

CITY OF BETHLEHEM

DEPARTMENT OF WATER AND SEWER RESOURCES INTEROFFICE MEMORANDUM

TO: Rachel Leon – President, City Council

FROM: Edward J Boscola – Director, Water & Sewer Resources Department

RE: Request for Council Resolution
Consent Order and Agreement
Bethlehem WWTP NPDES Permit No PA0026042

DATE: August 12, 2026

Enclosed for Council's consideration is a Resolution to authorize the Mayor and Controller to execute a Consent Order and Agreement ("COA") between the City of Bethlehem and Pennsylvania Department of Environmental Protection (PaDEP). The COA outlines a number of recurring violations of the discharge Permit (NPDES Permit) at the City's Wastewater Treatment Plant (WWTP) and provides for corrective actions to address said violations on a schedule outlined in the COA.

The final draft of the COA followed approximately 2 years of negotiations with PaDEP. The City was supported in this effort by legal representation from the firm of Hangley Aronchick Segal Pudlin & Schiller, and engineering services from SC Engineers. Both firms have extensive experience in these matters, and we have strived to ensure the City's interests are adequately protected.

Know that the Water and Sewer Resources Department has been working diligently over the past several years to improve operations and implement capital improvements at the WWTP. We are currently working with an engineering consultant on a design for a major upgrade to the plant treatment systems that will preclude any future violations. This upgrade will involve substantial plant modifications and is estimated to be a multi-million dollar project. PennVest funding will be anticipated.

Pursuant to the terms of the COA, Council must pass a Resolution that authorizes the appropriate signatories to execute the CO&A on behalf of the City. It would be appreciated if this can be submitted to Council in time for their August 18, 2026 meeting.

Thank you.

Attached – Resolution

By: Edward J. Bosola

RESOLUTION NO. 2026-_____

Authorization to Execute Consent Order and Agreement

BE IT RESOLVED that the City of Bethlehem of Lehigh and Northampton Counties will enter into a Consent Order and Agreement with the Pennsylvania Department of Environmental Protection to settle violations of The Clean Streams Law of Pennsylvania, as amended, and enforced under the City of Bethlehem National Pollution Discharge Elimination System Permit No. PA0026042.

BE IT FURTHER RESOLVED that the City Council does hereby designate J. William Reynolds, Mayor, George Yasso, Controller, and John F. Spirk, Jr., City Solicitor, as the officials to execute the Consent Order and Agreement on behalf of the City of Bethlehem.

I, the duly qualified City Clerk of the City of Bethlehem of Lehigh and Northampton Counties, PA, hereby certify that the foregoing is a true and correct copy of a Resolution duly adopted by a majority vote of the Council of the City of Bethlehem at a regular meeting held on _____, 2026 and said Resolution has been recorded in the Minutes of the Council of the City of Bethlehem and remains in effect as of this date.

Sponsored by /s/ _____

/s/ _____

ADOPTED by Council this the _____ day of _____, 2026.

/s/ _____
President of Council

ATTEST:

/s/ _____
City Clerk

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In The Matter Of:

City of Bethlehem	:	Violations of the Clean Streams Law
10 East Church Street	:	and
Bethlehem, PA 18018	:	NPDES Permit No. PA0026042
	:	City of Bethlehem, Northampton County

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement is entered into this _____ day of _____ 2026, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department") and City of Bethlehem ("Bethlehem").

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce the Clean Streams Law, Act of June 22, 1937, P.L. 1987, *as amended*, 35 P.S. §§ 691.1-691.1001 ("Clean Streams Law"); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. § 510-17 ("Administrative Code"); and the rules and regulations ("rules and regulations") promulgated thereunder.

B. Bethlehem is a "municipality" as defined by Section 1 of the Clean Streams Law, 35 P.S. § 691.1. Bethlehem maintains a mailing address of 10 East Church Street, Bethlehem, PA 18018.

