

SETTLEMENT AGREEMENT

I. TERMS AND CONDITIONS

~~July~~^{August} This Settlement Agreement (“Settlement Agreement”) is entered into on this 1st day of ~~July~~^{August}, 2023 by and between the City of Burlington, North Carolina (“City” or “Burlington”), and Haw River Assembly (collectively, the “Parties”).

II. RECITALS

A. The City operates a wastewater collection system and two wastewater treatment plants (“WWTPs”), the East Burlington wastewater treatment plant and the South Burlington wastewater treatment plant;

B. Haw River Assembly sent a letter to the City notifying it of Haw River Assembly’s intent to sue the City to address the City’s per- and polyfluoroalkyl substances (“PFAS”) and 1,4-dioxane discharges from the City’s WWTPs;

C. On October 22, 2020, the City and Haw River Assembly entered into a Memorandum of Agreement that represents the initial mutual commitments of the City and the Haw River Assembly related to the PFAS and 1,4-dioxane discharges from the City’s WWTPs;

D. On July 12, 2021, the City and Haw River Assembly entered into an Addendum to Memorandum of Agreement (“Addendum”) that continued the initial mutual commitments of the City and Haw River Assembly related to the PFAS and 1,4-dioxane discharges from the City’s WWTPs;

E. On April 2, 2022, the City and Haw River Assembly extended the Addendum by email “to September 23, 2022, or the date of an agreement that supersedes the Addendum, which is earlier.” The Addendum therefore expired on September 23, 2022.

F. In exchange for cooperation in completing the promises and obligations set forth in the Memorandum of Agreement and Addendum, Haw River Assembly agreed not to file a civil action against the City, in any forum, through the duration of the Addendum related to the factual allegations contained in the November 7, 2019 Notice of Intent to Sue the City of Burlington for Violations of the Clean Water Act;

G. Although Haw River Assembly disagrees, the City of Burlington asserts that it is in full compliance with its Clean Water Act discharge permits, despite the presence of PFAS and 1,4-dioxane in its discharge;

H. Notwithstanding Burlington's position that its discharges of PFAS and 1,4-dioxane are compliant with its discharge permits, Burlington and Haw River Assembly investigated the potential non-domestic source(s) of PFAS and 1,4-dioxane in the City's discharges to identify the main non-domestic sources of the PFAS and 1,4-dioxane in the City's discharges ("Investigation");

I. To further the Investigation, Burlington contracted Hazen & Sawyer to sample the City's industrial users, its collection system, its internal wastewater treatment plant processes, and its WWTPs' influent and effluent;

J. To further the Investigation, Haw River Assembly contracted the Environmental Analytical Chemistry Laboratory at Duke University to conduct Total Oxidizable Precursor Assay ("TOP Assay") on the samples collected by the City and to identify the full spectrum of PFAS discharged into and out of the City's WWTPs.

K. Through the Investigation, the City and Haw River Assembly identified the City's East Burlington Wastewater Treatment Plant as the main source of PFAS from the City's WWTPs, and identified Unichem Specialty Chemicals, LLC; Elevate Textiles; Shawmut Corporation, and the Republic Services of North Carolina, LLC and Alamance County Landfills, as the main non-domestic sources of PFAS into the City's East Burlington Wastewater Treatment Plant;

L. This Settlement Agreement supersedes the Memorandum of Agreement and the Addendum and memorializes the additional steps the City will take and require of its current and future non-domestic sources, including using its authority under the Clean Water Act pretreatment program, to (a) prevent to the maximum extent practicable the non-domestic discharges of PFAS into its WWTPs, and (b) minimize its WWTPs' PFAS discharges;

In consideration of the mutual promises and obligations contained herein and without any admission by the City, the City and Haw River Assembly stipulate and agree to the following.

III. TERMS AND CONDITIONS

1. Determining Domestic PFAS Levels

- a. Within six months following the effective date of this Settlement Agreement, Burlington agrees to collect sufficient sampling of its domestic wastewater to determine domestic levels of PFAS loading into the East Burlington Wastewater Treatment Plant and its collection system ("sewer system") ("domestic PFAS levels"). Burlington agrees to split such samples with Haw River Assembly, upon Haw River Assembly's request. Burlington agrees to provide its analysis and conclusions quantifying its domestic PFAS levels to Haw River Assembly.

2. Definitions

- a. "PFAS" – any fluorinated substances that contain at least one fully fluorinated methyl or methylene carbon atom, including any precursors of such substances.
- b. "Practicability Determination" – Determination conducted by Burlington to identify actions to be taken by certain non-domestic sources to minimize PFAS contributions to the City's sewer system to the maximum extent practicable.
 - i. In making this determination, Burlington agrees to collect, and base its determination on: (1) the magnitude of the source's PFAS loading, (2) an alternatives analysis for minimizing PFAS contributions, and (3) a cost analysis for each alternative. Burlington agrees to provide the information collected under this paragraph to Haw River Assembly.
 - ii. Burlington agrees to consider Haw River Assembly's input in making its Practicability Determination and to give Haw River Assembly sufficient notice to provide input. If an alternative for minimizing PFAS contributions is determined to be practicable, Burlington's Practicability Determination shall include a description of the selected alternative, along with a rationale that explains why the alternative will minimize PFAS contributions to the maximum extent practicable.
 - iii. If none of the alternatives for minimizing PFAS contributions are determined to be practicable, Burlington's Practicability Determination shall include an explanation for why each of the alternatives are not practicable.
 - iv. Burlington agrees to provide Haw River Assembly with each of the City's final Practicability Determinations.

3. Requirements for Known Industrial Sources

- a. Based on the Investigation conducted by the City and Haw River Assembly, the Known Industrial Sources are Unichem Specialty Chemicals, LLC; Elevate Textiles; and Shawmut Corporation.
- b. Unichem Specialty Chemicals, LLC ("Unichem"): Unichem is reported to have ceased production by June 30, 2023. If it is determined that Unichem did not cease production, the City agrees to issue either a pretreatment permit or pretreatment agreement that would require any process containing material levels of PFAS chemicals to be closed-loop so that PFAS-containing wastewater is not discharged by the facility to the City's sewer system.
- c. Elevate Textiles ("Elevate"):
 - i. In time to meet the following deadlines, Burlington will include and require the following actions with respect to Elevate Textiles in a binding written pretreatment memorandum of agreement ("pretreatment

agreement”) (with an advance copy to be provided to Haw River Assembly for review and comment):

