

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA and  
STATE OF LOUISIANA, through THE  
DEPARTMENT OF ENVIRONMENTAL  
QUALITY,  
Plaintiffs,  
v.  
ACADIA WOODS ADD. #2 SEWER CO.,  
ACADIANA TREATMENT SYSTEMS, et al.,  
Defendants,  
and  
TOTAL ENVIRONMENTAL SOLUTIONS,  
INC.,  
Intervening Defendant.

Civil Action No. 6:98-0687

**SECOND AGREEMENT AND ORDER REGARDING MODIFICATION OF  
THE CONSENT DECREE WITH RESPECT TO TESI**

**I. BACKGROUND**

A. On December 21, 2000, the Court entered the *Consent Decree with Respect to TESI*, Dkt. No. 167 (“the Original Consent Decree”). Prior to entry of the Original Consent Decree, Intervening Defendant Total Environmental Solutions, Inc. (“TESI”) purchased all the assets of the original Defendants in this action at a sale conducted by the trustee/receiver appointed by the Court. The assets purchased by TESI included 172 sewage treatment plants (“STPs”) at which the United States and Louisiana alleged the original Defendants had violated the Clean Water Act (“CWA”), 33 U.S.C. §§ 1301 *et seq.*

B. The STPs subject to the Original Consent Decree utilized one of two methods to treat sewage, either mechanical treatment (“Mechanical STP”) or pond treatment (“Pond STP”). A Mechanical STP utilizes mechanical means to aerate a mix of wastewater and activated sludge

such that organic components within the wastewater are decomposed by biological processes. The typical components of a mechanical plant at issue in this case include a bar screen to remove debris, an aeration tank to mix the wastewater and activated sludge with oxygen, a clarifying tank to settle and separate solids, and a disinfection system. A Pond STP utilizes a large holding or detention pond or lagoon, usually constructed with earthen dikes, to contain wastewater while sedimentation and biological oxidation occur.

C. In the Original Consent Decree, TESI committed to operate all STPs subject to the Consent Decree without service interruption and cause the STPs to achieve compliance with the requirements of the CWA. To that end, TESI committed to implement the compliance measures at the STPs specified in Section VII of the Original Consent Decree (Compliance Measures at the STPs). The Original Consent Decree also included stipulated penalties for violations of the requirements of the Consent Decree and the requirements of the Louisiana Pollutant Discharge Elimination System (“LPDES”) permits issued by the Louisiana Department of Environmental Quality (“LDEQ”) for the STPs pursuant to the CWA.

D. In general, TESI implemented the compliance measures specified in Section VII of the Original Consent Decree (Compliance Measures at the STPs). After the compliance measures were implemented, the number of violations of the CWA was reduced. However, violations of the CWA at the STPs continued to occur at the STPs.

E. On March 12, 2009, the Court ordered (Dkt. No. 207) TESI to implement the *Comprehensive Diagnostic Evaluation Plan and Schedule for Sewage Treatment Plants Subject to the Consent Decree with respect to TESI* Entered December 21, 2000 (“the CDE Plan”) (DN 206-2). Pursuant to Section 3 of the CDE Plan, TESI was required to file a report for each STP (“CDE Report”) that, *inter alia*, identified all work or other actions proposed by TESI to

correct conditions identified under the CDE Plan that prevent the STP from achieving long-term, sustained compliance with the CWA, including compliance with the applicable LPDES permit. Each CDE Report was required to be certified by a Professional Engineer. CDE Plan ¶ 3.5. In addition, at the end of the Comprehensive Diagnostic Evaluation process, TESI was required to propose a *Final, System-Wide Schedule for all Required Work That Has Not Yet Been Completed* (“System-Wide Schedule”) (Dkt. No. 206-2 at Table 2).

F. TESI made submissions pursuant to the 2009 Order that included CDE Reports certified by a Professional Engineer for Mechanical STPs. *See* Dkt. Nos. 213, 214, 215, 217, 218, 220, 221, and 224. TESI did not submit certified CDE Reports for Pond STPs.

G. On January 16, 2015, the United States and Louisiana filed an *Unopposed Joint Motion of the United States of America and the State of Louisiana to Enforce the Consent Decree with Respect to TESI* (Dkt. No. 229). That Motion sought entry of an Order requiring interim measures to address noncompliance by TESI with the requirements of the Original Consent Decree. During inspections conducted on behalf of the United States, inspectors observed conditions at many STPs, including excess solids, leaks, and spills, that the United States and Louisiana concluded evidenced noncompliance with the requirements of the Original Consent Decree and presented a threat to public health and the environment. TESI, while it did not necessarily agree with the United States’ and Louisiana’s conclusions, nonetheless did not oppose the Motion. On February 6, 2015, the Court entered an Order (Dkt. No. 231) requiring TESI to take measures intended to address compliance with the Original Consent Decree and to ameliorate the most urgent threats to public health and the environment.

H. On May 18, 2017, the Court entered the *Agreement and Order Regarding Modification of the Consent Decree with Respect to TESI*, Dkt. No. 241 (the “First Consent Decree Modification”).

I. Prior to entry of the First Consent Decree Modification, TESI had disposed of 11 STPs, and 161 STPs remained subject to the Consent Decree. Of those 161 STPs, 123 were Mechanical STPs and 38 were Pond STPs.

J. The First Consent Decree Modification required TESI to implement a *Long Term Compliance Plan*, Attachment B to the First Consent Decree Modification, Dkt. No. 239-1 (“Long Term Compliance Plan”) that included the following requirements:

- Submit CDE Reports certified by a Professional Engineer for all Pond STPs.
- Implement all work and other actions recommended in the certified CDE Reports for both Mechanical and Pond STPs according to the schedule, including applying for a rate increase sufficient to allow TESI to implement the requirements of the First Consent Decree Modification.
- Implement Holistic Process Control Plans for all Mechanical and Pond STPs. Holistic Process Control Plans are general plans applicable to all STPs that provide for improved operation and maintenance while TESI developed Final STP-Specific Process Control Plans.
- Develop and implement an STP-Specific Process Control Plan for each STP. These plans were tailored to the individual STP and set forth effective procedures for TESI to operate and maintain each STP over the long term.
- Develop and implement specific programs for managing the Collection Systems associated with each STP (a Collection System consists of the pipes and other devices that convey sewage from its source to the treatment plant).
- Develop and implement utility-wide measures to ensure proper implementation of LPDES permit requirements (including sampling of effluent), employee safety, and staff training.
- Submit reports to EPA and LDEQ documenting implementation of these requirements.

TESI reported that it had timely completed these tasks.

K. The First Consent Decree Modification also specified a process pursuant to which STPs would be removed from the Consent Decree. First Consent Decree Modification, Appendix C (Process for Removing STPs from the Consent Decree with Respect to TESI), Dkt. No. 239-1 (“STP Removal Process”). Pursuant to the STP Removal Process, TESI was required to submit a Final STP Report for each STP subject to the First Consent Decree Modification. The prerequisites for submission of a Final STP Report included that TESI had implemented all requirements of the Long Term Compliance Plan at the STP and subsequently been in compliance with its LPDES Permit for six consecutive months. STP Removal Process at ¶ 1. The final STP Report was also required to include analyses of samples collected during three wet weather events that occurred during the six month period after TESI had completed implementation of the Long Term Compliance Plan at the STP. STP Removal Process at ¶ 2.c.iv.2 & d.v.ii.

L. Pursuant to the STP Removal Process, Final STP Reports were required to be submitted in six rounds on the anniversary of entry of the First Consent Decree Modification, with the sixth and final round of STP Reports to be submitted on May 18, 2023. STP Removal Process at ¶ 3. If EPA and LDEQ determined that TESI had fully implemented the requirements of the Long Term Compliance Plan at the STP and that the STP was prepared for long-term, sustained compliance with the CWA and the LWCL, then EPA and LDEQ would approve the Final STP Report and the particular STP would no longer be subject to the Consent Decree. The goal was that, after the last STP was removed from the Consent Decree, the Consent Decree would be terminated according to the procedures specified in Consent Decree Section XXI (Effective and Termination Dates) as modified by First Consent Decree Modification Paragraph 40.

M. **Final STP Reports Round 1:** Pursuant to Paragraph 38 of the First Consent Decree Modification, the parties agreed to a non-material modification extending the deadline for submission of the first round of Final STP Reports to December 3, 2018. By December 3, 2018, TESI submitted Final STP Reports for the following 12 Mechanical STPs:

<b>Round 1 Final STP Reports</b>				
<b>#</b>	<b>Agency Interest (AI)#</b>	<b>LPDES Permit</b>	<b>Name</b>	<b>Approved</b>
1	18826	LAG541195	Bois Bechet	May 14, 2019
2	18853	LAG541183	Comeaux Estates	May 14, 2019
3	18823	LAG540101	Golden Grain	May 14, 2019
4	19092	LAG540837	LaPlace Maison	May 14, 2019
5	18842	LAG540128	West Side Strip	May 14, 2019
6	19027	LAG541184	Windy Acres	May 14, 2019
7	18822	LAG540105	Kindco	June 26, 2019
8	18821	LAG540107	Lakeside Village	June 26, 2019
9	18815	LAG54013	Young Acres	June 26, 2019
10	18788	LAG560224	Country Hollow	August 12, 2020
11	40452	LAG541209	Deer Park	August 20, 2020
12	20011	LAG540104	Highland Acres	August 20, 2020

During the week of March 11, 2019, the United States Environmental Protection Agency conducted inspections of TESI STPs including the Round 1 STPs. EPA identified problems with some Final STP Reports including specific work required under the LTC plan that was not completed and that the six month compliance period had not yet been completed. TESI resolved the problems identified by EPA, and EPA approved the Final STP Reports for the Round 1 STPs on dates indicated in the table.

