

**INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE [ENTER NAME
OF UNIT OF LOCAL GOVERNMENT HERE] AND THE METROPOLITAN WATER
RECLAMATION DISTRICT OF GREATER CHICAGO FOR THE DISTRBUTION OF
RAIN BARRELS**

THIS INTERGOVERNMENTAL AGREEMENT (hereinafter the “Agreement”) entered into, by and between the Metropolitan Water Reclamation District of Greater Chicago, a unit of local government and body politic, organized and existing under the laws of the State of Illinois (hereinafter the “District”) and the [UNIT OF LOCAL GOVERNMENT], a municipal corporation and [non-home rule] or [home rule] unit of government organized and existing [in accordance with Chapter 24 of the Illinois Revised Statutes, as amended] or [under Article VII, Section 6 of the 1970 Constitution of the State of Illinois] (hereinafter the [CITY, VILLAGE, TOWN, ETC.]).

WITNESSETH:

WHEREAS, on November 17, 2004, the Illinois General Assembly passed Public Act 093-1049 (hereinafter the “Act”); and

WHEREAS, the Act declares that stormwater management in Cook County shall be under the general supervision of the District; and

WHEREAS, the Act specifically authorizes the District to plan, manage, implement, and finance activities relating to stormwater management in Cook County; and

WHEREAS, one component of the District’s stormwater management program includes green infrastructure, which hereinafter shall mean the range of stormwater control measures that use plant/soil systems, permeable pavement, stormwater harvest and reuse, or native landscaping to store, infiltrate, and/or evapotranspire stormwater and reduce flows to the sewer systems or to surface waters as more fully set forth at 415 ILCS 56/5; and

WHEREAS, the District has committed to developing an enhanced rain barrel distribution program (“Rain Barrel Program”), in conformance with Appendix E, Section II(A) of a certain consent decree entered into in United States, *et al.*, v. Metropolitan Water Reclamation District of Greater Chicago, Case No. 1:11-cv-08859 (N.D. Ill. 2014)(“Consent Decree”), and the District’s formal commitment herein is intended to satisfy that obligation; and

WHEREAS, under the Rain Barrel Program, the District shall provide rain barrels designed to capture and use rain water to residences throughout its service area; and

WHEREAS, the distribution of rain barrels through the Rain Barrel Program may be approached more effectively, economically, and comprehensively, with the [CITY, VILLAGE, TOWN, etc.], and the District cooperating and using their joint efforts and resources; and

WHEREAS, the [CITY, VILLAGE, TOWN, etc.] is located, wholly or partly, within the boundaries of Cook County; and

WHEREAS, the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, and Section 10 of Article VII of the Illinois Constitution, allow and encourage intergovernmental cooperation; and

WHEREAS, on _____, ___, 2014, the District's Board of Commissioners authorized the District to enter into an intergovernmental agreement, in substantially the same form as this intergovernmental agreement, with units of local government throughout the District's service area; and

WHEREAS, on _____, ___, 2014 the [CITY, VILLAGE, TOWN, etc.]'s _____ authorized the [CITY, VILLAGE, TOWN, etc.] to enter into an intergovernmental agreement with the District; and

NOW THEREFORE, in consideration of the matters set forth, the mutual covenants and agreements contained in this agreement and, for other good and valuable consideration, the [CITY, VILLAGE, TOWN, etc.] and District hereby agree as follows:

ARTICLE 1. INCORPORATION OF RECITALS

The recitals set forth above are incorporated herein by reference and made a part hereof.

