

Interlocal Agreement Airway Heights Pretreatment Program

This Interlocal Agreement is dated this 3rd day of February, 2012, ("Effective Date") by and between the City of Spokane, a Washington State first class charter city and the City of Airway Heights, a Washington State non-charter code city.

RECITALS

- A. The City of Spokane ("SPOKANE") is required by federal and state law to have a pretreatment enforcement program in all jurisdictions it serves or from which it accepts wastewater.
- B. The City of Airway Heights ("AIRWAY HEIGHTS") operates its own sewer collection system but discharges its wastewater into SPOKANE's sewer system in accord with a separate service agreement between the parties (reference: Spokane City Clerk File OPR 1993-0444).
- C. Pretreatment program requirements concerning this Agreement include but are not limited to 40 CFR 403.8, provisions referenced below, and state laws and regulations. The purpose of this Agreement is to address these pretreatment program requirements with respect to flows accepted by SPOKANE from AIRWAY HEIGHTS. The program may hereafter be referenced as the "Airway Heights Pretreatment Program". AIRWAY HEIGHTS understands that SPOKANE cannot accept its wastewater without an actively enforced pretreatment program in accord with applicable federal and state requirements.
- D. Spokane County and SPOKANE have previously entered into an agreement relating to coordination of their respective pretreatment regulatory programs (reference Spokane City Clerk File OPR 2010-0359). That agreement may be referenced as the Spokane City-County Multijurisdictional Agreement ("S/SCMJA"). The S/SCMJA provides that SPOKANE will use Spokane County's ordinance in pretreatment program activities outside SPOKANE's city limits, unless the host jurisdiction (here, AIRWAY HEIGHTS) has another preference.
- E. SPOKANE and County of Spokane have adopted parallel pretreatment ordinances patterned after model state and federal pretreatment ordinances, and the two ordinances are quite similar. These ordinances have each been approved by the appropriate federal and state regulatory authorities.

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- F. Under additional regulatory requirements, generators of biosolids from the POTW are required to comply with 40 CFR, Part 503—Biosolids Rule, governing the use and disposal of municipal sewage sludge, and relevant State statutes. "POTW" stands for "Publicly Owned Treatment Works" and refers to any publicly owned sewer utility facility or treatment plant.
- G. AIRWAY HEIGHTS is in the process of completing the construction of its Advanced Wastewater Treatment Facility ("AWTF") which will process and dispose of wastewater from AIRWAY HEIGHTS.

Now, therefore SPOKANE and AIRWAY HEIGHTS agree:

1. CONTRACT REPRESENTATIVES

- A. SPOKANE'S representative is Tim Pelton, Pretreatment Coordinator, (509) 625 4661, 4401 Aubrey L White Parkway, Spokane WA 99205. AIRWAY HEIGHTS representative is Kelly Williquette, Public Works Director (509) 244-5429, 12400 W. 21st Ave., Airway Heights, WA. A party may change its representative upon written notice.

2. IMPLEMENTATION OF AIRWAY HEIGHTS PRETREATMENT PROGRAM

- A. AIRWAY HEIGHTS hereby accepts the Airway Heights Pretreatment Program set forth on Attachment 1, to include functions reasonably required by SPOKANE pursuant thereto and as required by federal or state regulatory authorities. This includes adoption of Spokane County's pretreatment ordinance, SCC Chapter 8.03A without material modifications.
- B. AIRWAY HEIGHTS shall reasonably assist SPOKANE in enforcing the Airway Heights Pretreatment Program, as set forth in Attachment 1. AIRWAY HEIGHTS shall reasonably assist SPOKANE to obtain access to property, and perform sampling and monitoring activities deemed necessary by SPOKANE. The parties agree to work together for mutual convenience in implementation of this Agreement.
- C. AIRWAY HEIGHTS will maintain current information on Industrial Users and share that information with SPOKANE pretreatment staff. Whenever a new Industrial User begins operations or any time an existing Industrial User increases its discharge by twenty percent (20%) or more, or changes its discharge, or any time it is requested by SPOKANE, AIRWAY HEIGHTS will require that the Industrial User respond to an Industrial User questionnaire. AIRWAY HEIGHTS will forward a copy of the completed questionnaire to SPOKANE for review within sixty (60) days.