N. **Final STP Reports Round 2:** By May 18, 2019, TESI submitted Final STP Reports for the following 30 Mechanical STPs:

<b>Round 2 Final STP Reports</b>				
<b>#</b>	<b>AI#</b>	<b>LPDES Permit #</b>	<b>STP Name</b>	<b>Approved</b>
1	18837	LAG540087	Acadian Acres	February 4, 2020
2	20025	LAG560329	Charleston Place	January 13, 2020
3	18861	LAG540091	Chelsea Ridge	November 18, 2019

4	40467	LA0077895	Coach House Manor	February 4, 2020
5	18841	LAG540093	Cote Gelee Apt.	November 18, 2019
6	20023	LAG540094	Country Acres (LAF)	January 13, 2020
7	40454	LAG542051	Country Lane	February 4, 2020
8	20022	LA0062839	Country Square	November 18, 2019
9	20020	LAG540099	Cypress Point	November 18, 2019
10	20017	LA0074730	Fairway Village	January 13, 2020
11	20015	LA0062898	Grande Stakes	February 4, 2020
12	20012	LAG540103	Hernandez Heights	August 12, 2020
13	40468	LAG541206	Lakeview Estates	February 4, 2020
14	18820	LAG540109	Lexington Heights	February 4, 2020
15	83642	LAG541005	Maryland Park	November 18, 2019
16	40460	LAG541992	Nottingham Square	February 4, 2020
17	20001	LAG540113	Oregon Trail	February 4, 2020
18	19853	LAG540066	Port East	February 4, 2020
19	19999	LAG540117	Ray Heights	February 4, 2020
20	83903	LAG541006	Ridgeland Estates	February 4, 2020
21	19997	LAG541207	River Road	January 13, 2020
22	19998	LA0074586	Rivergreen	February 4, 2020
23	40462	LAG540119	Sandest Plaza	February 4, 2020
24	40470	LAG540121	Southfork	February 4, 2020
25	19993	LAG540122	Stanford Place Apts.	January 13, 2020
26	18854	LAG540123	Sun Village	February 4, 2020
27	19019	LAGS70557	Township South/Sharlo (Township South)	November 18, 2019
28	19992	LAG541989	Twin Lakes	November 18, 2019
29	19080	LAG540130	Woodland Estates	November 18, 2019
30	18814	LAG540125	Sunrise Mobile Home	February 4, 2020

During the week of October 21, 2019, the United States Environmental Protection Agency conducted inspections of TESI STPs including the Round 2 STPs. EPA identified problems with some Final STP Reports including specific work required under the LTC plan that was not completed and that the six month compliance period had not yet been completed. TESI resolved the problems identified by EPA, and EPA approved the Final STP Reports for the Round 2 STPs on dates indicated in the table.

O. **Final STP Reports Round 3:** By May 18, 2020, TESI submitted Final STP Reports for the following 30 Mechanical STPs:

<b>Round 3 Final STP Reports</b>				
<b>#</b>	<b>AI#</b>	<b>LPDES</b>	<b>Name</b>	<b>Approved</b>
1.	20028	LA0074870	Bellemont Estates	June 9, 2021 approved upon specified conditions
2.	19015	LA0076104	Cajun Village	June 9, 2021 approved upon specified conditions
3.	20007	LAG541201	Magnolia Farms I&II	June 9, 2021 approved upon specified conditions
4.	40461	LA0077003	Riverview Estates	June 9, 2021 approved upon specified conditions
5.	40465	LA0078883	Riverwoods	June 9, 2021 approved upon specified conditions
6.	40457	LAG541192	Royalton Park	June 9, 2021 approved upon specified conditions
7.	18936	LA0076678	Sandest Terrace/ Place	June 9, 2021 approved upon specified conditions
8.	40466	LA0077925	Sarah Dee	June 9, 2021 approved upon specified conditions
9.	19994	LA0075477	Shenandoah Estates	June 9, 2021 approved upon specified conditions
10.	40469	LA0077771	Southfield Square	June 9, 2021 approved upon specified conditions
11.	40472	LA0078182	Trewhill	June 9, 2021 approved upon specified conditions
12.	40450	LA0077739	Avanti	June 9, 2021
13.	20005	LAG540110	Magnolia Wood	June 9, 2021
14.	18836	LAG540090	Carencro North	June 9, 2021
15.	40455	LA0078204	Hackberry Place	June 9, 2021
16.	20021	LA0074748	Cross Creek	June 9, 2021
17.	20002	LA0074845	Oak Trace	June 9, 2021
18.	52278	LA0078484	Med South	June 9, 2021
19.	20016	LA0062847	Flander's Garden	June 9, 2021
20.	20029	LAG540088	Beaux Champs	June 9, 2021
21.	40453	LA0078051	Fox Run	June 9, 2021
22.	20013	LAG570554	Green Meadows	June 9, 2021
23.	18828	LAG540095	Country Acres (STM)	June 9, 2021
24.	20009	LAG560019	June Park	June 9, 2021
25.	40473	LAG541208	Oakshire/Wimbledon	June 9, 2021
26.	40471	LA0078409	Sundown Place	June 9, 2021
27.	18816	LAG560156	Tournai Gardens	June 9, 2021
28.	20024	LAG560330	Clearview Estates	June 9, 2021
29.	18824	LAG540097	Country Run	June 9, 2021
30.	20003	LAG540068	Oak Shadows	June 9, 2021



On March 31, 2021 and April 22, 2021 the United States Environmental Protection Agency conducted virtual inspections of 18 TESI Round 3 STPs (numbered 1 through 18 in the table). During the inspections, EPA identified problems at 11 Round 3 STPs (numbered 1 through 11 in the table). At those 11 STPs, EPA approved the Final STP Reports subject to the condition that TESI correct the identified concerns. Since TESI has not yet documented that the identified problems have been corrected, those 11 STPs remain subject to the Consent Decree. EPA approved the Final STP Reports for the remaining Round 3 STPs on the dates indicated.

P. **Final STP Reports Round 4:** By May 18, 2021, TESI submitted Final STP Reports for the following 30 Mechanical STPs:

<b>Round 4 Final STP Reports</b>				
<b>#</b>	<b>AI</b>	<b>LPDES Permit</b>	<b>Name</b>	<b>Approved</b>
1.	43625	LAG560179	Crozier Heights	Not approved.
2.	41103	LAG540239	Community Sewer/Dugas	Not approved.
3.	41432	LAG570018	Eureka Heights 1 & 2	Not approved.
4.	43626	LAG560240	Suburban Estates	Not approved.
5.	43627	LAG570015	Willowdale	Not approved.
6.	18813	LA0078450	Beau Parterre	Not approved.
7.	20030	LA0074951	Avies Knoll 1 & 2	Not approved.
8.	19995	LA0075281	Shadowwood	Not approved.
9.	18819	LAG540114	Park 90	Not approved.
10.	18830	LAG560018	Shangri-La	Not approved.
11.	84052	LAG560204	Robichaux Ridge	Not approved.
12.	40456	LAG542026	Hummingbird Plaza/Wolf Creek	Not approved.
13.	40458	LA0078263	Jackson Square / Pontalba	Not approved.
14.	40474	LA0077917	The Glade	Not approved.
15.	20004	LA0075094	Monticello	Not approved.
16.	40451	LA0077798	Frenchman's Creek	Not approved.
17.	20032	LA0062791	Arrowhead 1 & 2	Not approved.
18.	18818	LA0078247	Quail Hollow	Not approved.
19.	18831	LAG540108	Lanexang Village 1 & 2	Not approved.
20.	20033	LA0074853	Abadie Oaks	Not approved.
21.	20008	LA0074764	Lancaster Estates	Not approved.
22.	18835	LA0078000	Pecan Acres	Not approved.
23.	19015	LA0062812	Carencro Village	Not approved.
24.	41840	LAG570045	Cotton Fields	Not approved.

25.	19003	LAG570564	Country Meadows/Windy Meadows	Not approved.
26.	41848	LAG570088	Jones Estates	Not approved.
27.	20006	LA0054500	Magnolia Hills	Not approved.
28.	40449	LA0077721	Mouton Estates	Not approved.
29.	19034	LAG540803	Woodlands, The	Not approved.
30.	38200	LA0077518	Victoria Village	Not approved.

During the week of November 14, 2021, the United States Environmental Protection Agency conducted inspections of the Round 4 STPs numbered 1 through 22 in the table. During the inspections, EPA identified problems at all 22 STPs including active discharging of sludge at the time of the inspection or evidence of recent discharges of sludge from the STP. EPA notified TESI of the findings from its inspection by letter dated January 13, 2022. TESI has not submitted a written response to that letter. EPA has taken no action to approve any of the Round 4 STPs.

