

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

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UNITED STATES OF AMERICA,

Plaintiff,

v.

Civ. No. 3:24-cv-01478

THE MUNICIPALITY OF PONCE,

Defendant.

and

COMMONWEALTH OF PUERTO RICO,  
Nominal Party required by 33 U.S.C. § 1319(e)

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**CONSENT DECREE**

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## I. BACKGROUND

1. Plaintiff, the United States of America, on behalf of the United States Environmental Protection Agency (“EPA”), has filed a complaint in this action alleging that Defendant, the Municipality of Ponce (“Ponce”), violated Sections 301(a) and 402 of the Clean Water Act (the “Act” or “CWA”), 33 U.S.C. §§ 1311(a) and 1342, and regulations promulgated thereunder, and violated the terms and conditions of the National Pollutant Discharge Elimination System (“NPDES”) General Permit for Discharges from Small Municipal Separate Storm Sewer Systems within the Commonwealth of Puerto Rico (“MS4 Permit”).

2. Plaintiff alleges in the complaint that Ponce owns and operates a small municipal separate storm sewer system (“MS4”) in Ponce, Puerto Rico, and that Ponce has, during the relevant time period, unlawfully discharged pollutants from its MS4 into waters of the United States and failed to comply with the terms and conditions of the MS4 Permit, in violation of Sections 301(a) and 402 of the Act, 33 U.S.C. § 1311(a) and 1342.

3. The Complaint seeks injunctive relief, pursuant to Section 309(b) of the Act, 33 U.S.C. §§ 1319(b), to address the violations of Section 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342, as well as civil penalties pursuant to Section 309(d) of the Act, 33 U.S.C. § 1319(d).

4. Plaintiff has notified the Commonwealth of Puerto Rico of the commencement of this action.

5. The Parties enter into this Consent Decree to address the claims arising from Ponce’s alleged violations as set forth in the complaint, and to agree to perform specified projects and implement plans, assessments, engineering design studies, compliance measures, and construction projects following the schedule set forth in this Decree so as to eliminate illegal discharges of pollutants from Ponce’s MS4 and to bring Ponce into compliance with the MS4 Permit.

6. Ponce neither admits nor denies the alleged violations of the Act and its implementing regulations and of the MS4 Permit as set forth above and in the Complaint but accepts civil liability for those violations under this Decree.

7. The Parties recognize, and the Court by entering this Consent Decree finds, that this Decree has been negotiated by the Parties in good faith and will avoid litigation between the Parties and that this Decree is fair, reasonable, and in the public interest.

NOW THEREFORE, it is hereby **ORDERED** and **DECREED** as follows:

## II. JURISDICTION AND VENUE

8. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331, 1345, and 1355, and Section 309(b) of the Act, 33 U.S.C. § 1319(b), and personal jurisdiction over the Parties. Venue lies in this District under 28 U.S.C. § 1391(b) and (c) and § 1395(a) because Ponce is a municipality organized under the laws of the Commonwealth and the violations alleged in the Complaint are alleged to have occurred in this judicial district.

9. For purposes of this Consent Decree, Ponce agrees that the Complaint states claims upon which relief may be granted pursuant to Sections 301(a), 309, and 402 of the Act, 33 U.S.C. §§ 1311(a), 1319, and 1342.

### **III. APPLICABILITY**

10. The obligations of this Consent Decree apply to and are binding upon the United States, and upon Ponce and any successors, assigns, or other entities or persons otherwise bound by law.

11. No transfer of ownership or operation of the Facility, whether in compliance with the procedures of this Paragraph or otherwise, shall relieve Ponce of its obligation to ensure that the terms of the Decree are implemented. At least 30 days prior to such transfer, Ponce shall provide a copy of this Consent Decree to the proposed transferee and shall simultaneously provide written notice of the prospective transfer, together with a copy of the proposed written agreement, to EPA and DOJ, in accordance with Section XV (Notices). Any attempt to transfer ownership or operation of the Facility without complying with this Paragraph constitutes a violation of this Decree.

12. Ponce shall provide a copy of this Consent Decree to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this Decree, as well as to any contractor retained to perform work required under this Consent Decree. Ponce shall condition any such contract upon performance of the work in conformity with the terms of this Consent Decree.

13. In any action to enforce this Consent Decree, Ponce shall not raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

14. The Commonwealth is a signatory to this Decree solely and exclusively as a party whose joinder is mandatory pursuant to Section 309(e) of the Act, 33 U.S.C. § 1319(e). The Commonwealth will have no liability under this Decree, except as set forth in Section 309(e), 33 U.S.C. § 1319(e), to the extent that the laws of the Commonwealth prevent Ponce from raising revenues needed to comply with this Decree. The Commonwealth represents that its present laws do not prevent Ponce from raising revenues needed to comply with this Decree. The Commonwealth expressly recognizes the autonomy of Ponce under the Puerto Rico Municipal Code, Law No. 107 of August 14, 2020, as amended (21 L.P.R.A. Sections 7001 et seq.), to separately negotiate and enter into this Decree. The Commonwealth specifically reserves all defenses to any claims pursuant to Section 309(e), 33 U.S.C. § 1319(e), including among other defenses, that Commonwealth law does not prevent Ponce from raising revenues needed to comply with such judgment. The Commonwealth's signature on this document shall not itself be deemed to be a waiver of sovereign immunity.

### **IV. DEFINITIONS**

15. Unless otherwise defined herein, the terms used in this Decree will have the meaning given to those terms in the Act, and the regulations promulgated thereunder, and those

terms defined in the MS4 Permit. The following terms, as used in this Decree and for purposes of this Decree only, will be defined as follows:

“Action Plan” means the document that details the steps and actions that Ponce must take to eliminate the cause of an illicit discharge.

“Catchment area” means the land area from which stormwater runoff is collected by a permittee’s MS4 and discharges through a single outfall to surface water.

“Catchment delineation” means the area that drains to an MS4 individual outfall or interconnection for use in priority rankings.

“Commonwealth” means Defendant Commonwealth of Puerto Rico.

“Complaint” means the complaint filed by the United States in this action.

“Consent Decree” or “Decree” means this document, all appendices attached hereto listed in Section XXIII, and any modifications made hereto. If there is a conflict between a provision in Sections I through XXII and a provision in any appendix, the provision in Sections I through XXII controls.

“303(d) List” means the State’s list of impaired and threatened waters (e.g., stream/river segments, lakes). States are required to submit their list for EPA approval every two years pursuant to Section 303(d) of the Act, 33 U.S.C. § 1313(d), and 40 C.F.R. § 130.7(d). For each water on the list, the State identifies the pollutant causing the impairment, when known.

“Day” or “day” means a calendar day. In computing any period under this Decree, the day of the event that triggers the period is not counted and, where the last day is not a working day, the period runs until the close of business of the next working day.

“Working day” means any day other than a Saturday, Sunday, or federal or Commonwealth holiday.

“Defendants” means Ponce and the Commonwealth.

“Effective Date” means the date that the Court’s approval of this settlement is recorded in the Court’s docket.

“EPA” means the United States Environmental Protection Agency.

“Facility” means Ponce’s MS4 and its components, equipment, and appurtenances, including its pump stations and outfalls, that are subject to regulation under the NPDES program.

“Field Screening” means the collection and analysis of grab samples that are not subject to 40 C.F.R. § 136 requirements but must use methods and analysis that will yield results representative of the discharge.

“Flood Control Pump Stations” means the pump stations, currently owned and/or operated by Ponce, composed of the pipelines that feed the pump stations’ wet wells, the entrance channel(s), the bar screens, the wet wells, the pumps and motors, level indicators, float switches and controllers, electrodes, plug valves, check valves, the electrical motor control center(s) and/or electrical control panels, transfer switches, alternate power units and their fuel tanks, disinfection equipment (if any), meters and metering equipment (if any), and any other appurtenances (such as continuous monitoring equipment), and the discharge pipelines that extend toward the pump stations’ property limits, including discharge points.

“Flow Rate” means the volume of a fluid which passes per unit of time, using volumetric flow rate, which is often expressed as cubic feet per second (ft<sup>3</sup>/s) or gallons per minute (gal/min).

“IDDE” means Illicit Discharge Detection and Elimination and refers to a program to detect, eliminate, and prevent illicit discharges to the storm drain system as established in 40 C.F.R. § 122.34, and Part 2.4.4.8 of the MS4 Permit.

“IDDE Ordinance” means a municipal ordinance to prohibit illicit discharges and illicit connections into and from the MS4, to the extent allowable under the Commonwealth of Puerto Rico and Ponce’s legal authorities, and the implementation of appropriate enforcement procedures in order to meet the requirements of Section 2.3.3 of the MS4 Permit.

“Illicit Connection” means any man-made conveyance connecting an illegal discharge directly to a municipal separate storm sewer, as established by Appendix A of the MS4 Permit.

“Illicit Discharge” is defined at 40 CFR § 122.26(b)(2) and refers to any discharge to a municipal separate storm sewer that is not entirely composed of storm water, except discharges authorized under an NPDES permit (other than the NPDES permit for discharges from the MS4) and discharges resulting from firefighting activities.

“Illicit Non-Stormwater Discharges” means discharges into the MS4 that are not listed under Section 1.4 (Allowable Non-stormwater Discharges) of the MS4 Permit.

“Including” or “including” means “including but not limited to.”

“Interconnection” means the point where the MS4 discharges to another MS4 or other storm sewer system, through which the discharge is conveyed to waters of the United States or to another storm sewer system, and eventually to a water of the United States.

“Las Américas Pump Station” means the flood control pump station located at latitude 18.003272 and longitude -66.624319, serving an approximate drainage area of 10,664 cubic meters and with two pumps having a combined approximate capacity of 10,800 gallons per minute (gpm) discharging into the MS4.

“Lodging Date” means the date on which this Decree is filed for lodging with the Court in this matter.

“Los Meros Pump Station” means the flood control pump station located in Playa Ward at latitude 17.983009 and longitude -66.62571, serving an approximate drainage area of 312,200 cubic meters, and discharging into the Caribbean Sea.

“MS4” means Ponce’s small municipal separate storm sewer system, as that term is defined in 40 C.F.R. § 122.26 (b)(16), and as identified in the MS4 Permit;

“MS4 Complaint Registry” means the archive maintained by Ponce of all complaints from citizens and government entities providing notice of an illicit discharge or illicit connections into or from Ponce’s MS4.

