

**INDUSTRIAL WASTE PRETREATMENT PROGRAM AGREEMENT
BETWEEN THE CITY OF ORLANDO
AND
THE [ENTITY]**

This Industrial Waste Pretreatment Program Agreement (hereinafter "Agreement") is entered into this _____ day of _____ 201_, between the **City of Orlando**, a municipal corporation organized and existing under the laws of the State of Florida, whose address is 400 South Orange Avenue, Orlando, Florida and the **Entity**, a municipal corporation organized and existing under the laws of the State of Florida, whose address is [ADDRESS, CITY, Florida ZIP]. The City of Orlando and the [ENTITY] may also hereinafter be referred to collectively as the "Parties" or individually as a "Party."

RECITALS

WHEREAS, the City of Orlando owns and operates the [Iron Bridge Regional Water Reclamation Facility (WRF)]; and

WHEREAS, the [ENTITY] currently is a member of the South Seminole North Orange County Regional Wastewater Transmission Authority (SSNOCWTA) and an active partner in the [Iron Bridge Regional WRF] with the City of Orlando; and

WHEREAS, any user that discharges or contributes nondomestic wastes that introduces pollutants into the Publicly Owned Treatment Works (POTWs) shall be considered and defined as an Industrial User (IU), as defined in Chapter 30 of the Orlando Code of Ordinances (Orlando Sewer Use Ordinance (SUO)). As such, these users are subject to the pretreatment requirements set forth in Chapter 40, Part 403 of the Code of Federal Regulations (CFR), Chapter 62-625 of the Florida Administrative Code (FAC), and the Orlando SUO; and

WHEREAS, the City of Orlando and other public entities, including the [ENTITY], discharge wastewater flows, which include wastewater flows from IUs, to the [Iron Bridge Regional WRF] for treatment and reuse as reclaimed water; and

WHEREAS, the City of Orlando is the Control Authority, as defined in Chapter 62-625 FAC, for the wastewater system at the [Iron Bridge Regional WRF]; and

WHEREAS, a Significant Industrial User (SIU) shall be defined as a Categorical Industrial User as defined in Chapter 62-625.200(3), an IU that discharges an average of 25,000 gallons per day or more of process wastewater to the Orlando POTWs, contributes a process waste stream which makes up to five (5) percent or more of the average dry weather hydraulic or organic capacity of the Orlando POTWs; or is designated as such by Orlando on the basis that the IU has a reasonable potential for adversely affecting the Orlando POTWs operation or for violating any pretreatment standard or requirement in accordance with paragraph 62-625.500(2)(e), F.A.C.; and

WHEREAS, the City of Orlando, as the Control Authority, must maintain and implement an Industrial Waste Pretreatment Program to control discharges from all IUs of its [Iron Bridge Regional WRF] pursuant to requirements set forth in 40 CFR Part 403, Chapter 62-625 FAC, and under specific conditions set forth by the Florida Department of Environmental Protection (FDEP) in the permit(s) for the [Iron Bridge Regional WRF], which mandates compliance with all applicable federal and state pretreatment regulations; and

WHEREAS, the City of Orlando's Industrial Waste Pretreatment Program, as codified in Orlando's SUO, regulates IUs, which include facilities whose operations result in discharges of Industrial Wastes (as defined in the Orlando SUO) to the City of Orlando wastewater treatment plants via wastewater collection systems; and

WHEREAS, the FDEP conducts annual inspections of the City of Orlando Industrial Waste Pretreatment Program to determine compliance with the requirements set forth in Chapter 40 CFR Part 403 and Chapter 62-625 FAC; and

WHEREAS, in order to comply with federal and state of Florida regulations, all IUs that discharge wastewater flows to the [Iron Bridge Regional WRF] must comply with the City of Orlando Industrial Waste Pretreatment Program; and

WHEREAS, in order to assure compliance with the City of Orlando Industrial Waste Pretreatment Program, it is necessary for all public entities that discharge wastewater flows to the [Iron Bridge Regional WRF] to adopt and incorporate the requirements and standards set forth in Chapter 30 of the Orlando City Code (SUO) into their respective sewer use ordinances; and

WHEREAS, the [ENTITY] currently discharges wastewater flows to the [Iron Bridge Regional WRF], which may include wastewater contributions from IUs; and

WHEREAS, the City of Orlando and the [ENTITY] desire to enter into an agreement governing the adoption and incorporation of the City of Orlando's Industrial Waste Pretreatment Program as contained in the Orlando SUO and the Parties' respective rights and obligations.