**Q. Final STP Reports Round 5:** By May 18, 2022, TESI submitted Final STP

Reports for the following 30 STPs (including both Mechanical and Pond systems):

<b>Round 5 Final STP Report</b>				
<b>#</b>	<b>AI</b>	<b>LPDES Permit</b>	<b>Name</b>	<b>Approved</b>
1	41852	LAG560316	Beechwood	Not Approved
2	18603	LAG570104	Beau Pre	Not Approved
3	41844	LAG540371	Country Place / Tall Oaks	Not Approved
4	20014	LAG540102	Green Acres	Not Approved
5	31241	LAG560023	Green Bayou	Not Approved
6	41841	LAG540368	Highland Ridge	Not Approved
7	41845	LAG570144	Lakeside East	Not Approved
8	20010	LA0074781	Ile Des Cannes/ Champions/West Park/Westwinds	Not Approved
9	18827	LAG530027	Magenta Plantation	Not Approved
10	42540	LAG570214	Mobile Estates	Not Approved
11	43542	LAG570229	Oak Grove	Not Approved
12	41853	LAG540620	Old Perkins Place	Not Approved
13	20000	LAG570548	Ossun Heights	Not Approved
14	81818	LAG540965	PEN'S PLACE	Not Approved
15	40464	LAG540067	Plantation Gardens	Not Approved
16	40643	LAG540145	Rigolets Sports Marina/ Rigolets Harbor Inn	Not Approved

17	19311	LAG570093	Rigolets Utilities (Rigolets Estates)	Not Approved
18	19983	LAG540738	Rosethorne	Not Approved
19	40642	LAG540880	Sandy Ridge	Not Approved
20	41842	LAG570233	Albany Heights	Not Approved
21	38188	LAG540040	Chenal Estates	Not Approved
22	18800	LAG540584	Cypress Land	Not Approved
23	41847	LAG540098	Hunstock Hills	Not Approved
24	41846	LAG570145	La Amite	Not Approved
25	41850	LAG540375	Madison Place	Not Approved
26	38152	LAG540372	Martin	Not Approved
27	18789	LAG540370	Midway	Not Approved
28	43559	LAG540737	St Mary's Baptist Church	Not Approved
29	19991	LAG560001	Vermilion Palms	Not Approved
30	40639	LAG541210	The Meadows	Not Approved

At the time of the filing of this document, EPA has taken no action to approve, approve with conditions, or disapprove any of the Round 5 STPs.

R. During a telephone conference call on February 24, 2022, representatives of TESI informed the United States and LDEQ that it was in the process of addressing concerns identified by EPA at the Round 3 and 4 STPs.

S. TESI has stated that the STPs subject to the Consent Decree include a total of 39 ponds STPs. Of those, one, Pen's Place (Penn's Place) (LAG540965 81818), had been converted to a Mechanical Plant. TESI reported that it has completed substantial work at the remaining Pond STPs, including completion of desludging at many ponds. However, TESI reported that substantial work required by the CDE Plan remains to be completed at the Pond STPs, and that, in its estimation, TESI lacks sufficient funds to complete the work at the Pond STPs required by the First Consent Decree Modification by the applicable deadlines for submitting Final STP Reports.

T. The First Consent Decree Modification also modified provisions governing changes in ownership of STPs. First Consent Decree Modification at ¶ 43. Under the modified provision:

[I]f one or more of the STPs is acquired . . . by a private party and the private party agrees to comply with all requirements of the [First] Modified Consent Decree at the acquired STP(s) and to be substituted for the Intervening Defendant as a party to the [First] Modified Consent Decree with respect to the acquired STP(s); the acquisition is approved by the appropriate utility regulatory authority; and the acquisition is approved EPA and LDEQ, the Intervening Defendant [i.e., TESI] shall have no further responsibility for the respective STP(s) subsequent to the acquisition.

U. On June 28, 2021, TESI and Magnolia Water Utility Operating Company, LLC ("Magnolia") entered a Purchase and Sale Agreement under which TESI would sell its assets, including all STPs subject to the Consent Decree, to Magnolia. The Purchase and Sale Agreement provides Magnolia with the right to terminate the agreement for various reasons including if EPA and LDEQ do not approve the transfer of the STPs to Magnolia pursuant to the First Consent Decree Modification.

V. Magnolia is a Louisiana limited liability company, in good standing, formed to acquire the assets of water and wastewater utilities in Louisiana and to own and operate those assets as public utilities subject to the Louisiana Public Service Commission's ("LPSC's") regulatory jurisdiction.

W. Magnolia has represented to the United States and LDEQ that: Since its first acquisitions in Louisiana in 2019, Magnolia has grown to serve approximately 27,900 sewer connections and approximately 16,570 water connections in regulated systems in parishes throughout Louisiana; many of the systems Magnolia has acquired, if not all, had experienced, prior to their being acquired, some degree of operational neglect, with several recording numerous, and oftentimes ongoing, violations of applicable health and environmental regulations

prior to Magnolia's acquisition; significant capital improvements have been completed in many of the systems currently operated by Magnolia, and most are operating in full compliance with the rules and regulations of all applicable regulatory authorities; and those systems currently not in compliance are being systematically brought into compliance in accordance with an Agreed Order issued by LDEQ.

X. Magnolia has represented to the United States and LDEQ that: Magnolia is part of an affiliate group that includes Central States Water Resources, Inc. ("Central States"), a Missouri corporation in good standing, CSWR, LLC, a Missouri limited liability company in good standing, and several other companies, some of which currently operate small water or wastewater utilities in Missouri, Arkansas, Kentucky, Texas, Tennessee, Mississippi, Arizona, Florida, North Carolina, and Louisiana; through its relationship with CSWR, LLC (which provides unified governance oversight as well as services for all state specific operating companies) and other companies within the affiliate group, Magnolia has access to highly skilled technical, managerial, and financial experts and resources and economies of scale not usually available to small water and wastewater companies; and affiliated companies within the group operating in Missouri, Arkansas, Kentucky, Texas, Tennessee, Mississippi, Arizona, Florida, North Carolina, and Louisiana have a good customer service and operating record with utility regulators.

Y. EPA and LDEQ agree to Magnolia's substitution for TESI as the Intervening Defendant under the Consent Decree, as modified by the First Consent Decree Modification and further modified herein.

Z. As modified by First Consent Decree Modification Paragraph 38, Paragraph 77 of the Consent Decree provides that there shall be no modification of the Consent Decree without

the written approval of the United States of America on behalf of EPA, LDEQ, TESI, and the Court. By their signatures hereto, the United States of America on behalf of EPA, LDEQ, TESI, and Magnolia approve of this modification of the Consent Decree.

AA. The Parties agree that this proposed *Second Agreement and Order Regarding Modification of the Consent Decree with Respect to TESI* (“Second Consent Decree Modification”) will further the purposes set forth in Paragraph 9 of the Original Consent Decree and is in the public interest.

NOW THEREFORE, before the taking of testimony, without the necessity of trial, without adjudication of any issues of fact or law, without any admission of liability or of any issue of fact or law by TESI or Magnolia, and upon the consent of the Parties hereto,

IT IS ADJUDGED, ORDERED, AND DECREED THAT:

Upon the Effective Date, the Consent Decree be amended to include the following provisions and modifications. Except as specifically noted herein, all provisions of the Original Consent Decree as modified by the First Consent Decree Modification shall remain in effect.

## II. SUBSTITUTION OF INTERVENING DEFENDANT

1. Starting on the Closing Date, Magnolia shall be substituted for TESI as the Intervening Defendant with respect to all STPs that remain subject to the Second Consent Decree Modification. All references to Intervening Defendant and TESI in the Second Consent Decree Modification that relate to requirements of the Consent Decree, as modified by the First and Second Consent Decree Modifications, that will be implemented after the Closing Date shall be deemed to refer to Magnolia.

2. On the Effective Date, Magnolia shall notify the United States and LDEQ of the Closing Date and include a list of the deadlines calculated pursuant to First Consent Decree Modification Section III (Calculation of Time) that are 120 days, 180 days, 1,095 days, and

1,278 days after the Closing Date; take over all operations formerly undertaken by TESI; and use its best efforts to ensure that services to the public are not interrupted and services to the public do not deteriorate during or after the transition.

3. After the Closing Date, TESI shall no longer be the Intervening Defendant. TESI shall be solely responsible for all liabilities related to actions it took prior to the Closing Date as Intervening Defendant under the Original Consent Decree and the First Consent Decree Modification including liability for stipulated penalties that arose prior to the Closing Date.

### **III. EFFECTIVE DATE**

4. The Effective Date of this Second Consent Decree Modification shall be the first day on which both of the following conditions are met:

- a. Magnolia has secured a Guarantee as provided in Second Consent Decree Modification Paragraph 19; and
- b. The Closing Date has occurred.

### **IV. ADDITIONAL DEFINITIONS**

5. The definitions set forth in Paragraph 2 of the Original Consent Decree and Paragraph 6 of the First Consent Decree Modification are modified and supplemented as follows:

- r. "Original\_Consent Decree" means the "Consent Decree with Respect to TESI" entered by the Court on December 21, 2000 (DN 167).
- s. "First Consent Decree Modification" means the Agreement and Order Regarding Modification of the Consent Decree with Respect to TESI entered by the Court on May 18, 2017 (Dkt. No. 241).
- gg. "Second Consent Decree Modification" means this Second Agreement and Order Regarding Modification of the Consent Decree with Respect to TESI.

