

*Protecting Our Water Environment*

**BOARD OF COMMISSIONERS**

Mariyana T. Spyropoulos

*President*

Barbara J. McGowan

*Vice President*

Frank Avila

*Chairman of Finance*

Timothy Bradford

Martin J. Durkan

Josina Morita

Debra Shore

Kari K. Steele

David J. Walsh

**Metropolitan Water Reclamation District of Greater Chicago**

100 EAST ERIE STREET

CHICAGO, ILLINOIS 60611-3154

312.751.5600

**David St. Pierre**

Executive Director

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# LEASING DISTRICT REAL ESTATE

## Documents and Procedures

*Protecting Our Water Environment*

**BOARD OF COMMISSIONERS**

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**Metropolitan Water Reclamation District of Greater Chicago**

100 EAST ERIE STREET CHICAGO, ILLINOIS 60611-3154 312.751.5600

**Susan T. Morakalis**

General Counsel

312.751.6557 f: 312.751.6598  
morakaliss@mwrdd.org

RE: Leasing Metropolitan Water Reclamation District of Greater Chicago ("District") Lands

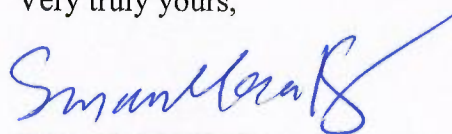
Dear Interested Party:

The documents contained in this brochure are provided to aid you in becoming familiar with the basic policies and procedures of the District's leasing process and the leasing forms used by the Real Estate Division of the District's Law Department in leasing vacant and surplus District-owned lands. The leasing of District lands to private or public entities for non-District use is strictly governed by the leasing statute at 70 ILCS 2605/8 & 8(c). District leases to private entities must be awarded to the highest responsible bidder, pursuant to the receipt of sealed rental proposals (bids) by the applicant following public advertisement of the availability of the real estate for leasing.

The materials included in this brochure, including the lease agreement, are presented for informational purposes only, and the District expressly reserves the right to modify any of the included documents as circumstances and the public interest may require.

Any questions or inquiries regarding the leasing of District real estate may be directed to Mr. Christopher M. Murray, Head Assistant Attorney, of the Real Estate Division, at 312/751-6569, or Mr. Mark L. Dressel, Principal Attorney, at 312/751-6556.

Very truly yours,



Susan T. Morakalis  
General Counsel

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**DISTRICT WATERWAYS**

**PROCEDURES & POLICIES FOR LEASES OF METROPOLITAN WATER RECLAMATION  
DISTRICT OF GREATER CHICAGO LAND SUBJECT TO COMPETITIVE BIDDING  
70 ILCS 2605/8 and 8c**

1. The term of the lease shall not exceed 39 years.
2. Fair market value of the underlying fee of the proposed lease is determined by two American Institute of Real Estate Appraisers or similarly qualified appraisers retained and compensated by the lease applicant. The Metropolitan Water Reclamation District of Greater Chicago (District) may engage an additional appraiser.
3. With the prior recommendation of the Executive Director, the Board of Commissioners of the District establishes the fair market value of the fee simple estate underlying the leasehold as well as the minimum initial annual rental to be bid for the leasehold. (Statutory minimum bid is 6% of fair market value. The Board of Commissioners has been setting the minimum bid at 10% of fair market value and, in special cases, in excess of 10% of fair market value. Fair market value shall be the highest appraised value established by the written appraisals obtained for the proposed transaction.)
4. Notice of the proposed lease shall be published for three consecutive weeks in a newspaper of general circulation within the District. (Display ads in other publications may also be published.)
5. The lease will be awarded to the highest responsible bidder which meets or exceeds the minimum annual rental established by the Board of Commissioners. In determining the responsibility of any bidder, the District may consider, in addition to financial responsibility, any past records of transactions with the bidder and any other pertinent factors, including but not limited to, the bidder's performance or past record with respect to any lease, use, occupancy, or trespass of District or other lands. If there is more than one responsible bid, the Board of Commissioners may authorize and direct the Executive Director to solicit from the 2 highest responsible bidders written amendments to their prior bids, increasing their rental bid proposal by at least 5% in excess of their prior written bid, or otherwise amending the financial terms of their bid so as to maximize the financial return to the District during the term of the proposed lease. Upon the Executive Director's tentative agreement with one or more amended bids, the bids may be submitted to the Board of Commissioners with the recommendation of the Executive Director for acceptance of one or rejection of all. The amendments may not result in a diminution of the terms of the transaction and must result in an agreement that is equal to or greater in value than the highest responsible bid initially received.
6. Decennial rent adjustments will be made after each ten years of the lease on the basis of reappraisal of the fair market value of the fee underlying the leasehold in accordance with the initial appraisal provisions of the Statute (exclusive of improvements) by multiplying the appraisal value by the percentage of fair market value initially bid to win the lease by the tenant. Annual rent adjustments during the interim nine years based upon the percentage of change in the Consumer Price Index or other government activity index will be made.

- 7. In addition to the fixed annual cash rent, the District may require additional rent to be paid based upon a percentage of the tenant's revenues derived from a lessee's business operations on the leasehold premises or subleases. If the tenant is engaged in the solid waste business, the transportation and disposal of District screenings or sludge will also be required. (These are matters of additional compensation and are not considered in determining the highest bid of an applicant for a lease.)**
- 8. Prior to acceptance of the bid of the highest bidder and before execution of the lease, the bidder shall submit to the Board of Commissioners and Executive Director, for incorporation into the lease, a detailed plan and description of improvements to be constructed upon the leased property, the time within which the improvements will be completed, and the intended use for the leased property. Plans for the use and development of the property and improvements to be constructed thereon must be approved by the District. Compliance with the Board of Commissioners' Water Strategy Resolution and other policies and practices will also be required.**
- 9. No assignment or sublease shall be effective without the prior written consent of the District's Board of Commissioners. The District may consider, for any assignment or sublease, all pertinent factors including the assignee's or sublessee's responsibility in accordance with paragraph (5) of this policy.**
- 10. Bidders which are land trusts must disclose beneficiaries thereof.**
- 11. In the event the successful bidder is not the initial applicant, the successful bidder will pay to the District an additional sum of money equal to the cost of the applicant's appraisals which cost will be refunded to the unsuccessful lease applicant.**
- 12. The District offers all prospective tenants that are awarded leases through competitive bidding the opportunity to participate in the District's Green Infrastructure Program. Participation is voluntary for all private non-governmental entities. Under the program, private entities can receive a credit equal to \$0.50 on the \$1.00, up to 10% of the annual rent owed to the District, capped at the first 10 years of the lease, for expenditures related to pre-approved green infrastructure. Applications are available in the Bid Package.**

PUBLIC TENDER OF BIDS TO LEASE FOR \_\_\_\_\_ YEARS \_\_\_\_\_ ACRES OF  
DISTRICT REAL ESTATE LOCATED \_\_\_\_\_  
ILLINOIS; \_\_\_\_\_ PARCEL \_\_\_\_\_

LEASE NUMBER: \_\_\_\_\_

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

Room 508, 100 East Erie Street

Chicago, Illinois 60611

20 \_\_\_\_\_

BOARD OF COMMISSIONERS

HON. MARIYANA T. SPYROPOULOS.....PRESIDENT  
HON. BARBARA MCGOWAN.....VICE-PRESIDENT  
HON. FRANK AVILA.....CHAIRMAN/FINANCE  
HON. TIMOTHY BRADFORD.....  
HON. MARTIN J. DURKIN.....  
HON. MORITA JOSINA.....  
HON. DEBRA SHORE.....  
HON. KARI K. STEELE.....  
HON. DAVID J. WALSH.....

OFFICERS

DAVID ST. PIERRE.....EXECUTIVE DIRECTOR  
MARCELLA V. LANDIS.....ACTING DIRECTOR OF ENGINEERING  
MARY ANN BOYLE.....TREASURER  
JOHN P. MURRAY.....DIRECTOR OF MAINTENANCE & OPERATIONS  
SUSAN T. MORAKALIS.....GENERAL COUNSEL  
BEVERLY K. SANDERS.....DIRECTOR OF HUMAN RESOURCES  
JOHN SUDDUTH.....DIRECTOR OF INFORMATION TECHNOLOGY  
EDWARD W. PODCZERWINSKI ..DIRECTOR OF MONITORING AND RESEARCH  
JACQUELINE TORRES.....DIRECTOR OF FINANCE/CLERK  
DARLENE A. LOCASCIO.....DIRECTOR OF PROCUREMENT & MATERIALS  
MANAGEMENT

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I-1  
NOTICE

INVITATION TO BID

TO  
THE METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO  
FOR

PUBLIC TENDER OF BIDS TO LEASE FOR THIRTY NINE (39) YEARS \_\_\_\_\_ ACRES OF DISTRICT  
REAL ESTATE LOCATED \_\_\_\_\_, ILLINOIS; \_\_\_\_\_ CHANNEL  
PARCEL \_\_\_\_\_

LEASE NUMBER: \_\_\_\_\_

PROPOSALS ARE DUE: \_\_\_\_\_

Sealed proposals, endorsed as above, must be deposited in the sealed bid depository located in the lobby of the Metropolitan Water Reclamation District of Greater Chicago Administration Building, 100 East Erie Street, Chicago, Illinois, 60611 from the date of the Invitation to Bid, up to 11:00 A.M. on the bid opening date, and will be opened publicly by the Director of Procurement & Materials Management or her designee at 11:00 a.m. on \_\_\_\_\_.

**NO BIDS WILL BE ACCEPTED AFTER 11:00 A.M. ON THE ABOVE SCHEDULED BID DATE. ALL BIDS FAXED OR ELECTRONICALLY TRANSMITTED TO THE METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO WILL BE RETURNED TO THE BIDDER. PROPOSALS TRANSMITTED BY U. S. MAIL OR OTHER DELIVERY WILL BE CONSIDERED ONLY WHEN SAID PROPOSALS ARE IN THE DEPOSITORY AT THE TIME FIXED FOR OPENING THEREOF. THE METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO DOES NOT GUARANTEE THAT THE PROPOSAL RECEIVED BY MAIL OR OTHER DELIVERY WILL BE DEPOSITED IN THE DEPOSITORY IN TIME FOR SUCH OPENING.**

The land to be leased is \_\_\_\_\_ +/- acres of District real estate located \_\_\_\_\_, Illinois; \_\_\_\_\_ Channel Parcel \_\_\_\_\_. Approximately \_\_\_\_\_ +/- acres **DESCRIBE PARCEL**

**IF APPLICABLE:** Several entities have permits to access and use the site's \_\_\_\_\_, such as \_\_\_\_\_ and occasionally District staff. The permits are for the \_\_\_\_\_ and are subject to renewal every 5-years. Copies of the permits are available for inspection in the District's Law Department. Any lease awarded on this site will be subject to these existing permits with a right to renew them from time to time for these limited purposes.

The Board of Commissioners of the Metropolitan Water Reclamation District of Greater Chicago has established the fair market value of the property at \$ \_\_\_\_\_ and the minimum initial annual rental bid at \$ \_\_\_\_\_.

The lease shall be awarded to the highest responsible bidder in accordance with bid procedures set forth by state law 70 ILCS 2605/8c et seq, and subject to the acceptance and approval of the bid by the Board of Commissioners of the District. The highest bidder will be required to provide financial statements and/or other information to establish its financial responsibility.

Specifications, proposal forms and/or plans may be obtained from the Department of Procurement & Materials Management, Room 508, 100 East Erie Street, Chicago, Illinois 60611, Monday - Friday, between 8:45 a.m. and 4:15 p.m. Documents will be mailed in response to a fax request (#312/751-3042). Specifications, proposal forms and/or plans may also be downloaded online from the District's website, [www.mwrd.org](http://www.mwrd.org).

The District assumes no responsibility for documents sent through the mail. Further, the District assumes no liability or responsibility for the failure or inability of any Bidder to successfully download any and all contract documents, including but not limited to specifications, proposal forms and/or plans, as a result of any type of technological computer and/or software system failure or breakdown that restricts, prohibits or prevents successful downloading of any and all District contract documents by the Bidder, whether caused by the District or other parties, directly or indirectly.

Proposals must be submitted on proposal forms. Proposal forms are to be placed in the special envelope furnished by the Metropolitan Water Reclamation District of Greater Chicago. If proposal forms are downloaded online, the Bidder is responsible to submit the complete set of contract documents. This volume is to remain intact. The Bidder shall place the complete set of contract documents in a sealed envelope clearly marked as follows:

Sealed Bid Depository, MOB Lobby  
Metropolitan Water Reclamation District of Greater Chicago  
100 E Erie Street  
Chicago, Illinois 60611  
Proposal For: Lease Number [REDACTED]

Failure to submit the complete set of contract documents as specified may render the bid non-responsive and the bid may be rejected.

Bidders are to include with their proposal signed copies of any addenda, or acknowledge receipt of any addenda, if the District issued any addenda to this contract. Failure to do so may be cause for the rejection of any bid. If bidding documents are available online, any addenda issued for this contract will be available online at the District's website, [www.mwrd.org](http://www.mwrd.org). Addenda will also be mailed, delivered, or faxed to each person receiving a set of such contract documents and to such other prospective bidders as shall have requested that they be furnished with a copy of the addenda.

Each proposal must be accompanied by a bid deposit in the form of cash (U.S. currency only), cashier's check, or certified check payable to the Metropolitan Water Reclamation District of Greater Chicago in an amount equal to fifty percent (50%) of the initial annual rental based on bidder's Proposal. Such checks will be acceptable only if drawn on a bank or savings and loan association. If the check is not stamped as a "certified" or "cashier's check" on its face, such check must be accompanied by a letter on letterhead of the financial institution and signed by an officer of the financial institution stating that the check is a guaranteed obligation of the financial institution. Any proposal submitted without being accompanied by such bid deposit will not be considered and will not be read after it is publicly opened. Any portion of the bid deposit not applied to the rent will be applied to the security deposit.

The required bid deposit will be forfeited in the event the successful bidder fails to execute a lease agreement within 13 days of its tender. All other deposits will be returned to the respective depositors. The form of the lease currently used for this transaction is available for inspection at the District office identified below.

The successful bidder, if other than the initial applicant, will pay to the District the cost for obtaining the applicant's two (2) appraisal reports, the cost of which will be documented upon execution of the lease. In order for the initial applicant to be reimbursed for its costs in obtaining 2 appraisal reports, said initial applicant must submit a qualifying bid in this matter. In addition, the successful bidder will obtain at his cost a plat of survey and legal description of the subject premises and submit same to the District within 21 days of the award.

The District reserves the right to reject any or all proposals.

The District offers all prospective tenants that are awarded leases through competitive bidding the opportunity to participate in the District's **Green Infrastructure Program**. Participation is voluntary for all private non-governmental entities. Under the program, private entities can receive a credit equal to \$0.50 on the \$1.00, up to 10% of the annual rent owed to the District, capped at the first 10 years of the lease, for expenditures related to pre-approved green infrastructure. If interested, see the *Green Infrastructure Program Information Sheet* included with this Bid Package.

Any potential bidder with questions regarding the meaning of any part of the specifications or other bidding documents should submit such inquiries online at the District's website, [www.mwrd.org](http://www.mwrd.org), under the "Contracts and Proposals" section of the website. The District will provide an online response to such inquiries, as the District deems appropriate. Strings of appropriate questions and answers regarding the bidding documents will be available online on the District's website until the bid opening date of the bidding documents. No questions will be accepted by telephone, fax, email, mail or any other such form of delivery.

The District does not guarantee the timeliness of responses provided online, nor does the District guarantee that such responses will be provided in adequate time to affect the submission of bids. The District shall provide responses online ONLY if the responses do not interpret or otherwise change the bidding documents.

The District's responses online are NOT official responses and, therefore, are not binding to the bidding documents. Any official interpretation or change to the bidding documents will be made only by addenda duly issued to all plan holders on record by the Director of Procurement & Materials Management.

The District will only respond to questions received online up to ONE WEEK prior to the bid opening date of the bidding documents. The District will not respond to questions received after this date.

The Metropolitan Water Reclamation District of Greater Chicago reserves the right to reject any or all Proposals.

The contact person for this contract is Christopher M. Murray. This contact person will provide online responses to online inquiries.

METROPOLITAN WATER RECLAMATION DISTRICT OF  
GREATER CHICAGO

By: \_\_\_\_\_

Darlene A. LoCascio  
Director of Procurement & Materials Management

(Newspapers and dates of advertisement)

Chicago Tribune: \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_

## REQUIREMENTS FOR BIDDING AND INSTRUCTIONS TO BIDDERS

PUBLIC TENDER OF BIDS TO LEASE FOR THIRTY NINE (39) YEARS [REDACTED] +/- ACRES OF DISTRICT REAL ESTATE LOCATED [REDACTED], ILLINOIS; [REDACTED] CHANNEL PARCEL [REDACTED]

The provisions of 70 ILCS 2605/8 and 8c et seq. govern this lease transaction.

Bid proposals must be submitted on the attached "Bid Proposal" and shall be enclosed in an envelope furnished by the Metropolitan Water Reclamation District of Greater Chicago. If proposal forms are downloaded online, the Bidder is responsible to submit the complete set of contract documents. This volume is to remain intact. The Bidder shall place the complete set of contract documents in a sealed envelope clearly marked as follows:

Sealed Bid Depository, MOB Lobby  
Metropolitan Water Reclamation District of Greater Chicago  
100 E. Erie Street  
Chicago, Illinois 60611  
Proposal For: Lease Number [REDACTED]

Prior to acceptance of the bid of the highest responsible bidder and before execution of the lease the bidder shall submit to the Board of Commissioners and Executive Director, for incorporation in the lease, a detailed plan and description of improvements to be constructed upon the leased property, the time within which the improvements will be completed, and the intended uses of the leased property.

If there is more than one responsible bid, the Board of Commissioners may award the lease to the highest responsible bidder, or it may authorize and direct the Executive Director to solicit from the 2 highest responsible bidders written amendments to their prior bids, increasing their rental bid proposal by at least 5% in excess of the highest bidder's prior written bid, or otherwise amending the financial terms of their bid so as to maximize the financial return to the Metropolitan Water Reclamation District of Greater Chicago during the term of the proposed lease. Upon the Executive Director's tentative agreement with one or more amended bids, the bids may be submitted to the Board of Commissioners with the recommendation of the Executive Director for acceptance of one or rejection of all. The amendments may not result in a diminution of the terms of the transaction and must result in an agreement that is equal to or greater in value than the highest responsible bid initially received. The initial bid deposits of the three highest responsible bidders will be retained until a lease agreement has been executed. After a lease is executed the remaining unsuccessful bidders' deposits will then be returned to them.

The Metropolitan Water Reclamation District of Greater Chicago reserves the right to reject any or all proposals and to waive technicalities. The leasing agreement shall not be consummated until an award is authorized by the Board of Commissioners. The lease form to be used for this transaction is available for inspection at the Metropolitan Water Reclamation District.

In addition to all applicable laws, ordinances and statutes, the successful bidder must also comply with the provisions of an ordinance, dated February 5, 1985, which was adopted by the Board of Commissioners of the Water Reclamation District to prevent disposition of refuse and solid matter in waterways within the corporate boundaries of the Water Reclamation District, and the Revised Leasing Criteria for the North Shore Channel, and the Waterway Strategy Resolution, which requires, in part, a 60-foot open space setback area on the land to be leased from the top of the bank of the Chicago Sanitary & Ship Canal.

After submitting proposals, bidders shall not withdraw or cancel such proposals, and all sums deposited with such proposals will be held by said District until all the proposals submitted shall have been canvassed. All sums deposited with proposals will then be returned to the respective bidders, except that the sums deposited with the three highest proposals will be further retained until a lease agreement has been executed. After a lease is executed the two remaining unsuccessful bidder's deposits will then be returned to them.

The highest bidder will be required to submit financial statements and/or other information to establish its financial responsibility.

**Requirements for Bidding and Instructions to Bidders**

**Page 1 of 2**

In the event that a bidder withdraws or cancels his proposal, then the sum deposited by said bidder shall be forfeited to the District as liquidated damages, it being now agreed that said sum is a fair estimate of the amount of damages which the District will sustain in case of such a withdrawal or cancellation. The deposit of a bidder to whom the purchase is authorized shall be retained by the District and shall be forfeited in the event the successful bidder fails to deposit the balance of the bid within 13 days of the District's Board of Commissioners accepting and approving the bid.

The successful bidder's bid deposit shall be retained by the District upon execution of the lease agreement and such portion thereof which is not applied to rent will be applied towards the security deposit.

The bidder to whom the lease is awarded shall execute a lease agreement with the District in a form that is currently used by the District. The form of the lease agreement which will be used for this transaction is available for inspection at the office of the Real Estate Division of the Law Department of the Metropolitan Water Reclamation District at the address noted in the Invitation to Bid.

Bidders are cautioned not to condition or qualify their bids by modifying the proposal documents, either by alteration or by supplemental statements. All bids are to be in accordance with these specifications. Bids which are not so will be rejected and the bidders bid deposit shall be forfeited.

Any proposal which indicates multiple or alternate bids shall be deemed a non-responsive bid and will be rejected by the Director of Procurement & Materials Management.

THE BIDDER MUST NOT SEPARATE THE PAGES OF THESE PROPOSAL DOCUMENTS FOR ANY REASON AND REBIND THE PACKET. THIS VOLUME IS TO REMAIN INTACT.

**INSERT EXHIBIT**

SAMPLE

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

BID PROPOSAL

PUBLIC TENDER OF BIDS TO LEASE FOR THIRTY NINE (39) YEARS [REDACTED] +/- ACRES OF DISTRICT REAL ESTATE LOCATED [REDACTED], ILLINOIS; [REDACTED] CHANNEL PARCEL [REDACTED]

LEASE NO. [REDACTED]

Members of the Board of Commissioners of the Metropolitan Water Reclamation District of Greater Chicago

Ladies and Gentlemen:

The undersigned, hereby certifies that he has examined the Invitation to Bid, "Requirements for Bidding and Instructions to Bidders", and location drawing, all of which are expressly incorporated by reference herein and made a part hereof, and has also examined the premises and the current form of Lease Agreement document used by the Metropolitan Water Reclamation District of Greater Chicago.

The undersigned submits the following information as part of its proposal:

PROPOSED USE OF LAND:

\_\_\_\_\_  
\_\_\_\_\_

PROPOSED IMPROVEMENTS:

\_\_\_\_\_  
\_\_\_\_\_

The minimum acceptable initial Annual Rental bid is \$ [REDACTED].

The undersigned also proposes to lease the advertised tract of land for a term of \_\_\_\_\_ at an initial annual rental in the following amount, to wit:

INITIAL ANNUAL RENTAL \_\_\_\_\_ DOLLARS

(WRITTEN IN WORDS)

AND \_\_\_\_\_ CENTS

INITIAL ANNUAL RENTAL \_\_\_\_\_

(WRITTEN IN FIGURES)

BID DEPOSIT: 50% of the initial Annual Rental Bid: \$ \_\_\_\_\_ .00  
(write in words and in numeric value)

In the event that there is a discrepancy between the "written in words" and the "written in figures" amounts, the "written in words" amount shall govern.

**IMPORTANT:** Bid Proposal must be accompanied by a bid deposit in the form of cash (U. S. currency only), cashier's check or certified check payable to the Metropolitan Water Reclamation District of Greater Chicago, in an amount equal to one-half of the annual rental (based on Bidder's Proposal). The bid deposit of the successful bidder shall be first applied to the rent payment obligation under said lease, and any surplus will be applied to the successful bidder's security deposit provision of the lease.

**NOTE:** In the event the successful bidder is other than the initial applicant, the successful bidder will be required to pay to the Metropolitan Water Reclamation District the cost for the applicant's two (2) appraisal reports as a lump sum payment upon execution of lease.