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- D. AIRWAY HEIGHTS will provide SPOKANE access to all records or documents relevant to the pretreatment program for any Industrial User located in AIRWAY HEIGHTS.
- E. SPOKANE may inspect and sample all Industrial Users each year or more frequently as ordered by Wastewater Management Director to ensure compliance with this Agreement and requirements of all regulating agencies. Any costs associated with this inspection and sampling will be subject to reimbursement pursuant to paragraph 3(C). SPOKANE will submit written notice of scheduled inspections to AIRWAY HEIGHTS, providing the opportunity for AIRWAY HEIGHTS to attend all inspections. SPOKANE will submit to AIRWAY HEIGHTS its procedures for sampling and analyses, including all procedures in place for quality assurance and quality control. All procedures will conform to those set out in 40 CFR Part 136, except as otherwise required by the U.S. Environmental Protection Agency. AIRWAY HEIGHTS agrees to give SPOKANE forty five (45) days notice if it desires to assume any functions of the Pretreatment Program.
- F. AIRWAY HEIGHTS will issue permits to all Industrial Users required to be permitted under its pretreatment ordinance, this includes new and pre-existing dischargers into the system. Permits must be issued prior to any discharge. Permits must contain, at a minimum, appropriate effluent limitation, monitoring and reporting requirements, a statement of duration, a statement of nontransferability, a statement of applicable civil and criminal penalties, and any other conditions requested to be included in the permit by SPOKANE.
- G. The duties and responsibilities of the parties set forth in the Airway Heights Pretreatment Program (Attachment 1) shall be suspended upon notice from AIRWAY HEIGHTS that its water reclamation facility is operational and processing all wastewater flow from AIRWAY HEIGHTS. When AIRWAY HEIGHTS elects to discharge wastewater into the Riverside Park Water Reclamation Facility ("RPWRF") it shall be permitted to do so provided: (1) Airway Heights Pretreatment standards comply with the pretreatment standards maintained by Spokane County through ordinance approved by the regulatory agencies (including but not limited to, Washington State Department of Ecology); and (2) AIRWAY HEIGHTS immediately notifies SPOKANE as soon as practicable prior to sending any flow into the regional system.

3. AIRWAY HEIGHTS PRETREATMENT EXPENSES

- A. During the periods that AIRWAY HEIGHTS is discharging wastewater into the SPOKANE conveyance facilities for processing and disposal at the

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RPWRF, AIRWAY HEIGHTS will be responsible for fees and costs of SPOKANE to perform the Airway Heights Pretreatment Program, as outlined in paragraph 3(C). For periods when AIRWAY HEIGHTS does not discharge wastewater into the RPWRF there shall be no fees or costs for pretreatment services assessed against AIRWAY HEIGHTS.

- B.** SPOKANE may apply any permit fees, fines, penalties, and/or other fees or charges collected under the AIRWAY HEIGHTS Pretreatment Program to fund the AIRWAY HEIGHTS PRETREATMENT program. SPOKANE's proposed budget for services under this Agreement is shown in Attachment 2. To the extent there may be unfunded program costs, SPOKANE shall provide reasonable notice of the same to AIRWAY HEIGHTS and may thereafter bill AIRWAY HEIGHTS for the costs. AIRWAY HEIGHTS reserves the right to dispute the costs. All disputes shall be resolved pursuant to paragraph 4(A). SPOKANE reserves the right to establish reasonable fees for program enforcement costs.
- C.** SERVICE CHARGES: Service charges for pretreatment services will be direct billed based on actual labor, materials, expenses and costs.
- D.** DISPOSAL RATES. SPOKANE represents that the invoices submitted to AIRWAY HEIGHTS for wastewater treatment prior to the Effective Date of this Agreement include, pro rata, the fees, costs and expenses as determined under the prior agreement, which is being superseded. After the Effective Date of this Agreement, an itemized billing will replace the previous non-itemized billing with regard to pretreatment services to reflect the charges set forth herein under paragraph 3 (C). This Agreement does not add additional service charges to the AIRWAY HEIGHTS cost of wastewater disposal with SPOKANE.

4. COURT ACTIONS

- A.** To resolve disputes under this Agreement, the parties agree and stipulate to arbitration under RCW 7.04A.
- B.** AIRWAY HEIGHTS will exercise best efforts to support the AIRWAY HEIGHTS Pretreatment Program and ensure compliance with all state and federal requirements. If AIRWAY HEIGHTS must pursue court action against a non-compliant customer, AIRWAY HEIGHTS may appoint the SPOKANE City Attorney's office as special deputy for AIRWAY HEIGHTS to prosecute and enforce any civil or criminal actions under the AIRWAY HEIGHTS Pretreatment Program, including obtaining search warrants or other court action. At any time, upon request of either the City Attorney of SPOKANE or the City Attorney of AIRWAY HEIGHTS, the SPOKANE City Attorney's office will withdraw from representation of AIRWAY HEIGHTS and the City Attorney of AIRWAY HEIGHTS shall then assume all

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functions with respect to that part of the AIRWAY HEIGHTS Pretreatment Program.