C. Bethlehem owns and operates a wastewater treatment plant ("WWTP") located at 144 Shimersville Road, Bethlehem, PA 18015.

D. On December 12, 2012, the Department reissued National Pollutant Discharge Elimination System Permit No. PA0026042 ("NPDES Permit") to Bethlehem, which authorized a

discharge of treated sewage to Lehigh River and Saucon Creek in accordance with the effluent limitations, monitoring and reporting requirements, and other conditions set forth in the NPDES Permit. The effective date of the NPDES Permit was January 1, 2013.

E. Bethlehem is required by the NPDES Permit and Sections 201 and 202 of the Clean Streams Law, 35 P.S. §§ 691.201 and 691.202, to fully comply with the effluent limits set forth in the NPDES Permit.

F. The NPDES Permit requires that effluent discharged from Bethlehem meets identified concentration criteria for certain parameters on a routine basis. Bethlehem exceeded the NPDES Permit effluent limitations, as reported by Bethlehem's monthly Discharge Monitoring Reports ("DMRs"), as follows:

<u>Monitoring Period</u>	<u>Parameter</u>	<u>Permit Limit</u>	<u>Reported Value</u>
September 2018	Ammonia-Nitrogen <i>Monthly Average</i>	5.0 mg/L	19.7 mg/L
	Ammonia-Nitrogen <i>Monthly Average</i>	834 lbs/day	2,033 lbs/day
February 2019	Ammonia-Nitrogen <i>Monthly Average</i>	15.0 mg/L	17.1 mg/L
February 2020	Ammonia-Nitrogen <i>Monthly Average</i>	15.0 mg/L	16.4 mg/L
March 2020	Ammonia-Nitrogen <i>Monthly Average</i>	15.0 mg/L	31.0 mg/L
	Ammonia-Nitrogen <i>Monthly Average</i>	2,502 lbs/day	2,770 lbs/day
April 2020	Ammonia-Nitrogen <i>Monthly Average</i>	15.0 mg/L	19.1 mg/L
May 2020	Ammonia-Nitrogen <i>Monthly Average</i>	5.0 mg/L	5.4 mg/L
May 2021	Ammonia-Nitrogen <i>Monthly Average</i>	5.0 mg/L	8.5 mg/L
June 2021	Ammonia-Nitrogen <i>Monthly Average</i>	5.0 mg/L	6.2 mg/L
July 2021	Ammonia-Nitrogen <i>Monthly Average</i>	5.0 mg/L	11.3 mg/L
	Ammonia-Nitrogen <i>Monthly Average</i>	834 lbs/day	945 lbs/day

G. Bethlehem again exceeded the NPDES Permit effluent limitations, as reported by Bethlehem's monthly DMRs, as follows:

<u>Monitoring Period</u>	<u>Parameter</u>	<u>Permit Limit</u>	<u>Reported Value</u>
August 2021	Ammonia-Nitrogen	5.0 mg/L	6.2 mg/L
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	5.0 mg/L	11.3 mg/L
	<i>Monthly Average</i>		
	Fecal Coliform	Not greater than	13% of samples
	<i>Instantaneous Maximum</i>	1000/100 ml in more	tested greater than
		than 10% of the samples	1000/100 ml
	tested		
September 2021	Ammonia-Nitrogen	5.0 mg/L	26.6 mg/L
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	834 lbs/day	2,772 lbs/day
	<i>Monthly Average</i>		
September 2, 2021	TRC	1.2 mg/L	1.39 mg/L
	<i>Instantaneous Maximum</i>		
October 2021	Ammonia-Nitrogen	5.0 mg/L	30.5 mg/L
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	834 lbs/day	2,772 lbs/day
	<i>Monthly Average</i>		

H. On December 6, 2021, the Department sent a Notice of Violation (“NOV”) notifying Bethlehem of its violations in Paragraphs F and G. The Department requested that Bethlehem respond in writing to the Notice within 15 days of its receipt. Said response should indicate the cause of the described non-compliance and the steps that will be taken or have been taken in order to ensure future compliance.

