

**STATE OF RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE AND INSPECTION

In Re: Cardi Corporation

**File Nos.: OCI-WP-15-73 and OCI-WP-17-10
X-ref RIPDES RIR100847,
RIG85G017 and FWW 11-0099**

AAD No.: 17-001/WRE

CONSENT AGREEMENT

A. INTENT & PURPOSE

This Consent Agreement (“Agreement”) is entered by and between the Rhode Island Department of Environmental Management (“RIDEM”) and Cardi Corporation (“Respondent”). The Agreement is entered in accordance with Section 42-17.1-2 *et seq.* of the Rhode Island General Laws (“R.I. Gen. Laws”) for the purpose of resolving the alleged violations set forth in a Notice of Violation (“NOV”) issued to Respondent by RIDEM on 23 October 2017.

B. STIPULATED FACTS

- (1) WHEREAS the Rhode Island Department of Transportation (“RIDOT”) awarded a contract to Respondent to reconstruct the Apponaug Circulator in Warwick, Rhode Island (“Apponaug Circulator Project”).
- (2) WHEREAS on 8 October 2013, RIDEM authorized RIDOT to discharge storm water associated with the Apponaug Circulator Project to waters of the State affected by the project under the 2013 General Permit for Stormwater Discharge Associated with Construction Activity. The permit authorization number was RIPDES No. RIR100847 (“Storm Water Permit”).
- (3) Respondent certified that it was responsible for complying with the Storm Water Permit.
- (4) On 20 February 2015, RIDEM issued a permit to RIDOT and Respondent to discharge treated groundwater associated with the Apponaug Circulator Project to Hardig Brook. The permit authorization number was RIPDES No. RIG85G017 (“Ground Water Permit”).

- (5) WHEREAS on 23 October 2017, RIDEM issued a NOV to Respondent alleging certain violations of Rhode Island's *Water Pollution Act* ("WP Act"), *Water Quality Regulations* (250-RICR-150-05-1) ("WQ Rules"), and *Regulations for the Rhode Island Pollutant Discharge Elimination System* (250-RICR-150-10-1) ("RIPDES Rules") pertaining to the failure to comply with the Storm Water Permit and the Ground Water Permit.
- (6) WHEREAS Respondent requested an administrative hearing with the Administrative Adjudication Division ("AAD") to contest the NOV.
- (7) WHEREAS AAD is a division of RIDEM.
- (8) WHEREAS in lieu of proceeding to an administrative adjudicatory hearing on the NOV and to effect a timely and amicable resolution of the NOV, RIDEM and Respondent hereby agree that it is in the best interest of the parties and in the public interest to resolve the issues raised in the NOV.
- (9) WHEREAS RIDEM finds that the Agreement is a reasonable and fair settlement and adequately protects the public interest in accordance with the WP Act, WQ Rules and RIPDES Rules.
- (10) WHEREAS Respondent finds that the Agreement is reasonable and fair and enters into this Agreement with full knowledge and understanding of its terms.

C. AGREEMENT

- (1) RIDEM has jurisdiction over the subject matter of the Agreement and has personal jurisdiction over Respondent.
- (2) The Agreement shall have the full force and effect of a final compliance order issued after a full hearing on the merits pursuant to the Administrative Procedures Act, R.I. Gen. Laws Section 42-35-1 et seq. and R.I. Gen. Laws Section 42-17.7-1 et seq. from which no timely appeal was taken, and which is enforceable in Superior Court in accordance with R.I. Gen. Laws Section 42-17.1-2(21)(vi).
- (3) The provisions of the Agreement shall apply to and be binding upon RIDEM, Respondent and its agents, servants, employees, successors, assigns and all persons, firms and corporations acting under, through and for Respondent in the performance of work relating to or impacting the requirements of the Agreement. The Respondent enters into this Agreement without admitting or denying the facts or allegations set forth herein.

- (4) Respondent shall perform a Supplemental Environmental Project (“SEP”)¹ to satisfy in its entirety the administrative penalty assessed in the NOV as follows:
- (a) **By 3 November 2023**, Respondent shall repave the roadway in Lincoln Woods State Park as described in Attachment A (attached hereto and incorporated herein). Respondent shall be given a SEP credit of \$50,000 (“SEP Credit”).
 - (b) **By 20 November 2023**, Respondent shall provide to RIDEM a letter stating the following:
 - (i) No Federal or State grants or low interest loans were used to complete the SEP up to the SEP Credit.
 - (ii) The SEP was completed in accordance with the Agreement.
 - (iii) If Respondent fails to comply with subsection C (4)(b)(i) or C (4)(b)(ii) above, RIDEM shall notify Respondent that it intends to rescind the SEP Credit. Within 14 days of Respondent’s receipt of written notification by RIDEM that RIDEM intends to rescind the SEP Credit, Respondent shall either complete the SEP or demonstrate that good cause exists for the delay in completing the SEP. If Respondent fails to complete the SEP or does not demonstrate good cause for the delay within said 14 days, Respondent shall, within 10 days of Respondent’s receipt of a written notification from RIDEM, submit to RIDEM a payment in the amount of the SEP Credit after which Respondent shall be under no further obligation to complete the SEP. The Parties reserve whatever rights they may have to contest the completeness of the SEP.
 - (iv) Penalties that Respondent agrees to pay in the Agreement are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
 - (v) In the event that Respondent fails to complete the SEP or does not demonstrate good cause for the delay in completing the SEP as set forth in subsection C(4)(b)(iii) and if Respondent fails to remit to RIDEM a payment on or before its due date, that payment will be considered late, and Respondent will be in default. If the payment is not received within 30 days of its due date, interest shall begin to accrue on the entire unpaid balance at the rate of 12 percent per annum. Interest will accrue at this rate beginning with the day after the due date specified in the Agreement until such date all past due installment payments and interest owed are remitted. Interest shall be calculated using the following generally established accounting principle:

