed to ensure implementation of construction stormwater runoff minimum control measures as required by Part III.D of the MS4 Permit.
24. Based on the MS4 Inspection and subsequent investigations, EPA determined that Respondent failed to implement inspection and enforcement procedures that ensure the proper construction and maintenance of approved stormwater management measures required by Part III.E of the MS4 Permit.

25. Specifically, EPA determined that the City's inventory and inspection system did not meet the applicable requirements of the MS4 Permit.
26. Based on the MS4 Inspection and subsequent investigations, EPA determined that Respondent failed to implement and maintain pollution prevention and good housekeeping procedures for City operations required by Part III.F of the MS4 Permit.
27. Specifically, EPA determined that the City's pollution prevention and good housekeeping plans for each of its facilities and the SWPPP development requirements were not consistent with the MS4 Permit requirements.
28. EPA concludes that Respondent has violated Section 301 of the CWA, 33 U.S.C. § 1311, and are liable to the United States for a civil penalty in accordance with Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

#### **IV. GENERAL PROVISIONS**

29. For the purpose of the proceeding:
  - A. Respondent admits to the jurisdictional allegations of this CAFO;
  - B. Respondent neither admits nor denies the specific factual allegations, alleged violations and conclusions of law set forth in this CAFO;
  - C. Respondent consents to the assessment of the civil penalty (the "Civil Penalty") set forth herein;
  - D. Respondent agrees to undertake all actions required by this CAFO;
  - E. Respondent hereby expressly waives its right to contest the allegations set forth in the CAFO at a hearing under Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B);
  - F. Respondent waives its right to appeal this CAFO under Section 309(g)(8)(B) of the CWA, 33 U.S.C. § 1319(g)(8)(B).
30. Respondent agrees not to contest EPA's jurisdiction to issue and enforce the terms of this CAFO.
31. Respondent consents to the terms of settlement described herein including the assessment of the civil penalty and to performance of the Supplemental Environmental Project..
32. Each party to this agreement shall pay its own costs and attorney's fees.
33. This CAFO does not relieve Respondent of its obligations to comply with all applicable provisions of federal, state or local law, nor shall it be interpreted to be a permit or modification of any existing permit issued pursuant to Sections 402 of the CWA, 33 U.S.C. § 1342 or any other law. Nor does this CAFO constitute a waiver, suspension or modification of the requirements of the CWA, 33 U.S.C. §§ 1251 *et seq.*, or any regulations promulgated thereunder.

34. This CAFO addresses and settles all civil and administrative claims for CWA violations identified in this CAFO.
35. EPA reserves the right to commence an action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its effective date.
36. Respondent represents that it is in compliance with the CWA and its MS4 Permit as described more fully herein. This CAFO is conditioned upon the accuracy of the Respondent's representations to EPA. EPA reserves the right to institute a new and/or separate action should Respondent fail to comply with the terms of this CAFO. That right shall be in addition to all other rights and causes of action, civil or criminal, the EPA may have under law or equity in such event.
37. This CAFO may be executed in any number of counterpart originals, each of which shall be deemed to constitute an original agreement, and all of which shall constitute one agreement. The execution of one counterpart by any party shall have the same force and effect as if that party had signed all other counterparts.
38. All of the terms and conditions of this CAFO together comprise one agreement, and each of the terms and conditions is in consideration of all of the other terms and conditions. In the event that this CAFO or one or more of its terms and conditions is held invalid, or is not executed by all of the signatories in identical form, or is not approved in such identical form by the Regional Administrator or his designee, then the entire CAFO shall be null and void.

#### **V. SETTLEMENT**

39. For the purpose of this proceeding, the Respondent consents to the assessment of the Civil Penalty in the amount of \$10,800.00 in full and complete settlement of EPA's civil claims as set forth in the CAFO alleging violation of Section 301 of the Clean Water Act, 33 U.S.C. § 1311.
40. Respondent consents to the issuance of this Consent Agreement, and consents for purposes of settlement to the payment of the civil penalty cited above and to performance of the Supplemental Environmental Project ("SEP"), as set forth below.