- aa. Elevate has reported that, as of July 1, 2023, it has permanently phased out the use of PFAS for at least one-third of the current non-medical/military products which Elevate manufactures. If it is determined that Elevate has not completed this phase-out, it shall do so immediately.
 - bb. Elevate shall implement a closed-loop system within one month following the effective date of this Settlement Agreement for production lines making medical and/or military products which require the use of PFAS so that PFAS-containing wastewater from these production lines is not discharged by the facility to the City’s sewer system.
 - cc. Elevate shall permanently phase out the use of PFAS by June 15, 2025 for any remaining non-medical/military products which Elevate manufactures.
 - dd. Elevate shall submit a draft PFAS Minimization Plan within one month following the effective date of this Settlement Agreement for the City’s review and approval. The PFAS Minimization Plan will propose additional measures (i.e., closed-loop, installation of treatment) to prevent remaining PFAS discharges to the City’s sewer system to the maximum extent practicable prior to Elevate’s PFAS phase-out under paragraph 3(c)(i)(cc). The PFAS Minimization Plan must include (1) an alternatives analysis for minimizing PFAS contributions, and (2) a cost analysis for each alternative. Promptly following the City’s receipt of each, Burlington agrees to provide Haw River Assembly with copies of the drafts and final PFAS Minimization Plan. In determining which alternative is practicable, Burlington agrees to consider Haw River Assembly’s input and to take into consideration that Elevate has implemented reverse osmosis treatment systems and zero liquid discharge facilities at other facilities. Elevate shall implement the selected alternative(s) identified in the PFAS Minimization Plan within 4 months following the effective date of this Settlement Agreement, unless an extension is received in writing from Haw River Assembly.
- ii. Until Elevate permanently phases out the use of PFAS for any remaining non-medical/military products under paragraph 3(c)(i)(cc), the City will

- collect composite samples of Elevate's wastewater discharges (or require Elevate to collect those samples) twice per month during non-consecutive weeks. The City will promptly provide split samples of each sample collected to Haw River Assembly and analyze the first sample collected each month using TOP Assay.
- iii. If Elevate fails to comply with any aspect of this Settlement Agreement, the City will promptly modify Elevate's pretreatment permit to impose the requirements in paragraph 3.c and require immediate compliance.
- d. Shawmut Corporation ("Shawmut"):
- i. Within three months following the effective date of this Settlement Agreement, the pretreatment permit for Shawmut will be modified to require the facility to immediately evaluate and, upon approval by the City, implement practicable best management practices to minimize PFAS-containing chemicals discharged into the City's sewer system as expeditiously as possible. As part of this process, Shawmut will evaluate, among other options, product substitution, process changes, and taking process lines with significant PFAS loadings to closed loop and will memorialize its evaluation in a written report to be submitted to the City. Upon receipt, the City will share Shawmut's written report with Haw River Assembly and will consider Haw River Assembly's input in deciding whether to approve Shawmut's proposed best management practices.
 - ii. For six months following Shawmut's implementation of the best management practices selected under paragraph 3.d.i, the City will collect composite samples of Shawmut's wastewater discharges (or require Shawmut to collect those samples) twice per month during non-consecutive weeks. The City will analyze the first sample collected each month using TOP Assay and promptly provide split samples of each sample collected to Haw River Assembly.
- e. Once the applicable actions set forth above in 3(b), (c), or (d) have been completed as required for a Known Industrial Source, the City will collect and analyze composite samples of that Known Industrial Source's wastewater for PFAS at a frequency of at least quarterly for at least two years using EPA draft method 1633 (or updated draft/final version), and annually for at least two years using either EPA's draft Adsorbable Organic Fluorine method 1621 (as it may be updated or finalized) or TOP Assay. After two years of monitoring, the City may reduce the sampling frequency under this paragraph for an individual Known Industrial Source to a minimum of annual if the City determines that the Known Industrial Source no longer contributes PFAS to Burlington's system at levels of concern, including any level that will cause pass-through or interference. The City

will provide split samples to Haw River Assembly for all samples collected under paragraph 3(e) upon request.

4. Controlling PFAS from Landfills

a. Alamance County Landfill:

- i. Burlington and Alamance County Landfill have been cooperatively discussing potential measures the Alamance County Landfill can implement to reduce PFAS loadings to the City's sewer system from leachate. The City agrees to continue to work with the County to identify control measures which the County can implement within 12 months from the effective date of this Settlement Agreement to minimize the PFAS loadings sent to the City's sewer system through leachate. Any measures to be implemented by the County will be selected based on the completion of a Practicability Determination, as defined by paragraph 2.b, and maintained as necessary to prevent pass-through or interference.
- ii. The City will work with Alamance on annual reports describing the actions taken by Alamance County each year to reduce PFAS loadings to the City's sewer system through leachate.
- iii. Within two years following the effective date of this Settlement Agreement, Burlington agrees to incorporate actions required in paragraphs 4.a.i and .ii into a pretreatment permit for the Alamance County Landfill.

b. Republic Services of North Carolina ("Republic Landfill"):

- i. Burlington will require Republic Waste Services to complete actions within 12 months from the effective date of this Settlement Agreement to minimize the PFAS loadings sent to the City's sewer system through leachate. Actions will be selected based on a Practicability Determination conducted by the City, as defined by paragraph 2.b, and they must be maintained to the extent necessary to prevent pass-through or interference.
- ii. The City will require Republic to submit annual reports describing the actions taken each year to reduce PFAS loadings to the City's sewer system through leachate.
- iii. Within two years following the effective date of this Settlement Agreement, Burlington agrees to incorporate actions required in paragraphs 4.b.i and .ii into a pretreatment permit for Republic Waste Services.

c. Future landfill sources:

- i. Burlington agrees to require any new landfill that proposes to send leachate containing PFAS to the City's sewer system to take actions to minimize the PFAS loadings sent to the City's sewer system through

leachate, selected based on a Practicability Determination conducted by the City as defined by paragraph 2.b.

- ii. The City may require landfills under this section to submit annual reports describing the actions taken each year to reduce PFAS loadings to the City's sewer system through leachate.
- iii. Burlington agrees to incorporate the actions described in paragraphs 4.c.i and .ii for each new landfill sending leachate containing PFAS to the City's sewer system into the pretreatment permit for that landfill.

5. Reevaluation of Non-Domestic User PFAS Concentrations and Actions to Control PFAS from Remaining Sources

- a. Within 18 months from the effective date of this Settlement Agreement, the City will prepare a characterization report which summarizes the remaining PFAS loadings from the non-domestic users into the City's sewer system. The City will provide a copy of the report for Haw River Assembly's review and comment. This analysis will include but will not be limited to PFAS loadings from Unichem; Elevate; Shawmut; and the Republic and Alamance Landfills if there are remaining or additional PFAS loadings from the sources at the time of the characterization report.
- b. For the remaining sources with flow of 7,500 gallons per day (gpd) or more that contribute PFAS to Burlington's sewer system, the City agrees to require such remaining sources to (1) minimize their PFAS contributions to the City's sewer system to the maximum extent practicable, based on a Practicability Determination conducted by the City (or updated in the case of Unichem, Elevate, Shawmut, or the Landfills) as defined by paragraph 2.b, and (2) comply with any regulatory requirements (e.g., the prohibition of pass-through or interference) applicable to PFAS loadings into the City's sewer system. Burlington agrees to incorporate actions required in this paragraph into any federally required pretreatment permit for the non-domestic sources. For sources that either do not require a pretreatment permit or for which a pretreatment agreement is required under section 3, the City will incorporate actions required in this paragraph into a pretreatment agreement.
- c. Pretreatment permits or agreements issued under this section for non-domestic PFAS sources not covered in section 3 above will require composite sampling for PFAS in their wastewater discharges at a frequency of at least quarterly, analyzed using EPA draft method 1633 (as it may be updated or finalized), and at least one the samples per year analyzed using EPA draft Adsorbable Organic Fluorine method 1621 (as it may be updated or finalized) or TOP Assay. The City will provide split samples to Haw River Assembly for samples collected under this paragraph upon request.