I. On December 20, 2021, the Department received a written response from Bethlehem to the Department’s December 6, 2021 NOV. Said response acknowledged the violations noted in the NOV and provided suspected causes. Corrective actions taken included rebuilding and upgrading the east intermediate clarifier, bioaugmentation, activated sludge system monitoring, implementing Chemically Enhanced Primary Treatment, and evaluating the aeration demand of the basin.

J. On January 12, 2022, the Department conducted a Compliance Evaluation Inspection of Bethlehem’s WWTP. During the inspection, a sample of the effluent was collected to determine compliance with effluent limitations established in the NPDES Permit. Sample results indicated that the following parameters were in violation of the NPDES Permit effluent limitations:

<u>Monitoring Period</u>	<u>Parameter</u>	<u>Permit Limit</u>	<u>Reported Value</u>
January 2022	Ammonia-Nitrogen <i>Instantaneous Maximum</i>	30.0 mg/L	36.79 mg/L
	CBOD ₅ <i>Instantaneous Maximum</i>	50.0 mg/L	52.94 mg/L

K. Section 92a.47(c) of the Department's regulations, 25 Pa. Code § 92a.47(c), prohibits discharges from a Sanitary Sewer Overflow ("SSO"). Failure to prevent the occurrence of an SSO constitutes unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.611.

L. Bethlehem failed to prevent the occurrence of SSOs, as follows:

<u>Date of Incident</u>	<u>Location</u>	<u>Volume (Gallons)</u>	<u>Suspected Cause</u>
March 14, 2022	Hasting Swale	50	Sewer main blocked with grease
May 13, 2022	1235 Easton Road	100	Failure of pump station from sludge-like material in it
June 29, 2022	1235 Easton Road	100	Pump station clogged with rags and paper & excess flow from customer
August 10, 2022	Intersection of Wegman's Dr. & Route 512	1	Sewer blockage
September 1, 2022	Intersection of Pierce St. & Third St.	Unknown	Sanitary sewer cracked and leaked into the storm sewer during high flow
September 30, 2022	Intersection of Pierce St. & Third St. at Greenway	600	Sewer main blocked with stone, mud, and rags
December 13, 2022	Intersection of Center St. & Market St.	50	Sewer main blockage from rags and grease
December 29, 2022	Intersection of Catasauqua Rd. and Cloverdale Rd.	1,000	Sewer main blockage from grease
February 4, 2023	Third St.	100	Blockage from grease and rags
March 12, 2023	Manholes 9016, 9017, and 9018 on the Truck Line in Hanover Township	500	Blockage between manholes 919 & 920 from grease
May 11, 2023	Intersection of Summit St. & Montclair Ave.	10	Buildup of rags
July 27, 2023	2250 Easton Rd.	500	Influent flow higher than pumping capabilities
August 3, 2023	Easton Rd. LVIP #7 Lift Station intersection of Summit St. & Montclair Ave.	500	Portable Godwin pump impeded by rags

October 20, 2023	Easton Rd. LVIP #7 Lift Station	300	Pump station inundated with fibrous material and chemical slurry
November 3, 2023	Easton Rd. LVIP #7 Lift Station	500	Pump station inundated with fibrous material, and plastic straws/beads
March 8, 2025	Intersection of E 3rd St & Founders Way	1,500-2,000	Grease and rags build-up
	Intersection of E Fairview St & Mercer St	100-200	Build-up of rags
March 21, 2025	Rear of 1933 Glendale Ave	50-100	Grease build-up

M. Section 92a.41(b) of the Department's regulations, 25 Pa. Code § 92a.41(b), requires that the permittee must submit written notification of a pollution incident within 5 days of the time the permittee becomes aware of the incident causing or threatening pollution. Failure to do so constitutes unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.611.

