

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

**Meeting Date:** July 10, 2018

**Consent** [X]      **Regular** [ ]  
**Public Hearing** [ ]

**Department:** Water Utilities Department

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to: **A) approve** an Interlocal Agreement between Palm Beach County (County) and the City of Lake Worth (City) relating to Assessment of Joint Wastewater Transmission System (Agreement); and **B) authorize** the County Administrator or designee to execute an Assessment Initiation Form, which is attached to the Agreement as Exhibit "B", for future Joint Wastewater Transmission System Assessment and improvement projects subject to the Agreement.

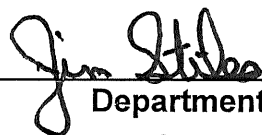
**Summary:** The County and the City previously entered into an agreement (R2001-0315) to jointly construct, operate and maintain a 14-mile Joint Wastewater Transmission System (System) from the City's master pump station to the East Central Regional Wastewater Reclamation Facility (ECR), as well as an agreement to provide for a one-time assessment of the System (R2005-2421). The Water Utilities Department (WUD) and the City have determined that an evaluation of the condition of the System is again necessary, which requires the execution of a new Agreement. Under the terms of the Agreement, WUD will hire a Consulting Engineer to evaluate the condition of the transmission pipeline and associated pump stations, recommend remedial actions and estimate the cost of such remedial actions. The County and the City will cost-share the engineering costs for the assessment per the percentage allocations established in Section 3 of the Agreement. The Agreement additionally allows for ongoing assessments of the System to be initiated without further approval by the Board of County Commissioners in accordance with the delegation to the County Administrator or designee set forth above. (WUD Project No. 18-045) District 2 and 3 (MJ)

**Background and Justification:** The County and the City entered into an agreement dated April 9, 1974 (R-74-258) which provided for the engineering, construction, operation and maintenance of a Joint Wastewater Transmission System, which was amended in 2001 to reflect the current condition of the System (R2001-0315). The City and the County entered into an additional agreement for a one-time assessment in 2005 (R2005-2421). Due to the age and condition of the System, WUD and the City wish to evaluate the condition for the entire 14.1 mile length of the pipeline. The City agrees to contribute its percentage of costs in accordance with the percentage allocations contained in the Agreement. The Agreement additionally outlines the terms and work to be performed by both parties.