The successful bidder will obtain and pay the cost of a plat of survey and legal description of the premises prepared by a registered Illinois Land Surveyor and submit same to the District within 21 days of the award of the lease.

SAMPLE

The Bidder hereby accepts the invitation of the Metropolitan Water Reclamation District of Greater Chicago to submit this Proposal with the understanding that it will not be canceled or withdrawn. The Bidder is required to state the legal name of their firm below and fill out the remaining information. Do not use abbreviated versions to state your firm's name. If your firm is a corporation or LLC, your firm must be in good standing and authorized to transact business in the State of Illinois through the Secretary of State Office. Failure to do so may be cause to declare your bid non-responsive.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_\_.

LEGAL NAME OF FIRM \_\_\_\_\_

SIGNATURE OF AUTHORIZED OFFICER \_\_\_\_\_

PRINT NAME OF OFFICER \_\_\_\_\_

TITLE OF OFFICER \_\_\_\_\_

ADDRESS \_\_\_\_\_

TELEPHONE \_\_\_\_\_ FAX \_\_\_\_\_

FEDERAL TAX IDENTIFICATION NUMBER \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
(SEAL)  
Signature of Secretary

\_\_\_\_\_  
(Print Name of Secretary)

**ALL SIGNATURES SHALL BE IN WRITING, AND NO PROPOSAL SHALL BE CONSIDERED UNLESS SO SIGNED. THE AFFIDAVIT ON THE FOLLOWING PAGE MUST BE FILLED OUT, SIGNED BY THE BIDDER, AND PROPERLY NOTARIZED WHERE INDICATED.**

Bidders shall acknowledge receipt of any addenda to this Proposal.

- (a) by signing and returning the addenda with their proposal
- (b) by identifying the addends numbers in the space provided below.

**NOTE:** By identifying the addenda numbers, the Bidder acknowledges that they have taken into consideration all revisions of each addendum when preparing and submitting the Proposal. **If bidding documents are available online, and addenda issued for this contract will be available online at the District's website, [www.mwrd.org](http://www.mwrd.org).** Addenda will also be mailed, delivered, or faxed to each person receiving a set of the contract documents and to such other prospective Bidders as shall have requested that they be furnished with a copy of the addenda.

Addendum No. (s) \_\_\_\_\_

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

AFFIDAVIT

N.B. THE FOLLOWING AFFIDAVIT MUST BE EXECUTED.

State of \_\_\_\_\_ )
County of \_\_\_\_\_ ) SS:

\_\_\_\_\_ being duly sworn, says that he/she is:

- (STRIKE OUT TWO WHICH DO NOT APPLY) 1) Sole Proprietor of \_\_\_\_\_; 2) A member of the Partnership d/b/a \_\_\_\_\_; 3) An officer of a corporation \_\_\_\_\_

hereinafter called "Bidder".

He further says that said Bidder is the bidder named in the attached proposal; that such proposal is genuine and that said Bidder has not, directly or indirectly, conspired, combined, confederated, or agreed with any other person, officers, agents, or committee of any association, organization or corporation, to prevent free competition in the letting of the contract for the work covered by the aforesaid proposal, or to fix the bid price or any item or factor thereof, or to induce any person not to enter into such competition, or to do any illegal act injurious to the public trade.

That the Bidder or anyone acting for said Bidder has not colluded or had any secret understanding to defraud the Metropolitan Water Reclamation District of Greater Chicago, whereby it will sustain a loss.

That said Bidder has not entered into any agreement or combination, the purpose of which is to create a monopoly or to establish a boycott or blacklist, and that said Bidder has not, directly or indirectly, submitted said proposal, or the contents thereof, or divulged, information or data relative thereto, to any organization, association or corporation, or to any officer, agent or committee thereof.

That the Bidder, its officers, members of its board of directors and persons owning or controlling 20 percent or more of the Bidder's outstanding shares, have not, in the five years prior to bidding, been convicted, made an admission of guilt or entered a plea of nolo contendere to any of the following acts: committing or attempting to commit bribery, bid-rigging, price fixing, or defrauding a unit of government.

\_\_\_\_\_  
Signature

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ A.D.

\_\_\_\_\_  
Notary Public

## GREEN INFRASTRUCTURE PROGRAM INFORMATION SHEET

The District offers all prospective tenants that are awarded leases through competitive bidding the opportunity to participate in the District's Green Infrastructure Program. Participation is voluntary for all private non-governmental entities. Under the program, private entities can receive a credit equal to \$0.50 on the \$1.00, up to 10% of the annual rent owed to the District, capped at the first 10 years of the lease, for expenditures related to pre-approved green infrastructure. To obtain such a credit, simply:

- 1) Fill out the *Green Infrastructure ("GI") Program Form* that is included with this Information Sheet.
- 2) Upon being awarded the lease by the District's Board of Commissioners, promptly submit the form by mail or e-mail to:

Metropolitan Water Reclamation District of Greater Chicago  
 Engineering Department, Local Sewers Section  
 111 E. Erie St., 6<sup>th</sup> Floor  
 Chicago, Illinois 60611  
 Attn: Dan Feltes, Principal Civil Engineer  
[feltesd@mwrdd.org](mailto:feltesd@mwrdd.org)

with a copy to:

Metropolitan Water Reclamation District of Greater Chicago  
 Law Department, Real Estate Division  
 100 E. Erie St., 3<sup>rd</sup> Floor  
 Chicago, Illinois 60611  
 Attn: Christopher Murray, Senior Attorney  
[christopher.murray@mwrdd.org](mailto:christopher.murray@mwrdd.org)

- 3) Once signed or stamped by the District's Engineering Department, promptly submit the approved form to the District's Law Department, Real Estate Division, so that it may be attached as an exhibit to the lease. For participants in this voluntary program, the form must be approved by the District before the lease can be signed.
- 4) Once the lease is fully executed and upon occupancy, install and maintain green infrastructure on your leasehold (or other approved location in the same municipality) in the manner provided for in your approved form.
- 5) After green infrastructure is installed, promptly submit a written letter requesting the amount of credit that should be applied towards your annual rent. The letter should be delivered to the District's Law Department, Real Estate Division. Be sure to attach invoices itemizing all green infrastructure expenditures for which you are seeking credit towards payment of your annual rent. If the credit requested exceeds 10% of your annual rent, it will be applied, if approved, towards the next year's rent, and so forth, for up to the first 10 years of the lease, until the amount approved is fully credited. Credit will only be given for expenditures pertaining to pre-approved green infrastructure.

You will need to consult your lease agreement for a full list of terms and conditions. Please note in particular that no credit will be given for preexisting site conditions, nor for expenditures pertaining to green infrastructure that is required to be installed under the District's Watershed Management Ordinance or otherwise required by law or District policy. Also, a *Green Infrastructure ("GI") Program Annual Certification* will have to be filled out, signed, and submitted to the District's Law Department, Real Estate Division, on each anniversary of the date of the lease. The *Certification* is also included with this Information Sheet.



METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

Green Infrastructure ("GI") Program Annual Certification

1) Lessee's Name: \_\_\_\_\_

2) Date of Lease Agreement: \_\_\_\_/\_\_\_\_/20\_\_\_\_

3) Check box indicating where GI was installed: (check one)

Leased Premises                       Off-Site

4) Address of Leased Premises or Off-Site GI:

\_\_\_\_\_

Street	City/Township	District Channel Atlas Parcel No. or PIN
--------	---------------	--

5) Please attach to this Certification photographs taken within the last six months depicting the approved green infrastructure installed on the leased premises or off-site location.

As an authorized representative of Lessee, I hereby certify that the green infrastructure that was installed at the above-referenced premises as part of the District's Green Infrastructure Program continues to this day to be maintained in as good a condition as it was when it was originally installed pursuant to the Green Infrastructure Program form submitted by Lessee, or its predecessor, that was approved by the District. I further certify that the photographs attached to this Certification truly and accurately depict such green infrastructure, and that the photographs were taken within the six months preceding the date of this Certification.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

DOCUMENT PREPARED BY AND AFTER  
RECORDING, RETURN TO:

Metropolitan Water Reclamation District  
Of Greater Chicago  
Law Department/Real Estate Division  
100 E. Erie St., 3<sup>rd</sup> Floor  
Chicago, IL 60611  
Attn:

P.I.N.s:

*This space reserved for recorder's use only.*

CMM:

REV. 4-10-17

**LEASE AGREEMENT**  
(Commercial Form)

THIS INDENTURE, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO, a body corporate and politic organized and existing under the laws of the State of Illinois, with principal offices at 100 East Erie Street, Chicago, Illinois 60611 (hereinafter designated "Lessor" or "District"), and [INSERT TENANT NAME], a [STATE] corporation, with principal offices at [INSERT ADDRESS] (hereinafter designated "Lessee").

WITNESSETH THAT:

**ARTICLE ONE**

**1.01 PREMISES LEASED**

Lessor, for and in consideration of the rents hereinafter reserved and of the covenants and agreements hereinafter contained, pursuant to 70 ILCS 2605/8 and 8c, does hereby demise and lease unto Lessee, for those purposes as more specifically described in Article Three, Paragraph 3.07 hereof, all of the premises legally described and depicted in the plat of survey attached hereto as Exhibit A and further depicted in the aerial photograph attached hereto as Exhibit B, said premises being located in

the County of Cook and State of Illinois and consisting of sq. feet/acres of vacant/improved real estate and commonly known as:

For the purposes of this Lease, the terms "Leased Premises", "Leasehold Premises", "Demised Premises", or similar terms may be used interchangeably, and shall be used synonymously to mean the real property which is the subject hereof and any improvements located thereon at the time of leasing or placed thereon by Lessee during the term of this Lease.

#### 1.02 TERM OF LEASE

The term of this Lease is \_\_\_\_ years, beginning on the \_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_, and ending on the \_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_, unless said term shall end sooner under the provisions hereof.

#### 1.03 LEASE EXECUTED BY LESSOR WITHOUT WARRANTIES

It is expressly covenanted and agreed by the parties hereto that Lessor executes and delivers this Lease without representation or warranties concerning Lessor's title to the Demised Premises and authority to execute this Lease, the size of the Demised Premises, the useable areas of the Demised Premises, and building and zoning laws affecting the Demised Premises. Lessee has examined the title to the Demised Premises and Lessor's authority to enter into this Lease, the size of the Demised Premises, and the useable areas of the Demised Premises, and is satisfied therewith. Lessee has further examined the building and zoning laws concerning the Demised Premises and is satisfied that he may construct the improvements which are hereinafter set forth in Section 6.01 of this Lease and that said Lessee may use the Demised Premises in accordance with the uses set forth in Section 3.07 of this Lease:

- A. In the event on the date hereof or any time hereafter, the building and zoning laws do not permit the use set forth in Section 3.07 hereof or the construction set forth in Section 6.01 hereof, Lessee agrees, at its own expense within one (1) year of the date of this Lease, to take such action as may be necessary to obtain such zoning change and building permits;
- B. The failure of Lessee to obtain such zoning change as may be necessary and/or such building permit within one (1) year of the date of this Lease, shall be cause for immediate cancellation of this Lease, at the option of Lessor, provided, however, in this event, all rents due or coming due hereunder shall abate as of the date of the cancellation of this Lease pursuant to this subsection.

#### 1.04 EFFECT OF CONDEMNATION OF DEMISED PREMISES

It is expressly covenanted by the parties hereto that in the event of any condemnation of the Demised Premises herein leased, or any part thereof, the entire condemnation award shall be the sole property of Lessor, except for the actual value of the improvements made by Lessee during this Lease as of the date of the final judgment order in said condemnation proceedings; that Lessee shall be entitled only to a decrease in the rent reserved by percentage in relation to the whole tract to the part taken; and in the event the whole tract is taken or so much of the tract is taken as to prohibit the operation or use of the Demised Premises by Lessee for the purpose set forth in Section 3.07 hereof on the portion remaining impracticable, Lessee shall be entitled to the cancellation of this Lease.

## ARTICLE TWO

### 2.01 RENT AND ADDITIONAL COMPENSATION

Lessee covenants and agrees, in consideration of the leasing of the Demised Premises, to pay to Lessor as rent for the Demised Premises:

- A. **BASIC ANNUAL RENTAL PAYMENT:** During the ten-year period from \_\_\_\_\_, 20\_\_ through \_\_\_\_\_, 20\_\_, the annual rental shall be \_\_\_\_\_ AND NO/100 DOLLARS (\$ \_\_\_\_\_) per annum, payable in annual installments each, to be due on the \_\_\_\_ day of every \_\_\_\_\_ during the term hereof with the first installment being due on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_. The annual rent for the first year shall be equal to \_\_\_\_\_% of the appraised fair market value of the fee simple estate of the land upon which the Demised Premises is located. The annual rent so established shall remain in force and effect for a period of ten (10) years, subject to adjustments as hereinafter provided. Lessee has deposited \$\_\_\_\_\_,000.00 with Lessor as its bid deposit in connection with this Lease on \_\_\_\_\_, 20\_\_. Lessee's bid deposit shall be applied toward its first annual rental payment in the amount of \$\_\_\_\_\_.00 due \_\_\_\_\_, 20\_\_. Lessee therefore owes \$\_\_\_\_\_.00 on \_\_\_\_\_, 20\_\_, as its remaining portion of its annual rental payment for the period of \_\_\_\_\_, 20\_\_, through \_\_\_\_\_, 20\_\_.
- B. **TEN-YEAR PERIODIC RENTAL ADJUSTMENT:** Reappraisal on each periodic ten-year anniversary following the effective date of this Lease, and every ten-year periodic anniversary thereafter shall be made. The fixed annual rental to be paid by Lessee to Lessor for the next ten-year period shall be adjusted and predetermined in accordance with the conclusions of a review of the fair market value of the fee simple estate upon which the Demised Premises is located, (independent of the improvements constructed by

Lessee on the property subsequent to the effective date of this Lease) in accordance with 70 ILCS 2605/8c by not less than two (2) appraisals prepared by appraisers who are members of the American Institute of Real Estate Appraisers or a similar equivalently recognized professional organization, which shall be procured and paid for by Lessee and delivered to Lessor. The annual rental payment for each following ten-year period will be increased or decreased, by multiplying the fair market value of the fee simple estate upon which the Demised Premises is located by the same percentage used to determine the annual rental payment for the first ten-year period. Lessor shall have the right to procure and pay for a third appraisal, which may be considered in determining the fair market value of the fee simple estate. The fair market value of the fee estate and the rental for the Demised Premises shall be established by the Board of Commissioners of Lessor. Such fair market value shall not be less than the lowest appraisal nor higher than the highest appraisal, including the appraisal, if any procured, by Lessor. The appraisals required of Lessee shall be made and dated within the last ninety (90) days of the ten-year period of this Lease which will be expiring. Said appraisals shall be delivered to Lessor not later than forty-five (45) days prior to the end of the ten-year period. In the event that fair market value and/or the annual rent for the next ten-year period has not been established by the Board of Commissioners of Lessor before the commencement of any new period, Lessee shall continue to pay the annual rent established for the last year of the prior ten-year period until such reappraisal and decennial rent adjustment. (Annual rent adjustments shall also apply to any deferred decennial rent adjustment, which is not made in a timely manner). ALL TEN-YEAR PERIODIC ANNUAL RENT ADJUSTMENTS PURSUANT TO THIS SUBPARAGRAPH, WHEN EXECUTED SHALL BE MADE WITHOUT REGARD TO THE ANNUAL RENT IN EFFECT FOR THE LAST YEAR OF THE PRECEDING TEN-YEAR PERIOD. Upon the establishment of fair market value and the adjusted annual rental to be paid for that ten-year period, at any time later than the end of any period of this Lease, such fair market value and rent shall take effect as of the first (1st) day of the period; Lessee shall, within thirty (30) days, after notice, pay such additional rent as may be required if fair market value is higher than the previous period; if fair market value is lower than the previous period, Lessee shall be given credit to apply on the next rental payment when said payment is due.

- (1) TEN-YEAR PERIODIC RENTAL ADJUSTMENT OF LEASEHOLDS CONSISTING OF IMPROVED (AT THE TIME OF LEASING) REAL ESTATE

The foregoing to the contrary notwithstanding, where Lessee, at the commencement of this Lease, occupies real estate with Lessor-owned improvements already constructed and in place upon the Demised Premises, all decennial reappraisals of the Demised Premises for the purpose of making a decennial rental adjustment shall be appraised as improved with all improvements in place and "as-is" and "as-found."

In the event that Lessee shall, with Lessor's approval, demolish any improvement in existence on the Demised Premises at the time same is demised to Lessee, and replace it either in kind or in specie during the term hereof, all decennial appraisals shall ascribe a value to the replacement improvement for purposes of the appraisal equal to its original cash purchase price, less depreciation, plus the depreciated value of the original improvement at the time of its removal. All valuations of the replacement improvement shall be made using the "replacement" cost rather than "market value" approach. Any improvement removed by Lessee must be removed and not replaced for a period of ten (10) consecutive years before the value of such improvement may be disregarded in a subsequent decennial appraisal. If a decennial appraisal occurs before ten (10) full years has elapsed, then the depreciated value of the improvement (whether original or replacement) at the time of its removal shall be included in the appraisal for that ten-(10) year term.

In the event Lessee shall demolish any improvement in existence on the Demised Premises at the time same is demised to Lessee and not replace same, any decennial appraisal shall include the depreciated fair market value of the improvement until at least ten (10) years shall have expired.

- C. All annual rental payments required to be made by Lessee hereunder, shall be paid in \_\_\_\_\_ installment(s), in advance, to be due on the \_\_\_\_ day of every \_\_\_\_\_, during the term of this Lease, with the first installment being due on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.
- D. **INTERIM ANNUAL RENTAL PAYMENT ADJUSTMENTS.** On the first- through ninth-year anniversary of the effective date of this Lease, and the first to ninth-year anniversary of a decennial rent adjustment, the annual rent to be paid by Lessee to Lessor shall

be adjusted by multiplying the initial annual rental or the rental in effect for the previous one-year term (except for the one-year period following a decennial rent adjustment based on appraisals as set forth in Paragraph 2.01 Section (b) hereof) by the percentage of change in the Consumer Price Index for the Chicago Metropolitan Area, published by the United States Department of Labor, Bureau of Labor Statistics, as established for the month of October immediately preceding the term of this Lease (in the case of the first annual rental adjustment hereunder) and every October thereafter during the term hereof. In the event the Consumer Price Index is discontinued, the Board of Commissioners of Lessor shall, in its sole discretion, select and utilize any other economic activity index of the United States government which reasonably reflects economic activity in the Metropolitan Chicago Area. If the percentage of change in the CPI decreases to an amount less than zero for any given year, then the change will be treated as zero percent for that year and in no event shall the annual rent decrease from the rental in effect for the previous one year term.

**E. ADDITIONAL COMPENSATION -- (NON-RENT):**

- (1) **Cash:** In addition to the foregoing cash rent to be paid by Lessee to Lessor, Lessee shall pay in cash to Lessor 0 percent (0 %) of the gross revenues generated by Lessee's use of or activities on the Demised Premises.

On each anniversary of the effective date of this Lease, Lessee shall furnish to Lessor an audited and certified statement of all items of income attributable to Lessee's use of the Demised Premises and simultaneously remit its check to Lessor in an amount equal to the aforesaid percentage multiplied by the audited and certified statement for that one-year period. All such audited and certified statements shall be subject to confirmation by Lessor. Lessee shall furnish all original books and records or certified copies thereof necessary to confirm such statements, upon reasonable demand by Lessor, at no cost to Lessor.

- (2) **Services:** In the event Lessee is engaged in the business of solid waste disposal (whether on the Demised Premises or elsewhere), as additional consideration for the granting of this Lease, Lessee

covenants and agrees to collect from those facilities and installations of Lessor, as designated by Lessor's Executive Director, transport and dispose of 0 tons/cu. yds. of Lessor's solid waste, including, but not limited to dewatered sludge, grit, screenings refuse, and other non-hazardous solid wastes, in a lawful manner, at Lessee's sole cost, risk, and expense.

**NOTE: THE VALUE OF ADDITIONAL COMPENSATION REQUIRED TO BE PAID FOR SERVICES PERFORMED BY LESSEE PURSUANT TO THIS SUBPARAGRAPH E SHALL NOT BE CONSIDERED IN DETERMINING THE HIGHEST RESPONSIBLE BIDDER FOR LEASE AWARD PURPOSES.**

- F. In addition, Lessee shall pay all administrative and legal costs incurred by Lessor in collecting any arrearage in rent including, but not limited, to payment for legal work for the preparation of lawsuits and for the issuance of notices.

### **ARTICLE THREE**

#### **GENERAL PROVISIONS**

##### **3.01 INTEREST ON RENT NOT PAID WHEN DUE**

Lessee agrees that any and all installments of rent accruing under the provisions of this Lease, which shall not be paid when due, shall bear interest at the rate of two percent (2%) per annum in excess of the prime rate charged by a principal bank in Chicago, Illinois, to its commercial borrowers as determined on the first date of a delinquency from the day when the same is or are payable by the terms of this Lease, until the same shall be paid; provided if any installment or installments of said rent shall become due on a Sunday or legal holiday the same shall be paid without interest on the next succeeding regular business day.

##### **3.02 RENT RESERVED TO BE LIENS ON ALL BUILDINGS, ETC. ERECTED ON DEMISED PREMISES**

It is agreed by Lessee that the whole amount of rent reserved and agreed to be paid for the Demised Premises and each and every installment thereof shall be and is hereby declared to be a valid lien upon all buildings and other improvements on the Demised Premises or that may at any time be erected, placed, or put on the Demised Premises by Lessee and upon the interest of said Lessee in this Lease and in the Demised Premises hereby leased.

##### **3.03 FORCIBLE COLLECTION OF RENT BY LESSOR NOT TO AFFECT**

## **RELEASE OF OBLIGATIONS**

**It is expressly understood and agreed that the forcible collections of the rent by any legal proceedings or otherwise by Lessor or any other action taken by Lessor under any of the provisions hereof, except a specific termination or forfeiture of this Lease, shall not be considered as releasing Lessee from its obligation to pay the rent as herein provided for the entire period of this Lease.**

### **3.04 WAIVER OF COUNTERCLAIM**

**In the event Lessor commences any legal proceedings for non-payment of rent, forcible detainer, or violation of any of the terms hereof, Lessee will not interpose any counterclaim or set off of any nature or description in any such proceedings.**

### **3.05 RIGHT OF LESSOR TO RE-ENTER DEMISED PREMISES UPON EXPIRATION OF NOTICE**

**It is understood and agreed by and between the parties hereto that if Lessee shall default in the payment of any of the rent herein provided for upon the day the same becomes due and payable, and such default shall continue for thirty (30) days after notice thereof in writing given by Lessor or its agent or attorneys to Lessee in the manner hereinafter provided, or in case Lessee shall default in or fail to perform and carry out any of the other covenants and conditions herein contained, and such default or failure shall continue for sixty (60) days after notice thereof and provided that Lessee has not initiated corrective action with respect to the default which is the subject of said notice within the initial thirty (30) days of said notice in writing given in like manner, then and in any and either of such events, it shall and may be lawful for Lessor, at its election, at or after the expiration of said thirty (30) days or said sixty (60) days (as the case may be) after the giving of said notice to declare said term ended, either with or without process of law, to re-enter, to expel, remove, and put out Lessee or any other person or persons occupying the Demised Premises, using such force as may be necessary in so doing, and repossess and restore Lessor to its first and former estate, and to distrain for any rent that may be due thereon upon any of the property of Lessee located on the Demised Premises, whether the same shall be exempt from execution and distress by law or not; and Lessee, for itself and its assigns, in that case, hereby waives all legal right, which it now has or may have, to hold or retain any such property, under any exemption laws now in force in this State, or any such property, under any exemption laws now in force in this State, or in any other way; meaning and intending hereby to give Lessor, its successors and assigns, a valid lien upon any and all the goods, chattels or other property of the Lessee located on the Demised Premises as security for the payment of said rent in a manner aforesaid. And if at the same time said term shall be ended at such election of Lessor, its successors or assigns, or in any other way, Lessee for itself and its successors and assigns, hereby covenants and agrees to surrender and deliver up the Demised Premises and property peaceably to Lessor, its successors or assigns, immediately upon the termination of said term as aforesaid; and if Lessee or the successors or**

assigns of Lessee shall remain in possession of the same on the day after the termination of this Lease, in any of the ways above named, it shall be deemed guilty of a forcible detainer of the Demised Premises under the statutes and shall be subject to all the conditions and provisions above named, and to eviction and removal, forcible or otherwise, with or without process of law, as above stated.

