

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers
FROM/PHONE: Monroe Kiar/Daniel Colabella - 433-4024
SUBJECT: Resolution

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO ENTER INTO AN AMENDMENT TO THE LARGE USER WASTEWATER AGREEMENT BETWEEN THE CITY OF FORT LAUDERDALE AND THE TOWN OF DAVIE; AND PROVIDING AN EFFECTIVE DATE.

REPORT IN BRIEF: The Large User Wastewater Agreement between the Town of Davie and the City of Fort Lauderdale is approaching an end. It is necessary and to the mutual benefit of each party to extend the Agreement.

PREVIOUS ACTIONS: Not applicable

CONCURRENCES: Not applicable

FISCAL IMPACT: Not applicable

RECOMMENDATION(S): Motion to approve the resolution

Attachment(s): Resolution, Large User Wastewater Agreement (Exhibiti "A"), Amendment to Large User Wastewater Agreement (Exhibit "B")

RESOLUTION _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO ENTER INTO AN AMENDMENT TO THE LARGE USER WASTEWATER AGREEMENT BETWEEN THE CITY OF FORT LAUDERDALE AND THE TOWN OF DAVIE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Davie and the City of Fort Lauderdale previously entered into a Large User Wastewater Agreement dated the 1st day of November, 1988, a copy of which is attached hereto as Exhibit "A"; and

WHEREAS, the Town of Davie and the City of Fort Lauderdale recognize that the original term of the Large User Wastewater Agreement is approaching an end, and that it is necessary and to the mutual benefit of each party to extend the Agreement until December 31, 2010; and

WHEREAS, the Wastewater Large User Advisory Board has met and discussed a proposed Amendment to the Large User Wastewater Agreement and recommended that the Agreement be extended to December 31, 2010 or for a period not exceeding twenty (20) years from the said termination date in the event that there is an issuance of any bonds or other obligations required in order to obtain funds necessary for expansion or improvements to the City of Fort Lauderdale system, a copy of which is attached hereto as Exhibit "B" for the purposes of acknowledging and accepting the terms and conditions set forth herein on behalf of the Town of Davie.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town Council of the Town of Davie does hereby agree to the terms and conditions as set forth in the Amendment to Large User Wastewater Agreement between the City of Fort Lauderdale and the Town of Davie, a copy of which is attached hereto as Exhibit "B".

SECTION 2. That the appropriate Town Officials are hereby authorized to execute the original Amendment to Large User Wastewater Agreement between the City of Fort Lauderdale and the Town of Davie acknowledging and accepting the terms and conditions as set forth therein.

SECTION 3. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2001.

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2001

AMENDMENT TO LARGE USER WASTEWATER AGREEMENT

THIS IS AN AMENDMENT TO LARGE USER WASTEWATER AGREEMENT,
entered into on _____, 2001, between:

CITY OF FORT LAUDERDALE, a municipal
corporation of the State of Florida,
hereinafter referred to as "City,"

and

_____, a Florida
_____ corporation, hereinafter
referred to as "Customer."

City and Customer entered into a Large User Wastewater
Agreement on _____.

Pursuant to Resolution No. 01-____, adopted at its
meeting of _____, 2001, the City Commission of City
authorized the proper City officials to enter into this Amendment
to Large User Wastewater Agreement.

Pursuant to Resolution No. _____ or official act
adopted at its meeting of _____, 2001, the Customer
authorized the proper officials to enter into this Amendment to
Large User Wastewater Agreement.

The Agreement provides that payments into the renewal
and replacement account will "provide for the replacement or
addition of equipment, accessories or appurtenances that will be
needed to maintain the performance and capacity of the Regional
System during its first 20 years of operation. A schedule will be
prepared by the consulting engineer projecting such expenditures
for the 20 year period. The schedule will be revised and updated
each year to show the expected replacement costs for the remainder
of the 20 years."

City and Customer have determined that the Renewal and
Replacement Account will not be impaired by providing for the
replacement or addition of equipment, accessories or appurtenances
from the then current year for twenty (20) years or until the
anticipated closure of the Regional Wastewater Treatment Facility,
whichever is less.

