CALIFORNIA
Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Los Angeles Regional Water Quality Control Board

May 10, 2016

Kitty Lew
Figueroa Development Corp.
853 East Valley Boulevard
San Gabriel, CA 91776

Certified Mail
Return Receipt Requested
Claim No. 7015 0640 0006 6112 4032

SETTLEMENT OFFER NO. R4-2016-0147: OFFER TO PARTICIPATE IN THE EXPEDITED PAYMENT PROGRAM RELATING TO VIOLATIONS OF THE STATE WATER RESOURCES CONTROL BOARD GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES FOR FIGUEROA DEVELOPMENT CORP., 1013 THROUGH 1037 WEST FIGUEROA TERRACE, LOS ANGELES (ORDER NO. 2009-0009-DWQ AS AMENDED BY ORDER NO. 2010-0014-DWQ, NPDES NO. CAS000002, WDID NO. 4 19C346429)

Dear Kitty Lew:

This letter is to notify Figueroa Development Corp. (hereinafter "Permittee" or "you") of alleged violations of the California Water Code identified in the State Water Resources Control Board's water quality data system and to allow the Permittee to participate in the Los Angeles Regional Water Quality Control Board's (Regional Board) Expedited Payment Program to address liabilities that may be assessed pursuant to California Water Code section 13399.33.

NOTICE OF VIOLATION:

Based on information in the Storm Water Multiple Application & Report Tracking System (SMARTS) as of May 10, 2016, the Regional Board alleges that the Permittee is in violation of the Statewide General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ as amended by 2010-0014-DWQ (Order) for failure to submit the **Fiscal Year 2013-2014** Annual Report for the construction project located at 1013 through 1037 West Figueroa Terrace in the City of Los Angeles. The Annual Report was due to the Regional Board by **September 1 of 2014** as required by Section I.4.c of the Order. As of May 10, 2016, the Permittee has failed to submit the Annual Report requested in the Notice of Non-Compliance (NNC) and Notice of Violation (NOV) issued on August 14, 2015 and March 15, 2016, respectively. The Permittee will have the opportunity to address the alleged violation as discussed below.

STATUTORY LIABILITY:

Pursuant to California Water Code section 13399.33(c), the Permittee is subject to a minimum penalty of not less than one thousand dollars ($1,000) plus staff costs for failing to submit the Annual Report within sixty (60) days after the NNC was sent. The Permittee is also subject to discretionary administrative civil liabilities of up to ten thousand dollars ($10,000) for each day in which the violation occurs. These minimum and discretionary administrative civil liabilities may be assessed by the Regional Board beginning with the date that the violations first occurred. The formal enforcement action that the Regional Board uses to assess such liability is an administrative civil liability complaint, although the Regional Board may instead refer such matters to the Attorney General's Office for prosecution. If referred to the Attorney General for prosecution, the Superior Court may assess up to twenty-five thousand dollars ($25,000) per violation.

PERMITTEE'S OPTIONS FOR RESPONSE TO OFFER:

You have two options to respond as outlined below. However, the Expedited Payment Program does not address or resolve liability for any violation that is not specifically identified in the corresponding NNC and NOV regardless of the date that the violation occurred.

1. **Accept the Expedited Payment Program offer** by complying with the Order and submitting the requested Annual Report and agreeing to pay a settlement of **$1,500**. The minimum administrative civil liability pursuant to California Water Code section 13399.33(c) is $1,000 **per report**. Staff costs incurred in seeking compliance with California Water Code Chapter 5.9, the Storm Water Enforcement Act of 1998, is $500. This is a Conditional Offer subject to certain terms and conditions set forth below. If you choose this option **you must sign and submit the enclosed Acceptance and Waiver form by June 10, 2016.** The form provides submittal instructions. Final closure on this action is only possible after ultimate submission of the settlement amount.

   Please submit a hard copy of the Annual Report and the Acceptance and Wavier form to:

   Mr. Alireza Rahmani, Enforcement Unit
   Los Angeles Regional Water Quality Control Board
   320 West 4th Street, Suite 200
   Los Angeles, California 90013

   In response to the Conditional Offer and payment in settlement of this enforcement action, the Regional Board will forego issuance of a formal administrative complaint, will not refer the violation to the Attorney General, and will waive its right to seek additional discretionary civil liabilities for the violations identified in the NNC and NOV.