- hh. “Closing Date” means the date on which title to the STPs on the Revised Inventory (as defined below) is conveyed to Magnolia.
- ii. “Guarantee” means an executed Guarantee from CSWR, LLC for the benefit of EPA in a form substantially identical to the Guarantee in Appendix F (Form of Guarantee).
- kk. “Revised Inventory” means the “Revised Inventory of Mechanical and Pond Sewage Treatment Plants” attached hereto as Appendix D.

## V. COMPLIANCE MEASURES

6. **Revised Inventory.** The only STPs subject to the Consent Decree as of the Effective Date are those listed in the Revised Inventory. The Revised Inventory shall be substituted for the “Inventory of Mechanical and Pond Sewage Treatment Plants” (*see* Long Term Compliance Plan, Attachment 1) for all purposes including application of Long Term Compliance Plan Section 1, Paragraph 1 (Inventory of STPs).

- 7. Reevaluation and implementation of Mechanical STP CDE Work:
  - a. Magnolia will prepare a Revised Mechanical STP CDE Report for each Mechanical STP subject to the Consent Decree that complies with the requirements of Long Term Compliance Plan Paragraph 2(e) no later than 120 days after the Closing Date.

- i. The requirements in Long Term Compliance Paragraph 2(e) applicable to the form and certification of the Revised Mechanical STP CDE Report shall be revised as follows: “Each Revised Mechanical STP CDE Report must fully comply with the requirements of ~~the March 12, 2009 Order~~ **Appendix E (Requirements for Comprehensive Diagnostic Evaluation Reports)**”



including the requirement in ~~CDE Plan~~ **Appendix E**, Paragraph ~~3. 5~~ to include a certification signed by the Professional Engineer.”

ii. The requirements in Long Term Compliance Plan Paragraph 2(e) to revise the Mechanical STP Comprehensive Diagnostic Evaluation Report Implementation Audit and to submit to EPA a proposed schedule for implementing all formerly-identified Revised Mechanical STP CDE Work are deemed completed.

iii. The deadline in Long Term Compliance Plan Paragraph 2(e) for Magnolia to identify Mechanical STP CDE Work and propose written schedule for completing implementation of all Mechanical STP CDE Work is extended to 120 days after the Closing Date and the schedule shall be effective upon submission to EPA.

b. The requirements of Long Term Compliance Plan Paragraph 2(b) are revised as follows:

b. ~~If it is determined by TESI that Mechanical STP CDE Work at a particular Mechanical STP either:~~

i. ~~Was not completed prior to the Effective Date of the Consent Decree Modification, or~~

ii. ~~Was completed prior to the Effective Date of the Consent Decree Modification but subsequently relapsed into a prior or otherwise inadequate condition,~~

~~then a~~ **All such** Mechanical STP CDE Work shall be identified and ~~TESI~~ **Magnolia** shall propose and, ~~except as specifically provided in Subparagraph e,~~ timely implement a written schedule for completing implementation of all Mechanical STP CDE Work as soon as technically feasible but not later than ~~27 months~~ **1,095 days** following the ~~Effective Date of the Consent Decree Modification~~ **Closing Date**.

c. The requirements of Long Term Compliance Plan Paragraph 2(a) to document Mechanical STP CDE Work for a particular Mechanical STP that was completed prior to the Effective Date of the First Consent Decree Modification is deemed completed.

d. The requirements of Long Term Compliance Plan Paragraph 2(c) are deemed completed.

e. The requirements of Long Term Compliance Plan Paragraph 2(d) are deemed completed.

8. The requirements of Long Term Compliance Plan Paragraph 3 (Holistic Process Control Plan for Mechanical STPs.) are deemed completed.

9. Reevaluation and implementation of Pond STP CDE Work:

a. Magnolia will prepare a Revised Pond STP CDE Report for each Pond STP subject to the Consent Decree that complies with the requirements of Long Term Compliance Plan Paragraph 5(g) no later than 120 days after the Closing Date.

i. The requirements in Long Term Compliance Paragraph 5(g) applicable to the form and certification of the Revised Pond STP CDE Report shall be revised as follows: “Each Revised Pond STP CDE Report must fully comply with the requirements of the ~~March 12, 2009 Order~~ **Appendix E** including the requirement in ~~CDE Plan~~ **Appendix E**, Paragraph ~~3-5~~ to include a certification signed by the Professional Engineer.”

ii. The requirement in Long Term Compliance Plan Paragraph 5(g) that “No later than 18 months following the Effective Date of the [First] Consent Decree Modification, TESI shall revise schedule submitted pursuant to

Paragraph 5.c to include all Revised Mechanical STP CDE Work and submit the revised schedule to EPA for Review and Comment.” is eliminated and the Revised Pond STP CDE Work shall be included in the schedule to be submitted by Magnolia pursuant to Long Term Compliance Paragraph 5(c).

b. The deadline in Long Term Compliance Plan Paragraph 5(c) for Magnolia to submit a written schedule for implementing the Pond STP CDE Work is extended to 120 days after the Closing Date.

c. The requirements of Long Term Compliance Plan Paragraph 5(c) are revised to require that the written schedule must provide for completing implementation of all Pond STP CDE Work, including the Operation and Maintenance Improvements specified in Long Term Compliance Plan Paragraph 9, as soon as technically feasible but not later than 1,095 days after the Closing Date. The requirement in Long Term Compliance Plan Paragraph 5(c) that “[i]n the schedule TESI shall organize the inventory of Pond STPs into two approximately equal sized groups” is eliminated.

d. The requirements of Long Term Compliance Plan Paragraph 5(a), (b), (d) and (f) are deemed completed.

10. Pond STP Solids Management.

a. On June 28, 2018, EPA approved the Preliminary Solids Management Plan for all STPs that were to continue to be operated as Ponds submitted pursuant to Long Term Compliance Plan Paragraph 6(a). Accordingly, the requirement to develop and provide to EPA for review and approval a Preliminary Solids Management Plan pursuant to Long Term Compliance Plan Paragraph 6(a) is deemed completed.

b. On or about May 17, 2019, TESI provided a Solids Management Plan for all STPs that continue to be operated as Ponds to EPA pursuant to Long Term Compliance Plan Paragraph 6(b), and the plan went into effect as received. Accordingly, the requirement to develop and provide to EPA for review and comment a Solids Management Plan for all STPs that continue to be operated as Ponds is deemed completed.

c. On the Closing Date, the requirements of Long Term Compliance Plan Paragraph 6 will be eliminated from the Second Consent Decree Modification, and both the Preliminary Solids Management Plan approved pursuant to Long Term Compliance Plan Paragraph 6(a) and the Solids Management Plan developed pursuant to Long Term Compliance Plan Paragraph 6(b) will no longer be in effect. Instead, Magnolia will include a plan and schedule for solids management (including both removal, treatment and disposal of solids from ponds and criteria for determining the need for solids removal or treatment in the future) in the Revised Pond STP CDE Report for each STP that will continue to be operated as a Pond STP. The plan and schedule for solids management shall ensure that each STP that will continue to be operated as a Pond STP is able to achieve long-term, sustained compliance with the CWA, including compliance with the applicable LPDES permit. The plan and schedule for solids management will be part of the Pond STP CDE Work and subject to the deadline in Long Term Compliance Plan Paragraph 10.

d. The requirements of Long Term Compliance Plan Paragraph 7(Holistic Process Control Plan for Pond STPs) are deemed complete.

e. The operation and maintenance improvements pursuant to Long Term Compliance Plan Paragraph 9 shall be identified and implemented in compliance with the requirements of Second Consent Decree Modification Paragraphs 9.a and c above. Long Term Compliance Plan Paragraph 9(c) is amended as follows: “Vegetation control and removal, including duckweed ~~removal~~control.”

f. The deadline in Long Term Compliance Plan Paragraph 10 for completion of all Pond STP CDE Work is extended to 1,095 days after the Closing Date.

g. The deadline in Long Term Compliance Plan Paragraph 11 to complete all solids removal, treatment and disposal activities consistent with the Solids Management Plan for all STPs that continue to be operated as Ponds submitted pursuant to Paragraph 6.b. is eliminated; and such solids management will be part of the Pond STP CDE Work and subject to the deadline in Long Term Compliance Plan Paragraph 10, as provided above.

11. Reevaluation and implementation of Collection System CDE Work:

a. No later than 120 days after the Closing Date, Magnolia shall provide a revised Collection System Comprehensive Diagnostic Evaluation Report Implementation Audit for all Collection Systems for STPs subject to the Second Consent Decree Modification, which may be included as a section within the Revised Mechanical STP CDE Reports or Revised Pond CDE Reports for the associated STP. The revised Collection System CDE Work shall be substituted for any prior Collection System CDE Work identified under Long Term Compliance Plan Paragraph 13.

b. The requirements of Long Term Compliance Plan Paragraphs 15 (Collection System Attribute Data), 16 (Collection System Maps), and 17 (Additional

Collection System Assessments) are deemed completed and all references to “Additional Collection System Assessments” are deemed satisfied.

c. The deadline in Long Term Compliance Plan Paragraph 18 for Magnolia to provide a prioritized schedule to implement the required Collection System improvements identified under Long Term Compliance Plan Paragraph 13 is extended to 120 days after the Closing Date. Furthermore, the requirement that the schedule be provided to EPA for review and approval is eliminated and the schedule shall be effective upon submission to EPA. Also, the schedule previously submitted by TESI is no longer in effect and, after the Closing Date, Magnolia is not required to comply with that schedule.

d. The requirements of Long Term Compliance Plan Paragraph 18 are revised to require that the written schedule must provide for completing implementation of all Collection System CDE Work as soon as technically feasible but not later than 1,095 days after the Closing Date. The requirement that Magnolia shall prioritize the inventory of necessary Collection System improvements into two approximately equally sized groups is eliminated.

e. Long Term Compliance Plan Paragraph 19 is revised to require Magnolia to complete all required Collection System improvements no later than 1,095 days after the Closing Date.

