



Interoffice Memorandum

January 14, 2019

TO: Mayor Jerry L. Demings
and Board of County Commissioners

FROM: Raymond E. Hanson, P.E., Director
Utilities Department

A handwritten signature in black ink, appearing to read "R. Hanson", written over the "FROM:" field.

**SUBJECT: BCC AGENDA ITEM – Consent Agenda
January 29, 2019 BCC Meeting
First Amendment to the First Amendment and Restatement of
Hotelier Management Services Wastewater Flow Monitoring
Agreement
Contact Person: Andres Salcedo, P. E., Assistant Director
Utilities Department
407-254-9719**

The property owner, First Industrial Pennsylvania, L.P., and tenant, Hotelier Management Services, LLC, constructed a commercial laundry facility at 550 Gills Drive, Suite 300. Wastewater capital charges for the property were determined based on flow estimates pursuant to Subsection 37-5b of the Orange County Code. The facility generates more wastewater than originally estimated in the previously amended agreement due to an increase in use. Additionally, the property owner and tenant desire to install additional laundry equipment on the premises which will further increase the flow generated by the facility.

The property owner and tenant have submitted a signed and sealed engineering study estimating wastewater flows for the commercial laundry facility based on the addition of new equipment and have agreed to enter into an amended 10-year Flow Monitoring Agreement with the Utilities Department.

The amendment provides for an adjustment to anticipated flows, the financial obligations associated with those anticipated flows, and the 10-year period to monitor the wastewater discharges from the premises, as well as modifies the property owner's contact information. A monthly monitoring fee will continue to be assessed during the 10-year period, and additional capital charges will be levied if the six-month average wastewater flow exceeds the signed and sealed engineering estimate at any time during the 10-year period.

The Orange County Attorney's Office and Risk Management staff have reviewed the document and find it acceptable as to form. Orange County Utilities staff recommends approval.

Action Requested: Approval and execution of First Amendment to the First Amendment and Restatement of Hotelier Management Services Wastewater Flow Monitoring Agreement by and among First Industrial Pennsylvania, L.P., Hotelier Management Services, LLC, and Orange County.

District 4.

**FIRST AMENDMENT TO THE FIRST AMENDMENT
AND
RESTATEMENT OF
HOTELIER MANAGEMENT SERVICES
WASTEWATER FLOW MONITORING AGREEMENT**

This First Amendment to the First Amendment and Restatement of Hotelier Management Services Wastewater Flow Monitoring Agreement (the “**Amendment**”) is made and entered into as of the date later executed below by and among FIRST INDUSTRIAL PENNSYLVANIA, L.P., a Delaware limited partnership, whose principal address is 1 North Wacker Drive, Suite 4200, Chicago, Illinois 60606 (the “**Owner**”), HOTELIER MANAGEMENT SERVICES, LLC, a Florida limited liability company, whose address is 14640 NW 60th Avenue, Miami Lakes, Florida 33014 (“**HMS**”) (the Owner and HMS are referred to together as the “**Operator**”), and ORANGE COUNTY, a charter county and political subdivision of the state of Florida whose address is 201 South Rosalind Avenue, Orlando, Florida 32801 (the “**County**”).

RECITALS

WHEREAS, the Owner, HMS, and the County entered into the First Amendment and Restatement of Hotelier Management Services Wastewater Flow Monitoring Agreement on March 20, 2018, with an effective date as of the date of recording in the Official Records of Orange County, Florida (Document No. 20180196031) on April 3, 2018 (the “**Agreement**”); and

WHEREAS, the Owner continues to own property located at 550 Gills Drive, Orlando, Florida 32824 (the “**Property**”); and

WHEREAS, Hotelier Consulting Services, LLC, a Florida limited liability company continues to lease a portion of the Property (the “**Premises**”) as set forth in the Agreement; and

WHEREAS, HMS has constructed a commercial laundry facility with a water recycling system under Building Permits B16900943 and B17903200 (the “**Facility**”) on the Premises as set forth in the Agreement; and

WHEREAS, the Current Capacity Flow associated with the Property was 109.034 ERUs, which is equivalent to 24,533 gallons per day (“**gpd**”) as set forth in the Agreement. The Current Capacity Flow, as set forth in the Agreement, included 2.129

ERUs from an existing suite adjacent to the Premises and 106.905 ERUs from the Facility; and

WHEREAS, the Facility generates more wastewater than originally estimated in the Agreement due to an increase in use. In accordance with the Agreement, a Demand Letter from the County to HMS was sent on September 28, 2018 requesting payment for the capacity associated with the over usage of 80.947 ERUs, which is equivalent to 18,213 gpd (the “**Over Usage Flow**”), and which was paid by HMS on November 9, 2018. The sum of the Current Capacity Flow, as set forth in the Agreement, and the Over Usage Flow equates to 189.981 ERUs, which is equivalent to 42,746 gpd (the “**Purchased Capacity Flow**”); and