“MS4 Map” means a map depicting the municipal separate storm sewer system infrastructure at the urbanized area, showing the location of all outfalls and the names and location of all waters of the United States that receive discharges from those outfalls.

“Non-stormwater discharges” means any discharges that are not composed entirely of stormwater, and that therefore are illicit discharges requiring Ponce to respond pursuant to Part 2.4.4 of the MS4 Permit, except non-storm water permitted discharges listed under Part 1.4 (Allowable Non-stormwater Discharges) of the MS4 Permit.

“NPDES” means the National Pollutant Discharge Elimination System, as established by 33 U.S.C. § 1342, and 40 C.F.R. § 122.

“NPDES Permit” or “MS4 Permit” means the National Pollutant Discharge Elimination System General Permit for Discharges from Small Municipal Separate Storm Sewer Systems, Permit Number PRR04000, issued on November 6, 2006, and shall include renewals, modifications, and revisions thereof.

“Outfall” means a point source, as defined by 40 C.F.R. § 122.2, and is the point where the MS4 discharges to waters of the United States.

“O & M Program” means a written program detailing the activities and procedures Ponce will implement so that the MS4 infrastructure is maintained in a timely and effective manner to reduce the discharge of pollutants from the MS4 into waters of the United States.

“Padre Noel East Pump Station” means the flood control pump station located at Padre Noel Avenue in the Playa Ward in the Municipality of Ponce at latitude 17.982833 and longitude -66.622984, serving an approximate drainage area of 2,472 cubic meters and discharging into the “Old Portugues Riverbed”, which in turn discharges into the Caribbean Sea.

“Padre Noel West Pump Station” means the flood control pump station located on Padre Noel Avenue in the Playa Ward at the Municipality of Ponce at latitude 17.983096 and longitude -66.623513, serving an approximate drainage area of 10,664 cubic meters and

discharging into the “Old Portugues Riverbed”, which in turn discharges into the Caribbean Sea.

“Paragraph” or “¶” means a portion of this Decree identified by an arabic numeral or lower-case letter.

“Parties” means the United States, Ponce, and the Commonwealth.

“Playa Ward” means the urbanized area located in the southern region of Ponce facing the Caribbean Sea; bounded on the North by PR-2 Road, on the South by the Caribbean Sea, on the West by Río Matilde, and on the East by Río Bucaná.

“Ponce” means Defendant Municipality of Ponce, Puerto Rico.

“PRASA” means the Puerto Rico Aqueduct and Sewer Authority, its officers, directors, employees, successors in interest.

“Puerto Rico Water Quality Standards” or “WQS” means the provisions established by the Puerto Rico Department of Natural and Environmental Resources and approved by EPA that describe the desired condition of a water body and the means by which that condition will be protected or achieved by establishing limits on the discharge of pollutants to protect the use of the receiving water body.

“Puerto Viejo Pump Station” means the flood control pump station located in Playa Ward at latitude 17.978072 and longitude -66.617590, serving an approximate drainage area of 80,000 cubic meters and discharging into the Caribbean Sea.

“Qualified Licensed Engineer” means a Puerto Rico-licensed Professional Engineer who possesses the appropriate skills and training to assess conditions of a flood control pump station, including, but not limited to, its capacity, configuration, pumping and piping system, electrical design, instrumentation and control systems, and appurtenances.

“Responsible Party” in the case of an illicit connection and/or illicit discharge means the person, business, or entity that has been identified as owning the facility that caused the illicit discharge; in the case of direct discharges, it would be the person that caused the discharge.

“Sanitary Sewer Overflows” or “SSOs” means overflows that occur when wastewater containing pollutants is released from the sanitary sewer into the MS4 and/or a water of the United States.

“SWMP” means the Storm Water Management Program required to be developed and implemented under Part 2.3 of the MS4 Permit.

“United States” means Plaintiff United States of America.

“Urbanized Area” means the “urbanized area” as defined in Appendix A of the MS4 Permit.

“Villa Pesquera Pump Station” means the flood control pump station located at the fishing village of Playa Ward at latitude 17.981121 and longitude -66.622751, serving an approximate drainage area of 141,524 cubic meters, and discharging into the Caribbean Sea.

## V. CIVIL PENALTY

16. Ponce shall pay \$25,000 to EPA as a civil penalty within 60 days after the Effective Date. The Financial Litigation Unit (“FLU”) of the United States Attorney’s Office for the District of Puerto Rico shall send Ponce instructions for making this payment, including a Consolidated Debt Collection System (“CDCS”) reference number. Defendant shall make such payment by Fedwire Electronic Funds Transfer (“EFT”) in accordance with the FLU’s instructions, including references to the CDCS Number. Defendant shall send notices of this payment to DOJ and EPA.

## VI. COMPLIANCE MEASURES

17. **MS4 Permit and Storm Water Management Program (SWMP).** Ponce shall comply with the MS4 Permit, the SWMP, and any new MS4 Permit. If a new MS4 Permit takes effect during the term of this Decree, Ponce shall amend its SWMP according to the timeframes and requirements established in the new MS4 Permit. The SWMP and any modifications shall be deemed to be fully incorporated herein and shall be enforceable under this Decree.

18. **System Mapping.** By the deadline specified in Appendix A, Ponce shall develop a schedule to revise the Maps within the Urbanized Area, which schedule shall not extend beyond three years after the Lodging Date. The revised Maps shall identify the required elements in Section 2.4.4.6.a.i of the MS4 Permit, including but not limited to, the MS4, outfalls and receiving waters, pipes, open channel conveyances, catchment delineations for each outfall or interconnection, manholes, flood control pump stations, interconnections with other MS4s, municipality-owned stormwater treatment structures, waterbodies identified by name, and indication of all use impairments as identified in the Commonwealth’s most current 303(d) List. In preparing the Maps, Ponce must take into consideration the elements included in Sections 2.4.4.6.a.ii, where available, and 2.4.4.6.a.iii (recommended) of the MS4 Permit. Ponce shall submit the revised Maps to EPA in PDF or in GIS file format (i.e., Shapefiles) in the applicable Quarterly Report required under ¶ 36.

19. **Outfall Inventory.** By the deadline specified in Appendix A, Ponce shall complete an outfall and interconnection inventory (“Outfall Inventory”) within Ponce’s urbanized area. The Outfall Inventory must include the following information for each outfall: unique identifier, receiving water, date of most recent inspection, dimensions, shape, material (e.g. concrete, PVC), coordinates (latitude and longitude), physical condition, and indicators of potential illicit non-stormwater discharges (such as the presence or evidence of illicit connections; sensory observations such as odor, color, turbidity, floatables, or oil sheen; and field testing for ammonia, residual chlorine, and pH). In preparing the Outfall Inventory, Ponce shall consider the “Outfall Reconnaissance Inventory/Sample Collection Field Sheet in the Illicit Discharge Detection and Elimination (“IDDE”) Manual” as a reference, which is available as of December 2023 at the following link: [https://www3.epa.gov/npdes/pubs/idde\\_appendix-d.pdf](https://www3.epa.gov/npdes/pubs/idde_appendix-d.pdf).

20. **MS4 Complaint Registry and Schedule for Elimination of Illicit Discharges and Illicit Connections.** By the deadline specified in Appendix A, Ponce shall maintain a Complaint Registry with all illicit discharges and illicit connections reported by citizens or governmental entities, including complaints regarding to (a) illicit discharges and illicit connections into the MS4, and (b) illicit discharges from a MS4 outfall into a surface water body. The Complaint Registry shall include a description of each discharge that, based on field screening, meets, or exceeds three mg/L of ammonia (NH<sub>3</sub>), and with a flow rate of two gallons per minute or more, until the discharge is eliminated. Ponce shall maintain the Complaint Registry using the form attached as Appendix C. Ponce shall identify and investigate suspected illicit discharges and illicit connections, notify all responsible parties of any such discharge or connection, and require its immediate elimination in accordance with its legal authorities. Where elimination of an illicit discharge is not achieved within 45 days after being reported to Ponce, Ponce shall establish a schedule for its elimination that shall not exceed 1 year since its report to Ponce. The schedule shall include a timeline with the actions taken or to be taken to eliminate the illicit discharges and illicit connections. Ponce will only remove a complaint from the Complaint Registry when the related illicit discharge or illicit connection is eliminated.

21. **Illicit Discharge Detection and Elimination Program**

a. **Outfall and Interconnection Screening and Sampling.** By the deadline specified in Appendix A, Ponce shall develop and submit for EPA review and approval a proposed procedure for screening and sampling of all outfalls and interconnections from the MS4 during dry and wet weather for evidence of illicit discharges and SSOs. The proposed procedure: (1) must be in accordance with Section 2.4.4.8.d of the MS4 Permit; (2) must include procedures for sampling and analysis of outfalls and interconnections for: surfactants (such as MBAS), pH, ammonia, potassium, chlorine, conductivity, salinity, enterococci, fecal coliforms, and temperature; (3) must include procedures for visual observations of samples taken to assess for the presence of odor, surfactants, turbidity, foam, trash, and color; and (4) must include methods for sample collection, use of field kits, storage and conveyance of samples, visual observations, and relevant sample parameters. Upon EPA's approval under ¶ 33, Ponce shall implement the approved procedure.

b. **Dry and Wet Weather Screening and Sampling at Playa Ward**

- (i) By the deadline specified in Appendix A, Ponce shall perform dry and wet weather screening and sampling of all outfalls and interconnections located within the Playa Ward (except for the sectors of the Playa Ward covered by ¶ 21.d which shall be addressed as provided therein). Dry weather screening and sampling shall be conducted when no more than 0.1 inches of rainfall have occurred in the previous 24-hour period. Wet weather screening and sampling shall be conducted only at outfalls or interconnections with discharges.