#### **VI. PAYMENT TERMS**

41. Within thirty (30) days of the effective date of this Order, Respondent shall pay the civil penalty of Ten Thousand and Eight Hundred dollars (\$10,800.00) in the following manner:

- A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, CWA-03-2019-0002;
- B. All checks shall be made payable to "United States Treasury";
- C. All payments made by check and sent by regular mail shall be addressed to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197 9000

Contact: Bryson Lehman 513-487-2123

- D. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA, Fines & Penalties  
1005 Convention Plaza  
Mail Station SL MO C2 GL  
St. Louis, MO 63101

Contact: 314-418-1028

- E. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
US EPA, MS NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268 0001

- F. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account No. = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:

“D 68010727 Environmental Protection Agency”

- G. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver  
ABA = 051036706  
Account No.: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 Checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737  
Contact: Jesse White 301 887 6548 or REX, 1 866 234 5681

- H. On Line Payment Option:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

- I. Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

- J. A copy of Respondent’s check or a copy of Respondent’s electronic fund transfer shall be sent simultaneously to the following:

U.S. Environmental Protection Agency  
Regional Hearing Clerk (3RC00)  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029;

and

Douglas Frankenthaler  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region III (3RC20)  
1650 Arch Street  
Philadelphia, PA 19103-2029

42. The following notice concerns interest and late penalty charges that will accrue in the event that any portion of the civil penalty is not paid as directed:

Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to



cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each such subsequent thirty (30) days the penalty remains unpaid.

A penalty charge, not to exceed six percent, will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

## **VII. SUPPLEMENTAL ENVIRONMENTAL PROJECT**

43. The following Supplemental Environmental Project ("SEP") is consistent with applicable EPA policy and guidelines, specifically EPA's Supplemental Environmental Projects Policy, 2015 Updated.
44. Respondent shall perform the SEP as described in Attachment A and shall complete the SEP no later than December 31, 2021.
45. Respondent hereby certifies that there is no current requirement under any federal, state or local law or regulation for Respondent to perform or develop the SEP within the next five years; nor is Respondent required to perform or develop the SEP by any agreement, grant or injunctive relief in this or any other legal proceeding or in compliance with state or local requirements. Respondent further certifies that it has not received, or will not receive, credit for the SEP activities in any other enforcement action in any form or for purposes of permitting or credit under State or federal law, including, without limitation for any Total Maximum Daily Load ("TMDL") based discharge limit or for any wetlands credit or permit requirement.
46. For Federal Income Tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.
47. As described more fully in Attachment A, Respondent agrees to construct silva cell tree planters along Main Street, Annapolis. The tree planters will reduce stormwater pollutants from the street to the City harbor. The project will serve as a green infrastructure pilot



project, which if successful can be used as a model for future projects to reduce the flow of stormwater pollutants to City receiving waters. The estimated project cost is \$50,000.00.

