



FLORIDA DEPARTMENT OF Environmental Protection

Southeast District Office
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
561-681-6600

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

July 24, 2020

Chris Lagerbloom, City Manager
City of Fort Lauderdale
100 N. Andrews Ave.
Fort Lauderdale, FL 33301
clagerbloom@fortlauderdale.gov

Re: City of Fort Lauderdale Public Water System
PW Facility ID #4060486
OGC Case #19-1637

Dear Mr. Lagerbloom:

Enclosed is the executed Consent Order to resolve the above referenced case. This copy is for your records. Please be mindful of all required deadlines within the Order to ensure compliance.

Should you have any questions or comments, please contact Zach Shulman at 561-681-6623 or via e-mail at Zachary.Shulman@floridadep.gov.

Your cooperation in this matter will be appreciated.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason Andreotta", is written over a horizontal line.

Jason Andreotta
Director, Southeast District
Florida Department of Environmental Protection

Enclosure

ec: Lea Crandall, OGC Lea.Crandall@dep.state.fl.us
Raj Verma, Public Works Director rverma@fortlauderdale.gov
Alain Boileau, City Attorney aboileau@fortlauderdale.gov
Rick Johnson, Utilities Manager rjohnson@fortlauderdale.gov
Fred Aschauer, Attorney faschauer@llw-law.com

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	SOUTHEAST DISTRICT
)	
v.)	OGC FILE NO. 19-1637
)	
CITY OF FORT LAUDERDALE)	
)	
_____)	

CONSENT ORDER

This Consent Order (“Order”) is entered into between the State of Florida Department of Environmental Protection (“Department”) and the City of Fort Lauderdale (“Respondent”) to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent neither admits nor denies the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida’s water resources and to administer and enforce the provisions of the Florida Safe Drinking Water Act, Sections 403.850, et seq., Florida Statutes (“F.S.”), and the rules promulgated and authorized in Title 62, Florida Administrative Code (“F.A.C.”). The Department has jurisdiction over the matters addressed in this Order.
2. Respondent is a municipal corporation in the State of Florida and a person within the meaning of Section 403.031(5), F.S.
3. Respondent is the owner and is responsible for the operation of the City of Fort Lauderdale’s Community Water System, PWS No. 4060486, located at 4321 NW 9th Avenue, in Broward County, Florida (“System”).
4. The Department finds that the following violations occurred:
 - a) Respondent failed to properly exercise/maintain isolation valves in accordance with equipment’s manufacturing guideline or the System’s preventative maintenance program, in violation of sub-section 62-555.350(2), F.A.C. Specifically, on July 17th, 2019, a source water main break of the public water system occurred that led to the issuance of a city-wide boil water notice. Review of the incident report concluded that Respondent was unable to quickly isolate

the damage and redirect flow. Inaccurate maps of valve locations contributed to the extended time it took to correct in addition to isolation valves not being properly exercised/maintained.

b) Respondent failed to submit notifications to the Department following events that required the issuance of a boil water notice, in violation of subsection 62- 555.350(10), F.A.C. Specifically, an office file review of other abnormal events concluded that from the time that the Department acquired regulatory jurisdiction of Broward County public water systems in 2018; there were a total of 3 events that required the issuance of a boil water notice where the Department received no notification. The events are as follows:

Date of Event	Location of Event	Population Impacted
February 13, 2019	NW 7 th Ave & NW 14 th Way	343 Service Connections
April 23, 2019	NE 6 th Ct (1942 NE 6 th Ct)	Greater than 200 Service Connections
December 27, 2019	Isle of Venice	Population Greater than 350

Having reached a resolution of the matter Respondent and the Department mutually agree and it is

ORDERED:

5. Respondent shall comply with the following corrective actions within the stated time periods:

a) Within 60 days of the effective date of this Order, the Respondent shall submit a preventative maintenance plan to the Department for review that, at a minimum, exercises 100% of the source water line valves within the first year and 20% of the source water line valves annually thereafter, with the purpose of exercising all such source water line valves in a 5-year period. If the Department has any comments on the proposed plan, it will provide such comments within 15 days of receipt.

b) Beginning no later than January 1, 2021, Respondent shall implement the preventative maintenance plan referenced in sub-paragraph 5(a) above.

c) Upon implementation of the preventative maintenance plan referenced in sub-paragraph 5(a) above, Respondent shall submit annual reports for 2 years to the Department showing the number of source water line valves exercised. Upon implementation of the maintenance plan, reports shall be submitted to the Department no later than 13 months for the first year, and no later than 25 months for the second year. The reports shall demonstrate that 100% of source water line valves were exercised within the first year of the preventative maintenance plan and at least 20% of source water line valves were exercised in the second year of the preventative maintenance plan. Consistent with its permit for the System, Respondent shall also maintain annual records on the number of exercised valves and have such records available for Department review upon request.

d) Within 60 days of the effective date of this Order, Respondent shall submit a plan for developing a complete map of the existing water supply network within the city's geographic boundaries, including all existing source and distribution mains, control valves, and directional flow routes, to the Department for review and comment. Mapping of the services lines may be accomplished through mapping of the meters/meter boxes. If the Department has any comments on the proposed plan, it will provide such comments within 30 days of receipt. Directional flows, including flows to any facility not belonging to the Respondent, will be shown on the maps. Inactive mains and related appurtenances with shut-off valves should be illustrated and highlighted to define their unique operational status. Maps will be maintained in such a manner that they can be accessed quickly and easily by maintenance and repair crews at all times and from multiple locations, to facilitate a prompt and efficient response to emergencies. As new construction is completed, the Respondent will incorporate as-built drawings of the new components into the maps.

e) Within 36 months of the effective date of this Order, the Respondent shall complete all mapping and certify to the Department in writing that mapping is complete in accordance with the terms of sub-paragraph 5(d) above.

6. Notwithstanding any other time periods described above, Respondent shall complete all corrective actions required by paragraph 5 on or before August 1, 2023 and be in full compliance with chapter 62-555, F.A.C., other than those excused delays agreed to by Parties, as described in Paragraph 12.

7. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$ 19,099.65 in settlement of the regulatory matters addressed in this Order. This amount includes \$ 5,000.00 for civil penalties, \$ 13,599.65 for a delayed economic benefit and \$ 500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order. The civil penalties are apportioned as follows: \$ 1,000.00 for each of the three water main breaks that were not reported to the Department, \$ 1,000.00 for a failure to maintain or update system maps and the preventative maintenance program; and \$ 1,000.00 for failure to adequately respond to an emergency.

8. Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/>. It will take a number of days after this order becomes final, effective and filed with the Clerk of the Department before ability to make online payment is available.

9. In lieu of making the cash payment of \$ 19,099.65 in civil penalties as set forth in paragraph 7 above, Respondent has elected to off-set this amount by implementing an in-kind penalty project, which has been approved by the Department. The proposed in-kind project attached hereto and incorporated herein as "Exhibit B" has been approved by the Department and involves the construction of 1,100 feet of exfiltration trench for flood mitigation within Hector Park at an estimated cost of \$ 600,000.00, which is at least one and a half times the civil penalty established in paragraph 7 of this Order. Notwithstanding the election to implement an in-kind project, payment of the remaining \$500.00 in costs must be paid within 30 days of

the effective date of the Consent Order. Respondent shall comply with all the requirements and time frames in Exhibit A entitled In-Kind Projects.

10. Except as otherwise provided, all submittals and payments required by this Order shall be sent to the Department of Environmental Protection, Southeast District, 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406 or via e-mail at SED.Drinkingwater@FloridaDEP.gov , attention Zach Shulman.

11. Respondent shall allow all authorized representatives of the Department access to the System at reasonable times for the purpose of determining compliance with the terms of this Order and the rules and statutes administered by the Department.

12. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay in complying with the requirements of this Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines shall be considered circumstances beyond the control of Respondent (unless the cause of the contractor's late performance was also beyond the contractor's control). Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department by the next working day and shall, within seven calendar days notify the Department in writing of (a) the anticipated length and cause of the delay, (b) the measures taken or to be taken to prevent or minimize the delay, and (c) the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The agreement to extend compliance must identify the provision or provisions extended, the new compliance date or dates, and the additional measures Respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this paragraph

in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

13. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for the violations described above up to the date of the filing of this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

14. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

15. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or rules administered by the Department that are not specifically resolved by this Order.

16. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per day per violation, and criminal penalties.

17. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, F.S., on the terms of this Order. Respondent also acknowledges and waives its right to appeal the terms of this Order pursuant to section 120.68, F.S.

18. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

19. The terms and conditions set forth in this Order may be enforced in a court of competent jurisdiction pursuant to sections 120.69 and 403.121, F.S. Failure to comply with the

terms of this Order constitutes a violation of section 403.161(1)(b), F.S.

20. This Consent Order is a final order of the Department pursuant to section 120.52(7), F.S., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition, this Consent Order will not be effective until further order of the Department.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF CONSENT ORDER

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

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

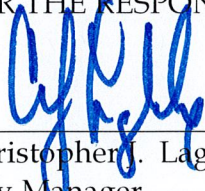
- a) The OGC Number assigned to this Consent Order;
- b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;
- c) An explanation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

petitioner wishes the Department to take with respect to the Consent Order.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under sections 120.569 and 120.57, Florida Statutes. Before the deadline for filing a petition, a person whose substantial interests are affected by this Consent Order may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in section 120.573, Florida Statutes and Rule 62-110.106(12), Florida Administrative Code.

21. Rules referenced in this Order are available at <http://www.dep.state.fl.us/legal/Rules/rulelist.htm>

FOR THE RESPONDENT:



Christopher J. Lagerbloom
City Manager

0721 2020
Date

DONE AND ORDERED this 24th day of July, 2020, in Orange County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Jason Andreotta
Director
Southeast District

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



Clerk

July 24, 2020
Date

Copies furnished to:

Lea Crandall, Agency Clerk
Mail Station 35

Exhibit A

In-Kind Projects

I. Proposal

a. Within 180 days of the effective day of this Order or in accordance with the approved schedule submitted, Respondent shall complete the entire in-kind project.

b. During the implementation of the in-kind project, Respondent shall place appropriate sign(s) at the project site indicating that Respondent's involvement with the project is the result of a Department enforcement action. Respondent may remove the sign(s) after the project has been completed. However, after the project has been completed Respondent shall not post any sign(s) at the site indicating that the reason for the project was anything other than a Department enforcement action.

c. In the event Respondent fails to timely submit any requested information to the Department, fails to complete implementation of the in-kind project or otherwise fails to comply with any provision of this paragraph, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalties shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$19,099.65 penalty, no additional penalties shall be assessed under paragraph 9 for failure to complete the requirement of this paragraph.

d. Within 15 days of completing the in-kind project, Respondent shall notify the Department, by electronic mail, of the project completion and request a verification letter from the Department. Respondent shall submit supporting information verifying that the project was completed in accordance with the approved proposal and documentation showing the actual costs incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the project.

e. If upon review of the notification of completion, the Department determines that the project cannot be accepted due to a substantially incomplete notification of completion or due to substantial deviations from the approved in-kind project; Respondent shall be notified,

in writing, of the reason(s) which prevent the acceptance of the project. Respondent shall correct and redress all the matters at issue and submit, by certified mail, a new notification of completion within 15 days of receipt of the Department's notice. If upon review of the new submittal, the Department determines that the in-kind project is still incomplete or not in accordance with the approved proposal, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalty shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$19,099.65, no additional penalties shall be assessed under paragraph 9 for failure to complete the requirements of this paragraph.

Exhibit B

In-kind Project, Proposed Consent Order, OGC Case # 19-1637

City of Fort Lauderdale

The City is proposing the following stormwater water quality improvements as an in-kind project required in the proposed consent order, OGC Case #19-1637.

The prospective project lies in the area bounded by Ponce de Leon Drive on the north, SE 11th Street on the south and east and SE 9th Avenue on the west. Within this area lies a small neighborhood park, called Hector Park. The topography of this area is like a bowl with high water table conditions. The neighborhood is old and is built upon predominantly fine sandy soils. With very little green area for retention, pollutants resulting from storm events are discharged directly into the Tarpon River. In December 2019, the City had two sewer force main breaks in the Rio-Vista neighborhood (in the vicinity of Hector Park) which spewed several million gallons of raw sewage into the Tarpon River.