### **3.06 LESSEE TO PAY TAXES, ASSESSMENTS AND WATER RATES**

As a further consideration for granting this Lease, Lessee further covenants, promises and agrees to bear, pay and discharge (in addition to the rent specified) on or before the penalty date, all water rates, taxes, charges for revenue and otherwise, assessments and levies, general and special, ordinary and extraordinary, of any kind whatsoever, which may be taxed, charged, assessed, levied or imposed upon the Demised Premises or upon any and all of which may be assessed, levied or imposed upon the Demised Premises estate hereby created and upon the reversionary estate in the Demised Premises during the term of this Lease.

And it is further understood, covenanted and agreed by the parties hereto that all of said water rates, taxes, assessments and other impositions shall be paid by said Lessee before they shall respectively become delinquent, and in any case within adequate time to prevent any judgment, sale or forfeiture. Lessee shall submit to Lessor proof of payment of the real estate tax applicable to the Demised Premises property within sixty (60) days of the date said tax is due.

### **3.07 USE OF DEMISED PREMISES**

It is understood that the Demised Premises is to be used by said Lessee for the sole and exclusive purpose of

and for no other purpose whatsoever.

### **3.08 PROHIBITED USES AND ACTIVITIES**

Lessee specifically agrees not to use the Demised Premises or any part thereof, or suffer them to be used for tanneries, slaughter houses, rendering establishments, or for any use of similar character or for gambling in any form, or for the conducting thereon of any business which shall be unlawful. Lessee also specifically agrees that no alcoholic beverages of any kind shall be sold, given away, or consumed with the knowledge and consent of Lessee on the Demised Premises unless this Lease is for a term of more than twenty (20) years and then only with the prior written consent of Lessor's Board of Commissioners and the furnishing of dram shop insurance or other applicable insurance protection, with respect to such activities with policy limits, form and carrier approved by Lessor and naming Lessor, its Commissioners, officers, agents and employees as additional insureds, said insurance shall provide that said

policy shall not be canceled without twenty (20) days advance written notice thereof, in addition to any insurance provided pursuant to paragraph 4.03 for which Lessor is the named insured. Hunting and the manufacture, sale, distribution, discharge, and unauthorized use of guns and firearms on the Demised Premises is expressly prohibited.

### **3.09 LESSEE TO YIELD UP DEMISED PREMISES, ETC., UPON EXPIRATION OF LEASE AND DEMOLISH ANY IMPROVEMENTS IF NOTIFIED BY LESSOR**

Lessee agrees at the expiration of the term hereby created or the termination of this Lease under the provisions hereof, to yield up the Demised Premises, together with any buildings or improvements which may be constructed or placed upon the Demised Premises, to Lessor in as good condition as when said buildings or improvements were constructed or placed thereon, ordinary wear and tear excepted. Lessee agrees to remove any and all storage tanks from the Demised Premises, including aboveground and belowground storage tanks, and restore the Demised Premises to TACO Tier I Residential Standards set forth in 35 IAC 742.500 and as may be amended prior to the expiration of the Lease and also in accordance with Lessee's long-term site remediation plan dated \_\_\_\_\_ and prepared by \_\_\_\_\_ attached hereto and made a part hereof as Exhibit \_\_\_\_ (IF APPLICABLE). Lessee agrees to remove any and all asbestos contained on Demised Premises prior to the expiration of the Lease, including but not limited to, asbestos contained in any fixture, improvements or buildings located on the Demised Premises. One-hundred-twenty (120) days prior to the expiration of this Lease, Lessor will determine which, if any, improvements on the Demised Premises shall be demolished. Lessee will, upon receipt of ninety (90) days advance written notice, demolish at Lessee's sole cost and expense the improvements identified by Lessor. It is expressly understood that Lessor's failure to make said determination one-hundred-twenty (120) or more days prior to the expiration of this Lease shall in no way act as a waiver of Lessee's obligation to demolish or remove such improvements at Lessee's sole cost and expense upon receiving written notice from Lessor. This requirement of Lessee to demolish said improvements shall survive expiration or termination of this Lease Agreement. Should Lessee fail to demolish the improvements after notice, Lessor will have these improvements demolished and Lessee will be required to pay all costs therefor.

### **3.10 FAILURE OF LESSOR TO INSIST ON PROVISIONS NO WAIVER**

Lessee covenants and agrees that if Lessor shall one or more times waive its right to insist upon prompt and satisfactory performance according to the terms of this Lease of any of the obligations of Lessee, no such waiver shall release Lessee from its duty promptly and strictly to satisfy at all times after such waiver each and every obligation arising under the provisions of this Lease, and especially any of such provisions with respect to which such waiver may previously have been made by Lessor as aforesaid; and Lessee covenants and agrees that if Lessor shall for any

length of time waive any right or rights accruing to Lessor under the provisions of this Lease, such waiver shall be construed strictly in Lessor's favor and shall not estop Lessor to insist upon any rights, subsequently accruing to it under this Lease not in terms specifically waived; and Lessee covenants and agrees that if Lessee violates any of the obligations under this Lease, no waiver by Lessor of its right to take advantage of such violation shall estop Lessor from insisting upon its strict rights in case of and as to any subsequent violation by Lessee of the same or any other obligation; and Lessee covenants and agrees that this provision of this Lease shall apply especially (but not exclusively) to the right of Lessor to require prompt payment of the rent in this Lease and that neither acceptance by Lessor of any payment of any other unpaid installment or installments of rent, nor any endorsement or statement on any check or letter accompanying any check or payment be deemed an accord and satisfaction and Lessor may accept such check or payment without prejudice to Lessor's right to recover the balance of rent or pursue any other remedy provided in this Lease.

### **3.11 VARIOUS RIGHTS, CUMULATIVE, ETC.**

Lessee agrees that the various rights and remedies of Lessor contained in this Lease shall be construed as cumulative, and no one of them as exclusive of the other or exclusive of any rights or remedies allowed by law, and that the right given in this Lease to Lessor to collect any additional rent, monies or payments due under the terms of this Lease by any proceedings under this Lease or the right herein given Lessor to enforce any of the terms and provisions of this Lease, shall not in any way affect the right of Lessor to declare this Lease terminated and the term hereby created ended, as herein provided, upon the default of Lessee, or failure of Lessee to perform and carry out, all of the provisions in this Lease provided to be performed and carried out by Lessee.

### **3.12 RIGHT TO MORTGAGE DEMISED PREMISES INTEREST**

- A. Lessee is hereby expressly given the right at any time and from time to time, to mortgage its leasehold interest in the Demised Premises, by mortgage or trust deed, but any such mortgage or trust deed shall in no way create any lien or encumbrance on the fee of the Demised Premises and the interest of Lessor therein and the interest of Lessor in any improvements which may be placed on the Demised Premises by Lessee; and it is further mutually covenanted and agreed that the mortgagee or trustee in any such mortgage or trust deed and the holder or owner of the indebtedness secured by said mortgage or trust deed shall not be personally liable upon the covenants in the Lease unless and until it or its assignee(s) shall acquire the Demised Premises estate created by this Lease. It is further covenanted and agreed that any mortgage or trust deed must be paid in full and a duly executed and recordable release thereof issued therefor prior to the expiration of the term of said Lease.

- B. DEMISED PREMISES MORTGAGEE - TAX ESCROW:** If any Demised Premises Mortgagee while the holder of any Leasehold Mortgage with respect to the Demised Premises shall require Lessee to deposit with such Demised Premises Mortgagee the amounts necessary to pay the general real estate taxes and/or special assessments against the Demised Premises pursuant to Paragraph 3.06 hereof, Lessee may make such deposits directly with said Mortgagee, provided, however, that such Demised Premises Mortgagee or Lessee shall notify Lessor of said requirement in advance of Lessee's making the first such deposit and Lessee or Lessee's Mortgagee documents to Lessor's satisfaction the fact of the establishment and annual maintenance of the required escrow deposits hereunder. In any event, where Lessee is required to deposit with the Demised Premises Mortgagee the amounts necessary to pay the general real estate taxes and/or special assessments, the same to be paid as and when the same become due and payable, and Lessee shall cause to be delivered to Lessor the receipted bills or photostatic copies thereof showing such payment within thirty (30) days after such receipted bills shall have been received by Lessee.

### **3.13 DISCLOSURE OF LEASE TO COUNTY TAX ASSESSOR AND RECORDING OF LEASE WITH THE RECORDER OF DEEDS**

Within thirty (30) days from the effective date of this Lease, Lessee shall deliver to the Assessor of the County in which the Demised Premises is situated a copy of this Lease so that said Assessor can take such steps as he determines necessary to subject the interest of Lessee to general real estate taxation and will record this Lease with the Recorder of Deeds of the county in which the Demised Premises is situated.

### **3.14 NO NUISANCE PERMITTED**

Lessee covenants and agrees not to maintain any nuisance on the Demised Premises or permit any noxious odors to emanate from the Demised Premises which shall be in any manner injurious to or endanger the health, safety and comfort of the persons residing or being in the vicinity of the Demised Premises.

### **3.15 DEMISED PREMISES TO REMAIN CLEAN AND SANITARY**

Lessee covenants and agrees to keep the Demised Premises in a clean and sanitary condition in accordance with all applicable laws, ordinances, statutes and regulations of the county, city, village, town, or municipality (wherein the Demised Premises is located), the State of Illinois, the United States of America, and the Metropolitan Water Reclamation District of Greater Chicago.

### **3.16 LESSEE SHALL ABIDE BY LAW**

Lessee covenants and agrees that it shall abide by any and all applicable laws, ordinances, statutes and regulations of the county, city, village, town, or municipality (wherein the Demised Premises is located), the State of Illinois, the United States of America, and enforcement and regulatory agencies thereof and the Metropolitan Water Reclamation District of Greater Chicago which regulate or control the Demised Premises, Lessee and/or Lessee's use of the Demised Premises.

## **ARTICLE FOUR**

### **4.01 INDEMNIFICATION**

Lessee for itself, its executors, administrators, successors and assigns agrees to and does hereby expressly assume all responsibility for and agrees to defend, indemnify, save and keep harmless Lessor, its Commissioners, officers, agents, servants, and employees against any claim (whether or not meritorious), loss, damage, cost or expense which Lessor, its Commissioners, officers, agents, servants and employees may suffer, incur or sustain or for which it may become liable, growing out of any injury to or death of persons or loss or damage to property which shall at any time during the term of this Lease be caused by or in connection with the use, occupancy or possession of the Demised Premises, and for any such loss, damage, cost or expense which shall at any time during the term of this Lease be caused by or in the performance of any work or construction, installation, maintenance, removal or repair of any buildings or structures placed upon the Demised Premises, whether the same be caused by the negligence of Lessee, any contractor employed by Lessee, or by the negligence of Lessor, its Commissioners, officers, agents, employees or contractors or as a penalty or claim for the sale or giving away of any intoxicating liquors on or about the Demised Premises, or the use of the Demised Premises for illegal or immoral purposes. In case any action, suit or suits shall be commenced against Lessor growing out of any such claim, loss, damage, cost or expense, Lessor may give written notice of the same to Lessee, and thereafter Lessee shall attend to the defense of the same and save and keep harmless Lessor from all expense, counsel fees, costs, liabilities, disbursements, and executions in any manner growing out of, pertaining to or connected therewith.

### **4.02 INDEMNIFICATION AGAINST MECHANICS LIENS**

Lessee agrees to indemnify, save and keep harmless Lessor of and from any claims for mechanics' liens by reason of any construction work, repairs, replacements or other work or for any improvements made to or placed upon the Demised Premises by or on behalf of Lessee or at Lessee's instance.

### **4.03 INSURANCE**

Lessee, prior to entering upon the Demised Premises and using the same for the purposes for which this Lease is granted, shall procure, maintain and keep in force at Lessee's expense, public liability property damage insurance in which Lessor, its Commissioners, officers, agents, and employees are a named insured and fire and extended coverage and all risk property insurance in which Lessor is named as the Loss Payee from a company to be approved by Lessor. ("CLAIMS MADE" policies are unacceptable). Each afore-referenced policy shall have limits of not less than:

**COMPREHENSIVE GENERAL LIABILITY**  
**Combined Single Limit Bodily Injury Liability**  
**Property Damage Liability**  
**(Including Liability for Environmental Contamination of Adjacent Properties)**  
**in the amount of not less than \$4,000,000.0 per occurrence**  
**and**  
**ALL RISK PROPERTY INSURANCE**  
**(Including Coverage for Environmental Contamination**  
**of Demised Premises)**  
**in the amount of not less than \$4,000,000.0 per occurrence**  
**INCLUDING**  
**FIRE AND EXTENDED COVERAGE**  
**in an amount not less than the replacement cost of improvements**  
**located on the Demised Premises**

Prior to entering upon the Demised Premises, Lessee shall furnish to Lessor certificates of such insurance or other suitable evidence that such insurance coverage has been procured and is maintained in full force and effect. Upon Lessor's written request, Lessee shall provide Lessor with copies of the actual insurance policies within ten (10) days of Lessor's request for same. Such certificates and insurance policies shall clearly identify the Demised Premises and shall provide that no change, modification in or cancellation of any insurance shall become effective until the expiration of thirty (30) days after written notice thereof shall have been given by the insurance company to Lessor. The provisions of this paragraph shall in no wise limit the liability of Lessor as set forth in the provisions of 4.01 above.

#### **4.04 INSURANCE ON IMPROVEMENTS**

Lessee shall keep any buildings and improvements erected, constructed or placed on the Demised Premises fully insured to the replacement cost thereof against loss by explosion, fire and/or windstorm or other casualty loss for their full replacement cost at Lessee's own expense at all times during the term of this Lease by an insurance company or companies approved by Lessor. Lessor shall be a named insured on all of said insurance policies and a certificate of insurance evidencing same shall be provided to Lessor and kept current at all times throughout the term of this Lease. All policies of insurance indemnifying against such loss by explosion, fire and/or windstorm so insured shall be payable to Lessor, as additional security for the

payment of rent and the performance by Lessee of the covenants herein; said policy or policies to be delivered to Lessor as soon as issued, provided, however, that in the event of loss to or destruction of said buildings and other improvements, the insurance proceeds received by Lessor in excess of the amounts then due for rent and charges under the provisions of this Lease shall be held in trust by Lessor for the repair, restoration or rebuilding of such damaged or destroyed buildings and other improvements, and shall be disbursed therefor by said Lessor only on architect's certificates after Lessee has, at its own expense, without charge or lien upon said buildings or other improvements, restored, rebuilt or repaired the same to an extent that will enable Lessor, with the insurance money remaining in its hands after the payment of the rent and charges due it, to complete said buildings or other improvements in as good condition as they were in before the said loss or damage by explosion, fire and/or windstorm.

#### **4.05 FAILURE OF LESSEE TO INSURE IMPROVEMENTS**

In the event Lessee should at any time neglect, fail or refuse to insure or to keep insured the buildings and other improvements on the Demised Premises as above provided, then Lessor at its election may procure or renew such insurance and the amount paid therefor shall be repaid by Lessee to Lessor with the rents next thereafter falling due under this Lease, together with interest thereon at the rate of two percent (2%) in excess of the prime rate charged by the principal bank in Chicago, Illinois, to its commercial borrowers as determined on the first date of a delinquency from the respective dates of any such payments.

#### **4.06 RIGHT OF LESSEE TO RECOVER PROCEEDS**

It is covenanted and agreed by and between the parties hereto that Lessor shall not be held responsible for the collection or non-collection of any of said insurance money in any event but only for such insurance money as shall come into its hands. Lessee, however, shall have the right in the name of Lessor to sue for and recover any and all sums payable under any of said policies for losses arising thereunder provided it shall indemnify and save harmless Lessor from any costs or attorney's fees in connection with any such proceeding to recover such insurance money. However, all sums so recovered shall be paid to Lessor to be applied as herein provided.

#### **4.07 APPLICATION OF INSURANCE PROCEEDS**

It is covenanted and agreed by and between the parties hereto that in case of damage to the buildings and improvements to be erected, constructed or placed on the Demised Premises, as aforesaid, or the destruction thereof (or loss or damage to any buildings or other improvements thereafter standing upon the Demised Premises) Lessee shall repair, restore or rebuild the same within one year from such destruction or damage, and in such case the insurance money received by Lessor pursuant to the terms of this Lease under said policies, after deducting therefrom the reasonable charges of Lessor for handling such insurance and all costs and expenses

of collecting the same, including attorney's fees, and all unpaid and overdue rental payments shall be paid in whole or in part by Lessor to the contractor or contractors (employed by Lessee) upon the delivery to the Executive Director of Lessor of certificates of the architects of Lessee properly endorsed by Lessee and accompanied by waivers of lien and release for the cost and expense of repairing, restoring or rebuilding said buildings or other improvements as the work of repairing, restoring, or rebuilding progresses.

#### **4.08 INSURANCE PROCEEDS DEFICIENCY**

It is understood and agreed between the parties hereto that in case the insurance money collected by Lessor shall not be sufficient to fully pay for the repair, restoration or rebuilding of said buildings and other improvements as aforesaid, then Lessee shall be required to pay such sums of money, in addition to said insurance money so collected by Lessor as aforesaid as may be necessary to pay for the complete repair, restoration or rebuilding of said buildings and other improvements; it being understood, however, that Lessor shall not be required to pay such insurance money so collected until the Executive Director of Lessor is satisfied that such sum will complete the repair, restoration and rebuilding of said buildings and other improvements, free of mechanics' liens for labor or material, in which event such monies shall be paid by Lessor to the contractor or contractors employed by the Lessee to complete the repair, restoration or rebuilding of said buildings and other improvements, upon delivery to the Executive Director of Lessor of certificates of the architects of Lessee properly endorsed by Lessee accompanied by waiver of lien and release as the work of repairing, restoring or rebuilding of said buildings and other improvements shall progress. It is expressly understood that nothing herein shall prevent Lessee from replacing any building or structure destroyed or damaged with other buildings or structures of different design and construction of at least equal value on any part of the Demised Premises.

#### **4.09 LESSOR NOT RESPONSIBLE FOR RESTORATION OF IMPROVEMENTS**

It is covenanted and agreed that Lessor shall not be liable to contribute or pay any sum of money toward the restoration, repair or rebuilding of said buildings or other improvements. In the event of the termination of this Lease by lapse of time, or by reason of any default by Lessee in any of its payments, or a breach by Lessee of any of the covenants and agreements of this Lease before the repair, restoration, replacement or rebuilding of said buildings or other improvements shall be completed, as aforesaid, then in any of said cases the insurance money collected by Lessor shall belong absolutely to Lessor.

#### **4.10 EXCESS INSURANCE PROCEEDS**

It is understood and agreed that after the work of any such repairs, restoration, or rebuilding by Lessee shall have been completed and paid for, any excess of insurance money then remaining on deposit with Lessor shall belong to Lessee and in

that event, Lessor shall pay to Lessee the balance of said insurance money upon its written request. The provisions of this paragraph as well as those of paragraphs numbered 4.04 to 4.09, inclusive, shall apply whenever and so often as any buildings or other improvements erected and completed on the Demised Premises, under any of the provisions of this Lease, shall have been damaged or destroyed by fire or windstorm.

#### 4.11 SECURITY DEPOSIT

Lessee as further consideration for the granting of this Lease, agrees that in addition to the payment of any rents hereinabove required, and to further secure the performance by it of all of the covenants herein contained, shall deposit with Lessor, prior to its occupancy of the Demised Premises a sum of money equal to two (2) months rent (\$\_\_\_\_\_). Said security deposit shall be returned to Lessee upon its satisfactory performance of all the covenants and conditions herein contained. Provided, however, in the event of a default in the performance of any such covenant by Lessee, Lessor shall use said security deposit to satisfy and discharge any such covenant. Any unused portion of said security deposit shall be returned to Lessee upon the termination or expiration of this Lease. Said security deposit shall be maintained at no less than its initial funded balance at all times during the term of the Lease.

### ARTICLE FIVE

#### 5.01 GENERAL ENGINEERING RESERVATIONS AND REQUIREMENTS

- A. Lessor has heretofore executed various agreements with governmental agencies, public utility companies, private corporations and individuals for the installation of pipelines, duct lines, sewers, cables, electric transmission lines and other surface and subsurface structures, constructions and improvements. Pursuant to those agreements, the various grantees have installed and are operating their respective surface and underground plant facilities which may lie within or otherwise affect the Demised Premises. Lessee shall, at its own initiative, inquire and satisfy itself as to the presence or absence of all such facilities on the Demised Premises, and waives all claims which it might otherwise have against Lessor on account of the presence of such facilities on the Demised Premises as same may affect Lessee's use and enjoyment of the Demised Premises.
- B. Lessee expressly agrees that within an area delineated by a line parallel with and 250 feet distant from the top of the edge of the water of any waterway which traverses or is adjacent to the Demised Premises (Corporate Use Reserve Area) and all areas within the Demised Premises below the lowest elevation of development thereon as reflected in Lessee's approved

development plans for the Demised Premises, Lessor and anyone acting under its authority shall have the right, without payment therefor, to construct, operate, maintain, repair, renew and relocate any and all pipe, sewer, structure, facility power, and communications lines and appurtenances upon, under and across the Demised Premises. All such work shall be performed in such a manner so as to cause the least amount of interference with Lessee's use of the Demised Premises.

- C. Lessee expressly understands and agrees that Lessor may have installed various sewers, shafts, ducts, pipes, and other facilities upon, over or beneath the Demised Premises. Lessor shall cooperate with Lessee to ascertain, identify and locate all of Lessor's improvements, structures and constructions on the Demised Premises. Lessee covenants and agrees that at no time shall its use and occupancy of the Demised Premises damage or interfere with said facilities.
- D. Lessor reserves unto itself a perpetual right, privilege, and authority to construct, maintain, operate, repair and reconstruct intercepting sewers (with its connecting sewers and appurtenances), and any other drains or structures constructed or operated in the furtherance of Lessor's corporate purpose upon, under and through Corporate Use Reserve Area and below the lowest elevation of Lessee's approved development plan for the Demised Premises. Lessor shall also have the right, privilege and authority to enter upon and use such portions of the Demised Premises as may be necessary in the opinion of the Executive Director of Lessor, for the purpose of constructing, maintaining, operating, repairing and reconstructing intercepting sewers, connecting sewers, drains or other structures, appurtenances, parking areas and access drive which do not unreasonably interfere with Lessee's use of the Demised Premises.

It is expressly understood that no blockage or restriction of flow in the water will be tolerated at any time. No construction or improvements of any kind can project into the waterway during construction or after permanent repairs are completed.

It is further expressly understood and agreed by Lessee that no buildings, materials, or structures shall be placed or erected and no work of any character done on the Demised Premises so as to injure or damage in any way said intercepting sewer, connecting sewers, drains or other structures and appurtenances located at any time on the Demised Premises, or so as to interfere with the maintenance, operation or reasonable access thereto.

