

**INTERGOVERNMENTAL AGREEMENT
BY AND BETWEEN THE COUNTY OF COOK,
ON BEHALF OF THE COOK COUNTY SHERIFF, AND
THE METROPOLITAN WATER RECLAMATION DISTRICT
OF GREATER CHICAGO**

This Intergovernmental Agreement (hereinafter “IGA”) is entered into, by and between the Metropolitan Water Reclamation District of Greater Chicago (hereinafter the “District”), a unit of local government and body corporate and politic, organized and existing under the laws of the State of Illinois, and the County of Cook (hereinafter “County”), a body politic and corporate of the State of Illinois, on behalf of the Cook County Sheriff (hereinafter “CCSO”). The District and the CCSO may be referred to individually as “Party” and collectively as the “Parties.”

RECITALS:

WHEREAS, many residents flush unused, expired or otherwise unneeded medication down toilets or sinks, which may contribute to contamination of the Chicago Area Waterway System (“CAWS”) because wastewater treatment processes are not designed to completely remove pharmaceutical compounds; and

WHEREAS, the District has the power and authority to prevent the pollution of any waters from which a water supply may be obtained by any city, town or village within the district (70 ILCS 2605/7aa); and

WHEREAS, the District has the power to provide for the treatment of sewage to create an effluent which shall not be offensive or injurious to the health of any of the people of the State of Illinois (70 ILCS 2605/7); and

WHEREAS, the CCSO has the power and duty to be conservator of the peace in Cook County, and shall prevent crime and maintain the safety and order of the citizens of that county (55 ILCS 5/3-6021); and

WHEREAS, as authorized under the Cook County Safe Disposal of Pharmaceuticals Ordinance (Cook County Code, Chapter 46, Article II, Division 4, Sections 46-101 through 46-119 (hereinafter “CCSDP Ordinance”)) the CCSO is responsible for, *inter alia*, developing a Collection Plan for unused Covered Drugs and determining the method of collection of Unwanted Covered Drugs as defined under the Ordinance; and

WHEREAS, in accordance with the CCSDP Ordinance, the CCSO administers the Prescription Drug Take-Back Program of the Cook County Sheriff’s Office (“Program”) in which pharmaceutical drugs are collected and disposed of through environmentally sound methods and in accordance with state and federal law (*see also* 415 ILCS 5/22.58); and

WHEREAS, the Illinois Safe Pharmaceutical Disposal Act, 210 ILCS 150/*et seq.*, permits any county or municipality to authorize the use of its city hall, police department, or any other facility

under its control to display suitable containers for the collection of pharmaceuticals, provided that any controlled substances are collected in accordance with federal law; and

WHEREAS, the CCSO and the District previously entered into an agreement on June 29, 2016 to expand the Program to include as many additional collection sites as practicable; and

WHEREAS, the previous agreement expired on June 29, 2017 and the Parties wish to continue their partnership in expanding and maintaining the Program, and the District has agreed to contribute funding so as to maximize the volume of pharmaceutical drugs prevented from entering the CAWS; and

WHEREAS, the Illinois Environmental Protection Act provides that to the extent allowed by federal law, a law enforcement agency, such as the Sheriff's Office, may collect pharmaceutical drugs, including but not limited to controlled substances, from residential sources, store them, and transport them to a site or facility permitted by the Illinois Environmental Protection Agency (415 ILCS 5/17.9A); and

WHEREAS, the CCSO and the District can more effectively, economically, and comprehensively reduce the risk of contamination of Illinois waterways by pharmaceutical drugs by cooperating and using their joint efforts and resources to expand the network of local law enforcement agencies participating in the Program; 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 _____, 2017, the District's Board of Commissioners authorized the District to enter into this intergovernmental agreement; and

NOW THEREFORE, in consideration of the matters set forth herein, the mutual covenants and agreements contained in this IGA, and for other good and valuable consideration, the Sheriff's Office and the 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 THE AGREEMENT

The District and Sheriff's Office agree as follows:

- A. Program Objectives. The CCSO shall continue to engage with local law enforcement agencies to expand participation in the Prescription Drug Take-Back Program. Now that a significant number of sites have been secured and receptacles activated, the primary objective of the Program for the purpose of this IGA is to administer and maintain the Program across authorized sites by using available funds and resources,

so as to maximize the volume of pharmaceutical drugs prevented from reaching Illinois waterways. For purposes of this IGA, “pharmaceutical drugs” shall mean those drugs deemed covered under this Program pursuant to the CCSDP Ordinance.