Over the next six months, the City will complete installation of new wastewater pipes. Initially, it intended to restore the Hector Park to its original condition, clean the catchbasins and repave the streets. However, the City would be willing to include flood mitigation by creating approximately 1,100 feet of exfiltration trench at an estimated cost of \$600,000. This will not only minimize water logging in this low-lying area, it would also improve the water quality by trapping pollutants and sediments in the exfiltration system first before discharging into the Tarpon River. Additionally, this will improve our compliance with the NPDES permit.

If approved, staff will begin finalizing the construction plans and complete this work within 12 months of the project approval.





Florida Department of Environmental Protection

Southeast District Office
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
561-681-6600

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Noah Valenstein
Secretary

September 29, 2017

Ms. Ronda Montoya Hasan
Assistant City Attorney
Office of the City Attorney
100 N Andrews Ave.
Ft. Lauderdale, FL 33301
Via U.S. Mail

Re: Consent Order
OGC File No. 16-1487
Broward County

Dear Ms. Montoya Hasan:

Enclosed for your implementation is the fully executed Consent Order in the above-styled case. Please familiarize yourself with the compliance dates and terms of the Consent Order so the complete and timely performance of those obligations is accomplished.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink that reads "Jennifer K. Smith". The signature is written in a cursive style.

Jennifer K. Smith
District Director
Southeast District

jks/ja

Enclosure

cc: Jason Andreotta, FDEP SED, Jason.Andreotta@dep.state.fl.us
Kirk White, FDEP OGC, Kirk.White@dep.state.fl.us

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA, DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	SOUTHEAST DISTRICT
)	
v.)	OGC FILE NO. 16-1487
)	
CITY OF FORT LAUDERDALE)	
_____)	

CONSENT ORDER

This Consent Order (Order) is entered into between the State of Florida Department of Environmental Protection (Department) and the City of Fort Lauderdale (Respondent) to reach settlement of certain matters at issue between the Department and the Respondent.

The Department finds and the Respondent neither admits nor denies the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes (F.S.), and the rules promulgated and authorized in Title 62, Florida Administrative Code (F.A.C.). The Department has jurisdiction over the matters addressed in this Consent Order.

2. The Respondent is a municipal corporation in the State of Florida and a person within the meaning of Section 403.031(5), F.S.

3. The Respondent is the owner and is responsible for the operation of the following:

a) The G.T. Lohmeyer Wastewater Treatment Plant, a 56.6 million gallons per day, pure oxygen activated sludge facility with secondary effluent disposed of via 5 deep injection wells (Facility). The Facility is operated under Wastewater Permit No. FLA041378-014 (Permit), which was issued by the Department on May 4, 2016, and will expire on September 6, 2021. The Facility is located at 1765 SE 18th Street, Fort Lauderdale, Florida, 33309, in Broward County, Florida (Property). The Respondent owns the Property on which the Facility is located.

b) The domestic wastewater collection and transmission system (Collection System) serves the Respondent and its customers. The Collection System delivers the collected wastewater to the Facility for treatment and disposal.

4. The Department makes the following findings of fact and conclusions of law to which the Respondent neither admits nor denies:

a) During the period from January 1, 2014 to the effective date of this Consent Order, the City released untreated wastewater from the Collection System into surface waters and/or groundwaters of the State as follows:

Date	Volume (gallons)
02/05/17	123,041
4/28/17	1,500
4/30/17	1,350
5/19/17	9,874
5/26/17	154,270
6/14/17	3,000
6/19/17	3,900
6/30/17	3,000
8/4/2017	2,000
8/28/2017	100,000
8/30/2017	1,000
8/31/2017	23,730

Date	Volume (gallons)
12/30/16	17,460
12/19/16	145,887
12/17/16	2,545,560
12/01/16	4,820
07/18/16	79,800
06/23/16	10,620,000
06/23/16	3,217,501
6/23/16	852,499
06/22/16	1,000
03/18/16	94,828
02/16/16	1,820,000
02/14/16	1,000
01/07/16	6,525

Date	Volume (gallons)
10/29/15	177,250
10/26/15	100,965
10/23/15	279,930
10/20/15	13,500
10/14/15	1,000
10/08/15	2,000
09/28/15	76,308
09/20/15	2,000
09/06/15	10,000
08/19/15	8,000
07/31/15	3,600
07/05/15	5,000
06/29/15	3,335
05/09/15	50,400
04/30/15	25,000
01/26/15	1,500
01/22/15	12,900

Date	Volume (gallons)
12/22/14	73,815
11/16/14	4,200
07/16/14	46,575
07/10/14	24,480
05/18/14	212,500
05/06/14	4,000
03/31/14	1,600

b) The Department finds that the foregoing releases in Paragraph 4(a) violate Rule 62-604.130, F.A.C.

5. This Consent Order has been entered into by the Respondent for the purposes of settlement only. Accordingly, neither the recitals nor the Department's findings in this Consent Order, nor the terms and conditions of this Consent Order, nor the Respondent's compliance with those terms and conditions, shall be construed in any legal or administrative action, proceeding

or litigation, as an admission that the Respondent has violated any statute, regulation, or ordinance or has otherwise committed a breach of any duty at any time, or of any fact, inference or conclusion of law.

Having reached a resolution of the matter, the Respondent and the Department mutually agree and it is hereby **ORDERED**:

6. Respondent shall comply with the following corrective actions within the stated time periods:

a) No later than February 28th, 2018, the Respondent shall replace approximately 1900 linear feet (lf) of 12” diameter force main at high risk of failure along Las Olas Blvd. The cost of this project is estimated at \$1,500,000.00.

b) No later than May 31st, 2018, the Respondent shall replace approximately 11,620 lf of failing 30” diameter force main that connects Repump Station A, located on Sistrunk Blvd, to the force main located at the intersection of SW 6th Ave and 7th St. The cost of this project is estimated at \$8,700,000.00.

c) No later than September 30th, 2020, the Respondent shall complete the pump station rehabilitation and replacement projects listed in *Exhibit A: Phase I Projects*, in order to facilitate existing flows capacity and future projected increase in demands.

d) No later than September 30th, 2020, the Respondent shall complete the infiltration/inflow (I/I) projects listed in *Exhibit B: Phase I Projects*, in order to reduce flows and lower peak demands and stresses on the system during rain events.

e) No later than September 30th, 2026, the Respondent shall complete the following force main rehabilitation projects listed in *Exhibit C of Phase II Projects*, in order to repair and/or replace the infrastructure with the highest risk of failure.

f) **Existing Schedule:** Within 90 days of the effective date of this Consent Order, the Respondent shall provide to the Department the existing schedule for repair, upgrade, or replacement of existing Collection System assets during the next 2 years, including schedules for repair, upgrade, or replacement of the existing force mains, gravity mains, isolation and other control valves, air release valves, access and conflict manholes, and pump stations.

g) **Mapping Plan:** Within 9 months of the effective date of this Consent Order, the Respondent shall submit a Plan to the Department for review and comment detailing

how the Respondent will develop a complete map of the existing Collection System within the City's geographic boundaries, including all existing or in-construction force mains, gravity mains, isolation and other control valves, air release valves, access and conflict manholes, pump stations, and directional flow routes of each of these components to pump stations and the receiving Facility. The Department will provide comments on the Mapping Plan within 30 days of submittal by Respondent. Mapping will include both existing and under-construction components. Directional flows, including flows to any alternate Facility not belonging to the Respondent, will be shown on the maps. Inactive mains and related appurtenances with shut-off valves should be illustrated and highlighted to define their unique operationally inactive status. Maps will be maintained in such a manner that they can be accessed quickly and easily by maintenance and repair crews at all times and from multiple locations, to facilitate prompt and efficient responses to emergencies. As new construction is completed, the Respondent will incorporate as-built drawings of the new components into the maps. Within 21 months of the effective date of this Consent Order, the Respondent shall certify to the Department in writing that mapping is complete in accordance with the terms of this paragraph. Respondent shall contemporaneously provide the Department with a description of the storage and retrieval methods and the availability of the maps to City field staff.

h) **Force Main Condition Assessment:** Within 10 months of the effective date of this Consent Order, the Respondent shall submit to the Department for review and comment a plan for completing an assessment of the current condition of all force mains in the collection system within the Respondent's jurisdiction, in sufficient detail that the resulting assessment can be used to schedule improvements of aging or deteriorating pipes, connections, valves, and appurtenances. The plan shall include the methods to be used and a schedule for conducting the assessment. The Department will provide comments on the Force Main Condition Assessment within 30 days of submittal by Respondent. The final completion date for the assessment shall be no later than 18 months from the date of Respondent's receipt of Department comments on the plan. Within 60 days of completion of the assessment, the Respondent shall submit to the Department a report summarizing the results of the condition assessment.

i) **Asset Management and CMOM Program Development Plan:** Within 11 months of the effective date of this Consent Order, the Respondent shall submit for

Department review and comment a plan to develop an Asset Management and Capacity, Management, Operations and Maintenance Program (AM and CMOM Program). The Department will provide comments on the AM and CMOM Plan within 30 days of submittal by Respondent. The plan shall describe how the Respondent will develop the AM and CMOM Program, including the items required in Subpara. 6(k) below, and follow the Environmental Protection Agency's (EPA) guidance in the following references, available along with additional references via www.epa.gov:

- EPA 305-B-05-002, *Guide for Evaluating Capacity, Management, Operation, and Maintenance (CMOM) Programs at Sanitary Sewer Collection Systems*
- EPA 816-F-08-014, *Asset Management: A Best Practices Guide*

j) **Capacity Evaluation:** Within 20 months of the effective date of this Consent Order, the Respondent shall complete an evaluation of the capacity of the Collection System, including all existing force mains, gravity mains, and pump stations. Within 22 months of the effective date of this Consent Order, the Respondent shall submit to the Department a report summarizing the results of the capacity evaluation, specifically identifying any assets with insufficient capacity for current and known projected demands over the next 10 years.

k) **Asset Management and CMOM Program:** Within 18 months of Respondent's receipt of the Department's comments on the AM and CMOM Program Development Plan required in Subpara. 6(i) above, the Respondent shall submit for Department review and comment the written AM and CMOM Program for ongoing management of the Collection System. The Department will provide comments on the AM and CMOM Program within 30 days of submittal by Respondent. The Program shall be consistent with the EPA guidance referenced in Subpara. 6(i) above, and shall include the following:

- i) a description of grease trap ordinance requirements and the compliance monitoring and enforcement program conducted by the Respondent;
- ii) a description of how and when information from the mapping, capacity evaluation, force main condition assessment, manufacturer's maintenance and replacement recommendations, spill data, gravity sewer information, and other pertinent sources will be stored, periodically updated, and used in the ongoing Program;
- iii) a description of how repairs, upgrades, and replacement of

Collection System assets will be determined to be needed, prioritized, authorized, and funded, with priority given to those assets identified as critical within the City's Master Plan.

l) **Asset Management and CMOM Program Schedules:** At the time Respondent submits the Asset Management and CMOM Program to the Department for review and comment, Respondent shall also submit for Department review and approval (the Department shall provide a written response to the Respondent within 30 days of receipt) the Asset Management and CMOM Program Schedules listed below:

i) a schedule for implementing the AM and CMOM Program, including when any software upgrades or integrations needed for initial implementation of the Program will be completed and put into service, when databases the software relies upon will be populated with the information from the sources listed in 6(k)(ii) above, and when the AM and CMOM Program will be fully incorporated into planning, funding, procuring resources, and scheduling work;

ii) a schedule showing the completion date for construction of each Phase II Improvement Project identified in Exhibit C;

iii) a schedule for any other projects that need to be added to Phase II, as identified by the Force Main Condition Assessment.

m) Unless otherwise specified herein, Respondent has the right to challenge any final agency action including any determination by the Department hereunder, pursuant to Chapter 120 Fla. Stat. At the election of either the Respondent or Department, the Respondent and Department shall schedule an informal meeting to attempt a good faith resolution of any disputes that may arise under decision made hereunder; thereafter to the extent that the Respondent or Department remain aggrieved, the Department and Respondent may exercise any rights they may have under applicable statutes and administrative code rules.

n) Upon approval by the Department, the AM and CMOM Program implementation schedule and the Phase II improvements schedule shall be incorporated herein as enforceable parts of this Consent Order. It is the Respondent's responsibility to complete planning, budgeting and funding allocation, permitting, procurement, bidding and awarding each project, and initiation of construction on a schedule that will result in completion of construction by the dates required in this Consent Order. However, subsequent changes to schedules adopted

pursuant to this Consent Order may be modified by mutual agreement of the Parties in writing.

o) Every 6 calendar months after the effective date of this Consent Order, the Respondent shall submit to the Department a written progress report on the status and progress of projects being completed under this Consent Order, including the following information:

i) the status of compliance or noncompliance with the applicable requirements of this Consent Order, and any reasons for noncompliance;

ii) the status of each of the Phase I and II projects listed in Exhibit A, B, and C; and

iii) a projection of the work the Respondent will perform pursuant to this Consent Order during the 12-month period following the report.

p) The Respondent shall submit progress reports to the Department on or before July 31, for the period from January 1 through June 30, and on or before January 31, for the period from July 1 through December 31 each year.