Ponce shall maintain a Sampling Registry with data about each outfall and interconnection in the Playa Ward where, provided there is a flow rate of at least two gallons per minute, initial sampling results using odor, color, turbidity, floatables, or oil sheen; and field testing for ammonia (NH<sub>3</sub>)

concentrations greater than 3.0 mg/L, residual chlorine concentration greater than 5 mg/L and pH outside the range of 7.3 to 8.5 indicate that there is a presence of an illicit connection. If initial field sampling results indicate that there is a suspected illicit connection, Ponce shall conduct sampling to determine if results show enterococci concentrations greater than 35 colonies/100 mL, fecal coliforms concentrations higher than 14 MPN/100 mL, and surfactants as Methylene Blue Active Substances (MBAS) higher than 0.5 mg/L. The Sampling Registry shall be maintained using the form attached as Appendix D. Ponce shall investigate and eliminate the cause of a parameter exceedance and maintain data in the Sampling Registry about each outfall and interconnection until the conditions described in the preceding sentence have been eliminated.

c. **Assessment and Priority Ranking of Catchments.** Ponce shall prepare an assessment and priority ranking of all Catchments within the urbanized area of Ponce (“Catchment Ranking”). Ponce shall perform the Catchment Ranking simultaneously with the System Mapping required under ¶ 18 and must complete it within the three-year schedule established under ¶ 18. Ponce shall identify the individual outfall or interconnection associated with each Catchment and shall rank each Catchment according to the potential of the Catchment to have illicit discharges and SSOs and related public health significance. Ponce shall classify each Catchment into one of these four categories, “excluded,” “problem,” “high priority,” and “low priority,” using the screening factors under Part 2.4.4.8.c.i of the MS4 Permit.

d. **Catchment Investigations and Remedial Work.** Ponce shall prepare work plans for investigation and remediation of the MS4 owned and operated by Ponce located within the Catchments associated with the Puerto Viejo Pump Station Outfall, Villa Pesquera Pump Station Outfall, Padre Noel West Pump Station Outfall, and Los Meros Pump Station Outfall. The work plans shall provide for investigations of, and remedial work at, the Catchments according to the schedule in Table 1 below. Each work plan must include four phases: Phase I (Reconnaissance), Phase II (Investigation), Phase III (Planning/Design), and Phase IV (Construction for elimination of the illicit connection and illicit discharge).

**Table I**

<b>Catchment Area Name</b>	<b>Completion Date of Phase I and II</b>	<b>Completion Date of Phase III</b>	<b>Completion Date of Phase IV</b>
Villa Pesquera Pump Station	18 months after Lodging Date	24 months after Lodging Date	According to the schedule submitted on Phase III
Puerto Viejo Pump Station	24 months after Lodging Date	30 months after Lodging Date	According to the schedule submitted on Phase III
Padre Noel West Pump Station	30 months after Lodging Date	36 months after Lodging Date	According to the schedule submitted on Phase III

Los Meros Pump Stations	36 months after Lodging Date	42 months after Lodging Date	According to the schedule submitted on Phase III
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- (i) Phase I (Reconnaissance) of the work plan must include: (a) catchment delineation for the pump station outfall to be investigated according to Table I (b) information and data gathering to develop or update the maps (e.g. catchment delineation) and perform outfall reconnaissance; (c) identification of interconnections with other storm sewer systems and runoff collection systems; (d) identification of suspicious or illicit flow (e.g. wastewater flow) in storm sewer pipes; (e) identification of potential interconnections between storm sewers, illicit connections from sanitary sewers, MS4's locations connected to PRASA's sanitary sewer system, and straight pipe connections; (f) review and prioritization of sectors based on history of complaints, where applicable; (g) identification of suspicious surface depressions on or in the vicinity of sewer pipe or manhole areas; (h) identification of obstructions in sewer pipes where cleaning actions are to be required; and (i) documentation of preliminary findings from the field verification exercise in anticipation of the Phase II (Investigation) activities.
- (ii) Phase II (Investigation) shall include: (a) preparation and implementation of a sewer system cleaning and inspection schedule; (b) creation of a manhole and catch basin inspection digital database including photographs and digital video (DVDs); (c) performance of additional reconnaissance activities, including, but not limited to, video inspections (CCTV and pole camera), dye testing, smoke testing, or other means to confirm and assess the sources of illicit discharges or interconnections, where needed; (d) identification of illicit discharges, illicit connections and MS4 connections to PRASA's Sanitary Sewer System found during Phase I and Phase II; (e) preparation of a final Phase II Report with a summary of all findings of Phases I and II, including a list of the MS4's locations in need of further actions to eliminate illicit discharges, illicit connections and MS4 connections to PRASA's sanitary sewer system (including: repair, replacement and/or construction of storm water manholes, storm water sewer pipes, storm water catch basins, stormwater pump stations, and any other alternatives or actions to properly operate and maintain the MS4); and (f) submission of updated Maps in GIS format (i.e., Shapefiles).
- (iii) Phase III (Planning and Design) shall include: (a) development and/or design of actions necessary to eliminate illicit discharges, illicit connections, and MS4's locations connected to PRASA's sanitary sewer system (including: repair, replacement and/or construction of storm water manholes, storm water sewer pipes, storm water catch basins, stormwater pump stations, and any other alternatives or actions to properly operate and maintain the MS4); (b) completion of storm sewer capacity analysis

where storm sewer replacement or upgrades are planned during this Phase and in flood prone areas where replacement or upgrades are necessary; and (c) preparation of a final Phase III Report and Proposed Phase IV Implementation Schedule, subject to EPA's review and approval, and which implementation shall not exceed two years following EPA's approval. Nothing in this Decree requires Ponce to correct or repair overflows from PRASA's sanitary sewer lines. Ponce shall investigate their MS4 and eliminate any MS4's locations connected to PRASA's sanitary sewer system, help facilitate a cessation of the SSO and appropriate cleanup by the sanitary sewer system owner.

(iv) Phase IV (Implementation/Construction) comprises completion of all work described in the Phase III Report and Proposed Phase IV Implementation Schedule.

e. **Quality Control Plan.** By the deadline specified in Appendix A, Ponce shall develop a Quality Control Plan addressing all investigation and remedial work required to be implemented under ¶ 21.d and work required under Part 2.4.4.8.e of the MS4 Permit. The Quality Control Plan must: (1) standardize the methods that Ponce will use to perform the Phase I through Phase IV activities under ¶ 21.d; (2) ensure that those activities are completed as required; and (3) ensure that all data collected is properly documented and safeguarded, including field checklist for the outfalls, storm sewer catch basins, and storm sewer manholes inspections, report writing, and methods used to detect illicit connections and illicit discharges (i.e., dye testing, smoke testing, video inspections). The Quality Control Plan must be consistent with and include the information in Appendix E.

f. **Procedure for Removal and Confirmation of an Illicit Discharge.** By the deadline specified in Appendix A, Ponce shall develop and submit for EPA's review and approval a procedure to confirm that the source of an illicit discharge has been eliminated, in accordance with Section 2.4.4.8.f of the MS4 Permit. Ponce shall commence implementation of the procedure upon EPA's approval under ¶ 33. Ponce shall, within one year after removal of the identified illicit discharges in a Catchment, conduct a confirmatory outfall or interconnection screening during dry weather conditions, in accordance with ¶ 21.b. If confirmatory screening indicates the continued existence of an illicit discharge or if EPA determines that the illicit discharge continues or has not been eliminated, the Catchment shall be scheduled for additional investigation or notifications, if applicable, until all illicit discharges have been eliminated. Upon detection of an illicit discharge, Ponce shall exercise its authority, notify the responsible party and require the removal of the illicit discharge as expeditiously as possible. Ponce shall also perform interim mitigation measures to minimize the discharge of pollutants to and from its MS4 until removal is completed. If Ponce concludes that all illicit discharges within a given Catchment have been removed, it shall prepare and submit a "Removal and Confirmation Report.

22. **Outfall Monitoring.** By the deadline specified in Appendix A, Ponce shall monitor the discharges from the Puerto Viejo Pump Station Outfall, Padre Noel West Pump Station Outfall, Villa Pesquera Pump Station Outfall and Los Meros Pump Station Outfall into the receiving water outfalls for each of the following parameters: enterococci, fecal coliform,

ammonia, surfactants, boron, pH, and total phosphorus. Ponce shall perform sampling and analyses in accordance with 40 C.F.R. § 136. Ponce shall conduct sampling twice per year during the following time periods: April to June and October to December, and only during dry weather. For purposes of this Paragraph, “dry weather” means a time period of at least 48 hours without a measurable rain event. Ponce may request that EPA approve under ¶ 33 a reduction in the sampling frequency for parameters that do not exceed the WQS for three consecutive sampling events.

23. **Warning Signs.** Ponce shall install and maintain warning signs at all outfalls located in Playa Ward for: (1) any discharge that, based on field screening, meets or exceeds three mg/L for ammonia when the flow rate is at least two gallons per minute, or (2) any discharge that exceeds the Water Quality Standards when the flow rate is at least two gallons per minute. Ponce shall post the warning signs within two months of becoming aware of the sampling results under VI.21.b and 22 of the CD. Warning signs must meet the requirements in Appendix F. Ponce shall inspect all posted warning signs at least once per calendar quarter. Ponce shall repair or reinstall any damaged or altered sign within 14 days after discovering that they have been damaged or altered. Ponce may request EPA’s approval under ¶ 33 to reduce the frequency of the warning sign inspections. Ponce’s request must include a detailed justification for such reduced inspection frequency. Ponce may request EPA’s approval under ¶ 33 for the removal of warning signs when sampling results show ammonia (NH<sub>3</sub>) concentrations lower than 3.0 mg/L and enterococci concentrations lower than 35 colonies/100 mL. EPA’s reserves the right to require warning signs to be reposted.

24. **SSO Inventory.** By the deadline specified in Appendix A and until Termination, Ponce shall develop, maintain, and update an inventory of all SSO events identified by Ponce or reported through citizen complaints within the Municipality’s urbanized area, during dry or wet weather, indicating: location (address and receiving water, if any); a clear statement of whether the discharge entered a surface water directly or entered the MS4; date(s) and time(s) of each known SSO occurrence (i.e., beginning and end of any known discharge); estimated volume(s) of the occurrence; description of the occurrence indicating known or suspected cause(s) (from inadequate conveyance capacities, or where interconnectivity of the storm and sanitary sewer infrastructure allows for communication of flow between the systems); PRASA claim number, mitigation and corrective measures completed with dates implemented; and mitigation and corrective measures planned with implementation schedules. Upon detection of a SSO, Ponce shall inform PRASA and any pertinent entity to coordinate and eliminate the SSO as expeditiously as possible and shall perform interim mitigation measures to minimize the discharge of pollutants to and from its MS4 until elimination is completed. Ponce shall also clean the streets and sidewalks after a SSO event and dispose of the collected material following the applicable solid waste regulations. Ponce shall submit an updated SSO inventory and shall describe the cleanup and disposal measures taken after each SSO event in the applicable Quarterly Report required under ¶ 36. If the SSO occurs during or after a rain event, Ponce shall investigate its MS4 for any MS4’s locations connected to PRASA’s sanitary sewer system that may cause the SSO. If the SSO is caused by MS4’s locations connected to PRASA’s sanitary sewer system Ponce shall eliminate the conditions that causes the SSO as expeditiously as possible. If the SSO is caused by broken sanitary lines, Ponce must notify the responsible party of its findings and require the elimination of conditions that causes the SSO. Upon becoming aware of a SSO discharge to the MS4, Ponce shall provide written notification to EPA and

PRASA within five days of becoming aware of the SSO discharge occurrence and shall include the information listed in part 2.4.4.4.b of the MS4 Permit.