WHEREAS, HMS desires to install additional laundry equipment on the Premises which will further increase the flow generated by the Facility; and

WHEREAS, the County responded to the Owner’s request for hydraulic information with a Hydraulic Analysis letter dated November 2, 2018, stating the County has sufficient existing infrastructure to accept a maximum of 40 gallons per minute (“**gpm**”) of peak hourly flow wastewater discharge from the Property, Peak Hourly Wastewater Flow, as defined below in Section 2; and

WHEREAS, HMS, as tenant and on behalf of the Owner, has submitted to the County an engineering study, signed and sealed by a professional engineer licensed in the State of Florida, estimating the additional operational wastewater flows for the commercial laundry facility associated with the improvements to be 34.813 ERUs, which is equivalent to 7,833 gpd (the “**Additional Capacity Flow**”), and is based on the Owner adding new equipment; and

WHEREAS, HMS, as tenant and on behalf of the Owner, has submitted to the County, construction plans for approval of the additional laundry equipment (the “**Construction Plans**”), paid capital charges for the Additional Capacity Flow, and obtained an Orange County Building Permit Number B18901772 (the “**Building Permit**”); and

WHEREAS, in this Amendment, the “**Current Capacity Flow**” is redefined and recalculated to be the sum of the Additional Capacity Flow and the Purchased Capacity Flow, which equates to a total of 224.794 ERUs and is equivalent to 50,579 gpd associated with the Property; and

WHEREAS, the Owner, HMS, and the County desire to modify Section 3, Section 5, Section 7, and Section 14 of the Agreement.

NOW, THEREFORE, and in consideration of fees and charges specified in this Amendment, the covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the Owner, HMS, and the County agree as follows:

SECTION 1. RECITALS. The above Recitals are true, and are incorporated in, and form a material part of this Amendment.

SECTION 2. MODIFICATION OF SECTION 3, ADJUSTMENT TO CURRENT CAPACITY FLOW.

Section 3 of the Agreement is amended and restated with the new text being underlined and the deleted text being struck through as follows:

SECTION 3. Current Capacity Flow.

- a. The estimated flow associated with the Property is ~~24,533~~ 50,579 gpd on the day ~~this Agreement~~ the First Amendment to the First Amendment and Restatement of Hotelier Management Services Wastewater Flow Monitoring Agreement (the "Amendment") is executed. Thereafter, the Current Capacity Flow shall equal ~~24,533~~ 50,579 gpd plus the flow associated with any additional wastewater capacity purchased for the Property after the execution of ~~this Agreement~~ the Amendment.
- b. The wastewater discharge from the Property must not exceed 40 gallons per minute of Peak Hourly Wastewater Flow. "Peak Hourly Wastewater Flow" is the maximum gallons per minute of peak hourly wastewater discharge from the Property that is acceptable by the County as stated in a Hydraulic Analysis letter dated November 2, 2018.

SECTION 3. MODIFICATION OF SECTION 5, ERUs PURCHASED; REFUND.

Section 5 of the Agreement is amended and restated with the new text being underlined and the deleted text being struck through as follows:

SECTION 5. ERUs Purchased; Refund. In anticipation of ~~this Agreement~~ the Amendment, HMS, on behalf of the Operator, has made a deposit for the purchase of additional wastewater capacity to be drawn by the County in the amount of ~~\$256,517.74~~ \$150,432.82, (the "Deposit"), which represents ~~17,249~~ 10,116 gpd of wastewater capacity based on the current value of one ERU, which represents 20% of the Current Capacity Flow (the "Deposit") on the date of the execution of the Amendment. The actual number of ERUs purchased shall be calculated at the time the ERUs are needed pursuant to ~~s~~Section 4 hereinabove. If the Current Capacity Flow increases pursuant to Section 4, HMS or

the Operator must maintain the Deposit equivalent to 20% of the Current Capacity Flow for the term of the Agreement. HMS, on behalf of the Operator, may apply for a refund ~~of the unused portion~~ of the Deposit upon termination of this Agreement. Neither HMS nor the Operator shall have any right to collect interest on the Deposit. HMS and the Operator relinquish all rights to a refund of ~~any unused portion of the~~ Deposit if an application for a refund is not made within 180 days of termination of this Agreement.

SECTION 4. MODIFICATION OF SECTION 7, MONITORING.