7. Notwithstanding any other time periods described above, Respondent shall complete all corrective actions required by Paragraph 6 on or before September 30, 2026, and be in full compliance with Chapter 62-604, F.A.C., other than those excused delays agreed to by the Parties, as described in Paragraph 17.

8. Within 180 days of the effective date of this Consent Order, Respondent shall submit to the Department an updated written estimate of the total cost of the corrective actions in Subpara. 6(a) through 6(l), including costs of the Phase I improvements. Within 180 days of the completion of the Force Main Condition Assessment, Respondent shall submit to the Department an updated written estimate of the total cost of the Phase II projects in Exhibit C, along with the costs for any other assets in need of repairs, rehabilitation, or replacement as identified by the Force Main Condition Assessment. Each written estimate shall identify the information Respondent relied upon to provide the estimate.

9. Respondent agrees to pay to the Department stipulated penalties in the amount of \$100.00 per day for each and every day Respondent fails to comply with paragraphs 6 through 8 and 26 of this Consent Order.

10. For each day an unauthorized discharge from the Facility or the Collection System occurs during the effective period of this Consent Order, that do not qualify as Excusable

Discharges, as defined in subparagraph 10.b), below, Respondent agrees to pay stipulated penalties as follows:

a)	<u>Amount per day per Discharge</u>	<u>Discharge Volume</u>
	\$500.00	Up to 5,000 gallons
	\$1,000.00	5,001 to 10,000 gallons
	\$2,500.00	10,001 to 25,000 gallons
	\$5,000.00	25,001 to 100,000 gallons
	\$10,000.00	In Excess of 100,000 gallons

b) The Department will evaluate each spill on a case-by-case basis to determine whether the spill was beyond Respondent's reasonable control; whether Respondent is exercising prudent wastewater utility practices to reduce the frequency of spills; and whether Respondent took timely and appropriate actions to reduce the environmental impact of the spill(s). A stipulated penalty will be applied to any spill where Respondent fails to provide the Department with sufficient information to demonstrate that the spill qualifies as an Excusable Discharge. For the purposes of this Order, an Excusable Discharge is a spill that resulted from a temporary, infrequent incident that was beyond the reasonable control of Respondent.

Excusable Discharges include, but are not limited to the following:

i) Extraordinary acts of nature, including but not limited to, rainfall equal to or 6 inches of rain in a 24-hour period, hurricanes, tropical storms, extreme high-tide events, tornadoes, wild fires, lightning strikes, or events where a State of Emergency is declared;

ii) Actions by third parties unrelated to Respondent, including construction accidents, vehicular accidents, or vandalism; actions related to a contractor acting on behalf of Respondent is not an Excusable Discharge.

iii) Blockages that could not be prevented by reasonable measures and due diligence;

iv) Unexpected sudden structural, mechanical, or electrical failure that could not be avoided by reasonable measures and due diligence; and

v) Spills that are attributable to parts of the Collection System that are undergoing rehabilitation that could not be avoided by reasonable measures and due diligence.

11. The Department may demand stipulated penalties on an annual basis at any time after violations occur beginning upon the effective date of this Order. Respondent shall pay

stipulated penalties owed within 60 days of the Department's issuance of written demand for payment, and shall do so as further described in paragraph 14, below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Consent Order. Any stipulated penalties assessed under this Paragraph shall be in addition to civil penalties agreed to in Paragraph 12 of this Order.

12. Within 90 days of the effective date of this Order, Respondent shall pay the Department \$339,577.00 in settlement of the regulatory matters addressed in this Consent Order. This amount includes \$334,577.00 for civil penalties and \$5,000.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order.

13. In lieu of making cash payment of \$334,577.00 in civil penalties as set forth in Paragraph 12 above, Respondent may elect to off-set this amount by implementing an in-kind penalty project, which must be approved by the Department. An in-kind project must be either an environmental enhancement, environmental restoration or a capital/facility improvement project. The Department may also consider the donation of environmentally sensitive land as an in-kind project. The value of the in-kind penalty project shall be one and a half times the civil penalty off-set amount, which in this case is the equivalent of at least \$501,865.50. If Respondent chooses to implement an in-kind project, Respondent shall notify the Department of its election by certified mail within 15 days of the effective date of this Consent Order. If Respondent elects to implement an in-kind project as provided in this Paragraph, then Respondent shall comply with all the requirements and time frames in Exhibit D entitled In-Kind Projects. Notwithstanding the election to implement an in-kind project, payment of the remaining \$5,000.00 in costs must be paid within 30 days of the effective date of this Consent Order.

14. Respondent shall make all payments required by this Consent Order by cashier's check, money order, City check or on-line payment. Cashier's check, money order, or City check shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Consent Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal: <http://www.fldepportal.com/go/pay/>. It will take several days after this Order is final, effective,

and filed with the Clerk of the Department before ability to make online payment is available.

15. Except as otherwise provided, all submittals required by this Order shall be submitted via email at sed.wastewater@dep.state.fl.us, or sent to Wastewater Compliance Assurance Program, Department of Environmental Protection, 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406.

16. Respondent shall allow all authorized representatives of the Department access to the Facilities and the Properties at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules and statutes administered by the Department.

17. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay in complying with the requirements of this Consent Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines shall be considered circumstances beyond the control of Respondent (unless the cause of the contractor's late performance was also beyond the contractor's control). Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department by the next working day of the event and shall, within seven calendar days, notify the Department in writing of (a) the anticipated length and cause of the delay, (b) the measures taken or to be taken to prevent or minimize the delay, and (c) the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The agreement to extend compliance must identify the provisions extended, the new compliance date or dates, and the additional measures Respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

18. The Department, for and in consideration of the complete and timely performance

by Respondent of all the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for the violations described above up to the date of the filing of this Consent Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Consent Order.

19. This Consent Order is a settlement of the Department's civil, administrative, and delegated authority arising under Chapter 403, Florida Statutes, to resolve the matters addressed herein. This Consent Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Consent Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

20. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or rules administered by the Department that are not specifically resolved by this Consent Order.

21. Respondent is fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per day per violation, and criminal penalties.

22. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, F.S., on the terms of this Order other than a dispute as described in paragraph 6(l).. Respondent also acknowledges and waives its right to appeal the terms of this Order pursuant to section 120.68, F.S.

23. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

24. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to sections 120.69 and 403.121, F.S. Failure to comply with the terms of this Order constitutes a violation of section 403.161(1)(b), F.S.

25. This Consent Order is a final order of the Department pursuant to section 120.52(7), F.S., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon

the timely filing of a petition, this Consent Order will not be effective until further order of the Department.

26. Respondent shall publish the following notice in a newspaper of daily circulation in Broward County, Florida. The notice shall be published one time only within 15 days of the effective date of the Consent Order. Respondent shall provide a certified copy of the published notice to the Department within 10 days of publication.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF CONSENT AGREEMENT

The Department of Environmental Protection (“Department”) gives notice of agency action of entering into a Consent Order with the City of Fort Lauderdale, pursuant to section 120.57(4), Florida Statutes. The Consent Order addresses alleged unpermitted wastewater and effluent discharges from the City’s wastewater facilities and associated wastewater collection/transmission systems to State waters, and the implementation plan to minimize further discharges. The Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, Southwest District Office, 13051 North Telecom Parkway, Temple Terrace, Florida 33637-0926.

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

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

- a) The OGC Number assigned to this Consent Order;
- b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner’s representative, if any, which shall be the address for service purposes during the course of the proceeding;
- c) An explanation of how the petitioner’s substantial interests will be affected by the

Consent Order;

- d) A statement of when and how the petitioner received notice of the Consent Order;
- e) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;
- f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Consent Order.
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Consent Order; and
- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Consent Order.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at Florida Department of Environmental Protection, Southwest District Office, 13051 North Telecom Parkway, Temple Terrace, Florida 33637-0926. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under sections 120.569 and 120.57, Florida Statutes. Before the deadline for filing a petition, a person whose substantial interests are affected by this Consent Order may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in section 120.573, Florida Statutes and Rule 62-110.106(12), Florida Administrative Code.

27. Rules referenced in this Order are available at:

<http://www.dep.state.fl.us/legal/Rules/rulelist.htm>.

CITY OF FORT LAUDERDALE

ATTEST:

Jeffrey A. Modarelli, City Clerk
City Clerk

John P. "Jack" Seiler, Mayor
Mayor

(SEAL)

Lee R. Feldman, City Manager

Approved as to Legal Form

Rhonda Montoya Hasan
Assistant City Attorney

DONE AND ORDERED this # day of Month, 2017, in Palm Beach County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Jennifer K. Smith
District Director
Southeast District

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

Clerk

9/29/17
Date

Copies furnished to:
Lea Crandall, Agency Clerk

Mail Station 35

EXHIBIT A
Phase I Projects

Project #	Phase I Project Name	Description	Preliminary Cost Estimate
454-P12124.454-6599	Central Beach Alliance PSD41	Replace pump station #PSD41	\$2,200,000
454-P12202.454-6599	Pump Station D-11	Flow analysis & design for pump station rehabilitation	\$500,000
454-P12133.454-6599	Pump Station A-13	Redirect E of F for pump station A-13	\$2,100,000
454-P11879.454-6599	Pump Station B-10	Rehabilitate pump station B-10	\$1,500,000
454-P11881.454-6599	Pump Station D-45	Replace pump station D-45	\$525,000
Preliminary Cost Estimate for Phase I Projects listed here			\$6,825,000

EXHIBIT B
Phase I Projects

Project #	Phase I Project Name	Description	Preliminary Cost Estimate
454-P11563.454-6599	Victoria Park Sewer Basin A-19	Rehabilitate main line sewers, manholes, and service laterals to reduce infiltration & inflow	\$5,352,000
454-P11566.454-6599	Rio Vista Sewer Basin D-43	Rehabilitate main line sewers, manholes, and service laterals to reduce infiltration & inflow	\$2,960,000
454-P11991.454-6599	Downtown Pump Station A-7	Rehabilitate main line sewers, manholes, and service laterals to reduce infiltration & inflow	\$8,224,000
454-P12049.454-6599	Flagler Heights Sewer Basin A-21	Rehabilitate main line sewers, manholes, and service laterals to reduce infiltration & inflow	\$883,000
454-P12055.454-6599	Sewer Basin A-18	Rehabilitate main line sewers, manholes, and service laterals to reduce infiltration & inflow	\$4,198,000
454-P12001.454-6599	Sewer Basin D-40	Rehabilitate main line sewers, manholes, and service laterals to reduce infiltration & inflow	\$100,000
Preliminary Cost Estimate for Phase I Projects listed here			\$21,717,000

EXHIBIT C
Phase II Projects

Phase II Project Name	Description	Preliminary Cost Estimate*
NE 25 th Ave. 24" Force Main	Replace or rehabilitate approx. 5,500 feet of RCP force main along NE 25 th Ave.	\$6,387,000
NE 38 th St & NE 19 th Street 42" Force Main	Replace or rehabilitate approx. 8,000 feet of DIP force main along NE 38 th Street, and install 3,000 feet of new 24" force main along NE 19 th Street	\$9,326,000
NW 5 th St., NW 9 th Ave., & W. Sistrunk Blvd. 30" Force Main	Replace or rehabilitate approx. 12,000 feet of CIP force main along NW 5 th St. & NW 9 th Ave., and install 6,000 feet of new 24" force main along Sistrunk Blvd.	\$11,769,000
SE 10 th Ave. 48" Force Main	Replace or rehabilitate approx. 13,400 feet of DIP force main, and install 5,400 feet of parallel new 36" force main	\$17,746,000
US 1 48" Force Main	Replace or rehabilitate approx. 6,000 feet of DIP force main, and install 5,100 feet of parallel new 48" force main along US 1	\$6,910,000
Treatment Plant to Injection Wells Effluent Force Main	Replace or rehabilitate the PCCP effluent force main leading from the G.T. Lohmeyer facility to the deep injection wells	\$3,142,000
NW 13 th Ave. 24" Force Main	Replace or rehabilitate approx. 3,300 feet of CIP force main along NW 13 th Ave.	\$1,914,000
NE 9 th St. to Birch Rd River Crossing 18" Force Main	Replace or rehabilitate approx. 1,000 feet of DIP force main river crossing from NE 9 th Street to Birch Road	\$434,000
Preliminary Cost Estimate for Phase II Projects listed here*		\$57,628,000

* Preliminary costs assume complete replacement. The Force Main Assessment will determine work to be done on each project.