ACCORDINGLY, in consideration of the recitals, agreements and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the City of Orlando and the [ENTITY] agree as follows:

1. RECITALS

Each and all of the foregoing recital paragraphs are acknowledged to be true and correct and are incorporated into this Agreement.

2. ORDINANCE REQUIREMENTS

- A. The [ENTITY] agrees to adopt, implement, and diligently enforce a sewer use ordinance, or amend its current sewer use ordinance, to require the IUs within its jurisdiction to install and operate the necessary pretreatment controls contained in the Orlando SUO of the Orlando City Code, as may be amended and/or modified by the City of Orlando. The [ENTITY] shall forward to the City of Orlando for review a draft of the [ENTITY]'s proposed sewer use ordinance or revisions to its current sewer use ordinance within one hundred twenty (120) days of the date of this Agreement that incorporates the requirements and standards of the City of Orlando's Industrial Waste Pretreatment Program. The [ENTITY] shall revise, as requested by the City of Orlando, and adopt those provisions necessary to comply with this Agreement within one hundred twenty (120) days of receiving proposed revisions and/or approval from the City of Orlando of its content.
- B. Whenever the City of Orlando amends its Industrial Waste Pretreatment Program (currently Chapter 30, Sec. 30.3 to 30.16 of the Orlando Sewer Use Ordinance), the City of Orlando shall forward a copy of the revisions to the [ENTITY]. The [ENTITY] shall amend its own sewer use ordinance to provide requirements and standards that are at least as stringent as those set forth in Orlando's SUO pertaining to the Industrial Waste Pretreatment Program. The [ENTITY] shall forward to the City of Orlando for review its proposed revisions within ninety (90) days of receipt of the City of Orlando's ordinance amendments. The [ENTITY] shall revise (if necessary) and adopt its amended ordinance within one hundred twenty (120) days of receiving approval from the City of Orlando of its content. The [ENTITY] may request additional time from the City of Orlando to amend its sewer use ordinance for circumstances beyond the [ENTITY]'s control.
- C. The [ENTITY] shall adopt, as part of its sewer use ordinance, and diligently enforce specific pollutant local limits, which are at least as stringent as those that have been enacted by the City of Orlando within one hundred twenty (120) days of the date of this Agreement. The City of Orlando shall forward to the [ENTITY] a copy of any revisions or additions to its local limits within fifteen (15) days of enactment thereof. The [ENTITY] shall adopt any such revisions or additions within one hundred twenty (120) days of receipt thereof.

3. IMPLEMENTATION AND ENFORCEMENT

- A. The [ENTITY] shall provide written notice to the City of Orlando within thirty (30) days of receiving notice from FDEP that the [ENTITY]'s Pretreatment Program is considered active by FDEP.
- B. The [ENTITY] shall take all actions necessary to ensure that IUs within its jurisdiction are subject to a pretreatment program that was approved by FDEP in accordance with 40 CFR 403.8, as may be amended and Chapter 62-625, FAC, as may be amended. The [ENTITY] shall perform all the technical and administrative duties necessary to implement and enforce its sewer use

ordinance and the provisions of its pretreatment program. The [ENTITY] shall: (1) update the industrial waste survey; (2) issue permits to all SIUs required to obtain a permit; (3) conduct inspections, sampling, and analysis; (4) perform enforcement activities; and (5) perform any other technical or administrative duties the Parties deem appropriate. In addition, the [ENTITY] shall take emergency action to stop or prevent any discharge which presents or may present an imminent danger to the health or welfare of humans, or which reasonably appears to threaten the environment, or which creates or has a deleterious impact on the collection system, or which threatens to cause interference with the proper performance of the wastewater treatment processes at the [Iron Bridge Regional WRF], or which allows pollutants to pass through untreated, or cause contamination of biosolids, as determined by the [ENTITY], City of Orlando, or applicable regulatory agencies.