12. The requirements of Long Term Compliance Plan Paragraph 20 (Updating LPDES Permits) and Long Term Compliance Plan Paragraph 21 (Public Employee Safety) are deemed completed.

13. Submission of documents to EPA:

- a. Magnolia shall submit copies of the following documents to EPA and LDEQ no later than 120 days after the Closing Date:
  - i. The Revised Mechanical STP CDE Report referenced in Second Consent Decree Modification Paragraph 7.a.
  - ii. The Mechanical STP CDE Work identified and the proposed written schedule for completing implementation of all Mechanical STP CDE Work referenced in Second Consent Decree Modification Paragraph 7.a.iii.
  - iii. The Revised Pond STP CDE Report referenced in Second Consent Decree Modification Paragraph 9.a.
  - iv. The written schedule for implementing the Pond STP CDE Work referenced in Second Consent Decree Modification Paragraph 9.b.
  - v. The revised Collection System Comprehensive Diagnostic Evaluation Report Implementation Audit referenced in Second Consent Decree Modification Paragraph 11.a.
  - vi. The schedule to implement the required Collection System improvements referenced in Second Consent Decree Modification Paragraph 11.c.
- b. Submissions pursuant to this Paragraph will include a cover sheet that specifies, to the extent relevant to the particular submission, the following information:
  - i. The date the document was mailed or, if submitted by downloadable link, that the link was emailed and the cover sheet was also mailed;
  - ii. The STP name and address;
  - iii. The STP's LPDES Permit number;
  - iv. The STP's AI number in LDEQ's EDMS system; and

v. A summary of the problems identified, the proposed corrective actions, to the extent known, the estimated cost of the corrective actions, and the estimated start date and time frame to complete the corrective actions.

14. Final STP Reports. The schedule for submission of Final STP Reports to EPA for review and approval in Paragraph 3 of Appendix C (Process for Removing STPs) to the First Consent Decree Modification shall be superseded with the following schedule:

a. By no later than the first, second, and third anniversary of the Closing Date, Magnolia will submit, in a single batch each year, the Final STP Reports for STPs, if any, for which the conditions in Paragraph 1 of the Process for Removing STPs (Attachment C) have been satisfied.

b. By no later than the date that is 1,278 days after the Closing Date, Magnolia will meet the conditions in Paragraphs 1 of the Process for Removing STPs (Attachment C) at all STPs remaining subject to the Second Consent Decree Modification and submit, in a single batch, Final STP Reports for these STPs.

15. Alternatives to Forms. To the extent the Second Consent Decree Modification requires Magnolia to use a specific form, Magnolia may use alternative methods to record information provided that the alternative method includes a place to record all information on the original form. Alternative methods may include a substitute paper form or a system using hand-held field devices to record information.

16. Staffing Assessment and Training.

a. Pursuant to Long Term Compliance Plan Paragraph 24(a), TESI submitted and EPA and LDEQ approved a staffing assessment. References in the approved staffing assessment to “employees,” “staff,” or “TESI personnel” shall be deemed to refer to



either employees, staff, or personnel of Magnolia or of Magnolia’s contract operation and maintenance firms.

b. Pursuant to Long Term Compliance Plan Paragraph 24(b), Magnolia is required to train each staff member in specified areas. The training required by Long Term Compliance Plan Paragraph 24(b) may be provided by either Magnolia or its contract operation and maintenance firms.

c. Magnolia may, but is not required to, revise the staffing assessment not later than one year after the Closing Date and submit that revised staffing assessment to EPA and LDEQ for review and comment.

17. Reporting: the frequency of report submittals under Attachment 15 (Reporting Table) of the Long Term Compliance Plan (Appendix B) shall be revised consistent with the following table, except that the first quarterly report shall cover the period from the Closing Date through the end of the first full quarter after the Closing Date and shall be due following the end of the first full calendar quarter after Closing Date:

ORIGINAL FREQUENCY	REVISED FREQUENCY	¶ LTC PLAN¶	NAME	REVISED DUE DATE
Monthly	Quarterly	3	No reporting required.	All quarterly implementation progress reports shall be due within thirty (30) days following the end of the calendar quarter period.
		11	Status of Solids Management Activities	
2		Status of Mechanical STP CDER Implementation		
4		Status of STP-Specific Process Control Plans for Mechanical STPs implementation (including sludge wasting activities as provided in Second Consent Decree Modification Paragraph 18)		
7		Status of Holistic Process Control Plan for Pond STPs (which would be designated as complete)		
8		Status of STP-Specific Process Control Plans for Pond STPs implementation		
9		Status of Operations and Maintenance Improvements for Pond STPs implementation		
10		Status of Pond STP CDER Implementation		
13		Status of Collection System CDER Implementation		
14		Status of Enhanced Collection System Maintenance Plan implementation		
Quarterly				

		17	Status of Additional Collection System Assessments (which would be designated as complete)	
		19	Status of Collection System Improvements	
		22	Status of Hydraulic and Organic Loading Analysis (which would be designated as complete)	
		24	Status of Staffing Assessment (which would be designated as complete)	
Annually	Annually	15	Status of Collection System Attribute Data (which would be designated as complete)	All annual implementation progress reports shall be due within thirty (30) days following the end of the calendar year.
		16	Status of Collection System Maps (which would be designated as complete)	
		21	Status of Public and Employee Safety Improvements (which would be designated as complete)	
		23	Status of Enhanced NPDES Self-Monitoring and O&M Procedures	
		24	Status of Staff Training	
		25	Certification of Professional Engineer with wastewater experience and/or Required Class of Operator per Louisiana Sanitary Code	

18. Reporting on sludge wasting activities related to STP-Specific Process Control Plans for Mechanical STPs (Long Term Compliance Plan Paragraph 4) shall include the following information and records for the reporting period documenting the following for each mechanical STP:

- a. STP name, NPDES Permit number, Agency Interest ("AI") number, and, if the STP has multiple units, specific name of the clarifier;
- b. For each time sludge depth is measured, the date of the measurement, the sludge depth in feet, and the clarifier sidewall height in feet;
- c. Mixed liquor suspended solids concentrations and the analytical method used to perform the analyses;
- d. Amount of solids wasted to the plant's digester; and
- e. For any solids removed and taken to any other facility: volumes of solids wasted, location of the final disposal site/facility of the solids and copies of all manifests related to solids removal at the STP.

**VI. GUARANTEE FROM CSWR, LLC**

19. After Entry of the Second Consent Decree Modification and before or simultaneous with the Closing Date, Magnolia shall secure a guarantee from CSWR, LLC for the benefit of EPA (the Guarantee) and provide a copy of the executed Guarantee to the United States. The Guarantee must be in a form substantially identical to the Guarantee in Appendix F.

**VII. MODIFICATIONS TO SECTION V (MODIFIED STIPULATED PENALTIES) OF THE FIRST CONSENT DECREE MODIFICATION**

20. The Section V (Modified Stipulated Penalties) of the First Consent Decree Modification is modified as set forth below:

a. Stipulated Penalties Paragraphs 8, 9, 11, 12, 13, 15, 16, 17, 20, 21, 22 of the First Consent Decree Modification are deleted as these provisions are no longer relevant given the passage of time and prior submissions made by TESI under the First Consent Decree Modification.

b. Paragraphs 27 and 28 of the First Consent Decree Modification shall be modified to replace the introductory clause with: “After the deadline for implementing the Mechanical STP CDE Work or Pond STP CDE Work at an STP, as applicable, Magnolia shall be liable for stipulated penalties in the amounts specified in this Paragraph for each instance in which ....”

c. **Stipulated Penalties during the first 180 days:** From the Closing Date through 180 days after the Closing Date, the amounts of the stipulated penalties under Section V (Modified Stipulated Penalties) of the First Consent Decree Modification will be modified as set forth in this Paragraph. This Paragraph modifies the amount of the stipulated penalties only in the specified Paragraphs. Starting on the 181st day after the

Closing Date, the amount of the stipulated penalties will revert to the amounts specified in Section V (Modified Stipulated Penalties) of the First Consent Decree Modification.

- i. First Consent Decree Modification Paragraph 14. Failure to timely develop and implement STP-Specific Process Control Plans for a Mechanical or Pond STP Long Term Compliance Plan Paragraphs 4 and 8.

Stipulated Penalty Amounts for Failure to Timely Develop and Fully Implement an STP-Specific Process Control Plan for Mechanical and Pond STPs	
1st through 30th day	\$75 per requirement per STP per day
31st through 60th day	\$110 per requirement per STP per day
61st day and beyond	\$150 per requirement per STP per day

- ii. First Consent Decree Modification Paragraph 18. Failure to timely implement:

- (A) Enhanced Collection System Maintenance Plan Long Term Compliance Plan Paragraph 14(a),
- (B) Supplemental Enhanced Collection System Maintenance Plan required by Long Term Compliance Plan Paragraph 14(b ), and/or
- (C) Collection System Improvements included in the approved schedule submitted pursuant Long Term Compliance Plan Paragraph 18.