EXHIBIT D
In-Kind Projects

A. Within sixty (60) days of the effective date, the City shall submit, by certified mail, a detailed in-kind project proposal to the Department for evaluation. The proposal shall include a summary of benefits, proposed schedule for implementation and documentation of the estimated costs which are expected to be incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the in-kind project.

B. If the Department requests additional information or clarification due to a partially incomplete in-kind project proposal or requests modifications due to deficiencies with Department guidelines, The City shall submit, by certified mail, all requested additional information, clarification, and modifications within fifteen (15) days of receipts of written notice.

C. If upon review of the in-kind project proposal, the Department determines that the project cannot be accepted due to a substantially incomplete proposal or due to substantial deficiencies with minimum Department guidelines; The City shall be notified, in writing, of the reason(s) which prevent the acceptance of the proposal. The City shall correct and redress all of the matters at issue and submit, by certified mail, a new proposal within thirty (30) days of receipt of written notice. In the event that the revised proposal is not approved by the Department, The City shall make cash payment of the civil penalties as set forth in Paragraph 12 of this Consent Order, within thirty (30) days of Department notice.

D. Within one-hundred twenty (120) days of the Effective Date, the City shall obtain approval for an in-kind project from the Department. If an in-kind project proposal is not approved by the Department within one-hundred twenty (120) days of the Effective Date, then The City shall make cash payment of the civil penalties as set forth in Paragraph 12 of this Consent Order, within thirty (30) days of Department notice.

E. Within one-hundred eighty (180) days of obtaining Department approval for the in-kind proposal or in accordance with the approved schedule submitted pursuant to Paragraph A above, The City shall complete the entire in-kind project.

F. During the implementation of the in-kind project, The City shall place appropriate sign(s) at the project site indicating that The City's involvement with the project is the result of a

Department enforcement action. The City may remove the sign(s) after the project has been completed. However, after the project has been completed the City shall not post any sign(s) at the site indicating that the reason for the project was anything other than a Department enforcement action.

G. In the event the City fails to timely submit any requested information to the Department, fails to complete implementation of the in-kind project or otherwise fails to comply with any provision of this paragraph, the in-kind penalty project option shall be forfeited and the entire amount of civil penalties shall be due from the City to the Department within thirty (30) days of Department notice. If the in-kind penalty project is terminated and The City timely remits the \$334,577.00 penalty, no additional penalties shall be assessed under Paragraph 11 of this Consent Order for failure to complete the requirement of this paragraph.

H. Within fifteen (15) days of completing the in-kind project, the City shall notify the Department, by certified mail, of the project completion and request a verification letter from the Department. The City shall submit supporting information verifying that the project was completed in accordance with the approved proposal and documentation showing the actual costs incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the project.

I. If upon review of the notification of completion, the Department determines that the project cannot be accepted due to a substantially incomplete notification of completion or due to substantial deviations from the approved in-kind project, The City shall be notified, in writing, of the reason(s) which prevent the acceptance of the project. The City shall correct and redress all of the matters at issue and submit, by certified mail, a new notification of completion within fifteen (15) days of receipt of the Department's notice. If upon review of the new submittal, the Department determines that the in-kind project is still incomplete or not in accordance with the approved proposal, the in-kind penalty project option shall be forfeited and the entire amount of civil penalty shall be due from the City to the Department within thirty (30) days of Department notice. If the in-kind penalty project is terminated and the City timely remits the \$334,577.00, no additional penalties shall be assessed under Paragraph 11 of this Consent Order for failure to complete the requirements of this paragraph.



FLORIDA DEPARTMENT OF Environmental Protection

Southeast District Office
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
561-681-6600

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

October 12, 2020

Dean J. Trantalis, Mayor
City of Fort Lauderdale
City Hall
100 N. Andrews Ave.
Fort Lauderdale, FL 33301
DTrantalis@fortlauderdale.gov

Re: Executed Amended Consent Order
OGC File No. 16-1487
Broward County

Dear Mayor Trantalis:

Enclosed for your implementation is the fully executed Amended Consent Order in the above-styled case. This copy is for your records. Please be mindful of all required deadlines within the Order to ensure compliance.

Your cooperation in this matter is appreciated.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jason Andreotta".

Jason Andreotta
Director, Southeast District
Florida Department of Environmental Protection

Enclosure: Amended Consent Order

ec: Chris Lagerbloom, City of Ft. Lauderdale, CLagerbloom@fortlauderdale.gov
Raj Verma, City of Ft. Lauderdale, RVerma@fortlauderdale.gov
Alain E. Boileau, City of Ft. Lauderdale, ABoileau@fortlauderdale.gov
Kirk White, FDEP OGC, Kirk.White@dep.state.fl.us
Chad R. Stevens, FDEP OGC, Chad.R.Stevens@dep.state.fl.us

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Lisa M. Self, FDEP SED,	Lisa.M.Self@FloridaDEP.gov
Zara Mansoor, FDEP, SED,	Zara.Mansoor@FloridaDEP.gov

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA, DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION)	SOUTHEAST DISTRICT
)	
v.)	OGC FILE NO. 16-1487
)	
CITY OF FORT LAUDERDALE)	
_____)	

AMENDED CONSENT ORDER

On September 27, 2017 Consent Order OGC File No. 16-1487 (First Order) between the State of Florida Department of Environmental Protection (Department) and City of Fort Lauderdale (Respondent) became final and effective. This Amended Consent Order (Amended Order) is entered into between the Department and Respondent to reach settlement of certain matters at issue between the Department and the Respondent. This Amended Order supersedes and replaces the First Order.

The Department finds and the Respondent neither admits nor denies the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes (F.S.), and the rules promulgated and authorized in Title 62, Florida Administrative Code (F.A.C.). The Department has jurisdiction over the matters addressed in this Amended Order.

2. The Respondent is a municipal corporation in the State of Florida and a person within the meaning of Section 403.031(5), F.S.

3. The Respondent is the owner and is responsible for the operation of the following:

a) The G.T. Lohmeyer Wastewater Treatment Plant, a 56.6 million gallons per day, pure oxygen activated sludge facility with secondary effluent disposed of via 5 deep injection wells (Facility). The Facility is operated under Wastewater Permit No. FLA041378-014 (Permit), which was issued by the Department on May 4, 2016, and will expire on September 6, 2021. The Facility is located at 1765 SE 18th Street, Fort Lauderdale, Florida, 33309, in Broward County, Florida (Property). The Respondent owns the Property on which the Facility is located.

b) The domestic wastewater collection and transmission system (Collection System) serves the Respondent and its customers. The Collection System delivers the collected wastewater to the Facility for treatment and disposal.

4. The Department makes the following findings of fact and conclusions of law to which the

Respondent neither admits nor denies:

a) During the periods from January 1, 2014 to August 31, 2017 and December 10, 2019 to February 14, 2020, the City released untreated wastewater from the Collection System into surface waters and/or groundwaters of the State as follows:

Date	Volume (gallons)
02/05/17	123,041
4/28/17	1,500
4/30/17	1,350
5/19/17	9,874
5/26/17	154,270
6/14/17	3,000
6/19/17	3,900
6/30/17	3,000
8/4/2017	2,000
8/28/2017	100,000
8/30/2017	1,000
8/31/2017	23,730

Date	Volume (gallons)
12/30/16	17,460
12/19/16	145,887
12/17/16	2,545,560
12/01/16	4,820
07/18/16	79,800
06/23/16	10,620,000
06/23/16	3,217,501
6/23/16	852,499
06/22/16	1,000
03/18/16	94,828
02/16/16	1,820,000
02/14/16	1,000
01/07/16	6,525

Date	Volume (gallons)
10/29/15	177,250
10/26/15	100,965
10/23/15	279,930
10/20/15	13,500
10/14/15	1,000
10/08/15	2,000
09/28/15	76,308
09/20/15	2,000
09/06/15	10,000
08/19/15	8,000
07/31/15	3,600
07/05/15	5,000
06/29/15	3,335
05/09/15	50,400
04/30/15	25,000
01/26/15	1,500
01/22/15	12,900

Date	Volume (gallons)
12/22/14	73,815
11/16/14	4,200
07/16/14	46,575
07/10/14	24,480
05/18/14	212,500
05/06/14	4,000
03/31/14	1,600

<u>Date</u>	<u>Volume (gallons)</u>
<u>12/10/19</u>	<u>35,400,000</u>
<u>12/20/19</u>	<u>77,570,000</u>
<u>12/21/19</u>	<u>769,533</u>

<u>12/27/19</u>	<u>154,600</u>
<u>12/30/19</u>	<u>44,620</u>
<u>12/30/19</u>	<u>8,075</u>
<u>1/30/20</u>	<u>84,720,000</u>
<u>2/14/20</u>	<u>20,520,000</u>

The Department finds that the foregoing releases in Paragraph 4(a) violate Rules 62-604.130, 62-330 and 62-302, F.A.C., as well as Section IX, General Condition 5 of Wastewater Permit No. FLA041378-014 and Part I.D. of Phase I Municipal Stormwater Permit No. FLS000017-004. Furthermore, the releases from December 10, 2019 violate Consent Order OGC Case No.: 16-1487.

5. This Amended Order has been entered into by the Respondent for the purposes of settlement only. Accordingly, neither the recitals nor the Department's findings in this Amended Order, nor the terms and conditions of this Amended Order, nor the Respondent's compliance with those terms and conditions, shall be construed in any legal or administrative action, proceeding or litigation, as an admission that the Respondent has violated any statute, regulation, or ordinance or has otherwise committed a breach of any duty at any time, or of any fact, inference or conclusion of law.