B. Collection Sites.

- a. Any unit of local government in the District’s boundaries that expresses an interest in joining the Program shall be considered, subject to the requirements of the CCSDP Ordinance and the selection criteria and requirements set forth in this IGA. For purposes of this IGA, unit of local government shall mean the following entities: municipalities, townships, special districts, and units, designated as units of local government by law, which exercise limited governmental powers or powers in respect to limited governmental subjects, but does not include school districts. The CCSO is responsible for ensuring that all units of local government in the District’s boundaries are reasonably informed of the opportunity to be considered for this Program.
- b. Any unit of local government participating in the Program must meet the standards established by and through the CCSDP Ordinance, as well as applicable state and federal laws that govern the collection and disposal of pharmaceuticals and controlled substances as set forth in U.S. DEA regulations (21 C.F.R. § 1317.01 *et seq.*). “Law enforcement agency” shall mean an agency of this State or unit of local government that is vested by law or ordinance with the duty to maintain public order and to enforce criminal laws or ordinances. (See 415 ILCS 5/22.58). The Sheriff’s Office is responsible for ensuring that the local law enforcement agency is capable of meeting all applicable state and federal laws governing a local law enforcement agency’s participation in this Program (See 21 C.F.R. §1300.05).
- c. In the event that the number of local law enforcement agencies interested in participating in the Program exceeds the funding and resources available, the selection of additional sites shall be based on the requirements of the CCSDP Ordinance and, to the extent possible, the following criteria, in order of descending priority:
 1. Sites located in a geographical region that has a demonstrated lack of disposal sites for residents to safely dispose of unused pharmaceutical drugs.
 2. Sites where the local law enforcement agency is able to purchase its own collection receptacle.
 3. All other sites where the local law enforcement agency expresses interest in participating in the Program.

- d. The selection of sites shall be subject to the District's written approval based on the criteria set forth in this IGA.
 - e. Notwithstanding the provisions set forth in this Section, the CCSO may authorize sites for participation in the Program outside of the jurisdiction of the District. However, those sites shall be treated as outside the scope of this IGA and any costs associated with those sites shall not be subject to the reimbursement terms set forth in Article 3.
- C. Participant Agency Memorandum(s) of Understanding. Before providing any disposal or collection services to a local law enforcement agency under this IGA, the Sheriff's Office shall enter into a Memorandum of Understanding with the pertinent unit of local government setting out the services to be provided under the Program. A copy of the applicable Memorandum of Understanding to be utilized is attached as Exhibit B. The MOU must include a provision in substantially the following form:
- a. "This program is made possible, in part, through funding by the Metropolitan Water Reclamation District of Greater Chicago. The [unit of local government] shall defend, indemnify, and hold harmless the Metropolitan Water Reclamation District of Greater Chicago, 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 the [unit of local government's] administration, maintenance, or use of a pharmaceutical collection receptacle."
- D. Program Implementation.
- a. The sites selected by the CCSO and approved by the District shall be included in the Program network. The CCSO shall provide the collection and disposal services to all sites in the Program network in accordance with the CCSDP Ordinance and Cook County Sheriff's Office Procedure for Collection and Destruction of Prescription Drugs, which is attached hereto as Exhibit A and hereby incorporated into this IGA. The Sheriff's Office shall abide by all applicable state and federal laws in its collection and disposal activities.
 - b. The Sheriff's Office shall be solely responsible for purchasing and installing the collection receptacles that are proposed for any particular site. The Sheriff's Office is responsible for ensuring the collection receptacle meets all applicable laws governing its installation and use.
 - c. Each receptacle funded pursuant to this Agreement must display a label that notes the District's support of the Program. The label must be approved by the District. The label must include the following language: "The Prescription Drug Take-Back Program of the Cook County Sheriff's Office and this Collection

Receptacle were made possible, in part, by funding provided by the Metropolitan Water Reclamation District of Greater Chicago.”