N. Bethlehem failed to provide written notification of SSOs to the Department within the required timeframe, as follows:

<u>Date of Incident</u>	<u>Date Due</u>	<u>Date Received</u>
September 1, 2022	September 6, 2022	September 12, 2022
December 29, 2022	January 3, 2023	January 4, 2023

O. Section 92a.41(b) of the Department's regulations, 25 Pa. Code § 92a.41(b), requires that a permittee shall comply with the immediate oral notification requirements of Section 91.33(a) relating to incidents causing or threatening pollution. Oral notification is required as soon as possible, but no later than 4 hours after the permittee becomes aware of the pollution incident.

P. Bethlehem failed to provide oral notification of SSOs to the Department within the required timeframe, as follows:

<u>Date of Incident</u>	<u>Date Due</u>	<u>Date Received</u>
March 8, 2025	March 8, 2025	March 10, 2025
March 8, 2025	March 8, 2025	March 10, 2025

Q. Bethlehem's failure to provide immediate oral notification of the March 8, 2025 SSOs constitute violations of Sections 92a.41(b) and 91.33(a) of the Department's regulations, 25 Pa. Code §§ 92a.41(b) and 91.33(a).

R. Part A.I. of the NPDES Permit requires that Bethlehem sample in accordance with the sample type set forth in the NPDES Permit. Failure to do so constitutes unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.611.

S. Bethlehem failed to sample in accordance with the required sample type as reported by Bethlehem's monthly DMRs in violation of Part A.I. of the NPDES Permit, as follows:

<u>Monitoring Period</u>	<u>Parameter</u>	<u>Permit Sample Type</u>	<u>Reported Sample Type</u>
December 2021	Flow	Recording Instrumentation	Estimated
January 2022	Flow	Recording Instrumentation	Estimated

T. Part A.I. of the NPDES Permit requires that Bethlehem sample in accordance with the sample type frequency forth in the NPDES Permit. Failure to do so constitutes unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.611.

U. Bethlehem failed to sample in accordance with the required sample frequency as reported by Bethlehem's monthly DMR in violation of Part A.I. of the NPDES Permit, as follows:

<u>Monitoring Period</u>	<u>Parameter</u>	<u>Permit Sample Frequency</u>	<u>Reported Sample Frequency</u>
August 2024	Fecal Coliform	1/day	30/31 days

V. Bethlehem again exceeded the NPDES Permit effluent limitations for Outfall 001, unless otherwise noted below, as reported by Bethlehem's monthly DMRs, as follows:

<u>Monitoring Period</u>	<u>Parameter</u>	<u>Permit Limit</u>	<u>Reported Value</u>
November 2021	Ammonia-Nitrogen	2,502 lbs/day	2,967 lbs/day
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	15.0 mg/L	33.8 mg/L
	<i>Monthly Average</i>		
December 2021	Ammonia-Nitrogen	2,502 lbs/day	2,821 lbs/day
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	15.0 mg/L	35.1 mg/L