- E. It is expressly understood and agreed that Lessor shall not be liable to Lessee for any loss, cost or expense which Lessee shall sustain by reason of any damage at any time to its property caused by or growing out of the failure of the sewers, structures, or other equipment of Lessor located on the Demised Premises, or by any other work which Lessor may perform on the Demised Premises under the terms hereof, or adjacent to the Demised Premises.**
- F. Lessee shall relocate or remove the improvements existing or constructed upon the Demised Premises, at no cost to the District in the following instances:**
- (1) In the event that the Demised Premises is adjacent to any channel or waterway, and said channel or waterway is to be widened by the District or any other governmental agency; or**
  - (2) In the event that any agency of government, having jurisdiction over said channel or waterway, requires the relocation or removal of said improvements; or**
  - (3) In the event that said relocation or removal is required for the corporate purposes of the District.**

**Such relocation or removal shall be commenced within ninety (90) days after notice thereof in writing is served upon Lessee and diligently prosecuted to the conclusion.**

- G. If any time in the future, any portions of the Demised Premises is required for the construction of highways and roadways, or adjuncts thereto, such as interchanges, ramps and access roads, as determined by the Executive Director of Lessor, for the use of any other governmental agency engaged in the construction of highways and roadways, or adjuncts thereto, then in such event, it is understood and agreed by the parties hereto, that Lessee shall surrender possession of such part of the Demised Premises that may be so required. Lessee also agrees, at its own cost and expense, to remove all of its equipment, structures or other works from those portions of the Demised Premises so required, or reconstruct or relocate such of its installations so as to permit the use of the Demised Premises for the construction of highways and roadways or adjuncts thereto within sixty (60) days after notice shall have been given to Lessee by said Executive Director.**

- H. Lessor reserves to itself or to its assignees or permittees at any time during the term of this Lease, upon thirty (30) days written notice given by Lessor to Lessee, the right to construct, reconstruct, maintain, and operate additional force mains, intercepting sewers, drains, outlets, pipe lines, pole lines, and appurtenances thereto; and such other structures, buildings, apparatus, and water control equipment as may be needed for the corporate purposes of Lessor upon, under, and across the Demised Premises. Any such construction shall be located as determined by the Executive Director of Lessor so as to cause, in his opinion, the least interference with any equipment, or improvements, that Lessee may then have on the Demised Premises.
- I. Lessee agrees that if at any future date it desires to dispose of sewage, industrial wastes or other water-carried wastes from the Demised Premises, it will discharge the said sewage, industrial wastes or other water-carried wastes into an intercepting sewer owned by or tributary to the sewerage system of Lessor. Lessee will make application and secure the necessary permit from the Metropolitan Water Reclamation District of Greater Chicago and all governmental and regulatory agencies having jurisdiction thereof before discharging any of the aforesaid sewage, industrial waste or other water-carried wastes into any intercepting sewers.
- J. It is agreed by and between the parties hereto that Lessee shall submit to the Executive Director of Lessor for his approval, the general plans for handling the sewerage, grading, and drainage of the Demised Premises; and for any roadways, water supply, telephone and electric service, if any, and of all improvements or any other construction to be erected thereon, before the commencement of any work thereon.
- K. Lessor reserves to itself the right of access to the \_\_\_\_\_ Channel as well as right of access to the Demised Premises for inspection by Lessor and its duly accredited agents at all times, and for such surveys or any other purposes as the Executive Director of Lessor may deem necessary.
- L. Any blockage or restriction of flow in the waterway will not be tolerated at any time. No construction or improvements of any kind can project into the waterway during construction or after permanent repairs are contemplated.

#### 5.02 STORMWATER MANAGEMENT REQUIREMENTS

Lessee shall submit to Lessor for its review and approval written plans detailing Lessee's plans for managing stormwater and drainage on the Demised Premises. The approval of Lessee's stormwater management plans shall be within the sole discretion of Lessor.

Lessee's plans shall provide for the separate collection of all roof water and surface run-off from grounds and roadways; shall comply with all applicable rules, regulations, ordinances, statutes, and laws pertaining to stormwater management, wetlands management, and flood plains; and shall, whenever feasible, employ Best Management Practices (BMP). BMPs may include, but are not limited to, green roofs, natural landscaping, filter strips, rain gardens, drainage swales, and naturalized detention basins. Stormwater unable to be managed by BMPs will be discharged to the \_\_\_\_\_ Channel in a manner acceptable to Lessor.

**5.03 SPECIFIC ENGINEERING, DESIGN AND OPERATING  
RESERVATIONS AND RESTRICTIONS.  
(CLARIFICATION -- NOT LIMITATION)**

Lessee is encouraged to participate in the District's Green Infrastructure Program, which offers reductions in rent for a period of up to the first ten (10) years of the life of the Lease. Participation in the program is completely voluntary, but in order to receive such benefits, a "Green Infrastructure Program" form must be filled out completely and signed by the authorized representatives of both Lessee and the District concurrent with the signing of this Lease. The form, if completed and signed, shall be attached hereto as Exhibit \_\_\_\_.

The details of the program are as follows. The District will provide Lessee with a credit equal to \$0.50 on the \$1.00, up to 10% of the annual rent owed to the District, capped at the first ten (10) years of the Lease, for expenditures and improvements on the leasehold of pre-approved green infrastructure. Such credit applies towards expenditures related to constructing and installing green infrastructure, not towards subsequently maintaining or replacing it.

The amount of green infrastructure credited will be determined by what is referred to as "Design Retention Capacity" or "DRC". DRC shall mean the maximum available retention capacity of a project in any individual storm event as stated in project plans stamped by a licensed Professional Engineer or, in the absence of such statement, a project specific capacity calculated using the following table:

Technology	Quantity	Unit	Design Retention Capacity (gallons)
Rain Gardens	100	sq. ft.	200
Native Plants/Landscaping	100	sq. ft.	150
Stormwater Trees	100	Trees	1000

Porous Pavement	100	sq. ft.	1000
Bio-Swales	100	sq. ft.	500
Green Roofs	100	sq. ft.	300
Greenways	100	sq. ft.	63

In lieu of, or in addition to, Lessee installing green infrastructure on its leasehold with the District, and subject to the same DRC standards enunciated above, Lessee can, and is encouraged to, design, implement, operate, and maintain green infrastructure in partnership with, and on lands owned by, the local municipality where the leasehold is located. The responsibility for ongoing maintenance and operation shall be borne exclusively by Lessee, and credit will only be given for Lessee's own expenditures, not the municipality's. Such factors that the District will consider in whether or not to grant credit for off-site green infrastructure include, but are not necessarily limited to, where green infrastructure can mitigate local flooding, reduce infiltration and inflow, or educate the public about green infrastructure and benefit the community as a whole. Whenever approved off-site green infrastructure is provided, Lessee shall prominently install appropriate signage on the off-site location indicating that such green infrastructure is being provided in partnership with the District.

The District must pre-approve in writing all green infrastructure projects under this section before any credit sought hereunder may be given, and any invoices seeking monetary credit shall specifically set forth the green infrastructure component of the project, with the District only providing an offset credit for that component of the project. For purposes of the offset credit, acceptable green infrastructure technologies include, but are not limited to, rain gardens, native plants/landscaping, stormwater trees, porous/permeable pavement, bio-swales, green roofs and greenways. Any credit given for green infrastructure hereunder is solely at the District's discretion.

No credit will be given for site conditions in existence before this Lease was entered into. Nor will credit be given for compliance with the minimum requirements of the District's ordinances, regulations, or policies. Accordingly, compliance with the District's Waterway Strategy and the District's Watershed Management Ordinance ("WMO") will not qualify Lessee for any credit under this section. Lessee is reminded in particular that Article 503 of the WMO requires non-residential development or redevelopment greater than one-half acre to provide volume control storage for the first inch of runoff from newly created impervious surfaces. For purposes of this section, the District's ordinances, regulations, and policies, including the WMO, shall apply to all District properties, whether located in Cook County (including the city of Chicago) or other counties in the state of Illinois. Lastly, no credit will be given for compliance with the minimum requirements under federal, state, or local law or regulation, nor to the extent it results in the annual rent under this Lease to be less than the minimum rent provisions of Section 8c of the District's Enabling Act (70 ILCS 2705/8c).

Lessee shall provide the District with an annual certification, due on each anniversary of the date of this Lease, attesting that approved green infrastructure has been properly maintained. The certification shall be made on a form prepared by the District. Failure to maintain approved green infrastructure, whether pertaining to the Demised Premises or locations off-site, throughout the term of this Lease, and failure to properly and accurately certify to the maintenance of approved green infrastructure, shall entitle the District, in its sole discretion, to full reimbursement from Lessee of any amount credited to Lessee under this section, and shall disqualify Lessee, in the District's sole discretion, from obtaining any future credit for such unmaintained green infrastructure. Similarly, providing untrue or inaccurate information in the "Green Infrastructure Program" form shall likewise entitle the District, in its sole discretion, to full reimbursement from Lessee of any amount credited to Lessee under this section. The District reserves the right to inspect the Demised Premises throughout the duration of this Lease to verify approved green infrastructure has been properly installed and maintained.

The District further reserves the right to require Lessee to amend its green infrastructure plan, even if previously approved by the District. Once notified of an amendment pursuant to the notice provisions of this Lease, Lessee will be entitled to future credit for green infrastructure only to the extent the design of the Demised Premises conforms to the amended plan approved by the District.

## **ARTICLE SIX**

### **PROVISIONS FOR BUILDING AND IMPROVEMENTS**

#### **6.01 CONSTRUCTION REQUIREMENT**

Lessee agrees within \_\_\_\_\_ ( ) year(s) from the date hereof to improve the Demised Premises by the construction thereon of the

hereinafter called "improvements", free and clear of all mechanics' and materialman's liens, claims, charges or unpaid bills capable of being made liens and to design, construct, operate and maintain in full compliance with all applicable building and zoning laws of any agency having jurisdiction thereof. All plans must be approved in writing by the Executive Director of Lessor prior to commencement of construction.

#### **6.02 TIME OF CONSTRUCTION**

Construction of the improvements shall commence within \_\_\_\_\_ ( ) year(s) of the effective date of this Lease. All of said buildings and improvements shall be completed within \_\_\_\_\_ ( ) year(s) of the effective date of the Lease. In the event said improvements are not completed or construction is not commenced as provided above, then Lessor may at its option terminate this Lease upon giving ninety (90) days notice, in writing, to Lessee.

#### **6.03 IMPROVEMENTS REVERT TO LESSOR AT**

## LEASE TERMINATION OR EXPIRATION

It is expressly understood and agreed by and between the parties hereto that upon the termination of this Lease by forfeiture, lapse of time or by reason of the failure by Lessee to keep and perform the covenants, agreements or conditions herein contained, any buildings or other improvements erected, constructed or placed upon the Demised Premises during the term hereof shall become and be the absolute property of Lessor and no compensation therefor shall be allowed or paid to Lessee except as stated in Article 3.09. Lessee shall surrender same in good and proper condition, with all fixtures and appurtenances in place and in good working order, ordinary wear and tear excepted. Lessee shall not commit waste during the term hereof or in the course of vacating same.

### ARTICLE SEVEN

#### 7.01 NOTICES

All notices herein provided for from Lessor to Lessee or Lessee to Lessor shall be personally served or mailed by U. S. Registered or Certified Mail, Return Receipt Requested, First Class Postage Prepaid addressed to Lessee at:

or to Lessor at: Metropolitan Water Reclamation District  
of Greater Chicago  
100 East Erie Street  
Chicago, Illinois 60611  
Attn: Executive Director

or any other address either party may designate in writing. Any notice so mailed by one party hereto to the other shall be and is hereby declared to be sufficient notice for all the purposes of this Lease and that a post office registry receipt showing the mailing of such notice and the date of such mailing shall be accepted in any court of record as competent prima facie evidence of those facts.

#### 7.02 RIGHT TO DECLARE LEASE TERMINATED

It is understood and agreed by Lessee that neither the right given in this Lease to Lessor to collect rent or such other compensation as may be due under the terms of this Lease by sale nor any proceedings under this Lease shall in any way affect the right of Lessor to declare this Lease terminated and the term hereby created ended as above provided, upon default of or failure by Lessee to perform and carry out any of the provisions of this Lease, as herein provided, after notices as aforesaid. And Lessee, for itself and its assigns, hereby waives its right to any notice from Lessor of its election to declare this Lease at an end under any of the provisions hereof or to

any demand for the payment of rent or the possession of the Demised Premises, except as aforesaid.

#### **7.03 RIGHTS OF LESSOR IN EVENT OF FORFEITURE OR TERMINATION**

In the event of the termination of this Lease by reason of forfeiture by Lessee arising from a default by or failure of it to carry out and perform any of the covenants herein contained, Lessor shall not be obligated to refund to Lessee any sums of money paid by Lessee to Lessor as rentals under the terms of this Lease, and such sums of money shall be retained by Lessor as liquidated damages, but this provision shall not operate to relieve Lessee of its obligation to pay to Lessor the balance of the rental then due Lessor for the entire term of this Lease.

#### **7.04 ABANDONMENT**

Lessee shall not without the prior written approval of Lessor abandon or vacate the Demised Premises or cease to operate its business thereon. Re-entry and repossession by Lessor following abandonment by Lessee shall not constitute a waiver of any rights of Lessor and shall not be construed as a termination of the Lease. Lessee shall remain liable for all its obligations under the Lease. For purposes of this section, leasehold shall be deemed abandoned if Lessee ceases business on the Demised Premises for a period of twenty-eight (28) consecutive days or fails to secure the Demised Premises from unauthorized use or entry within sixty (60) days of its execution and delivery of this Lease.

#### **7.05 TERMS OF LEASE BINDING ON SUCCESSOR AND ASSIGNS**

The parties hereto agree that all of the terms and conditions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors, lessees, sub-lessees and assigns; and whenever in this Lease reference to either of the parties hereto is made, such reference shall be deemed to include, where applicable, also a reference to the successors, lessees, sub-lessees and assigns of such party; and all the conditions and covenants of this Lease shall be construed as covenants running with the land during the term of this Lease.

#### **7.06 NO ASSIGNMENT OR SUBLEASE**

It is agreed by and between the parties that Lessee shall not sublet or assign any part of this Lease to any other governmental agency, individual, partnership, joint venture, corporation, land trust or other entity without prior written consent of Lessor.

Lessee shall notify Lessor in writing not less than sixty (60) days prior to any proposed sublease or assignment. Lessee shall identify the name and address of the proposed assignee/sublessee and deliver to Lessor original or certified copies of the proposed assignment, a recital of assignee's personal and financial ability to comply with all the terms and conditions of the Lease and any other information or

documentation requested by Lessor. Lessor shall not unreasonably withhold the consent to assignment or sublease.

It is agreed that reasonable grounds for withholding consent shall include but not be limited to the following:

- A. The proposed activity of the assignee/sublessee does not conform with the terms of this Lease or policies established by Lessor.
- B. The proposed assignee/sublessee does not have either substantial experience in the business provided for in the Lease or the financial resources to comply with the requirements of the Lease.
- C. There is an existing violation of or uncured default by Lessee with respect to the Lease.
- D. The activity of the proposed assignee/sublessee would interfere with or disturb neighboring tenants or owners.

In addition to the payment of all cash rent or additional compensation otherwise herein required to be paid by or performed by Lessee, Lessee will pay to Lessor, as additional compensation hereunder in the event Lessee assigns this Lease or sublets all or part of the Demised Premises, fifty percent (50%) of all value it receives from its assignee/sublessee for the use and occupancy of the Demised Premises as a result of the sublease or assignment in excess of the cash rent which Lessee is currently paying with respect to the subleased portion of the leasehold or the leasehold as a tract, if assigned.

The value of additional services to be performed by Lessee, sublessee or assignee shall not in any way be included in determining the foregoing fifty- percent (50%) sum.

It is agreed that this Lease shall not pass by operation of law to any trustee or receiver in bankruptcy or for the assignment for the benefit of creditors of Lessee.

Any attempted sublease or assignment not in compliance with this section shall be void and without force and effect. Additionally, Lessor shall retain 100% of all sublease fees received by Lessor under any unauthorized sublease.

## ARTICLE EIGHT

### MISCELLANEOUS PROVISIONS

#### 8.01 LESSEE MAY IMPEAD THE METROPOLITAN WATER RECLAMATION DISTRICT IN REAL ESTATE LITIGATION

Lessee may, after notice in writing to Lessor, implead Lessor as a party at any time during the term of this Lease, in any litigation concerning the Demised Premises in which Lessor is a necessary party.

#### **8.02 LESSEE TO PAY ALL COSTS OF ENFORCEMENT**

Lessee agrees to pay and discharge all costs and reasonable attorney's fees and expenses, which Lessor shall incur in enforcing the covenants of this Lease.

#### **8.03 HEADINGS ARE FOR CONVENIENCE OF PARTIES**

All paragraph headings of this Lease are inserted for purposes of reference and convenience of the parties only, and do not constitute operative provisions of the Lease.

#### **8.04 COMPLIANCE WITH WATERWAY STRATEGY RESOLUTION**

To the extent that the Demised Premises embrace or abut a waterway regulated by Lessor or in which Lessor asserts property rights, Lessee shall to the extent applicable, comply with the Waterway Strategy Resolution and Implementation Criteria therefor, the River Edge Renaissance Program and the Revised Leasing Criteria for the North Shore Channel Right-of-Way Lands of Lessor's Board of Commissioners in the execution of its development plan for the Demised Premises which abut any such waterway and Demised Premises which afford Lessee direct access thereto may be utilized by Lessee for the purpose of waterborne commerce. However, Lessee will be responsible for the construction and maintenance of any docking facility at its own cost and expense which is compatible with the Waterway Strategy Resolution to maintain the bank in an aesthetically pleasing condition. Permanent storage of bulk commodities, unsightly materials and/or debris on waterway side of the scenic berm or the docking area is prohibited.

It is the intent of Lessor to maintain, where possible, a "natural" appearance to its properties by retaining existing vegetative cover. However, Lessor recognizes that site development will sometimes necessitate the removal of existing vegetative cover. In those cases Lessor will require Lessee to re-establish vegetative cover in the same quantities and qualities as those removed. The re-established plant materials are to be considered as an addition to the landscaping required within the scenic easement.

Lessee will comply with all applicable local zoning and setback requirements. Lessor reserves the right to traverse the Demised Premises to access the waterway which abuts the Demised Premises.

Lessor's Board of Commissioners has heretofore adopted its Waterway Strategy Resolution relating to the development of leased waterways property. Lessee shall implement the beautification plan described in the attached Exhibit \_\_\_\_\_. Lessee shall comply with all applications of said Resolution in its use and

development of the Demised Premises. Lessee's method of compliance therewith shall be approved by Lessor's Executive Director in writing.

#### **8.05 TREE MITIGATION**

- A. No alterations, construction or maintenance work upon the Demised Premises involving any material change in the location, installation or construction of facilities, or involving the removal of any trees on District property, shall be performed by any person or municipality without having first obtained District approval. However, the Grantee may conduct routine trimming of trees, brush or other overgrown vegetation to the extent it interferes with the safety or proper functioning of any improvements.**
- B. If the proper maintenance and operation of facilities or improvements on the Demised Premises necessitates the removal of any trees on District property, Grantee shall give no less than 14-day written notice, exclusive of Saturdays, Sundays and holidays, of its intent to remove any trees on the Demised Premises, setting forth the number, location and species of trees to be removed.**
- C. Grantee shall submit to the District a plan to replace any trees removed that provides for planting the same or greater number and quality of trees on the Demised Premises, or on alternate areas owned by the District as designated and approved in writing by the District.**
- D. The Grantee is responsible for obtaining any local permits necessary for tree removal.**

### **ARTICLE NINE**

#### **LEASEHOLDS WITH EXISTING IMPROVEMENTS**

##### **9.01 LESSEE WILL NOT ALLOW WASTE TO IMPROVEMENTS**

Lessee will keep the leasehold improvements safe, clean and in good order, repair and condition which shall include all necessary replacement, repair and decorating. Lessee will not allow the improvements to become damaged or diminished in value, ordinary wear and tear excepted, by anyone or by any cause.

##### **9.02 CONDITION OF DEMISED PREMISES AND IMPROVEMENTS NOT WARRANTED**

Lessee expressly acknowledges that Lessor has made no representations, warranties express or implied, as to the adequacy, fitness or condition of Demised Premises or the improvements upon the Demised Premises for the purpose set forth in Article Three, Paragraph 3.07 hereof or for any other purpose or use express or

implied by Lessee. Lessee accepts the Demised Premises and the improvements thereon, if any, "AS-IS" and "WITH ALL FAULTS". Lessee acknowledges that it has inspected the Demised Premises and has satisfied itself as to the adequacy, fitness and condition thereof.

### 9.03 MODIFICATION OF IMPROVEMENTS

No modification of the leasehold improvements shall be made by Lessee without the prior written approval of Lessor and compliance by Lessee with all other terms of this Agreement.

### 9.04 PLAT OF SURVEY AND LEGAL DESCRIPTION

Lessee understands and agrees that in the event the legal description and plat attached hereto are not legally sufficient for acceptance for recordation of this Lease by the Recorder of Deeds of the county in which the Demised Premises is located, Lessee shall procure, at its own expense, a plat of survey and legal description of the Demised Premises prepared and certified in writing by a Registered Illinois Land Surveyor, within twenty-one (21) days of the execution date hereof. Said plat of survey and legal description shall be reasonably satisfactory to and approved by Lessor's Executive Director in writing. Failure to timely procure and receive approval of said plat of survey and legal description shall be grounds for immediate termination of this Lease. Lessor reserves the right and Lessee concurs that Lessor shall insert said legal description and plat of survey into this Lease Agreement as Exhibit A upon the approval thereof by District's Executive Director, without further affirmative act by either party hereto.

## ARTICLE TEN

### GENERAL ENVIRONMENTAL PROVISIONS

#### 10.01 DEFINITIONS

A. "Environmental Laws" shall mean all present and future statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations and similar items, of all government agencies, departments, commissions, boards, bureaus, or instrumentalities of the United States, state and political subdivisions thereof and all applicable judicial, administrative, and regulatory decrees, judgments, orders, notices or demands relating to industrial hygiene, and the protection of human health or safety from exposure to Hazardous Materials, or the protection of the environment in any respect, including without limitation:

(1) all requirements, including, without limitation, those pertaining to notification, warning, reporting,

licensing, permitting, investigation, and remediation of the presence, creation, manufacture, processing, use, management, distribution, transportation, treatment, storage, disposal, handling, or release of Hazardous Materials;

- (2) all requirements pertaining to the protection of employees or the public from exposure to Hazardous Materials or injuries or harm associated therewith; and
- (3) the Comprehensive Environmental Response, Compensation and Liability Act (Superfund or CERCLA) (42 U.S.C. Sec. 9601 et seq.), the Resource Conservation and Recovery Act (Solid Waste Disposal Act or RCRA) (42 U.S.C. Sec. 6901 et seq.), Clean Air Act (42 U.S.C. Sec. 7401 et seq.), the Federal Water Pollution Control Act (Clean Water Act) (33 U.S.C. Sec. 1251 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. Sec. 11001 et seq.), the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.), the National Environmental Policy Act (42 U.S.C. Sec. 4321 et seq.), the Rivers and Harbors Act of 1988 (33 U.S.C. Sec. 401 et seq.), the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the Safe Drinking Water Act (42 U.S.C. Sec. 300(f) et seq.), the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.) and all rules, regulations and guidance documents promulgated or published thereunder, Occupational Safety and Health Act (29 U.S.C. Sec. 651 et seq.) and all similar state, local and municipal laws relating to public health, safety or the environment.