25. **Flood Control Pump Station Inspection and Action Plan.** By the deadline specified in Appendix A, Ponce shall conduct an inspection assessing the infrastructure, operation, and maintenance of the Puerto Viejo Pump Station, Padre Noel West Pump Station, Padre Noel East Pump Station, Los Meros Pump Station, and Villa Pesquera Pump Station (“FCPS Inspection”) and submit an action plan and schedule to address the findings of the FCPS Inspection. The FCPS Inspection must include, but not be limited to: an evaluation of the screening structure (i.e., inflow trash collection), flap valve (if applicable), pumps, control and communication systems, electrical components, and standby power. For the Villa Pesquera FCPS, the FCPS Inspection must also include an assessment of the wet pit condition. The FCPS Inspection must be conducted by a qualified licensed engineer. The engineer shall prepare an inspection report with findings and recommendations. Upon EPA’s approval under ¶ 33, Ponce shall implement the action plan and schedule and complete all work within three years of such approval.

26. **Operation and Preventive Maintenance Program for Flood-Control Pump Stations.** By the deadline specified in Appendix A, Ponce shall develop and submit for EPA review an Operation and Preventive Maintenance Program for each of the following pump stations: Puerto Viejo Pump Station, Padre Noel West Pump Station, Padre Noel East Pump Station, Villa Pesquera Pump Station, Los Meros Pump Station, and Las Américas Pump Station. Ponce shall implement the program upon EPA’s approval under ¶ 33.

27. **MS4 Infrastructure Operation and Maintenance Program.** By the deadline specified in Appendix A, Ponce shall develop and implement a written program detailing the activities and procedures that Ponce will implement: (a) to reduce the discharge of pollutants from the MS4 into waters of the United States; and (b) to ensure that the MS4 infrastructure is maintained in a timely and effective manner. The Infrastructure Operation and Maintenance Program (MS4 Infrastructure O&M Program) must include descriptions of: routine inspections, cleaning and maintenance of catch basins and storm sewers to ensure that the requirements under Part 2.4.7.1.d.2 of the MS4 Permit are met, procedures for sweeping and/or cleaning streets and Ponce-owned parking lots, ensuring proper storage and disposal of the catch basins’ debris and street sweepings, and inspection and maintenance frequencies and procedures. Ponce shall implement the MS4 Infrastructure O&M Program at MS4 infrastructure located within the urbanized area, including storm sewers, pump stations, siphons, and outfalls.

28. **H-H Study for Puerto Viejo Pump Station.** By the deadline specified in Appendix A, Ponce, by itself or through the U.S. Army Corps of Engineers, shall perform a hydrology and hydraulic study (H/H Study) of the watershed flowing into and discharging through the Puerto Viejo Pump Station and submit for EPA review and approval a remedial action plan and implementation schedule to address the findings of the H/H Study. The H-H Study must assess the existing hydraulic conditions of the watershed and Puerto Viejo Pump Station’s capacity to manage stormwater within the Puerto Viejo Sector of Barrio Playa. The H/H Study must follow the guidance document known as “Guías para la Elaboración de Estudios Hidrológicos - Hidráulicos” issued by the Puerto Rico Department of Natural and Environmental Resources and the Puerto Rico Planning Board on June 15, 2016, and must be conducted by a

qualified licensed engineer. Upon EPA's approval under § 33 of the remedial action plan and implementation schedule, Ponce must implement the plan according to the schedule.

**29. Funding and Municipal Budget.**

a. By the deadline specified in Appendix A, Ponce shall develop an initial line-item budget to identify the funding sources to implement and fund the activities listed in ¶ 18 through ¶ 32, including those activities that will be covered by Ponce using its own capital or municipal funds and those covered by external sources such as grants and loans.

b. Ponce shall submit a description of its efforts to secure the planned funding source in each Quarterly Report required under ¶ 35.

c. Commencing with its first fiscal year after the Lodging Date, Ponce shall budget and identify the source(s) of funds for each operating year sufficient to implement the applicable measures in the SWMP, comply with the MS4 Permit, and implement applicable requirements of this Decree. With each Annual Report due under the MS4 General Permit, Ponce shall submit: (a) its annual budget, including line items of sufficient specificity to identify amounts and sources of the funding required to comply with the requirements of this Decree and MS4 program, and (b) documents indicating spending to date and expected completion dates for each MS4 program project required by this Decree for which the annual expense exceeds \$100,000.

**30. Personnel and Training**

a. **Project Coordinators.** Ponce shall designate and notify EPA of a Project Coordinator for purposes of this Decree. The Project Coordinator must have sufficient technical expertise and authority to make decisions and coordinate the performance of the work required under the Decree. The Project Coordinator may not be an attorney representing any party in this matter. Ponce may assign other representatives, who may include other employees, contractors and/or consultants, to assist the Project Coordinator in coordinating and performing the work. EPA shall also designate and notify Ponce of its Project Coordinator. EPA may assign other representatives, including employees, contractors and/or consultants, to oversee Ponce's work under the Decree. Any Party may change its designated Project Coordinator by providing notice to other Parties under ¶ 79.

b. **Other Personnel and Training.** Ponce shall maintain the necessary personnel and/or contractors to comply with its MS4 Permit and this Decree. If the number of personnel or training programs cause delays in compliance with the MS4 Permit and this Decree, Ponce shall take additional measures, as appropriate. Ponce shall ensure that all personnel responsible for compliance with this Decree receive necessary and appropriate training to carry out Ponce's obligations under this Decree and the MS4 Permit. Such training must begin by the deadline specified in Appendix A and must include: the terms and conditions of the MS4 Permit; procedures to conduct field screening; all components of the IDDE Program; terms and conditions of the IDDE Ordinance and its implementation; and the operation and maintenance program of the MS4 and the pump stations. Training must occur at least once each fiscal year. All new employees assigned to work on matters related to the Decree and the MS4 Permit must

receive training within 60 days of the commencement of employment. Ponce shall provide annual training for the proper operation and maintenance of Ponce's pump stations to all pump station operators and supervisors.

**31. Green Infrastructure Project**

a. By the deadline specified in Appendix A, Ponce shall submit to EPA for approval a plan for a Green Infrastructure Project ("GI Project") to maximize reductions of wet weather flows into the MS4. The plan shall include measures such as storage, infiltration, and evapotranspirative precipitation. The pilot project(s) shall be determined by Ponce, but may include projects such as green streets, rain parks, rain barrels, green streets, and land conservation. Ponce shall:

- (i) Identify potential locations within "problem" catchments that would be suitable for development of a GI Project. Each potential area shall be prioritized using considerations such as the ability to develop effective GI control measures, availability of land and benefits to low-income neighborhoods.
- (ii) Select the GI Project best suited to reduce wet weather flows into the MS4. Ponce shall submit a detailed description of the selected GI Project which includes the location, estimated amount of wet weather flow reduction into the MS4, a plan with specific tasks to construct and/or install the GI Project with a schedule for its implementation. The schedule shall include but is not limited to, the design, construction, operation, post-construction monitoring and evaluation of the effectiveness of the GI Project.
- (iii) Develop a comprehensive operation and maintenance plan ("GI O&M Plan") that describes maintenance activities for the selected GI Project; including a recommended schedule by which maintenance activities are to be performed; standard procedures to conduct inspections and maintenance activities; and standard reports to document activities performed.
- (iv) Develop a monitoring plan ("GI Monitoring Plan") to evaluate the performance of the selected GI Project, including: protocols to establish field acceptance testing, performance baseline testing, and ongoing field performance testing protocols and procedures to confirm compliance with design criteria and technical standards for the GI Project selected; and forms for documenting results of monitoring activities performed in accordance with the GI Monitoring Plan.
- (v) A plan for public participation that describes efforts for providing information to the public about green infrastructure. The public participation plan should include public education, such as informational signs, to increase community participation and understanding of GI

Controls. Determining the location for green infrastructure should also be completed with public participation.

b. **GI Project Implementation.** Upon EPA's approval of the GI Project plan under ¶ 33, Ponce shall implement the GI Project described in the plan, in accordance with the GI Plan's schedule.

### 32. **Public Outreach**

a. **Public Meetings.** Ponce shall hold a series of meetings with the communities located in the urbanized areas of Ponce to communicate information regarding: (a) compliance with this Decree and the MS4 Permit; (b) educating the public about the hazards associated with illicit discharges and improper waste disposal, the impact of stormwater discharges on local waterways and public health, and how to reduce pollutants in stormwater; and (c) providing an opportunity for public comments and discussing community concerns and ideas related to the stormwater sewer system. Ponce must conduct the public meetings in Spanish at least bi-annually and outside of business hours. Ponce may conduct the meetings virtually or in a face-to-face format. By the deadline specified in Appendix A, Ponce shall develop and implement a plan to conduct these meetings. The plan must include, at a minimum: a list of potential community representatives and stakeholders representing communities located within the urbanized area of Ponce and their contact information; identification of municipal resources involved in the coordination of the public meeting; and methods to announce the meetings and reach out to the communities including but not limited to website and social media announcements, public notices, printed materials, radio announcements.

b. **Hotline and Website or Social Media Page.** By the deadline specified in Appendix A, Ponce shall establish a public website and a 24-hour emergency hotline phone number for the public to report complaints and stormwater issues to Ponce. In addition, such public website will make the following information, at a minimum, available to the public: the Decree and its appendices; name and contact information of Ponce's MS4 Coordinator; monitoring results pursuant to ¶¶ 21.a, 21.b and 22 of this Decree, announcements of public meetings; new developments; special advisories; information during power outages and malfunction events at the flood control pump stations; educational materials about the impacts of stormwater discharges on local waterbodies; steps that can be taken to reduce stormwater pollution; and providing instructions for citizens to report complaints.