Having reached a resolution of the matter, the Respondent and the Department mutually agree, and it is hereby **ORDERED**:

6. Respondent shall comply with the following corrective actions within the stated time periods:

a) No later than February 28th, 2018, the Respondent shall replace approximately 1900 linear feet (lf) of 12" diameter force main at high risk of failure along Las Olas Blvd. The cost of this project is estimated at \$1,500,000.00.

b) No later than May 31st, 2018, the Respondent shall replace approximately 11,620 lf of failing 30" diameter force main that connects Repump Station A, located on Sistrunk Blvd, to the force main located at the intersection of SW 6th Ave and 7th St. The cost of this project is estimated at \$8,700,000.00.

c) No later than September 30th, 2020, the Respondent shall complete the pump station rehabilitation and replacement projects listed in *Exhibit A: Phase I Projects*, in order to facilitate existing flows capacity and future projected increase in demands.

d) No later than September 30th, 2020, the Respondent shall complete the infiltration/inflow (I/I) projects listed in *Exhibit B: Phase I Projects*, in order to reduce flows and lower

peak demands and stresses on the system during rain events.

e) No later than September 30th, 2026, the Respondent shall complete the following force main rehabilitation projects listed in *Exhibit C of Phase II Projects*, in order to repair and/or replace the infrastructure with the highest risk of failure.

f) **Existing Schedule:** Within 90 days of September 27, 2017, the Respondent shall provide to the Department the existing schedule for repair, upgrade, or replacement of existing Collection System assets during the next 2 years, including schedules for repair, upgrade, or replacement of the existing force mains, gravity mains, isolation and other control valves, air release valves, access and conflict manholes, and pump stations.

g) **Mapping Plan:** Within 9 months of September 27, 2017, the Respondent shall submit a Plan to the Department for review and comment detailing how the Respondent will develop a complete map of the existing Collection System within the City's geographic boundaries, including all existing or in-construction force mains, gravity mains, isolation and other control valves, air release valves, access and conflict manholes, pump stations, and directional flow routes of each of these components to pump stations and the receiving Facility. The Department will provide comments on the Mapping Plan within 30 days of submittal by Respondent. Mapping will include both existing and under-construction components. Directional flows, including flows to any alternate Facility not belonging to the Respondent, will be shown on the maps. Inactive mains and related appurtenances with shut-off valves should be illustrated and highlighted to define their unique operationally inactive status. Maps will be maintained in such a manner that they can be accessed quickly and easily by maintenance and repair crews at all times and from multiple locations, to facilitate prompt and efficient responses to emergencies. As new construction is completed, the Respondent will incorporate as-built drawings of the new components into the maps. Within 21 months of September 27, 2017, the Respondent shall certify to the Department in writing that mapping is complete in accordance with the terms of this paragraph. Respondent shall contemporaneously provide the Department with a description of the storage and retrieval methods and the availability of the maps to City field staff.

h) **Force Main Condition Assessment:** Within 10 months of September 27, 2017, the Respondent shall submit to the Department for review and comment a plan for completing an assessment of the current condition of all force mains in the collection system within the Respondent's jurisdiction, in sufficient detail that the resulting assessment can be used to schedule improvements of aging or deteriorating pipes, connections, valves, and appurtenances. The plan shall include the methods to be used and a schedule for conducting the assessment. The Department will provide comments on the Force Main

Condition Assessment within 30 days of submittal by Respondent. The final completion date for the assessment shall be no later than 18 months from the date of Respondent's receipt of Department comments on the plan. Within 60 days of completion of the assessment, the Respondent shall submit to the Department a report summarizing the results of the condition assessment.

i) **Asset Management and CMOM Program Development Plan:** Within 11 months of September 27, 2017, the Respondent shall submit for Department review and comment a plan to develop an Asset Management and Capacity, Management, Operations and Maintenance Program (AM and CMOM Program). The Department will provide comments on the AM and CMOM Plan within 30 days of submittal by Respondent. The plan shall describe how the Respondent will develop the AM and CMOM Program, including the items required in Subpara. 6(k) below, and follow the Environmental Protection Agency's (EPA) guidance in the following references, available along with additional references via www.epa.gov:

- EPA 305-B-05-002, *Guide for Evaluating Capacity, Management, Operation, and Maintenance (CMOM) Programs at Sanitary Sewer Collection Systems*
- EPA 816-F-08-014, *Asset Management: A Best Practices Guide*

j) **Capacity Evaluation:** Within 20 months of September 27, 2017 the Respondent shall complete an evaluation of the capacity of the Collection System, including all existing force mains, gravity mains, and pump stations. Within 22 months of September 27, 2017, the Respondent shall submit to the Department a report summarizing the results of the capacity evaluation, specifically identifying any assets with insufficient capacity for current and known projected demands over the next 10 years.

k) **Asset Management and CMOM Program:** Within 18 months of Respondent's receipt of the Department's comments on the AM and CMOM Program Development Plan required in Subpara. 6(i) above, the Respondent shall submit for Department review and comment the written AM and CMOM Program for ongoing management of the Collection System. The Department will provide comments on the AM and CMOM Program within 30 days of submittal by Respondent. The Program shall be consistent with the EPA guidance referenced in Subpara. 6(i) above, and shall include the following:

- i) a description of grease trap ordinance requirements and the compliance monitoring and enforcement program conducted by the Respondent;
- ii) a description of how and when information from the mapping, capacity evaluation, force main condition assessment, manufacturer's maintenance and replacement recommendations, spill data, gravity sewer information, and other pertinent sources will be stored, periodically updated, and used in the ongoing Program;

iii) a description of how repairs, upgrades, and replacement of Collection System assets will be determined to be needed, prioritized, authorized, and funded, with priority given to those assets identified as critical within the City's Master Plan.

l) **Asset Management and CMOM Program Schedules:** At the time Respondent submits the Asset Management and CMOM Program to the Department for review and comment, Respondent shall also submit for Department review and approval (the Department shall provide a written response to the Respondent within 30 days of receipt) the Asset Management and CMOM Program Schedules listed below:

i) a schedule for implementing the AM and CMOM Program, including when any software upgrades or integrations needed for initial implementation of the Program will be completed and put into service, when databases the software relies upon will be populated with the information from the sources listed in 6(k)(ii) above, and when the AM and CMOM Program will be fully incorporated into planning, funding, procuring resources, and scheduling work;

ii) a schedule showing the completion date for construction of each Phase II Improvement Project identified in Exhibit C;

iii) a schedule for any other projects that need to be added to Phase II, as identified by the Force Main Condition Assessment.

m) Unless otherwise specified herein, Respondent has the right to challenge any final agency action including any determination by the Department hereunder, pursuant to Chapter 120 Fla. Stat. At the election of either the Respondent or Department, the Respondent and Department shall schedule an informal meeting to attempt a good faith resolution of any disputes that may arise under decision made hereunder; thereafter to the extent that the Respondent or Department remain aggrieved, the Department and Respondent may exercise any rights they may have under applicable statutes and administrative code rules.

n) Upon approval by the Department, the AM and CMOM Program implementation schedule and the Phase II improvements schedule shall be incorporated herein as enforceable parts of this Consent Order. It is the Respondent's responsibility to complete planning, budgeting and funding allocation, permitting, procurement, bidding and awarding each project, and initiation of construction on a schedule that will result in completion of construction by the dates required in this Amended Order. However, subsequent changes to schedules adopted pursuant to this Amended Order may be modified by mutual agreement of the Parties in writing.

o) Every 6 calendar months after the effective date of this Amended Order, the

Respondent shall submit to the Department a written progress report on the status and progress of projects being completed under this Amended Order, including the following information:

- i) the status of compliance or noncompliance with the applicable requirements of this Amended Order, and any reasons for noncompliance;
 - ii) the status of each of the Phase I and II projects listed in Exhibits A, B, and C;
and
 - iii) a projection of the work the Respondent will perform pursuant to this Amended Order during the 12-month period following the report.
- p) The Respondent shall submit progress reports to the Department on or before July 31, for the period from January 1 through June 30, and on or before January 31, for the period from July 1 through December 31 each year.

Respondent shall also comply with the additional following corrective actions within the stated time periods:

q) Within 9 months of the effective date of this Amended Order, Respondent shall install and connect at least 1 temporary emergency generator at the G.T. Lohmeyer wastewater treatment plant to power at least one injection well pump during periods when there is no electricity, and maintain the generator in place and operational until such time the permanent emergency generator(s) is installed and fully operational, pursuant to sub-paragraph 6(r) below. Notwithstanding the number of temporary generators installed at the Facility, Respondent shall remain responsible for all unauthorized discharges of wastewater pursuant to sub-paragraph 13(b) of this Order. All necessary permits shall be obtained by Respondent prior to installing the temporary generator(s) at the Facility.

r) Within 40 months of the effective date of this Amended Order, Respondent shall install permanent emergency generator(s) at the G.T. Lohmeyer wastewater treatment plant to supply sufficient power to operate the injection well pumping system at full permitted capacity during periods when there is no electricity. All necessary permits shall be obtained by Respondent prior to installing the permanent emergency generator(s) at the Facility.

s) Within 10 months of the effective date of this Amended Order, Respondent shall create and submit a plan (Rapid Response Plan) to the Department demonstrating steps to be taken to acquire rapid response assistance from private and other public entities to further mitigate the impacts of unauthorized discharges and reduce the amount of time it takes to stop unauthorized discharges of wastewater.

7. Notwithstanding any other time periods described above, Respondent shall complete all

corrective actions required by Paragraph 6 on or before September 30, 2026, and be in full compliance with Chapter 62-604, F.A.C., other than those excused delays agreed to by the Parties, as described in Paragraph 23.

8. Within 180 days of September 27, 2017, Respondent shall submit to the Department an updated written estimate of the total cost of the corrective actions in Subpara. 6(a) through 6(l), including costs of the Phase I improvements. Within 180 days of the completion of the Force Main Condition Assessment, Respondent shall submit to the Department an updated written estimate of the total cost of the Phase II projects in Exhibit C, along with the costs for any other assets in need of repairs, rehabilitation, or replacement as identified by the Force Main Condition Assessment. Each written estimate shall identify the information Respondent relied upon to provide the estimate.

9. The Respondent shall complete an environmental analysis of George English Lake, the Tarpon River, and Himarshee Canal ("the Waterways") to assess the potential impacts caused by the December 2019, January 2020 and February 2020 unauthorized discharges.

a. Within 180 days of the effective date of this Amended Order, the Respondent shall provide to the Department an estimate of the amount of solids released from the sewage and an estimate of how much of the released solids remains in the Waterways and of that remaining amount, how much has settled to the bottom of the Waterways.

b. Within 180 days of the effective date of this Amended Order, the Respondent will develop and submit to the Department for approval, a plan to ascertain if the remaining solids in the Waterways are causing or contributing to violations of water quality standards as defined in Florida Administrative Code Rule 62-302 (Water Quality Assessment Plan). Within 90 days after the Department's approval of the Water Quality Assessment Plan, the Respondent will submit a water quality evaluation report (Report) signed and sealed by a Professional Engineer licensed in Florida, in accordance and in compliance with the approved Water Quality Assessment Plan.

c. If the Report concludes that the remaining solids are causing or contributing to water quality standards violations, then, within 90 days of submittal of the Report, the Respondent will submit to the Department for approval, a Corrective Action Plan (CAP). The CAP, if required, shall include a compliance schedule with dates of completion for the deliverables listed in the CAP.

d. If impacts to the Waterways are determined to not have occurred, then, within 90 days of the submittal of the Report, the Respondent shall submit to the Department a surface water enhancement plan providing environmental benefits to the Waterways. The plan shall include a compliance schedule with dates of completion for the deliverables listed in the enhancement plan.

10. The Department shall provide Respondent with its written approval, approval with conditions or modifications as a contingency of approval, or disapproval for each of the remaining plans or reports required in Paragraphs 6 and report required in paragraph 9 of this Amended Order. Respondent shall revise and resubmit plans or reports with the Department's written comments within ten (10) days of Respondent's receipt of the Department's written comments unless such comments specify an alternative due date, in which case Respondent shall submit to the Department any revised submittal, specification, or schedule in accordance with the due date specified by the Department. Revised submittals are also subject to approval, approval with conditions and/or modifications, or disapproval by the Department following these approval procedures. Failure to meet the timeframes contained herein is subject to stipulated penalties as set forth in paragraph 12 below. Any revised submittal that is not approved or is not approved with conditions and/or modifications is considered noncompliant with the terms of this Order and is subject to stipulated penalties as set forth in paragraph 12 below. Upon receipt of the Department's written approval, or approval with conditions and/or modifications, Respondent shall implement the plans or reports in accordance with the schedule and provisions contained therein", rather than inserting the statement in each applicable paragraph.

11. Within 180 days of the effective date of this Amended Order, Respondent shall submit to the Department an updated written estimate of the total cost of the corrective actions in Subparagraphs 6(q) through 6(s). Each written estimate shall identify the information Respondent relied upon to provide the estimate.

12. Respondent agrees to pay to the Department stipulated penalties in the amount of \$1,000.00 per day for each and every day Respondent fails to comply with paragraphs 6 through 11 and 33 of this Amended Order.

