RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF BARRINGTON HILLS AND THE METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

WHEREAS, the Village of Barrington Hills (the "Village") is a home-rule municipality pursuant to Article VII, Section 6, of the Constitution of the State of Illinois, and as such is authorized to take all reasonable action pertaining to its affairs in accordance therewith; and

WHEREAS, pursuant to Illinois law, the Metropolitan Water Reclamation District of Greater Chicago ("District") is vested by Illinois law with the general supervision of stormwater management in Cook County; and

WHEREAS, the District is allowed by law to prescribe by ordinance reasonable rules and regulations for floodplain and stormwater management and for governing the location, width, course and release rate of all stormwater runoff channels, streams, and basins in Cook County; and

WHERAS, the District's Board of Commissioners adopted, on October 3, 2013, an ordinance which has been amended from time to time, captioned "Watershed Management Ordinance" ("WMO") which defines a multi-county municipality as a municipality containing corporate area within both Cook County and an Illinois county located contiguously adjacent to Cook County; and

WHEREAS, the Village is a multi-county municipality, having corporate area in both Cook and Lake Counties; and

WHEREAS, Article 2 of the WMO provides and allows a multi-county municipality to adopt and enforce the stormwater management ordinance of a county adjacent to the District if the municipality has corporate are within the adjacent county; and

WHEREAS, the Village has historically adopted the Lake County Watershed Development Ordinance, most recently on August 26, 2013, through adoption of Ordinance No. 13-14, through which the Village adopted as its own the rules and regulations for floodplain and stormwater management in the Village, which regulations have been codified in the Village Code in Chapter 2, Building Code, section 4-2-10(A); and

WHEREAS, pursuant to the WMO, the Village has notified the District of its intent to adopt, and adoption of the Lake County Watershed Development Ordinance, and, now, must enter into an Intergovernmental Agreement with the District setting forth the terms by which the District will allow the Village to enforce floodplain and stormwater management under the Lake County Ordinance; and

WHEREAS, based on staff recommendation, the President and Board of Trustees have determined execution of Intergovernmental Agreement as set forth in Exhibit "A" is in the best interests of the Village.

NOW, THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of Barrington Hills, located in the Counties of Cook, Kane, Lake and McHenry, Illinois, as follows:

SECTION ONE: The recitals set forth above are incorporated herein and made a part hereof.

SECTION TWO: The Village President is authorized to execute the

Intergovernmental Agreement attached hereto as Exhibit "A," and the Village Clerk to attest thereto.

SECTION THREE: That the appropriate Village staff and retained engineers are hereby directed and required to fulfill the terms of the Intergovernmental Agreement and to follow the rules, regulations and requirements of the Lake County Watershed Development, as adopted and codified in the Village Code, in Chapter 2, Building Code, as section 4-2-10(A).

SECTION FOUR: This Resolution shall take effect immediately upon its passage and approval as provided by law.

Ayes: Nays: Absent:

PASSED AND APPROVED by the President and Board of Trustees of the Village of Barrington Hills, Illinois, this 22nd day of June, 2015.

APPROVED:

_____
Village President

ATTEST:

_____
Village Clerk

MULTI-COUNTY MUNICIPALITY INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF BARRINGTON HILLS AND THE METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

THIS INTERGOVERNMENTAL AGREEMENT (hereinafter the "Agreement") is entered into by and between the Metropolitan Water Reclamation District of Greater Chicago, a unit of local government and body corporate and politic, organized and existing under the laws of the State of Illinois (hereinafter the "District") and the Village of Barrington Hills, a municipal corporation and home rule unit of government organized and existing under Article VII, Section 6 of the 1970 Constitution of the State of Illinois (hereinafter the "Municipality").