6. Actions for New or Expanding Non-Domestic Users

- a. The City will require each new or expanding non-domestic user of its sewer system to attach a completed “PFAS Screening Questionnaire” (Attachment A to this Settlement Agreement – as it may be updated by the City after review and comment by Haw River Assembly) to its application to connect to the sewer system. The City will provide copies of the completed Screening Questionnaires to Haw River Assembly upon request.
- b. The City will also require each new or expanding non-domestic user of its sewer system to take samples (using at a minimum draft EPA method 1633 as it may be updated or finalized) of the facility’s discharge within 60 days of commencement of discharge to the sewer system, and provide the PFAS sample results to the City within 90 days of commencement of the facility’s discharge to the City’s sewer system. New or expanding non-domestic users which discharge an average daily flow of 7,500 gallons or more must also, within 60 days of commencement of discharge to the sewer system, sample their discharge to the City’s sewer system for analysis using TOP Assay, EPA draft Adsorbable Organic Fluorine method 1621 (as it may be updated or finalized), or other non-targeted method, and provide the PFAS sample results to the City within 90 days of commencement of discharge to the sewer system.
- c. Burlington agrees to determine whether any new or expanding non-domestic user will contribute PFAS to Burlington’s sewer system. If a non-domestic user is expected to contribute PFAS to Burlington’s sewer system and its anticipated flow will exceed 7,500 gpd or more to Burlington’s sewer system, the City agrees to require such non-domestic user to (1) minimize its PFAS contributions of concern to the City’s sewer system, including any level of contribution that will cause pass-through or interference, to the maximum extent practicable, based on a Practicability Determination conducted by the City as defined by paragraph 2.b, and (2) comply with any regulatory requirements (e.g., the prohibition of pass-through or interference) applicable to PFAS loadings into the City’s sewer system. Burlington agrees to incorporate the actions required under this paragraph into any federally required pretreatment permit for its non-domestic users or a pretreatment agreement if a pretreatment permit is not required.
- d. Pretreatment permits or agreements issued under this section for non-domestic users shall require composite sampling for PFAS in wastewater discharges at a frequency of at least quarterly, analyzed using EPA draft method 1633 (as it may be modified or finalized), and at least one of the samples per year analyzed using EPA draft Adsorbable Organic Fluorine method 1621 (as it may be modified or finalized) or TOP Assay.

- e. The City will provide split samples to Haw River Assembly for samples collected under this section upon request.

7. Updated PFAS Monitoring to Characterize Reduced Loadings.

- a. The City will collect composite samples of the effluent and samples of the biosolids from its East Burlington Wastewater Treatment Plant monthly through September 2025. The City will analyze the effluent samples taken every other month using EPA draft Adsorbable Organic Fluorine method 1621 (as it may be modified or finalized) or TOP Assay. The City will provide split samples collected under this paragraph to Haw River Assembly.
- b. The City will require each of its Significant Industrial Users (“SIUs”) discharging to the sewer system to conduct at least monthly sampling of its wastewater discharge to the Burlington sewer system for a minimum of six months following the effective date of this Settlement Agreement. The City will, at Haw River Assembly’s request, require users to provide split samples to Haw River Assembly. At its election, the City may perform this testing in lieu of the SIUs.
- c. The City will also sample its SIUs at least twice during the 12 months following the effective date of this Settlement Agreement to determine PFAS loadings and will, at the Haw River Assembly’s request, provide split samples to the Haw River Assembly.
- d. The sampling required under this section may be implemented for Known Industrial Sources through the samples collected under section 3 of this Settlement Agreement.

8. PFAS Maintenance Monitoring.

- a. Following completion of the Updated PFAS Monitoring to Characterize Reduced Loadings described under section 7, the City will collect composite samples of the East Burlington Wastewater Treatment Plant effluent and samples of the biosolids each quarter for four quarters. The City will analyze the effluent samples taken each quarter using EPA draft Adsorbable Organic Fluorine method 1621 (as it may be modified or finalized) or TOP Assay. The City will provide split samples collected under this paragraph to Haw River Assembly upon request.
- b. Burlington will conduct any other necessary sampling required to carry out its obligations under sections 1-7 of this Settlement Agreement.

9. NPDES Permit Applications.

- a. Burlington agrees to share the PFAS sampling and analytical results collected under this agreement with the North Carolina Department of Environmental Quality (“NC DEQ”) as part of its future NPDES applications for permit renewal for both its WWTPs. Until derived using 40 CFR 136 approved analytical

methods, the City does not have to certify its PFAS results pursuant to this Settlement Agreement, but merely provide them to NC DEQ.

10. Public Availability of City PFAS Sampling.

- a. Both the City and Haw River Assembly will provide each other copies of their analytical results on the samples collected under this Settlement Agreement.
- b. The City agrees that it will post on its web page its PFAS sampling and analytical results going forward, including the sampling required under this Settlement Agreement.
- c. The City further agrees that Haw River Assembly and Duke University are authorized to disclose the names of the non-domestic users of the City's sewer system and their PFAS discharge concentrations and loadings, either reported to the City or obtained through City sampling of such users.
- d. The City further agrees that Duke University shall have the authority to publish data collected pursuant to this Settlement Agreement as well as the Memorandum of Agreement (Attachment B), Addendum (Attachment C), additional sampling memorialized via email in April 2022 (Attachment D), and information on the steps taken by Burlington and its non-domestic users to address PFAS discharges into the City's sewer system.
- e. The City and its consultants may internally use data shared to date and/or generated under this Settlement Agreement through analysis by Duke University. The City and its consultants agree not to publish such data until after: Duke University publishes such data; Duke University informs the City in writing that it does not plan to publish such data; or two years have passed since this Settlement Agreement is executed—whichever comes earliest. Nothing herein precludes the City and its consultants from using City-generated analytical data for any purpose. The City further agrees to provide any pretreatment permits and agreements issued under this agreement to Haw River Assembly upon Haw River Assembly's request.
- f. Haw River Assembly and Duke University agree to note the City's and non-domestic users' cooperation should Haw River Assembly and/or Duke University identify the City or such non-domestic sources publicly in relation to any PFAS data collected prior to the execution of this Settlement Agreement.
- g. The Parties agree that the data disclosure requirements of this Settlement Agreement are subject to applicable laws, including those addressing Confidential Business Information.