13. For each day an unauthorized discharge from the Facility or the Collection System occurs during the effective period of this Amended Order, that does not qualify as Excusable Discharges as defined in subparagraph 13.b) below, Respondent agrees to pay stipulated penalties as follows:

a)	<u>Amount per day per Discharge</u>	<u>Discharge Volume</u>
	\$1000.00	Up to 5,000 gallons
	\$2,000.00	5,001 to 10,000 gallons
	\$5,000.00	10,001 to 25,000 gallons
	\$10,000.00	25,001 to 100,000 gallons
	\$15,000.00	In Excess of 100,000 gallons

b) If the Department elects to pursue this stipulated penalty option, the Department will evaluate each spill on a case by case basis to determine whether the spill was beyond Respondent's reasonable control; whether Respondent is exercising prudent wastewater utility practices to reduce the frequency of spills; and whether Respondent took timely and appropriate actions to reduce the environmental impact of the spill(s). A stipulated penalty will be applied to any spill where Respondent fails to provide the Department with sufficient information to demonstrate that the spill qualifies as an Excusable Discharge. For the purposes of this Order, an Excusable Discharge is a spill that resulted from a temporary, infrequent incident that was beyond the reasonable control of Respondent.

Excusable Discharges include, but are not limited to the following:

- i) Extraordinary acts of nature, including but not limited to, rainfall equal to or 6 inches of rain in a 24-hour period, hurricanes, tropical storms, extreme high-tide events, tornadoes, wildfires, lightning strikes, or events where a State of Emergency is declared;
- ii) Actions by third parties unrelated to Respondent, including construction accidents, vehicular accidents, or vandalism; actions related to a contractor acting on behalf of Respondent is not an Excusable Discharge;
- iii) Blockages that could not be prevented by reasonable measures and due diligence;
- iv) Unexpected sudden structural, mechanical, or electrical failure that could not be avoided by reasonable measures and due diligence; and
- v) Spills that are attributable to parts of the Collection System that are undergoing rehabilitation that could not be avoided by reasonable measures and due diligence.

14. The Department may demand stipulated penalties on an annual basis at any time after violations occur beginning upon the effective date of this Amended Order. Respondent shall pay stipulated penalties owed within 60 days of the Department's issuance of written demand for payment and shall do so as further described in paragraph 21, below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Amended Order. Any stipulated penalties assessed under this Paragraph shall be in addition to civil

penalties agreed to in Paragraph 15 and 17 of this Amended Order. A demand for stipulated penalties does not prevent the Department from pursuing other statutory relief, such as damages or injunctive relief. In addition, if a stipulated penalty is not applied pursuant to paragraph 13 above, the Department may pursue all statutory relief, including civil or administrative penalties.

15. For the violations listed in paragraph 4. a) beginning on 3/31/14 and ending on 8/31/17, Respondent shall pay \$339,577.00. This amount includes \$334,577.00 for civil penalties and \$5,000.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of the First Order.

16. In lieu of making cash payment of \$334,577.00 in civil penalties as set forth in Paragraph 15 above, Respondent has elected to off-set this amount by implementing an in-kind penalty project, attached hereto and incorporated herein as Exhibit F, which was approved by the Department (hereinafter In-Kind One) Respondent shall comply with all the requirements and time frames in Exhibit D entitled In-Kind Projects for In-Kind One.

17. For the violations listed in paragraph 4. a) during the period of 12/10/19 through 2/14/20, Respondent shall pay the Department \$2,116,500 within 90 days of the effective date of this Amended Order. This amount includes \$371,500 in stipulated penalties, \$1,740,000 for civil penalties and \$5,000.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Amended Order.

18. In lieu of making cash payment of \$2,111,500 in civil penalties as set forth in paragraph 17 above, Respondent may elect to offset this amount by implementing an in-kind penalty project, which must be approved by the Department. An in-kind project must be either an environmental enhancement or an environmental restoration project and may not be a corrective action requirement of the Amended Order or otherwise required by law. The Department may also consider the donation of environmentally sensitive land as an in-kind project. The value of the in-kind penalty project shall be one and a half times the civil penalty off-set amount, which in this case is the equivalent of at least \$3,167,250. If Respondent chooses to implement an in-kind project, Respondent shall notify the Department of its election by certified mail within 30 days of the effective date of this Amended Order. Notwithstanding the election to implement an in-kind project, payment of the remaining \$5,000 in costs must be paid within 30 days of the effective date of the Amended Order.

19. If Respondent elects to implement an in-kind project as provided in paragraph 18, then Respondent shall comply with all the requirements and time frames in Exhibit E entitled "In-Kind Projects for In-Kind Two."

20. In the event that Respondent elects to off-set civil penalties including stipulated penalties by implementing an in-kind penalty project which is approved by the Department, during the period that this Order remains in effect or during the effective date of any Department issued Permit to Respondent whichever is longer (Prohibited Transfer Duration), Respondent shall not transfer or use funds obtained by the Respondent from the collection of sewer rates for any purpose not related to the management, operation, or maintenance of the Sewer System or to any capital improvement needs of the Sewer System (hereinafter, Prohibited Transfer). Respondent shall annually certify to the Department using the Annual Certification Form located in Exhibit E to this Order that no Prohibited Transfer has occurred. In the event of any Prohibited Transfer, the In-Kind project option shall be forfeited, and entire civil penalty shall immediately become due and owing to the Department irrespective of any expenditures by the Respondent in furtherance of the In-Kind project.

21. Respondent shall make all payments required by this Amended Order by cashier's check, money order, City check or on-line payment. Cashier's check, money order, or City check shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Amended Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal: <http://www.fldepportal.com/go/pay/>. It will take several days after this Order is final, effective, and filed with the Clerk of the Department before ability to make online payment is available.

22. Except as otherwise provided, all submittals required by this Order shall be submitted via email at sed.wastewater@dep.state.fl.us, or sent to Wastewater Compliance Assurance Program, Department of Environmental Protection, 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406.

23. Respondent shall allow all authorized representatives of the Department access to the Facilities and the Properties at reasonable times for the purpose of determining compliance with the terms of this Amended Order and the rules and statutes administered by the Department.

24. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay in

complying with the requirements of this Amended Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines shall be considered circumstances beyond the control of Respondent (unless the cause of the contractor's late performance was also beyond the contractor's control). Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department by the next working day of the event and shall, within seven calendar days, notify the Department in writing of (a) the anticipated length and cause of the delay, (b) the measures taken or to be taken to prevent or minimize the delay, and (c) the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The agreement to extend compliance must identify the provisions extended, the new compliance date or dates, and the additional measures Respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

25. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Amended Order, hereby waives its right to seek judicial imposition of damages or civil penalties for the violations described above up to the date of the filing of this Amended Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Amended Order.

26. This Amended Order is a settlement of the Department's civil, administrative, and delegated authority arising under Chapter 403, Florida Statutes, to resolve the matters addressed herein. This Amended Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Amended Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

27. The Department hereby expressly reserves the right to initiate appropriate legal

action to address any violations of statutes or rules administered by the Department that are not specifically resolved by this Amended Order.

28. Respondent is fully aware that a violation of the terms of this Amended_Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per day per violation, and criminal penalties.

29. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, F.S., on the terms of this Order other than a dispute as described in paragraph 6(l). Respondent also acknowledges and waives its right to appeal the terms of this Order pursuant to section 120.68, F.S.

30. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

31. The terms and conditions set forth in this Amended_Order may be enforced in a court of competent jurisdiction pursuant to sections 120.69 and 403.121, F.S. Failure to comply with the terms of this Order constitutes a violation of section 403.161(1)(b), F.S.

32. This Amended Order is a final order of the Department pursuant to section 120.52(7), F.S., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition, this Amended Order will not be effective until further order of the Department.

33. Respondent shall publish the following notice in a newspaper of daily circulation in Broward County, Florida. The notice shall be published one time only within 15 days of the effective date of the Amended_Order. Respondent shall provide a certified copy of the published notice to the Department within 10 days of publication.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF CONSENT AGREEMENT

The Department of Environmental Protection ("Department") gives notice of agency action of entering into an Amended Consent Order with the City of Fort Lauderdale, pursuant to

section 120.57(4), Florida Statutes. The Amended Consent Order addresses alleged unpermitted wastewater and effluent discharges from the City's wastewater facilities and associated wastewater collection/transmission systems to State waters, and the implementation plan to minimize further discharges. The Amended Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, Southwest District Office, 13051 North Telecom Parkway, Temple Terrace, Florida 33637-0926.

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

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

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

The petition must be filed (received) at the Department's Office of General Counsel, 3900

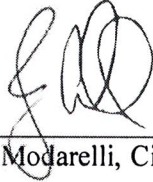
Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at Florida Department of Environmental Protection, Southwest District Office, 13051 North Telecom Parkway, Temple Terrace, Florida 33637-0926. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under sections 120.569 and 120.57, Florida Statutes. Before the deadline for filing a petition, a person whose substantial interests are affected by this Amended Consent Order may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in section 120.573, Florida Statutes and Rule 62-110.106(12), Florida Administrative Code.

34. Rules referenced in this Order are available at:

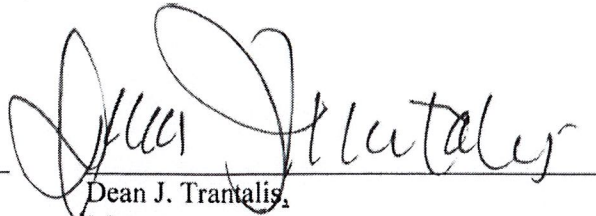
<https://floridadep.gov/ogc/ogc/content/rules>.

CITY OF FORT LAUDERDALE

ATTEST:




Jeffrey A. Modarelli, City Clerk
City Clerk



Dean J. Trantalis,
Mayor

(SEAL)



Chris Lagerbloom,
City Manager

Approved as to Legal Form



Alain E. Boileau,
City Attorney

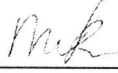
DONE AND ORDERED this 12th day of October, 2020, in Orange County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Jason Andreotta
District Director
Southeast District

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



Clerk

October 12, 2020
Date

Copies furnished to:
Lea Crandall, Agency Clerk

Mail Station 35

EXHIBIT A

Phase I Projects

Project #	Phase I Project Name	Description	Preliminary Cost Estimate
454-P12124.454-6599	Central Beach Alliance PSD41	Replace pump station #PSD41	\$2,200,000
454-P12202.454-6599	Pump Station D-11	Flow analysis & design for pump station rehabilitation	\$500,000
454-P12133.454-6599	Pump Station A-13	Redirect E of F for pump station A-13	\$2,100,000
454-P11879.454-6599	Pump Station A-10	Rehabilitate pump station A-10	\$1,500,000
454-P11881.454-6599	Pump Station D-45	Replace pump station D-45	\$525,000
Preliminary Cost Estimate for Phase I Projects listed here			\$6,825,000

EXHIBIT B

Phase I Projects

Project #	Phase I Project Name	Description	Preliminary Cost Estimate
454-P11563.454-6599	Victoria Park Sewer Basin A-19	Rehabilitate main line sewers, manholes, and service laterals to reduce infiltration & inflow	\$5,352,000
454-P11566.454-6599	Rio Vista Sewer Basin D-43	Rehabilitate main line sewers, manholes, and service laterals to reduce infiltration & inflow	\$2,960,000
454-P11991.454-6599	Downtown Pump Station A-7	Rehabilitate main line sewers, manholes, and service laterals to reduce infiltration & inflow	\$8,224,000
454-P12049.454-6599	Flagler Heights Sewer Basin A-21	Rehabilitate main line sewers, manholes, and service laterals to reduce infiltration & inflow	\$883,000
454-P12055.454-6599	Sewer Basin A-18	Rehabilitate main line sewers, manholes, and service laterals to reduce infiltration & inflow	\$4,198,000
454-P12001.454-6599	Sewer Basin D-40	Rehabilitate main line sewers, manholes, and service laterals to reduce infiltration & inflow	\$100,000
Preliminary Cost Estimate for Phase I Projects listed here			\$21,717,000