Stipulated Penalty Amounts for Failure to Timely Implement the Requirements of the Enhanced Collection System Maintenance Plan, Supplemental Enhanced Collection System Maintenance Plan, and/or the Schedule for Collection System Improvements	
1st through 30th day	\$35 per requirement per day
31st through 60th day	\$75 per requirement per day
61st day and beyond	\$110 per requirement per day

- iii. First Consent Decree Modification Paragraph 23. Failure to timely implement the requirements of the Enhanced LPDES Self-Monitoring and O&M Procedures in Long Term Compliance Plan Paragraph 23.

Stipulated Penalty Amounts for Failure to Timely Implement the Enhanced LPDES Self-Monitoring and O&M Procedures	
1st through 30th day	\$35 per requirement per STP per day
31st through 60th day	\$75 per requirement per STP per day
61st day and beyond	\$110 per requirement per STP per day

iv. First Consent Decree Modification Paragraph 24. Failure to timely conduct staff training specified in Long Term Compliance Plan Paragraph 24(b):

Stipulated Penalty Amounts for Failure to Timely Conduct Staff Training	
1st through 30th day	\$35 per day
31st through 60th day	\$75 per day
61st day and beyond	\$110 per day

v. First Consent Decree Modification Paragraph 25. Failure to timely conduct the staffing assessment and fill necessary vacancies as required by Long Term Compliance Plan Paragraph 24(a).

Stipulated Penalty Amounts for Failure to Timely Conduct the Staffing Assessment and Fill Necessary Vacancies	
1st through 30th day	\$35 per day
31st through 60th day	\$75 per day
61st day and beyond	\$110 per day

vi. First Consent Decree Modification Paragraph 26. Failure to timely submit:

- (A) Complete DMRs per LPDES permit, and/or
- (B) Report, certification, or other submittal pursuant to Long

Term Compliance Plan Paragraph 26.

Stipulated Penalty Amounts for Failure to Timely Submit Complete DMRs and/or a report, certification, or other submittal pursuant to <i>Long Term Compliance Plan</i> Paragraph 26	
1st through 30th day	\$75 per report, certification, or other submittal per day
31st through 60th day	\$110 per report, certification, or other submittal per day
61st day and beyond	\$150 per report, certification, or other submittal per day

## VIII. MODIFICATION TO SECTION XIX (NOTICES)

21. In Section XIX (Notices) of the Original Consent Decree, Paragraphs 75 and 76 are hereby replaced with the following:

### XIX. NOTICES

75. Notices

a. Whenever under the terms of the Consent Decree as modified by the First and Second Consent Decree Modifications notice is required to be given or a report or other document is required to be forwarded by one party to another, the notice, report, or other document must be in writing and in an electronically searchable format and be transmitted by email as follows:

As to the United States by email:

eescdcopy.enrd@usdoj.gov  
Re: DJ # 90-5-1-1-4375

and

Matthews.Rachel@epa.gov  
re: Magnolia Water Utility Operating Company, LLC, Second  
Consent Decree Modification (Civil Action No. 6:98-0687)

As to EPA by email:

Matthews.Rachel@epa.gov  
re: Magnolia Water Utility Operating Company, LLC, Second  
Consent Decree Modification (Civil Action No. 6:98-0687)

As to the State of Louisiana and/or the Louisiana Department of Environmental  
Quality by email:

Angela.Marse@la.gov and Dwana.King@la.gov  
re: Magnolia Water Utility Operating Company, LLC, Second  
Consent Decree Modification (Civil Action No. 6:98-0687)

As to Magnolia by email:

Russ Mitten, General Counsel  
Email: rmitten@cswrgroup.com

and

Paulina Williams  
Baker Botts, LLP  
paulina.williams@bakerbotts.com

b. If any email is returned as undeliverable or the party becomes aware by any means that the email was not delivered, the notifying Party shall, within 2 days, submit the writing in an electronically searchable format to the following addresses:

As to the United States:

EES Case Management Unit  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, DC 20044-7611  
Re: DJ# 90-5-1-1-4375

and

Enforcement and Compliance Assurance Division  
Water Enforcement Branch  
U.S. EPA Region 6 (ECDWM)  
1201 Elm St., Suite 500  
Dallas, Texas 75270  
re: Magnolia Water Utility Operating Company, LLC, Second  
Consent Decree Modification (Civil Action No. 6:98-0687)

As to EPA:

Enforcement and Compliance Assurance Division  
Water Enforcement Branch  
U.S. EPA Region 6 (ECDWM)  
1201 Elm St., Suite 500  
Dallas, Texas 75270  
re: Magnolia Water Utility Operating Company, LLC, Second  
Consent Decree Modification (Civil Action No. 6:98-0687)

As to the State of Louisiana and/or the Louisiana Department of Environmental Quality:

Angela Marse  
Enforcement Division Administrator  
Louisiana Department of Environmental Quality  
P.O. Box 4312  
Baton Rouge, Louisiana 70821-4312

and

Dwana.King  
Legal Affairs Division  
Louisiana Department of Environmental Quality  
P.O.Box 4302  
Baton Rouge, LA 70821-4302

As to Magnolia:

Russ Mitten, General Counsel  
Magnolia Water Utility Operating Company, LLC  
10761 Perkins Road, Suite A  
Baton Rouge, LA 70810  
Email: rmitten@cswrgroup.com

and

Paulina Williams  
Baker Botts, LLP  
401 South 1st Street, Suite 1300  
Austin, TX 78704-1296  
Email: paulina.williams@bakerbotts.com

c. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above.

76. Notices submitted pursuant to this Consent Decree shall be deemed submitted upon transmission, posting, or mailing, unless otherwise provided in this Consent Decree or by mutual agreement of the parties in writing.



**IX. MODIFICATIONS TO ORIGINAL CONSENT DECREE SECTION XXI (EFFECTIVE DATE AND TERMINATION DATES)**

22. The first sentence of Original Consent Decree Paragraph 78 as modified by First Consent Decree Modification Paragraph 40 shall be further amended as follows:

"When Magnolia determines that it has complied with all requirements of this Second Consent Decree Modification, including submitting a Final STP Report pursuant to Paragraph 3 of Appendix C (*Process for Removing STPs from the Consent Decree with Respect to TESI*) for each STP subject to the Second Consent Decree Modification and receiving EPA approval for the Final STP Report for each STP subject to the Second Consent Decree Modification, Magnolia shall so certify in writing to the EPA and LDEQ.

The remainder of Original Consent Decree Paragraph 78 remains in effect without change.

**X. PUBLIC NOTICE REQUIREMENTS FOR THE SECOND CONSENT DECREE MODIFICATION**

23. This Second Consent Decree Modification shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment in accordance with Department of Justice policy and 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if comments by the public regarding the Second Consent Decree Modification disclose facts or considerations which indicate that the Second Consent Decree Modification is inappropriate, improper, or inadequate. This Paragraph does not create any rights exercisable by the Magnolia.

24. The Parties agree and acknowledge that final approval by Plaintiff the State of Louisiana, through the Department of Environmental Quality, and entry of this Second Consent Decree Modification is subject to the requirements of La. R.S. 30:2050.7, which provides for public notice in the official journal of the Parishes of Acadia, Ascension, Assumption, Iberia, Iberville, Jefferson, Lafayette, Lafourche, Livingston, Natchitoches, Pointe Coupee, Rapides, St. Martin, St. Tammany, Terrebonne, St. Mary, and Vermilion and opportunity for public comment for a period of not less than 45 days, consideration of any comments, and concurrence by the

State Attorney General. Evidence of final approval of this Second Consent Decree Modification by LDEQ shall be LDEQ's execution of a Motion to Enter the Second Consent Decree Modification, and LDEQ reserves the right to withdraw or withhold consent based on information provided during the public comment period or if the State Attorney General raises objections. In the event public comments raise issues over the content or terms of the Second Consent Decree Modification or if the State Attorney General raises objections, the LDEQ may withdraw from this Second Consent Decree Modification and will not join in the filing of a Motion to Enter the Second Consent Decree Modification. This Paragraph does not create any rights exercisable by Magnolia.

**XI. SIGNATORIES TO THE SECOND CONSENT DECREE MODIFICATION**

25. Each undersigned representative of TESI, Magnolia, the Assistant Attorney General for the Environment and Natural Resources Division of the U.S. Department of Justice, and the undersigned counsel for LDEQ certifies that he or she is fully authorized to enter into the terms and conditions of this Second Consent Decree Modification and to execute and legally bind such party to this document.

26. Magnolia hereby agrees not to oppose entry of this Second Consent Decree Modification by this Court or to challenge any provision of this Second Consent Decree Modification unless the United States and LDEQ have given written notice that they no longer support entry of the Second Consent Decree Modification.

