

BEFORE THE SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

ORDER NO. SWF 21 –

IN RE: CHRIST CHURCH OF LONGBOAT KEY, INC.  
CT NO. 413561  
PERMIT NO. 43007606.002  
MANATEE COUNTY, FLORIDA

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**CONSENT ORDER**

Pursuant to Sections 120.57(4) and 373.083, Florida Statutes (F.S.), this Consent Order is entered into by and between the Southwest Florida Water Management District (District) and Chris Church of Longboat Key, Inc. (Permittee), collectively referred to as “the Parties,” to settle certain matters at issue between the Parties. The Parties hereby voluntarily agree to the following findings of fact, conclusions of law, and corrective actions.

FINDINGS OF FACT

1. The District is the administrative agency charged with the responsibility to conserve, protect, manage, and control the water resources within its geographic boundaries, and to administer and enforce Chapter 373, F.S., and the rules promulgated thereunder as Chapter 62-330, Florida Administrative Code (F.A.C.).

2. Permittee owns approximately 1.92 acres of real property located within Section S23, Township 35S, Range 16E, at 6400 Gulf of Mexico Drive in Longboat Key, Florida, which is more specifically described as Parcel ID No. 7851900059 by the Manatee County Property Appraiser (Property). Permittee’s mailing address is 6400 Gulf of Mexico Drive, Longboat Key, Florida 34228.

3. On December 23, 2009, the District issued Environmental Resource Permit (ERP) Number 43007606.001 to Permittee authorizing the construction of a stormwater management system to serve a 1.92-acre church project on the Property.

4. On September 11, 2020, the District issued ERP Number 43007606.002 (Permit) to Permittee authorizing improvements to the stormwater management system authorized under ERP Number 43007606.001.

5. Specific Condition No. 4 of the Permit requires construction of the improvements to be completed within 120 days of the issuance of the Permit, and requires an As-built Certification and Request for Conversion to Operation Phase form, along with as-built plans, to be submitted to the District within 30 days of completion of the construction.

6. On October 13, 2020, and November 23, 2020, District staff conducted site inspections at the Property and observed that construction of the improvements to the stormwater management system had not started.

7. On November 3, 2020, Permittee contacted District staff to express concern that the plan approved under the Permit was not the proposal submitted by Permittee in that the Permit required a pump much larger than necessary.

8. On January 26, 2021, approximately two weeks after construction was to have been completed, District staff advised Permittee to submit a request for Minor Modification to the Permit and start construction with a smaller pump than required by the Permit.

9. On January 27, 2021, the District issued a Notice of Permit Condition Violation (Notice) letter to Permittee concerning Permittee's failure to timely construct the

improvements to the stormwater management system as required by the Permit. The Notice advised Permittee that it had until February 26, 2021, to bring the project into compliance, and that the matter would be referred to the District's Office of General Counsel for further enforcement action if the Property was not brought into compliance in a timely manner.

10. On February 5, 2021, the District issued ERP Minor Modification 43007606.003 changing the pump size, but did not include any extension of the previous deadline under the Permit for completion of construction, which was already past due.

11. On March 2, 2021, District staff conducted another site inspection at the Property and observed that construction of the improvements to the stormwater management system had not started. Permittee advised District staff that Permittee had made progress in completing construction, including execution of a construction contract, ordering the pump, and submission of documentation to the Town of Longboat Key to obtain construction permits. Permittee further advised that it was awaiting delivery of the pump and had secured a contractor to remove portions of the existing stormwater management system in accordance with the Permit.

12. On March 19, 2021, Permittee advised District staff that the Town of Longboat Key had issued a "stop work" order and was requiring a site plan exemption for the improvements to the stormwater management system authorized under the Permit. Specifically, the Town of Longboat Key originally required trees to be planted along the Property's boundaries, including within the "bio-swale" portion of the stormwater management system. The Permit, however, required all trees be removed from the bio-swale to ensure the entire stormwater management system functioned properly.

13. After Permittee obtained all required permits and a site plan exemption from the Town of Longboat Key, construction recommenced during the last week of April 2021.

14. On June 8, 2021, District staff conducted a site inspection at the Property and observed that construction of the improvements to the stormwater management system appeared to have been completed.

15. The Parties have agreed to resolve all disputed issues regarding the violations set forth above, as described in this Consent Order.

#### CONCLUSIONS OF LAW

16. The District has jurisdiction over this matter pursuant to Chapter 373, Part IV, F.S., and Chapter 62-330, F.A.C.

17. The activities described in Paragraphs 6 through 9 herein constitute violations of Specific Condition No. 5 of the Permit, Chapter 373, F.S., and Rule 62-330.350, F.A.C., in that Permittee failed to construct the improvements to the stormwater management system on the Property within 120 days, and failed to submit the required As-Built Certification and Request for Conversion to Operation Phase form, along with the as-built plans, to the District within thirty (30) days, as required by the Permit.

#### CORRECTIVE ACTIONS

18. Within thirty (30) days of approval of this Consent Order by the District's Governing Board, Permittee shall submit as-built plans and the required "As-built Certification and Request for Conversation to Operation Phase" form to the District.

