

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 USAGE OF A GLOBAL POSITIONING SYSTEM (GPS) UNIT

THIS INTERGOVERNMENTAL AGREEMENT (hereinafter the "Agreement") is entered into, by and between the Metropolitan Water Reclamation District of Greater Chicago, a unit of local government and body corporate and 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 [under Article VII, Section 6 (home rule) or Section 7 (non-home rule) of the 1970 Constitution of the State of Illinois (hereinafter the "[MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP]");

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, as amended on June 18, 2014 by Public Act 098-0652, specifically authorizes the District to plan, implement, and finance local activities relating to stormwater management in Cook County; and

WHEREAS, the District administers the Watershed Management Ordinance, as amended (hereinafter the "WMO"), which was first adopted by the District's Board of Commissioners on October 3, 2013; and

WHEREAS, pursuant to Article 8 of the WMO, the District is implementing an Infiltration/Inflow Control Program; and

WHEREAS, pursuant to Article 8 of the WMO, sewer system owners are required to have an accurate, current map of their sanitary sewer system showing the extent of their service area; and

WHEREAS, sewer system maps should include the location, size, depth, material, and age of the sanitary sewer system and appurtenances, and to that end, a Geographical Information

System (GIS) is preferable to be used for sewer system mapping, as it is more efficient to update than paper maps; and

WHEREAS, the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] owns or operates a sanitary sewer system that discharges directly and/or indirectly to the District's facilities, or owns or operates a sewer system in a combined sewer area within the corporate boundaries of the District; and

WHEREAS, on XXXXX, the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] submitted a letter of intent to the District in which the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] expressed its desire to obtain a Global Positioning System (GPS) unit from the District at no cost for the integration of data collected with GIS software to provide sewer system owners resources to map their sewer systems in GIS or improve their existing sewer system map. In return, the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] will provide the District with their sanitary, storm and combined sewer data; 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 _____, 2016, 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 _____, 2016, the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP]'s [Board of Trustees, etc.] authorized the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] 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 [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] 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. General Responsibilities.

1. The scope of this Agreement will include the District providing GPS units, related software, and training, at no cost, to the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] for a maximum period of six months in order for the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] to obtain data to update its existing sewer system map.
2. The [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] shall capture and incorporate sanitary, storm and combined sewer data into the District's designated map using ESRI ArcGIS Collector which will be provided on the GPS unit.
3. The [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] shall have adequate staff available to collect all sanitary, storm and combined sewer data within a maximum six month timeframe.
4. If the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] completes the sewer system mapping before the six month term expires, it shall promptly return the device to the District. The [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] agrees to return the GIS unit to the District in good working order after six months of data collection, unless otherwise extended.

Article 3. Data.

1. The [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] shall collect sanitary, storm and combined sewer data into the District's map using ESRI ArcGIS Collector.
2. The [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] shall use the District's data model and complete the minimum required fields.
3. The output of the data model shall include, but is not limited to, the following items:
 - a. All sanitary, storm and combined sewers and force mains;
 - b. Manholes, cleanouts, catch basins and inlets;
 - i. A permanent numbering system shall be used to uniquely identify all manholes, cleanouts, catch basins and inlets.
 - ii. Rim and invert elevations shall be collected for manholes, cleanouts, catch basins and inlets.

- c. Lift Stations, siphons, diversion structures, overflows, bypasses, stream crossings and outfalls;
 - d. Building and house laterals connection points to sanitary sewer;
 - e. Sanitary service area boundaries (i.e. combined sewer areas, separate sewer areas, unsewered areas, areas that are tributary to a particular District treatment plant, and areas tributary to District facilities versus another sanitary district for sewage treatment);
 - f. Connections to District facilities;
 - g. All relevant elevations, surface elevations, slopes, flow directions, diameters, sizes, materials, date of installation of the above;
 - h. Detention Facilities;
 - i. Area, volume, high water level, normal water level (if wet bottom), outlet size and elevation.
 - i. Other information that would be helpful as part of a drainage study;
 - j. The footprint of buildings served by the public sewer system if digitized maps are available.
4. The District shall provide the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] with a login to access ArcGIS Online unless the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] currently has an ESRI ArcGIS Online account.
 5. The District will host the GIS ArcGIS sanitary, storm and combined sewer data and the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] can download the collected data for use.
 6. The [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] shall only use the GPS unit to collect data related to sewer system mapping; other incidental data obtained by the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] in furtherance of sewer system mapping may be collected, provided that the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] provides its own design and support for such other data, and that the collection of other data in no way compromises or hinders the use of the unit for sewer system mapping purposes.
 7. The GPS units shall have cellular service that includes a data plan that will be provided by the District.

8. Each [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] shall only have access to data related to its service area, and not the data of other units of local government.
9. If requested, the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] may obtain access to the District's GIS sewer data for that [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP].
10. The District shall have the right at any time to access the data collected by the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP].
11. The [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] shall update its GIS data on a yearly basis, as needed, to maintain accurate and current sewer system maps.
12. The parties acknowledge that certain public records obtained in furtherance of this agreement relating to the location of treatment facilities owned by a utility may be exempt from disclosure under the Illinois Freedom of Information Act. See 5 ILCS 140/7(1)(x).
13. The parties acknowledge that the District will procure the GPS unit from a third-party vendor. The District does not make any representations or warranties regarding the GPS unit and the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] agrees to hold the District harmless for any defects or deficiencies in the GPS units.