11. Dispute Resolution and Enforcement

- a. In the event of a dispute regarding the implementation of this Settlement Agreement, the Party raising the dispute shall provide the other Party with a

written Notice of Dispute. Haw River Assembly and Burlington agree that they will meet and confer in a good faith effort to resolve any disputes.

- b. If the Parties fail to resolve the dispute within 60 days, the Parties may mutually agree to commence mediation of the dispute in good faith. Otherwise, the sole remedy for a dispute regarding any aspect of this Settlement Agreement (other than over a final Practicability Determination based on the City's completion of the Practicability Determination process described in paragraph 2.b) shall be limited to the filing of a new action to enforce this Settlement Agreement in the North Carolina courts under North Carolina law. Haw River Assembly expressly retains the right to enforce any and all procedural requirements listed under paragraph 2(b)(i)-(iv) of this Settlement Agreement, including but not limited to: the City's obligation to collect and base its Practicability Determinations on specified information, to consider Haw River Assembly's input in its Determinations, and to provide a full and complete rationale for its Determinations. Any disagreement over a final Practicability Determination based on the City's completion of the Practicability Determination process, described in paragraph 2.b, may be addressed by Haw River Assembly's initiation of an action under Section 505 of the Clean Water Act.
- c. The Parties do not waive or limit any defense nor any separate rights under state or federal law.

- 12. **Termination:** This Settlement Agreement terminates on December 31, 2029, unless extended by written agreement of the Parties.
- 13. **Severability:** If any provision of this Settlement Agreement is found to be unenforceable, the remainder of this Agreement shall remain in full force and effect.
- 14. **Authority:** The Parties represent that they have the authority to enter into this Settlement Agreement and that the individuals signing this Settlement Agreement on their behalf have the requisite power and authority to bind the Parties to its terms and conditions.
- 15. **Effective Date.** This Settlement Agreement shall be effective and binding upon its execution by all Parties and shall continue in effect until terminated in accordance with section 12.
- 16. **Counterparts:** This Settlement Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any Party whose signature appears thereon, and all of which shall together constitute one and the same instrument.
- 17. **Binding Effect:** This Settlement Agreement shall inure to the benefit of the Parties and shall, to the maximum extent permitted by law, be binding on the Parties and their successors and assigns.

18. **Notices and Submissions:** Whenever notice is required to be given or a document is required to be sent by one Party to another under the terms of this Settlement Agreement, it shall be directed to the individuals at the electronic mail addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing.

As to Haw River Assembly:

Emily Sutton
Haw River Assembly, Riverkeeper
emily@hawriver.org

Jean Zhuang
Southern Environmental Law Center
jzhuang@selcnc.org

As to City of Burlington:

Bob Patterson
City of Burlington, Director of Water Resources
BPatterson@burlingtonnc.gov

David Huffman
City of Burlington, City Attorney
DHuffman@burlingtonnc.gov.

IN WITNESS WHEREOF, the Parties have caused this Settlement Agreement to be executed by their duly authorized representative as of the dates below their respective signatures.

For the City of Burlington:

For Haw River Assembly:



Bob Patterson
Water Resources Director



Emily Sutton
Haw Riverkeeper

Dated: 07/27/2023

Dated: 8/1/2023

ATTACHMENT A
PFAS Screening Questionnaire



Robert C. Patterson, Jr., PE
City of Burlington Water Resources Department
1302 Belmont Street Burlington, NC 27215
P: 336.222. 5133
www.BurlingtonNC.gov/Utilities

[Date]

[Addressee]
[Addressee]
[Addressee]

RE: Request for Information related to PFAS; 1,4-Dioxane; and other contaminants

Dear _____:

As a potential new or expanding Industrial User or other non-domestic user of the City of Burlington’s wastewater collection and treatment system, please provide the following information on your organization’s possible use, production, and discharge of 1,4-dioxane, PFAS chemicals, or any other contaminants that you are aware of that may be discharged from your facility into the Burlington sewer system.

Per- and poly-fluoroalkyl substances (PFAS) are a large class of organic chemical substances that have been manufactured and used around the world and in the U.S. since at least the 1940s. These chemicals are persistent in the environment, and they are suspected of presenting human health and other risks. “PFOA,” “PFOS,” and “GenX” are some of the more highly studied and highly publicized of the PFAS chemicals; however, for the purpose of this request for information, the term PFAS includes any fluorinated substance that contains at least one fully fluorinated methyl or methylene carbon atom, including any precursors of such substances.

PFAS chemicals are found in many consumer products like cookware, food packaging, and stain repellants. PFAS manufacturing and processing facilities, airports, and military installations that use firefighting foams are some of the main sources of PFAS, although they are also known to occur in other common industrial and consumer product manufacturing. PFAS may be released from these facilities into the air, soil, and water, including sources of drinking water. For more generic information on PFAS see EPA at the following website. <https://www.epa.gov/pfas>

PFAS chemicals and 1,4-Dioxane generated significant public concern, litigation, and regulation. Accordingly, the City of Burlington wishes to better identify and evaluate the possible presence of 1,4-Dioxane, PFAS chemicals, and any other contaminants of concern that you may be aware of in your process that will be discharged into our system. If your data indicates the presence of such chemicals at levels of concern, including levels that would cause pass-through or interference at our wastewater treatment plants, we will work with you to identify options for minimizing the discharge of such chemicals into our sewer system.

Accordingly, pursuant to our sewer use ordinance, we are requiring your organization to provide the information requested below.

We ask that your organization respond in writing by [Date]. Your response must be signed by the highest ranking official or a responsible corporate officer of your organization consistent with 40 C.F.R. section 403.12(l). The response must also be certified as required by 40 C.F.R. section 403.12(l). For your convenience, a copy of the required Certification Statement language is included at the end of this letter.

