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VIA ELECTRONIC CORRESPONDENCE

May 5, 2020

CCN: 63183
File No: 8.DC.20.52

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Tom Mariani
Washington, D.C. 20044-7611
RE: DOJ No. 90-5-1-1-4022/1
Tom.Mariani@usdoj.gov

Chief, Clean Water Enforcement Branch
Water Protection Division
Attn: Brad Ammons
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
Ammons.Brad@epa.gov

Rachael Amy Kamons
Environmental Enforcement Section
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044-7611
Rachael.Kamons@usdoj.gov

Florida Department of Environmental Protection
Southeast District – West Palm Beach
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
Attn: Compliance/Enforcement Section
Jason.Andreotta@dep.state.fl.us

**RE: Consent Decree (Case: No. 1:12-cv-24400-FAM),
Reference DOJ Case No. 90-5-1-1-4022/1,
Section XI, Paragraph 52 – Force Majeure,
Section XVII, Paragraph 77 – Notices,
Delay Notification for Consent Decree Appendix D-2, Capital Improvement Project 5.3
Upgrade of Pump Station No.0692**

Dear Sir/Madam:

In accordance with the provisions of Section XI, Paragraph 52 of the above referenced Consent Decree (CD), on April 21, 2020, Miami-Dade County (County) electronically notified the United States Environmental Protection Agency (EPA) and Florida Department of Environmental Protection (FDEP) of a Force Majeure for CD Capital Improvement Project (CIP) 5.3 Upgrade of Pump Station No.0692 located at 30211 SW 147th Avenue Homestead, Florida, 33033. Delays have occurred in the execution of this project during the construction phase including Force Majeure COVID-19 Pandemic impacts. These delays will impact the project's CD compliance date of June 17, 2020.

In accordance with Section XI, Paragraph 52, this update letter shall further describe and explain the reasons for the delay and Force Majeure; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; the anticipated duration of the delay; County's rationale for attributing such delay to a force majeure event if it intends to assert such a claim; a statement as to whether, in the opinion of the County, such event may cause or contribute to an endangerment to public health or the environment, and documentation to support the force majeure claim.

Background

The CD Exhibit D-1 project description for 5.3 is the replacement of pumping and electrical equipment at Pump Station (PS) 0692. The contractor's scope of work includes: demolition of existing equipment, replacement of booster and wet well pumps, piping, valves, appurtenances, building roof, doors, windows, louvers, HVAC, plumbing, field instruments, site work and bypass piping. The Work also includes removal of an existing indoor generator, converting the existing generator room into an electrical room and adding a new outdoor generator with integral fuel storage tank. The new electrical room will encompass new self-contained Variable Frequency Drives (VFD) to control each booster pump motor, new light-emitting diode (LED) lighting, new panel boards, MCC, automatic transfer switch, and a dry-type step-down transformer. The control systems for the wet well pumps and booster pumps will be replaced with a new control system which includes new Programmable Logic Controllers (PLCs) with HMI screen, a Multismart controller and the Remote Telemetry Unit (RTU).

Explanation and description of the reasons for the delay

On March 18, 2020 the Contractor sent a letter notifying that Miami-Dade County Department of Regulatory and Economic Resources will close the Permitting and Inspection Center (PIC) due to COVID-19. This closure of the Miami-Dade County PIC will impact the required permit inspections for all permits on the project.

On March 18, 2020 the Contractor sent another letter advising that considering the COVID-19 Pandemic, it is anticipated that equipment and material supply chains, labor availability, support service availability, and project accessibility will be impacted. The Contractor is reserving its rights to submit a claim in accordance with the Contract Documents for any delays and impacts which may be attributable to COVID-19 until such a time that the full effect of COVID-19 upon the Project is known.

On April 10, 2020, the Contractor advised that one of their employees working at the PS 0692 had tested positive for COVID-19. This employee had been working in the lower level of the pump station. Per the Contractor's COVID response plan, the Contractor directed all employees who were working in the general area of the employee not to report to work for a week and closed the access to the lower level of the pump station. The Contractor notified all subcontractors of the matter. On April 15, 2020, the Contractor disinfected the lower level of the pump station. On April 21, 2020, the Contractor resumed the work at the Station.

The above listed COVID-19 circumstances, along with some scope modifications to facilitate enhanced operational efficiencies and to improve safety, are affecting the schedule for the manufacture, delivery and installation of various electrical and instrumentation equipment required for the commissioning of the rehabilitated pump station.

Action taken or to be taken to prevent or minimize the delay

Additionally, the County will take the following steps:

1. Implement COVID-19 preventative safety measures to avoid further contamination.
2. Evaluate contractor's recovery schedule and propose any alternative to minimize delay, when applicable.
3. Closely monitor construction progress.

Schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay

The County is proactively implementing actions to minimize any further delays and will continue to implement all necessary measures to substantially complete CD 5.3.

Anticipated duration of the delay

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Even though the County has implemented proactive public health safety measures to limit the spread of the pandemic, this situation and the ramifications are still developing. The County will provide an update for the anticipated duration of the delay, upon completion of the time impact analysis for the above activities. The County will closely monitor construction progress and report any further delay to EPA and FDEP when it becomes known to the County and as required by Section XI, Paragraph 52.

Force majeure rationale

On March 11, 2020, the World Health Organization (WHO) declared COVID-19 a pandemic. National, state and local agencies are taking actions to suppress and control the spread of COVID-19. The County is taking preventative measures to contain the spread and the impacts of the virus. The County attributes any delays resulting from impacts of COVID-19 as a force majeure event as the County notified the EPA and FDEP in the April 3, 2020 Force Majeure Notification due to the COVID-19 Impacts letter.

Cause or contribution to an endangerment to public health, welfare or the environment

Consent Decree Exhibit D-1 identified that the existing equipment is beyond its useful life. There is no indication that delays in CD 5.3, Upgrade of PS 0692, present an immediate endangerment to the public health, welfare or the environment. The PS 0692 is and will continue to be bypassed until upgrades works are completed.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the

system, or those persons directly responsible for gathering such information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Should you have any questions regarding this matter, please call me at (786) 552-8571.

Sincerely,



Lynnette M. Ramirez P.E.
Senior Advisor, Capital Improvement Programs & Regulatory Compliance

ec: Barbara Jean Throne
Senior Assistant Attorney General, Complex Litigation
Office of the Attorney General
PL-01, The Capitol
Tallahassee, FL 32399-1050
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Barbara.throne@myfloridalegal.com

Florida Department of Environmental Protection
Southeast District – West Palm Beach
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Meghan.Ticknor@dep.state.fl.us

Mayor Carlos A. Gimenez
Miami-Dade County
111 NW First Street 29th Floor
Miami, Florida 33128

Kevin T. Lynskey, Director
Miami-Dade Water and Sewer Department
3071 SW 38th Avenue
Miami, Florida 33146

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Miami-Dade Regulatory and
Economic Resources
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Henry Gillman
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Attachment

Contractor COVID-19 Notifications



Poole & Kent Company of Florida
1781 N.W. North River Drive
Miami, FL 33125
P.O. Box 420556
Miami, FL 33242

Phone: 305.325.1930
Fax: 305.324.0522

March 18, 2020

MDWASD PM/CM Team
3071 SW 38th Ave.
Miami, Florida 33146

Attn: Rennie Lopez

Re: CD 5.3 Upgrade of Pump Station 692

Sub: Notice of Delay and Notice of Impact – Novel Coronavirus Disease 2019 (COVID-19)
**MIAMI-DADE COUNTY PERMITTING AND INSPECTION CENTER (PIC)
CLOSURE FOR 14 DAYS**

Mr. Lopez,

On March 24, 2020, Poole & Kent has been notified that Miami-Dade County Department of Regulatory and Economic Resources will be closing the Permitting and Inspection Center for 14 days, effective March 25, 2020 due to COVID-19. This closure of the Miami-Dade County PIC will impact the required permit inspections for all permits on the project.

In accordance with Article 8 and Article 11 of the General Terms and Conditions, Poole & Kent is issuing formal notice for any delays and impacts which may be attributable to COVID-19. Until such a time that the full effect of COVID-19 upon the Project is known, Poole & Kent is reserving its rights to submit a claim in accordance with the Contract Documents and to be compensated for all cost and time adjustments allowable by the Contract Documents.

As you are aware, the situation is constantly evolving and beyond our reasonable control. We are committed to remain in communication with you and trust that you will do the same with us. We want to get back to normal work activities as soon as possible after these unprecedented circumstances have passed. In the meantime, if you have concerns regarding our approach, please contact me.

Sincerely,
Poole & Kent Company of Florida

A handwritten signature in blue ink, appearing to read "Mitchell MacClugage".

Mitchell MacClugage
Project Manager

CC: Brian MacClugage, Poole & Kent
Chris Marrero, Poole & Kent

**Media Contact:**

Tere Florin

tflorin@miamidade.gov

305-781-0399

Miami-Dade County Department of Regulatory and Economic Resources closing Permitting and Inspection Center for 14 days

MIAMI (March 24, 2020) — The Miami-Dade County Department of Regulatory and Economic Resources (RER) will close its Permitting and Inspection Center (PIC) located at 11805 SW 26 Street for 14 days, effective March 25, 2020.