**Attachments:**

1. Location Map
2. Two (2) Originals Agreements

Recommended By: \_\_\_\_\_



Department Director

6-20-18

Date

Approved By: \_\_\_\_\_

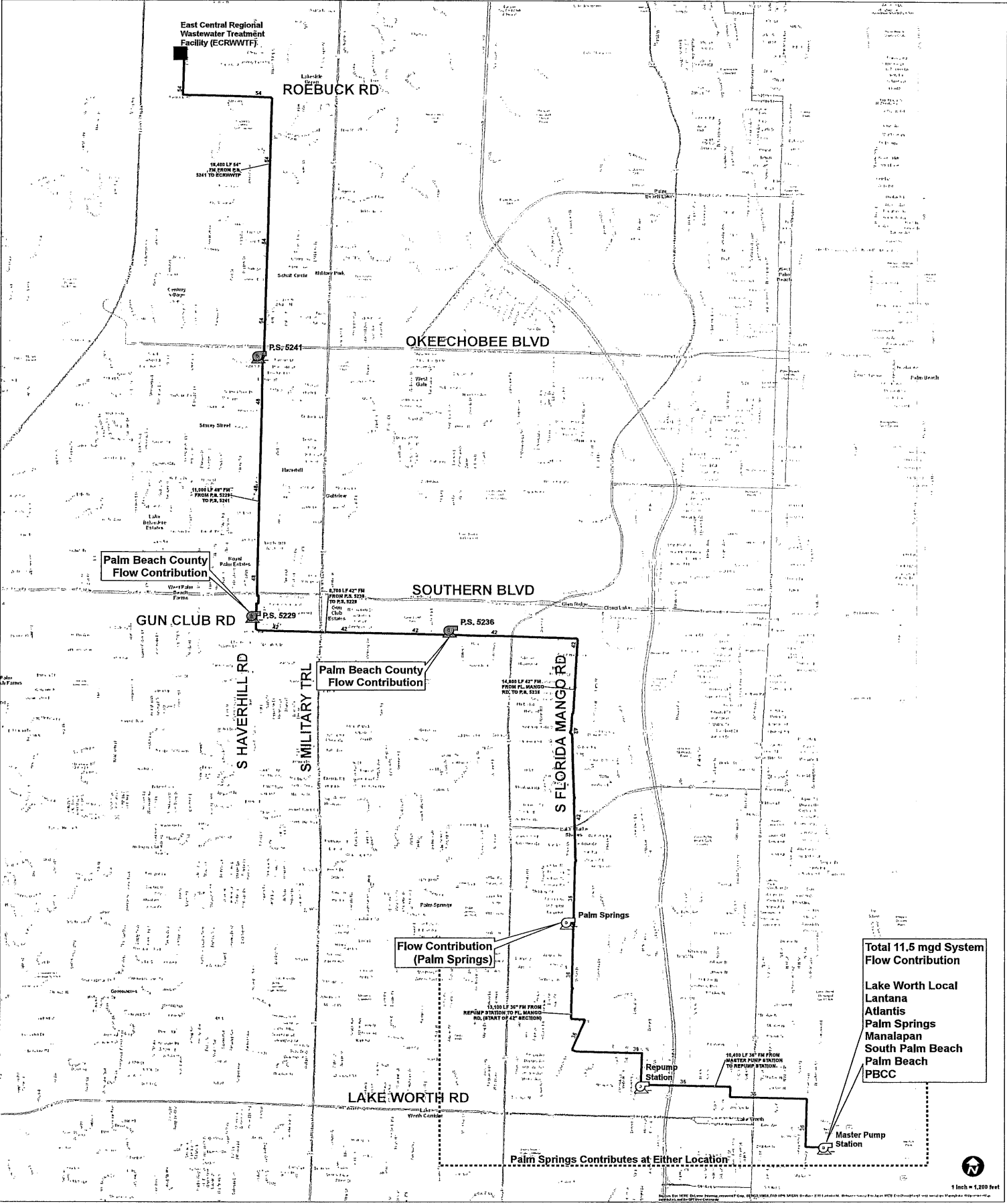



Assistant County Administrator

6/25/18

Date

ATTACHMENT 1





**Palm Beach County  
Water Utilities  
Department**

8100 Forest Hill Blvd.  
West Palm Beach, FL 33416  
(561) 955-6000

**Regional Force Main Evaluation  
for Palm Beach County and City  
of Lake Worth - WUD No. 18-045**

**Legend**

— City of Lake Worth Force Mains  
- - - Palm Beach County Force Mains

FM SIZE	LENGTH (MI)	O & M
36"	4.45	CLW
42"	4.45	PBC
48"	2.10	PBC
54"	3.10	PBC
<b>TOTAL:</b>	<b>14.10</b>	

**Total 11.5 mgd System  
Flow Contribution**

Lake Worth Local  
Lantana  
Atlantis  
Palm Springs  
Manalapan  
South Palm Beach  
Palm Beach  
PBCC

**Flow Contribution  
(Palm Springs)**

**Palm Springs Contributes at Either Location**

**INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY AND THE  
CITY OF LAKE WORTH RELATING TO ASSESSMENT OF JOINT  
WASTEWATER TRANSMISSION FACILITIES**

**THIS AGREEMENT** made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida (hereinafter "County"), and the **CITY OF LAKE WORTH, FLORIDA**, a municipality organized under the laws of the State of Florida (hereinafter "City").

**WITNESSETH**

**WHEREAS**, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969" authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

**WHEREAS**, the City and County entered into an agreement dated February 27, 2001 (County Resolution No. R2001-0315) ("2001 Agreement") for the construction, operation and maintenance of a joint wastewater transmission system ("System") (a depiction of the System is attached hereto and incorporated herein as **Exhibit "A"**); and

**WHEREAS**, the System was constructed to reduce the cost of transmitting wastewater generated by the City's and County's separate wastewater collection systems to the East Central Regional Wastewater Reclamation Facility; and

**WHEREAS**, pursuant to the 2001 Agreement, the County currently operates and maintains the System on behalf of the County and City; and

**WHEREAS**, it is necessary to periodically assess the System or portions of the System to determine the condition of the System; and

**WHEREAS**, the City and County entered into an agreement dated December 20, 2005 (County Resolution No. R2005-2421) ("2005 Agreement") for a one-time assessment of pipeline infrastructure within the System; and

**WHEREAS**, the 2005 Agreement was only applicable to the assessment of the System performed at that time; and

**WHEREAS**, the County and City wish to implement a process to undertake on-going assessments of the System or portions of the System in the future without the need for a full or amended interlocal agreement.