48. Respondent's total expenditure for installation of the SEP shall not be less than \$45,000, in accordance with the specifications set forth in the SEP Proposal. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report described below.
49. Respondent agrees that EPA may request copies of any materials related to the SEP, at any time, upon reasonable advance written notice to Respondent, to confirm that the SEP is being or has been performed in accordance with this CAFO. Respondent further agrees to provide requested information to EPA within fourteen (14) days of such reasonable request. The EPA reserves all existing inspection authority permitted by law.
50. Within 60 days of completion of all SEP work, Respondent shall provide written notice ("SEP Completion Report") to EPA of SEP completion, describing all actions taken in furtherance of the SEP. Additionally, Respondent will provide EPA with sufficient documentation to confirm the completion of the SEP and the associated costs incurred and expended by Respondent in completion of the SEP.
51. Following receipt of the SEP Completion Report, EPA may do one of the following: (a) accept the SEP Report; (b) reject the SEP Report and notify the Respondent in writing of the deficiency in the SEP Report and grant the Respondent a minimum of an additional thirty (30) days from receipt of such notice, to correct any deficiency; or (c) reject the SEP Report, subject to conditions outlined in Paragraph 54(ii) and 54(iii).
52. If EPA elects to exercise option (b) as described in the preceding paragraph, it will permit the Respondent the opportunity to object in writing to the notification of deficiency or disapproval given pursuant to this paragraph within thirty (30) days of receipt of such notification. EPA and Respondent shall have thirty (30) days from the receipt by EPA of the notification of objection to reach agreement. If agreement cannot be reached within this thirty (30) day period, EPA shall provide a written statement of its decision to Respondent, subject to conditions outlined in Paragraph 54(ii) and 54(iii)..
53. The determination of whether the SEP has been satisfactorily completed pursuant to the terms of this CAFO and whether the Respondent has made a good faith, timely effort to implement the SEP is in the sole discretion of EPA.
54. In the event that Respondent fails to comply with any terms or provisions of this CAFO relating to the performance of the SEP and/or to the extent that the actual expenditures for the SEP do not equal or exceed the cost of the SEP described in the Scope of Work, Respondent shall be liable for additional civil penalties according to the provisions set forth below:
  - (i) Except as provided in subparagraph (ii) immediately below, if the SEP has not been completed in accordance with this CAFO, Respondent shall pay an additional civil penalty to the United States of \$19,200.00.
  - (ii) If the SEP is not completed in accordance with the CAFO, but EPA determines that Respondent: a) made good faith and timely efforts to

complete the project; and b) certifies, with supporting documentation, that at least ninety (90) percent of the amount of money (\$40,500) which was required to be spent for that SEP was actually expended on the SEP, Respondent shall not be liable for any additional civil penalty.

- (iii) If the SEP is completed in accordance with the CAFO, but the Respondent spent less than ninety (90) percent of the amount required to be spent for that SEP, then EPA may require the Respondent to pay an additional civil penalty to the United States of \$7,200.00.
- (iv) If the SEP is completed in accordance with the CAFO and the Respondent spent at least ninety (90) percent of the amount of money required to be spent for the SEP, Respondent shall not be liable for any additional civil penalty.
- (v) For failure to submit the SEP Completion Report required by Paragraph 50, above, Respondent shall pay an additional civil penalty in the amount of \$250.00 each day after the date that the report is due until the report is submitted.

55. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit, nor shall it be construed to constitute EPA approval of the **work conducted by Respondent and the participating businesses** in connection with the SEP undertaken pursuant to this CAFO.

### **VIII. NOTICES**

56. All notifications and submissions required by this CAFO, shall be sent by certified mail, return receipt or by overnight mail, and shall be made to:

As to the United States Environmental Protection Agency:

Mr. Douglas Frankenthaler (3RC20)  
Assistant Regional Counsel  
U.S. EPA Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029  
Telephone: (215) 814-2472

And:

Peter Gold  
Environmental Scientist (3WP40)  
U.S. EPA Region III  
1650 Arch Street

Philadelphia, PA 19103-2029  
Telephone: (215) 814-5236

As to the City of Annapolis:

Director, Office of Environmental Policy  
145 Gorman Street, 3<sup>rd</sup> Floor  
Annapolis, MD 21401

And:

City Attorney  
160 Duke of Gloucester Street  
Annapolis, MD 21401

57. All submissions provided pursuant to this Order shall be signed by Respondents and shall include the following certification:

*"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."*

Signed \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

#### **IX. EFFECTIVE DATE**

58. This CAFO shall become final and effective thirty (30) days after it is lodged with the Regional Hearing Clerk, pursuant to Section 309(g)(5) of the Act, 33 U.S.C. § 1319(g)(5).