¹ RIDEM valued the SEP at \$100,000. The SEP is to satisfy the penalty assessed in the NOV for this case and the penalty assessed in a NOV issued to Hopkins Hill Road Realty LLC and Hopkins Hill Sand & Stone LLC under case file no. OCI-WP-18-40. RIDEM assigned half the value of the SEP to each case.

Interest due = (number of days late/365) x (0.12) x (amount of unpaid balance)

(vi) Payments shall be by one of two methods:

1. By certified check, cashier's check, or money order made payable to the **General Treasury – Water and Air Protection Program** and forwarded to:

Administrator, RIDEM Office of Compliance and Inspection
235 Promenade Street, Suite 220
Providence, RI 02908-5767

2. By wire transfer in accordance with instructions to be provided by RIDEM.

D. COMPLIANCE

- (1) Compliance with and fulfillment of the Agreement shall be deemed to resolve all issues raised in the NOV.
- (2) Compliance with the terms of the Agreement does not relieve Respondent of any obligation to comply with any other applicable laws or regulations administered by, through or for RIDEM or any other governmental entity.
- (3) Upon a determination by the Director that there is a threat to the public health or the environment, or upon discovery of any new information, RIDEM reserves the right to take additional enforcement actions as provided by statute or regulation, including, but not limited to, the issuance of "Immediate Compliance Orders" as authorized by R.I. Gen. Laws Section 42-17.1-2(21). The Agreement shall not restrict any right to hearing or other right available by statute or regulation that Respondent may have regarding any new enforcement action commenced by RIDEM after the execution of the Agreement.
- (4) The Agreement shall not operate to shield Respondent from liability arising from future activities, as of the date of execution of the Agreement.
- (5) The scope of the Agreement is limited to violations alleged in the NOV.
- (6) Communications regarding the Agreement shall be directed to:

Patrick Hogan, Environmental Engineer IV
RIDEM Office of Compliance and Inspection
235 Promenade Street
Providence, RI 02908-5767

(401) 222-1360 ext. 2777119

patrick.hogan@dem.ri.gov

Tricia Quest, Deputy Chief Legal Counsel
RIDEM Office of Compliance and Inspection
235 Promenade Street
Providence, RI 02908-5767
(401) 222-6607 ext. 2772408

tricia.quest@dem.ri.gov

Jeremy Ritzenberg, Vice President and General Counsel
Cardi Corporation
400 Lincoln Avenue
Warwick, RI 02888
(401) 739-8300

jritzenberg@cardi.com

Christine Dieter, Esq.
Hinckley Allen & Snyder LLP
100 Westminister Street, Suite 1500
Providence, RI 02903
(401) 274-2000

cdieter@hinckleyallen.com

All communications regarding compliance with the Agreement shall be forwarded to the above-referenced addressees by certified mail.

- (7) The Director may, for good cause shown, defer any of the compliance dates prescribed herein. Good cause for deferral of any compliance date shall be forwarded to RIDEM in writing at least 15 days, if possible, prior to the prescribed deadline.
- (8) The Agreement may be amended by agreement of the parties in writing.
- (9) The Agreement shall be deemed entered as of the date of execution by all parties.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the undersigned consent to the Agreement in substance and in form.

Cardi Corporation

By: _____
Print Name: _____ Title: _____

Dated: _____

In my capacity, as _____ of _____, I hereby aver that I am authorized to enter into the Agreement and thereby bind _____ to satisfy any obligation imposed upon it pursuant to said Agreement.

STATE OF RHODE ISLAND
COUNTY OF _____

In _____, in said County and State, on this _____ day of _____, 2023, before me personally appeared _____, the _____ of Cardi Corporation, a Rhode Island corporation, to me known and known by me to be the party executing the foregoing instrument on behalf of Cardi Corporation, and he/she/they acknowledged said instrument by him/her/they executed, to be his/her/their free act and deed in said capacity and the free act and deed of Cardi Corporation.

Notary Public
My Commission Expires: _____

State of Rhode Island, Department of Environmental Management

By: _____
David E. Chopy, Administrator
Office of Compliance and Inspection

Dated: _____