ARTICLE 2. SCOPE OF WORK

1. The scope of this Agreement will include the District providing rain barrels, connection hardware and delivery at no cost, to the homes of residents in the [CITY, VILLAGE, TOWN, etc.] (hereinafter the "Project"), as more fully set forth in Exhibit 1.
2. The District is expressly and intentionally not providing any assistance for the installation and operation of the rain barrel other than an instruction pamphlet, in a form substantially similar to the one attached hereto as Exhibit 2.
3. In order for the [CITY, VILLAGE, TOWN, etc.] to be eligible to participate in this Rain Barrel Program, on behalf of its residents, the [CITY, VILLAGE, TOWN, etc.] agrees to the following requirements:
 - a. verify and document that its residents receiving rain barrel(s) have downspouts connected to the sewer system along with the number of downspouts connected to the sewer system; and
 - b. place all rain barrel orders on behalf of residents using a website link provided by the District; and
 - c. obtain informed written consent from each resident receiving rain barrels allowing and agreeing to the District's limited

access to their property solely for the purpose of delivering the rain barrel(s); and

- d. make a site visit to verify each rain barrel's proper installation within 90 days after delivery by the District; and
- e. annually report on the number of 90 day site visits made to verify proper installation of rain barrel(s) along with a record of the total number of rain barrels installed within the previous year.

The documents setting forth an explanation of the Rain Barrel Program and needing to be signed by the [CITY, TOWN, VILLAGE, etc.] and its residents, prior to free rain barrels being distributed, are attached hereto as Group Exhibit 3.

4. The [CITY, VILLAGE, TOWN, etc.] shall return to the District all rain barrels that were delivered by the District in connection with the Rain Barrel Program but for any reason whatsoever were not installed or were subsequently disconnected from a resident's home.

ARTICLE 3. PERMITS AND FEES

1. Federal, State, and County Requirements. In the event any federal, state or local permits are required, the [CITY, VILLAGE, TOWN, etc.] shall obtain all such permits required by law in connection with the Rain Barrel Program, and shall assume any costs in procuring said permits. Additionally, the [CITY, VILLAGE, TOWN, etc.] shall obtain all consents and approvals required by federal, state, and/or county regulations in connection with the Rain Barrel program, and shall assume any costs incurred in procuring all such consents and approvals.
2. Maintenance. The [CITY, VILLAGE, TOWN, etc.] shall obtain any and all permits necessary for the performance of any maintenance work associated with the improvements in connection with the Rain Barrel Program, and in accordance with Article 5 of this Agreement.

ARTICLE 4. INSPECTION AND MAINTENANCE

1. The District shall have the right (including any necessary right of access) in conjunction with the [CITY, VILLAGE, TOWN, etc.] to conduct a joint annual inspection of the installed rain barrels upon reasonable notice to the [CITY, VILLAGE, TOWN, etc.] and the homeowner(s).

ARTICLE 5. EFFECTIVE DATE

This Agreement becomes effective on the date that the last signature is affixed hereto.

ARTICLE 6. DURATION

Subject to the terms and conditions of Article 2 above, this Agreement shall remain in full force and effect for perpetuity.

ARTICLE 7. NON-ASSIGNMENT

Neither party may assign its rights or obligations hereunder without the written consent of the other party.

ARTICLE 8. WAIVER OF PERSONAL LIABILITY

No official, employee, or agent of either party to this Agreement shall be charged personally by the other party with any liability or expenses of defense incurred as a result of the exercise of any rights, privileges, or authority granted herein, nor shall he or she be held personally liable under any term or provision of this Agreement, or because of a party's execution or attempted execution of this Agreement, or because of any breach of this Agreement.

ARTICLE 9. INDEMNIFICATION

The [CITY, VILLAGE, TOWN, etc.] shall defend, indemnify, and hold harmless the District, its Commissioners, officers, employees, and other agents ("District Party") from liabilities of every kind, including losses, damages and reasonable costs, payments and expenses (such as, but not limited to, court costs and reasonable attorneys' fees and disbursements), claims, demands, actions, suits, proceedings, judgments or settlements, any or all of which are asserted by any individual, private entity, or public entity against the District Party and arise out of or are in any way related to: (1) the distribution, installation and use of rain barrels through the Rain Barrel Program within the corporate limit of the [CITY, VILLAGE, TOWN, etc.] within Cook County; or (2) the exercise of any right, privilege, or authority granted to the [CITY, VILLAGE, TOWN, etc.] under this Agreement.

ARTICLE 10. REPRESENTATIONS OF THE [CITY, VILLAGE, TOWN, ETC.]