Article 4. Permits and Fees. In the event any federal, state or local permits are required, the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] shall obtain all such permits required by law in connection with this program, and shall assume any costs in procuring said permits. Additionally, the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] shall obtain all consents and approvals required by federal, state, and/or county regulations in connection with this program, and shall assume any costs incurred in procuring all such consents and approvals.

Article 5. Training. The [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] shall participate in training on using the GPS units and related software as conducted by the District, its designee, or pre-recorded video tutorials.

Article 6. Maintenance. The [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] shall keep the GPS unit in good working order. If problems occur with the GPS unit the

[MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] shall contact the District. If the GPS unit is damaged by the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] beyond ordinary wear and tear, or if the GPS unit is lost or stolen, the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] shall reimburse the District for the actual and reasonable costs of the repairs or replacement.

Article 7. Termination by the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP].

The Municipality may, at its option, and upon giving a sixty (60) day written notice to the District in the manner provided in Article 23 below, terminate this Agreement. The [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] shall return the GPS unit to the District no later than 14 days following its termination of the Agreement. The [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] shall provide all data obtained as of the date of termination to the District.

Article 8. Termination by the District.

The District may, at its option, and upon giving notice to the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] in the manner provided in Article 23 below, terminate this Agreement for any of the following reasons:

- a. Failure to collect sanitary, storm and combined sewer data as requested by the District;
- b. Breakage or loss of GPS unit;
- c. Breach of this Agreement; or
- d. The District discontinues the program.

Article 9. Effective Date and Duration. This Agreement becomes effective on the date that the last signature is affixed hereto. The [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] will have use of the GPS unit for a maximum duration of six months from the effective date of this Agreement. Unless otherwise terminated, this Agreement shall terminate after the six month duration and the GPS unit has been returned to the District. The six month duration may be extended if this Agreement is amended, pursuant to Article 20.

Article 10. Non-Assignment. Neither party may assign its rights hereunder without the written consent of the other party.

Article 11. 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 12. Indemnification. The [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] shall defend, indemnify, and hold harmless the District, its commissioners, officers, employees, and other agents (the 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 use of the GPS unit by the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP]; or (2) the exercise of any right, privilege, or authority granted to the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] under this Agreement.

Article 13. Representations of the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP]. The [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] covenants, represents, and warrants as follows:

- (1) The [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] 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 [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] are duly authorized to sign same on behalf of and to bind the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP];
- (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 [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] or any instrument to which the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] is bound or any judgment, decree, or order of any court or governmental body or any applicable law, rule, or regulation.

Article 14. 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;
- (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 15. Disclaimers. This Agreement is not intended, nor shall it be construed, to confer any rights, privileges, or authority not permitted by Illinois law. This Agreement is solely for the benefit of the District and the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP]. Nothing in this Agreement shall be construed to establish a contractual relationship between the District and any party other than the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP]. No claim as a third party beneficiary under this Agreement by any person, firm, or corporation shall be made or be valid against the District or the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP].

Article 16. 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 17. 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 18. 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 19. 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 20. Amendments. This Agreement shall not be amended unless it is done so in writing and signed by the authorized representatives of both parties. At the sole discretion of the District, this Agreement may be amended to increase the usage duration of the GPS unit for more than six months.

Article 21. 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 22. 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 rights and remedies of the District or the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] shall be cumulative, and election by the District or the [MUNICIPALITY, SANITARY DISTRICT, TOWNSHIP] of any single remedy shall not constitute a waiver of any other remedy that such party may pursue under this Agreement.

Article 23. 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 USAGE OF A GPS UNIT" 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 24, unless otherwise specified and agreed to by the parties:

Article 24. Representatives. Immediately upon execution of this Agreement, the following individuals will represent the parties as a primary contact and receive notice in all matters under this Agreement.

For the District:

Director of Engineering
Metropolitan Water Reclamation District
of Greater Chicago
100 East Erie Street
Chicago, Illinois 60611
Phone: (312) 751-3169
FAX: (312) 751-5681

For the [MUNICIPALITY, SANITARY
DISTRICT, TOWNSHIP]:
[ELECTED OFFICIAL]
[UNIT OF LOCAL GOVERNMENT]
Address
XXXX, Illinois XXXXX
Phone:
Fax:

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 [UNIT OF LOCAL GOVERNMENT], the parties hereto, have each caused this Agreement to be executed in quadruplicate by their duly authorized officers, duly attested and their seals hereunto affixed.

[ENTER NAME OF UNIT OF LOCAL
GOVERNMENT HERE]

BY: _____
NAME, [TITLE]

Date: _____

ATTEST:

NAME, Clerk

Date: _____

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

Chairman of the Committee on Engineering

Date

Executive Director

Date

ATTEST:

Clerk

Date

APPROVED AS TO ENGINEERING AND TECHNICAL MATTERS:

Engineer of Local Sewer Systems

Date

Assistant Director of Engineering

Date

Director of Engineering

Date

APPROVED AS TO FORM AND LEGALITY:

Head Assistant Attorney

Date

General Counsel

Date