WITNESSETH:

WHEREAS, on November 17, 2004, the Illinois General Assembly passed Public Act 093-1049 (hereinafter the "Act") as amended on June 18, 2014, by Public Act 098-0652; and

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

WHEREAS, the Act specifically authorizes the District to prescribe by ordinance reasonable rules and regulations for floodplain and stormwater management and for governing the location, width, course, and release rate of all stormwater runoff channels, streams, and basins in Cook County; and

WHEREAS, the Watershed Management Ordinance (hereinafter the "WMO"), attached hereto as Exhibit 1, was adopted by the District's Board of Commissioners on October 3, 2013, amended on April 17, 2014, and became effective on May 1, 2014, and was further amended on July 10, 2014; and

WHEREAS, the WMO defines a multi-county municipality as a municipality containing corporate area within both Cook County and an Illinois county located contiguously adjacent to Cook County; and

WHEREAS, along the common border between Cook County and Lake County, the Municipality has corporate area within both Cook County and Lake County and is therefore considered to be a multi-county municipality; and

WHEREAS, Article 2 of the WMO provides and allows that a multi-county municipality may adopt and enforce the stormwater management ordinance of a county adjacent to the District if the municipality has corporate area within the adjacent county; and

WHEREAS, Lake County adopted the Lake County Watershed Development Ordinance (hereinafter "LCWDO") pursuant to statutory authorization in the Counties Code at 55 ILCS 5/5-1062; and

WHEREAS, the LCWDO prescribes by ordinance reasonable rules and regulations for floodplain and stormwater management in Lake County; and

WHEREAS, the Municipality submitted to the District a Letter of Intent to adopt, administer and enforce the Lake County "LCWDO" within the corporate area of the Municipality, said Letter of Intent bearing the date of June 18, 2014, and

WHEREAS, pursuant to the Illinois Municipal Code, 65 ILCS 5/1 *et seq.*, the Municipality has the authority to adopt the LCWDO by reference; and

WHEREAS, on September 26, 2011, the Municipality's Board of Trustees adopted the LCWDO by reference; and

WHEREAS, floodplain and stormwater management may be administered more effectively and uniformly with the Municipality and District cooperating and using their joint efforts and resources most efficiently; and

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

WHEREAS, on June 18, 2015, the District's Board of Commissioners authorized the District to enter into an intergovernmental agreement with the Municipality; and

WHEREAS, on _____ ___, 2015, the Municipality's Board of Trustees authorized the Municipality to enter into an intergovernmental agreement with the District; and

NOW THEREFORE, in consideration of the matters set forth, the mutual covenants and agreements contained in this agreement and other good and valuable consideration, the Municipality and District hereby agree as follows:

Article 1. Incorporation of Recitals

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

Article 2. General Responsibilities of the Municipality

1. The Municipality shall adopt by reference or otherwise the LCWDO, including all amendments thereto as may be made from time to time.
2. The Municipality shall administer the LCWDO within its corporate area in conformance with the provisions of the LCWDO.
3. The Municipality shall issue permits for as required by the LCWDO within its corporate area in conformance with the terms and conditions of the LCWDO.
4. The Municipality shall enforce the LCWDO within its corporate area.
5. The Municipality shall either employ or retain adequate staff as required by the LCWDO.
6. The Municipality shall maintain all records as required by the LCWDO.

Article 3. Watershed Management Permits

1. A Watershed Management Permit shall not be required from the District for any development activity enumerated in Article 2, Section 201.1 of the WMO proposed within the Municipality's corporate limits. For such development activities, the Municipality shall issue permits within its corporate area in conformance with the terms and conditions of the LCWDO.
2. A Watershed Management Permit shall be required from the District for any development activity enumerated in Article 2, Section 201.2 of the WMO proposed within both the Municipality's corporate area and within Cook County or the area bound by an MWRD Extraterritorial Service Agreement outside of Cook County.
3. Upon request, the Municipality shall reasonably cooperate with the District on administrative proceedings related to variances, appeals, and violations of the WMO. The Municipality's reasonable cooperation shall include assistance in the form of supporting documents, information, and, if necessary, testimony.

Article 4. Inspections

1. The Municipality shall inspect the construction and operations related to any development activity located within the corporate area of the Municipality as required by and in conformance with the LCWDO.
2. In conformance with Article 10 and Article 2, Section 205 of the WMO, the District may inspect any development subject to a Watershed Management Permit within the

Municipality to ensure compliance with both the Watershed Management Permit and the WMO.

3. Any inspections performed pursuant to this Agreement shall be conducted in accordance with the WMO, the LCWDO, and all other applicable local, state, and federal laws.

Article 5. Stop-Work Orders

The Municipality may issue an order requiring the suspension of construction of a development that is subject to the LCWDO in conformance with its statutory authority and the provision of the LCWDO.

