



Florida Department of Environmental Protection

Northeast District
8800 Baymeadows Way West, Suite 100
Jacksonville, Florida 32256

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Noah Valenstein
Secretary

April 30, 2018

Sent electronically to: mdickson@flaglercounty.org

Mr. Michael Dickson, General Service Assistant Director
Flagler County Board of County Commissioners
1769 E. Moody Boulevard, Bldg. 5
Bunnell, Florida 32110

SUBJECT: Department of Environmental Protection v. Flagler County BOCC
OGC File No.: 18-0216
Former Memorial Hospital Demolition
Flagler County

Dear Mr. Dickson:

The State of Florida Department of Environmental Protection (Department) finds that the Flagler County Board of County Commissioners (owners) did not provide the Department written notification for the March 2017 demolition of the former Memorial Hospital Building in Bunnell, Florida, resulting in a violation of 61.145(b)(1) of 40 CFR Part 61, Subpart M and Rule 62-204.800, Florida Administrative Code (F.A.C.). A FDEP Notice of Demolition or Asbestos Renovation form for this project has since been filed. Although there are no further actions required to correct the violation, you remain subject to civil penalties as a result of the violation. You are also responsible for costs incurred by the Department during the investigation of this matter.

The Department's Offer

Based on the violations described above, the Department is seeking \$500.00 in civil penalties, and \$100.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$600. The civil penalties are apportioned as follows: \$500.00 for violation of the asbestos NESHAP, 40 CFR Part 61, Subpart M and \$100.00 for Department costs and expenses.

Respondent's Acceptance

If you wish to accept this offer and fully resolve this pending enforcement matter, please sign this letter and return it to the Department at Northeast District Office, 8800 Baymeadows Way West, Suite 100, Jacksonville, Florida, 32256, by May 30, 2018. The Department will then countersign it and file it with a designated clerk of the Department.

Once the document is filed with the designated clerk, it will constitute a final order of the Department pursuant to Section 120.52(7), Fla. Stat., and will be effective unless a request for an administrative hearing is filed by a third party in accordance with Chapter 120, Fla. Stat., and the attached Notice of Rights.

By accepting this offer you:

- (1) acknowledge and waive your right to an administrative hearing pursuant to Sections 120.569 and 120.57, Fla. Stat., on the terms of this offer;
- (2) acknowledge and waive your right to an appeal pursuant to Section 120.68, Fla. Stat.; and
- (3) acknowledge that payment of the above amount does not constitute a waiver of the Department's right, if any, to recover emergency response related costs and expenses for this matter.

The Department acknowledges that your acceptance of this offer does not constitute an admission of liability for the violation referenced above.

Respondent's Performance

After signing and returning this document to the Department,

- (1) You must pay \$600.00 in full by May 30, 2018.
- (2) Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/>.

It will take a number of days after this order is final and effective and filed with the Clerk of the Department before ability to make online payment is available. The Department may enforce the terms of this document, once final, and seek to collect monies owed pursuant to Sections 120.69 and 403.121, Fla. Stat.

Until clerked by the Department, this letter is only a settlement offer and not a final agency action. Consequently, neither you nor any other party may request an administrative hearing to contest this letter pursuant to Chapter 120, Fla. Stat. Once this letter is clerked and becomes a final order of the Department, as explained above, the attached Notice of Rights will apply to parties, other than you, whose interests will be substantially affected. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

Please be aware that if you decline to respond to the Department's offer, the Department will assume that you are not interested in resolving the matter and will proceed accordingly. If you have any questions, please contact Marc Lovallo at (904) 256-1566, or by email at Marc.Lovallo@dep.state.fl.us.

Sincerely,



James R. Maher, P.E.
Assistant Director

FOR THE RESPONDENT:

I, _____ [Michael Dickson], **HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By: _____
[Signature]

Date: _____

Title: _____

FOR DEPARTMENT USE ONLY

DONE AND ORDERED this ____ day of _____ 2018, in Duval County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Gregory J. Strong
District Director
Northeast District

Filed, on this date, pursuant to section 120.52, Fla. Stat., with the designated Department Clerk, receipt of which is hereby acknowledged.

Clerk

Date

Attachments: Notice of Rights

Copies furnished to:

Lea Crandall, Agency Clerk (executed copy only)
Arlene Wilkinson, FDEP-NED

NOTICE OF RIGHTS

Persons who are not parties to this Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Order means that the Department's final action may be different from the position it has taken in the Order.

The petition for administrative hearing must contain all of the following information:

- a) The OGC Number assigned to this Order;
- b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;
- c) An explanation of how the petitioner's substantial interests will be affected by the Order;
- d) A statement of when and how the petitioner received notice of the Order;
- e) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;
- f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Order; and
- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Order.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at the address indicated above. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under Sections 120.569 and 120.57, Florida Statutes. Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.