**NOW, THEREFORE**, for and in consideration of these premises, the mutual undertakings and agreements herein contained and assumed, County and City hereby covenant and agree as follows:

1. The foregoing statements are true and correct.
2. Term/Effective Date. This Agreement shall become effective upon approval by both parties and continue for that period that the City and County continue to jointly own the System, unless otherwise terminated in accordance with Section 8 below. The Effective Date of this Agreement shall be the date the Agreement is ratified by the Palm Beach County Board of County Commissioners (the "Effective Date").
3. Percentage Allocation. City and County agree to fund assessments performed pursuant to this Agreement pursuant to the following percentage allocations:  
  

Assessments of Pump Station 5236:	City – 81.31%, County 18.69%
Assessments of Pump Station 5241:	City – 34.48%, County 65.52%
All Other Assessments:	City – 41.86%, County – 58.14%

  
Allocation of construction costs shall be as set forth in Exhibit "B" to the 2001 Agreement. The percentage allocation for assessments shall be included in the applicable Assessment Initiation Form based on the percentage allocations set forth herein.
4. Performance of Assessments. Assessments shall be initiated by utilizing the Assessment Initiation Form attached hereto and incorporated herein as **Exhibit "B"**. The party which is or will be under contract with the consultant performing the assessment shall be responsible for completing the Assessment Initiation Form ("Initiating Party) and providing to the other party ("Non-Initiating Party") for approval. The Non-Initiating Party shall be named as an additional insured and included as an indemnified party in any indemnity provisions in the consultant's contract. Assessments shall not be initiated until the Assessment Initiation Form is executed by each party. City and County hereby acknowledge and agree that the Assessment Initiation Form will be executed by their respective governing boards or an authorized delagatee of their respective governing boards.
5. Procurement. Nothing herein shall be interpreted to absolve the City and County from adhering to all applicable procurement laws and policies regarding the hiring of consultants to perform the assessments.
6. Payment. Payments for assessments shall be made in accordance the percentage allocations set forth in the applicable Assessment Initiation Form. Following the completion of the applicable assessment, the Initiating Party shall invoice the Non-Initiating Party based on the application of the Percentage Allocation to the total costs of the assessment. The Non-Initiating Party will be deemed to have accepted the invoice unless said party, within thirty (30) days after receipt of the invoice, returns the invoice to the Initiating Party indicating in writing their reasons for refusing to make payment. Where accepted, said payment shall be made by the Non-Initiating Party within (45) days of receipt of invoice.
7. Uniform Policies and Procedures Manual. Pursuant to Section 27-86, Palm Beach County Code, the Palm Beach County Board of County Commissioners has adopted by

resolution the Palm Beach County Water Utilities Department (PBCWUD) Uniform Policies and Procedures Manual (UPAP), which is a codification of the fees, standards, standard legal documents, policies and procedures for PBCWUD. Notwithstanding anything to the contrary in this Agreement, the parties agree and acknowledge that, absent any conflict with the terms of this Agreement, the provisions of the UPAP shall apply to all services and transactions contemplated under this Agreement.

8. Termination. The parties hereto expressly covenant and agree that in the event either party is in default of its obligations herein, the party not in default shall provide to the party in default ninety (90) days written notice to cure said default before exercising any of its rights as provided for in this Agreement. Failure to cure said default within ninety (90) days following notice may be grounds for termination of this Agreement. Termination of this Agreement by either party shall require thirty (30) days prior written notice to the other party prior to the termination date. The parties may mutually agree to extend the time for cure and/or termination.

9. No Transfer of Powers. Nothing contained in this Agreement shall be construed to constitute a transfer of powers in any way whatsoever. This Agreement is solely an Agreement to share in the costs of assessment services as authorized in Florida Statutes, Chapter 163. The governing bodies for County and City shall each maintain all legislative authority with regard to their respective political subdivision. All of the privileges and immunities from liability; exemption from laws, ordinances, and rules; and pensions and relief, disability, workers compensation and other benefits which apply to the activity of officers, agents, or employees of any public agents or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, or employees extra-territorially under the provisions of this Agreement.