City and Customer have further found that providing funding from the Renewal and Replacement Account for improvements with an expected life in excess of twenty (20) years, and for additional improvements necessary for plant expansion, to meet regulatory requirements or operational changes, provided that the cost of each of these improvements is less than \$2 million, would be advantageous to the Regional System and will not impair the Renewal and Replacement Account.

The original term of the Large User Wastewater Agreement is approaching an end, and it is necessary and to the mutual benefit of each party to extend the Agreement until December 31, 2010.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. Recognizing the Large User Agreement between the City and Port Everglades Authority is already governed by such term, that Section 8.2 of the Large User Wastewater Agreement is replaced with the following provision:

8.2 TERMINATION AND EXTENSION OF AGREEMENT

Both parties agree that this Agreement shall begin and bind the parties as set forth in Section 8.1 hereof and shall terminate upon December 31, 2010 at 12:00 o'clock midnight of said date. However, CITY may extend this Agreement for a period not exceeding twenty (20) years from the said termination date in the event, and only in such event, that the issuance of any bonds or other obligations is required in order to obtain funds necessary for expansions or improvements to the CITY system.

2. That Subsection C of Appendix A to the Large User Wastewater Agreement between the City of Fort Lauderdale and the _____ is hereby amended as shown on Exhibit "A," attached hereto and made a part of hereof.

3. That this Amendment shall not take effect until and unless a document in substantially the same form amending the

Large User Wastewater Agreement in substantially the same manner is authorized by resolution of the governing bodies and executed by the proper officials of all the other Large User customers in the Central Wastewater Region.

4. That in all other respects the Large User Wastewater Agreement and any other previously executed amendments thereto shall remain in full force and effect.

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

WITNESSES:

CITY OF FORT LAUDERDALE

By _____
Mayor

By _____
City Manager

(CORPORATE SEAL)

ATTEST:

City Clerk

Approved as to form:

City Attorney

WITNESSES:

**

By _____

ATTEST:

(CORPORATE SEAL)

STATE OF FLORIDA :
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this _____, 2001, by _____ and _____, as _____ and _____, respectively, of *, a ** corporation, on behalf of the corporation. They are personally known to me or have produced _____ as identification.

(SEAL)

Notary Public, State of Florida
(Signature of Notary taking
Acknowledgment)

Name of Notary Typed, Printed
Or Stamped

My Commission Expires:

Commission Number

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EXHIBIT A

Appendix A

C. Replacement Costs

This portion of the rate, as required by P.L. 92-500, is to provide for the replacement or addition of equipment, accessories or appurtenances that will be needed to maintain the performance and capacity of the Regional System for the next 20 years of operation from the current year, or until the expected closure of the Regional Treatment Facilities, whichever is less. On an annual basis, a schedule shall be prepared by the consulting engineer projecting such expenditures for the next 20 year period or until the anticipated closure of the Regional Treatment Facilities, whichever is less. The schedule shall be revised and updated each year to show the expected replacement costs for the next 20 years or the remaining life of the Regional Treatment Facilities. Replacement Costs may include expenditures for (1) improvements with expected useful lives of greater or less than 20 years, (2) improvements which expand system capacity, (3) modifications or additions needed to accommodate new improvements which expand system capacity, (4) modifications or additions needed to meet new regulatory requirements, or (5) to implement operational changes, provided the estimated cost of each planned improvement does not exceed \$2 million and it is determined to be in the best interest of the Regional System to fund these improvements from the Renewal and Replacement Account.

The replacement cost portion of all user charges collected shall be deposited in the Renewal and Replacement Account and replacement expenditures shall be made directly from the account. If any unused balance remains in the Renewal and Replacement Account at the end of the life of the Regional Treatment Facilities, it shall be transferred to the Replacement and Improvement Reserve Account as described in Section B.6. above.