EXHIBIT C

Phase II Projects

Phase II Project Name	Description	Preliminary Cost Estimate*
NE 25 th Ave. 24" Force Main	Replace or rehabilitate approx. 5,500 feet of RCP force main along NE 25 th Ave.	\$6,387,000
NE 38 th St & NE 19 th Street 42" Force Main	Replace or rehabilitate approx. 8,000 feet of DIP force main along NE 38 th Street, and install 3,000 feet of new 24" force main along NE 19 th Street	\$9,326,000
NW 5 th St., NW 9 th Ave., & W. Sistrunk Blvd. 30" Force Main	Replace or rehabilitate approx. 12,000 feet of CIP force main along NW 5 th St. & NW 9 th Ave., and install 6,000 feet of new 24" force main along Sistrunk Blvd.	\$11,769,000
Redundant Sewer Force Main South	Install 15,000 feet of new redundant 54-inch force main from approx. 900 feet south of the intersection of East Sunrise Blvd. and NE 15 th Ave. to the intersection of SE 10 th Ave. and SE 18 th St.	\$36,059,000
Rehabilitation of 48/54-Inch Force Main Replacement on SE 9 th and 10 th Avenues to GTL	Rehabilitation or replacement of approx. 19,400 feet of the existing 48-inch to 54-inch force main along SE 9 th and 10 th Avenues to GTL WWTP.	\$23,050,000
Treatment Plant to Injection Wells Effluent Force Main	Replace or rehabilitate the PCCP effluent force main leading from the G.T. Lohmeyer facility to the deep injection wells	\$3,142,000
NW 13 th Ave. 24" Force Main	Replace or rehabilitate approx. 3,300 feet of CIP force main along NW 13 th Ave.	\$1,914,000
NE 9 th St. to Birch Rd River Crossing 18" Force Main	Replace or rehabilitate approx. 1,000 feet of DIP force main river crossing from NE 9 th Street to Birch Road	\$434,000
Preliminary Cost Estimate for Phase II Projects listed here*		\$57,628,000 \$92,081,000

* Preliminary costs assume complete replacement. The Force Main Assessment will determine work to be done on each project.

EXHIBIT D

In-Kind Projects for In-Kind One

A. Within sixty (60) days of the effective date, the City shall submit, by certified mail, a detailed in-kind project proposal to the Department for evaluation. The proposal shall include a summary of benefits, proposed schedule for implementation and documentation of the estimated costs which are expected to be incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the in-kind project.

B. If the Department requests additional information or clarification due to a partially incomplete in-kind project proposal or requests modifications due to deficiencies with Department guidelines, The City shall submit, by certified mail, all requested additional information, clarification, and modifications within fifteen (15) days of receipts of written notice.

C. If upon review of the in-kind project proposal, the Department determines that the project cannot be accepted due to a substantially incomplete proposal or due to substantial deficiencies with minimum Department guidelines; The City shall be notified, in writing, of the reason(s) which prevent the acceptance of the proposal. The City shall correct and redress all of the matters at issue and submit, by certified mail, a new proposal within thirty (30) days of receipt of written notice. In the event that the revised proposal is not approved by the Department, The City shall make cash payment of the civil penalties as set forth in Paragraph 15 of this Amended Order, within thirty (30) days of Department notice.

D. Within one-hundred twenty (120) days of the Effective Date, the City shall obtain approval for an in-kind project from the Department. If an in-kind project proposal is not approved by the Department within one-hundred twenty (120) days of the Effective Date, then The City shall make cash payment of the civil penalties as set forth in Paragraph 15 of this Amended Order, within thirty (30) days of Department notice.

E. Within one-hundred eighty (180) days of obtaining Department approval for the in-kind proposal or in accordance with the approved schedule submitted pursuant to Paragraph A above, The City shall complete the entire in-kind project.

F. During the implementation of the in-kind project, The City shall place appropriate sign(s) at the project site indicating that The City's involvement with the project is the result of a

Department enforcement action. The City may remove the sign(s) after the project has been completed. However, after the project has been completed the City shall not post any sign(s) at the site indicating that the reason for the project was anything other than a Department enforcement action.

G. In the event the City fails to timely submit any requested information to the Department, fails to complete implementation of the in-kind project or otherwise fails to comply with any provision of this paragraph, the in-kind penalty project option shall be forfeited and the entire amount of civil penalties shall be due from the City to the Department within thirty (30) days of Department notice. If the in-kind penalty project is terminated and The City timely remits the \$334,577.00 penalty, no additional penalties shall be assessed under Paragraph 15 of this Amended Order for failure to complete the requirement of this paragraph.

H. Within fifteen (15) days of completing the in-kind project, the City shall notify the Department, by certified mail, of the project completion and request a verification letter from the Department. The City shall submit supporting information verifying that the project was completed in accordance with the approved proposal and documentation showing the actual costs incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the project.

I. If upon review of the notification of completion, the Department determines that the project cannot be accepted due to a substantially incomplete notification of completion or due to substantial deviations from the approved in-kind project, The City shall be notified, in writing, of the reason(s) which prevent the acceptance of the project. The City shall correct and redress all of the matters at issue and submit, by certified mail, a new notification of completion within fifteen (15) days of receipt of the Department's notice. If upon review of the new submittal, the Department determines that the in-kind project is still incomplete or not in accordance with the approved proposal, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalty shall be due from the City to the Department within thirty (30) days of Department notice. If the in-kind penalty project is terminated and the City timely remits the \$334,577.00, no additional penalties shall be assessed under Paragraph 15 of this Amended Order for failure to complete the requirements of this paragraph.

EXHIBIT E

In-Kind Projects for In-Kind Two

I. Introduction

Proposal

a. Within 60 days of the effective date of the Amended Order, Respondent shall submit, by certified mail, a detailed in-kind project proposal to the Department for evaluation. The proposal shall include a summary of benefits, proposed schedule for implementation and documentation of the estimated costs which are expected to be incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the in-kind project.

Proposal Certification Form

b. On the anniversary date of the Department's approval of the in-kind project proposal, for the term of this Consent Order or the term of the Respondent's permit, whichever is longer, the Respondent shall annually submit to the Department a Certification by notarized affidavit from a senior management official for the City of Fort Lauderdale who shall testify as follows:

Annual Certification Form

My name is _____ (print or type name of senior management official) and do hereby testify under penalty of law that:

A. I am a person with management responsibilities for the City of Fort Lauderdale budget and finances. During the twelve-month period immediately preceding the notary date on this Certification, there has not been any transfer or use of funds obtained by the City of Fort Lauderdale from the collection of sewer rates for any purpose not related to the management, operation, or maintenance of the Sewer System or to any capital improvement needs of the Sewer System.

B. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowingly submitting false information in this certification.

Sworn to and subscribed before me, by means of physical presence or online notarization, this ____ day of _____, 20__ by

Personally, known or by Production of the following Identification _____

Notary Public, State of Florida

Printed/typed or stamped name:

My Commission Expires:

Commission/Serial No.:

c. If the Department requests additional information or clarification due to a partially incomplete in-kind project proposal or requests modifications due to deficiencies with Department guidelines, Respondent shall submit, by certified mail, all requested additional information, clarification, and modifications within 15 days of receipts of written notice.

d. If upon review of the in-kind project proposal, the Department determines that the project cannot be accepted due to a substantially incomplete proposal or due to substantial deficiencies with minimum Department guidelines; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the proposal. Respondent shall correct and redress all the matters at issue and submit, by certified mail, a new proposal within 30 days of receipt of written notice. In the event that the revised proposal is not approved by the Department, Respondent shall make cash payment of the civil penalties as set forth in paragraph 17 above, within 30 days of Department notice.

e. Within 120 days of the effective date of the Amended Order, or, of the Department's notification that applying stipulated penalties to an in-kind project is acceptable Respondent shall obtain approval for an in-kind project from the Department. If an in-kind project proposal is not approved by the Department within 120 days of the effective date of this Amended Order, then Respondent shall make cash payment of the civil penalties as set forth in paragraph 17 of this Amended Order, within 30 days of Department notice.

f. Within 180 days of obtaining Department approval for the in-kind proposal or in accordance with the approved schedule submitted pursuant to paragraph 2(a) above, Respondent shall complete the entire in-kind project.

g. During the implementation of the in-kind project, Respondent shall place appropriate sign(s) at the project site indicating that Respondent's involvement with the project is the result of a Department enforcement action. Respondent may remove the sign(s) after the project has been completed. However, after the project has been completed Respondent shall not post any sign(s) at the site indicating that the reason for the project was anything other than a Department enforcement action.

h. In the event, Respondent fails to timely submit any requested information to the Department, fails to complete implementation of the in-kind project or otherwise fails to comply with any provision of this paragraph, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalties shall be due from the Respondent to the Department within 30 days of Department notice. If the in-kind penalty project is terminated and Respondent timely remits the \$2,111,500 penalty, no additional penalties shall be assessed under paragraph 17 for failure to complete the requirement of this paragraph.

i. Within 15 days of completing the in-kind project, Respondent shall notify the Department, by certified mail, of the project completion and request a verification letter from the Department. Respondent shall submit supporting information verifying that the project was completed in accordance with the approved proposal and documentation showing the actual costs incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the project.

j. If upon review of the notification of completion, the Department determines that the project cannot be accepted due to a substantially incomplete notification of completion or due to substantial deviations from the approved in-kind project; Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the project. Respondent shall correct and redress all the matters at issue and submit, by certified mail, a new notification of completion within 15 days of receipt of the Department's notice. If upon review of the new submittal, the Department determines that the in-kind project is still incomplete or not in accordance with the approved proposal, the in-kind penalty project option shall be forfeited, and the entire amount of civil penalty shall be due from the Respondent to the Department within 30 days of Department

notice. If the in-kind penalty project is terminated and Respondent timely remits the \$ 2,111,500, no additional penalties shall be assessed under paragraph 17 for failure to complete the requirements of this paragraph.

EXHIBIT F

In-Kind One



November 22, 2017

Wastewater Compliance Assurance Program
Department of Environmental Protection
3301 Gun Club Road – MSC 7210-1
West Palm Beach, FL 33406

Re: Fort Lauderdale Consent Order OGC No. 16-1487 In-Kind Project Proposal

On September 29th, 2017, we received the fully executed Consent Order for OGC File 16-1487 which outlines the City's obligations within the order. Paragraph 13 and Exhibit D allows for implementation of an in-kind project, with a value of at least \$501,865.50, in lieu of making cash payment for civil penalties. This project must be an environmental enhancement, environmental restoration, or a capital/facility improvement project.

The City proposes to construct a new pressurized force main that will connect Pump Station D-37 on Lido Drive to a newly installed subaqueous force main that ~~crosses the Intracoastal Waterway.~~ When complete, this enhancement will provide the ability to convey wastewater between the large diameter transmission force mains on both sides of the IntraCoastal Waterway in order to deliver it to the George T. Lohmeyer Wastewater Treatment Plant. The ability to redirect flows from the Las Olas Isles area to the easternmost transmission force main on the barrier island will allow better balancing of flows throughout the system and reduce risk from excessive flow/pressure in the central portion of the City. Furthermore, it provides the ability to take several large diameter force mains out of service for maintenance/rehabilitation efforts without impacting overall operations.

The project includes installation of approximately 3,100 linear feet of 16-inch force main under Las Olas Boulevard from Pump Station D-37 to the Intracoastal Waterway, as well as connecting Pump Station D-38 to the new HDPE line and the rehabilitation/upgrading of the station's wet well, electrical panels, and pumps.

New Project: Installation of New 3,100 LF of 16-inch HDPE, D-9 Force Main from Pump Station D-37 to the Intracoastal Waterway, and modification of PS D-38. (Attached Map Exhibit 1)

Background:

The Las Olas Isles section of the City includes 26 smaller pump stations that collect gravity flows from the Las Olas Isles area and connect the flows to Pump Station D-37. The flows are then routed west toward the downtown area and ultimately, to a 48-inch

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diameter sewer transmission main and the George T. Lohmeyer Wastewater Treatment Plant (GTL).