The [CITY, VILLAGE, TOWN, etc.] covenants, represents, and warrants as follows:

1. By submitting an application on behalf of its residents for rain barrel(s), the [CITY, VILLAGE, TOWN, etc.] represents that it has the full authority and permission from the homeowner(s) and that such permission includes the right of the District, or its vendor, to deliver the rain barrel(s) to the individual homeowner, including but not necessarily limited to reasonable access to the homeowner's real property for purposes of delivering the rain barrel(s);
2. The individuals signing this Agreement and all other documents executed on behalf of the [CITY, VILLAGE, TOWN, etc.] are duly authorized to sign same on behalf of and to bind the [CITY, VILLAGE, TOWN, etc.];

3. The execution and delivery of this Agreement, consummation of the transactions provided for herein, and the fulfillment of the terms hereof will not result in any breach of any of the terms or provisions of or constitute a default under any agreement of the [CITY, VILLAGE, TOWN, etc.] or any instrument to which the [CITY, VILLAGE, TOWN, etc.] is bound or any judgment, decree, or order of any court or governmental body or any applicable law, rule, or regulation; and
4. The [CITY, VILLAGE, TOWN, etc.] acknowledges and accepts that the Rain Barrel Program being offered by the District is a voluntary program, wherein the [CITY, VILLAGE, TOWN, etc.] residents are receiving complimentary rain barrels and as such, the District may discontinue the Rain Barrel Program at any time, without notice and without obligation to provide any additional rain barrels.

ARTICLE 11. REPRESENTATIONS OF THE DISTRICT

The District covenants, represents, and warrants as follows:

1. The District has full authority to execute, deliver, and perform or cause to be performed this Agreement;
2. The individuals signing this Agreement and all other documents executed on behalf of the District are duly authorized to sign same on behalf of and to bind the District; and
3. The execution and delivery of this Agreement, consummation of the transactions provided for herein, and the fulfillment of the terms hereof will not result in any breach of any of the terms or provisions of or constitute a default under any agreement of the District or any instrument to which the District is bound or any judgment, decree, or order of any court or governmental body or any applicable law, rule, or regulation.

ARTICLE 12. DISCLAIMERS

This Agreement is not intended, nor shall it be construed, to confer any rights, privileges, or authority not permitted by Illinois law. Nothing in this Agreement shall be construed to establish a contractual relationship between the District and any party other than the [CITY, VILLAGE, TOWN, etc.].

ARTICLE 13. WAIVERS

Whenever a party to this Agreement by proper authority waives the other party's performance in any respect or waives a requirement or condition to performance, the waiver so granted, whether express or implied, shall only apply to the particular instance and shall not be deemed a waiver for subsequent instances of the performance, requirement, or condition. No

such waiver shall be construed as a modification of this Agreement regardless of the number of times the performance, requirement, or condition may have been waived.

ARTICLE 14. SEVERABILITY

If any provision of this Agreement is held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability will not affect any other provisions of this Agreement, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision has never been contained herein. The remaining provisions will remain in full force and will not be affected by the invalid, illegal, or unenforceable provision or by its severance. In lieu of such illegal, invalid, or unenforceable provision, there will be added automatically as part of this Agreement a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

ARTICLE 15. DEEMED INCLUSION

Provisions required (as of the effective date) by law, ordinances, rules, regulations, or executive orders to be inserted in this Agreement are deemed inserted in this Agreement whether or not they appear in this Agreement or, upon application by either party, this Agreement will be amended to make the insertions. However, in no event will the failure to insert such provisions before or after this Agreement is signed prevent its enforcement.

ARTICLE 16. ENTIRE AGREEMENT

This Agreement, and any exhibits or riders attached hereto, shall constitute the entire agreement between the parties. No other warranties, inducements, considerations, promises, or interpretations shall be implied or impressed upon this Agreement that are not expressly set forth herein.

ARTICLE 17. AMENDMENTS

This Agreement shall not be amended unless it is done so in writing and signed by the authorized representatives of both parties.

ARTICLE 18. REFERENCES TO DOCUMENTS

All references in this Agreement to any exhibit or document shall be deemed to include all supplements and/or authorized amendments to any such exhibits or documents to which both parties hereto are privy.