The portion of the rate is to be calculated annually using the following formula:

$$C = \frac{E - R}{Y}$$

Where C = the amount of replacement costs to be collected that year,

E = the expected replacement costs for the subsequent 20-year period as shown by the consulting engineer's updated schedule,

R = the balance of the Renewal and Replacement Account, and

Y = 20 years, or the number of years remaining in the expected life of the Regional Treatment Facilities, whichever is less.

RESOLUTION NO. R-88-238

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO
ENTER INTO THE LARGE USER WASTEWATER AGREEMENT
BETWEEN CITY OF FORT LAUDERDALE AND TOWN OF
DAVIE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council wishes to authorize the
appropriate Town officials to execute the original Large User
Wastewater Agreement Between City of Fort Lauderdale and Town of
Davie, a copy of which is attached hereto as Exhibit "A", for the
purposes of acknowledging and accepting the terms and conditions
set forth therein on behalf of the Town of Davie.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF
THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town of Davie does hereby agree to the
terms and conditions as set forth in the Large User Wastewater
Agreement Between City of Fort Lauderdale and Town of Davie, a
copy of which is attached hereto as Exhibit "A".

SECTION 2. That the appropriate Town officials are
hereby authorized to execute the original Large User Wastewater
Agreement Between City of Fort Lauderdale and Town of Davie
acknowledging and accepting the terms and conditions as set forth
therein.

SECTION 3. This Resolution shall take effect
immediately upon its passage and adoption.

PASSED AND ADOPTED THIS 20th DAY OF September, 1988.

J. J. Cannata
Mayor/Councilman

Attest:

Barbara Bergamin
Asst. Town Clerk

APPROVED THIS 20th DAY OF September, 1988.

CERTIFICATION

I certify this to be a true and
correct copy of the record in
my office.

WITNESS my hand and official
seal of the Town of Davie,
Florida, this the 20th day

of September, 19 88
Barbara Bergamin, Asst. Town Clerk

LARGE USER
WASTEWATER
A G R E E M E N T
Between
CITY OF FORT LAUDERDALE
and
TOWN OF DAVIE

THIS AGREEMENT, made and entered into this the 1 day of November, 1988, by and between:

CITY OF FORT LAUDERDALE, a Municipality of the State of Florida, hereinafter referred to as "CITY", which term shall include its successors and assigns,

and

TOWN OF DAVIE, a Municipality of the State of Florida, hereinafter referred to as "CUSTOMER", which term shall include its successors and assigns.

WITNESSETH:

That for and in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and CUSTOMER hereby agree as follows:

ARTICLE 1

PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and to generally express the objectives and intentions of the respective parties herein, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

- 1.1 PL 92-500 establishes the enforcement mechanism for achieving water quality standards which are applicable to all municipal and industrial wastewater discharges. This law also sets forth the conditions under which Federal assistance may be obtained for the construction of wastewater transmission and treatment facilities.
- 1.2 The Broward County Wastewater Facilities Plan, developed in March 1978 in accordance with PL 92-500, recommends that the County be divided into three wastewater regions:
- North Region
 - Central Region
 - South Region

Under this plan, the City of Fort Lauderdale will be the lead agency in the Central Wastewater Region. The plan proposes also that the Region include the Cities of Fort Lauderdale, Oakland Park, Wilton Manors, and a portion of Tamarac, the Port Everglades Authority and the Palmdale service area for the purpose of wastewater collection and treatment. This service area is not limited and may be expanded to include Hacienda Village and/or other contiguous areas.

- 1.3 The City of Fort Lauderdale, as the lead agency, will become both a regional and a local collection and treatment utility. The designated municipalities within the Central Region will continue to own and operate their wastewater collection systems, consisting of gravity sewers, lift stations and force mains. Regional facilities to be owned and operated by the City of Fort Lauderdale will intercept from point of connection, pump, transport and treat wastewater within the Central Region.
- 1.4 CITY will own and operate a regional wastewater transmission, treatment and disposal facilities serving CUSTOMER.
- 1.5 CITY has or will attempt to obtain sufficient wastewater treatment capacity, when requested, to furnish wastewater transmission, treatment and disposal requirements of CUSTOMER. Additional capacity will be dictated by early notice and economical considerations following good planning practices.
- 1.6 CITY will make every effort to have sufficient wastewater treatment capacity to furnish the projected wastewater transmission, treatment and disposal needs of CUSTOMER during the entire term of this Agreement, based upon the projected wastewater treatment flow schedule as provided by CUSTOMER.
- 1.7 CUSTOMER agrees to purchase wastewater transmission, treatment and disposal services from CITY in accordance with the terms set forth in this Agreement.
- 1.8 The authority for this Agreement is Chapter 63-1181 Laws of Florida, Special Acts of 1963, as amended, and Chapter 37 of the Code of Ordinances of the City of Fort Lauderdale.