Please provide the following information by [DATE]:

1. Identify the person[s] responding and assisting in the response to this Information Request.
2. Do you produce any products, byproducts, wastes or other materials that you know to contain or that you would reasonably suspect to contain 1,4-Dioxane or any PFAS chemical?
3. Do you purchase, otherwise obtain or use any raw materials, commercial products or other substances or materials that contain or that you would reasonably suspect to contain 1,4-Dioxane or any PFAS chemicals?
4. Do you have or have access to, or are you aware of, any information or data on the occurrence, concentration or amount of any 1,4-Dioxane or PFAS chemicals or constituents in the wastewater that your organization will discharge to our sewer system?
5. If the answer to any of the questions above is “Yes,” identify any such products, byproducts, wastes, raw materials, commercial products, or other materials, and any such occurrence, concentration or amounts and provide any data or supporting information.
6. Provide any other information, sampling and analysis and other data, and copies of documents that you believe would be helpful in understanding any use or production of any 1,4-Dioxane and/or PFAS chemicals by your organization.
7. Identify the nature, source and location of any data of which you are aware, but which is not in your possession or under your control, relating to the occurrence, concentration or amount of any 1,4-Dioxane and/or PFAS chemicals or constituents identified as being present at your facility.
8. Please identify any other contaminants that you know, or suspect will be in your discharge to our sewer system, and which may be harmful to the environment or public health.
9. Within 60 days of commencement of your facility’s discharge to our sewer system, sample your discharge to our sewer system for targeted (using at a minimum EPA method 1633 as currently drafted or finalized) PFAS sample results. Provide the sampling results to us within 90 days of the commencement of your facility's discharge to our sewer system.
10. If you will discharge an average daily flow of 7,500 gallons or more, also, within 60 days of commencement of your facility’s discharge to our sewer system, sample your discharge to

our sewer system using total oxidizable precursor assay, EPA Adsorbable Organic Fluorine method 1621 (as currently drafted or finalized), or other non-targeted method. Provide the sampling results to us within 90 days of the commencement of your facility's discharge to our sewer system.

Please follow these instructions in preparing and submitting your responses.

1. Your responses must be prepared or assisted by a qualified employee or agent of your organization who understands the organization's business processes and activities.
2. If laboratory data are provided, include laboratory sheets and chain of custody forms.
3. Provide a narrative or other response to each of the City of Burlington's requests in a manner that identifies the specific request to which it responds.
4. If information responsive to this Information Request is not in your organization's possession, then identify any person of whom you are aware and from whom such information may be obtained.
5. If you believe there may be persons able to provide a more detailed or complete response to the Information Request, or who may be able to provide additional responsive documents or data, identify the person(s) and the additional information or data that they may have.
6. If any request relates to activities undertaken by entities other than the recipient of this Information Request, identify those other entities, and provide the requested information that you have for such entities.
7. If information or data are not known or available as of the date of your response, and such information or data later become available, or if you later determine that any information or data submitted was incorrect or misrepresented the truth, you must promptly supplement your response.
8. Your organization's confidential business information may be asserted and protected in the manner provided by U.S. Environmental Protection Agency regulations at 40 C.F.R. section 2.203(b). Note that effluent sampling and analytical data may not be treated as confidential.
9. Provide the following certification with your response:

The certification statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

The City of Burlington appreciates your efforts in responding to this Request for Information, and in

assisting the City in our planning on matters that may impact public health and the environment. If you have any questions concerning the Request for Information, please direct them to me or Kristy King, Pretreatment Compliance Specialist, at (336) 222-5133 or in writing at the address above.

Sincerely,

Robert C. Patterson, Jr., PE
Water Resources Director
City of Burlington

ATTACHMENT B
Memorandum of Agreement

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (“Agreement”) is entered into on this 22nd day of October, 2020, by and between the City of Burlington, North Carolina (“City” or “Burlington”) and Haw River Assembly.

WHEREAS, the City operates a wastewater collection system and two wastewater treatment plants (“WWTPs”), the East Burlington wastewater treatment plant and the South Burlington wastewater treatment plant;

WHEREAS, Haw River Assembly sent a letter to the City notifying it of Haw River Assembly’s intent to sue to address the City’s per- and polyfluoroalkyl substances (“PFAS”) and 1,4-dioxane discharges from its wastewater treatment plants;

WHEREAS, notwithstanding Burlington’s position that its discharges of PFAS and 1,4-dioxane are compliant with its discharge permits, Burlington has been investigating the potential source(s) of PFAS and 1,4-dioxane in the City’s discharges;

WHEREAS, Burlington plans to continue its investigation of the potential source(s) of the City’s PFAS and 1,4-dioxane discharges, and has contracted Hazen & Sawyer (“Consultant”) to conduct a more comprehensive investigation that includes sampling of its industrial users, its collection system, and its internal wastewater treatment plant processes to determine the sources of the PFAS and 1,4-dioxane in the City’s discharges (“Investigation”);

WHEREAS, Haw River Assembly wishes to support Burlington’s Investigation, and ultimately expects Burlington to exercise its authority under the Clean Water Act pretreatment program to address the source(s) of its PFAS and 1,4-dioxane pollution;

WHEREAS, this Agreement represents the initial mutual commitments of the City and the Haw River Assembly, and is intended to (1) foster continued cooperation and transparency during the Investigation; and (2) lead to the development and execution of a broader agreement that includes additional steps the City will take to (a) prevent to the extent practicable the industrial discharges of PFAS and 1,4-dioxane into its WWTPs, and (b) minimize its WWTPs’ PFAS and 1,4-dioxane discharges;

NOW, THEREFORE, in consideration of the promises, mutual covenants, and obligations contained herein, the City and Haw River Assembly enter into this Agreement.

I. ROLES AND RESPONSIBILITIES

A. The City of Burlington agrees to the following:

1. Ongoing Cooperation and Transparency

- a. Within one week of finalizing this agreement, Burlington will provide Haw River Assembly with a geospatial layer of its East Burlington WWTP collection system, including information on sewer force mains, sewer gravity mains, sewer manholes, and sewer flow direction, if available. Haw River Assembly will access and use that layer for the sole purpose of assisting the City's Investigation into PFAS and 1,4 Dioxane sources and levels. Unless the parties otherwise subsequently agree in a follow-on agreement, Haw River Assembly agrees to delete the geospatial files and any maps created based upon those files no later than October 31, 2021.
- b. Burlington will provide Haw River Assembly with a status report by the 15th day following each calendar quarter through the third quarter of 2021. The quarterly reports will provide the following information for the prior calendar quarter: updated data from any sampling conducted under sections A.2 or A.3 below, along with the associated WWTP flow rates; a summary of the recent steps taken in the Investigation; and planned next steps.
- c. Beginning in October, 2020, Burlington and its Consultant will participate in a monthly meeting/call (scheduled at a mutually agreeable time) with Haw River Assembly and/or its expert(s) to discuss the status of the Investigation and next steps.

2. Burlington's Investigation Sampling Plan

- a. Burlington provided Haw River Assembly with an opportunity to review and provide input on Burlington's (or its Consultant's) written Investigation Sampling plan ("Sampling Plan" or "Plan").
- b. Upon finalizing the Plan, Burlington will promptly provide Haw River Assembly with a full copy of the final Plan, as well as full copies of all subsequent Plan deliverables, including collection system and industrial user sampling locations.
- c. As part of the Investigation, Burlington will evaluate the presence of PFAS precursors within the East Burlington WWTP collection system, including industrial discharges into the WWTP, and investigate the industrial source(s) of precursors identified by Burlington, its Consultant, Haw River Assembly, or Haw River Assembly's expert(s) that are suspected to be causing the elevated levels of PFAS detected in the City's effluent.