FOR RESPONDENT, CITY OF ANNAPOLIS, A MUNICIPAL CORPORATION OF THE STATE OF MARYLAND:

ATTEST:

CITY OF ANNAPOLIS

Cynthia Barnes  
Regina C. Watkins-Eldridge, MMC,  
City Clerk

By: Gavin Buckley 09/13/2018  
Gavin Buckley, Mayor (Seal)

Cynthia Barnes, Deputy City Clerk

APPROVED FOR SUFFICIENT APPROPRIATIONS AND AVAILABILITY OF FUNDS:

Joanna D. Dickinson 9/7/18  
Joanna D. Dickinson, Director  
Finance Department  
Source of Funds: 63460-542010

REVIEWED AND APPROVED BY:

REVIEWED AND APPROVED BY:

David Jarrell  
David Jarrell, Director  
Department of Public Works

Jacqueline Guild  
Jacqueline Guild, Director  
Office of Environmental Policy

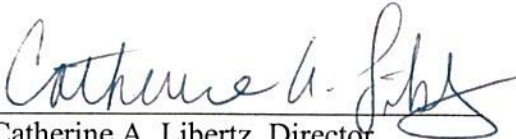
APPROVED FOR FORM AND LEGAL SUFFICIENCY:

Osly Jemard 03/23/2018  
OFFICE OF THE CITY ATTORNEY



FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

SO ORDERED in I/M/O *City of Annapolis, Maryland*, Docket No. CWA-03-2019-0002, pursuant to 33 U.S.C. § 1319(g) and 40 C.F.R. Part 22, this 6<sup>th</sup> day of March, 2018.

  
Catherine A. Libertz, Director  
Water Protection Division

## ATTACHMENT A SEP

The SEP shall consist of Respondent's construction of a Silva Cell tree project, as further described below, at one (1) location along Main Street, in the historic district of Annapolis, Maryland as depicted on **Attachment A-1**. The SEP will reduce stormwater pollutants from Main Street to Respondent's harbor. The SEP will serve as a green infrastructure pilot project, which if successful can be used as a model for future projects to reduce the flow of stormwater pollutants to Respondent's other receiving waters. The estimated cost for the SEP is fifty-two thousand two hundred seventy-four dollars (\$52,274.00), as indicated by a contractor's bid attached as **Attachment A-2**, and as further described below.

Main Street is a brick-lined street which slopes down to Respondent's harbor. Respondent's harbor is on Spa Creek, which discharges into the Severn River in the Chesapeake Bay watershed. There is no stormwater quality management on Main Street, only inlets which outfall into the harbor. Main Street has few trees, creating a heat island effect. The soils are compacted and there is an abundance of underground utilities. Downtown Annapolis is prone to frequent flooding from high tides, rain events and backups due to excess water volume in the storm drain conveyance system during high tides. The SEP will serve as a green infrastructure demonstration project with multiple goals. Those goals include serving as a:

- Stormwater best management practice ("BMP"), providing nutrient reduction;
- Water volume storage, holding water during storm events, reducing the amount of water to be managed to control flooding downtown;
- A planter for two (2) large canopy trees, providing shade in the summer, thus reducing the heat island effect;
- BMP for use in the historic district, providing the benefits as listed above while still maintaining the historic aesthetic of brick streets and sidewalks; and
- Scalable project, with the potential for being replicated in other areas of Respondent, as funding allows.

The SEP consists of one (1) sub-paving stormwater retention area on Main Street to be planted with two (2) large canopy trees, as depicted on **Attachment A-3**. The area of the SEP is approximately thirty feet (30') by fifteen feet (15'). Eighteen (18) 2X Silva Cells and six (6) 1X Silva Cells will be installed as part of the SEP. Each 2X cell holds approximately 24.76 cubic feet of soil and each 1X cell holds approximately 13.23 cubic feet of soil, for a total in the SEP system of 524.88 cubic feet of soil. The total water that is held in the macro pores in the soil is 104.8 cubic feet or 784.56 gallons.

The drainage area treated by the SEP system is the brick paved surface of Main Street, the sidewalk, and adjacent roof areas west of the site, and the SEP system can hold the first 0.1 foot of rain over an approximate drainage area of one thousand forty-eight (1,048) square feet.