ARTICLE 2

DEFINITIONS

Unless the context specifically indicates otherwise, the following words and phrases used in this Agreement shall have the following meanings:

- 2.1 Words and terms related to water and wastewater shall have the definitions listed in Section 37-1, "Definitions," of Chapter 37 of the Code of Ordinances of the City of Fort Lauderdale, except as indicated.
- 2.2 "CITY TREATMENT FACILITIES"
 This term shall mean those facilities owned or operated, or both, by CITY for the purpose of wastewater treatment and disposal within the Central Wastewater Region as shown on Appendix "B" attached hereto, including such future additions and extensions to these facilities as may be made from time to time.
- 2.3 "CITY TRANSMISSION FACILITIES"
 This term shall mean those facilities owned or operated by CITY within the Central Wastewater Region as shown on Appendix "B" attached hereto, including present and future master pumping stations and force mains, that are now or will be used for the purpose of transmitting wastewater to CITY Treatment Facilities.
- 2.4 "CUSTOMER'S SYSTEM"
 This term shall mean the wastewater system defined by this agreement including gravity sewers, manholes, laterals, lift stations, pumping stations, force mains and appurtenances thereto upstream of the POINT OF CONNECTION to the CITY system.

2.5 "POINT OF CONNECTION"

This term shall mean the point where the CUSTOMER'S system connects to the CITY system for the purpose of delivering waste water into the CITY system from the CUSTOMER'S system; said POINT OF CONNECTION is further defined, described and set forth in Article 3.1 hereof.

2.6 "CUSTOMER," "CONSUMER" OR "LARGE USER"

Any municipality including the City of Fort Lauderdale, special district, or other entity including the City which operates wastewater collection and transmission facilities which connect into the CITY wastewater transmission, treatment and disposal facilities. This term applies to this Agreement only. A legal description of the CUSTOMER'S service area is contained in Appendix "C", attached hereto.

2.7 "DOMESTIC WASTEWATER"

This term shall mean wastewater derived principally as a result of personal hygiene and sanitary use from dwellings, business buildings, institutions and the like.

2.8 "INDUSTRIAL WASTES"

This term shall mean any liquid, solid or gaseous substance or form of energy, or combination thereof, resulting from any process of industrial, commercial, governmental and institutional concerns, manufacturing, business, trade, or research, including the development, recovery, or processing of natural resources, or from sources identified in the Standard Industrial Classification Manual of the U.S. Office in Management and Budget as amended.

2.9 "REGIONAL ADVISORY BOARD"

This term shall mean the Board that is established and composed of representatives of large users receiving wastewater transmission, treatment and disposal services from CITY, and whose function it is to serve in an advisory capacity to the CITY Commission regarding rates, modification to the facilities, and to perform other duties and functions as provided in the ordinance establishing said Board.

The Board shall be composed of at least one (1) representative from each large user as defined herein, with a projected average wastewater flow of one (1) to five (5) MGD, with one (1) representative for each five (5) MGD increment in excess of five (5) MGD.

The CITY'S Utilities Director shall be chairman of the Board. Other large users with less than one (1) MGD may attend meetings, but do not have voting rights.

2.10 "MASTER PUMP STATION"

A pump station used in repumping wastewater within the regional system not to include pump stations upstream of wastewater flow metering devices located between the regional system and the customer's system or pumping stations used by the City for pumping CITY wastewater generated exclusively within the CITY.