	<i>Monthly Average</i>		
	Ammonia-Nitrogen (006)	15.0 mg/L	36.2 mg/L
	<i>Monthly Average</i>		
January 2022	Ammonia-Nitrogen	2,502 lbs/day	2,892 lbs/day
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	15.0 mg/L	34.3 mg/L
	<i>Monthly Average</i>		
	Ammonia-Nitrogen (006)	15.0 mg/L	29.2 mg/L
	<i>Monthly Average</i>		
February 2022	Ammonia-Nitrogen	2,502 lbs/day	3,085 lbs/day
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	15.0 mg/L	32.7 mg/L
	<i>Monthly Average</i>		
March 2022	Ammonia-Nitrogen	2,502 lbs/day	2,986 lbs/day
	<i>Monthly Average</i>		
	Total Suspended Solids	30.0 mg/L	32.0 mg/L
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	15.0 mg/L	33.6 mg/L
	<i>Monthly Average</i>		
	Total Suspended Solids	45.0 mg/L	61.0 mg/L
	<i>Weekly Average</i>		
April 2022	Ammonia-Nitrogen	2,502 lbs/day	3,082 lbs/day
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	15.0 mg/L	28.1 mg/L
	<i>Monthly Average</i>		
May 2022	Ammonia-Nitrogen	834 lbs/day	2,273 lbs/day
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	5.0 mg/L	22.2 mg/L
	<i>Monthly Average</i>		
June 2022	Ammonia-Nitrogen	5.0 mg/L	9.1 mg/L
	<i>Monthly Average</i>		
July 2022	Ammonia-Nitrogen	834 lbs/day	1,162 lbs/day
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	5.0 mg/L	13.9 mg/L
	<i>Monthly Average</i>		
August 2022	Ammonia-Nitrogen	834 lbs/day	1,009 lbs/day
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	5.0 mg/L	12.3 mg/L
	<i>Monthly Average</i>		
September 2022	Ammonia-Nitrogen	834 lbs/day	906 lbs/day
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	5.0 mg/L	10.6 mg/L
	<i>Monthly Average</i>		
October 2022	Ammonia-Nitrogen	834 lbs/day	1,280 lbs/day
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	5.0 mg/L	13.8 mg/L
	<i>Monthly Average</i>		
May 2023	Ammonia-Nitrogen	834 lbs/day	1,083 lbs/day
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	5.0 mg/L	11.7 mg/L
	<i>Monthly Average</i>		
June 2023	Ammonia-Nitrogen	834 lbs/day	883 lbs/day

	<i>Monthly Average</i>		
	Ammonia-Nitrogen	5.0 mg/L	10.4 mg/L
	<i>Monthly Average</i>		
July 2023	Ammonia-Nitrogen	834 lbs/day	<1,027 lbs/day
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	5.0 mg/L	<11.3 mg/L
	<i>Monthly Average</i>		
August 2023	Ammonia-Nitrogen	834 lbs/day	1,736 lbs/day
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	5.0 mg/L	20.1 mg/L
	<i>Monthly Average</i>		
September 2023	Ammonia-Nitrogen	834 lbs/day	1,139 lbs/day
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	5.0 mg/L	12.6 mg/L
	<i>Monthly Average</i>		
October 2023	Ammonia-Nitrogen	834 lbs/day	1,648 lbs/day
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	5.0 mg/L	19.9 mg/L
	<i>Monthly Average</i>		
December 2023	CBOD ₅	25.0 mg/L	>6.0 mg/L
	<i>Monthly Average</i>		
	CBOD ₅	40.0 mg/L	>8.0 mg/L
	<i>Weekly Average</i>		
	Fecal Coliform	2,000/100 mL	>7/100 mL
	<i>Geometric Mean</i>		
April 2024	CBOD ₅	6,672 lbs/day	>6,6911 lbs/day
	<i>Weekly Average Loading</i>		
	CBOD ₅	25.0 mg/L	>13.0 mg/L
	<i>Monthly Average</i>		
	CBOD ₅	40.0 mg/L	>32.0 mg/L
	<i>Weekly Average</i>		
August 2024	Ammonia-Nitrogen	5.0 mg/L	6.35 mg/L
	<i>Monthly Average</i>		
September 2024	Ammonia-Nitrogen	834 lbs/day	1,219 lbs/day
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	5.0 mg/L	14.5 mg/L
	<i>Monthly Average</i>		
October 2024	Ammonia-Nitrogen	5.0 mg/L	8.9 mg/L
	<i>Monthly Average</i>		
March 2025	Ammonia-Nitrogen	15.0 mg/L	18.1 mg/L
	<i>Monthly Average</i>		
April 2025	Ammonia Nitrogen	15.0 mg/L	19.2 mg/L
	<i>Monthly Average</i>		
May 2025	Ammonia-Nitrogen	834 lbs/day	1,902 lbs/day
	<i>Monthly Average</i>		
	Total Suspended Solids	30.0 mg/L	36.0 mg/L
	<i>Monthly Average</i>		
	CBOD ₅	25.0 mg/L	28.0 mg/L
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	5.0 mg/L	18.47 mg/L
	<i>Monthly Average</i>		