3. Burlington's Sampling

- a. East Burlington. Burlington will conduct sampling at the East Burlington WWTP:
- i. In accordance with Burlington's Sampling Plan. The City will begin Event 1 set forth in the Sampling Plan by January 6, 2021. This deadline may be extended for reasons that are beyond the City's control.
 - ii. Of the influent and effluent for the PFAS compounds listed in Burlington's Sampling Plan and 1,4-dioxane at least every two weeks through March 31, 2021 (the City may agree to extend this date depending on the status and results to date of the Investigation). This sampling requirement may be met through compliance with Burlington's Sampling Plan, and
 - iii. Of the landfill leachate for the PFAS compounds listed in Burlington's sampling plan and 1,4-dioxane at least once per month through February 2021 (the City may agree to extend this date depending on the status and results to date of the Investigation).
 - iv. Burlington's final draft Sampling Plan is attached hereto and will be finalized to HRA's satisfaction no later than November 16, 2020.
- b. South Burlington. Burlington will conduct at least monthly sampling of South Burlington WWTP's influent, effluent, and biosolids through February 2021 for the listed PFAS and 1,4-dioxane.
- c. As more data and information become available, the Parties may agree on a more tailored sampling schedule. For example, if PFAS concentrations for the effluent from South Burlington WWTP significantly depart from prior levels, sampling of significant and categorical industrial users may be warranted.

4. Haw River Assembly's Sampling and Investigation

- a. Burlington will provide split samples to Haw River Assembly's designated expert(s) for all samples taken from the East Burlington WWTP's landfill leachate and influent and effluent, as well as for all samples taken as part of Events 2, 3, and 4 within Burlington's Sampling Plan—for analysis by Haw River Assembly's expert(s) (using total oxidizable precursor (TOP) assay, non-targeted analysis, or other method).
- b. Haw River Assembly may propose sampling locations and frequencies not included in Burlington's Sampling Plan, but that Haw River Assembly's expert(s) deem necessary to identify the potential source(s) of PFAS to the East Burlington WWTP, Burlington agrees to consider the addition of such locations/frequencies and, if it concurs, either (1) allow Haw River Assembly's designated expert(s) access to the East Burlington WWTP and collection system to collect the samples,

- or (2) collect the samples and provide split samples to Haw River Assembly's expert(s).
- c. Haw River Assembly, its expert(s), and Burlington will coordinate to determine logistics for the collection and delivery of split samples. Burlington and Haw River Assembly will make their expert(s) and Consultants available to discuss sampling locations and other logistics, as necessary.
- d. The Parties shall have a right to a split of any sample collected by or on behalf of the other party.
- e. Haw River Assembly agrees that it will not release any results or information based upon its sampling taken in support of the Investigation without 7 calendar days of advance notice to City. This excludes results or information based on sampling taken outside the Investigation of downstream drinking water or intakes conducted or received by the Haw River Assembly.
- f. Burlington will provide Haw River Assembly and its designated expert(s) with at least one site visit of the East Burlington WWTP, upon request.

5. Investigation of Industrial Users

- a. Burlington and the Haw River Assembly agree to review the sampling data to determine if further investigation of industrial users to the Burlington collection system is warranted. If such further investigation is deemed to be warranted, the parties will make good faith efforts to develop a plan of action for collecting information from industrial users as necessary to identify the potential source(s) of PFAS to the East Burlington WWTP.

B. In exchange for Burlington's substantial compliance with the above provisions, Haw River Assembly agrees to the following:

- 1. Reserve Filing of Civil Action Against the City. Haw River Assembly agrees not to file a civil action against the City, in any forum, related to the factual allegations contained in the November 7, 2019 Notice of Intent to Sue the City of Burlington for Violations of the Clean Water Act, through the duration of this Agreement.
- 2. Provide Notice Prior to Filing Suit. Prior to filing any civil action against the City on or after the Termination date of this Agreement, as provided for in Section II.K., Haw River Assembly shall provide the following individuals with notice at least 15 days in advance of any such filing:

Paul Calamita, Counsel for City of Burlington
Paul@aqualaw.com

Bob Patterson, City of Burlington, Water Resources Director

II. ADDITIONAL CLAUSES

- A. Mutual Cooperation. The Parties agree to work in good faith to implement this Agreement, including responding to reasonable information requests, to work toward the development of a mutually agreeable approach to investigating and addressing the source(s) of PFAS and 1,4-dioxane into its East Burlington wastewater treatment plant.
- B. Amendments to Agreement. Amendments to this Agreement must be in writing and signed by all Parties.
- C. Entire Agreement. This Agreement contains the entire agreement among the Parties with respect to the subject matter hereof and supersedes all prior agreements, written or oral, with respect thereto.
- D. Severability. If any provision of this Agreement is found to be unenforceable, the remainder of this Agreement shall remain in full force and effect.
- E. Authority. The Parties represent that they have the authority to enter into this Agreement and that the individuals signing this Agreement on their behalf have the requisite power and authority to bind the Parties to its terms and conditions.
- F. Reservation. Except as expressly provided herein, nothing in this Agreement shall be construed to limit or otherwise affect the authority, rights, or responsibilities of the Parties.
- G. Effective Date. This Agreement shall be effective and binding upon its execution by all Parties and shall continue in effect until terminated in accordance with Section II.K.
- H. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument.
- I. Dispute Resolution.
 - 1. If any dispute arises regarding implementation of, interpretation of, or compliance with this Agreement, the Parties will attempt to informally resolve the dispute through consultation and negotiation in good faith;

2. If no resolution is reached within 30 days, then the Parties may resolve the dispute by other mutually agreeable means or by seeking enforcement in court.
- J. Force Majeure. No Party shall be responsible for its failure to fulfill an obligation under this Agreement to the extent that such failure is due to acts or events beyond its reasonable control, including the exigencies of COVID-19 (“Force Majeure event”). For this provision to be effective, the Party failing to substantially perform must (1) notify the other party in writing within a reasonable time of the nature and impact of the Force Majeure event; (2) limit any delay in performance to that required by the Force Majeure event; (3) take all reasonable steps to minimize delay and resume performance; and (4) provide as part of the monthly updates set forth in section I.A.1.a, a summary and schedule of the steps being taken to minimize delay and resume performance.
- K. Termination. Unless the Parties mutually agree to extend the duration of this Agreement in writing, this Agreement shall terminate at the earliest of (1) 9 months from the date of execution; (2) upon written agreement of the Parties; (3) upon written notice by Haw River Assembly following unsuccessful dispute resolution, as provided for in Section II.I; or (4) upon the effective date of an agreement to supersede this Agreement, provided such agreement expressly states such an intent.
- L. Binding Effect. This Agreement shall inure to the benefit of the Parties and shall, to the maximum extent permitted by law, be binding on the Parties and their successors and assigns.
- M. Notices and Submissions. Whenever notice is required to be given or a document is required to be sent by one Party to another under the terms of this Agreement, it shall be directed to the individuals at the electronic mail addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing.

