

ORDINANCE NO. 170723

Authorizing the City Manager to execute a Second Amendment to Consent Decree with the United States of America concerning the City's approved Overflow Control Program to modify the scope and schedule of implementation for certain control measures.

WHEREAS, the United States of America ("United States") and the City of Kansas City, Missouri ("City") (collectively "Parties") are parties to a Consent Decree dated September 27, 2010 ("Decree"); and

WHEREAS, the Parties previously agreed to amend the Decree to reflect certain modifications to the substantive requirements and implementation schedules and that an Amendment to Consent Decree reflecting that agreement was entered by the court on January 9, 2015; and

WHEREAS, the City has now proposed specific changes to the scope and timing of six control measures required by the Decree (as amended) to enhance the efficient deployment of funding and personnel with adjustments to construction sequencing and facility sizing and by leveraging opportunities to simultaneously improve and protect the City's drinking water distribution system; and

WHEREAS, the Parties agree that the proposed modifications to the six control measures will provide for greater and/or more cost-effective reductions in overflows upon completion of each of the modified control measures and thereafter, as compared to the overflow volumes contemplated by the Decree (as amended); and

WHEREAS, all six of the control measure revisions reflect good engineering practice and are designed to enable the City to meet the required performance criteria of the Decree (as amended), and that the schedule adjustments are necessary in light of the individual scope, cost, and approach changes that the City has faced for each of the six control measures; and

WHEREAS, these control measure refinements will meet the requirements of the Decree (as amended) as expeditiously as possible, are consistent with the fundamental principles of the City's approved Overflow Control Plan, and reflect sound stewardship of public dollars by leveraging the implementation of the control measures to achieve other environmental benefits; and

WHEREAS, tentative agreement has been reached between the Parties which requires that the City execute the proposed Second Amendment to Consent Decree to allow the amendment to be forwarded to the appropriate officials within the Department of Justice and the Environmental Protection Agency for review, approval and execution; and

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WHEREAS, the City Council is prepared to authorize execution of the proposed Second Amendment to Consent Decree to memorialize the changes outlined herein; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That the City Council authorizes the City Manager, on behalf of the City, to execute a proposed Second Amendment to Consent Decree with the United States concerning the City's approved Overflow Control Program to modify the scope and schedule of implementation for certain control measures, all consistent with this ordinance.

Approved as to form and legality:

Matthew Gigliotti
Assistant City Attorney