E. Reporting Requirements.

- a. The monthly invoices submitted by the Sheriff’s Office as set forth in Article 3 shall serve as the program activity reports to keep the District and its Board of Commissioners informed as to the progress of the Program. The Sheriff’s Office may provide any additional Program updates along with the monthly invoices.

F. Program Evaluation.

- a. The CCSO shall evaluate the Program as a whole on an annual basis to assess the effectiveness of the Program in preventing pharmaceutical drugs from entering Illinois waterways. The Annual Report shall include, at minimum: the weight collected and destroyed by geographical region; the weight of pharmaceutical drugs collected at each collection site; any proposals to add sites to, or remove sites from, the Program network; an accounting of the total amount of registration fees collected by the CCSO under the CCSDP Ordinance; and any other recommendations to improve the Program.

ARTICLE 3. FINANCIAL

- A. Compensation. The District agrees to provide funding to support the CCSO operation and maintenance of the Program. The amounts provided by the District shall be a maximum of \$100,000.00 per fiscal year (based on the District’s fiscal year of January 1st through December 31st), according to the following categories:

- a. Operational Cost Reimbursement. The District shall reimburse the CCSO for personnel and administrative costs associated with operating the Program (collectively “Operational Costs”) for an amount not to exceed \$76,406.62 annually. This amount shall be billed on a monthly basis in accordance with the procedures set forth in Paragraph B.
- b. Receptacle Reimbursement. The District shall reimburse the CCSO for the cost of new collection receptacles at a rate of \$650.00 per receptacle, for an amount not to exceed \$23,593.38 annually.

- B. Invoices. The CCSO shall submit an invoice to the District on a monthly basis for the prorated Operational Costs (\$6,367.21/month). The District will not reimburse for any overhead expenses, such as utilities, office supplies, secretarial and other office support services, etc. The invoice shall include the following information:

- i. The collection and destruction certificates for all drugs collected and destroyed during that invoice period month.

- ii. The weight of prescription drugs collected and destroyed for that invoice period month.
 - iii. When applicable, the invoice shall also include any new receptacle deployment and the amount due per new receptacle. The list of “Receptacle Sites & Program Activity,” attached as Exhibit C, shall be updated with any new sites and provided to the District with the invoice.
- C. Reimbursement Limitations. Within 30 days of receiving a complete invoice, the District shall reimburse the CCSO in the amount of the invoice. The District shall not provide reimbursements for invoices that are not submitted within 30 days after the last day of each month or that do not contain the information listed above. The District’s reimbursement limit is based on the funding amount that the District’s Board of Commissioners has approved and allocated for purposes of this IGA for each fiscal year. Any additional funding above the amounts set forth herein, or beyond the pertinent fiscal year, are subject to the District’s Board of Commissioner’s approval.

ARTICLE 4. PERMITS AND FEES

In the event any federal, state or local permits are required, the CCSO shall obtain all such permits required by law in connection with the Program, including any maintenance work, and shall assume any costs in procuring said permits. Additionally, the CCSO shall obtain all consents and approvals required by federal, state, and/or county regulations in connection with the Program, including any maintenance work, and shall assume any costs incurred in procuring all such consents and approvals.

ARTICLE 5. INSPECTIONS

The District shall have the right (including any necessary right of access) in conjunction with the CCSO to conduct a joint visual inspection of the installed collection receptacles, or any collection or disposal activities, upon reasonable notice to the CCSO and the local unit of government.

ARTICLE 6. TERM AND TERMINATION

- A. Term. This IGA becomes effective on January 1, 2018, and shall remain in full force and effect until December 31, 2018. This IGA may be renewed by mutual agreement of the Parties. Either party shall give the other written notice sixty (60) days prior to the expiration of this IGA of that party’s intent to either extend or terminate this IGA.
- B. Termination
 - a. The Parties may terminate this IGA by mutual consent and agreement in writing.

