

GENERAL

Ordinance Fact Sheet

Ordinance Number

Brief Title:

Authorizing execution of a non-material modification to the Consent Decree with the United States concerning the Overflow Control Program (OCP).

Approval Deadline:

Reason:

To modify the schedule of implementation for certain control measures.

Details

Positions / Recommendations

<p>Reason for Legislation</p> <p>Authorizing the Acting City Manager to execute a non-material modification to the consent decree with the United States of America concerning the City's approved Overflow Control Program to modify the schedule of implementation for certain control measures.</p>	<p>Sponsor(s) Cecilia Abbott, City Attorney</p>	
	<p>Programs, Departments, or Groups Affected Water Services Department, Law Department</p>	
<p>Discussion <i>(including relationship to other Council actions)</i></p> <p>The United States of America and the City are parties to a Consent Decree dated September 27, 2010 ("Decree"). Pursuant to Ordinance No. 100280, City Council approved the execution of the existing decree. The Parties agreed to an Amendment to Consent Decree, which was approved by the US District Court on January 9, 2015. Pursuant to Ordinance No. 140679, City Council authorized the execution of the Amendment to Consent Decree. The Parties agreed to a Second Amendment to Consent Decree which was approved by the US District Court on January 9, 2018. Pursuant to Ordinance No. 170723, City Council authorized the execution of the Second Amendment to Consent Decree.</p> <p>Appendix A to the Decree requires the construction of a 4 million gallon per day pump station and the installation of an automated gate in the existing Gooseneck Arch Sewer located within the Northeast</p>	<p>Applicants/Proponents</p>	<p>Applicant</p> <p>City Department</p> <p>Other</p>
	<p>Opponents</p>	<p>Groups or Individuals</p> <p>Basis of Opposition</p>
	<p>Staff Recommendation</p>	<p>9 For 9 Against Reasons Against:</p>
	<p>Board or Commission Recommendation</p>	<p>9 For 9 Against 9 No Action Taken 9 For, with revisions or conditions</p>
	<p>Council Committee Action</p>	<p>9 Do Pass 9 Do Pass (as amended)</p>

<p>Industrial District Basin by December 31, 2019, with an associated date of post-construction monitoring plan submission of December 31, 2020, and the construction of green infrastructure projects located within the Northeast Industrial District Basin by December 31, 2020 (the “Control Measures”).</p> <p>Continuing elevated levels on the Missouri and Blue Rivers have significantly impacted the City’s ability to meet the implementation deadlines for the Control Measures</p> <p>Pursuant to section XIV of the Decree, the City provided notice, by letter dated September 30, 2019, to the United States that the prolonged elevated flood levels on the Missouri and Blue Rivers had substantially impacted the delivery of the Control Measures, such that the City had appreciated a force majeure event.</p> <p>The Decree provides that if the United States agrees that a force majeure event has occurred, the United States shall provide an extension of time for the City to complete the Control Measures and that the Parties shall memorialize the extension through a non-material modification pursuant to section XXV of the decree.</p> <p>Tentative agreement has been reached between the Parties which provides that the Control Measures shall be realigned to have an implementation deadline of December 31, 2021.</p> <p>This ordinance authorizes the Acting City Manager to sign the non-material modification for the City to memorialize the schedule extension.</p>			<p>9 Committee Substitute</p> <p>9 No Recommendation</p> <p>9 Hold</p> <p>9 Do Not Pass</p>
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Details**Policy / Program Impact**

Is it good for the children? Yes. How will this contribute to a sustainable Kansas City? The consent decree promotes green solutions in lieu of gray infrastructure and the OCP improves water quality in City streams and reduces sewer overflows. The additional time to implement the construction of green infrastructure projects located within the Northeast Industrial District Basin will ensure that the project is better positioned to be completed free from the effects of an “act of god.”		Policy or Program Change	9 No 9 Yes
		Operational Impact Assessment	none
		Finances	
		Cost and Revenue Projections	Cost of Legislation none Increase/Decrease in Revenue Expected Annually none
		Fund Sources	

Applicable Dates:**Fact Sheet Prepared By:**

Matt Gigliotti, Deputy City Attorney

Reviewed By:

Cecilia Abbott, City Attorney