### 33. **Approval of Deliverables**

a. After review of any plan, report, or other item that is required to be submitted for approval pursuant to this Decree and Appendix G, EPA will in writing: (a) approve the submission; (b) approve the submission upon specified conditions; (c) approve part of the submission and disapprove the remainder; or (d) disapprove the submission.

b. If the submission is approved pursuant to ¶ 33.a, Ponce shall take all actions required by the plan, report, or other document, in accordance with the schedules and requirements of the plan, report, or other document, as approved. If the submission is conditionally approved or approved only in part pursuant to ¶ 33.b or ¶ 33.c, Ponce shall, upon

written direction from EPA, take all actions required by the approved plan, report, or other item that EPA determines are technically severable from any disapproved portions.

c. If the submission is disapproved in whole or in part pursuant to ¶ 33.c or ¶ 33.d, Ponce shall, within 45 days or such other time as the Parties agree to in writing, correct all deficiencies and resubmit the plan, report, or other item, or disapproved portion thereof, for approval, in accordance with the preceding Paragraphs. If the resubmission is approved in whole or in part, Ponce shall proceed in accordance with the preceding Paragraph.

d. If a resubmitted plan, report, or other item, or portion thereof, is disapproved in whole or in part, EPA may again require Ponce to correct any deficiencies, in accordance with the preceding Paragraphs, [or may itself correct any deficiencies].

e. If Ponce elects to invoke Dispute Resolution as set forth in Section XI concerning a decision by EPA to disapprove, approve on specified conditions, or modify a deliverable, Ponce shall do so by sending a Notice of Dispute in accordance with ¶ 60 within [30] days (or such other time as the Parties agree to in writing) after receipt of the applicable decision.

f. Any stipulated penalties applicable to the original submission, as provided in Section IX, accrue during the 45 day period or other specified period, but shall not be payable unless the resubmission is untimely or is disapproved in whole or in part; provided that, if the original submission was so deficient as to constitute a material breach of Ponce's obligations under this Decree, the stipulated penalties applicable to the original submission shall be due and payable notwithstanding any subsequent resubmission.

34. **Permits.** Where any work that is required under the Decree requires Ponce to obtain a federal, state, or local permit or approval, Ponce shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. Ponce may seek relief under the provisions of Section X (Force Majeure) for any delay in the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if Ponce has submitted timely and complete applications and has taken all other actions necessary to obtain all such permits or approvals.

35. **Obligation to Perform Work.** Upon the Lodging Date or date otherwise specified in this Consent Decree, including Appendix A, Ponce shall implement the provisions of Section VI, Compliance Measures. All work identified in Section VI shall be completed no later than eighty months after the Lodging Date or November 1, 2024, whichever occurs later. All work shall be completed using sound engineering practices to ensure that construction, management, operation and maintenance of the MS4 complies with the CWA, including practices to improve the resilience of the MS4 to the impacts of climate change.

## VII. REPORTING

36. **Progress Reports.** By the deadline specified in Appendix A, and until termination under Section XVIII, Ponce shall prepare quarterly progress reports covering each calendar quarter. The reports are due within 30 days after the end of the reporting period (i.e., by

April 30, July 30, October 30, and January 30 of each year). Each report must cover all activities that took place during the reporting period, including:

- a. Descriptions of the status of any compliance measures;
- b. Completion of milestones;
- c. Status of the System Mapping required under ¶ 19;
- d. Status of the Outfall Inventory required under ¶ 19;
- e. Reports or procedures required under the Decree;
- f. Inspections and outfall monitoring;
- g. All sampling results;
- h. A copy of the current MS4 Complaint Registry required under ¶ 20, including all of the information required under ¶ 20;
  - i. The Outfall and Interconnection Screening and Sampling Procedure required under ¶ 20.a;
  - j. A copy of all sampling results obtained as part of the Dry and Wet Weather Sampling in the Playa Ward required under ¶ 21.b(i), and the Sampling Registry required under ¶ 21.b(i);
  - k. A copy of the Catchment Ranking under ¶ 21.c;
  - l. Summary of the status of each milestone in the completion of Catchment investigation and remedial work required under ¶ 21.d.
  - m. Summary of information obtained during implementation of Phase I of the Catchment Investigation under ¶ 21.d(i), including field checklists for the catch basin, manholes, and outfalls, and a summary of the findings.
  - n. Summary of findings of the investigations performed during implementation of Phase II of the Catchment Investigation under ¶ 21.d(ii);
  - o. The Quality Control Plan required under ¶ 20.e;
  - p. Copies of all Removal and Confirmation of Illicit Discharge Reports under ¶ 21.f;
  - q. Describe all postings of signs required under ¶ 23
  - r. SSO Inventory Update ¶ 24

- s. The Flood Control Pump Station inspection report, action plan, and schedule required under ¶ 25;
- t. The Operation and Preventive Maintenance Program required under ¶ 26;
- u. The MS4 Infrastructure O&M Program required under ¶ 27;
- v. The H-H Study required under ¶ 28;
- w. description of efforts to secure expected funding sources listed in ¶ 29;
- x. Copies of all training materials used, including the agenda and the attendance checklist, in accordance with ¶ 30.b;
- y. The public meeting plan required under ¶ 32.a;
- z. The Green Infrastructure Program and its implementation under ¶ 31; and
- aa. Descriptions of any non-compliances (including delays) with the Decree, including descriptions of the likely cause of any non-compliance and of the remedial steps taken, or to be taken, to prevent or minimize such non-compliance.

37. **Notice of Immediate Threats.** Whenever any noncompliance with this Decree or other event affecting Ponce's performance of the work required under this Decree occurs that may pose an immediate threat to the public health or welfare or the environment, Ponce shall notify EPA as soon as possible, but no later than 24 hours after Ponce first knew of the noncompliance or event. This procedure is in addition to the requirements of ¶ 36.

38. **Certification.** Each deliverable required to be submitted under this Decree, other than emergency or similar notifications where compliance would be impractical, must be electronically signed by a responsible official of Ponce, and must include the following statement:

I certify under penalty of perjury 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 have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

### VIII. PROGRESS MEETINGS

39. By the deadline specified in Appendix A, representatives of EPA and Ponce shall convene informally on at least a monthly basis pursuant to a mutually agreed-upon schedule to

discuss Ponce’s ongoing progress under the Decree. Thereafter, representatives of EPA and Ponce shall convene semi-annually. The meetings should cover at least the following subjects:

- a. Progress in the implementation of the actions required by this Decree;
- b. Potential problems that may adversely affect progress in implementing the actions required by this Decree; and
- c. Measures that Ponce intends to take to correct problems and deficiencies encountered by Ponce or found by EPA in its inspections of any facility covered by this Decree.

40. If, as a result of discussions at the Progress Meetings, EPA and Ponce agree on actions to be taken and a schedule for such action that are not otherwise provided for in this Decree, the Parties shall, after consultation with counsel, follow the procedure set forth in Section XVII (Modification).

**IX. STIPULATED PENALTIES**

41. Ponce shall be liable for stipulated penalties to the United States for violations of this Decree as specified below, unless excused under Section X (Force Majeure). A violation includes failing to perform any obligation required by the terms of this Decree, including any work plan or schedule approved under this Decree, according to all applicable requirements of this Decree and within the specified time schedules established by or approved under this Decree.

42. **Late Payment of Civil Penalty.** If Ponce fails to pay the civil penalty required to be paid under Section V (Civil Penalty) when due, Ponce shall pay a stipulated penalty of \$150.00 per day for each day that the payment is late. If payment is late, Ponce shall also pay an additional amount for interest accrued at the rate of 7.1% per annum on the amount due from the Effective Date to the date of payment.

43. **Compliance Milestones**

a. The following stipulated penalties shall accrue per violation per day for each violation of the requirements identified in ¶ 43.b:

Period of Noncompliance	Penalty Per Noncompliance Per day
1st through 60th day	\$150
61st through 120th day	\$300
121st day and beyond	\$1,000

b. List of applicable compliance milestones: (i) submission of timely or adequate deliverables required under the Decree; (ii) completion of work specified under Section VI (Compliance Measures); (iii) amendment of the SWMP as required by ¶ 17 upon the issuance of a new MS4 permit; (iv) compliance with a SWMP under ¶ 17; (v) reporting requirements under Section VII; (vi) requirements under ¶ 31 (Green Infrastructure Program); and (vii) public outreach requirements under ¶ 32 (Public Outreach).

44. Stipulated penalties under this Section shall begin to accrue on the day after performance is due or on the day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for separate violations of this Decree.

45. Ponce shall pay any stipulated penalty within 30 days of receiving the United States' written demand.

46. The United States may in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due it under this Decree.

47. Stipulated penalties shall continue to accrue as provided in ¶ 44 during any Dispute Resolution, but need not be paid until the following:

a. If the dispute is resolved by agreement of the Parties or by a decision of EPA that is not appealed to the Court, Ponce shall pay accrued penalties determined to be owing, together with interest, to the United States within thirty days of the effective date of the agreement or the receipt of EPA's decision or order.

b. If the dispute is appealed to the Court and the United States prevails in whole or in part, Ponce shall pay all accrued penalties determined by the Court to be owing, together with interest, within 60 days of receiving the Court's decision or order, except as provided in ¶ 47.

c. If any Party appeals the District Court's decision, Ponce shall pay all accrued penalties determined to be owing, together with interest, within fifteen days of receiving the final appellate court decision.

48. **Obligations Prior to the Effective Date.** Upon the Effective Date, the stipulated penalty provisions of this Decree shall be apply to any and all violations of Section VI that have occurred prior to the Effective Date, provided that stipulated penalties that may have accrued prior to the Effective Date may not be collected unless and until this Decree is entered by the Court.

49. Ponce shall pay stipulated penalties owing to the United States in the manner set forth in ¶ 16. Ponce shall send a notice of any stipulated penalty payments to EPA and DOJ in accordance with Section XV, except that the notice of payment shall state that the payment is for stipulated penalties and shall state for which violation(s) the penalties are being paid.

50. If Ponce fails to pay stipulated penalties according to the terms of this Decree, Ponce shall be liable for interest on such penalties, as provided for in 28 U.S.C. § 1961, accruing as of the date payment became due. Nothing in this Paragraph shall be construed to limit the United States from seeking any remedy otherwise provided by law for Ponce's failure to pay any stipulated penalties.

51. The payment of penalties and interest, if any, shall not alter in any way Ponce's obligation to complete the performance of the requirements of this Decree.