Article 6. Violations

1. The Municipality shall investigate complaints of violation of the LCWDO, and/or a permit issued by the Municipality under the LCWDO in conformance with the requirements of the LCWDO.
2. The Municipality shall conduct or otherwise be responsible under this Agreement for all administrative proceedings to remedy violations of the LCWDO or of a permit issued by the Municipality under the LCWDO - in conformance with the applicable provisions of that ordinance.
3. The Municipality shall notify the District within 72 hours of any suspected violation of either the WMO or of a Watershed Management Permit within the corporate area of the Municipality within Cook County or the Extraterritorial Service Agreement area.
4. The District shall solely conduct or otherwise be responsible for all administrative proceedings to remedy violations of either the WMO or of a Watershed Management Permit issued under the WMO within the corporate area of the Municipality within Cook County or the Extraterritorial Service Agreement area.

Article 7. Audits

1. The District may audit the Municipality periodically to ensure compliance with this Agreement.
2. During an audit, the District may:
    a. Meet with staff of the Municipality, which may include an enforcement officer, Professional Engineer, and wetland specialist;

b. Verify that the Municipality complies with all requirements listed in Article 2, Section 207.2 of the WMO;
c. Verify that permits the Municipality issued are in conformance to the LCWDO; and
d. Verify compliance with this Agreement.

Article 8. Termination by the Municipality

1. The Municipality may, at its option, and upon giving a sixty (60) day written notice to the District in the manner provided in Article 25 below, terminate this Agreement.
2. In the event of termination of this Agreement by the Municipality as allowed in Article 8, Section 1 of this Agreement, all provisions of the WMO shall thereafter apply within the Cook County portion of the Municipality and a Watershed Management Permit shall be required from the District for any development activity enumerated in Article 2, Sections 201.1 and 201.2 of the WMO proposed within the Municipality's corporate area in Cook County. A Watershed Management Permit will continue to be required for all qualified sewer construction within the Extraterritorial Service Agreement area. All permits issued before termination by the Municipality under the LCWDO for development activity located in the Cook County portion of the Municipality shall remain valid and shall be administered by the District.

Article 9. Suspension or Termination by the District

1. The District may terminate this agreement for any of the following reasons:
   a. Failure by the Municipality to adopt the LCWDO, including all amendments, by reference; or
   b. Adoption of an ordinance by the Municipality with less stringent standards than the LCWDO; or
   c. Failure of the Municipality to administer or enforce the LCWDO; or
   d. Failure by the Municipality to comply with any requirement of Section 207.2 of the WMO; or
   e. Breach of this Agreement by the Municipality;
2. The District may also terminate this Agreement if the Municipality's legal authority to administer the LCWDO is revoked by statute, ordinance, or court order;
3. The District shall promptly notify the Municipality of any deficiency with respect to any provision of this Agreement, which the Municipality must remedy within thirty (30)

calendar days. In cases where a deficiency cannot be remedied within thirty (30) calendar days, the District may grant a time extension to the Municipality.

4. If the Municipality does not remedy the deficiency as required by Article 9, Section 3 of this Agreement, the District may either terminate or suspend this Agreement.
5. In the event of termination or suspension of this Agreement by the District, all provisions of the WMO shall thereafter apply within Cook County and a Watershed Management Permit shall be required from the District for any development activity enumerated in Article 2, Sections 201.1 and 201.2 of the WMO proposed within the Municipality's corporate area in Cook County. A Watershed Management Permit will continue to be required for all qualified sewer construction within the Extraterritorial Service Agreement area. All permits issued before termination by the Municipality under the LCWDO for development activity located in the Cook County portion of the Municipality shall remain valid and shall be administered by the District.

Article 10. Duration

This Agreement becomes effective on the date that the last signature is affixed hereto. Subject to the terms and conditions of Articles 8 and 9 above, this Agreement shall remain in full force and effect for perpetuity.

Article 11. Non-Assignment

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

Article 12. Waiver of Personal Liability

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

Article 13. Indemnification

The Municipality shall defend, indemnify, and hold harmless the District, its commissioners, officers, employees, and other agents ("District Party") from liabilities of every kind, including losses, damages and reasonable costs, payments and expenses (such as, but not limited to, court costs and reasonable attorneys' fees and disbursements), claims, demands, actions, suits, proceedings, judgments or settlements, any or all of which are asserted by any individual, private entity, or public entity against the District Party and arise out of, or are in any way related to any authority, duty, or obligation bestowed on the Municipality pursuant to this Agreement and/or the WMO.