Section 7 of the Agreement is amended and restated with the new text being underlined and the deleted text being struck through as follows:

SECTION 7. Monitoring. The County shall continue monitoring the wastewater flow generated on the Premises for a period of ten (10) years from the Effective Date of ~~this Agreement, or from December 15, 2017, whichever is later~~ the Amendment (the “**Monitoring Period**”), unless sooner terminated pursuant to sSection 13 below. In the event there is a change in tenant, the County may extend the period of monitoring, not to exceed a period of ten (10) years, if the use of the Property is not changed. In the event of a material breach of this Agreement by the Operator, the County may extend the Monitoring Period for a period not to exceed ten (10) years from the date of the breach following written notice to the Operator of the breach of this Agreement as it may be amended from time to time, and provided that the Operator has not cured such breach within thirty (30) days following the date of the notice. For purposes of this Agreement, “material breach” shall mean (a) the failure of the Operator to pay or cause to be paid any amounts due hereunder, following notice and ability to cure such non-payment; or (b) any failure of the Operator to provide the County (or its representatives) reasonable access to the meter to allow the County to monitor compliance with this Agreement; or (c) any breach of paragraph 4.c. above.

SECTION 5. MODIFICATION OF SECTION 14, NOTICE.

Notice to the Owner, as required under Section 14 of the Agreement, is amended as follows:

If to the Owner: First Industrial Pennsylvania, L.P.
 C/O First Industrial Realty Trust, Inc.
 5455 W. Waters Avenue, Suite 211
 Tampa, FL 33634
 Attention: Benjamin Wallert

With copy to: First Industrial Realty Trust, Inc.
1661 Feehanville Drive, Suite 400
Mt. Prospect, IL 60056

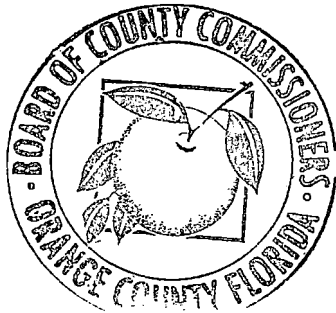
If to HMS: Hotelier Management Services, LLC
14640 NW 60th Avenue
Miami Lakes, Florida 33014
Attn: Agustin Rojas and Nanette Levi
Phone: (305) 823-2278/(305) 219-9745
Email:
agustin@hotelierlinen.com/nlopezlima@gmail.com

SECTION 6. AGREEMENT IN FULL FORCE. Except as expressly modified in this Amendment, the Agreement remains unchanged and in full force and effect.

SECTION 7. RECORDING. The Parties agree that an executed copy of this Amendment will be recorded by the Owner at the Owner's expense.

SECTION 8. EFFECTIVE DATE. The Effective Date of this Amendment shall be the date of recording in the Public Records of Orange County.

IN WITNESS WHEREOF, the parties have executed this Amendment on the dates set forth below.



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: Bryan W. Brooks
for Jerry L. Demings
County Mayor

Date: 29 January 2019

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: Katie Smeek

HMS: Hotelier Management Services, LLC,
a Florida limited liability company

By: Agustin J. Rojas
Agustin J. Rojas, General Manager

Date: 12/4/18

Signed, sealed, and delivered in our
presence as witnesses:

Signature: Lisa Vega

Printed Name: Lisa Vega

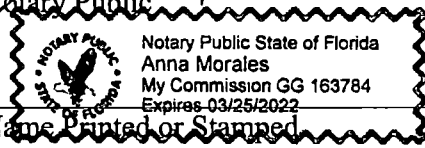
Signature: Christine Cendoya

Printed Name: Christine Cendoya

STATE OF Florida

COUNTY OF Dade

The foregoing instrument was acknowledged before me this 4 day of
December, 2018, by Agustin J. Rojas, General Manager of Hotelier
Management Services, LLC, a Florida limited liability company, on behalf of the
company, who is personally known to me or has produced
_____ as identification.

Anna Morales
Notary Public

Name Printed or Stamped

My Commission Expires: 03/25/2022

OWNER: First Industrial Pennsylvania, L.P.,
a Delaware limited partnership

By: First Industrial Realty Trust, Inc.
a Maryland corporation
Its managing partner

By: _____
Its: Senior Vice President
Date: 11/30/18

Signed, sealed, and delivered in our
presence as witnesses:

Signature: _____

Printed Name: Thomas Ciritanova

Signature: _____

Printed Name: Cynthia Vargas

STATE OF Illinois
COUNTY OF Cook

The foregoing instrument was acknowledged before me this 30 day of
November, 2018, by Richard Prokup as Senior Vice President of First
Industrial Realty Trust, Inc, a Maryland corporation, managing partner of First Industrial
Pennsylvania, L.P, on behalf of the limited partnership, who [] is personally known to
me or [] has produced _____ as identification.

Notary Public



Name Printed or Stamped

My Commission Expires: July 15, 2019