**B. "Hazardous Materials" shall mean:**

- (1) any and all asbestos, natural gas, synthetic gas, liquefied natural gas, gasoline, diesel fuel, petroleum, petroleum products, petroleum hydrocarbons, petroleum by-products, petroleum derivatives, crude oil and any fraction of it, polychlorinated biphenyls (PCBs), trichloroethylene, urea formaldehyde and radon gas;

- (2) any substance (whether solid, liquid or gaseous in nature), the presence of which (without regard to action level, concentration or quantity threshold) requires investigation or remediation under any federal, state or local statute, regulation, ordinance, order, action, policy or common law;
- (3) any substance (whether solid, liquid or gaseous in nature) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous or dangerous;
- (4) any substance (whether solid, liquid or gaseous in nature) the presence of which could cause or threaten to cause a nuisance upon the Demised Premises or to adjacent properties or pose or threaten to pose a hazardous threat to the health or safety of persons on or about such properties;
- (5) any substance (whether solid, liquid or gaseous in nature) the presence in of which on adjacent properties could constitute trespass by or against Lessee or Lessor;
- (6) any materials, waste, chemicals and substances, (whether solid, liquid or gaseous in nature) now or hereafter defined, listed, characterized or referred to in any Environmental Laws as "hazardous substances," "hazardous waste," "infectious waste," "medical waste," "extremely hazardous waste," "hazardous materials," "toxic chemicals," "toxic substances," "toxic waste," "toxic materials," "contaminants," "pollutants," "carcinogens," "reproductive toxicants," or any variant or similar designations;
- (7) any other substance (whether solid, liquid or gaseous in nature) which is now or hereafter regulated or controlled under any Environmental Laws (without regard to the action levels, concentrations or quantity thresholds specified herein); or
- (8) any result of the mixing or addition of any of the substances described in this Subsection B with or to other materials.

**C. "Phase I Environmental Assessment" shall mean:**

- (1) an assessment of the Demised Premises performed by an independent and duly qualified, licensed engineer with experience and expertise in conducting environmental assessments of real estate, bedrock and groundwater of the type found on the Demised Premises, and said assessment shall include, but not necessarily be limited to a historical review of the use (abuse) of the Demised Premises, a review of the utilization and maintenance of Hazardous Materials on the Demised Premises, review of the Demised Premises' permit and enforcement history (by review of regulatory agency records), a site reconnaissance and physical survey, inspection of Demised Premises, site interviews and site history evaluations, basic engineering analyses of the risks to human health and the environment of any areas of identified concerns, and preparation of a written report which discusses history, site land use, apparent regulatory compliance or lack thereof and which includes historical summary, proximity to and location of USTs, LUSTs, TSDFs, CERCLA site flood plain, maps, photograph log, references, conclusions and recommendations.**

**D. "Phase II Environmental Assessment" shall mean:**

- (1) an assessment of the Demised Premises performed by an independent and duly qualified, licensed engineer with experience and expertise in conducting environmental assessments of real estate, bedrock and groundwater of the type found on the Demised Premises, and said assessment shall include, but not necessarily be limited to, extensive sampling of soils, groundwaters and structures, followed by laboratory analysis of these samples and interpretation of the results, and preparation of a written report with boring logs, photograph logs, maps, investigative procedures, results, conclusions and recommendations.**

**10.02 MANUFACTURE, USE, STORAGE, TRANSFER OR DISTRIBUTION OF HAZARDOUS MATERIALS UPON OR WITHIN THE DEMISED PREMISES**

Lessee, for itself, its heirs, executors, administrators, successors and assigns, covenants that to the extent that any Hazardous Materials are manufactured, brought upon, placed, stored, transferred or distributed upon or within the Demised Premises by Lessee, or its subtenant or assigns, or any of their agents, servants, employees, contractors or subcontractors, same shall be done in strict compliance with all Environmental Laws.

Construction or installation of new or reconstruction of existing underground storage tanks and underground interconnecting conveyance facilities for any material or substance is not permitted without the advance written consent of the Executive Director of the District.

#### **10.03 USE OF DEMISED PREMISES (RESTRICTIONS - ENVIRONMENTAL)**

Lessee shall use the Demised Premises only for purposes expressly authorized by Article 3.07 of this Lease. Lessee will not do or permit any act that may impair the value of the Demised Premises or any part thereof or that could materially increase the dangers, or pose an unreasonable risk of harm, to the health or safety of persons to third parties (on or off the Demised Premises) arising from activities thereon, or that could cause or threaten to cause a public or private nuisance on the Demised Premises or use the Demised Premises in any manner (i) which could cause the Demised Premises to become a hazardous waste treatment, storage, or disposal facility within the meaning of, or otherwise bring the Demised Premises within the ambit of, the Resource Conservation and Recovery Act of 1976, Section 6901 et seq. of Title 42 of the United States Code, or any similar state law or local ordinance, (ii) so as to cause a release or threat of release of Hazardous Materials from the Demised Premises within the meaning of, or otherwise bring the Demised Premises within the ambit of, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 9601 et seq. of Title 42 of the United States Code, or any similar state law or local ordinance or any other Environmental Law or (iii) so as to cause a discharge of pollutants or effluents into any water source or system, or the discharge into the air of any emissions, which would require a permit under the Federal Water Pollution Control Act, Section 1251 of Title 33 of the United States Code, or the Clean Air Act, Section 741 of Title 42 of the United States Code, or any similar state law or local ordinance.

#### **10.04 CONDITION OF PROPERTY (ENVIRONMENTAL)**

- (1) In the event Lessee has been the prior occupant/tenant of the Demised Premises under a prior occupancy/use authorization, Lessee warrants and represents that the Demised Premises and improvements thereon, including all personal property, are free from contamination by any Hazardous Materials, that there has not been thereon a release, discharge, or emission, of any Hazardous Materials during its occupancy of the

Demised Premises as defined by any Environmental Laws, and that the Demised Premises does not contain, or is not affected by underground storage tanks, landfills, land disposal sites, or dumps. \*(This provision is applicable only to tenants seeking a new lease for the same property).

- (2) In the event of a release, emission, discharge, or disposal of Hazardous Materials in, on, under, or about the Demised Premises or the improvements thereon, Lessee will take all appropriate response action, including any removal and remedial action, either before or after the execution date of this Lease.

#### 10.05 INDEMNIFICATION (ENVIRONMENTAL)

- A. In consideration of the execution and delivery of this Lease Agreement, Lessee indemnifies, exonerates, and holds Lessor and its officers, officials, Commissioners, employees, and agents ("Indemnified Parties") free and harmless from and against any and all actions, causes of action, suits, losses, costs, liabilities and damages and expenses incurred in connection with any of these (irrespective of whether any such Indemnified Party is a party to the action for which indemnification is here sought), including reasonable attorney's fees, costs and disbursements, incurred by the Indemnified Parties as a result of or arising out of or relating to (i) the imposition of any governmental lien for the recovery of environmental cleanup costs expended by reason of Lessee's activities, or (ii) any investigation, litigation, or proceeding related to any environmental response, audit, compliance, or other matter relating to the protection of the environment, or (iii) the release or threatened release by Lessee, its subsidiaries, or its parent company, of any Hazardous Materials, or the presence of Hazardous Materials on or under the Demised Premises, or any property to which Lessee, its parent company or any of its subsidiaries has sent Hazardous Materials, (including any losses, liabilities, damages, injuries, costs, expenses, or claims asserted or arising under any Environmental Law), regardless of whether caused by or within the control of Lessee, its parent company or its subsidiaries, provided that, to the extent Lessor is strictly liable under any Environmental Laws, Lessee's obligation to Lessor under this indemnity shall be without regard to fault on the part of Lessee with respect to the violation of law which results in liability to Lessor.

- B. Lessee shall defend, indemnify, save and keep harmless the Indemnified Parties against any loss, damage, cost, lien or expense which they may suffer, incur or sustain or for which it may become liable, growing out of any injury to or death of persons or loss or damage to property which shall at any time during the term of this Lease be caused by or resulting from the migration of Hazardous Materials from the Demised Premises to adjacent properties. In case any action, suit, proceeding or investigation shall be commenced against one or more of the Indemnified Parties growing out of any such loss, damage, cost or expense, Lessee shall give immediate written notice of the same to Lessor, and Lessee shall attend to the defense of the same and save and keep harmless the Indemnified Parties from all expense, attorney's fees, costs, disbursements and liabilities in any manner growing out of, pertaining to or connected therewith.
- C. Lessee shall be responsible for all costs for remediation of the Demised Premises for contamination that migrates from adjacent property during the term of the Lease but Lessee may seek recovery from any responsible third party.

#### **10.06 SITE RESTORATION/REMEDATION BOND (ENVIRONMENTAL)**

On or before the commencement of the last five-year period of the leasehold term hereunder, Lessee shall lodge with Lessor its Environmental Site Restoration/Remediation Bond in the penal sum of \$10,000.00, secured either by cash, irrevocable letter of credit or a commercial bond with surety to secure Lessee's performance of and compliance with the provisions and intent of Article 10 of this Lease. A cash payment securing the bond hereunder will be placed in an interest bearing account established by Lessor specifically for this purpose. Any interest paid on account of said deposit shall be the property of and payable periodically to Lessee. Such account shall be drawable only by Lessor upon its unilateral act. At no time shall the amount on deposit in said account be less than the penal sum of this Bond. Any commercial bond with surety shall be fully prepaid by Lessee and documented as such at the time it is lodged with Lessor. Said Bond shall be in a form approved by Lessor and shall be maintained in full force and effect until such time as Lessee has demonstrated and documented to the reasonable satisfaction of Lessor (and Lessor has executed its written release thereof to the issuer), full compliance with all Environmental Laws, relating to Lessee's use or occupancy of the Demised Premises and its environmental restoration or remediation. This provision shall survive the termination/expiration of this Lease.

#### **10.07 ENVIRONMENTAL COVENANTS**

Lessee agrees to and covenants as follows:

- A. It has no knowledge of any pending or threatened:

- (1) claims, complaints, notices, or requests for information directed to Lessee with respect to any alleged violation of any Environmental Laws, or
  - (2) complaints, notices, or requests for information directed to Lessee regarding potential liability under any Environmental Law, relating to or arising from the Demised Premises.
- B.** Lessee covenants and agrees that, throughout the term of the Lease, all Hazardous Materials which may be used by any person for any purpose upon the Demised Premises shall be used or stored thereon only in a safe, approved manner, in accordance with all generally accepted industrial standards and all Environmental Laws.
- C.** Lessee has been issued and is in compliance with all permits, certificates, approvals, licenses, and other authorizations relating to environmental matters and necessary for its business, if any.
- D.** Lessee, to the best of its knowledge, is not a potentially responsible party with respect to any other facility receiving waste of Lessee (from the Demised Premises) under CERCLA or under any statute providing for financial responsibility of private parties for cleanup or other actions with respect to the release or threatened release of any Hazardous Materials.
- E.** None of the manufacturing or distribution facilities of Lessee is subject to any environmental lien. "Environmental Lien" means a lien in favor of any government entity for any liability under any law relating to the environment or costs incurred by such government entity in response to the release or threatened release of any substance into the environment.
- F.** Lessee will take all reasonable steps to prevent and has no knowledge of any conditions on the Demised Premises that is or was alleged by any government entity or third party to be in violation of any Environmental Laws. There will be no spill, discharge, leaks, emission, injection, escape, dumping, or release of any toxic or Hazardous Materials by any persons on the Demised Premises.
- G.** Except as disclosed on Exhibit \_\_\_\_ hereto, Lessee and its parent company, if any, have not received from any government entity since 1980, any written complaint or written notice asserting

potential liability, written request for information, or written request to investigate any site under the CERCLA of 1980, as amended, or under any domestic state law comparable to CERCLA or any foreign law comparable to CERCLA.

- H. Lessee, to the best of its knowledge after due inquiry, since November 15, 1971, represents that there has not been any discharging, spilling, leaking, dumping, or burying of hazardous substances, as defined in CERCLA, or disposal of hazardous wastes, as defined in RCRA, or of any other pollutant or contaminant at the Demised Premises that is likely to form the basis for any written claim by any government entity seeking to impose liability for remedial action under CERCLA or RCRA \*(This provision applicable only to occupants/tenants seeking a new lease for the same property).
- I. Lessee will not allow the installation of asbestos on the Demised Premises, or any item, article, container or electrical equipment, including but not limited to transformers, capacitors, circuit breakers, reclosers, voltage regulators, switches, electromagnets and cable, containing PCBs.
- J. Within sixty (60) days after execution of the Lease, Lessee shall prepare and submit a general statement to Lessor of its operations and maintenance program for any activities conducted on Demised Premises, describing its layout, process, method of inspections, reporting procedure, and maintenance of equipment, which shall be updated annually and submitted to Lessor on the anniversary date of the execution of the Lease.
- K. Lessee agrees to conduct daily monitoring and to maintain a daily log book to ensure compliance with all Environmental Laws which may be inspected by Lessor at its option.
- L. Lessee shall notify Lessor in writing of any proposed significant renovation or improvement on or to the Demised Premises, which notice shall include any drawings, plans and specifications thereof, at least thirty (30) days prior to beginning construction of any such renovation or improvement. For purposes of this subsection (L), renovation shall be deemed significant when the total cost exceeds \$10,000.00.
- M. In the event Lessee install subsurface utilities, Lessee shall be responsible to install "plugs" of compacted impermeable soil material at intervals of no greater than 100 feet between such plugs along utility trenches which have been backfilled with compacted granular materials in order to minimize cross-site and

off-site environmental contaminant migration. The spacing of these plugs should be based on the characteristics of the site, the configuration of the trench or trenches, the characteristics (nature and extent) of the site environmental contamination, and/or the potential for site contamination should a surface of subsurface chemical release occur. Special emphasis should be placed on locating these plugs at all utility trenches where they cross: other utility trenches, containment berms or walls, property boundaries, and lease boundaries.

- N. The aforesaid representations and warranties shall survive the expiration or termination of the Lease.

#### 10.08 DEFAULT (ENVIRONMENTAL)

The occurrence of any one or more of the following events shall constitute a default under this Lease Agreement, but said default shall not terminate the Lease unless Lessor notifies Lessee of termination in writing:

- A. The Demised Premises is listed or proposed for listing on the National Priorities List pursuant to Section 1.05 of the CERCLA, 42 U.S.C. Section 9605, on the CERCLIS, or on any other similar state list of sites or facilities requiring environmental investigation or cleanup.
- B. Lessee is determined to have liability for underground storage tanks, active or abandoned, including petroleum storage tanks, on or under the Demised Premises, including any release of Hazardous Materials therefrom, that, singly or in the aggregate, have or may reasonably be expected to have a material adverse effect on the financial condition, operations, assets or business, properties or prospects of Lessee or its parent company.
- C. Lessee is determined to have liability for polychlorinated biphenyls (PCBs) that require immediate remediation or cleanup or friable asbestos in such condition to cause or threaten to cause, a present health hazard at any property previously leased by Lessee that, singly or in the aggregate, has or may reasonably be expected to have a material adverse effect on the financial condition, operations, assets, business, properties, or prospects of Lessee, or its parent company.
- D. Lessee is determined to have liability under any Environmental Laws for any condition that exists at, on, or under any property previously leased by Lessee that, with the passage of time or the giving of notice, or both, gives rise to liability that, singly or in the

aggregate, has or may reasonably be expected to have a material adverse effect on the financial condition, operations, assets, or business properties or prospects of Lessee, or its parent company.

#### **10.09 COVENANTS (ENVIRONMENTAL)**

Lessee shall cause its parent company and each of its respective subsidiaries, contractors, subcontractors, employees and agents to:

- A. (1) Use and operate all of the Demised Premises in compliance with all applicable Environmental Laws, keep all material permits, approvals, certificates, and licenses in effect and remain in material compliance with them;
- (2) Undertake reasonable and cost-effective measures to minimize any immediate environmental impact of any spill or leak of any Hazardous Materials;
- (3) Provide notice to Lessor of the operation of any on-site non-hazardous waste disposal facility. For purposes of this subsection (A)(3), the term "waste" means any discarded or abandoned material, and the term "disposal facility" means any facility in which wastes are placed for disposal or storage, in each case, for longer than three (3) months.
- B. Notify Lessor by telephone within two hours of the release of Hazardous Materials, including the extent to which the identity of the Hazardous Materials is known, the quantity thereof and the cause(s) of the release, and provide Lessor within 72 hours of the event, with copies of all written notices by Lessee, its parent and its subsidiaries that are reported to government regulators or received from the government regulators.
- C. Provide such information that Lessor may reasonably request from time to time to determine compliance by Lessee with this Article.
- D. Lessee covenants and agrees to cooperate with Lessor in any inspection, assessment, monitoring or remediation instituted by Lessor during the Lease term and to allow prospective tenants or purchasers reasonable access to the Demised Premises one (1) year prior to the expiration of the Lease.

#### **10.10 COMPLIANCE (ENVIRONMENTAL)**

Lessee will cause its parent company and each of its subsidiaries, if any, to exercise due diligence to comply with all applicable treaties, laws, rules, regulations, and orders of any government authority.

- A. Lessee shall conduct a Phase I Environmental Assessment, at its own expense, with respect to the Demised Premises every fifth anniversary of the execution of this Lease and submit the written report to Lessor within ninety (90) days after each fifth anniversary. After review of each Phase I Environmental Assessment, or at any other time, upon receipt of any information or report Lessor, at its sole discretion, may require Lessee, at Lessee's expense, to obtain a Phase II Environmental Assessment with respect to the Demised Premises. The written report of the Phase II Environmental Assessment shall be submitted to Lessor within one-hundred-twenty (120) days of Lessor's request for same. If the Phase II Assessment discloses the presence of any Hazardous Materials contamination on the Demised Premises or adjacent property, Lessee shall take immediate action to remediate the contamination and to restore the Demised Premises to a clean and sanitary condition and to the extent required by any and all Environmental Laws. Lessor may require Lessee to obtain a Phase I and Phase II Environmental Assessment with respect to the Demised Premises at any other time.
- B. Lessee agrees to implement its own building maintenance and operations program for asbestos inspections on an annual basis and to report its findings to Lessor annually on the anniversary date of the Lease.
- C. Capacitors, transformers, or other environmentally sensitive installations or improvements shall be removed at the end of the Lease at Lessor's election.
- D. In addition to the Environmental Assessments required in paragraph A of this Article, Lessor shall have the right, but is not required to cause an independent environmental consultant, chosen by Lessor at its sole discretion, to inspect, assess and test the Demised Premises for the existence of any and all environmental conditions and any and all violations of Environmental Laws (Environmental Assessment). The scope, sequence and timing of the Environmental Assessment shall be at the sole discretion of Lessor.
- E. If any Environmental Assessment reveals, or Lessor otherwise becomes aware of, the existence of any violation of any

Environmental Laws that either Lessee is unwilling to remediate or that Lessor is unwilling to accept, Lessee shall be in default under this Lease and Lessor shall have the right and option to terminate this Agreement and to declare it null and void.

F. Not less than one (1) year prior to the expiration of the Lease, Lessee shall have caused to be prepared and submitted to Lessor a written report of a site assessment in scope, form and substance, and prepared by an independent, competent and qualified professional and engineer, registered in the State of Illinois, satisfactory to Lessor, and dated not more than eighteen (18) months prior to the expiration of the Lease, showing that:

- (1) The Demised Premises and any improvements thereon do not materially deviate from any requirements of the Environmental Laws, including any licenses, permits or certificates required thereunder;
- (2) The Demised Premises property and any improvements thereon do not contain: (i) asbestos in any form; (ii) urea formaldehyde; (iii) items, articles, containers, or equipment which contain fluid containing polychlorinated biphenyls (PCBs); or (iv) underground storage tanks which do not comply with Environmental Laws;
- (3) The engineer has identified, and then describes, any Hazardous Materials utilized or maintained on the Demised Premises, the exposure to which is prohibited, limited, or regulated by any Environmental Laws;
- (4) If any Hazardous Materials were utilized and maintained on the Demised Premises, the engineer has conducted and submitted a Phase II Environmental Assessment of the Demised Premises, which documents that the Demised Premises and improvements are free of contamination by Hazardous Materials;
- (5) The engineer has identified and then describes, the subject matter of any past, existing, or threatened investigation, inquiry, or proceeding concerning environmental matters by any federal, state, county, regional or local authority, (the "Authorities"), and describes any submission by Lessee concerning said environmental matter which it intends to give, has

been given or should be given with regard to the Demised Premises to the Authorities; and

(6) The engineer includes copies of the submissions made pursuant to the requirements of Title III of the Superfund Amendments and Reauthorization Act of 1986, (SARA) Section 11001 et seq. of Title 42 of the United States Code.

G. In the event Lessee should receive a Notice of Environmental Problem, Lessee shall promptly provide a copy to Lessor, and in no event later than seventy-two (72) hours from Lessee's and any tenant's receipt or submission thereof. "Notice of Environmental Problem" shall mean any notice, letter, citation, order, warning, complaint, inquiry, claim, or demand that: (i) Lessee has violated, or is about to violate, any Environmental Laws; (ii) there has been a release, or there is a threat of release, of Hazardous Materials, on the Demised Premises, or any improvements thereon; (iii) Lessee will be liable, in whole or in part, for the costs of cleaning up, remediating, removing, or responding to a release of Hazardous Materials; or (iv) any part of the Demised Premises or any improvements thereon is subject to a lien in favor of any governmental entity for any liability, costs, or damages, under any Environmental Laws, arising from or costs incurred by such government entity in response to a release of a Hazardous Material.

#### 10.11 INSPECTION AND RIGHT OF INSPECTION (ENVIRONMENTAL)

A. In the event Lessee receives a Notice of Environmental Problem as defined in Paragraph 10.10G, Lessee shall, within ninety (90) days, submit to Lessor a written report in scope, form and substance, and prepared by an independent, competent and qualified, professional, registered engineer, satisfactory to Lessor, showing that the engineer made all appropriate inquiry consistent with good commercial and customary practice, such that consistent with generally accepted engineering practice and procedure, indicating whether any evidence or indication came to light which would suggest there was a release of substances on the Demised Premises which could necessitate an environmental response action, and which describes the Demised Premises compliance with, or lack thereof, and with all applicable Environmental Laws or certificates required thereunder, and Lessee's compliance with the representations and warranties previously set forth in this Lease. After review of the written report, Lessor may require Lessee to submit a written Phase II

Environmental Assessment pursuant to provisions set forth in paragraph 10.10A.

- B. Lessor hereby expressly reserves to itself, its agents, attorneys, employees, consultants, and contractors, an irrevocable license and authorization to enter upon and inspect the Demised Premises and improvements thereon, and perform such tests, including without limitation, subsurface testing, soils, and groundwater testing, and other tests which may physically invade the Demised Premises or improvements thereon, as Lessor, in its sole discretion, determines is necessary to protect its interests.