Two (2) three inch (3") caliper Acer rubrum (red maple) trees are to be planted into the SEP system to help with water uptake and maintaining the pore space in the soil. The soil within the planting spaces are in addition to the above water holding soil. The soil in the Silva Cells will

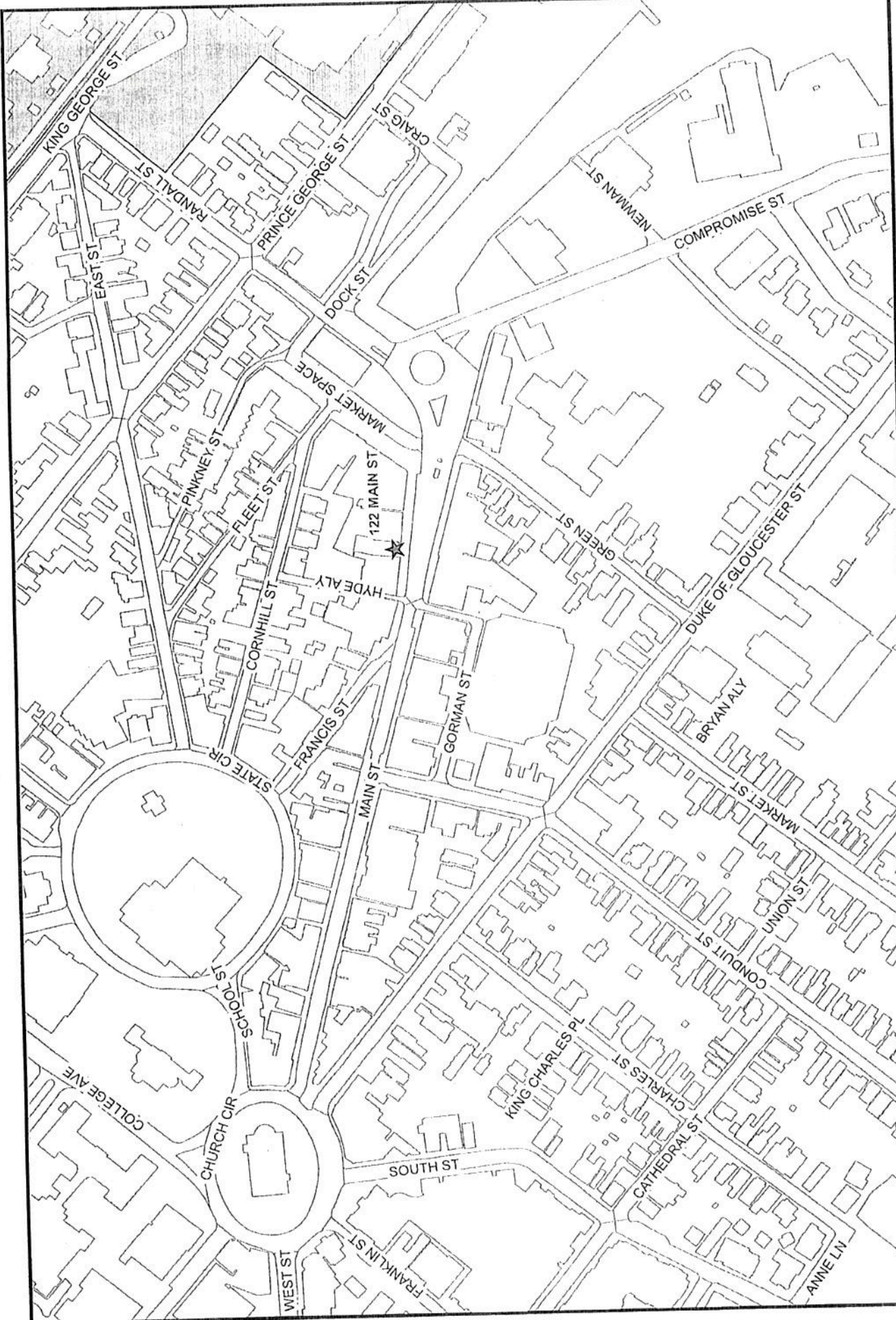
be the native sandy loam soil excavated for the Silva Cells with approximately ten to fifteen percent (10-15%) compost added as the soil is placed in the Silva Cells.