	Total Suspended Solids	45.0 mg/L	50.0 mg/L
	<i>Weekly Average</i>		
June 2025	Ammonia-Nitrogen	834 lbs/day	2,591 lbs/day
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	5.0 mg/L	28.1 mg/L
	<i>Monthly Average</i>		
July 2025	CBOD ₅	4,170 lbs/day	>522 lbs/day
	<i>Monthly Average</i>		
	CBOD ₅	6,672 lbs/day	>730 lbs/day
	<i>Weekly Average</i>		
	Ammonia-Nitrogen	5.0 mg/L	6.78 mg/L
	<i>Monthly Average</i>		
	CBOD ₅	25.0 mg/L	>6.0 mg/L
	<i>Monthly Average</i>		
	CBOD ₅	40.0 mg/L	>8.0 mg/L
	<i>Weekly Average</i>		
September 2025	Ammonia-Nitrogen	5.0 mg/L	9.8 mg/L
	<i>Monthly Average</i>		
October 2025	Ammonia-Nitrogen	834 lbs/day	1,286 lbs/day
	<i>Monthly Average</i>		
	Ammonia-Nitrogen	5.0 mg/L	15.45 mg/L
	<i>Monthly Average</i>		
June 2026	Fecal Coliform	1,000/100 ml	1,203/100 ml
	<i>Instantaneous Maximum</i>		

W. The violations described in Paragraphs F, G, J, K, L, N, P, Q, S, U and V, above, constitute unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.611; a statutory nuisance under Section 601 of the Clean Streams Law, 35 P.S. § 691.601; and subjects Bethlehem to civil penalty liability under Section 605 of the Clean Streams Law, § 691.605.

ORDER

After full and complete negotiation of all matters set forth in this Consent Order and Agreement and upon mutual exchange of covenants contained herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ORDERED by the Department and AGREED to by Bethlehem as follows:

1. **Authority.** This Consent Order and Agreement is an Order of the Department authorized and issued pursuant to Section 5 of the Clean Streams Law, 35 P.S. § 691.5; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17.

2. ***Findings.***

a. In any matter or proceeding between Bethlehem and the Department, Bethlehem shall not challenge or deny the Department's assertion of the truth, accuracy, or validity of Paragraphs A through W, above.

b. The parties do not authorize any other persons to use the findings in this Consent Order and Agreement in any matter or proceeding.

3. ***Corrective Action.***

a. On or before, July 31, 2026, Bethlehem shall complete construction of its CEPT system.

b. On or before, September 30, 2026, Bethlehem shall complete construction of the Broadway Sewer line replacement.

c. On or before, October 31, 2027, Bethlehem shall complete construction of the Easton Road Sewer Lift Station Upgrade.

d. On or before, December 31, 2030, Bethlehem shall complete construction of the Aeration system upgrades, to achieve compliance with Ammonia-Nitrogen and Dissolved Oxygen effluent limitations.

e. Bethlehem shall submit appropriate Water Quality Management Part II construction permit applications for any proposed work in Paragraphs 3a, 3b, 3c, and 3d.

f. Bethlehem shall submit written progress reports to the Department on a semi-annual basis. These reports shall include all pertinent information including, but not limited to, progress regarding the completion of the corrective actions in accordance with this agreement and the specific items contained in the Water Quality Management Part II construction permit, associated application and supplemental documentation. These reports are due on or before the fifteenth (15th) day

of the month following the end of the semi-annual period. The first progress report is due on or before January 15, 2027.