52. **Non-Exclusivity of Remedy.** Stipulated penalties are not the United States' exclusive remedy for violations of this Decree. Subject to the provisions of Section XIII (Effect of Settlement/Reservation of Rights), the United States expressly reserves the right to seek any other relief it deems appropriate for Ponce's violation of this Decree or applicable law, including, but not limited to, an action against Ponce for statutory penalties, additional injunctive relief, mitigation or offset measures, and/or contempt. However, the amount of any statutory penalty assessed for a violation of this Decree shall be reduced by an amount equal to the amount of any stipulated penalty assessed and paid pursuant to this Decree.

## **X. FORCE MAJEURE**

53. "Force majeure," for purposes of this Consent Decree, means any event arising from causes beyond the control of Ponce, of any entity controlled by Ponce, or of Ponce's contractors, that delays or prevents the performance of any obligation under this Consent Decree despite Ponce's best efforts to fulfill the obligation. Given the need to protect public health and welfare and the environment, the requirement that Ponce exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure and best efforts to address the effects of any potential force majeure (a) as it is occurring and (b) following the potential force majeure, such that any delay or non-performance is, and any adverse effects of the delay or non-performance are, minimized to the greatest extent possible. "Force majeure" does not include financial inability to perform any obligation under this Consent Decree.

54. If any event occurs for which Ponce will or may claim a force majeure, Ponce shall provide notice to EPA in accordance with Section XV. The deadline for the initial notice is three days after Ponce first knew or should have known that the event would likely delay or prevent performance. Ponce shall be deemed to know of any circumstance of which any contractor of, subcontractor of, or entity controlled by Ponce knew or should have known.

55. If Ponce seeks to assert a claim of force majeure concerning the event, within seven days after the notice under ¶ 54, Ponce shall submit a further notice to EPA that includes (a) an explanation and description of the event and its effect on Ponce's completion of the requirements of the Consent Decree; (b) a description and schedule of all actions taken or to be taken to prevent or minimize the delay and/or other adverse effects of the event; (c) if applicable, the proposed extension of time for Ponce to complete the requirements of the Consent Decree; (d) Ponce's rationale for attributing such delay to a force majeure; (e) a statement as to whether, in the opinion of Ponce, such event may cause or contribute to an endangerment to public health or welfare or the environment; and (f) all available proof supporting the claim that the delay was attributable to a force majeure.

56. Failure to submit a timely or complete notice or claim under ¶¶ 54 or 55 regarding an event precludes Ponce from asserting any claim of force majeure regarding that event, provided, however, that EPA may, in its unreviewable discretion, excuse such failure if it is able to assess to its satisfaction whether the event is a force majeure, and whether Ponce has exercised its best efforts, under ¶ 53.

57. After receipt of any claim of force majeure, EPA will notify Ponce of its determination whether Ponce is entitled to relief under ¶ 53, and, if so, the excuse of, or the

extension of time for, performance of the obligations affected by the force majeure. An excuse of, or extension of the time for performance of, the obligations affected by the force majeure does not, of itself, excuse or extend the time for performance of any other obligation.

58. If Ponce elects to invoke the dispute resolution procedures set forth in Section XI (Dispute Resolution), it shall do so no later than 15 days after receipt of EPA's notice. In any such proceeding, Ponce has the burden of proving that it is entitled to relief under ¶ 53, that its proposed excuse or extension was or will be warranted under the circumstances, and that it complied with the requirements of ¶¶ 54 and 55. If Ponce carries this burden, the delay or non-performance at issue shall be deemed not to be a violation by Ponce of the affected obligation of this Consent Decree identified to EPA and the Court.

## **XI. DISPUTE RESOLUTION**

59. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. Ponce's failure to seek resolution of a dispute under this Section concerning an issue of which it had notice and an opportunity to dispute under this Section prior to an action by the United States to enforce any obligation of Ponce arising under this Decree precludes Ponce from raising any such issue as a defense to any such enforcement action.

60. **Informal Dispute Resolution.** Any dispute subject to Dispute Resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when Ponce sends DOJ and EPA a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed 20 days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States shall be considered binding unless, within twenty days after the conclusion of the informal negotiation period, Ponce invokes formal dispute resolution procedures as set forth below.

61. **Formal Dispute Resolution.** Ponce shall invoke formal dispute resolution procedures, within the time period provided in the preceding ¶ 60, by sending DOJ and EPA a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting Ponce's position and any supporting documentation relied upon by Ponce.

62. The United States will send Ponce its Statement of Position within 45 days of receipt of Ponce's Statement of Position. The United States' Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the United States. The United States' Statement of Position is binding on Ponce, unless Ponce files a motion for judicial review of the dispute in accordance with the following Paragraph.

63. **Judicial Dispute Resolution.** Ponce may seek judicial review of the dispute by filing with the Court and serving on the United States a motion requesting judicial resolution of

the dispute. The motion: (a) must be filed within 10 days of receipt of the United States' Statement of Position pursuant to the preceding Paragraph; (b) may not raise any issue not raised in informal dispute resolution pursuant to ¶ 60, unless the United States raises a new issue of law or fact in the Statement of Position; (c) shall contain a written statement of Ponce's position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, and (d) shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree.

64. The United States shall respond to Ponce's motion within the time period allowed by the Local Rules of this Court. Ponce may file a reply memorandum, to the extent permitted by the Local Rules.

65. **Standard of Review**

a. **Disputes Concerning Matters Accorded Record Review.** Except as otherwise provided in this Consent Decree, in any dispute brought under ¶ 61 pertaining to the adequacy or appropriateness of plans, procedures to implement plans, schedules or any other items requiring approval by EPA under this Consent Decree; the adequacy of the performance of work undertaken pursuant to this Consent Decree; and all other disputes that are accorded review on the administrative record under applicable principles of administrative law, Ponce shall have the burden of demonstrating, based on the administrative record, that the position of the United States is arbitrary and capricious or otherwise not in accordance with law.

b. **Other Disputes.** Except as otherwise provided in this Consent Decree, in any other dispute brought under ¶ 61, Ponce shall bear the burden of demonstrating that its position complies with this Consent Decree and better advances the objectives of the Consent Decree.

66. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Ponce under this Consent Decree, unless and until final resolution of the dispute so provides. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in ¶ 47. If Ponce does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section IX (Stipulated Penalties).

**XII. INFORMATION COLLECTION AND RETENTION**

67. The United States and its representatives, including attorneys, contractors, and consultants, shall have the right of entry into any facility covered by this Decree, at all reasonable times, upon presentation of credentials, to:

- a. monitor the progress of activities required under this Decree;
- b. verify any data or information submitted to the United States in accordance with the terms of this Consent Decree;
- c. obtain samples and, upon request, splits of any samples taken by Ponce or

its representatives, contractors, or consultants;

- d. obtain documentary evidence, including photographs and similar data; and
- e. assess Ponce's compliance with this Consent Decree.

68. Upon request, Ponce shall provide to EPA or its authorized representatives splits of any samples taken by Ponce. Upon request, EPA shall provide to Ponce splits of any samples taken by EPA.

69. Until five years after the termination of this Consent Decree, Ponce shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Ponce's performance of its obligations under this Consent Decree. This information-retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, upon request by the United States, Ponce shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

70. At the conclusion of the information-retention period provided in the preceding Paragraph, Ponce shall notify the United States at least ninety days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding Paragraph and, upon request by the United States, Ponce shall deliver any such documents, records, or other information to EPA. Ponce may assert that certain documents, records, or other information is privileged under the attorney-client privilege or any other privilege recognized by federal law. If Ponce asserts such a privilege, it shall provide the following: (a) the title of the document, record, or information; (b) the date of the document, record, or information; (c) the name and title of each author of the document, record, or information; (d) the name and title of each addressee and recipient; (e) a description of the subject of the document, record, or information; and (f) the privilege asserted by Ponce. However, no documents, records, or other information created or generated pursuant to the requirements of this Consent Decree shall be withheld on grounds of privilege.

71. Ponce may also assert that information required to be provided under this Section is protected as Confidential Business Information ("CBI") under 40 C.F.R. Part 2. As to any information that Ponce seeks to protect as CBI, Ponce shall follow the procedures set forth in 40 C.F.R. Part 2.

72. This Decree in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States pursuant to applicable federal [or state] laws, regulations, or permits, nor does it limit or affect any duty or obligation of Ponce to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, or permits.

### XIII. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

73. This Decree resolves the civil claims of the United States for the violations alleged in the Complaint filed in this action through the Lodging Date.

74. The United States reserves all legal and equitable remedies available to enforce this Decree. This Decree does not limit United States' authorities to obtain penalties or injunctive relief under the Act, its implementing regulations, or under other federal laws, regulations, or permit conditions. The United States reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at or posed by the Facility, whether related to the noncompliance's addressed in this Decree or otherwise.

75. **Res Judicata and Other Defenses.** In any subsequent administrative or judicial proceeding initiated against Ponce by the United States for injunctive relief or other appropriate relief relating to the Facility, Ponce shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, claim preclusion (*res judicata*), issue preclusion (*collateral estoppel*), claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case except with respect to claims that have been specifically resolved pursuant to ¶ 73.

76. This Decree is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Ponce is responsible for achieving and maintaining compliance with all applicable federal, State, and local laws, regulations, and permits; and Ponce's compliance with this Decree is not a defense to any action commenced under any such laws, regulations, or permits, except as set forth herein. The United States does not, by its consent to this Decree, warrant or aver in any manner that Ponce's compliance with this Decree constitutes compliance with the Act or with any other provisions of federal, State, or local laws, regulations, or permits.

77. **Third Parties.** This Decree does not limit or affect the rights of Ponce or of the United States against any third parties, not party to this Decree, nor does it limit the rights of third parties, not party to this Decree, against Ponce, except as otherwise provided by law. This Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Decree.

### XIV. COSTS

78. Each Party shall bear its own costs of this action, including attorneys' fees, except that the United States is entitled to collect the costs (including attorneys' fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by Ponce.

### XV. NOTICES

79. All agreements, approvals, consents, deliverables, modifications, notices, notifications, objections, proposals, reports, waivers, and requests specified in this Decree must be in an electronic writing. Whenever a notice is required to be given or a report or other

document is required to be sent by one Party to another under this Decree, it must be sent via email as specified below. All notices under this Section are effective upon receipt. There is a rebuttable presumption that emailed notices are received on the same day that they are sent. Any Party may change the person or email address applicable to it by providing notice of such change to all Parties.