2. **Contest the non-filing violation** by submitting in writing, the basis of your challenge with supporting evidence. For example, you have evidence that you previously submitted your Annual Report or you are no longer in business. If you choose this option, you must **submit your written documentation by June 10, 2016.** We will review your submission, and if we agree with you, we will notify you in writing that you are no longer considered in violation of the permit and that our enforcement action has been terminated.

If you do not respond in a manner described in the above options, the Regional Board will prepare an administrative civil liability complaint for the violations cited above in the Notice of Violation section. The liability amount sought in the administrative civil liability complaint and/or imposed by the Regional Board may be higher than the liability amount set forth in this Conditional Offer. Moreover, staff costs associated with formal enforcement may be considered in the recommended liability amount.

CONDITIONS FOR REGIONAL BOARD ACCEPTANCE OF RESOLUTION:

This offer to participate in the Expedited Payment Program is conditional upon the Regional Board's receipt of confirmation that the Permittee has submitted the Annual Report to the Regional Board on or before **June 10, 2016**. If you choose not to or fail to submit the Annual Report on or before that date, this offer will be deemed withdrawn and a formal enforcement action will be pursued. After the offer is deemed withdrawn, Regional Board staff will notify you of the impending enforcement action and any associated deadlines.

Should you participate in the Expedited Payment Program, the settlement will be published in the following manner: Federal regulations require the Regional Board to publish notice of, and to provide at least thirty (30) days for public comment on, any settlement of an enforcement action addressing NPDES permit violations (40 C.F.R. section 123.27(d)(2)(iii)). Upon receipt of the Permittee's Acceptance and Waiver, the Annual Report, and other requested technical reports on or before **June 10, 2016**, Regional Board staff will publish a notice of the proposed resolution of the failure to submit the report alleged in the NNC and NOV attached.

If no comments are received within the notice period, the Regional Board Executive Officer will execute the Acceptance and Waiver as a stipulated order assessing the uncontested penalty amount pursuant to Water Code section 13399.33 as described under the heading "Statutory Liability" herein. You will then be notified that payment is due within 30 days. Failure to pay the penalty within that time frame may result in further liability, referral of the matter to the Attorney General, and/or may void the offer to participate in this Expedited Payment Program.

If, however, significant comments are received in opposition to the settlement, this offer may be withdrawn. In that case, the Permittee's waiver pursuant to the Acceptance and Waiver will also be treated as withdrawn. In that case, the violations will be addressed in a liability assessment proceeding. At the liability assessment hearing the Permittee will

be free to make arguments as to any of the alleged violations, and the Permittee's agreement to accept this conditional offer will not in any way be binding or used as evidence against the Permittee. The Permittee will be provided with further information on the liability assessment proceeding.

Should you have any questions about this Conditional Offer or Notice of Violation, please contact Mr. Alireza Rahmani at (213) 620-2122 or via email at Alireza.Rahmani@waterboards.ca.gov or Ms. Pavlova Vitale at (213) 576-6751 or via email at Pavlova.Vitale@waterboards.ca.gov regarding this matter.

Sincerely,

Paula Rasmussen
Assistant Executive Officer

Enclosures:
Notice of Non-Compliance dated August 14, 2015
Notice of Violation dated March 15, 2016
Acceptance of Conditional Resolution and Waiver of Right to Hearing; (proposed) Order

cc: (via email)
Vanessa Young, Office of Enforcement, State Water Resources Control Board

ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT TO HEARING; (Proposed) ORDER

Figueroa Development Corp.
Settlement Offer No. R4-2016-0147
WDID No. 4 19C346429

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Los Angeles Regional Water Quality Control Board (Regional Board), Figueroa Development Corp. (Permittee) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the Regional Board to dispute the allegations of violations described in the Notice of Non-Compliance (NNC) and Notice of Violation (NOV), which are attached and incorporated herein by reference.

The Permittee agrees that the Conditional Offer shall serve as a complaint pursuant to Article 2.5 of the California Water Code and that no separate complaint is required for the Regional Board to assert jurisdiction over the alleged violations through its Chief Prosecutor. The Permittee agrees to pay the administrative civil liability authorized by California Water Code section 13399.30, in the sum of $1,500 (Expedited Payment Amount) which shall be deemed payment in full of any civil liability pursuant to California Water Code section 13399.30 that otherwise might be assessed for the violations described in the NNC and NOV for the missing annual report. The Permittee understands that this Acceptance and Waiver waives its right to contest the allegations in the NNC, NOV and the amount of civil liability for such violations.

The Permittee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the NNC and NOV.