**IN WITNESS WHEREOF, THE METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO has caused this instrument to be executed in triplicate by the Chairman of the Committee on Finance of its Board of Commissioners and attested by its Clerk, and its corporate seal to be hereunto affixed; and Lessee has caused this instrument to be executed in triplicate by its President and attested by its Secretary and its corporate seal to be hereunto affixed all the day and year first above written.**

**METROPOLITAN WATER RECLAMATION DISTRICT  
OF GREATER CHICAGO**

**By:** \_\_\_\_\_  
**Frank Avila**  
**Chairman of Committee on Finance**

**ATTEST:**

\_\_\_\_\_  
**Jacqueline Torres, Clerk**

**XYZ, INC.**

**By:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**ATTEST**

**By:** \_\_\_\_\_

**Title:** \_\_\_\_\_









**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**Head Assistant Attorney**

\_\_\_\_\_  
**General Counsel**

**APPROVED:**

\_\_\_\_\_  
**Executive Director**

**RECEIVED:**

**Fee** \_\_\_\_\_

**Insurance** \_\_\_\_\_

**Bond** \_\_\_\_\_

DO NOT COPY

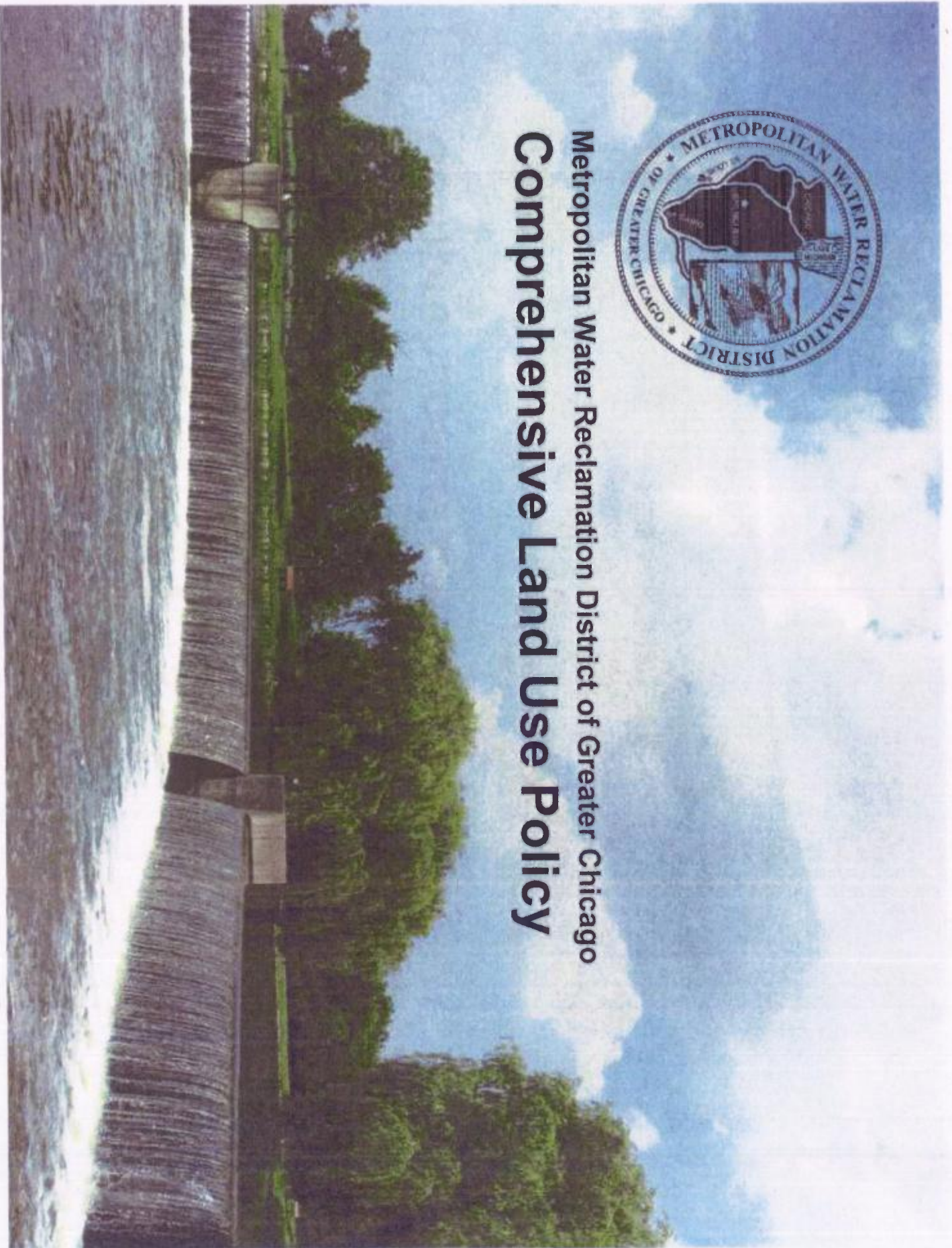
## APPRAISAL REQUIREMENTS

The appraisal report must clearly and accurately set forth the appraisal analysis, opinion or conclusion in a manner that is not misleading and must contain sufficient information to be understood properly. There are 18 report guidelines that must be used in this report, and they are as follows:

1. Identify and describe the real estate being appraised (including a legal description, property identification number (PIN) and address with ZIP code).
2. Identify the real property interest being appraised.
3. State the purpose of the appraisal.
4. Define the value.
5. Set forth the effective date of opinion and date of report.
6. Define the scope of the appraisal.
7. Set forth all assumptions and limiting conditions used in the appraisal.
8. Set forth the appraisal procedures followed, data considered and reason it supports the analysis, opinions and conclusions.
9. Set forth the opinion of highest and best use when necessary and appropriate.
10. Explain and support the exclusions of any of the usual valuation approaches (cost approach, direct sales comparison approach and/or income approach).
11. Set forth any information that may be appropriate to show compliance with market-supported facts used to draw conclusions.
12. Include an analysis and report data on current revenues, expenses, and vacancies for the property if it is and will continue to be income producing.
13. Include an analysis of a reasonable marketing for the subject property.
14. Include an analysis of current marketing, market conditions and trends that will affect projected income or the absorption period to the extent they affect the value of the subject property.
15. Include an analysis of appropriate deductions and discounts for any proposed construction, or any completed properties that are partially leased or leased at other than market rents as of the date of the appraisal, or any tract developments with unsold units.
16. Identify and separately value any personal property, fixtures or intangible items that are not real property but are included in the appraisal and discuss the impact of their inclusion or exclusion on the estimate of market value.
17. Include a signed certification by the preparer of the report.
18. Include a resume of preparer's qualifications and past appraisal experience. The appraiser must be a member of the Appraisal Institute (MAI Certified).



Metropolitan Water Reclamation District of Greater Chicago  
**Comprehensive Land Use Policy**



## FOREWORD

The Metropolitan Water Reclamation District of Greater Chicago was organized in 1889 as an independent unit of government and taxing body. The District was organized in response to a longstanding problem with contamination of the water supply and nuisance conditions in the Chicago River and other waterways. The District reversed the flow of the Chicago and Calumet River systems to stop discharge of sewage into Lake Michigan and instead discharge it into the Des Plaines River and eventually the Mississippi River. In order to reverse the flow of the Chicago and Calumet River Systems, the District constructed 61.3 miles of canals and waterway improvements. These canals are known as the Chicago Sanitary & Ship Canal, the Cal-Sag Channel, and the North Shore Channel. The District owns substantial acreage on both sides of these canals spanning several counties, including Cook, DuPage, and Will Counties. It also owns thousands of acres in Fulton County as well.

Over these past 125 years, a number of policies have been enacted concerning the District's landholdings. The purpose of this Comprehensive Land Use Policy is to provide a mechanism where all these policies governing District real estate are contained, and made available, in a single source. The end result is a single comprehensive policy that adopts some of the District's policies of yesterday, while at the same time, introduces new policies that satisfy the District's vision of today. As this vision changes over time, so too will this comprehensive policy, but with a unified approach that continues to make everything available in a single source.

The District's enabling statute, 70 ILCS 2605/1 et al., sets forth the District's powers and duties, including its statutory requirements for acquiring, selling, and leasing District real estate. Through its real estate policies, the District is able to maintain a sense of direction from a literal interpretation of its leasing statute. By enacting a Comprehensive Land Use Policy, the District can ensure that its program is well-planned, that its lands are held and not dissipated, that special privileges to individuals and organizations are denied, and that all citizens and organizations seeking to lease District real estate are treated equally and uniformly. Through policies well made and kept, the District can continue to make its lands available for different uses.

Not to be lost in this is the District's mission as a chartered organization: to protect the public's health and safety by treating wastewater, managing stormwater, and protecting water as a vital resource for its service area. Corporate use of District land, that is, any use of District land necessary for the District to fulfill its corporate purpose, will always be given first priority over all other uses of District land. Land not currently needed for corporate use, on the other hand, will be made available for leasing, for use by easement, or for temporary use by permit. The goal of this comprehensive policy is to put this available District land to its best possible use in a manner that does not inhibit the District from fulfilling its chartered mission.

To accomplish this goal, a thorough understanding of several different, though not always competing, needs and interests is necessary. There are the needs and interests of commerce and industry, which stimulate economic growth, provide valuable jobs to people living in our region, and improve the tax base. The District will continue leasing land to responsible commercial and industrial tenants, like barge companies that require leaseholds with direct

access to water. District land contiguous to its three channels of water is well-suited for this commercial purpose. There are the needs and interests of municipalities and local park districts. Presently, 75% of District real estate currently being leased is devoted to open green space. The District will continue leasing land at nominal costs to these public entities for open green space purposes such as nature preserves and parks and recreation. Then there are the needs and interests of the District itself--such as the need to maximize rental income to help minimize the real estate tax levies--which are tied directly to its vision as a public organization.

The District's vision consists of several components: that a healthy financial environment is critical to its operations, that employees are its greatest asset, that sensibly meeting the needs of the public is its primary focus, and that protecting the natural environment is its most important mission. Successful, yet responsible, stewardship of land that promotes these basic tenets will continue to be the driving force behind this comprehensive policy.

Land use categories will be established by the District consistent with this comprehensive policy, with input from the community. District land that is now, or later becomes, vacant will be designated for corporate purpose, for natural habitat/restoration, for public access, or for commercial or industrial purposes. Green infrastructure initiatives will continue to factor heavily in the use of District land. Municipal and other tenants who enter into leases through negotiation rather than through the statutory leasing process will be required to accomplish certain "green" milestones, while new commercial or industrial tenants will receive incentives from the District to likewise accomplish the same. Long-term leases with responsible commercial or industrial tenants will continue to be encouraged, as they provide stability to both the District and the land that is being occupied.

The District is committed to making land that is not necessary for corporate use available to both public and private entities to ensure optimal use. This Comprehensive Land Use Policy not only fosters relationships with those entities, but it also sees the importance of preserving the health of our natural environment. It is the framework for a brighter and better tomorrow.

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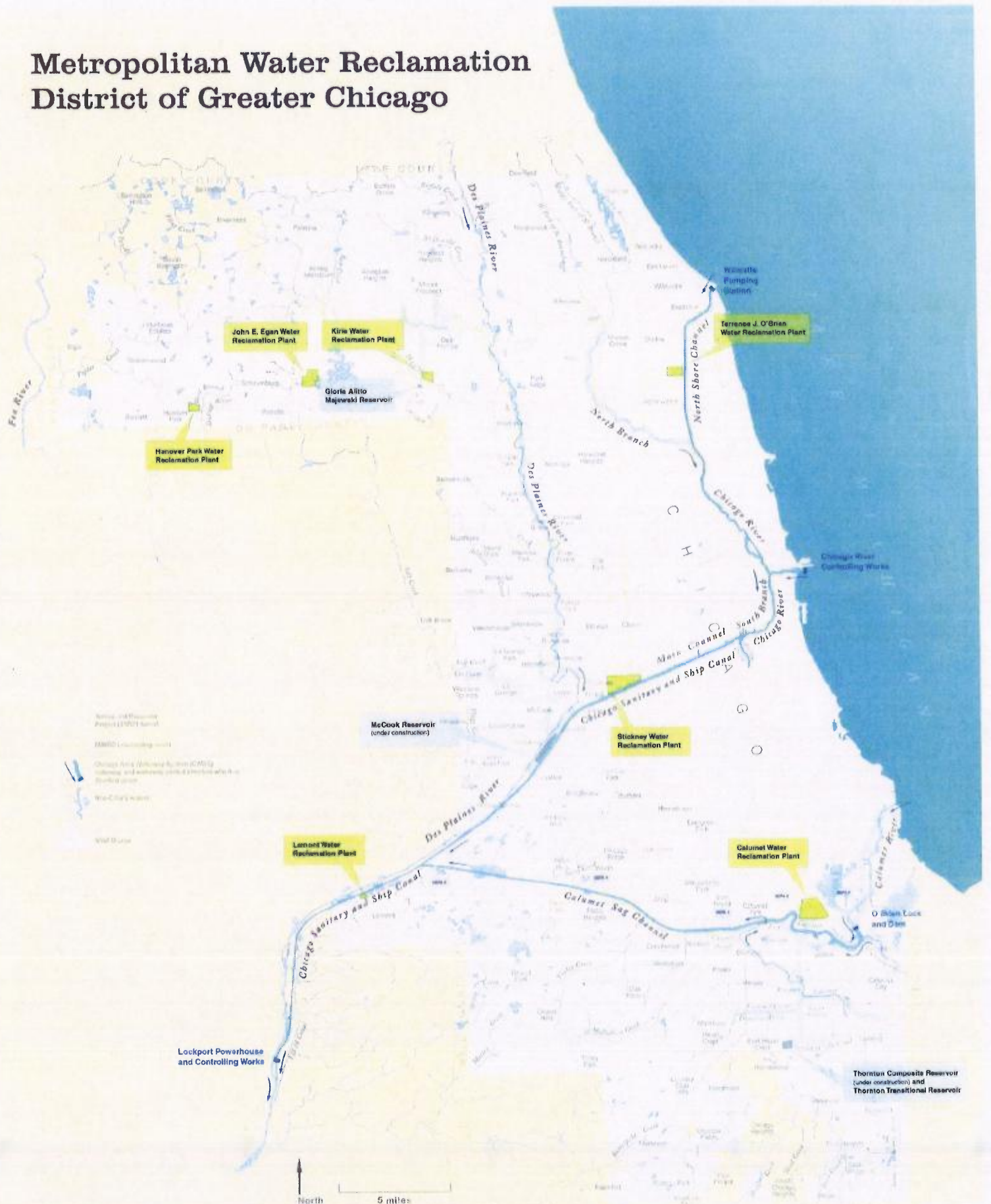
- Chapter 1: Map of Waterways
- Chapter 2: Executive Summary of Statutory Authority to Sell, Lease, or Otherwise Allow Use of District Land (70 ILCS 2605/8, 8a, and 8c)\*
- Chapter 3: Land Use Policies
- Chapter 4: 70 ILCS 2605/8, 8a & 8c (Full Versions)\*

\*The above statutory provisions and summary pertain to the law as it exists on the date of passage of this Comprehensive Land Use Policy. Any subsequent amendments to these provisions will be contained in the Illinois Compiled Statutes, as amended.

# Comprehensive Land Use Policy

## Chapter 1: Map of Waterways

# Metropolitan Water Reclamation District of Greater Chicago



Visit [www.mwrd.org](http://www.mwrd.org), and click "Business with Us" then "Real Estate" to see:

- \* Atlases of the District's channel waterways designating current uses
- \* the District's standard lease form

## Comprehensive Land Use Policy

**Chapter 2: Executive Summary of Statutory Authority  
to Sell, Lease, or Otherwise Allow Use of District Land  
(70 ILCS 2605/8, 8a, and 8c)**

Policies governing the sale or lease of District land, or the granting of easements or issuance of permits, may not supersede or be inconsistent with the District's Enabling Act. There are three sections of the Act that pertain primarily to such transactions. Below is a summary of the salient provisions contained in those sections:

#### 70 ILCS 2605/8

- The District may sell or vacate its land, but only if the land is no longer required for the corporate purposes of the District and only upon recommendation of the District's Executive Director and upon the approval by the Board of Commissioners.
- The District may lease its land if, in the opinion of the Board of Commissioners and the Executive Director, it is no longer required for the District's corporate purposes or not immediately needed for such purposes. The lease shall be upon the terms as the Board of Commissioners, upon recommendation of the Executive Director, may determine.
- The District may grant easements and permits for use of its land which will not, in the opinion of the Board of Commissioners and the Executive Director, interfere with the use of the land for the District's corporate purposes.
- The term of any lease of District real estate may not exceed 99 years.

#### 70 ILCS 2605/8a

- In addition to any other powers conferred upon the District, the District may sell or otherwise transfer real estate to the United States of America, the State of Illinois, the County of Cook, and/or any municipal corporation, with the approval by the Illinois Department of Natural Resources.

#### 70 ILCS 2605/8c

- Notice of the proposed lease shall be published for three consecutive weeks in a newspaper of general circulation within the District.
- Fair market value of the underlying fee of the proposed lease must be determined by two American Institute of Real Estate Appraisers or similarly qualified appraisers. The District may engage an additional appraiser. Every appraisal report must contain an affidavit certifying the absence of any collusion relating to the lease of the property.
- Every lease must be awarded to the highest responsible bidder upon free and open competitive bids. In determining the responsibility of any bidder, the District may consider, in addition to financial responsibility, any past records of transactions with the bidder and any other pertinent factors, including but not limited to, the bidder's performance or past record with respect to any lease, use, occupancy, or trespass of District or other lands.
- Prior to acceptance of the bid of the highest bidder and before execution of the lease, the bidder shall submit to the Board of Commissioners and Executive Director, for incorporation into the lease, a detailed plan and description of improvements to be

constructed upon the leased property, the time within which the improvements will be completed, and the intended uses for the leased property.

- No lease may be awarded unless the bid of the highest responsible bidder provides for an annual rent of at least 6% of the parcel's fair market value. However, if the parcel contains a special development impediment, defined as any condition that constitutes a material impediment to the development or lease of a parcel, annual rent may be less than 6% of the parcel's fair market value for the first 10 years of the lease, at which point the annual rent shall return to a rate no less than 6% of the parcel's fair market value.

- If there is more than one responsible bid, the Board of Commissioners may authorize and direct the Executive Director to solicit from the two highest responsible bidders written amendments to their prior bids, increasing their rental bid proposal by at least 5% in excess of their prior written bid, or otherwise amending the financial terms of their bid so as to maximize the financial return to the District during the term of the proposed lease. Upon the Executive Director's tentative agreement with one or more amended bids, the bids may be submitted to the Board of Commissioners with the recommendation of the Executive Director for acceptance of one or rejection of all. The amendments may not result in a diminution of the terms of the transaction and must result in an agreement that is equal to or greater in value than the highest responsible bid initially received.

- All leases awarded after competitive bidding may be subject to annual adjustments based on changes in the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics, or some other well known economic governmental activity index.

- Any lease for 15 years or more shall be subject to rent adjustments every 10 years, known as decennial rent adjustments. If the initial rent is below 6% fair market value due to the existence of a special development impediment, the first decennial rent adjustment shall not occur until the 20<sup>th</sup> year of the lease. Such redetermination shall be as of the first day of each succeeding 10 year period, and annual rental payments shall be adjusted so that the ratio of annual rental to fair market value shall be the same as that ratio for the first year of the preceding 10 year period. The decennial adjustment shall not exceed 100% of the rental in effect on the last day of the preceding 10 year period, except when the property rental is less than 6% of fair market value due to the existence of a special development impediment, in which case, the decennial adjustment shall not be so limited until the twentieth year of the lease.

- In addition to the fixed annual rent, the District may require additional rent to be paid based upon a percentage of the tenant's revenues derived from its business operations on the leasehold premises or subleases. These are matters of additional compensation and are not considered in determining the highest bid of an applicant for a lease.

- No assignment or sublease shall be effective without the prior written consent of the Executive Director and the Board of Commissioners. The District may consider, for any assignment or sublease, all pertinent factors including the assignee's or sublessee's financial responsibility. The District may also condition its consent upon the redetermination of the annual rent required to be paid under any lease initially executed on or before January 1, 1983, for which the annual rent being paid was less than 6% of the

current appraised fair market value of the leased property. No assignment or sublease is effective if the assignee or sublessee is a trust constituted by real property of which the trustee has title but no power of management or control, unless the identity of the beneficiaries of the trust is revealed, upon demand, to the Executive Director and the Board of Commissioners.

• If the Executive Director and the Board of Commissioners conclude that it would be in the public interest, the District may lease its land to the following entities without complying with the above provisions: 1) the United States of America, the State of Illinois, the County of Cook, or any municipal corporation, provided that the property is to be applied exclusively for public recreational purposes or other public purposes; 2) any academic institution of learning which has been in existence for 5 years prior to the date that the lease is entered, provided that the property is to be applied exclusively to the operation of the institution's academic or physical educational programs; or 3) any tenant who leases land that is located in a county with a population of 100,000 or less and which is leased solely for agricultural or commercial recreational uses. All such leases are terminable by the District with one year notice to the tenant in the event that Board of Commissioners and the Executive Director determine that the leased land, or part thereof, has become essential to the corporate purposes of the District.

Comprehensive Land Use Policy

Chapter 3: Land Use Policies

## Land Use Policies Guide

- 3.1 Overview
- 3.2 Definitions
- 3.3 Sale of District Land
  - A. Permissible Sales
  - B. Prohibited Sales
- 3.4 The District's Waterway Strategy
  - A. District Lands Contiguous to Waterways
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    - 2. Bank Stabilization and Landscaped Visual Screening
    - 3. Penalties
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    - 1. Limitations on Use of Lands Contiguous to North Shore Channel
    - 2. Special Lease Conditions
  - C. Exceptions
    - 1. Uses Permitted Under Pre-Existing Leases
    - 2. Variances
    - 3. Waterborne Commerce
- 3.5 Land Use Categories
- 3.6 Green Infrastructure Requirements and Incentives
  - A. Introduction
  - B. Public Leases
  - C. Private Entity/Commercial Leases
- 3.7 Signage
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- 3.8 Leasing District Land
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      - c. Ten Year Periodic Rent Adjustments
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      - c. Penalty for Unauthorized Sublease or Assignment
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  - B. Easements to Governmental Entities
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  - C. Training Exercises by Police, Fire, and Emergency Personnel
    - 1. Approval
    - 2. Insurance
    - 3. Short Release Document

### 3.1 Overview

This chapter sets forth the Board of Commissioner's policies concerning use of District land, whether by lease, easement, or permit. It is divided into ten sections:

- 3.1 Overview
- 3.2 Definitions
- 3.3 Sale of District Land
- 3.4 The District's Waterway Strategy
- 3.5 Land Use Categories
- 3.6 Green Infrastructure Requirements and Incentives
- 3.7 Signage
- 3.8 Leasing District Land
- 3.9 Easements on District Land
- 3.10 Permits for Use of District Land

It contains not just restrictions and prohibitions, but also recommended uses of District land for future tenants.

Nothing contained herein is intended to conflict with the provisions of the District's Enabling Act, including its leasing statute. To the extent a conflict exists, the provisions of the Enabling Act will control. Nor are these policies intended to conflict with, or supersede, the applicable zoning laws of any local municipality with proper jurisdiction.

Unless otherwise stated herein, the policies set forth herein shall apply to all leases, easements, and permit agreements, and renewals thereof, entered into and fully executed upon, or after, the date of passage of this Comprehensive Land Use Policy. They are not intended to replace, supersede, or excuse the performance of any obligation created by an existing contract pursuant to a lease, easement, or permit agreement, or any renewal thereof, entered into with the District before such date of passage. For purposes of this Comprehensive Land Use Policy, "date of passage" refers to the date that the United States Environmental Protection Agency approves the District's Green Infrastructure Program Plan, which includes this Comprehensive Land Use Policy, pursuant to the Consent Decree entered in *United States of America, et al., v. Metropolitan Water Reclamation District of Greater Chicago*, Case Number 11 C 8859.

All real estate policies of the Board of Commissioners enacted before the date of passage of this Comprehensive Land Use Policy shall remain in full force and effect until such date of passage, at which time they are hereby repealed.

Upon recommendation of the Executive Director, the Board of Commissioners reserves the right to waive or amend any requirement contained in this Comprehensive Land Use Policy whenever such waiver or amendment is in the best interests of the District and done without contravening any legal obligation incurred by, or imposed upon, the District by law, decree, or contract.

### 3.2 Definitions

**Board of Commissioners** means the elected body of governance for the Metropolitan Water Reclamation District of Greater Chicago.

**Corporate Use Land** means District land that is necessary for use by the District to fulfill its corporate mission to treat and convey wastewater, manage stormwater and control flooding, or develop best management practices for use of farm land. The designation of corporate use land is transient in nature and subject to change over time.