Entered this \_\_\_\_\_ day of \_\_\_\_\_ 2022,

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United States District Judge  
Western District of Louisiana

**FOR THE UNITED STATES OF AMERICA:**

TODD KIM  
Assistant Attorney General  
Environment and Natural Resources Division  
United States Department of Justice

August 17, 2022

/s Michael T. Donnellan

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Date

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MICHAEL T. DONNELLAN  
Senior Attorney  
Environmental Enforcement Section  
Environment and Natural Resources Division  
United States Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044  
Telephone: 202-514-4226  
Telefax: 202-616-6584  
Email: michael.donnellan@usdoj.gov

**FOR THE UNITED STATES OF AMERICA:**

BRANDON BONAPARTE BROWN  
United States Attorney  
Western District of Louisiana

DESIREE C. WILLIAMS  
Assistant United States Attorney  
United States Department of Justice  
Western District of Louisiana  
800 Lafayette Street, Suite 2200  
Lafayette, LA. 70501  
Phone: (337) 262-6618  
Fax: (337) 262-6693  
Email: [desiree.williams@usdoj.gov](mailto:desiree.williams@usdoj.gov)

**FOR THE ENVIRONMENTAL PROTECTION AGENCY:**

\_\_\_\_\_  
Date


JOSEPH  
THEIS

Digitally signed by  
JOSEPH THEIS  
Date: 2022.08.12  
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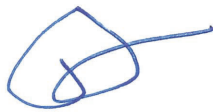
\_\_\_\_\_  
JOSEPH G. THEIS  
Director  
Water Enforcement Division  
Civil Enforcement Office  
Office of Enforcement and Compliance Assurance  
United States Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, D.C. 20460

**FOR THE ENVIRONMENTAL PROTECTION AGENCY:**

August 8, 2022  
Date

  
CHERYL T. SEAGER  
Director  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 6  
1201 Elm St. Suite 500  
Dallas, TX 75270

08/15/2022  
Date


  
TUCKER HENSON  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 6  
1201 Elm St. Suite 500  
Dallas, TX 75270  
Telephone: 214-665-8148  
Email: henson.tucker@epa.gov

**FOR THE STATE OF LOUISIANA, THROUGH THE DEPARTMENT OF ENVIRONMENTAL QUALITY:**

7/18/2022  
Date

  
CELENA CAGE  
Assistant Secretary  
Office of Environmental compliance  
Louisiana Department of Environmental Quality  
PO Box 4312  
Baton Rouge, LA 70821-4312

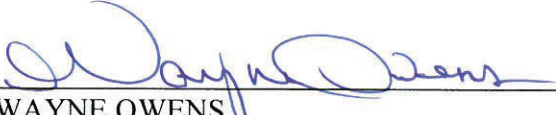
7-18-2022  
Date

  
DWANA KING  
General Counsel (La. Bar #20590)  
Legal Division  
Louisiana Department of Environmental Quality  
P.O. Box 4302  
Baton Rouge, Louisiana 70821-4302  
Telephone: 225-219-3985  
Facsimile: 225-219-4068  
Email: Dwana.King@LA.GOV

The signatures appearing above, on behalf of the State of Louisiana, Department of Environmental Quality, shall not be effective until the applicable public notice and public comment requirements of La. R.S. 30:2050.7 have been satisfied.

**FOR TOTAL ENVIRONMENTAL SOLUTIONS, INC.:**

8-17-22  
\_\_\_\_\_  
Date

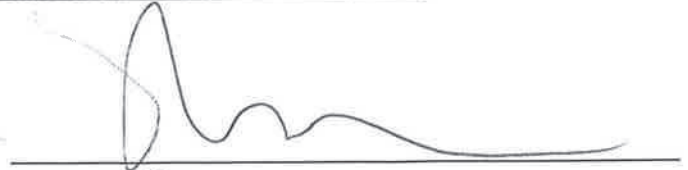
  
\_\_\_\_\_  
WAYNE OWENS  
Chief Executive Officer  
Total Environmental Solutions, Inc.  
P.O. Box 4037  
Houma, Louisiana 70361



**FOR MAGNOLIA WATER UTILITY OPERATING COMPANY, LLC:**

7-18-22

Date



JOSIAH COX

President

Magnolia Water Utility Operating Company, LLC

10761 Perkins Road, Suite A

Baton Rouge, LA 70810

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA and  
STATE OF LOUISIANA, through THE  
DEPARTMENT OF ENVIRONMENTAL  
QUALITY,

Plaintiffs,

v.

ACADIA WOODS ADD. #2 SEWER CO.,  
ACADIANA TREATMENT SYSTEMS, et al.,  
Defendants,

and

TOTAL ENVIRONMENTAL SOLUTIONS,  
INC.,

Intervening Defendant.

Civil Action No. 6:98-0687

**AGREEMENT AND ORDER REGARDING MODIFICATION OF THE  
CONSENT DECREE WITH RESPECT TO TESI**

APPENDIX D

*REVISED INVENTORY OF MECHANICAL AND POND SEWAGE TREATMENT PLANTS*

**APPENDIX D**

**REVISED INVENTORY OF MECHANICAL AND POND SEWAGE TREATMENT PLANTS**

<b>APPENDIX D – REVISED INVENTORY</b>				
<b>#</b>	<b>AI No.</b>	<b>LPDES Permit</b>	<b>Name</b>	<b>Type</b>
1.	20033	LA0074853	Abadie Oaks	M
2.	41842	LAG540040	Albany Heights	O
3.	20032	LA0062791	Arrowhead	M
4.	18829	LAG570243	Atchafalaya Acres	O
5.	97646	LA0118656	Atwood Acres	O
6.	20030	LA0074951	Avies Knoll	M
7.	18790	LAG540736	Beau Chene	O
8.	18813	LA0078450	Beau Parterre	M
9.	18603	LAG570104	Beau Pre	M
10.	31150	LAG560073	BEAUJOLAIS	O
11.	41852	LAG560316	Beechwood	M
12.	20028	LA0074870	Bellefont Estates	M
13.	20027	LA0062804	Cajun Estates	O
14.	19015	LA0076104	Cajun Village	M
15.	20026	LA0062812	Carencro Village	M
16.	40973	LAG540047	Cedar Bend	O
17.	38241	LAG570231	Cedar Grove	O
18.	38188	LAG540584	Chenal Estates	O
19.	52399	LA0075086	Cherrywood	O
20.	41840	LAG570045	Cotton Fields	M
21.	31147	LAG540621	Country Acres	O
22.	19003	LAG570564	Country Meadows/Windy Meadows	M
23.	41844	LAG540371	Country Place/Tall Oaks	M
24.	43625	LAG560179	Crozier Heights	M
25.	18800	LAG540098	Cypress Land	O
26.	20019	LA0073946	Derby Heights	O
27.	20018	LA0074772	Diamondhead Estates	M
28.	41103	LAG540239	Dugas (Community Sewer)	M
29.	41432	LAG570018	Eureka Heights 1& 2	M
30.	40451	LA0077798	Frenchman's Creek	M
31.	20014	LAG540102	Green Acres	M
32.	31241	LAG560023	Green Bayou	M
33.	31020	LAG540340	Greenbriar	O
34.	43544	LAG560077	Half Oak Subdiv	O
35.	41841	LAG540368	Highland Ridge	M

<b>APPENDIX D – REVISED INVENTORY</b>				
<b>#</b>	<b>AI No.</b>	<b>LPDES Permit</b>	<b>Name</b>	<b>Type</b>
36.	41838	LAG540618	Hillshire	O
37.	40456	LAG542026	Hummingbird Plaza/ Wolf Creek	M
38.	41847	LAG570145	Hunstock Hills	O
39.	20010	LA0074781	Ile Des Cannes/ Champions/West Park/Westwinds	M
40.	19053	LAG560014	Irish Bend	O
41.	41628	LAG560167	Island Woods	O
42.	40458	LA0078263	Jackson Square/Pontalba	M
43.	41848	LAG570088	Jones Estates	M
44.	41846	LAG540375	La Amite	O
45.	41845	LAG570144	Lakeside East	M
46.	20008	LA0074764	Lancaster Estates	M
47.	18831	LAG540108	Lanexang Village	M
48.	43193	LAG570121	Lazy River	O
49.	41850	LAG540372	Madison Place	O
50.	18827	LAG530027	Magenta Plantation	M
51.	20007	LAG541201	Magnolia Farms I&II	M
52.	20006	LA0054500	Magnolia Hills	M
53.	43546	LA0066486	Magnolia Park/St. Maurice	O
54.	40459	LA0078387	Marion Heights	O
55.	38152	LAG540372	Martin	O
56.	41839	LAG540619	Martin Lake Resort	O
57.	18789	LAG540737	Midway	O
58.	42540	LAG570214	Mobile Estates	M
59.	20004	LA0075094	Monticello	M
60.	40449	LA0077721	Mouton Estates	M
61.	43542	LAG570229	Oak Grove	M
62.	41853	LAG540620	Old Perkins Place	M
63.	20000	LAG570548	Ossun Heights	M
64.	18819	LAG540114	Park 90	M
65.	43966	LAG570099	Payne	O
66.	18835	LA0078000	Pecan Acres	M
67.	81818	LAG540965	Pen's Place	M (O converted to M)
68.	40464	LAG540067	Plantation Gardens	M
69.	43545	LA0081809	Plantation Trace	O
70.	43965	LAG560013	Point Place	O
71.	18818	LA0078247	Quail Hollow/ La Vil	M