Upon execution by the Permittee, the completed Acceptance and Waiver and Annual Report(s) shall be returned to:

Mr. Alireza Rahmani, Enforcement Unit
Expedited Payment Program
Los Angeles Regional Water Quality Control Board
320 West 4th Street, Suite 200
Los Angeles, California 90013

The Permittee understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Regional Board to publish notice of and provide at least thirty (30) days for public comment on any proposed resolution of an enforcement action addressing NPDES permit violations. Accordingly, this Acceptance and Waiver, prior to execution by the Regional Board Executive Officer, will be published as required by law for public comment.

If no comments are received within the notice period that causes the Regional Board Executive Officer to question the Expedited Payment Amount, the Regional Board Executive Officer will execute the Acceptance and Waiver.

The Permittee understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Regional Board to resolve the violations set forth in the NNC and NOV may be withdrawn. In that circumstance, the Permittee will be advised of that withdrawal, and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the Regional Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver executed by the Permittee will be treated as a settlement communication and will not be used as evidence in that hearing.

The Permittee further understands that once this Acceptance and Waiver is executed by the Regional Board Executive Officer, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. In accordance with California Water Code section 13399.37(a), funds collected for violations pursuant to sections 13399.33(c) and 13399.33(d) shall be deposited in the Waste Discharge Permit Fund. Accordingly, the $1,500 liability including staff costs shall be paid by a cashiers or certified check made out to the "State Water Resources Control Board" referencing this Order number for deposit into the Waste Discharge Permit Fund. The payment must be submitted to the State Water Resources Control Board no later than thirty (30) calendar days after the date the Acceptance and Waiver is executed by the Regional Board Executive Officer.

Please mail check to:

State Water Resources Control Board
Re: Order No. R4-2016-0147
Division of Administrative Services, Accounting Branch
1001 I Street, 18th Floor, [95814]
P.O. Box 1888
Sacramento, California 95812-1888

I hereby affirm that I am duly authorized to act on behalf of and to bind the Permittee in the making and giving of this Acceptance and Waiver.

Figueroa Development Corp.

By: _____ November 29, 2016
(Signed Name) (Date)

Dominic Leung Treasurer & CFO
(Printed or Typed name) (Title)

IT IS SO ORDERED PURSUANT TO CALIFORNIA WATER CODE SECTION 13399.30

Date: _____

By: _____
Samuel Unger, P.E.
Executive Officer

CALIFORNIA
Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Los Angeles Regional Water Quality Control Board

March 15, 2016

Kitty Lew
Figueroa Development Corp.
853 East Valley Boulevard
San Gabriel, CA 91776

Certified Mail
Return Receipt Requested
Claim No. 7009 2820 0002 4163 7737

NOTICE OF VIOLATION: FAILURE TO SUBMIT 2013-2014 ANNUAL REPORT AS REQUIRED BY THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES, ORDER NO. 2009-0009-DWQ AS AMENDED BY ORDER NO. 2010-0014-DWQ AND 2012-006 DWQ, NPDES NO. CAS000002 (GENERAL PERMIT) WDID NO. 4 19C346429

Dear Kitty Lew:

Your construction site located at 1013 through 1037 West Figueroa Terrace in Los Angeles is subject to the requirements of the NPDES General Permit for Storm Water Discharges associated with Construction and Land Disturbance Activities (General Permit) (Order No. 2009-0009-DWQ as amended by Order No. 2010-0014-DWQ and 2012-006 DWQ, NPDES No. CAS000002) and is identified by WDID No. 4 19C346429. Section XVI.A of the General Permit requires that you prepare and submit an annual report electronically by September 1 of each year. On August 14, 2015, the Los Angeles Regional Water Board (Regional Board) issued you (Permittee) a Notice of Non-Compliance (attached) for failing to submit the 2013-2014 annual report. To date, the Regional Board has not received your 2013-2014 annual report.

The Permittee is currently in violation of the General Permit, the California Water Code (CWC), and the Federal Clean Water Act for failing to submit the 2013-2014 annual report.

The Permittee is required to submit a complete 2013-2014 annual report (Section XVI.A) to the Regional Board **immediately**.

The annual report must be submitted electronically to the Regional Board via the Stormwater Multiple Application and Report Tracking System (SMARTS) (Section I.D). Along with the annual report, you must also provide a statement explaining the reason you did not submit the annual report by the September 1st deadline and the measures you have taken to ensure timely submittals in the future. This statement must be uploaded to SMARTS as an attachment under the Annual Report Attachments tab. Upon completion, notify Ms. Harumi Goya via email at Harumi.Goya@waterboards.ca.gov.