10. Indemnification. County and City acknowledge the waiver of sovereign immunity for liability in tort contained in Florida Statutes 768.28, the State of Florida's partial waiver of sovereign immunity, and acknowledge that such statute permits actions at law to recover damages in tort for money damages up to the limits set forth in such statute for death, personal injury or damage to property caused by the negligent or wrongful acts or omissions of an employee acting within the scope of the employee's office or employment. County and City agree to be responsible for all such claims and damages, to the extent and limits provided in Florida Statutes Section 768.28, arising from the actions of their respective employees. The parties acknowledge that the foregoing shall not constitute an agreement by either party to indemnify the other, nor a waiver of sovereign immunity, nor a waiver of any defense the parties may have under such statute, nor as consent to be sued by third parties.

11. Force Majeure. In the event that the performance of this Agreement by either party to this Agreement is prevented or interrupted in consequence of any cause beyond the control of either party, including, but not limited to, Acts of God or of the public enemy, war, national emergency, allocation of or other governmental restrictions upon the use or availability of labor or materials, rationing, civil insurrection, riot, disorder or

demonstration, terrorism, strike, embargo, flood, tidal wave, fire, explosion, bomb detonation, nuclear fallout, windstorm, hurricane, earthquake, or other casualty or disaster or catastrophe or water plan failures and water main breaks, neither party shall be liable for such non-performance.

12. Remedies. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter.

13. Successors and Assigns. County and City each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Neither County nor City shall assign, sublet, convey or transfer its interest in this Agreement without prior written consent of the other.

14. Waiver. The failure of either party to insist on the strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed a waiver of any rights or remedies that said party may have to any subsequent breach, default, or non-performance, and said party's right to insist on strict performance of this Agreement shall not be affected by any previous waiver of course or dealing.

15. Severability. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable by any court of competent jurisdiction, then the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

16. Notice. All notices provided for herein shall be in writing and transmitted by mail or by courier, and, if to City, shall be mailed or delivered to City at:

Lake Worth Water Department  
301 College Street  
Lake Worth, FL 33460  
Attn: Department Director

And if to County, shall be mailed or delivered to:

Palm Beach County Water Utilities  
8100 Forest Hill Boulevard  
P.O. Box 16097  
West Palm Beach, FL 33416-6097  
Attn: Department Director

17. Filing. This Agreement shall be filed with the Clerk of the Circuit Court for Palm Beach County.

18. Amendment and Modification. This Agreement may only be amended, modified, changed, supplemented, or discharged by an instrument in writing signed by the parties hereto.

19. Entirety of Agreement. County and City agree that this Agreement and any Exhibits hereto set forth the entire agreement between the parties, and that there are not promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties.

20. Palm Beach County Office of the Inspector General. Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

21. No Third Party Beneficiary. No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the County and/or the City.

22. Non-discrimination. The City warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information.

**(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)**

IN WITNESS WHEREOF, County and City have executed or have caused this Agreement and any Exhibits hereto, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Agreement.

ATTEST:

Sharon R. Bock, Clerk and Comptroller

PALM BEACH COUNTY, BY ITS  
BOARD OF COUNTY  
COMMISSIONERS

By: \_\_\_\_\_  
Clerk

By: \_\_\_\_\_  
Melissa McKinlay, Mayor

(SEAL)

APPROVED AS TO FORM AND TO  
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND  
CONDITIONS

By: \_\_\_\_\_  
County Attorney

By: Jim Stiles  
Director of Water Utilities

ATTEST:

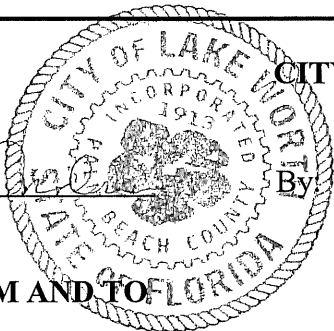
CITY OF LAKE WORTH, FLORIDA

By: Debra M. [Signature]  
Clerk

By: [Signature]