2.11 "POINT OF TIE-IN"

The point of tie-in shall mean the location where transmission facilities designed to transmit wastewater generated exclusively within customer's system are connected to the CITY'S system.

ARTICLE 3

PROVISIONS PERTAINING TO CONNECTION
TO THE CITY WASTEWATER TREATMENT SYSTEM

3.1 POINT OF CONNECTION

Both parties agree that the POINT OF CONNECTION and meter location shall be as determined by CITY after consultation with CUSTOMER.

3.2 TRANSFER OF LAND AT POINT OF CONNECTION

CITY may locate the POINT OF CONNECTION and meter location and necessary transmission facilities on property now being used by CUSTOMER for wastewater transmission or treatment facilities. CUSTOMER will convey at no cost to CITY either the fee simple title or appropriate easement to the property needed by CITY for the POINT OF CONNECTION, meter location, pump stations, transmission facilities, and such interest in property as is necessary to provide ingress or egress to CITY to said POINT OF CONNECTION, meter location, pump stations and transmission facilities. Such property shall be of sufficient magnitude to allow for future projected expansion and shall be free and clear of any encumbrances and sufficient to allow access of maintenance vehicles.

3.3 MAINTENANCE OF CUSTOMER'S FACILITIES

CUSTOMER agrees to construct where necessary, and to operate and properly maintain at its own cost and expense, all sanitary gravity sewers, lift stations, pumping stations, force mains and other required appurtenances related and directly attributable to the wastewater collection system upstream of the POINT OF CONNECTION that are necessary to properly and continuously collect and convey sanitary wastewater to the POINT OF CONNECTION to the CITY system at such elevation, pressure and flow rates as described in Article 3.5 herein.

3.4 CUSTOMER'S FUTURE FLOW PROJECTIONS

CUSTOMER agrees that it has reviewed its present needs for wastewater transmission and wastewater treatment service and, with the advice and counsel of a professional engineer, has projected its future needs as shown below to the best of its knowledge and ability.

FISCAL YEAR	PROJECTED ANNUAL AVERAGE FLOW IN MILLIONS OF GALLONS PER DAY		PROJECTED MAXIMUM FLOW	
	<u>Transmission</u>	<u>Treatment</u>	<u>Monthly</u>	<u>Daily</u>
1988	.010	N/A	0.51	.017
1989	.020	N/A	1.02	.034
1990	.030	N/A	1.53	.051
1991	.050	N/A	2.55	.085
1992	.100	N/A	5.11	.170
1993	.100	N/A	5.11	.170
1995	.100	N/A	5.11	.170
2000	.100	N/A	5.11	.170
2005	.100	N/A	5.11	.170

These projections shall serve as a reasonable estimate of the future needs of CUSTOMER for the purpose of planning expansion, construction, modification or alteration of said CITY facilities and shall be so used by CITY in determining plant capacity requirements attributable to CUSTOMER in CITY transmission, treatment and disposal facilities. CITY'S obligation to furnish service to CUSTOMER under this Agreement shall be limited to the above-stated quantities, or to modification or changes therein as provided for in Article 6 of this Agreement. CITY recognizes and assumes the obligations of the CUSTOMER to serve new connections with allocation approved by

the CUSTOMER and the Broward County Environmental Quality Control Board, with the understanding that flows projected in this agreement are not exceeded. City shall have all right and power by suit or other such proceedings at law or in equity to enforce the limitation of its obligations hereunder and to prohibit CUSTOMER or its officers, agents or employees from flowing wastewater into CITY'S transmission and treatment facilities which exceeds the capacity or pressure rating indicated and CUSTOMER shall have the right to enforce by suit or other proceedings, at law, or in equity, the obligation of the CITY to accept, treat, and dispose of customer's wastewater flow as set forth in Article 3.4 of this agreement.

3.5 PRESSURES AT POINT OF CONNECTION

CUSTOMER agrees that, under all operating conditions as outlined by CITY, except as provided in Article 7.5 of this Agreement, the elevation of a gravity system or pressure in a force main at the POINT OF CONNECTION shall be sufficient to deliver all wastewater without backing up the CUSTOMER'S gravity lines or reversing flow in CUSTOMER'S force main system, based on present as well as projected future flows for that portion of the regional transmission system.