4. ***Civil Penalty Settlement.*** Bethlehem consents to the assessment of a civil penalty of twenty-six thousand, nine hundred, forty-one dollars and thirty-three cents (\$26,941.33), to be paid in full upon signing which Bethlehem hereby agrees to pay. This payment is in settlement of the Department's claim for civil penalties for the violations set forth in Paragraphs G, J, K, L, N, P Q, S, U and V, above, covering the period from August 2021 to October 2025. The payments shall be made by corporate check or the like made payable to the "Commonwealth of Pennsylvania-Clean Water Fund" and sent to Patrick Musinski, Environmental Group Manager, Pennsylvania Department of Environmental Protection, Clean Water Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

5. ***Stipulated Civil Penalties.***

a. In the event Bethlehem fails to comply in a timely manner with any term or provisions of this Consent Order and Agreement, Bethlehem shall be in violation of this Consent Order and Agreement and, in addition to other applicable remedies, shall pay a civil penalty in the amount of five hundred dollars (\$500.00) per day for each violation.

b. In the event Bethlehem violates any monitoring requirement or permit limit established in NPDES Permit, either instantaneous or DMR related, during the term of this Consent Order and Agreement, Bethlehem shall be in violation of this Consent Order and Agreement and shall pay a civil penalty in the amount of five hundred dollars (\$500.00) for each violation.

c. In the event Bethlehem experiences an SSO from any portion of its treatment and conveyance systems during the term of this Consent Order and Agreement, Bethlehem Shall be in violation of this Consent Order and Agreement and shall pay a civil penalty in the amount of one thousand dollars (\$1,000.00) for each violation.

d. Stipulated civil penalty payments shall be payable monthly on or before the fifteenth day of each succeeding month and shall be submitted in accordance with Paragraph 4 (Civil Penalty Settlement), above.

e. Any payment under this paragraph shall neither waive Bethlehem's duty to meet its obligations under this Consent Order and Agreement nor preclude the Department from commencing an action to compel Bethlehem's compliance with the terms and conditions of this Consent Order and Agreement. The payment resolves only Bethlehem's liability for civil penalties arising from the violations of this Consent Order and Agreement for which the payment is made.

f. Stipulated civil penalties shall be due automatically and without notice.

6. ***Additional Remedies.***

a. In the event Bethlehem fails to comply with any provision of this Consent Order and Agreement, the Department may, in addition to the remedies prescribed herein, pursue any remedy available for a violation of an order of the Department, including an action for civil penalties or action to enforce this Consent Order and Agreement.

b. The remedies provided by this paragraph and Paragraph 5 (Stipulated Civil Penalties) are cumulative and the exercise of one does not preclude the exercise of any other. The failure of the Department to pursue any remedy shall not be deemed to be a waiver of that remedy. The payment of a stipulated civil penalty, however, shall preclude any further assessment of civil penalties for the violation for which the stipulated penalty is paid.

7. ***Reservation of Rights.*** The Department reserves the right to require additional measures to achieve compliance with applicable law. Bethlehem reserves the right to challenge any action which the Department may take to require those measures.

8. ***Liability of Operator.*** Bethlehem shall be liable for any violations of the Consent Order and Agreement, including those caused by, contributed to, or allowed by its officers, agents,

employees, or contractors. Bethlehem also shall be liable for any violation of this Consent Order and Agreement caused by, contributed to, or allowed by its successors and assigns.

9. ***Transfer of Site.***

a. The duties and obligations under this Consent Order and Agreement shall not be modified, diminished, terminated or otherwise altered by the transfer of any legal or equitable interest in the Bethlehem City WWTP or any part thereof.

b. If Bethlehem intends to transfer any legal or equitable interest in the Bethlehem City WWTP which is affected by this Consent Order and Agreement, Bethlehem shall serve a copy of this Consent Order and Agreement upon the prospective transferee of the legal and equitable interest at least thirty (30) days prior to the contemplated transfer and shall simultaneously inform the Northeast Office of the Department of such intent.

c. The Department in its sole discretion may agree to modify or terminate Bethlehem's duties and obligations under this Consent Order and Agreement upon transfer of the Bethlehem City WWTP. Bethlehem waives any right that it may have to challenge the Department's decision in this regard.