<b>APPENDIX D – REVISED INVENTORY</b>				
<b>#</b>	<b>AI No.</b>	<b>LPDES Permit</b>	<b>Name</b>	<b>Type</b>
72.	40643	LAG540145	Rigolets Sports Marina/ Rigolets Harbor Inn	M
73.	19311	LAG570093	Rigolets Utilities (Rigolets Estates)	M
74.	42870	LAG560193	Riverbend Subdivision	O
75.	40461	LA0077003	Riverview	M
76.	40465	LA0078883	Riverwoods	M
77.	84052	LAG560204	Robichaux Ridge	M
78.	19996	LA0074861	Rosehill	O
79.	19983	LAG540738	Rosethorne	M
80.	40457	LAG541192	Royalton Park	M
81.	18936	LA0076678	Sandest Terrace/ Place	M
82.	40642	LAG540880	Sandy Ridge	M
83.	40466	LA0077925	Sarah Dee	M
84.	19995	LA0075281	Shadowwood	M
85.	18830	LAG560018	ShangriLa	M
86.	19994	LA0075477	Shenandoah Estates	M
87.	40469	LA0077771	Southfield Square	M
88.	43559	LAG560001	St Mary's Baptist Church	O
89.	43626	LAG560240	Suburban Estates	M
90.	18673	LAG570131	Tara	O
91.	40474	LA0077917	The Glade	M
92.	40639	LAG570233	The Meadows	M
93.	43543	LAG570091	Thoroughbred Park	O
94.	40472	LA0078182	Trewhill	M
95.	52439	LAG560239	Twelve Cedars	O
96.	19991	LAG541210	Vermilion Palms	O
97.	38200	LA0077518	Victoria Village	M
98.	43627	LAG560015	Willowdale	M
99.	18995	LAG540052	Windy Heights	M
100.	19034	LAG540803	Woodlands, The	M

M – Mechanical Plant

O – Oxidation Pond

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA and  
STATE OF LOUISIANA, through THE  
DEPARTMENT OF ENVIRONMENTAL  
QUALITY,

Plaintiffs,

v.

ACADIA WOODS ADD. #2 SEWER CO.,  
ACADIANA TREATMENT SYSTEMS, et al.,  
Defendants,

and

TOTAL ENVIRONMENTAL SOLUTIONS,  
INC.,

Intervening Defendant.

Civil Action No. 6:98-0687

**AGREEMENT AND ORDER REGARDING MODIFICATION OF THE  
CONSENT DECREE WITH RESPECT TO TESI**

APPENDIX E

*REQUIREMENTS FOR COMPREHENSIVE DIAGNOSTIC EVALUATION REPORTS*

## Appendix E

### Requirements for Comprehensive Diagnostic Evaluation Reports

1. System Information
  - a. Customer count and type (i.e. residential, commercial, industrial)
  - b. Permitted facility name
  - c. Permit type (i.e. NPDES, WQ, Non-discharge, etc.)
  - d. Permit number and agency interest number (if applicable)
  - e. Permitted flow and/or facility design capacity
2. Treatment Facility Description
  - a. Facility type (steel package plant, Gainey style concrete modular chambers, lagoon, recirculating sand bed, etc.)
  - b. Approximate age of facility and source used to age facility
  - c. Structural condition of tankage and equipment
  - d. Description of treatment process utilized
  - e. Description of process flow
  - f. Comments regarding the effectiveness of treatment process at time of site visit (i.e. quality of mixed liquor, floating solids in contact chamber, existence of debris/trash beyond screen, pooling on sand beds, visible sludge buildup in tankage or lagoon cells, etc.)
  - g. Outfall location and distance from facility
  - h. Permitted flow vs. actual / estimated flow (DMR data or based on customer count)
  - i. Copy of effluent limits table from permit and analysis of current plants ability to meet permitted effluent limits
3. Collection System Description
  - a. Description of type, material, size, footages, age, etc.
  - b. Table of lift station information & analysis (if applicable)
  - c. General flow description from lift stations to treatment facility (i.e. series/piggyback, parallel or combination)
4. Recommended Repairs and Improvements: Magnolia will propose work or other actions to correct conditions it has identified that currently do or in the future will prevent the STP from achieving long-term, sustained compliance with the CWA. The report will include a summary of the proposed work or other actions for the:
  - a. Treatment Plant
  - b. Collection System
5. The report for each STP shall be certified as provided in Long Term Compliance Plan Paragraph 5(e)(i).

UNITED STATES DISTRICT COURT  
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and

TOTAL ENVIRONMENTAL SOLUTIONS,  
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APPENDIX F

*FORM OF GUARANTEE*



## APPENDIX F

### CORPORATE GUARANTEE FOR WORK UNDER SECOND MODIFIED CONSENT DECREE

This guarantee (“Guarantee”) is made this [insert date] by CSWR, LLC, a limited liability company under the laws of the State of Missouri (“Guarantor”), on behalf of Magnolia Water Utility Operating Company, LLC (“Magnolia”) of 10761 Perkins Road, Suite A, Baton Rouge, LA 70810, which is our subsidiary.

#### RECITALS

Whereas, under the terms of that certain Consent Decree with Respect to TESI, Civil Action No. 6:98-0687, Dkt. No. 167, as amended by that Agreement and Order Regarding Modification of the Consent Decree with Respect to TESI, Dkt. No. 241, and that Second Agreement and Order Regarding Modification of the Consent Decree With Respect To TESI, Dkt. No. [insert docket no.], (as amended, the “MCD”), Magnolia is required to perform the “Mechanical STP CDE Work,” “Pond STP CDE Work,” and “Collection System CDE Work” as defined in the MCD (collectively, the “Magnolia CDE Work”), and to fulfill its other obligations as set forth therein.

#### AGREEMENT

1. For value received from Magnolia, effective on and after the date of Closing as defined in the MCD, Guarantor guarantees that, if Magnolia and Guarantor are notified by the United States Environmental Protection Agency (“EPA”) that Magnolia has failed to perform any portion of the Magnolia CDE Work as required by the MCD and Magnolia fails to remedy to EPA’s satisfaction the circumstances giving rise to EPA’s issuance of such notice within ninety (90) business days after receipt of the notice, then Guarantor, upon EPA’s direction, shall immediately perform or cause to be performed such portion of the Magnolia CDE Work.
2. Guarantor agrees to notify EPA, by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming Guarantor as debtor, within 10 days after commencement of the proceeding.
3. Guarantor agrees to remain bound under this Guarantee notwithstanding any or all of the following: amendment or modification of the MCD (including modification of the work or other actions required to be performed by Magnolia) or any documents, instruments or agreements executed in connection therewith; the extension or reduction of the time of performance of the Magnolia CDE Work required by the MCD; or any other modification or alteration of an obligation of Magnolia pursuant to the MCD.
4. Guarantor agrees to remain bound under this guarantee for as long as Magnolia has an outstanding obligation to perform any portion of the Magnolia CDE Work under the MCD, except as provided in paragraph 5 of this Guarantee.
5. Guarantor may terminate this Guarantee by sending notice, by certified mail, to EPA and to Magnolia, provided that this Guarantee may not be terminated unless and until Magnolia obtains and provides to EPA an alternative Affiliate Guarantee or alternative demonstration of Magnolia’s

financial ability to fund the estimated value of the Magnolia CDE Work that remains to be completed under the MCD, in each case acceptable to EPA, or EPA approves such termination.

6. Guarantor expressly waives notice of acceptance of this Guarantee by EPA or by Magnolia. Guarantor also expressly waives notice of amendments or modifications of the MCD or any documents, instruments or agreements executed in connection therewith. In any civil action regarding this Guarantee, Guarantor consents to both personal jurisdiction and venue in the United States District Court for the Western District of Louisiana.

7. All notices, elections, approvals, demands, and requests required or permitted hereunder shall be given in writing to (unless updated from time to time) the following:

If to Guarantor:

Russ Mitten, General Counsel  
CSWR, LLC  
1630 Des Peres Rd Suite 140  
St. Louis, MO 63131  
Email: rmitten@cswrgroup.com

and

Paulina Williams  
Baker Botts, LLP  
401 South 1st Street, Suite 1300  
Austin, TX 78704-1296  
paulina.williams@bakerbotts.com

If to Magnolia:

Russ Mitten, General Counsel  
Magnolia Water Utility Operating Company, LLC  
10761 Perkins Road, Suite A  
Baton Rouge, LA 70810  
Email: rmitten@cswrgroup.com

and

Paulina Williams  
Baker Botts, LLP  
401 South 1st Street, Suite 1300  
Austin, TX 78704-1296  
paulina.williams@bakerbotts.com

If to EPA:

Enforcement and Compliance Assurance Division  
Water Enforcement Branch  
U.S. EPA Region 6 (ECDWM)  
1201 Elm St., Suite 500  
Dallas, Texas 75270  
re: Magnolia Water Utility Operating Company, LLC, Second Consent  
Decree Modification (Civil Action No. 6:98-0687)

with a copy to:

EES Case Management Unit  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, DC 20044-7611  
Re: DJ# 90-5-1-1-4375

**[SIGNATURE ON FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, the parties hereto, by their authorized representatives duly authorized, intending to be legally bound, have caused this Guarantee to be duly executed and delivered as of the date first above written.

Name of Guarantor: \_\_\_\_\_

Authorized signature for guarantor: \_\_\_\_\_

Name of person signing: \_\_\_\_\_

Title of person signing: \_\_\_\_\_

Contact information for signatory: \_\_\_\_\_

State of **[insert state]**

County of **[insert county]**

On this **[insert date]**, before me personally came **[insert name of Guarantor’s signatory]** to me known, who, being by me duly sworn, did depose and say that she/he is **[insert title]** of **[insert name of Guarantor]**, the entity described in and which executed the above instrument; and that she/he signed her/his name thereto.

\_\_\_\_\_  
[Signature of Notary Public]