- b. Either Party may terminate this IGA, by written notice to the other Party, for any material breach of this IGA by the other Party. The breaching Party shall have 30 days from the date it receives written notice to cure such breach.
 - c. As set forth in Article 3, the District's reimbursement is limited to the funding amount approved and allocated by the District's Board of Commissioners for this Program. The District may terminate the IGA if the District's Board of Commissioners does not appropriate additional funds beyond the current fiscal year or above the amounts set forth herein.
- C. Effect of Termination. In the event of termination or expiration of this IGA, the Sheriff's Office may continue to provide collection and disposal services to any collection sites in the Program network, at its sole cost and expense. If the Sheriff's Office chooses to discontinue collection or disposal services at any site after termination of this IGA, the Sheriff's Office shall be solely responsible for any activities required to wind down the Program, such as removing or otherwise disabling collection receptacles, or informing any units of local government that collection and disposal activities will no longer be performed.

ARTICLE 7. LIABILITY

- A. Waiver of Personal Liability. No official, employee, or agent of either party to this IGA 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 IGA, or because of a party's execution or attempted execution of this IGA, or because of any breach of this IGA.

ARTICLE 8. REPRESENTATIONS

- A. Representations of the Sheriff's Office. The Sheriff's Office covenants, represents, and warrants as follows:
- a. The Sheriff's Office has full authority to execute, deliver, and perform or cause to be performed this IGA;
 - b. The individuals signing this IGA and all other documents executed on behalf of the Sheriff's Office are duly authorized to sign same on behalf of and to bind the Sheriff's Office;
 - c. The execution and delivery of this IGA, 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 Sheriff's Office or any instrument to which the Sheriff's Office is bound or any judgment, decree, or order of any court or governmental body or any applicable law, rule, or regulation.

B. Representations of the District. The District covenants, represents, and warrants as follows:

- a. The District has full authority to execute, deliver, and perform or cause to be performed this IGA;
- b. The individuals signing this IGA 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
- c. The execution and delivery of this IGA, 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 9. INDEMNIFICATION

- A. The Sheriff's Office 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 collection or disposal of pharmaceutical drugs under the Program; (2) the installation or use of collection receptacles installed under the Program; (3) the exercise of any right, privilege, or authority granted to the Sheriff's Office under this Agreement; (4) the performance or nonperformance of the Agreement by the Sheriff's Office; or, (5) the Sheriff's Office's representations and warranties.
- B. The District covenants and agrees to indemnify and hold harmless the Sheriff's Office and its commissioners, officials, employees, agents and representatives, and their respective heirs, successors and assigns, from and against any and all costs, expenses, attorney's fees, losses, damages and liabilities incurred or suffered directly or indirectly from or attributable to any claims arising out of or incident to the performance or nonperformance of the Agreement by the District, the acts or omissions of the officers, agents, or employees of the District in connection with the performance or nonperformance of the Agreement, or the District's representations and warranties.

It is mutually understood and agreed that the assumption of liabilities and indemnification provided for in this IGA shall survive any termination of this IGA.

ARTICLE 10. GENERAL PROVISIONS

- A. **Amendment to IGA.** This IGA shall not be amended unless it is done so in writing and signed by the authorized representatives of both parties.
- B. **Good Faith.** All parties have a duty to perform their obligations under this IGA in good faith.
- C. **Severability.** If any provision of this IGA is held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability will not affect any other provisions of this IGA, and this IGA 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 IGA a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.
- D. **Interpretation.** Any headings of the IGA are for convenience of reference only and do not define or limit the provisions thereof. Words of gender shall be deemed and construed to include correlative words of other genders. Words importing the singular shall include the plural and vice versa, unless the context shall otherwise indicate. All references to any such person or entity shall be deemed to include any person or entity succeeding to the rights duties, and obligations of such person or entity in accordance with the terms and conditions of the IGA.
- E. **Assignment/Binding Effect.** Neither party may assign its rights or obligations hereunder without the written consent of the other party. The IGA shall be binding upon and inure to the benefit of the parties hereto and their respective assigns, legal representatives and successors in interest.
- F. **Waiver of Breach.** Whenever a party to this IGA 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 IGA regardless of the number of times the performance, requirement, or condition may have been waived.
- G. **Merger Clause; Amendment.** This IGA, 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 IGA that are not expressly set forth herein. This IGA shall not be amended unless it is done so in writing and signed by the authorized representatives of both parties.
- H. **Deemed Inclusion.** Provisions required (as of the effective date) by law, ordinances, rules, regulations, or executive orders to be inserted in this IGA are deemed inserted in this IGA