10. ***Correspondence with Department.*** All correspondence with the Department concerning this Consent Order and Agreement shall be addressed to:

Amy Bellanca, P.E.
Clean Water Program
Pennsylvania Department of Environmental Protection
Northeast Regional Office
2 Public Square
Wilkes-Barre, PA 18701-1915

11. ***Correspondence with Bethlehem.*** All correspondence with Bethlehem concerning this Consent Order and Agreement shall be addressed to:

Edward J. Boscola
Director of Water and Sewer Resources

City of Bethlehem
10 East Church Street
Bethlehem, PA 18018

Bethlehem shall notify the Department whenever there is a change in the contact person's name, title, or address. Bethlehem agrees that service of any notice, document, or any legal process for any purpose under this Consent Order and Agreement, including its enforcement, may be made electronically by email to the above email address or by mailing a copy by first class mail to the above address.

12. ***Severability.*** The paragraphs of this Consent Order and Agreement shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the parties.

13. ***Entire Agreement.*** This Consent Order and Agreement shall constitute the entire integrated agreement of the parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for purposes of determining the meaning or extent of any provisions herein in any litigation or any other proceeding.

14. ***Attorney Fees.*** The parties shall bear their respective attorney fees, expenses and other costs in the prosecution or defense of this matter or any related matters, arising prior to execution of this Consent Order and Agreement.

15. ***Modifications.*** No changes, additions, modifications, or amendments of this Consent Order and Agreement shall be effective unless they are set out in writing and signed by the parties hereto.

16. ***Titles.*** A title used at the beginning of any paragraph of this Consent Order and Agreement may be used to aid in the construction of that paragraph but shall not be treated as controlling.

17. ***Decisions Under Consent Order.*** Bethlehem waives its rights to appeal to the

Environmental Hearing Board any decision that the Department makes under the provisions of this Consent Order and Agreement, including a notice that stipulated civil penalties are due, which rights may be available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provision of law. The Department agrees that any objection that Bethlehem may have to any such decision may be raised as a defense in any Court where the Department enforces this Consent Order and Agreement.

18. ***Termination.*** The obligations of this Consent Order and Agreement shall terminate when the Department determines that Bethlehem has complied with the requirements of Paragraph 3 above and Bethlehem demonstrates six (6) months of continuous compliance with all monitoring requirements and effluent limits established in Bethlehem's NPDES Permit in force at the time of request for the termination, and all penalties accrued and due to the Department have been paid.

19. ***Execution of Agreement.*** This Consent Order and Agreement may be signed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

20. ***Resolution.*** Attached hereto as Appendix A is a resolution of the City of Bethlehem authorizing its signatories below to enter into this Consent Order and Agreement on its behalf.

IN WITNESS WHEREOF, the parties hereto have caused this Consent Order and Agreement to be executed by their duly authorized representatives. The City of Bethlehem certifies [or undersigned representatives of Bethlehem certify] under penalty of law, as provided by 18 Pa. C.S. § 4904, [that they are authorized to execute this Consent Order and Agreement on behalf of Bethlehem;] that Bethlehem consents to the entry of this Consent Order and Agreement as a final ORDER of the Department; and that Bethlehem hereby knowingly waives its right to appeal this Consent Order and Agreement and to challenge its content or validity, which rights may be available under Section 4 of the Environmental Hearing Board Act, Act of July 13, 1988, P.L. 530, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provisions of law. Signature by Bethlehem's attorney certifies only that the agreement has been signed after consulting with counsel

FOR CITY OF BETHLEHEM:

FOR THE COMMONWEALTH
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:

Name
Title

Amy Bellanca, P.E.
Clean Water Program Manager

Name

Name

Attorney for Bethlehem

Title