Installation of the SEP should take two (2) to three (3) weeks. Respondent's contractor anticipates the excavation to take two (2) days, the gravel and Silva Cell installation to take three (3) days, all of the drainage to take two (2) days, one (1) day to install the concrete inlet, and three (3) days to install the soil, plant the trees, rebrick the sidewalk and generally restore the site.

The estimated cost of the SEP is fifty-two thousand two hundred seventy-four dollars (\$52,274.00) based on the pricing received from Respondent's contractor. The estimated cost breakdown associated with installation is estimated to be:

- Excavation and removal of existing concrete slab \$6,000.00;
- Silva cell installation and tree planting, including soils and gravel \$24,000.00;
- Concrete inlet installation \$3,500.00;
- Concrete slab and brick reinstalled \$15,000.00;
- Equipment rental- backhoes, dumpster and compactors \$3,774.00; and
- Contractor assumes a four (4) to five (5) person crew to complete this work with the cost of that labor imbedded in each element above.



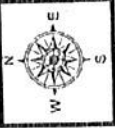


Department Use: For Public Use

Map Created By: MIT GIS



122 Main Street, Annapolis, Md



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CITY OF ANNAPOLIS BID FORM/AFFIDAVIT

We hereby submit our proposal for:

Construction Services – Silva Cell Installation – 122 Main Street

The undersigned, having carefully examined the Contract Documents, the "City of Annapolis Standard Specifications and Construction Details" dated August 1988, which is hereby made a part of this Contract, the Bid Package, the specifications/plans entitled "Silva Cell Storm Water System" (Sheets 1 through 6), and Addenda numbered N/A, and being familiar with the site and all the conditions affecting the work, including the availability of materials and labor, and having received clarification on all items of conflict or upon which any doubt arose, the undersigned proposes to furnish all labor, materials and equipment called for by the said documents for the entire work, in strict accordance with the Contract Documents, within the time set forth herein.

Accompanying this bid form, as bid security, is a bid bond, certified check, or bank cashier's or trust company treasurer's check, payable to the City of Annapolis, Maryland, in the amount of five percent (5%) of the bid. It is further agreed that the bid security shall be forfeited to the City as liquidated damages upon failure, neglect or refusal of the undersigned to furnish the properly executed documents within the time and/or in the form or amount required.

The undersigned agrees, upon receipt of a written Notice-of-Award accepting this bid, to execute the contract for construction in accordance with the bid as accepted and to furnish bonds and certificates of insurance, in accordance with the requirements of the contract documents.

The official business address of the bidder to whom all correspondence relative to this bid may be mailed or delivered is (include telephone number):

Planted Earth Landscaping, Inc  
824 Shandy Brook Dr  
Westminster MD 21157  
410-857-4744

Construction Firm No. \_\_\_\_\_

Date Issued: \_\_\_\_\_ Place of Issuance: \_\_\_\_\_

Federal Employer Identification Number (or Social Security Number if no FEIN):

27-1676850

Corporate DUNS Number: \_\_\_\_\_

The Base Bid Lump Sum price follows:

The bidder commits to the following bid (in dollars)\$ 52,274.00

Total bid price (in words): Fifty two thousand two hundred seventy four dollars <sup>00</sup>/<sub>100</sub>

Name Site ONE Landscape Supply Address 2110 Network Pl

Telephone 301-926-7856 Chicago, IL 60673

The undersigned hereby certifies that neither she/he nor, to the best of her/his knowledge, information and belief, the aforesaid firm nor any of the firm's other representatives she/he represents, has agreed, conspired, connived or colluded to produce a deceptive show of competition in the compilation of the bid being submitted herewith; and has in any manner, directly or indirectly, entered into any agreement, participated in any collusion to fix the bid price or price proposal of the bidder or offeror herein or any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the Contract for which the within bid is submitted. The undersigned hereby represents that she/he has personal knowledge of the matters and facts herein stated.