The department has learned that three PIC employees have tested positive for coronavirus (COVID-19), bringing the total to four. RER is working closely with the Florida Department of Health (DOH) and following their recommendations. All PIC employees have been informed and instructed to self-isolate and self-monitor for 14 days.

All inspections scheduled for tomorrow are canceled, except for new construction inspections by Miami-Dade Fire Rescue's New Construction Bureau.

During the closure, [online services](#) will be available.

Further, staff will be available at the following emails:

Board and Code Administration: General inquiries: gascon@miamidade.gov or michael.goolsby@miamidade.gov. Board Administration: KAT045@miamidade.gov; Contractor Licensing: JL045@miamidade.gov; and Product Control: helmy@miamidade.gov.

Code Compliance: Lien services: lspic@miamidade.gov; building support (unsafe structures, work without permits, contractor enforcement): 311WWPR@miamidade.gov or 311CER@miamidade.gov.

Construction Permitting and Building Code: General inquiries: blgddept@miamidade.gov. For subsidiary permits or permits requiring no plan review, e-mail the application to RER_SPA@miamidade.gov.

Department of Health: new construction or repair of septic tank systems, call 305 623-3500.

As this is a fluid and evolving situation, service updates will be announced as decisions are made. RER is also working with DOH to implement a new service plan when the PIC reopens in two weeks.

Individuals in Miami-Dade County who believe they may have been exposed to COVID-19 should call the Florida Department of Health at 305-324-2400. If you have a medical provider, call them. If traveling to a medical office or facility, call ahead. For questions about COVID-19 in Florida, please call the Florida Department of Health at 1-866-779-6121. For a medical emergency, call 911.

For updated information, visit www.miamidade.gov/coronavirus.

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To request materials in accessible format, sign language interpreters, and/or any accommodation to participate in any County-sponsored program or meeting, please call Alain Donderiz, 305-372-6779 or email,

Miami-Dade County Department of Regulatory and Economic Resources closing Permitting and Inspection Center for 17 days
*dondea@miamidade.gov, five days in advance to initiate your request. TTY users may also call 711 (Florida
Relay Service).*

Regulatory and Economic Resources

111 NW 1st Street, Suite 2910

Miami, FL 33128



Poole & Kent Company of Florida
1781 N.W. North River Drive
Miami, FL 33125
P.O. Box 420556
Miami, FL 33242

Phone: 305.325.1930
Fax: 305.324.0522

March 18, 2020

MDWASD PM/CM Team
3071 SW 38th Ave.
Miami, Florida 33146

Attn: Rennie Lopez

Re: CD 5.3 Upgrades of Pump Station 692
Notice of Delay and Notice of Impact – Novel Coronavirus Disease 2019 (COVID-19)

Mr. Lopez,

On March 9, 2020 Governor Ron DeSantis issued an Executive Order declaring a state of emergency for the State of Florida due to the COVID-19 Pandemic. Over the past week, it has become more and more apparent that, in light of the COVID-19 Pandemic, it is anticipated that equipment and material supply chains, labor availability, support service availability, and project accessibility will be impacted. In accordance with the Contract Documents CD 5.3 UPGRADES OF PUMP STATION 692, Poole & Kent is issuing formal notice for any delays and impacts which may be attributable to COVID-19. Until such a time that the full effect of COVID-19 upon the Project is known, Poole & Kent is reserving its rights to submit a claim in accordance with the Contract Documents and to be compensated for all cost and time adjustments allowable by the Contract Documents.

As you are aware, the situation is constantly evolving and beyond our reasonable control. We are committed to remain in communication with you and trust that you will do the same with us. We want to get back to normal work activities as soon as possible after these unprecedented circumstances have passed. In the meantime, if you have concerns regarding our approach, please contact me.

Sincerely,
Poole & Kent Company of Florida

A handwritten signature in blue ink, appearing to read "M. MacClugage".

Mitchell MacClugage
Project Manager

CC: Brian MacClugage, Poole & Kent



April 10, 2020

To: Rennie Lopez, PMCM

Re: Homestead Pump Station, S-908R: Positive COVID-19 Case

Mr. Lopez,

Poole & Kent has been advised that one of our employees has tested positive for COVID-19. This employee has been working at the above mentioned project in the lower level of the pump station. This to serve as notice in accordance with our COVID-19 Prevention and Reporting Plan.

Poole & Kent, is following the protocols included in our plan. Additionally, we have directed all employees who were working in the general area of the employee (that is the lower level of the pump station) not to report to work for the next week, and we have closed off access to the lower level of the pump station for the next week. We are now in the process of notifying all subcontractors of the matter.

Should you have any questions please contact me at Cell: 305-525-7165.

Regards,

David Lockhart, CHST
Poole & Kent Company of Florida
Safety Manager

CC: Brian MacClugage, Exec. VP

Mitch MacClugage, Project Manager

File