To DOJ by email:	<a href="mailto:eescdcopy.enrd@usdoj.gov">eescdcopy.enrd@usdoj.gov</a> Re: DJ # 90-5-1-1-11715
To EPA:	Nancy Rodríguez Chief, Multimedia Permits and Compliance Branch CEPD, U.S. EPA Region II <a href="mailto:rodriguez.nancy@epa.gov">rodriguez.nancy@epa.gov</a> and Suzette M. Meléndez-Colón <a href="mailto:melendez-colon.suzette@epa.gov">melendez-colon.suzette@epa.gov</a>
To Ponce:	Mr. Orlando Delgado, PPL Land Use Planning Office Director <a href="mailto:orlando.delgado@ponce.pr.gov">orlando.delgado@ponce.pr.gov</a> and Natalia Cervoni Director of Ponce Legal Services Office <a href="mailto:natalia.cervoni@ponce.pr.gov">natalia.cervoni@ponce.pr.gov</a> and Celsa Rodríguez Territorial Analyst <a href="mailto:celsa.rodriguez@ponce.pr.gov">celsa.rodriguez@ponce.pr.gov</a>

**XVI. RETENTION OF JURISDICTION**

80. The Court shall retain jurisdiction over this case until termination of this Decree, for the purpose of resolving disputes arising under this Decree or entering orders modifying this Decree, pursuant to Sections XI and XVII, or effectuating or enforcing compliance with the terms of this Decree.

**XVII. MODIFICATION**

81. This Consent Decree, including any appendices, may be modified only by a subsequent written agreement. A modification that constitutes a non-material change to this Decree (“Non-Material Modification”) must be signed by all Parties. A modification that constitutes a material change to this Decree (“Material Modification”) must be signed by all Parties and approved by the Court. Non-Material Modifications are effective upon approval by the United States. The United States may provide notice of such approval by electronic mail. Material Modifications are effective upon the Court’s approval. An extension of a deadline under Section VI (Compliance Measures) that does not exceed 12 months and does not change the final compliance deadline constitutes a Non-Material Modification. Any modification must achieve equal or better environmental benefits as demonstrated by meeting or exceeding performance criteria associated with the original project(s).

82. Any disputes concerning modification of this Decree shall be resolved under Section XI (Dispute Resolution), provided, however, that: (a) for disputes regarding deadline extensions under ¶ 81 the burden of proof shall be as provided by ¶ 65.a; and (b) for disputes regarding all other modifications, the Party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Federal Rule of Civil Procedure 60(b).

### **XVIII. TERMINATION**

83. After Ponce has completed the requirements of Section VI (Compliance Measures) and has paid any accrued stipulated penalties as required by this Decree, Ponce may serve upon the United States a Request for Termination, stating that Ponce has satisfied those requirements, together with all necessary supporting documentation.

84. Following receipt by the United States of Ponce's Request for Termination, the Parties shall confer informally concerning the Request and any disagreement that the Parties may have as to whether Ponce has satisfactorily complied with the requirements for termination of this Decree. If the United States agrees that the Decree may be terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the Decree. If the United States does not agree that the Decree may be terminated, Ponce may invoke Dispute Resolution under Section XI. However, Ponce shall not seek Dispute Resolution of any dispute regarding termination until 90 days after service of its Request for Termination.

### **XIX. PUBLIC PARTICIPATION**

85. This Decree shall be lodged with the Court for a period of not less than 30 days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Decree disclose facts or considerations indicating that the Decree is inappropriate, improper, or inadequate. Ponce consents to entry of this Decree without further notice and agrees not to withdraw from or oppose entry of this Decree by the Court or to challenge any provision of the Decree, unless the United States has notified Ponce in writing that it no longer supports entry of the Decree.

### **XX. SIGNATORIES**

86. The undersigned representative of the United States and the undersigned representative of Ponce each certifies that they are fully authorized to enter into the terms and conditions of this Decree and to execute and legally bind such Party to this document.

### **XXI. INTEGRATION**

87. This Decree constitutes the entire agreement among the Parties regarding the subject matter of the Decree and supersedes all prior representations, agreements and understandings, whether oral or written, regarding the subject matter of the Decree.

**XXII. FINAL JUDGMENT**

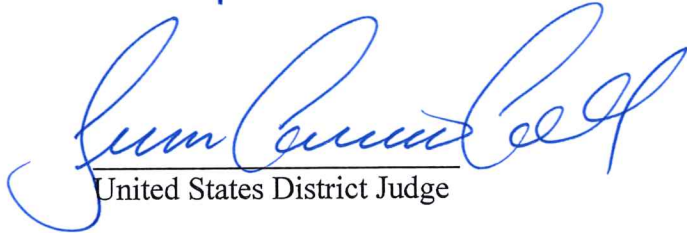
88. Upon approval and entry of this Decree by the Court, this Decree shall constitute a final judgment of the Court as to the United States and Ponce Parties.

**XXIII. APPENDICES**

80. The following Appendices are attached to and part of this Decree:

Appendix A	Ponce Work Deadlines
Appendix B	Flood Control Pump Stations Drainage Area
Appendix C	Complaint Registry
Appendix D	Sampling Registry
Appendix E	Quality Control Plan
Appendix F	Warning Signs
Appendix G	Deliverables requiring EPA Review and Approval

SO ORDERED this 23<sup>rd</sup> day of January, 2025.

  
United States District Judge

Signature Page for Decree in *U.S. v. Municipality of Ponce*

**FOR THE UNITED STATES OF AMERICA:**

Todd Kim  
Assistant Attorney General  
United States Department of Justice  
Environment and Natural Resources Division

SUZETTE  
MELENDEZ  
COLON

Digitally signed by SUZETTE  
MELENDEZ COLON  
Date: 2024.10.15 14:05:52  
-04'00'

Suzette M. Meléndez-Colón G04014  
Special Attorney  
U.S. Department of Justice  
Environment and Natural Resources Division  
City View Plaza II, Suite 7000  
48 RD. 165 Km. 1.2  
Guaynabo, PR 00968-8069

W. Stephen Muldrow  
United States Attorney  
District of Puerto Rico

Lisa Bhatia  
Assistant U.S. Attorney  
United States Attorney's Office  
District of Puerto Rico  
Torre Chardon, Suite 1201  
350 Carlos Chardon Avenue  
San Juan, Puerto Rico 00918

Signature Page for Decree in *U.S. v. Municipality of Ponce*

**FOR THE U.S. ENVIRONMENTAL  
PROTECTION AGENCY:**

**PAUL SIMON** Digitally signed by PAUL SIMON  
Date: 2024.10.15 12:44:01 -04'00'

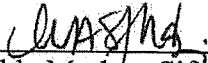
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Dated

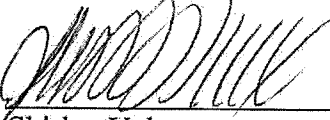
\_\_\_\_\_  
Paul Simon  
Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 17<sup>th</sup> Floor  
New York, New York 10007-1866

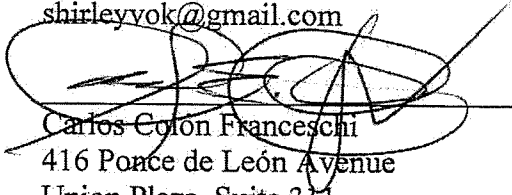
Signature Page for Decree in *U.S. v. Municipality of Ponce*

**FOR THE MUNICIPALITY OF PONCE:**

Dated \_\_\_\_\_

  
\_\_\_\_\_  
Honorable Marlese Sifre  
Mayor  
Municipality of Ponce

  
\_\_\_\_\_  
Shirley Vokac  
416 Ponce de León Avenue  
Union Plaza, Suite 311  
San Juan, Puerto Rico 00918  
shirleyvok@gmail.com

  
\_\_\_\_\_  
Carlos Colón Franceschi  
416 Ponce de León Avenue  
Union Plaza, Suite 311  
San Juan, Puerto Rico 00918  
ccf@tcm.law

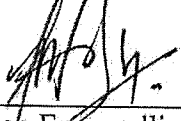
If the Decree is not approved by the Court within 60 days after the date of lodging, and the United States requests, Ponce agrees to execute a waiver of service of a summons under Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court. Ponce hereby designates the agent below to execute the Rule 4 waiver of service. Ponce understands that: (i) it does not need to file an answer to the complaint until after it has executed the waiver of service or otherwise has been served with the complaint; and (ii) the time within which Ponce must file its answer is as set forth in the Federal Rules of Civil Procedure and any applicable local rules of this Court, or as ordered by the Court.

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Company: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
email: \_\_\_\_\_