The CITY reserves the right to install microprocessing monitoring capabilities at any pumping station with a direct connection to the regional facilities. CUSTOMER agrees that no change in pumping characteristics shall be made without prior approval from the UTILITIES DIRECTOR.

3.6 EQUALIZATION OF FLOW

CUSTOMER agrees that, through the use of acceptable methods, adequate provisions will be included in the delivery facilities to prevent excessive peak flow rates. The average daily flow shall be controlled such that it is transported to CITY'S transmission and treatment facilities by 24-hour-per-day continuous pumping directly relating to incoming flow. The rates of pumping for any four-hour period shall not exceed two hundred fifty percent (250%) of the average daily flow.

The term "average daily flow" as used herein is defined as the total flow during the four (4) consecutive months of greatest flow during the preceding twelve (12) months, divided by the actual number of days in the four (4) consecutive months. In the event CUSTOMER has not provided continuous flow during the entire period of the preceding twelve (12) months, the term "average daily flow" shall mean that flow projected for treatment for the appropriate year, as indicated in Article 3.4. In the event the flow to the CITY Treatment Facility is not controlled as stipulated hereinabove, then CITY may impose a compensatory charge of a percentage of the monthly billing to CUSTOMER, unless a supplemental written agreement entered into by both parties and attached hereto provides otherwise. Such supplemental written agreement may involve adjustment of rates as a result of reallocation of design, construction, financing, operation and maintenance costs. The compensatory charge shall be computed as follows:

In the event CUSTOMER causes a flow of 250.01% to 255%, inclusive, of the average daily flow for any four (4) hour period, CUSTOMER shall be charged an additional one percent (1%) of the monthly service charge, and an additional one percent (1%) of the monthly service charge shall be charged for each increment of five percent (5%) or any portion thereof exceeding 255%.

CUSTOMER also agrees to notify CITY'S Utilities Department immediately upon discovering the major failure of a pumping station, breakage of a force main or gravity sewer which could

cause heavy infiltration and introduction of sand into the system and to begin immediate repair of same.

3.7

INSTALLATION OF METERS AND TRANSMISSION FACILITIES

CUSTOMER agrees to furnish and install a wastewater metering device and wastewater transmission facilities to the point of tie-in at the CUSTOMER'S sole expense, together with housing, accessories and appurtenances thereto of a type and design approved by CITY, to be located at the site or sites as determined by CITY after consultation with CUSTOMER. Ownership of the metering device and transmission line from the meter to the point of tie-in, together with the housing, accessories and appurtenances thereto shall be conveyed at no cost to the CITY after acceptance by the CITY. In the event the capacity of the metering device or transmission facilities or both become inadequate for the amount of flow delivered, CUSTOMER, at its sole expense, shall replace the meter or transmission facilities or both and install such additional metering device or transmission facilities or both as may be required by CITY.

3.8

CITY TO MAINTAIN METER

CITY agrees to have an annual inspection and report prepared at its expense regarding the condition and accuracy of the metering device performed by a representative of the manufacturer or other competent entity. A copy of the annual report on meter inspection shall be furnished to CUSTOMER within thirty (30) days of its acceptance. CUSTOMER shall have the right to make its own meter inspection, or to have an independent company check the metering equipment at any time provided, however, no such inspection shall be made unless CUSTOMER shall first give CITY written notice of its intent to have the inspection made, nor shall any such inspection be made prior to twenty-four (24) hours, excluding Saturdays, Sundays and holidays, subsequent to the receipt of said notice by CITY. All cost and expense of CUSTOMER'S interim inspection shall be borne by CUSTOMER unless the meter is found to be inaccurate beyond the manufacturer's guaranteed range of accuracy, in which case the cost and expense of such interim inspection shall be borne by CITY. Normal maintenance of the metering device shall be performed by CITY as an expense of wastewater treatment and effluent disposal.