whether or not they appear in this IGA or, upon application by either party, this IGA will be amended to make the insertions. However, in no event will the failure to insert such provisions before or after this IGA is signed prevent its enforcement.

- I. **References to Documents.** All references in this IGA 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.
- J. **Compliance with All Laws.** The District and Sheriff's Office shall at all times observe and comply with the laws, ordinances, regulations and codes of the Federal, State, County and other local governments agencies, which may in any manner affect the performance of this IGA.
- K. **Disclaimer of Relationship.** This IGA is not intended, nor shall it be construed, to confer any rights, privileges, or authority not permitted by Illinois law. Nothing in this IGA shall be construed to establish a contractual relationship between the District and any party other than the Sheriff's Office. In addition, nothing in this IGA shall be construed to establish an employment relationship between the District and any employees of the Sheriff's Office.
- L. **Governing Law.** The parties agree that this IGA 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 IGA is the appropriate Court of competent jurisdiction located in Cook County, Illinois.
- M. **Judicial and Administrative Remedies.** This IGA 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 IGA for such party is authorized to do so and that this IGA is a valid and binding obligation of such party. The parties agree that this IGA may be executed in quadruplicate.

The rights and remedies of the District or the Sheriff's Office shall be cumulative, and election by the District or the Sheriff's Office of any single remedy shall not constitute a waiver of any other remedy that such party may pursue under this IGA.

- N. **Notices.** Unless otherwise stated in this IGA, any and all notices given in connection with this IGA 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. 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 IGA; (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. The name of this IGA must be prominently featured in the heading of all notices sent hereunder.

Any and all notices referred to in this IGA, or that either party desires to give to the other, shall be addressed as set forth in Article 10, unless otherwise specified and agreed to by the parties.

ARTICLE 11. REPRESENTATIVES

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

For the District:

Eileen McElligot
Administrative Services Manager
Metropolitan Water Reclamation District
100 East Erie Street
Chicago, Illinois 60611
Phone: (312) 751-7905

For the Sheriff's Office:

Patricia Horne
Director, Support Services
Cook County Sheriff's Office
2323 South Rockwell
Chicago, Illinois 60608
Phone: (773) 843-7302

With a copy to:

General Counsel
Cook County Sheriff's Office
Daley Center
50 W. Washington, Room 704
Chicago, IL 60602

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.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Metropolitan Water Reclamation District of Greater Chicago and the Cook County Sheriff's Office, the parties hereto, have each caused this IGA to be executed in quadruplicate by their duly authorized officers, duly attested and their seals hereunto affixed.

COOK COUNTY EXECUTION: The undersigned, on behalf of the County of Cook, Illinois, a body politic and corporate of the State of Illinois, hereby accepts the foregoing Intergovernmental Agreement:

Toni Preckwinkle
President, Cook County Board of Commissioners

Dated: _____

ATTEST:

David Orr
Cook County Clerk

Dated: _____

ACKNOWLEDGED:

Thomas Dart
Cook County Sheriff

Approved as to form:

Assistant State's Attorney

METROPOLITAN WATER RECLAMATION DISTRICT: The undersigned, on behalf of the Metropolitan Water Reclamation District, Illinois, a body politic and corporate of the State of Illinois, hereby accepts the foregoing IGA:

Chairman of the Committee on Finance Date

Executive Director Date

ATTEST:

Clerk Date

APPROVED AS TO OPERATIONS:

Administrative Services Officer

APPROVED AS TO FORM AND LEGALITY:

Head Assistant Attorney Date

General Counsel Date