ARTICLE 19. JUDICIAL AND ADMINISTRATIVE REMEDIES

The parties agree that this Agreement and any subsequent Amendment shall be governed by, and construed and enforced in accordance with, the laws of the State of Illinois in all respects, including matters of construction, validity, and performance. The parties further agree

that the proper venue to resolve any dispute which may arise out of this Agreement is the appropriate Court of competent jurisdiction located in Cook County, Illinois.

This Agreement shall not be construed against a party by reason of who prepared it. Each party agrees to provide a certified copy of the ordinance, bylaw, or other authority to evidence the reasonable satisfaction of the other party that the person signing this Agreement for such party is authorized to do so and that this Agreement is a valid and binding obligation of such party. The parties agree that this Agreement may be executed in quadruplicate.

The rights and remedies of the District or the [CITY, VILLAGE, TOWN, etc.] shall be cumulative, and election by the District or the [CITY, VILLAGE, TOWN, etc.] of any single remedy shall not constitute a waiver of any other remedy that such party may pursue under this Agreement.

ARTICLE 20. NOTICES

Unless otherwise stated in this Agreement, any and all notices given in connection with this Agreement shall be deemed adequately given only if in writing and addressed to the party for whom such notices are intended at the address set forth below. All notices shall be sent by personal delivery, UPS, Fed Ex or other overnight messenger service, first class registered or certified mail, postage prepaid, return receipt requested, or by facsimile. A written notice shall be deemed to have been given to the recipient party on the earlier of (a) the date it is hand-delivered to the address required by this Agreement; (b) with respect to notices sent by mail, two days (excluding Sundays and federal holidays) following the date it is properly addressed and placed in the U.S. Mail, with proper postage prepaid; or (c) with respect to notices sent by facsimile, on the date sent, if sent to the facsimile number(s) set forth below and upon proof of delivery as evidenced by the sending fax machine. The name of this Agreement i.e., INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE [ENTER NAME OF UNIT OF LOCAL GOVERNMENT HERE] AND THE METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO FOR THE DISTRIBUTION OF RAIN BARRELS must be prominently featured in the heading of all notices sent hereunder.

Any and all notices referred to in this Agreement, or that either party desires to give to the other, shall be addressed as set forth in Article 20, unless otherwise specified and agreed to by the parties:

ARTICLE 21. REPRESENTATIVES

Immediately upon execution of this Agreement, the following individuals will represent the parties as a primary contact and receipt of notice in all matters under this Agreement:

For the District

Director of Maintenance & Operations
Metropolitan Water Reclamation District
of Greater Chicago
100 East Erie Street
Chicago, Illinois 60611
Phone: (312) 751-7905
FAX: (312) 751-5681

For the [CITY, VILLAGE, TOWN, etc.]

[ELECTED OFFICIAL]
XXXXXXXXXXXXXXXX
XXXX, Illinois XXXXXX
Phone: XXXXXXXXXXXX
FAX: XXXXXXXXXXXX

Each party agrees to promptly notify the other party of any change in its designated representative, which notice shall include the name, address, telephone number and fax number of the representative for such party for the purpose hereof.

IN WITNESS WHEREOF, the Metropolitan Water Reclamation District of Greater Chicago and the [CITY, VILLAGE, TOWN, etc.] of [INSERT NAME], the parties hereto, have each caused this Agreement to be executed by their duly authorized officers, duly attested and their seals hereunto affixed.

[CITY, VILLAGE, TOWN, ETC.] OF
XXXXXXXXXX

BY: _____
NAME, [TITLE]

DATE: _____

ATTEST:

NAME, [CITY, VILLAGE, TOWN, etc.]
Clerk

DATE: _____

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

Chairman of the Committee on Finance Date

Executive Director Date

ATTEST:

Clerk Date

APPROVED AS TO OPERATIONS, AND TECHNICAL MATTERS:

Assistant Director of Maintenance & Operations Date

Director of Maintenance & Operations Date

APPROVED AS TO FORM AND LEGALITY:

Head Assistant Attorney Date

General Counsel Date