3.9

PAYMENT IN CASE OF METER INACCURACY

Both parties agree that, should the metering equipment be found to be inaccurate beyond the manufacturer's range of accuracy, the meter will be assumed to be inaccurate since the last meter check or for a period of three months, whichever time should be less, and that the following month's billing will be adjusted to show a credit or additional charge to CUSTOMER for that period. The computation shall be based on the average flow for the previous twelve-month service prior to the last meter check.

3.10

PAYMENT IN CASE OF METER FAILURE

Both parties agree that, if at any time the metering system shall be inoperative or in any way fails to provide information with respect to the quantity of flow into CITY'S wastewater transmission, treatment and disposal facilities, CUSTOMER will pay to CITY a monthly amount equal to the average flow based upon the previous twelve-month service prior to the date the meter became inoperative.

3.11

CHARGES TO CITY

Regional costs to the CITY shall be calculated for all flow delivered to the regional wastewater treatment plant less the total measured flow delivered at each point of connection from customers' systems.

ARTICLE 4

PROVISIONS RELATING TO
DISCHARGE AND SAMPLING

4.1 TYPES OF WASTES AND SUBSTANCES WHICH ARE PROHIBITED TO BE DISCHARGED

The rules and regulations contained in City of Fort Lauderdale Code of Ordinances, Chapter 37, Article III establish the types of wastes and substances which are prohibited to be discharged into CITY'S sewerage system. Except as hereinafter provided, CUSTOMER agrees to comply with these aforementioned rules and regulations.

4.2 CUSTOMER agrees to include in the design of its wastewater delivery system a safe, mutually agreeable sampling station so that CITY can obtain grab and composite samples of the waste water as a means of monitoring the characteristics of the wastewater received from CUSTOMER, and to provide for such right-of-way or easements as may be necessary to assure CITY of access to the sampling station.

The CITY shall have the right at any time to collect samples of sewage and industrial wastes at various locations to be determined by the CITY within CUSTOMER'S facilities for the purpose of making laboratory analysis of these wastes. Twenty-four (24) hour notice will be given of industrial sampling to be conducted by CITY when possible. The costs of collecting and of testing such samples shall be considered a CITY facility operating expense.

4.3 CUSTOMER shall supply CITY, not later than September 30th of each year, with a list of the producers of industrial wastes, if any, as of August 31st of each year and supply CITY with an update of any additional producers of industrial wastes as they occur. CUSTOMER shall require that any producer of industrial wastes, as defined in PL 92-500 or any revisions thereto or those designated by the CITY, submit annually to CITY a complete laboratory analysis of both the raw and pretreated wastes, at no cost to CITY. CUSTOMER shall require that each producer of industrial wastes give CITY five (5) days written notice, exclusive of Saturdays, Sundays and holi-days, of its intent to take the required samples, in order that CITY may be represented at such sampling. Such analysis shall be made on twenty-four (24) hour composite samples and shall include at least the following: temperature, pH, suspended solids, dissolved solids, five-day BOD, fats and oils (ether extraction), ASTM flash point, and any other parameters deemed appropriate by the Director. Upon request, CUSTOMER shall submit annually to CITY at no cost to CITY similar laboratory analyses of composite samples of the combined wastes leaving CUSTOMER'S facilities.

4.4 CUSTOMER agrees to adopt, enact and enforce such rules, regulations and/or ordinance as may be required to insure that users of CUSTOMER'S system do not discharge or cause to be discharged waters or wastes which would not meet conditions for individuals as defined by the CITY'S Code of Ordinances or would cause CUSTOMER'S wastewater to be unacceptable under the provisions of this Article, and to furnish to CITY certified copies thereof within ninety (90) days from date hereof. CITY agrees to assist CUSTOMER in the preparation of said rules, regulations and/or ordinances.

4.5 CUSTOMER shall be responsible for implementation in its system of any Federal, State or local regulations imposed upon CITY either now or in the future. This includes but is not limited to "Industrial Cost Recovery Provisions" as required by PL 92-500, "Toxic and Pretreatment Effluent Standards" as