- C. The parties agree to execute any further agreements necessary to preserve and protect the attorney client, attorney investigation or work product, and/or confidentiality matters relating to litigation under this Agreement, to the extent permitted by the Washington State Public Records Act or other applicable laws.
 - D. AIRWAY HEIGHTS agrees to pay for or provide court, court clerk, jail, hearings examiner, public defender, or other civil or criminal law enforcement resources needed to support the AIRWAY HEIGHTS Pretreatment Program. In the event AIRWAY HEIGHTS does not provide the above items, then AIRWAY HEIGHTS will reimburse SPOKANE for any costs or expenses incurred as a result of the enforcement action which are not otherwise covered by this Agreement. .
- 5. EMERGENCY ACTION: CITY NPDES PERMIT HOLDER**
- A. SPOKANE may take emergency action whenever it deems necessary to stop or prevent any discharge which presents, or may present, an imminent danger to the health or welfare of humans, which reasonably appears to threaten the environment, or which threatens to cause interference, pass through, or sludge contamination as these terms are understood in the pretreatment program. SPOKANE shall provide notice to an Industrial User and AIRWAY HEIGHTS or other affected party prior to taking action, but reserves the right to act without notice or opportunity to respond to an emergency. SPOKANE may advise all parties subject to regulation under the AIRWAY HEIGHTS Pretreatment Program that it is a designated agent of AIRWAY HEIGHTS for purposes of the pretreatment program within the scope of this Agreement.
 - B. Notwithstanding any other provision of this Agreement, the parties understand that SPOKANE is the holder of a federal wastewater discharge (NPDES) permit which applies to all wastewater flowing into the SPOKANE sewer system and treatment plant. SPOKANE reserves the right to take whatever actions necessary to avoid and/or correct any NPDES permit violations or other adverse federal or state regulatory agency action, and the parties agree to work together in good faith to accomplish this result.
- 6. ADDITIONAL**
- A. All Writings Contained Herein: This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be

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- deemed to exist or bind the parties. The parties have read and understand all of this Agreement and agree no representations, promises or agreements not expressed in this Agreement have been made.
- B. Each party is responsible for its own actions under this Agreement.
 - C. Severability: If any term of this Agreement is held to be invalid in any judicial action, the remaining terms of this Agreement will be unaffected.
 - D. Review: The parties will review and revise this Agreement to ensure compliance with the Federal Clean Water Act (42 U.S.C. §1251 et seq.) and the rules and regulations (see 40 CFR Part 403) issued there under, as necessary, but at least every five (5) years on a date to be determined by the parties.
 - E. Prior Agreements superseded: This Agreement supersedes the pretreatment provisions contained in Spokane City Clerk's OPR 1993-0444. The remaining terms of OPR 1993-0444 shall remain in full force and effect.
 - F. Amendment: Any amendment of this Agreement may only be made by written agreement of all parties.

7. REQUIRED CLAUSES UNDER RCW 39.34.030 (3) and (4) ELEMENTS:

- A. Duration: It is anticipated that AIRWAY HEIGHTS will have its AWTF operational within one (1) to three (3) years from the Date of this Agreement. AIRWAY HEIGHTS acknowledges permitting agencies require pretreatment for wastewater discharges. As such, this Agreement is for a period of five (5) years from the Effective Date. Either party may terminate this Agreement in its sole discretion upon one hundred eighty (180) days written notice. Renewal does not affect any right of termination for breach or as otherwise agreed.
- B. Precise Organization: Each party functions under its existing governance. No additional entity is created.
- C. Purpose: See section 1 A.
- D. Budget and Financing: See sections 3 and 4.
- E. Termination: See section 7A.
- F. Property Upon Termination: Upon expiration or termination of this Agreement, each party retains control of its property. No property is held jointly.

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G. Administration: Each party administers its own functions under this Agreement.

H. Filing: SPOKANE and AIRWAY HEIGHTS shall file this Agreement with the respective City Clerks and SPOKANE shall file this Agreement with the Spokane County Auditor and the Secretary of State.