As to Haw River Assembly:

Emily Sutton
Haw River Assembly, Riverkeeper
emily@hawriver.org

Kelly Moser
Southern Environmental Law Center
kmoser@selcnc.org

As to City of Burlington:

Bob Patterson
City of Burlington, Director of Water Resources
BPatterson@burlingtonnc.gov

Paul Calamita
AquaLaw
paul@aqualaw.com

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representative as of the dates below their respective signatures.

For the City of Burlington:

For Haw River Assembly:



Bob Patterson
Water Resources Director



Emily Sutton
Haw Riverkeeper

Dated: 10/22/2020

Dated: 10/22/2020

ATTACHMENT C
ADDENDUM

ADDENDUM TO MEMORANDUM OF AGREEMENT

This Addendum to Memorandum of Agreement (“Addendum”) is entered into on this 12th day of July, 2021 by and between the City of Burlington, North Carolina (“City” or “Burlington”) and Haw River Assembly.

WHEREAS, on October 22, 2020, the City and Haw River Assembly entered into a Memorandum of Agreement that represents the initial mutual commitments of the City and the Haw River Assembly related to the per- and polyfluoroalkyl substances (“PFAS”) and 1,4-dioxane discharges from its wastewater treatment plants (“WWTPs”);

WHEREAS, notwithstanding Burlington’s position that its discharges of PFAS and 1,4-dioxane are compliant with its discharge permits, Burlington has been investigating the potential source(s) of PFAS and 1,4-dioxane in the City’s discharges;

WHEREAS, Burlington plans to continue its investigation of the potential source(s) of the City’s PFAS and 1,4-dioxane discharges, and has contracted Hazen & Sawyer (“Consultant”) to conduct a more comprehensive investigation that includes sampling of its industrial users, its collection system, and its internal wastewater treatment plant processes to determine the sources of the PFAS and 1,4-dioxane in the City’s discharges (“Investigation”);

WHEREAS, Haw River Assembly wishes to continue to support Burlington’s Investigation, and ultimately expects Burlington to exercise its authority under the Clean Water Act pretreatment program to address the source(s) of its PFAS and 1,4-dioxane pollution;

WHEREAS, the Memorandum of Agreement expires on July 22, 2021, and the City and Haw River Assembly wish to extend the mutual commitments memorialized in the Memorandum of Agreement;

WHEREAS, this Addendum continues the initial mutual commitments of the City and the Haw River Assembly; extends the termination date of the Memorandum of Agreement; and is intended to (1) foster continued cooperation and transparency during the Investigation; and (2) lead to the development and execution of a broader agreement that includes additional steps the City will take to (a) prevent to the extent practicable the industrial discharges of PFAS and 1,4-dioxane into its WWTPs, and (b) minimize its WWTPs’ PFAS and 1,4-dioxane discharges;

WHEREAS, the terms of this Addendum are hereby incorporated into, and update, the terms of the Memorandum of Agreement entered into on October 21, 2020;

NOW, THEREFORE, in consideration of the promises, mutual covenants, and obligations contained herein, the City and Haw River Assembly enter into this Addendum.

I. ROLES AND RESPONSIBILITIES

A. The City of Burlington agrees to the following:

1. Ongoing Cooperation and Transparency

- a. Burlington provided Haw River Assembly with a geospatial layer of its East Burlington WWTP collection system, including information on sewer force mains, sewer gravity mains, sewer manholes, and sewer flow direction. Haw River Assembly's access and use of that layer is for the sole purpose of assisting the City's Investigation into PFAS and 1,4 Dioxane sources and levels. Unless the parties otherwise subsequently agree in a follow-on agreement, Haw River Assembly agrees to delete the geospatial files and any maps created based upon those files no later than April 30, 2022.
- b. Burlington will provide Haw River Assembly with a status report by the 5th day following each calendar quarter through the second quarter of 2022. The quarterly reports will provide the following information for the prior calendar quarter: updated data from any sampling conducted under sections A.2 or A.3 below, along with the associated WWTP flow rates.
- c. Beginning in October, 2020, Burlington and its Consultant will participate in a monthly meeting/call (scheduled at a mutually agreeable time) with Haw River Assembly and/or its expert(s) to discuss the status of the Investigation and next steps.

2. Burlington's Investigation Plan

- a. As part of the Investigation, Burlington will evaluate the presence of PFAS precursors within the East Burlington WWTP collection system, including industrial discharges into the WWTP, and investigate the industrial source(s) of precursors identified by Burlington, its Consultant, Haw River Assembly, or Haw River Assembly's expert(s) that are suspected to be causing the elevated levels of PFAS detected in the City's effluent.
- b. Burlington will complete the Investigation in accordance with the plan and schedule set forth in the City of Burlington, Sampling for PFAS at East Burlington Wastewater, Scope of Work, revised March 3, 2021, attached as Exhibit A.

3. Burlington's Additional Sampling of its WWTPs

- a. East Burlington. Burlington will conduct additional sampling at the East Burlington WWTP:
 - i. Of the influent and effluent for the PFAS compounds listed in Burlington's sampling plan and at least once per month through March 31, 2022 (the City may agree to extend this date depending on the status and

- results to date of the Investigation). This sampling requirement may be met through compliance with Burlington's sampling plan, and
- ii. Of the landfill leachate for the PFAS compounds listed in Burlington's sampling plan and 1,4-dioxane at least once per month through March 31, 2022 (the City may agree to extend this date depending on the status and results to date of the Investigation).
- b. South Burlington. Burlington will conduct at least monthly sampling of South Burlington WWTP's influent, effluent, and biosolids through December 2020 for the listed PFAS and 1,4-dioxane.
 - c. As more data and information become available, the Parties may agree on a more tailored sampling schedule. For example, if PFAS concentrations for the effluent from South Burlington WWTP significantly depart from prior levels, sampling of significant and categorical industrial users may be warranted.
4. Haw River Assembly's Sampling and Investigation
- a. Burlington will provide split samples to Haw River Assembly's designated expert(s) for all samples taken from the East Burlington WWTP's landfill leachate and influent and effluent, as well as for all samples taken as part of Events 2, 3, and if it occurs, 4 within Burlington's Sampling Plan—for analysis by Haw River Assembly's expert(s) (using total oxidizable precursor (TOP) assay, non-targeted analysis, or other method).
 - b. Haw River Assembly may propose sampling locations and frequencies not included in Burlington's Sampling Plan, but that Haw River Assembly's expert(s) deem necessary to identify the potential source(s) of PFAS to the East Burlington WWTP, Burlington agrees to consider the addition of such locations/frequencies and, if it concurs, either (1) allow Haw River Assembly's designated expert(s) access to the East Burlington WWTP and collection system to collect the samples, or (2) collect the samples and provide split samples to Haw River Assembly's expert(s).
 - c. Haw River Assembly, its expert(s), and Burlington will coordinate to determine logistics for the collection and delivery of split samples. Burlington and Haw River Assembly will make their expert(s) and Consultants available to discuss sampling locations and other logistics, as necessary.
 - d. The Parties shall have a right to a split of any sample collected by or on behalf of the other party.
 - e. Haw River Assembly agrees that it will not release any results or information based upon its sampling taken in support of the Investigation without 7 calendar days of advance notice to City. This excludes results or information based on sampling taken outside the Investigation of downstream drinking water or intakes conducted or received by the Haw River Assembly.

f. Burlington will provide Haw River Assembly and its designated expert(s) with at least one site visit of the East Burlington WWTP, upon request.