Article 14. Covenants, Representations, and Warranties of the Municipality

The Municipality covenants, represents, and warrants as follows:

(1) The Municipality has legal authority to perform all responsibilities of the LCWDO and this Agreement;

(2) The Municipality has legal authority to adopt the LCWDO and has adopted the LCWDO, including all amendments, by reference;

(3) The Municipality has legal authority to issue stop work orders as allowed under the LCWDO;

(4) The Municipality has full authority to execute, deliver, and perform or cause to be performed this Agreement;

(5) The individuals signing this Agreement and all other documents executed on behalf of the Municipality are duly authorized to sign same on behalf of and to bind the Municipality; and

(6) The execution and delivery of this Agreement, consummation of the transactions provided for herein, and the fulfillment of the terms hereof will not result in any breach of any of the terms or provisions of or constitute a default under any agreement of the Municipality or any instrument to which the Municipality is bound or any judgment, decree, or order of any court or governmental body or any applicable law, rule, or regulation.

Article 15. Covenants, Representations, and Warranties of the District

The District covenants, represents, and warrants as follows:

(1) The District has full authority to execute, deliver, and perform or cause to be performed this Agreement;

(2) The individuals signing this Agreement and all other documents executed on behalf of the District are duly authorized to sign same on behalf of and to bind the District;

(3) The execution and delivery of this Agreement, consummation of the transactions provided for herein, and the fulfillment of the terms hereof will not result in any breach of any of the terms or provisions of or constitute a default under any agreement of the District or any instrument to which the District is bound or any judgment, decree, or order of any court or governmental body or any applicable law, rule, or regulation.

Article 16. Disclaimers

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

Article 17. Waivers

Whenever a party to this Agreement by proper authority waives the other party's performance in any respect or waives a requirement or condition to performance, the waiver so granted, whether express or implied, shall only apply to the particular instance and shall not be deemed a waiver for subsequent instances of the performance, requirement, or condition. No such waiver shall be construed as a modification of this Agreement regardless of the number of times the performance, requirement, or condition may have been waived.

Article 18. Severability

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

Article 19. Deemed Inclusion

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

Article 20. Entire Agreement

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

Article 21. Amendments

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

Article 22. References to Documents

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

Article 23. Judicial and Administrative Remedies

The parties agree that this Agreement and any subsequent Amendment shall be governed by, and construed and enforced in accordance with, the laws of the State of Illinois in all respects, including matters of construction, validity, and performance. The parties further agree that the proper venue to resolve any dispute which may arise out of this Agreement is the appropriate Court of competent jurisdiction located in Cook County, Illinois.

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

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

Article 24. Notices

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

Any and all notices referred to in this Agreement, or that either party desires to give to the other, shall be addressed as set forth in Article 25, unless otherwise specified and agreed to by the parties:

Article 25. Representatives

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

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

For the Municipality:
Village President
112 Algonquin Road
Barrington Hills, Illinois 60010
Phone: (847) 551-3000
FAX: (847) 551-3050

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

IN WITNESS WHEREOF, the Metropolitan Water Reclamation District of Greater Chicago and the Village of Barrington Hills, the parties hereto, have each caused this Agreement to be executed by their duly authorized officers, duly attested and their seals hereunto affixed on the dates specified below.

VILLAGE OF BARRINGTON HILLS

BY:_____ DATE:_____

Martin J. McLaughlin, Village President

ATTEST:

_____ DATE:_____

Anna Paul, Village Clerk

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO

_____ _____
Chairman of the Committee on Stormwater Management Date

_____ _____
Executive Director Date

ATTEST:

_____
Clerk

_____
Date

APPROVED AS TO ENGINEERING AND TECHNICAL MATTERS:

_____ _____
Engineer of Local Sewer Systems Date

_____ _____
Assistant Director of Engineering Date

_____ _____
Director of Engineering Date

APPROVED AS TO FORM AND LEGALITY:

_____ _____
Head Assistant Attorney Date

_____ _____
General Counsel Date