ATTACH: Attachment 1- Summary of Responsibilities
Attachment 2- Budget Exhibit

CITY OF AIRWAY HEIGHTS

Albert Tapp
City Manager

ATTEST:

Richard G Cook
City Clerk

Approved as to form:

[Signature]
Assistant City Attorney

CITY OF SPOKANE

[Signature]
City Administrator

By: **Theresa Sanders**
City Administrator
Print name and title

By: [Signature]
MAYOR 2/3/2012

ATTEST:

[Signature]
City Clerk

Approved as to form:

[Signature] 1-30-2012
Assistant City Attorney



Attachment 1
Summary of Responsibilities for Airway Heights Pretreatment Program

Responsibility	SPOKANE	AIRWAY HEIGHTS
Spokane County Pretreatment Ordinance	<ul style="list-style-type: none"> ▪ Existing ordinance approved 	<ul style="list-style-type: none"> ▪ Adopt Spokane County ordinance
Pretreatment Ordinance Modification by County	<ul style="list-style-type: none"> ▪ Review any changes 	<ul style="list-style-type: none"> ▪ Adopt changes unless not approved by SPOKANE; must be kept at least as stringent as Spokane City ordinance and be approved by regulatory agencies
Local Limits	<ul style="list-style-type: none"> ▪ Review and approve 	<ul style="list-style-type: none"> ▪ Must maintain limits at least as stringent as Spokane County
Annual Report	<ul style="list-style-type: none"> ▪ Prepare for submittal to Ecology 	<ul style="list-style-type: none"> ▪ Review and comment
Industrial User Survey in Airway Heights Service Area	<ul style="list-style-type: none"> ▪ Review and approve 	<ul style="list-style-type: none"> ▪ Update continually ▪ Full survey must be completed every five (5) years ▪ Conduct survey and follow up on non-responses ▪ Forward latest version to SPOKANE Make any changes as required by regulatory agencies
Permitting Process for Airway Heights Service Area	<ul style="list-style-type: none"> ▪ Review permit application, engineering report, and prepare draft permit ▪ Approve issuance of Final permit after Department of Ecology review ▪ Permit modification as needed 	<ul style="list-style-type: none"> ▪ Send out surveys, permit applications, and classify Industrial Users ▪ Forward permit application to SPOKANE for review ▪ Review Draft permit prepared by SPOKANE. ▪ Send Draft permit for Department of Ecology Review ▪ Publish and conduct Public Commentary of Draft permit ▪ Issue Final permit

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Responsibility	SPOKANE	AIRWAY HEIGHTS
Inspections, Sampling, Analysis of County Users	<ul style="list-style-type: none"> ▪ May perform duties as it deems necessary ▪ May perform duties at request of AIRWAY HEIGHTS ▪ Give notice to AIRWAY HEIGHTS prior to inspections and sampling if requested ▪ Forward inspection and sampling reports to AIRWAY HEIGHTS if requested ▪ Provide AIRWAY HEIGHTS with monthly compliance reports on each permitted Industrial User if requested 	<ul style="list-style-type: none"> ▪ May delegate functions to Spokane staff ▪ May perform sampling and inspection as it deems necessary ▪ May distribute inspection and sampling reports
Enforcement within Airway Heights Service Areas	<ul style="list-style-type: none"> ▪ Subject to Section 2 of the Agreement may perform duties as it deems necessary ▪ May perform duties at request of Airway Heights ▪ May recommend enforcement actions to Airway Heights 	<ul style="list-style-type: none"> ▪ Perform court enforcement tasks, or delegate to City staff ▪ Publish all out of compliance users as required by Federal Pretreatment regulations in local paper
Emergency Suspension	<ul style="list-style-type: none"> ▪ May act as needed 	<ul style="list-style-type: none"> ▪ May act as needed
Response to Production Changes or Changed Discharge		<ul style="list-style-type: none"> ▪ Review and take appropriate action ▪ Notify SPOKANE of change and of action taken
Airway Heights Service Area	<ul style="list-style-type: none"> ▪ Permitting (draft and maintenance) ▪ Enforcement with County Ordinance as requested ▪ Inspections 	<ul style="list-style-type: none"> ▪ Permitting (may be delegated to SPOKANE) ▪ Industrial Waste Survey ▪ Legal Authority - County Ordinance ▪ Enforcement with County Ordinance ▪ Inspections

Attachment 2

Calculation for Airway Heights Pretreatment costs 2011

8/27/2010

Staff Labor:

Pretreatment Chemist	\$ 20,000.00
Laboratory Technician	\$ 9,000.00
Program support & Tracking	\$ 4,000.00
Overhead	\$ 13,200.00

Equipment & Supplies:

Containers & sampling equipment	\$ 7,000.00
Transportation	\$ 2,000.00

Total \$ 55,200.00

Notes:

1. AWH work requires 1/3 Pretreatment Chemist for permit writing & program maintenance
2. AWH work requires on 1/6 Laboratory Technician for sampling interceptors & industries
3. AWH work requires clerical support to enter & file data & records and prepare reports in tracking system
4. Overhead calculated at 40% of wages
5. Supplies typical for this level of monitoring