5. Investigation of Industrial Users

a. Burlington and the Haw River Assembly agree to review the sampling data to determine if further investigation of industrial users to the Burlington collection system is warranted. If such further investigation is deemed to be warranted, the parties will make good faith efforts to develop a plan of action for collecting information from industrial users as necessary to identify the potential source(s) of PFAS to the East Burlington WWTP.

B. In exchange for Burlington's substantial compliance with the above provisions, Haw River Assembly agrees to the following:

1. Reserve Filing of Civil Action Against the City. Haw River Assembly agrees not to file a civil action against the City, in any forum, related to the factual allegations contained in the November 7, 2019 Notice of Intent to Sue the City of Burlington for Violations of the Clean Water Act, through the duration of this Agreement.
2. Provide Notice Prior to Filing Suit. Prior to filing any civil action against the City on or after the Termination date of this Agreement, as provided for in Section II.K., Haw River Assembly shall provide the following individuals with notice at least 15 days in advance of any such filing:

Paul Calamita, Counsel for City of Burlington
Paul@aqualaw.com

Bob Patterson, City of Burlington, Water Resources Director
BPatterson@burlingtonnc.gov

II. **ADDITIONAL CLAUSES**

- A. Mutual Cooperation. The Parties agree to work in good faith to implement this Agreement, including responding to reasonable information requests, to work toward the development of a mutually agreeable approach to investigating and addressing the source(s) of PFAS and 1,4-dioxane into its East Burlington wastewater treatment plant.
- B. Amendments to Agreement. Amendments to this Agreement must be in writing and signed by all Parties.

- C. Entire Agreement. The Memorandum of Agreement as amended by this Addendum contains the entire agreement among the Parties with respect to the subject matter hereof and supersedes all prior agreements, written or oral, with respect thereto. To the extent the terms of the Memorandum of Agreement conflict with the terms of this Addendum, the terms of this Addendum govern.
- D. Severability. If any provision of this Addendum is found to be unenforceable, the remainder of this Addendum shall remain in full force and effect.
- E. Authority. The Parties represent that they have the authority to enter into this Addendum and that the individuals signing this Addendum on their behalf have the requisite power and authority to bind the Parties to its terms and conditions.
- F. Reservation. Except as expressly provided herein, nothing in this Addendum shall be construed to limit or otherwise affect the authority, rights, or responsibilities of the Parties.
- G. Effective Date. This Addendum shall be effective and binding upon its execution by all Parties and shall continue in effect until terminated in accordance with Section II.K.
- H. Counterparts. This Addendum may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument.
- I. Dispute Resolution.
1. If any dispute arises regarding implementation of, interpretation of, or compliance with this Addendum, the Parties will attempt to informally resolve the dispute through consultation and negotiation in good faith;
 2. If no resolution is reached within 30 days, then the Parties may resolve the dispute by other mutually agreeable means or by seeking enforcement in court.
- J. Force Majeure. No Party shall be responsible for its failure to fulfill an obligation under this Agreement to the extent that such failure is due to acts or events beyond its reasonable control, including the exigencies of COVID-19 (“Force Majeure event”). For this provision to be effective, the Party failing to substantially perform must (1) notify the other party in writing within a reasonable time of the nature and impact of the Force Majeure event; (2) limit any delay in performance to that required by the Force Majeure event; (3) take all reasonable steps to minimize delay and resume performance; and (4) provide as part of the monthly updates set forth in section I.A.1.b, a summary and schedule of the steps being taken to minimize delay and resume performance.

- K. Termination. Unless the Parties mutually agree to extend the duration of this Addendum in writing, this Addendum shall terminate at the earliest of (1) April 30, 2022; (2) upon written agreement of the Parties; (3) upon written notice by Haw River Assembly following unsuccessful dispute resolution, as provided for in Section II.I; or (4) upon the effective date of an agreement to supersede this Addendum, provided such agreement expressly states such an intent.
- L. Binding Effect. This Addendum shall inure to the benefit of the Parties and shall, to the maximum extent permitted by law, be binding on the Parties and their successors and assigns.
- M. Notices and Submissions. Whenever notice is required to be given or a document is required to be sent by one Party to another under the terms of this Addendum, it shall be directed to the individuals at the electronic mail addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing.

As to Haw River Assembly:

Emily Sutton
Haw River Assembly, Riverkeeper
emily@hawriver.org

Kelly Moser
Southern Environmental Law Center
kmoser@selcnc.org

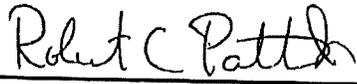
As to City of Burlington:

Bob Patterson
City of Burlington, Director of Water Resources
BPatterson@burlingtonnc.gov

Paul Calamita
AquaLaw
paul@aqualaw.com

IN WITNESS WHEREOF, the Parties have caused this Addendum to be executed by their duly authorized representative as of the dates below their respective signatures.

For the City of Burlington:



Bob Patterson
Water Resources Director

Dated: 07/12/2021

For Haw River Assembly:



Emily Sutton
Haw Riverkeeper

Dated: July 12, 2021

ATTACHMENT D
April 2022 Addendum Extension by Email

From: [Bob Patterson](#)
To: [Jean Zhuang](#); [Khunjar, Wendell](#); [Kelly Moser](#); pnvffeler@aqualaw.com; paul@aqualaw.com; [David Huffman](#); [Jeff Knight](#); [Sharon Wagoner](#); [Kristy L. King](#); [Ben Bani](#)
Cc: [Geoff Gisler](#); abigail.joyce@duke.edu; lee.ferguson@duke.edu; chiosso@hawriver.org; emily@hawriver.org
Subject: RE: Haw River Assembly - Monthly Check-in
Date: Friday, April 1, 2022 4:14:51 PM
Attachments: [image001.png](#)

Hi Jean,

We agree to the extension to September 23, or the date of an agreement that supersedes the Addendum, whichever is earlier, as well as the modified sampling plan.

I apologize for the delay in response. I thought I had replied, and just discovered that I had not.

Stay well,
Bob

Bob Patterson, PE

Water Resources Director
City of Burlington
1302 Belmont Street, Burlington, NC 27215
PO Box 1358 Burlington, NC 27216-1358

336-222-5130 direct
336-222-5133 Water Resources Department