Historical records show that the Las Olas Isles sewer system (basin) is operating at maximum capacity. The collection system is a gravity pipe that consists mostly of vitrified clay pipes that are highly susceptible to Inflow and Infiltration (I/I). This has been exacerbated by king tides, and rain stormwater inducing water into the manholes and pumping stations, and causing manhole covers to overflow. The following characteristics apply to Las Olas Isles:

- High Inflow and Infiltration (I/I) due to king tides
- High Inflow and Infiltration (I/I) due to stormwater events (rain)
- High ground water (hence more Inflow and Infiltration (I/I) into the system)
- Older gravity collection system (vitrified clay pipes)
- Longer run times in pumping stations
- Intensive multi-story residential development (Isle of Venice and Hendricks Isle)
- Increased demand on the system

With all wastewater flow from the Las Olas Isles currently directed west toward the Downtown area, it presents many different challenges. The Downtown area is experiencing tremendous growth, with more than 40 high rise projects in the Downtown and Flagler Village. Based on economic studies, the City expects further growth and development along the Andrews Avenue corridor as well as the Federal Highway corridor from Broward Boulevard to Sunrise Boulevard. This development will increase sewage flows into all pumping stations and force mains in these areas. A new pump station, A-13 (capacity about 1.0 MGD) is under construction and will support several of these high rise developments.

This In-kind project will allow rerouting of flows from the Las Olas Isles toward the barrier island and ultimately to GTL, as well as providing a secondary path for flows from the downtown area.

Project Benefits. The following are tangible benefits from the proposed project:

- Provides redundancy to the older sewer system at Las Olas Isles basin
- Redirects flow easterly to the 24-inch sewer main at the barrier island with reduced flows in the Downtown area
- Reduces pump run times at 26 pump stations with reduced risk SSOs in the Las Olas Isles area
- Prevent manholes overflow (bubbling) along East Las Olas boulevard
- Accommodates added flows from increased high tide Inflow and Infiltration (I/I)
- Accommodates added flows due to stormwater (rain)
- Provide the sewer system in the Downtown area with added capacity, to accommodate new demands and real estate developments
- Reduce flows on the 48-inch sewer main transmission line to GTL

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- Reduce pump run times in the Downtown areas, including A-7 and A-13 (under construction)
- Provides a back-up redundant method to reroute flows during major pipe breaks

Project Definition/Scope of Work (SOW): This project involves installation of approximately 3,100 linear feet of 16-inch diameter HDPE DR-9 force main, including two valves under the Las Olas Bridge, to connect Pump Station D-37 to the Intracoastal Waterway. The scope also include connecting Pump Station D-38 to the new HDPE line and the rehabilitation/upgrading of the station's wet well, increasing pump sizes, and electrical panels. The benefit of the D-38 work would be to remove approximately 1,200 gallons per minute of peak flow from the overloaded East Las Olas gravity trunk line, which would prevent any future sanitary sewer overflows at the Seven Isles and Nurmi manholes, both of which have a long history of overflows and concerns from FDEP and Broward County.

- All pipe sections: 16-inch diameter HDPE DR-9 sewer pipe and fittings
- Associated flow control valves - one at D-37 and one at ICW
- Construction Method: Directional Drilling or Pipe Bursting
- Associated air release valves
- Associated manholes and covering
- All work shall be done by insured contractors, with bonding
- All design work shall be done with board licensed/registered professionals.

Project Schedule: This project shall be fast tracked to ensure quick completion. This may be accomplished via the Design/Build method utilizing directional drilling technologies. The estimated completion date for the In-Kind Project is April 17, 2020. (See Exhibit 2-Schedule)

Construction - "Directional Drilling method": To expedite construction and minimize the impact and disruption of an "open cut" construction method along East Las Olas Boulevard, it is recommended that this pipe be installed via the directional drilling method, utilizing High Density Polyethylene (HDPE) pipe inserts. HDPE has to be fusion welded on site, and must be capable of sustaining the design pressure for the flow.

Project Finances and Estimated Costs:

- This project is not included in the current Capital Improvement Program (FY2018 – FY2023)
- This project construction costs are to be financed through the Consent Order and a Year 2018 Bond Issue.
- The costs for installation of 3,100 LF of 30-inch HDPE force main and modification of Pump Station D-38, is about \$3.0 million (See Attached Exhibit 3 - Opinion of Probable Costs)

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The City believes this capital improvement project will substantially improve the reliability and flexibility of the system to adjust wastewater flows and we recommend that this project proposal is considered as the In-kind requirement for the Consent Order. We kindly seek your approval to proceed with fast tracked design and construction.

Attachment:

- Exhibit 1 (Phase II Map)
- Exhibit 2 (Schedule)
- Exhibit 3 (Opinion of Probable Costs)

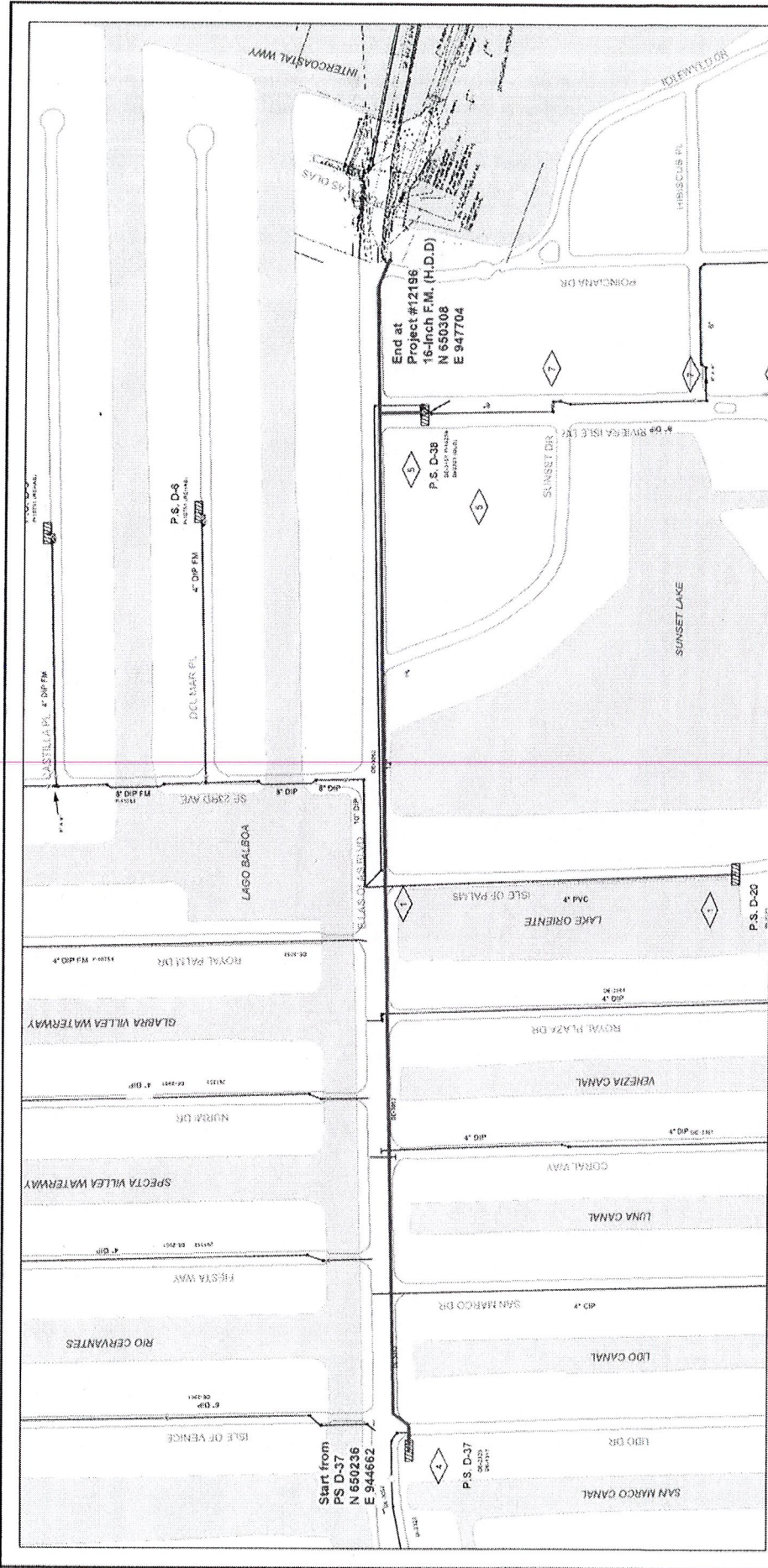
Paul Berg
Public Works Director
City of Fort Lauderdale

cc: Lee Feldman, City Manager
Christopher Lagerbloom, Assistant City Manager
Alan Dodd, P.E., Deputy Public Works Director
Talal Abi-Karam, P.E., Assistant Public Works Director
Rhonda M Hasan, Assistant City Attorney
Michael Bechtold, Florida Department of Environmental Protection
Konstantin Dubov, Florida Department of Environmental Protection

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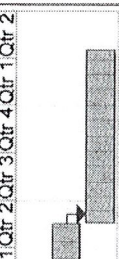


NEW 16-INCH HDPE DR-9 FORCE MAIN FROM PUMP STATION D-37 TO INTERCOASTAL WATERWAY

Notes:
 New force main to the east will provide redundancy and redirect the flow to the 24" sewer main on the beach.
 This will also relieve the sewer flow in the downstream area, PS A-13, and increase capacity of the 48" transmission main to the west.
 The total length of the highlighted force main is approximately 3,100 feet.

Date: 10/12/2017, A:\w\GIS_Maps\104_maps\LasOlasNewForceMain.mxd

ID	Task Name	Duration	Start	Finish	Predecessors	Resource Names	1st Half	2nd Half	1st Half	2nd Half	1st Half	2nd Half	
							Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2
1	Design and Permitting	240 days	Mon 1/1/18	Fri 11/30/18									
2	Bidding and Contract Award	120 days	Mon 12/3/18	Fri 5/17/19	1								
3	Construction	240 days	Mon 5/20/19	Fri 4/17/20	2								



Project: Las Olas Force Main and PS I
Date: Wed 11/22/17

Task	Milestone	External Tasks
Split	Summary	External Milestone
Progress	Project Summary	Deadline

Phase II Las Olas Force Main Replacement and Modification to PS D-38 (In-Kind Project)					
Item no.	Description of Item	Unit Qty.	Unit	Cost Per Unit.	Total cost of Item
Project 3: 3100 LF of 16" HDPE DR-9 FM and Pump Station D-38 Rehabilitation					
1	General Conditions/ Mobilization and Demobilization	1	LS	\$ 65,000.00	\$65,000.00
2	Maintenance of Traffic (MOT)	1	LS	\$ 100,000.00	\$100,000.00
3	Erosion Control	1	LS	\$ 25,000.00	\$25,000.00
4	Engineering Design, Survey and Permitting	1	LS	\$ 350,000.00	\$350,000.00
5	16" Control Valves	2	EA	\$ 35,000.00	\$70,000.00
6	Permitting Allowances	1	AL	\$ 75,000.00	\$75,000.00
7	Directional Drill - 16" FM HDPE	3100	LF	\$ 350.00	\$1,085,000.00
8	Furnish HDPE Pipe - 16" FM	3100	LF	\$ 125.00	\$387,500.00
9	Open-Cut Installation	200	LF	\$ 600.00	\$120,000.00
10	Connection to Existing Force Main	2	EA	\$ 11,750.00	\$23,500.00
11	FM Fittings	1	LS	\$ 50,000.00	\$50,000.00
12	Pavement Restoration and Appurtenances	1	LS	\$ 150,000.00	\$150,000.00
13	D-38 Wet Well Rehabilitation	1	LS	\$ 40,000.00	\$40,000.00
14	D-38 Motor Upgrades	1	LS	\$ 100,000.00	\$100,000.00
15	D-38 Electrical Panel Upgrades	1	LS	\$ 35,000.00	\$35,000.00
15	D-38 Permitting, Design and Modelling Services	1	LS	\$ 50,000.00	\$50,000.00
Project Subtotal:					\$2,726,000.00
Contingencies (10%):					\$272,600.00
<i>Project Total:</i>					<i>\$2,998,600.00</i>