19. Permittee shall pay to the District enforcement costs in the amount of Three Thousand Dollars (\$3,000.00), to be paid in full within seven (7) days of the approval of

this Consent Order by the District's Governing Board. Payment is to be made by certified check or money order. If mailed, the address for payment is:

Southwest Florida Water Management District  
Finance Department  
2379 Broad Street  
Brooksville, FL 34604-6899

20. Permittee may apply in writing to the District for an extension of the time limits contained in this Consent Order no later than five (5) days prior to the expiration of such time limits. The District may grant an extension of time in writing for good cause shown.

21. For each day of delay beyond any due date specified in this Consent Order, Permittee shall pay to the District an additional sum of One Hundred Dollars (\$100.00) per day. This additional sum shall be paid by Permittee upon the District's mailing of a demand letter to Permittee for payment. This provision shall not be construed to preclude the District's right to undertake other administrative, civil, or criminal action as appropriate in the event any due date is not met.

22. Permittee hereby waives any right to an administrative hearing or judicial review of the terms of this Consent Order. Permittee reserves the right to dispute any allegation of noncompliance with the Consent Order, or any permit or approval issued hereunder.

23. For and in consideration of the complete and timely performance by Permittee of the obligations under this Consent Order, the District waives its right to pursue civil or administrative action for any violation described herein. If Permittee fails to completely and timely perform the obligations under this Consent Order, the District retains its right to pursue civil or administrative action for any violations described herein.

24. The District hereby expressly reserves and retains the right to initiate appropriate legal action against Permittee to prevent or prohibit the future violation of any applicable statutes, rules, or orders, except as specifically addressed in this Consent Order. Permittee acknowledges by the execution of this Consent Order that any future violation of Chapter 373, F.S., District rules, or the terms of any permit (including such as may be modified) may subject Permittee to administrative or civil suit in which penalties of up to Fifteen Thousand Dollars (\$15,000.00) per day per offense may be imposed, as provided in Section 373.129(5), F.S.

25. This Consent Order is not a license or a permit. Permittee shall not undertake any further construction activities without the necessary District authorizations.

26. Entry of this Consent Order shall not relieve Permittee of the duty to comply with all applicable federal, state, and local laws, regulations, and ordinances.

27. Permittee shall allow authorized District representatives to access the Property at all reasonable times without prior notice to determine compliance with this Consent Order, Chapter 373, F.S., and District rules.

28. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69, 373.083(1), and 373.129, F.S.

29. Permittee acknowledges by the execution of this Consent Order that any future violation of Chapter 373, F.S., or District rules may result in any or all of the following: criminal prosecution, administrative action, or civil suit in which additional civil penalties and costs may be imposed.

30. The effectiveness of this Consent Order is subject to review and approval by the District's Governing Board. In the event the District's Governing Board does not approve this Consent Order, this Consent Order shall be null, void, and of no legal effect.

31. No modifications of the terms of this Consent Order are effective unless reduced to writing and executed by the Parties.

32. Any person, who is not a party to this Consent Order, whose substantial interests are affected by the District's action in this Consent Order may request an administrative hearing in accordance with Sections 120.569 and 120.57, F.S., and Chapter 28-106, F.A.C. A request for hearing that disputes the material facts on which the District's action is based must contain all elements required by Rule 28-106.201(2), F.A.C., including but not limited to: (1) an explanation of how the substantial interests of each person requesting the hearing will be affected by the District's action; (2) a statement of all disputed issues of material fact; (3) the Consent Order number; (4) the name, address and telephone number of the person requesting the hearing and, if applicable, of the person's representative; (5) a statement of when and how the person requesting the hearing received notice of the District's action; (6) a concise statement of the ultimate facts alleged, including the specific facts warranting reversal or modification of the District's action; and (8) the relief sought, including precisely what action the requester wishes the agency to take. A request for hearing that does not dispute the material facts on which the District's action is based shall state that no material facts are in dispute, contain the same information set forth above (with the exception of item (2)), and otherwise comply with Rule 28-106.301(2), F.A.C. A request for hearing must be filed with (received by) the Agency Clerk of the District at the District's Tampa Service Office, 7601

US Highway 301 North, Tampa, Florida 33637-6759, or by facsimile transmission to the Agency Clerk at (813) 367-9776 or (813) 367-9772, within twenty-one (21) days of receipt of this notice. If this Consent Order is mailed, receipt is deemed to be the fifth day after the date on which the Consent Order is deposited in the United States mail. Because the administrative hearing process is designed to formulate final agency action, the timely filing of a request for hearing may result in the District's final action being different from its original action. Any person who is not a party to this Consent Order whose substantial interests will be affected by any such final action of the District has the right to request a hearing in accordance with the requirements set forth above. Failure to file a request for hearing within the specified time period shall constitute a waiver of any right any such person may have to request a hearing under Sections 120.569 and 120.57, F.S. Mediation pursuant to Section 120.573, F.S., to settle an administrative dispute regarding the District's action in this matter is not available prior to the filing of a request for hearing.

By:   
Christ Church of Longboat Key, Inc.

Name: JOHN L. SHEHORN

Date: 6/12/21

Approved by the Governing Board of the Southwest Florida Water Management District  
this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

By: \_\_\_\_\_  
Kelly S. Rice, Chair

Approved as to Legal Form and Content

\_\_\_\_\_

Attorney

Filed this \_\_\_ day of  
\_\_\_\_\_, 2021.

\_\_\_\_\_  
Deputy Agency Clerk

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CHRIST CHURCH OF LONGBOAT KEY, INC.  
CT NO. 413561  
MANATEE COUNTY, FLORIDA