- C. The [ENTITY] shall maintain current information on SIUs located in its jurisdiction, as they are identified. The [ENTITY] shall update its industrial waste survey, a minimum of once every three years, for IUs located in its jurisdiction to identify SIUs. The [ENTITY] shall forward a copy of the industrial waste survey to the City of Orlando within thirty (30) days of its completion for review by the City of Orlando. The City of Orlando may request more frequent updates if information is available that the existing survey is deficient and/or there may be harmful discharges to the wastewater system.
- D. Whenever a new IU proposes to begin operation within the [ENTITY], or any time an existing IU proposes to increase its discharge or change the nature of its discharge, or any time it is requested by the City of Orlando, the [ENTITY] shall require the IU to complete a Wastewater Survey in a timely manner, the form of which is to be provided by the City of Orlando. The City of Orlando may request specific questions to be addressed by the IU with corroborating information or data provided in support of their responses. The [ENTITY] shall forward a copy of the completed Wastewater Survey to the City of Orlando for review within ten (10) days of its receipt by the [ENTITY].
- E. The [ENTITY] shall provide the City of Orlando access to all records or documents relevant to the Industrial Waste Pretreatment Program for any IU discharging through its jurisdiction or wastewater system to the [Iron Bridge Regional WRF].
- F. The [ENTITY] shall inspect all SIUs located within its jurisdiction at a minimum of one time per calendar year. The [ENTITY] shall sample all SIUs located in its jurisdiction for all constituents of concern at a minimum on an annual basis. The [ENTITY] shall submit written notice of scheduled inspections to the City of Orlando, providing the opportunity for the City of Orlando to participate in all inspections. If an inspection is in response to an emergency situation and such notice is not possible, the [ENTITY] shall make every effort to notify the City of Orlando of the impending inspection. The [ENTITY] shall collect sample(s) and deliver to the laboratory in accordance with the applicable Standard Operating Procedures (SOPs) as set forth in the FDEP Quality Assurance Rule. All sample

analyses shall be performed in accordance with the protocols and requirements set forth in 40 CFR 136, Chapter 62-160, FAC., or Chapter 62-625.600(1), FAC, as each of the foregoing may be amended.

- G. The City of Orlando may, as it deems necessary and with minimum of five (5) day advanced written notice to the [ENTITY], conduct inspections and monitoring events at any SIU's facility located within the [ENTITY]. This requirement shall be included in all SIU permits issued by the [ENTITY] as set out in Section 3.H.
- H. The [ENTITY] shall issue permits to all SIUs which are required to be permitted under the provisions set forth in 40 CFR 403, Chapter 62-625 FAC, the Orlando SUO, as the foregoing may be amended, and the [ENTITY]'s sewer use ordinance. Permits must be issued prior to any discharge. Permits must contain, at a minimum, appropriate effluent limitations, monitoring and reporting requirements, a statement of duration, a statement of non-transferability, a process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge, requirements to control slug discharges, a statement of applicable civil and criminal penalties, and any other conditions requested to be included in the permit by the City of Orlando. After the [ENTITY] drafts a permit for SIUs the [ENTITY] shall forward a copy of the draft permit to the City of Orlando for review and comments at least fifteen (15) days prior to the expected date of issuance. The City of Orlando shall have a ten (10) day review period from the receipt of the draft SIU permit to either approve the permit as is or to request changes. No permit shall be issued without approval from the City of Orlando.
- I. The [ENTITY] shall submit an annual report to the City of Orlando, which includes the compliance status of each Significant Industrial User, as defined in the Orlando SUO, the schedule for upcoming facility inspections and compliance monitoring events, any enforcement response that was taken or is anticipated, compliance schedules, and updates and adequacy of the Industrial Waste Survey. The format and/or content of the annual report will be provided by the City of Orlando.
- J. The [ENTITY] shall develop an Enforcement Response Plan (ERP) in accordance with 62-625.500(2)(d) F.A.C.
- K. The [ENTITY] shall enforce the provisions of its sewer use ordinance and permits. In the event the [ENTITY] fails to take enforcement action in accordance with its ERP against non-compliant users within the [ENTITY] wastewater service area, the City of Orlando shall take such action as necessary on behalf of, and as agent, for the [ENTITY]. The City of Orlando may assess the [ENTITY] for the costs of any enforcement activities or damages that are incurred from the lack of proper and timely enforcement action by the [ENTITY]. Costs may include, but are not limited to, fines, penalties, remedial and cleanup activities, litigation, attorneys' fees, including appeals, and any other costs related to compliance and enforcement for the incident.