**District** means the Metropolitan Water Reclamation District of Greater Chicago.

**Easement** means a written contractual agreement between the District and another party that authorizes that party to cross or otherwise use a specified parcel or parcels of District land for a specific purpose or purposes.

**Executive Director** means the Executive Director of the Metropolitan Water Reclamation District of Greater Chicago.

**Lease** means a written contractual agreement in which the District conveys a specified parcel or parcels of District land for a specific purpose or purposes to another party for a specified period of time not to exceed what is provided by statute in exchange for annual rental payments.

**Lessee(s)** means any person or entity that has entered into a lease agreement with the District. The term includes the lessee's agents, representatives, successors, and assignees.

**Permit** means a written authorization from the District that authorizes another party to use a specified parcel or parcels of District land for a short duration and for a limited purpose.

**Private lease or leasing** refers to any leasing of District land by the District that is governed by 70 ILCS 2605/8c(1)-(10). Private leasing must be competitively bid before a lease is entered into with the District.

**Public lease or leasing** refers to any leasing of District land by the District that is not governed by 70 ILCS 2605/8c(1)-(10) by virtue of 70 ILCS 2605/8c(11). Public leasing is not competitively bid before a lease is entered into with the District, and the leased premises must be used solely for public recreational purposes or other public purposes.

**Surplus Land** means any District land that the District determines is not currently needed for its corporate use. The designation of surplus land is transient in nature and subject to change over time.

**Waterway Strategy** means the District's comprehensive approach to District land contiguous to waterways.

### 3.3 Sale of District Land

- A. Permissible Sales: The sale of Surplus Land located in Cook, DuPage, and Will Counties that is isolated and not contiguous to waterways, and the sale of District land in Fulton County, is permitted, but only upon the Executive Director's recommendation and at the sole discretion of the Board of Commissioners.
- B. Prohibited Sales: The sale of Corporate Use Land, and any District land contiguous to waterways in Cook, DuPage, or Will County, is prohibited.

### 3.4 The District's Waterway Strategy

- A. District Lands Contiguous to Waterways
  1. Setback Requirements: It is the intent of the District to have a well-maintained and attractive river edge of all of the property it owns adjacent to waterways, including the Chicago River, the Chicago Sanitary & Ship Canal (a.k.a. Main Channel), the North Shore Channel, and the Cal-Sag Channel. In order to accomplish this goal, the District requires a waterway edge easement to be included in its land leases. Unless otherwise authorized by the Board of Commissioners, the width of the easement shall be a minimum of 60 feet and up to 100 feet, when feasible. Such width shall be measured from the edge of the water at normal water levels, then inward across the leased premises at a 90 degree angle, or best approximation thereof, from the water's edge. No lessee of the District shall cause, or allow to be caused, any impediment to be constructed or placed upon such easement, whether it be a permanent structure such as a building, or moveable objects such as unsightly materials and debris. Buildings existing at the time this policy is enacted shall be grandfathered in.
  2. Bank Stabilization and Landscaped Visual Screening: All lessees shall be responsible for bank stabilization and the construction and maintenance of a landscaped visual screen that effectively screens the leased premises from the viewpoint of the waterway edge easement. The recommended landscaped visual screen, whenever possible, shall consist of native vegetative cover. In the event that site development necessitates removal of existing vegetative cover, the lessee shall be required to promptly reestablish native vegetative cover in the same quantities as those removed during the development.
  3. Penalties: Any lessee's failure to comply with the requirements contained in subsections A(1) and A(2) above shall constitute a breach of the lease agreement by the lessee and shall be grounds for the District, at its option, to terminate the lease agreement. The District shall also have the right to recover from the lessee any and all reasonable costs associated with correcting each such violation, including, but not limited to, remediation costs to have the violations corrected, as well as court costs

and attorneys' fees for filing an action in circuit court seeking an order to have the lease agreement terminated on these grounds.

**B. North Shore Channel – Additional Requirements**

1. **Limitations on Use of Lands Contiguous to North Shore Channel:** All District lands contiguous to either side of the North Shore Channel, starting from the south at Devon Avenue and continuing north to, and including, Wilmette Harbor, shall be dedicated and used exclusively as open green space and public recreational use.
2. **Special Lease Conditions:** All District leases pertaining to lands contiguous to the North Shore Channel shall require continuous trails, boat access, and bank stabilization; however, in the case of renewed District leases to public agencies, the stated policy shall apply only to the extent it is economically feasible and consistent with existing public uses.

**C. Exceptions:** Any use of District land that is prohibited by or inconsistent with the terms of this Paragraph 3.4 shall be permitted only upon one or more of the following conditions:

1. **Uses Permitted Under Pre-Existing Leases:** The use is authorized by the terms of an unexpired lease agreement with the District that was entered into before the date of passage of this Comprehensive Land Use Policy. Such use shall continue to be permitted until such time as the lease agreement expires or is terminated, unless otherwise extended by the Board of Commissioners.
2. **Variances:** The use is authorized by a variance granted by the Board of Commissioners whenever, and to the extent, it deems that the variance is necessary and in the best interests of the District considering the location, existing topography and vegetation, and use or proposed use of the leased premises. All variances shall be granted only by approval of the Board of Commissioners at its sole discretion, with recommendation by the Executive Director.
3. **Waterborne Commerce:** The use is for the purpose of waterborne commerce pursuant to a lease agreement with the District. In such instances, no variance from the Board of Commissioners is necessary. However, the lessee shall, to the extent possible, construct and maintain a docking facility compatible with the visual intent of the scenic easement, with the District maintaining the sole discretion to determine whether compatibility has been achieved.

**3.5 Land Use Categories**

A land use category is a designation by District staff as to the a) manner that District land is presently being used in the case of land that is already occupied, or b) recommended use of District land in the case of land that is vacant. District staff shall be responsible for

assigning each vacant parcel of District land an appropriate land use category. Once a vacant parcel is assigned a land use category, steps will be taken by the District to locate tenants who are interested in using the parcel in a manner conducive to the land use category that the parcel has been assigned. This does not limit the District from allowing the parcel to be used for a different purpose, or to assign the parcel a different land use category whenever appropriate. Instead, it is simply a statement of the District's preference as to how vacant parcels of District land should be presently utilized.

Each vacant parcel of District land will be assigned one of the following land use categories:

- Corporate Purpose – Land that is necessary for use by the District to fulfill its corporate mission to treat and convey wastewater, manage stormwater and control flooding, or develop best management practices for use of farm land.
- Natural Habitat/Restoration – Land that is in its natural environmental state or being restored to its natural environmental state.
- Public Access – Land that is typically leased to a unit of local government, or a local public agency such as a park district, that is set aside for use by the public.
- Commercial/Industrial – Land that is used by businesses for commercial or industrial purposes.

### 3.6 Green Infrastructure Requirements and Incentives

- A. Introduction: The District is developing and implementing a Green Infrastructure Program Plan, which includes this Comprehensive Land Use Policy. As part of the Comprehensive Land Use Policy, a policy has been established for implementing green infrastructure on District land that is leased to public and private tenants.
- B. Public Leases: For District lands that are leased to other governmental entities and/or for public use, new or renewed leases must incorporate green infrastructure. Typically, the District enters into nominal fee leases with other units of local government, park districts, etc., wherein the local governments then improve the leasehold and make it available for public use/access.

For any new/renewed lease, the lessee must now also pay for and include green infrastructure on its leasehold. The amount of green infrastructure credited will be determined by what is referred to as "Design Retention Capacity" (DRC). DRC shall mean the maximum available retention capacity of a project in any individual storm event as stated in project plans stamped by a licensed Professional Engineer or, in the absence of such statement, a project-specific capacity calculated using the following table:

Technology	Quantity	Unit	Design Retention Capacity (gallons)
Rain Gardens	100	sq. ft.	200
Native Plants/ Landscaping	100	sq. ft.	150
Stormwater Trees	100	Trees	1000
Porous Pavement	100	sq. ft.	1000
Bio-Swales	100	sq. ft.	500
Green Roofs	100	sq. ft.	300
Greenways	100	sq. ft.	63

For nominal fee leases/renewals of leases to governmental entities, the lessee will be required to pay for and install green infrastructure technology. The volume control storage to be provided for any new/renewed lease shall equal the capture of 1-inch of runoff from proposed or existing impervious surfaces within the leasehold and/or 5,000 gallons per leased acre, whichever is higher. Additionally, the lessee shall be responsible for all operations and maintenance of the green infrastructure technology on an ongoing basis for the remainder of the leasehold.

In lieu of, or in addition to, a governmental entity installing green infrastructure on its leasehold with the District, the governmental entity can, and is encouraged to, install green infrastructure in other parts of its community. For green infrastructure installed offsite from the leasehold with the District, to the extent the governmental entity intends to seek credit for meeting its green infrastructure requirements under its leasehold with the District, such off-site green infrastructure must be reviewed and approved by the District prior to the governmental entity seeking such credit for it.

Such factors that the District will consider in whether or not to grant green infrastructure credit include, but are not necessarily limited to, where green infrastructure can mitigate local flooding, reduce infiltration and inflow, or educate the public about green infrastructure and benefit the community as a whole. Any credit given for green infrastructure off-site is solely at the District's discretion, with appropriate signage indicating that such green infrastructure is being done in partnership with the District.

To the extent practicable, governmental entities leasing District land shall use District biosolids in any amendments they perform to the leasehold soil. Such amendments may include, but not necessarily be limited to, creating bio-swales, native landscaping, and recreational fields. To the extent practicable, the District will provide such biosolids free of charge with the local municipality being required to pay for the transportation costs and the costs associated with the soil amendments.

- C. Private Entity/Commercial Leases: For District owned land within the District's service area leased for private use under new and renewed leases, the District has developed the following incentive program to encourage private/commercial lessees to design, implement, operate, and maintain

green infrastructure technology on its leasehold beyond the requirements for volume control storage imposed on the lessee by the District's Watershed Management Ordinance ("WMO"). Article 503 of the WMO requires non-residential development or redevelopment greater than one-half acre to provide volume control storage for the first inch of runoff from newly created impervious surfaces. The WMO's regulations for development and redevelopment are applicable to suburban Cook County but not the city of Chicago. However, for purposes of this section, all private entity/commercial leases, whether in Chicago or suburban Cook County, will be required to conform with the WMO as applicable to the type of use proposed.

The amount of green infrastructure credited will be based on DRC, as defined in paragraph 3.6B, including the table above.

Subject to the minimum rent provisions of Section 8c of the District's Enabling Act (70 ILCS 2605/8c), the District will provide the private lessee with a credit equal to \$0.50 on the \$1.00, up to 10% of the leasehold cost, capped at 10 years, for expenditures and improvements on the leasehold of pre-approved green infrastructure. For example, where a leasehold has an annual rent of \$100,000, that lessee can invest up to \$200,000 in green infrastructure and receive a maximum credit of 10% of the value of that leasehold, capped at 10 years (10% of annual rent = \$10,000 x 10 years), or \$100,000 for pre-approved green infrastructure improvements.

In lieu of, or in addition to, a private lessee installing green infrastructure on its leasehold with the District, a private lessee can, and is encouraged to, design, implement, operate, and maintain green infrastructure in partnership with, and on lands owned by, the local municipality where the leasehold is located. The responsibility for ongoing maintenance and operation shall be borne by the private lessee. For green infrastructure installed off-site from the leasehold with the District, to the extent the private lessee intends to seek monetary credit for its green infrastructure requirements under its leasehold with the District, such off-site green infrastructure must be reviewed and approved by the District prior to the private lessee seeking credit for it.

Such factors that the District will consider in whether or not to grant green infrastructure credit include, but are not necessarily limited to, where green infrastructure can mitigate local flooding, reduce infiltration and inflow, or educate the public about green infrastructure and benefit the community as a whole. Any credit given for green infrastructure off-site is solely at the District's discretion.

The District must pre-approve any such green infrastructure projects, and any invoices seeking a monetary credit shall specifically set forth the green infrastructure component of the project, with the District only providing the offset credit for that component of the project.

For purposes of the offset credit, acceptable green infrastructure technologies include: rain gardens, native plants/landscaping, stormwater trees, porous/permeable pavement, bio-swales, green roofs and greenways.

### 3.7 Signage

#### A. Permissible Signage:

1. District Signs: Signs posted on District property by the District are permitted.
2. Tenant Signs: Signs that identify the name and address of District tenants are permitted provided they comply with applicable local law. Each such sign shall be posted within the boundaries of the District land that is being leased to the tenant, and shall not be posted in a manner that violates the District's Waterway Strategy. The tenant shall comply with all directions from the District, whenever given, as to the make, size, content, and location of the sign. In its sole discretion, the District may allow more than one sign to be posted on site per tenant, but no such additional sign may be posted without the consent of the District, which can be revoked. Upon expiration of the lease agreement, the tenant is responsible for removing the sign from the leased premises.

#### B. Prohibited Signage: No sign, other than what is permitted in subparagraphs A(1) and (2) above, shall be allowed on District property. Billboard signs are specifically prohibited.

### 3.8 Leasing District Land

The private and public leasing of District land shall conform to the following policies, which supplement the requirements contained in the District's Enabling Act.

#### A. Private Leasing

1. Minimum Bid: The minimum acceptable annual rental bid for purposes of private leasing of District land shall be no less than 10% of the highest appraised fair market value of the land.
2. Term: The maximum term for private leases of District land shall be 39 years. However, subject to the District's Enabling Act, a longer term may be allowed by the Board of Commissioners, upon recommendation by the Executive Director, for leases involving a commercial or industrial development where such term is necessary to finance the development.
3. Rent to Be Paid to the District (for standard leases where no special development impediment exists)
  - a. Initial Annual Rent: The initial annual rent payable to the District for private leases of District land shall be no less than 10% of the highest

appraised fair market value of the land. Under no circumstances shall the annual rent ever be less than \$5,000.00.

- b. Annual CPI Adjustments: Except for years when the annual rent is adjusted pursuant to subparagraph (c) of this section below, the rent payable to the District for private leases of District land for each succeeding year after the first year shall be adjusted annually by multiplying the rent in effect for the previous one-year term by the percentage of change in the Consumer Price Index for the Chicago Metropolitan Area, published by the United States Department of Labor, Bureau of Labor Statistics, as established on the first day of January immediate preceding the term of the lease and every January 1<sup>st</sup> thereafter during the term of the lease. In the event the Consumer Price Index is discontinued, the Board of Commissioners shall, in its sole discretion, select and utilize any other economic activity index of the United States government which reasonably reflects economic activity in the Metropolitan Chicago Area.

This subparagraph is limited in scope to rent increases. No adjustment to rent as provided herein shall ever result in a decrease in the amount of annual rent owed to the District.

- c. Ten Year Periodic Rent Adjustments: For private leases of a duration of 15 years or more, on the ten-year anniversary following the effective date of the lease, and every ten-year periodic anniversary thereafter, the rent in effect for the most recent one-year term shall be adjusted and predetermined in accordance with the conclusions of a review of the fair market value of the fee simple estate upon which the leased premises is located, independent of improvements constructed by the tenant on the leased premises after the effective date of the lease, in accordance with appraisal procedures set forth in 70 ILCS 2605/8c. The rent shall be based on the highest appraised value.

The annual rent for each following ten-year period will be increased by multiplying the fair market value of the fee simple estate upon which the leased premises is located by the same percentage used to determine the initial annual rent. The fair market value of the re-appraised fee estate and the rent for the leased premises shall be established by the Board of Commissioners, who shall determine the rent by using the highest appraised fair market value of the fee estate. The appraisals required by the tenant shall be made and dated within the last one hundred twenty (120) days of the ten-year period of the lease which will be expiring. The appraisals shall be delivered to the District no later than forty-five (45) days prior to the end of the ten-year period.

In the event that fair market value and/or the annual rent for the next ten-year period has not been established before the commencement of

any new ten-year period, the tenant shall continue to pay the annual rent in effect for the last year of the prior ten-year period until such time that the reappraisal and decennial rent adjustment has been established. The tenant shall then be responsible for paying any resulting rent increase that would have been owed to the District had the re-appraised rent been established before the expiration of the previous ten-year period. Such payment shall be made within thirty (30) days of the tenant receiving notice of the increase.

All ten-year periodic annual rent adjustments shall be made without regard to the annual rent in effect for the last year of the preceding ten-year period, except for leases entered after September 11, 2007, no increase shall exceed 100% of the rent in effect on the last day of the preceding ten-year period. Upon the establishment of the fair market value and the adjusted annual rent to be paid for that ten-year period, at any time later than the end of any period of the lease, such fair market value and rent shall take effect as of the first (1<sup>st</sup>) day of the period.

This subparagraph is limited in scope to rent increases. No adjustment to rent as provided herein shall ever result in a decrease in the amount of annual rent owed to the District.

- d. Additional Compensation: In addition to the annual rent owed for private leases of District land, the District, in its sole discretion, may also require a tenant to pay in cash a certain percentage of the gross revenues generated by the tenant's use of or activities on the leased premises. In no circumstance shall that percentage exceed 50% of the gross revenues.

#### 4. Sublease or Assignment

- a. Consent: No private lease of District land shall be wholly or partially sublet or assigned to any other party without prior written consent from the District.
- b. Additional Compensation Owed for Sublease: In the event that a sublease or assignment consented to by the District results in payment of rent to the sublessor that exceeds the amount of rent owed to the District under the lease agreement, the District shall be entitled to 50% of the difference in rent between the subtenant's annual rent and the lessee's annual rent. If the sublease provides for a commercial use that generates a net profit, the District, in its sole discretion, may condition its consent to sublease upon receiving 15% of the net profit generated as a result of the sublease.
- c. Penalty for Unauthorized Sublease or Assignment: In addition to other remedies available to the District under the lease agreement, the District shall be entitled to 100% of any fees or rent paid to the

tenant pursuant to any sublease or assignment that was not consented to by the District in accordance with subparagraph (i) above.

5. Environmental Provisions

- a. TACO Tier I Residential Standards: At the expiration of any private lease of District land, the tenant shall restore the leased premises to TACO Tier I Residential Standards, as set forth in 35 IAC 742.500, as amended. In the event the property did not meet such standards at the commencement of the lease through no fault of the tenant or any of its affiliates or subsidiaries, the tenant shall restore the leased premises to the condition it was when the lease first commenced as determined by the District.
- b. Site Remediation Bond: At or before the commencement of the last five-year period of any private lease of District land, the tenant shall lodge with the District an Environmental Site Restoration/Remediation Bond in a penal sum to be determined by the District, secured either by cash, irrevocable letter of credit, or a commercial bond with surety, to secure the tenant's performance of and compliance with the environmental provisions of the lease.

B. Public Leasing

1. Term: The maximum term for the public leasing of District land shall be determined by the Board of Commissioners.
2. Rent to be Paid to the District:
  - a. Land Made Available for Public Recreational Use (Non-Revenue Generating): The only rent that shall be paid to the District for the entire term of any public lease of District land where the leased premises is generally made available for public recreational use and is not used to generate income shall be a fee of \$10.00.
  - b. Land Made Available for Public Recreational Use (Revenue Generating): The annual rent to be paid to the District for any public lease of District land where the leased premises is generally made available for public recreational use that generates income of any kind shall be no less than 6% of the appraised fair market value. If multiple appraisals are obtained, the annual rent shall be no less than 6% of the highest of the appraised values. Under no circumstances shall the annual rent ever be less than \$5,000.00.

However, rather than accepting the greater of 6% of the appraised fair market value or \$5,000.00, the District may instead, at its sole

discretion, accept as rent an initial fee of \$10.00, plus 25% of the net revenue generated as a result of the lease.

c. Land Made Available for Public Non-Recreational Use: The annual rent to be paid to the District for any public lease of District land where the leased premises is used for a public non-recreational use (e.g., fire stations or employee parking lots) shall be no less than 6% of the appraised fair market value. If multiple appraisals are obtained, the annual rent shall be no less than 6% of the highest of the appraised values. Under no circumstances shall the annual rent ever be less than \$5,000.00.

3. Environmental Provisions - TACO Tier I Residential Standards: At the expiration of any public lease of District land, the tenant shall restore the leased premises to TACO Tier I Residential Standards, as set forth in 35 IAC 742.500, as amended. In the event the property did not meet such standards at the commencement of the lease through no fault of the tenant, the tenant shall restore the leased premises to the condition it was when the lease first commenced as determined by the District.

C. Leasing to Academic Institutions of Learning (as specified in 70 ILCS 2605/8c)

1. Term: The maximum term for the leasing of District land to academic institutions of learning shall be determined by the Board of Commissioners.

2. Rent to be Paid to the District: The annual rent to be paid to the District for any lease of District land to any academic institution of learning where the land is used exclusively for the institution's academic or physical education program shall be no less than 6% of the appraised fair market value. If multiple appraisals are obtained, the annual rent shall be no less than 6% of the highest of the appraised values. Under no circumstances shall the annual rent ever be less than \$5,000.00.

3. Environmental Provisions - TACO Tier I Residential Standards: At the expiration of any lease of District land to an academic institution of learning, the tenant shall restore the leased premises to TACO Tier I Residential Standards, as set forth in 35 IAC 742.500, as amended. In the event the property did not meet such standards at the commencement of the lease through no fault of the tenant, the tenant shall restore the leased premises to the condition it was when the lease first commenced as determined by the District.

### 3.9 Easements on District Land

Easements across District land shall be granted only upon recommendation of the Executive Director and approval by the Board of Commissioners. All such easements shall

conform to the following policies, which supplement the requirements contained in the District's Enabling Act.

A. Easements to Private Entities

1. Term: The maximum term for District easements to private entities shall be determined by the Board of Commissioners.
2. Rent to Be Paid to the District
  - a. Initial Annual Rent: The initial annual rent payable to the District for any easement across District land granted to private entities shall be no less than 10% of the fair market value of the land. Under no circumstances shall the annual rent be less than \$5,000.00.
  - b. Annual CPI Adjustments: Except for years when the annual rent is adjusted pursuant to subparagraph (c) of this section below, the rent payable to the District for any easement across District land for each succeeding year after the first year shall be adjusted annually by multiplying the rent in effect for the previous one-year term by the percentage of change in the Consumer Price Index for the Chicago Metropolitan Area, published by the United States Department of Labor, Bureau of Labor Statistics, as established on the first day of January immediate preceding the term of the lease and every January 1<sup>st</sup> thereafter during the term of the lease. In the event the Consumer Price Index is discontinued, the Board of Commissioners shall, in its sole discretion, select and utilize any other economic activity index of the United States government which reasonably reflects economic activity in the Metropolitan Chicago Area.

This subparagraph is limited in scope to rent increases. No adjustment to rent as provided herein shall ever result in a decrease in the amount of annual rent owed to the District.

B. Easements to Governmental Entities

1. Term: The maximum term for any easement across District land granted to governmental entities, such as the federal government, local governments, park districts, school districts, and other similar public entities created by statute, shall be determined by the Board of Commissioners.
2. Annual Rent for Public Recreational Use and Non-Revenue Generating Activities: The only rent that shall be paid to the District for the entire term of any easement across District land granted to such governmental entities where the activity under the easement is for a public use and generates no revenue shall be an initial fee of \$10.00.

3. Annual Rent for All Other Easements: The annual rent that shall be paid to the District for any easement across District land granted to such governmental entities where the activity under the easement is not for a public use or is one that generates revenue shall be no less than 6% of the appraised fair market value. If multiple appraisals are obtained, the annual rent shall be no less than 6% of the highest of the appraised values. Under no circumstances shall the annual rent be less than \$5,000.00.

### 3.10 Permits for Use of District Land

Unless otherwise herein provided, permits for use of District land shall be issued only upon recommendation of the Executive Director and approval by the Board of Commissioners. All such permits shall conform to the following policies, which supplement the requirements contained in the District's Enabling Act.