If you need assistance in completing the annual report, please contact the SMARTS Help Desk at (866)563-3107. SMARTS is accessible from the following website address: https://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp.

Pursuant to California Water Code section 13399.33(c), the Permittee is now subject to a minimum penalty of not less than one thousand dollars ($1,000) plus staff costs for failing to submit the annual report within sixty days after the Notice of Non Compliance was sent. The Permittee is also subject to discretionary administrative civil liabilities of up to ten thousand dollars ($10,000) for each day in which the violation occurs. These minimum and discretionary administrative civil liabilities may be assessed by the Regional Board beginning with the date that the violations first occurred. The Regional Board may also refer this matter to the Attorney General's Office for further enforcement. Please note that this Notice shall not be deemed to relieve you of liability for any penalties that may have already accrued. The Regional Board reserves its right to take any further enforcement action authorized by law.

If you have any questions specific to your site, please contact Harumi Goya by e-mail at Harumi.Goya@waterboards.ca.gov or by phone at (213) 620-2283 or Ejigu Solomon at (213) 620-2237 or via email at Ejigu.Solomon@waterboards.ca.gov.

Sincerely,

Paula Rasmussen
Assistant Executive Officer

Enclosure: Notice of Non-Compliance dated on August 14, 2015

cc: Steven Pedersen, City of Los Angeles (via email only)
Vanessa Young, State Water Resources Control Boar, Office of Enforcement (via email only)

CALIFORNIA
Water Boards

Los Angeles Regional Water Quality Control Board

August 14, 2015

Kitty Lew
Figueroa Development Corp.
853 East Valley Boulevard
San Gabriel, CA 91776

Certified Mail
Return Receipt Requested
Claim No. 7014 0150 0000 1270 0987

NOTICE OF NON-COMPLIANCE: Failure to Submit 2013-2014 Annual Report as Required by the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ as Amended by Order No. 2010-0014-DWQ and 2012-006-DWQ, NPDES No. CAS000002 (General Permit) WDID No. 4 19C346429

Dear Kitty Lew:

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board), is the public agency with the primary responsibility for the protection of ground and surface water quality within the major portions of Los Angeles and Ventura Counties.

The construction site, located at 1013 through 1037 West Figueroa Terrace in Los Angeles, is regulated under the General Permit and identified by WDID No. 4 19C346429. Section XVI.A of the General Permit requires the permittee to submit an annual report by September 1st of each year. However, our records indicate that you have not submitted your 2013-2014 annual report that was due on September 1, 2014.

The permittee is currently in violation of the General Permit, the California Water Code and the Federal Clean Water Act for failing to submit a complete 2013-2014 annual report. The permittee is required to submit a complete 2013-2014 annual report (refer to section XVI of the General Permit) to the Regional Board by **September 14, 2015**. Pursuant to section 13399.33 of the California Water Code, you may be subject to penalties of not less than one thousand dollars ($1,000) plus staff costs for failing to submit your annual report. A copy of the General Permit can be downloaded from the State Water Resources Control Board's website:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

Annual Reports must be submitted electronically to the Stormwater Multiple Application & Report Tracking System (SMARTS) database (Section I.D). If you need assistance in completing the annual report, please contact the SMARTS Help Desk at (866)563-3107. SMARTS is accessible from the following website address:
https://smarts.waterboards.ca.gov/smarts/faces/SwSmartsLogin.jsp

Along with the annual report, you must also provide a statement explaining the reason you did not submit the annual report by the September 1st deadline and the measures you have taken to ensure timely submittals in the future. This statement must be uploaded to SMARTS as an attachment under the Annual Report Attachments tab.

Notify Ms. Harumi Goya of my staff via email at Harumi.Goya@waterboards.ca.gov once the report and the explanation are submitted through SMARTS.

Failure to submit the annual report may also result in the assessment of administrative civil liabilities of up to ten thousand dollars ($10,000) for each day in which the violation occurs.

If you need assistance or have any questions, please contact Harumi Goya at (213) 620-2283 or via email at Harumi.Goya@waterboards.ca.gov or you may contact Ejigu Solomon at (213) 620-2237 or via email at Ejigu.Solomon@waterboards.ca.gov.

Sincerely,

Paula Rasmussen

Paula Rasmussen
Assistant Executive Officer

cc: Steven Pedersen, City of Los Angeles (via email only)
Vanessa Young, State Water Resources Control Board, Office of Enforcement (via email only)