APPROVED AS TO FORM AND TO  
LEGAL SUFFICIENCY

By: [Signature] For the  
City Attorney





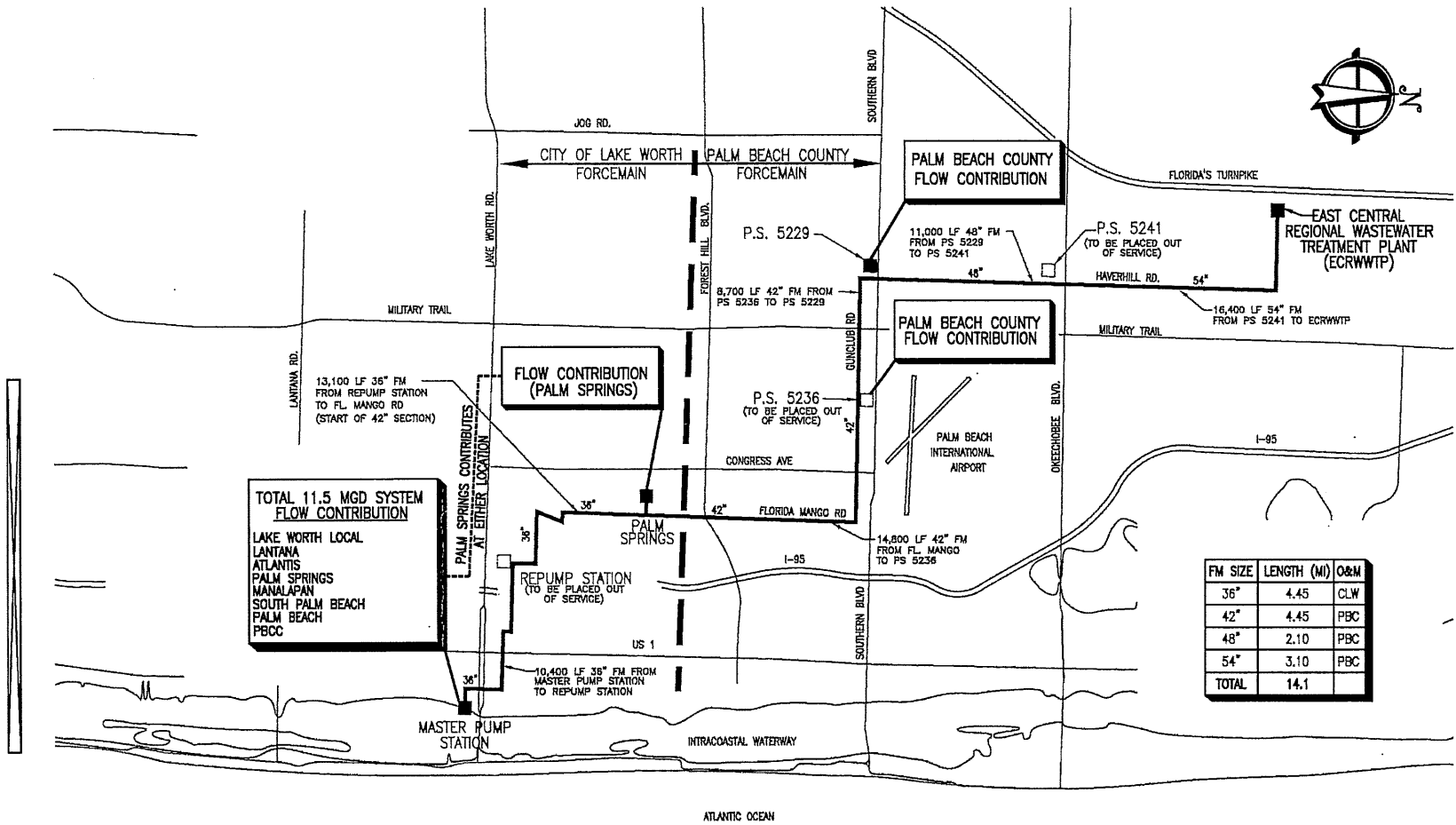


EXHIBIT A - DEPICTION OF SYSTEM

**EXHIBIT B – ASSESSMENT INITIATION FORM**

Date: \_\_\_\_\_

Initiating Party: \_\_\_\_\_

Project Name:

Scope of Assessment: \_\_\_\_\_ (attach Exhibit if necessary)

Percentage Allocation: \_\_\_\_\_

Project Cost Estimate:

Consultant: \_\_\_\_\_

The parties hereby agree to pay their share of the Consultant's costs, based on the Percentage Allocation set forth above. The provisions of the Interlocal Agreement between Palm Beach County and the City of Lake Worth Relating to Assessment of Joint Wastewater Transmission Facilities dated \_\_/\_\_/2018 (County Resolution No. R2018-\_\_\_\_\_) are hereby incorporated herein.

[Add applicable signature block for Initiating and Non-Initiating Party]

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