- A. Term: The maximum term for use of District land pursuant to a District permit of District permits shall be 5 years. Permits may be extended for a greater duration upon recommendation of the Executive Director and at the discretion of the Board of Commissioners, provided the extension is determined by the Board to be in the District's best interests.
- B. Annual Permit Fee:
  1. Public Use: The permit fee payable to the District for use of District land for a public purpose is \$10.00.
  2. All Other Uses (one year or longer): The permit fee payable to the District for uses of District land that are not for a public purpose where the permit is of a duration of one year or longer shall be no less than 10% of the fair market value of the real estate. Under no circumstances shall the annual fee ever be less than \$5,000.00.
  3. All Other Uses (less than one year): The permit fee payable to the District for uses of District land that are not for a public purpose where the permit is of a duration of less than one year shall be no less than 10% of the fair market value of the land. Under no circumstances shall the fee ever be less than \$2,500.00.
- C. Training Exercises by Police, Fire, and Emergency Personnel: Requests by municipalities for use of District land pursuant to a District permit for the purpose of training their police, fire, and emergency response unit personnel shall be streamlined as follows:
  1. Approval: Permits shall be issued by the Executive Director. Board of Commissioners' approval is not required, except when the duration of the training exercise exceeds 14 days, the number of personnel trained exceeds 250, the training exercise has the potential to permanently degrade the natural state of the training site in the District's estimation, or the training exercise involves the use of firearms.

2. Insurance: Standard insurance provisions typically required by the District shall be waived, unless determined otherwise by the Board of Commissioners whenever Board of Commissioners' approval is required.
3. Short Release Document: In lieu of executing the District's standard permit agreement, such entities shall be required to execute a short release document containing an indemnification and hold harmless provision, and an acknowledgement of the District's right to terminate any exercise which interferes with the District's facilities or operations.

Comprehensive Land Use Policy

Chapter 4: 70 ILCS 2605/8, 8a, and 8c (Full Versions)

70 ILCS 2605/8

Sec. 8. Except as otherwise in this Act provided, the sanitary district may acquire by lease, purchase or otherwise within or without its corporate limits, or by condemnation within its corporate limits, any and all real and personal property, right of way and privilege that may be required for its corporate purposes. All moneys for the purchase and condemnation of any property must be paid before possession is taken, or any work done on the premises. In case of an appeal from the Court in which the condemnation proceedings are pending, taken by either party, whereby the amount of damages is not finally determined, the amount of the judgment in the court shall be deposited with the county treasurer of the county in which the judgment is rendered, subject to the payment of damages on orders signed by the judge whenever the amount of damages is finally determined.

Upon recommendation of the executive director and upon the approval by the board of trustees when any real or personal property, right of way or privilege or any interest therein, or any part thereof of such sanitary district is no longer required for the corporate purposes of the sanitary district it may be sold, vacated or released. Such sales, vacations, or releases may be made subject to such conditions and the retention of such interest therein as may be deemed for the best interest of such sanitary district as recommended by the executive director and approved by the board of trustees.

However, the sanitary district may enter into a lease of a building or a part thereof, or acquire title to a building already constructed or to be constructed, for the purpose of securing office space for its administrative corporate functions, the period of such lease not to exceed 15 years except as authorized by the provisions of Section 8b of this Act. In the event of the purchase of such property for administrative corporate functions, the sanitary district may execute a mortgage or other documents of indebtedness as may be required for the unpaid balance, to be paid in not more than 15 annual installments. Annual installments on the mortgage or annual payment on the lease shall be considered a current corporate expense of the year in which they are to be paid, and the amount of such annual installment or payment shall be included in the Annual Appropriation and Corporate Tax Levy Ordinances. Such expense may be incurred, notwithstanding the provisions, if any applicable, contained in any other Sections of this Act.

The sanitary district may dedicate to the public for highway purposes any of its real property and the dedications may be made subject to such conditions and the retention of such interests therein as considered in the best interests of the sanitary district by the board of trustees upon recommendation of the executive director.

The sanitary district may lease to others for any period of time, not to exceed 99 years, upon the terms as its board of trustees upon recommendation of the executive director may determine, any such real property, right-of-way or privilege, or any interest therein or any part thereof, which is in the opinion of the board of trustees and executive director of the sanitary district no longer required for its corporate purposes or which may not be immediately needed for such purposes. The leases may contain such terms and conditions, including restrictions as to permissible use of the real property, and retain such interests therein as considered in the best interests of the sanitary district by the board of trustees upon recommendation of the executive director. Negotiations and execution of such leases and preparatory activities in connection therewith must comply with Section 8c of this Act. The sanitary district may grant easements and permits for the use of any such real property, right-of-way, or privilege, which will not in the opinion of the board of trustees and executive director of the sanitary district interfere with the use thereof by the sanitary district for its corporate purposes. Such easements and permits may contain such

conditions and retain such interests therein as considered in the best interests of the sanitary district by the board of trustees upon recommendation of the executive director.

No sales, vacations, dedications for highway purposes, or leases for periods in excess of 5 years, of the following described real estate, may be made or granted by the sanitary district without the approval in writing of the Director of Natural Resources of the State of Illinois:

All the right-of-way of the Calumet-Sag Channel of the sanitary district extending from the Little Calumet River near Blue Island, Illinois, to the right-of-way of the main channel of the sanitary district near Sag, Illinois.

Lots 1, 3, 5, 21, 30, 31, 32, 33, 46, 48, 50, 52, 88, 89, 89a, 90, 91, 130, 132, 133, those parts of Lots 134 and 139 lying northeasterly of a tract of land leased to the Corn Products Manufacturing Company from January 1, 1908, to December 31, 2006; 1000 feet of Lot 141 lying southwesterly of and adjoining the above mentioned leased tract measured parallel with the main channel of the sanitary district; Lots 166, 168, 207, 208, and part of Lot 211 lying northeasterly of a line 1500 feet southwesterly of the center line of Stephen Street, Lemont, Illinois, and parallel with said street measured parallel with said main channel; and Lot 212 of the Sanitary District Trustees Subdivision of right-of-way from the north and south center line of Section 30, Township 39 North, Range 14 East of the Third Principal Meridian, to Will County line.

That part of the right-of-way of the main channel of the sanitary district in Section 14, Township 37 North, Range 11 East of the Third Principal Meridian, lying southerly of said main channel, northerly of the Northerly Reserve Line of the Illinois and Michigan Canal, and westerly of the Center line of the old channel of the Des Plaines River.

That part of said main channel right-of-way in Section 35, Township 37 North, Range 10 East of the Third Principal Meridian, lying east of said main channel and south of a line 1,319.1 feet north of and parallel with the south line of said Section 35.

That part of said main channel right-of-way in the northeast quarter of the northwest quarter of Section 2, Township 36 North, Range 10 East of the Third Principal Meridian, lying east of said main channel.

That part of said main channel right-of-way lying south of Ninth Street in Lockport, Illinois.

Notwithstanding any other law, if any surplus real estate is located in an unincorporated territory and if that real estate is contiguous to only one municipality, 60 days before the sale of that real estate, the sanitary district shall notify in writing the contiguous municipality of the proposed sale. Prior to the sale of the real estate, the municipality shall notify in writing the sanitary district that the municipality will or will not annex the surplus real estate. If the contiguous municipality will annex such surplus real estate, then coincident with the completion of the sale of that real estate by the sanitary district, that real estate shall be automatically annexed to the contiguous municipality.

All sales of real estate by the sanitary district must be for cash, to the highest bidder upon open competitive bids, and the proceeds of the sales may be used only for the construction and equipment of sewage disposal plants, pumping stations and intercepting sewers and appurtenances thereto, the acquisition of sites and easements therefor, and the financing of the Local Government Assistance Program established under Section 9.6c.

However, the sanitary district may:

(a) Remise, release, quit claim and convey, without the approval by the Department of Natural Resources of the State of Illinois acting by and through its Director, to the United States of America without any consideration to be paid therefor, in aid of the widening of the Calumet-Sag Channel of the sanitary district by the United States of America, all those

certain lands, tenements and hereditaments of every kind and nature of that portion of the established right-of-way of the Calumet-Sag Channel lying east of the east line of Ashland Avenue, in Blue Island, Illinois, and south of the center line of the channel except such portion thereof as is needed for the operation and maintenance of and access to the controlling works lock of the sanitary district:

(b) Without the approval by the Department of Natural Resources of the State of Illinois acting by and through its Director, give and grant to the United States of America without any consideration to be paid therefor the right, privilege and authority to widen the Calumet-Sag Channel and for that purpose to enter upon and use in the work of such widening and for the disposal of spoil therefrom all that part of the right-of-way of the Calumet-Sag Channel owned by the sanitary district lying south of the center line of the Calumet-Sag Channel from its connection with the main channel of the sanitary district to the east line of Ashland Avenue in Blue Island, Illinois;

(c) Make alterations to any structure made necessary by such widening and to construct, reconstruct or otherwise alter the existing highway bridges of the sanitary district across the Calumet-Sag Channel;

(d) Give and grant to the United States of America without any consideration to be paid therefor the right to maintain the widened Calumet-Sag Channel without the occupation or use of or jurisdiction over any property of the sanitary district adjoining and adjacent to such widened channel;

(e) Acquire by lease, purchase, condemnation or otherwise, whatever land, easements or rights of way, not presently owned by it, that may be required by the United States of America in constructing the Calumet-Sag Navigation Project, as approved in Public Law 525, 79th Congress, Second Session as described in House Document No. 677 for widening and dredging the Calumet-Sag Channel, in improving the Little Calumet River between the eastern end of the Sag Channel and Turning Basin No. 5, and in improving the Calumet River between Calumet Harbor and Lake Calumet;

(f) Furnish free of cost to the United States all lands, easements, rights-of-way and soil disposal areas necessary for the new work and for subsequent maintenance by the United States;

(g) Provide for the necessary relocations of all utilities.

Whatever land acquired by the sanitary district may thereafter be determined by the Board of Trustees upon recommendation of the executive director as not being needed by the United States for the purposes of constructing and maintaining the Calumet-Sag Navigation Project as above described, shall be retained by the sanitary district for its corporate purposes, or be sold, with all convenient speed, vacated or released (but not leased) as its Board of Trustees upon recommendation of the executive director may determine. All sales of such real estate must be for cash, to the highest bidder upon open, competitive bids, and the proceeds of the sales may be used only for the purpose of paying principal and interest upon the bonds authorized by this Act, and if no bonds are then outstanding, for the purpose of paying principal and interest upon any general obligation bonds of the sanitary district, and for corporate purposes of the sanitary district. When the proceeds are used to pay bonds and interest, proper abatement shall be made in the taxes next extended for such bonds and interest.

(Source: P.A. 95-604, eff. 9-11-07; 95-923, eff. 1-1-09.)

Sec. 8a. The Sanitary District, in addition to the other powers vested in it, is empowered, with the approval by the Department of Natural Resources as successor to the Department of Transportation and the Department of Purchases and Construction of the State of Illinois, through its Director, to remise, release, quit claim, grant, convey and transfer all its right, title and interest in and to any and all lands, tenements and hereditaments and in and to any and all property, including structures, of every kind and nature or rights to or in, under, over and adjoining the Main Channel, Main Channel Extension, Calumet-Sag Channel and the North Shore Channel of the Sanitary District and for improvements made by the Sanitary District in, under, over and adjoining the Chicago River, the Calumet River, the Des Plaines River and tributaries thereto, and any and all other land, property or structures of the Sanitary District, to the United States of America, the State of Illinois, the County of Cook or/and any Municipal Corporation, upon such terms as may be mutually agreed upon by the Sanitary District and the United States of America, the State of Illinois, the County of Cook or/and any Municipal Corporation; and the Board of Trustees of the Sanitary District is empowered to and may authorize the doing of all things and acts, and the execution of such documents and instruments and adopt such resolutions and ordinances in connection therewith that may be required, and the provisions of this Section 8a shall constitute complete authority for the performance of all acts herein provided without reference to other laws and shall be construed as conferring powers in addition to, but not limiting, powers granted under other existing laws.

The proceeds derived from any such sale or transfer to the United States of America shall, unless Congress shall otherwise provide, be used only for paying the costs of controlling works in the Chicago River, the completion, construction and enlargement of sewage treatment works, and additions therefor, pumping stations, tunnels, conduits and intercepting sewers connecting therewith, and outlet sewers, together with the equipment and appurtenances necessary thereto, and for the acquisition of the sites and rights of way necessary thereto, and for engineering expenses for designing and supervising the construction of the works above described, which works are made necessary by the decree of the Supreme Court of the United States in the consolidated cases entitled "Wisconsin et al. v. The State of Illinois and The Sanitary District of Chicago", numbers 7, 11 and 12 original. Any excess of the proceeds, not required for the cost of construction of the works made necessary by the decree, may be used for the construction of sewage disposal plants and equipment thereof, pumping stations, and intercepting sewers and appurtenances thereto, the acquisition of sites and easements therefor and the expense of design and supervision of the construction thereof.

70 ILCS 2605/8c

Sec. 8c. Every lease of property no longer or not immediately required for corporate purposes of a sanitary district, from such district to others for a term not to exceed 99 years, in accordance with Section 8 of this Act, shall be negotiated, created and executed in the following manner:

(1) Notice of such proposed leasing shall be published for 3 consecutive weeks in a newspaper of general circulation published in such sanitary district, if any, and otherwise in the county containing such district.

(2) Prior to receipt of bids for the lease under this Section, the fair market value of every parcel of real property to be leased must be determined by 2 professional appraisers who are members of the American Institute of Real Estate Appraisers or a similar, equivalently recognized professional organization. The sanitary district acting through the executive director may select and engage an additional appraiser for such determination of fair market value. Every appraisal report must contain an affidavit certifying the absence of any collusion involving the appraiser and relating to the lease of such property.

(3) No lease may be awarded unless the bid of such highest responsible bidder provides for an annual rental payment to the sanitary district of at least 6% of the parcel's fair market value determined under this Section, provided however, if the sanitary district determines that a parcel contains a special development impediment, defined as any condition that constitutes a material impediment to the development or lease of a parcel, and includes, but is not limited to: environmental contamination, obsolescence, or advanced disrepair of improvements or structures, or accumulation of large quantities of non-indigenous materials, the sanitary district may establish a minimum acceptable initial annual rental of less than 6% of the parcel's fair market value for the initial 10 years of the lease. In no event will the annual rental payment for each 10-year period after the initial 10 years of the lease be less than the 6% of the parcel's fair market value determined under this Section. Every lease must be awarded to the highest responsible bidder (including established commercial or industrial concerns and financially responsible individuals) upon free and open competitive bids. In determining the responsibility of any bidder, the sanitary district may consider, in addition to financial responsibility, any past records of transactions with the bidder and any other pertinent factors, including but not limited to, the bidder's performance or past record with respect to any lease, use, occupancy, or trespass of sanitary district or other lands.

(4) Prior to acceptance of the bid of the highest responsible bidder and before execution of the lease the bidder shall submit to the board of commissioners and executive director, for incorporation in the lease, a detailed plan and description of improvements to be constructed upon the leased property, the time within which the improvements will be completed, and the intended uses of the leased property. If there is more than one responsible bid, the board of commissioners may authorize and direct the executive director to solicit from the 2 highest responsible bidders written amendments to their prior bids, increasing their rental bid proposal by at least 5% in excess of their prior written bid, or otherwise amending the financial terms of their bid so as to maximize the financial return to the sanitary district during the term of the proposed lease. Upon the executive director's tentative agreement with one or more amended bids, the bids may be submitted to the board of commissioners with the recommendation of the executive director for acceptance of one or rejection of all. The amendments may not result in a

diminution of the terms of the transaction and must result in an agreement that is equal to or greater in value than the highest responsible bid initially received.

(5) The execution of such lease must be contemporaneous to the execution by the lessee, each member of the board of commissioners and the executive director of an affidavit certifying the absence of any collusion involving the lessee, the members and the executive director and relating to such lease.

(6) No later than 30 days after the effective date of the lease, the lessee must deliver to the sanitary district a certified statement of the County Assessor, Township Assessor or the county clerk of the county wherein the property is situated that such property is presently contained in the official list of lands and lots to be assessed for taxes for the several towns or taxing districts in his county.

(7) Such lease may be subject to annual adjustments based on changes in the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics, or some other well known economic governmental activity index. Any lease, the term of which will extend for 15 years or more, shall provide for a redetermination of the fair market value (independent of improvements to the property subsequent to the effective date of the lease) after the initial 10 years and every 10 years thereafter, in the manner set forth in paragraph (2) of this Section, which redetermination shall be referred to as the decennial adjustment. Where the property rental is less than 6% of fair market value due to the existence of a special development impediment, the first decennial adjustment shall not occur until the twentieth year of the lease. Such redetermination shall be as of the first day of each succeeding 10 year period, and annual rental payments shall be adjusted so that the ratio of annual rental to fair market value shall be the same as that ratio for the first year of the preceding 10 year period. The decennial adjustment shall not exceed 100% of the rental in effect on the last day of the preceding 10-year period, except when the property rental is less than 6% of fair market value due to the existence of a special development impediment, in which case, the decennial adjustment shall not be so limited until the twentieth year of the lease. The rental payment for the first year of the new 10 year period may be subject to Consumer Price Index or other allowable index adjustments for each of the next 9 years, or until the end of the lease term if there are less than 9 years remaining.

(8) A sanitary district may require compensation to be paid in addition to rent, based on a reasonable percentage of revenues derived from a lessee's business operations on the leasehold premises or subleases, or may require additional compensation from the lessee or any sublessee in the form of services, including but not limited to solid waste disposal; provided, however, that such additional compensation shall not be considered in determining the highest responsible bid, said highest responsible bid to be determined only on the initial annual rental payment as set forth in paragraph (3) of this Section.

(9) No assignment of such lease or sublease of such property is effective unless approved in writing by the executive director and the board of commissioners of the sanitary district. The district may consider, for any assignment or sublease, all pertinent factors including the assignee's or sublessee's responsibility in accordance with subparagraph (3) of this Section. The sanitary district may also condition its consent upon the redetermination of the annual rental required to be paid under any lease initially executed on or before January 1, 1983, for which the annual rent being paid thereunder is less than 6% of the current appraised fair market value of the leased property. The redetermination of any annual rental under this Section shall be consistent with the requirements of subparagraphs (2) and (3) of this Section. No assignment or sublease is effective if the assignee or sublessee is a trust constituted by

real property of which the trustee has title but no power of management or control, unless the identity of the beneficiaries of the trust is revealed, upon demand, to the executive director and the board of commissioners of the sanitary district.

(10) Failure by the lessee to comply with a provision in the lease relating to improvements upon the leased property or any other provision constitutes grounds for forfeiture of the lease, and upon such failure the sanitary district acting through the executive director shall serve the lessee with a notice to terminate the lease and deliver possession of the property to the sanitary district within a particular period.

(11) If the executive director and the board of commissioners conclude that it would be in the public interest, said sanitary district may lease without complying with the prior provisions of this Section, in accordance with an Act concerning "Transfer of Real Estate between Municipal Corporations", approved July 2, 1925, as amended, to the following, upon such terms as may be mutually agreeable: (a) the United States of America and the State of Illinois, County of Cook, any municipal corporation, with provisions that the property is to be applied exclusively for public recreational purposes or other public purposes; (b) any academic institution of learning which has been in existence for 5 years prior to said lease, provided that such lease limit the institution's use of the leased land to only those purposes relating to the operation of such institution's academic or physical educational programs; or (c) any lease involving land located in a county with a population of 100,000 or less and which is leased solely for agricultural or commercial recreational uses. Any lease issued in accordance with this paragraph shall contain the provisions that such lease is terminable in accordance with service of a one-year notice to terminate after determination by the board of commissioners and the executive director that such property (or part thereof) has become essential to the corporate purposes of the sanitary district.

(Source: P.A. 95-604, eff. 9-11-07; 95-923, eff. 1-1-09.)

## The District's Waterway Strategy

### A. District Lands Contiguous to Waterways

1. **Setback Requirements:** It is the intent of the District to have a well-maintained and attractive river edge of all of the property it owns adjacent to waterways, including the Chicago River, the Chicago Sanitary & Ship Canal (a.k.a. Main Channel), the North Shore Channel, and the Cal-Sag Channel. In order to accomplish this goal, the District requires a waterway edge easement to be included in its land leases. Unless otherwise authorized by the Board of Commissioners, the width of the easement shall be a minimum of 60 feet and up to 100 feet, when feasible. Such width shall be measured from the edge of the water at normal water levels, then inward across the leased premises at a 90 degree angle, or best approximation thereof, from the water's edge. No lessee of the District shall cause, or allow to be caused, any impediment to be constructed or placed upon such easement, whether it be a permanent structure such as a building, or moveable objects such as unsightly materials and debris. Buildings existing at the time this policy is enacted shall be grandfathered in.
2. **Bank Stabilization and Landscaped Visual Screening.** All lessees shall be responsible for bank stabilization and the construction and maintenance of a landscaped visual screen that effectively screens the leased premises from the viewpoint of the waterway edge easement. The recommended landscaped visual screen, whenever possible, shall consist of native vegetative cover. In the event that site development necessitates removal of existing vegetative cover, the lessee shall be required to promptly reestablish native vegetative cover in the same quantities as those removed during the development.
3. **Penalties:** Any lessee's failure to comply with the requirements contained in subsections A(1) and A(2) above shall constitute a breach of the lease agreement by the lessee and shall be grounds for the District, at its option, to terminate the lease agreement. The District shall also have the right to recover from the lessee any and all reasonable costs associated with correcting each such violation, including, but not limited to, remediation costs to have the violations corrected, as well as court costs and attorneys' fees for filing an action in circuit court seeking an order to have the lease agreement terminated on these grounds.

### B. North Shore Channel – Additional Requirements

1. **Limitations on Use of Lands Contiguous to North Shore Channel:** All District lands contiguous to either side of the North Shore Channel, starting from the south at Devon Avenue and continuing north to, and including, Wilmette harbor, shall be dedicated and used exclusively as open green space and public recreational use.
2. **Special Lease Conditions:** All District leases pertaining to lands contiguous to the North Shore Channel shall require continuous trails, boat access, and bank stabilization; however, in the case of renewed District leases to public agencies, the stated policy shall apply only to the extent it is economically feasible and consistent with existing public uses.

- C. **Exceptions:** any use of District land that is prohibited by or inconsistent with the terms of this Paragraph 3.4 shall be permitted only upon one or more of the following conditions:

1. **Uses Permitted Under Pre-Existing Leases:** The use is authorized by the terms of an unexpired lease agreement with the District that was entered into before the date of passage of this Comprehensive Land use Policy. Such use shall continue to be permitted until such time as the lease agreement expires or is terminated, unless otherwise extended by the Board of Commissioners.
2. **Variances:** the use is authorized by a variance granted by the Board of Commissioners whenever, and to the extent, it deems that the variance is necessary and in the best interests of the District considering the location, existing topography and vegetation, and use or proposed use of the leased premises. All variances shall be granted only by approval of the Board of Commissioners at its sole discretion, with recommendation by the Executive Director.
3. **Waterborne Commerce:** The use is for the purpose of waterborne commerce pursuant to a lease agreement with the District. In such instances, no variance from the Board of Commissioners is necessary. However, the lessee shall, to the extent possible, construct and maintain a docking facility compatible with the visual intent of the scenic easement, with the District maintaining the sole discretion to determine whether compatibility has been achieved.

# Metropolitan Water Reclamation District of Greater Chicago



Visit [www.mwrd.org](http://www.mwrd.org), and click "Business with Us" then "Real Estate" to see:  
 \* Atlases of the District's channel waterways designating current uses  
 \* the District's standard lease form