Signature Page for Decree in *U.S. v. Municipality of Ponce*

**FOR THE COMMONWEALTH OF  
PUERTO RICO in conformance with Section  
309(e) of the Clean Water Act**

April 25 / 2024  
Dated

  
\_\_\_\_\_  
Domingo Emanuelli  
Attorney General

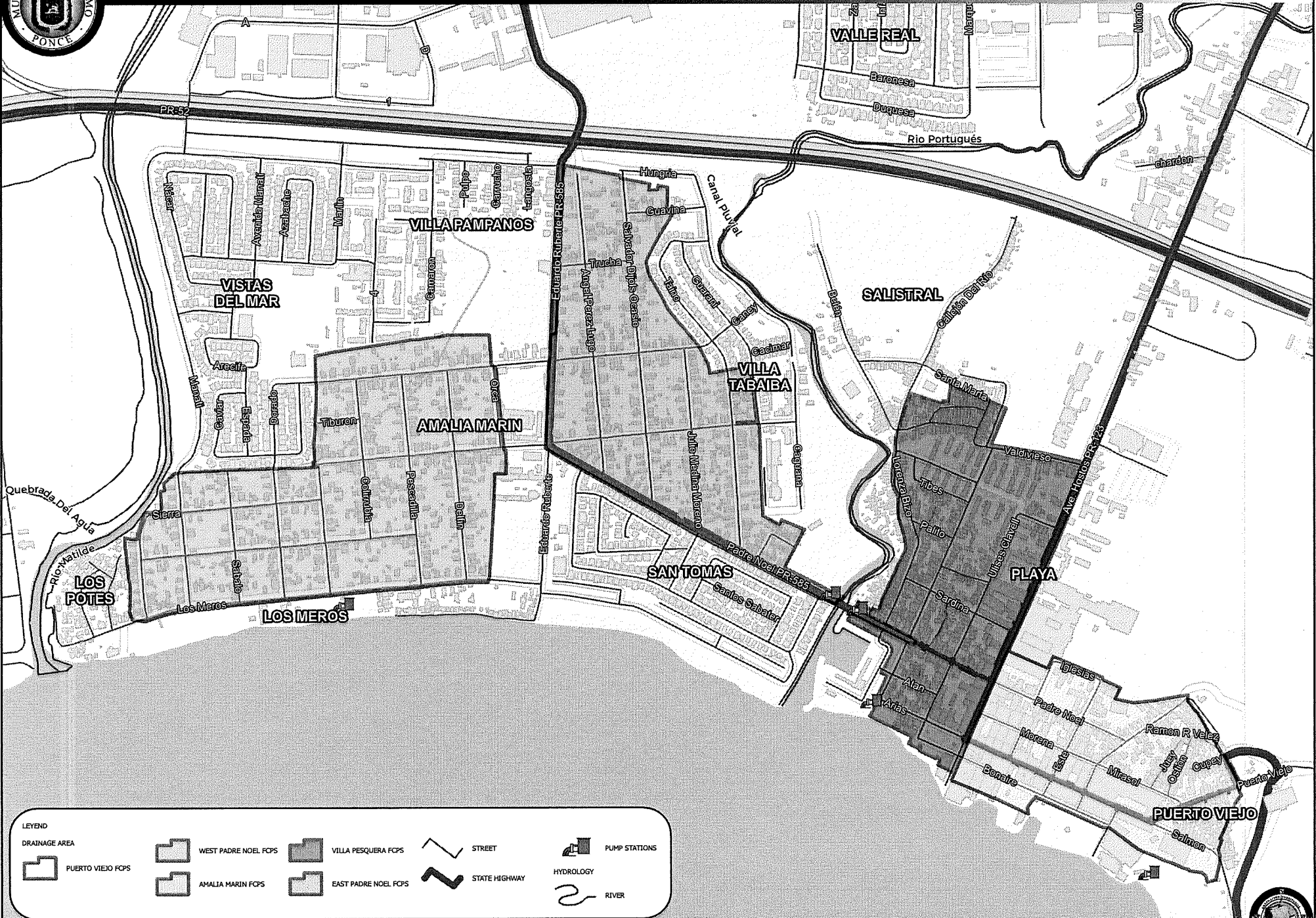
## APPENDIX A - Ponce Work Deadlines

¶	Description of Work	Deadline
18	System Mapping	Later of 1/1/25 or 2 months after Lodging Date (“DOL”)
19	Outfall Inventory	Later of 11/1/27 or 3 years after DOL
20	MS4 Complaint Registry and Schedule for Elimination of Illicit Discharges and Illicit Connections	Later of 2/1/25 or 3 months after DOL
21.a	Outfall and Interconnection Screening and Sampling	Later of 2/1/25 or 3 months after DOL
21.b	Dry and Wet Weather Screening and Sampling at Playa Ward	18 months after EPA approval of the Outfall and Interconnection Screening and Sampling Procedure under ¶ 21.a
21.e	Quality Control Plan	Later of 12/1/24 or 1 month after DOL
21.f	Procedure for Removal and Confirmation of an Illicit Discharge	Later of 3/1/25 or 4 months after DOL
22	Outfall Monitoring	Later of 5/1/25 or 6 months after DOL
24	SSO Inventory	Later of 2/1/25 or 3 months after DOL
25	Flood Control Pump Station Inspection and Action Plan	Later of 11/1/25 or 1 year after DOL
26	Operation and Preventive Maintenance Program for Flood-Control Pump Stations	Later of 5/1/25 or 6 months after DOL
27	MS4 Infrastructure Operation and Maintenance Program	Later of 4/1/25 or 5 months after DOL
28	H-H Study for Puerto Viejo Pump Station	Later of 11/1/26 or 2 years after DOL
29	Funding and Municipal Budget	Later of 11/1/2024 or by DOL
30.a	Project Coordinator	Later of 2/1/25, or 3 months after DOL
30.b	Other Personnel and Training	Later of 2/1/25, or 3 months after DOL for a year. After first year, annually.
31	Green Infrastructure Project	Later of 11/1/26 or 2 years after DOL
32.a	Public Meetings	Later of 5/1/25 or within 6 months after the DOL
32.b	Hotline and Website or Social Media Page	Later of 1/1/25 or within 3 months after DOL
35	Obligation to Perform Work	Later of 80 months after 11/1/24 or DOL
36	Progress Reports	First report on 1/30/25 and subsequent reports on April 30, July 30, October 30, and January 30 of each year.
39	Progress Meetings	First meeting on 11/1/24 and monthly thereafter for a year. After first year, semi-annually.

**APPENDIX B**  
**Flood Control Pump Stations Drainage Area**

# Municipio Autónomo de Ponce

# PUMP STATIONS DRAINAGE AREA



**LEYEND**

	WEST PADRE NOEL FCPS		VILLA PESQUERA FCPS		STREET		PUMP STATIONS
	AMALIA MARIN FCPS		EAST PADRE NOEL FCPS		STATE HIGHWAY		HYDROLOGY
	PUERTO VIEJO FCPS				RIVER		





**APPENDIX D  
Sampling Registry**

<b>Outfall / Interconnection Number</b>	<b>Coordinates</b>	<b>Initial Field Sampling Date</b>	<b>Initial Field Sampling Results outside the limits stated per 21.b.i<sup>1</sup></b>	<b>Lab Field Sampling Date</b>	<b>Lab Field Sampling Results outside the limits stated per 21.b.i<sup>2</sup></b>	<b>Responsible Party</b>	<b>Status (Resolved, Pending, Follow-up Actions)</b>

<sup>1</sup> Include the parameters or indicators that suggest there is a presence of an illicit connection including odor, color, turbidity, floatables, or oil sheen; field testing for ammonia (NH<sub>3</sub>) concentrations greater than 3.0 mg/L, residual chlorine concentration greater than 5 mg/L and pH outside the range of 7.3 to 8.5.

<sup>2</sup> Include the parameters which sampling results show enterococci concentrations greater than 35 colonies/100 mL, fecal coliforms concentrations higher than 14 MPN/100 mL, and surfactants as Methylene Blue Active Substances (MBAS) higher than 0.5 mg/L.

## APPENDIX E - Quality Control Plan

### I. INTRODUCTION

Purpose

### II. PHASE I - RECONNAISSANCE

- a) catchment delineation for the pump station outfall to be investigated according to Table I of the CD;
- b) information and data gathering to develop or update the maps (e.g. catchment delineation) and performing outfall reconnaissance;
- c) identification of interconnections with other storm sewer systems and runoff collection systems;
- d) identification of suspicious or illicit flow (e.g. wastewater flow) in storm sewer pipes;
- e) identification of potential interconnections between storm sewers, illicit connections from sanitary sewers, MS4's locations connected to PRASA's sanitary sewer system, and straight pipe connections;
- f) review and prioritization of sectors based on history of complaints, where applicable;
- g) identification of suspicious surface depressions on or in the vicinity of sewer pipe or manhole areas;
- h) identification of obstructions in sewer pipes where cleaning actions are to be required; and
- i) documentation of preliminary findings from the field verification exercise in anticipation of the Phase II (Investigation) activities.

### III. PHASE II – INVESTIGATION

- a) preparation and implementation of a sewer system cleaning and inspection schedule;
- b) creation of a manhole and catch basin inspection digital database including photographs and digital video (DVDs);
- c) performance of additional reconnaissance activities, including, but not limited to, video inspections (CCTV and pole camera), dye testing, smoke testing, or other means to confirm and assess the sources of illicit discharges or interconnections, where needed;
- d) identification of illicit discharges, illicit connections and MS4 connections to PRASA's Sanitary Sewer System found during Phase I and Phase II;

**APPENDIX E, Page 2**

- e) preparation of a final Phase II Report with a summary of all findings of Phases I and II, including a list of the MS4's locations in need of further actions to eliminate illicit discharges, illicit connections and MS4 connections to PRASA's sanitary sewer system (including: repair, replacement and/or construction of storm water manholes, storm water sewer pipes, storm water catch basins, stormwater pump stations, and any other alternatives or actions to properly operate and maintain the MS4); and
- f) submission of updated Maps in GIS format (i.e., Shapefiles).

IV. PHASE III – PLANNING AND DESIGN

- a) development and/or design of actions necessary to eliminate illicit discharges, illicit connections, and MS4's locations connected to PRASA's sanitary sewer system (including: repair, replacement and/or construction of storm water manholes, storm water sewer pipes, storm water catch basins, stormwater pump stations, and any other alternatives or actions to properly operate and maintain the MS4);
- b) completion of storm sewer capacity analysis where storm sewer replacement or upgrades are planned during this Phase and in flood prone areas where replacement or upgrades are necessary; and
- c) preparation of a final Phase III Report and Proposed Phase IV Implementation Schedule.

V. PHASE IV – IMPLEMENTATION

- a) Implementation of all work described in the Phase III Report and Proposed Phase IV Implementation Schedule.

**APPENDIX F**  
**Warning Signs**

Warning signs must meet the following criteria:

1. shall measure at least 18 inches tall and 24 inches wide
2. shall be made of a durable, weatherproof material
3. shall be readily visible to the unaided eye from a distance of 100 feet
4. shall, if located within 100 feet of a water body, be visible both from the water and from the land
5. shall describe the nature of the risk of exposure to sewage and contaminated water in bilingual text
6. shall include a statement and/or diagrams indicating that wading, swimming, and fishing are prohibited, and
7. shall include a telephone number and identification of the entity responsible for placing and
8. maintaining the signs, and
9. shall state in both English and Spanish: *Possible Sewage Contamination* and *Posible Contaminación de Aguas Sanitarias*

**APPENDIX G**  
**Deliverables requiring EPA Review and Approval**

¶	Description
21.a	Outfall and Interconnection Screening and Sampling Procedure
21.d.iii	Preparation of final Phase III Report and Proposed Phase IV Implementation Schedule
21.f	Procedure for Removal and Confirmation of an Illicit Discharge
23	Reduction in the frequency of warning signs inspections and their removal.
25	Flood Control Pump Station Inspection and Action Plan
26	Operation and Preventive Maintenance Program for Flood-Control Pump Stations
28	H-H Study for Puerto Viejo Pump Station
31	Green Infrastructure Project Plan