The undersigned hereby certified, except as described in the paragraph below, that neither she/he nor the above firm, nor to the best of her/his knowledge, any of its officers, directors, or partners, or any of its employees directly involved in obtaining contracts with the State of any County, bi-County or multi-County agency, or subdivision of the State has been convicted of, or has pleaded nolo contendere to a charge or, have during the course of an official investigation or omissions which constitute bribery, attempted bribery, or conspiracy to bribe under the provisions of Article 27 of the Annotated Code of Maryland or under the laws of any State or the Federal government (conduct prior to 1 July 1977 is not required to be reported).

State "none" or, as appropriate, list any conviction, plea, or admission described in the paragraph above, with the date, court, official, or administrative body, the individual involved and their position with the firm, and the sentence of disposition, if any.

NONE

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The undersigned hereby acknowledges that this affidavit is to be furnished to the City of Annapolis and, where appropriate, to the Board of Public Works and to the Attorney General under Section 16-311 of the State Finance and Procurement Article of the Annotated Code of Maryland. The undersigned acknowledges that, if the representations set forth in this affidavit are not true and correct, the City of Annapolis may terminate any Contract awarded and take any other appropriate action. The undersigned further acknowledges that she/he is executing this affidavit in compliance with Section 16-311 of the State Finance and Procurement Article of the Annotated Code of Maryland, which provided that certain persons who have been convicted of or have admitted to bribery, attempted bribery, or conspiracy to bribe may be disqualified, either by operation of law or after a hearing, from entering into Contracts with State or any of its agencies or subdivisions.

CORPORATE PRINCIPAL

Planted Earth Landscaping Inc.  
Name of Corporation

Address 824 Shandy Brook Dr.  
Westminster, MD 21157

Telephone 410-857-4744

Attest:

Marcio Vedrani  
Corporate Secretary Signature

By \_\_\_\_\_  
Affix Corporate Seal

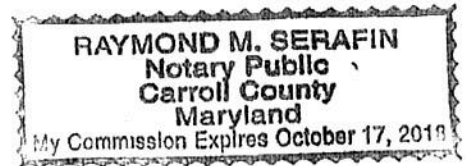
STATE OF MARYLAND, COUNTY OF CARROLL, to wit:

I HEREBY CERTIFY that on this 6 day of JUNE, 2017, before me, the subscriber, a Notary Public of the State of MARYLAND, in and for BRACCC RENOVATED, the BRACCC RENOVATED aforesaid, personally (Name of Firm) (Title) appeared CHRISTOPHER VERRILL of PLANTED EARTH LANDSCAPING, and acknowledged (Name of Representative) (Name of Firm) that she/he is the PRESIDENT, and as such, she/he is authorized to execute this (Title) agreement on its behalf and to bind it thereby, and that this agreement is her/his voluntary act.

AS WITNESS my Hand and Notary Seal.

Raymond M. Serafin  
Notary Public

My commission expires: 10-17-2018







**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania, 19103-2029**

_____	:	
In the Matter of:	:	<b>Proceeding to Assess Class I</b>
	:	<b>Administrative Penalty Under</b>
City of Annapolis, Maryland	:	<b>Section 309(g) of the Clean Water Act</b>
City Hall Building	:	
160 Duke of Gloucester St.	:	Docket No. CWA-03-2019-0002
Annapolis, Maryland 21401	:	
	:	
Respondent	:	
_____	:	<b><u>CERTIFICATE OF SERVICE</u></b>
	:	

I certify that on MAR 06 2019, the original and one (1) copy of foregoing *Consent Agreement and Final Order*, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served a true and correct copy of the same to each of the following persons, in the manner specified below, at the following addresses:

Copy served via **Certified Mail, Return Receipt Requested, Postage Prepaid**, to:

Ashley E. Leonard, Esq.  
Assistant City Attorney  
City of Annapolis Office of Law  
160 Duke of Gloucester Street  
Annapolis, Maryland 21401

Copy served via **Hand Delivery or Inter-Office Mail** to:

Douglas Frankenthaler  
Assistant Regional Counsel  
Office of Regional Counsel (3RC20)  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029  
(Attorney for Complainant)

Dated: MAR 06 2019 \_\_\_\_\_ Bevin Esposito  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region III