- L. The City of Orlando and [ENTITY] shall each designate a representative(s) (“Designated Representative”) to act on its behalf for communication on operational matters in this Agreement and maintain a current list of Designated Representatives. Such a list shall contain the names of contact persons, telephone numbers, cellular phone numbers, facsimile numbers, email addresses, and mailing addresses. The City of Orlando and [ENTITY] may change their respective Designated Representative(s) upon written notice to the other Party as provided in Paragraph 10 of this Agreement. Designated Representatives shall be the primary means for communication between the parties for all routine operational communication between the City of Orlando and [ENTITY]. Routine operational communication can be in person, or by telephone, facsimile, or email. All verbal notifications shall be followed by written notification within twenty-four (24) hours to the Designated Representatives. Verbal notifications will be acknowledged, but only written notification shall be considered as official. Communication related to emergency matters, discharge, including accidental discharge, or any other events that may cause potential problems to the City of Orlando POTWs, as defined in the Orlando SUO, shall be made to Emergency Personnel as designated in Paragraph 4.C. below and as required in Paragraph 4.D. below. Any correspondence or notices required that are related to the performance of this Agreement shall be made in accordance with and pursuant to Paragraph 10 of this Agreement.
- M. The [ENTITY] shall commence development and implementation of a Pretreatment Program upon the identification of any SIU within its jurisdiction that is discharging industrial wastes to the POTWs. The [ENTITY] shall notify the City of Orlando and the FDEP Pretreatment Coordinator within fifteen (15) days of the identification of said SIU, and the intention of the [ENTITY] to commence the development and implementation of a Pretreatment Program in accordance with the requirements set forth in 40 CFR 403 and Chapter 62-625, FAC.

4. EMERGENCY ACTION

- A. The City of Orlando may request that the [ENTITY] take emergency action, whenever deemed necessary by the City of Orlando, to stop or prevent any discharge which presents, or may present, an imminent danger to the health, safety, or welfare of humans, which reasonably appears to threaten the environment, or which threatens to cause interference, pass through, or contamination of biosolids. If the [ENTITY] fails to take action, the City of Orlando shall be entitled to take emergency action, however, the [ENTITY] will remain the lead agency on such actions.
- B. The City of Orlando will provide informal notice by telephone or other means to the IU and the [ENTITY] of its intent to take emergency action prior to entering the jurisdiction of the [ENTITY]. The [ENTITY]'s opportunity to respond, however, may be limited to a hearing after the emergency powers of the City of Orlando have been exercised. This Section 4.B., however, does not in any way relieve

the [ENTITY] from its requirement and enforcement obligations in accordance with and pursuant to Paragraph 3.B of this Agreement.

- C. The City of Orlando and the [ENTITY] shall maintain a current list of emergency contact persons (“Emergency Personnel”) within each other’s wastewater and utilities departments. Such a list shall contain twenty-four (24) hour emergency phone numbers for Emergency Personnel in the utilities department and other departments, which may respond. Emergency Personnel may or may not be the same individuals that are Designated Representatives for operational purposes as set forth in Paragraph 3.L above. The emergency contact lists should be updated whenever a change occurs, or at least monthly and the other Party shall be given written notification of the changes within forty-eight (48) hours.
- D. Communication related to emergency matters, discharge, including accidental discharge, or any other events that may cause potential problems to the City of Orlando POTWs, as defined in the Orlando SUO, shall be made by telephone immediately upon discovery of the action, discharge or event, but in no case later than thirty (30) minutes of such event, followed by written notification within twenty-four (24) hours of the event, either by email or facsimile to Emergency Personnel.

5. APPLICABILITY OF AGREEMENT

Before an IU located outside the jurisdictional boundaries of the [ENTITY] discharges into the [ENTITY]’s sewer system, the [ENTITY] and the City of Orlando shall enter into an agreement with the jurisdiction in which such IU is located. Such agreement shall be equivalent to this Agreement and must be fully agreed to and executed prior to a discharge from any IU in the outside jurisdiction.

6. AGREEMENT MODIFICATIONS

- A. If any term of this Agreement is held to be invalid in any judicial action, the remaining terms of this Agreement shall remain unaffected.
- B. The Parties shall review and revise (if necessary) this Agreement to ensure compliance with the Federal Clean Water Act (42 U.S.C. §1251 et seq.) and the rules and regulations set forth in 40 CFR Part 403, Chapter 62-625, FAC, and the FDEP permit conditions for the [Iron Bridge Regional WRF]. The review shall be performed biannually and commence at the beginning of the fiscal year, October 1, 20__.
- C. Any and all modifications to the provisions herein shall be by mutual agreement of the Parties, in writing, and executed by the Parties hereto. Modifications shall not conflict with the pretreatment rules and requirements set forth in 40 CFR Part 403, Chapter 62-625 FAC, or the FDEP permit conditions for the [Iron Bridge Regional WRF].

7. TERMINATION

The City of Orlando reserves the right to terminate this Agreement by providing ninety (90) days written notice to the [ENTITY]. All benefits and obligations under this Agreement shall cease following ninety (90) days from receipt of such notice, provided however, no enforcement action or other rights of the City of Orlando as set forth herein for breach of this Agreement or any other remedies available by law, arising from acts or omissions prior to such termination shall be affected by such termination and shall survive the termination of this Agreement.

8. INDEMNIFICATION

To the extent permitted by law, the [ENTITY] shall indemnify and hold harmless the City of Orlando, its elected and appointed officials, officers, employees, agents and those working on their behalf, for all damages, fines, costs, and attorney's fees, either incurred as a result of the industrial waste discharge from the [ENTITY] or from the failure of the [ENTITY] to comply with this Agreement or to secure compliance of an IU discharging to the [ENTITY]'s wastewater system. Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the Parties beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature, Section 768.28, Florida Statutes, or other applicable law.

9. DISCLAIMER OF THIRD-PARTY BENEFICIARIES

This Agreement is solely for the benefit of the City of Orlando and the [ENTITY] and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal party hereto.

10. CORRESPONDENCE AND NOTIFICATIONS

- A. Any notice required or allowed to be delivered hereunder related to the performance of this Agreement, including legal notices, shall be in writing and be deemed to be delivered upon receipt before 5:00 p.m. on a business day by hand delivery, facsimile, overnight courier or U.S. Mail, and addressed to a Party at the address set forth below, or such other address the Party may have specified by written notice to the other Party delivered in accordance herewith:

As to Orlando:

Wastewater Division Manager
Wastewater Division
5100 L.B. McLeod Road
Orlando, Florida 32811
Telephone: (407) 246-2213
Fax: (407) 246-2886

As to [ENTITY]:

[Title]

[Department]

[Address]

[Municipality, Florida XXXXX]

[Telephone: (XXX) XXX-XXXX]

[Fax: (XXX) XXX-XXX]

- B. All verbal notifications shall be followed up with a written notification within twenty-four (24) hours. Only written notification shall be considered as "official".
- C. Communication related to routine, operational matters shall be made pursuant to Paragraph 3.L. of this Agreement.
- D. Communication related to emergency action shall be made pursuant to Paragraphs 4.C. and 4.D. of this Agreement.

11. NON-WAIVER

The failure of either Party to insist upon the other Party's compliance with its obligations under this Agreement in any one or more instances shall not operate to release the other Party from their duties to comply with such obligations in all other instances.

12. APPLICABLE LAW AND VENUE

This Agreement and the provisions contained herein shall be construed, governed by, and interpreted according to the laws of the State of Florida. Any litigation arising out of this Agreement shall be heard in the state courts located and lying within Orange County, Florida.

13. SEVERABILITY

Should any provision of this Agreement be declared to be invalid, the remaining provisions of this Agreement shall remain in full force and effect unless such provision, which is found to be invalid substantially alters the benefits of the Agreement for either Party.

14. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement and understanding between the Parties and shall supersede and replace any and all prior or contemporaneous representations, negotiations, statements, understandings, or agreements between the Parties, whether verbal or written, relating to the matters set forth herein and the execution of this Agreement and are merged into this Agreement. The Parties hereto fully understand the terms and conditions of this Agreement, have entered into this Agreement voluntarily, and have received or had the opportunity to receive independent advice and legal counsel.

IN WITNESS WHEREOF, the City of Orlando and the [ENTITY] have caused this Agreement to be executed, by their designated representatives, as of the day and year indicated above.

[Signatures on following pages.]

City of Orlando

By: _____
Mayor/Mayor Pro Tem

Print Name: _____

ATTEST:

Amy T. Iennaco, City Clerk (SEAL)

Approved as to Form and
Legality for the use and reliance of the
City of Orlando, Florida only.

_____, 20____

Assistant City Attorney
Orlando, Florida

STATE OF FLORIDA }

COUNTY OF _____ }

PERSONALLY APPEARED before me, the undersigned authority,
_____ and Amy T. Iennaco, personally known to me, and
known by me to be the _____ and City Clerk, respectively, and
acknowledged before me that they executed the foregoing instrument on behalf of the
City of Orlando as its true act and deed, and that they were duly authorized to do so.

WITNESS my hand and official seal this _____ day of _____,
20____.

NOTARY PUBLIC

Print Name: _____

My Commission Expires: _____

[ENTITY]

By: _____

Print Name: _____

Title: _____

ATTEST:

_____, City Clerk (SEAL)

STATE OF FLORIDA }

COUNTY OF **[COUNTY]**}

PERSONALLY APPEARED before me, the undersigned authority, _____ and _____, personally known to me, and known by me to be the _____ and City Clerk, respectively, and acknowledged before me that they executed the foregoing instrument on behalf of the **[ENTITY]** as its true act and deed, and that they were duly authorized to do so.

WITNESS my hand and official seal this _____ day of _____, 20____.

NOTARY PUBLIC

Print Name: _____

My Commission Expires: _____