

Protecting Our Water Environment

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Metropolitan Water Reclamation District of Greater Chicago

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RONALD M. HILL

General Counsel

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ronald.hill@mwrd.org

February 13, 2014

Bob Appleman
Office of Fiscal Management
Illinois Department of Natural Resources
1 Natural Resources Way
Springfield, IL 62702

Re: Chi-Cal Rivers Fund – Habitat Restoration Projects
Revenue Account No. 422-870-000-0884

Dear Mr. Appleman:

Enclosed, please find a check in the amount of \$500,000, to be deposited in revenue account number 422-870-000-0884 pursuant to the intergovernmental agreement between the Metropolitan Water Reclamation District of Greater Chicago and the Illinois Department of Natural Resources for the Chi-Cal Rivers Fund habitat restoration projects. Please do not hesitate to contact Principal Attorney Brendan O'Connor or Senior Attorney Jorge Mihalopoulos of my staff if you have any questions or concerns.

Sincerely,



Ronald M. Hill
General Counsel

RMH:JM;jm
cc: D. St.Pierre
Att.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED



IGA NUMBER: MWRD 1301

**INTERGOVERNMENTAL AGREEMENT between
STATE OF ILLINOIS, DEPARTMENT OF NATURAL RESOURCES
AND**

The Metropolitan Water Reclamation District of Greater Chicago

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") entered into, by and between the Illinois Department of Natural Resources, an administrative agency organized and existing under the laws of the State of Illinois ("Department"), and the Metropolitan Water Reclamation District of Greater Chicago, a unit of local government and body politic, organized and existing under the laws of the State of Illinois ("MWRD").

WITNESSETH:

WHEREAS, the State of Illinois, through the Illinois Environmental Protection Agency ("IEPA"), is currently conducting a use attainability analysis rulemaking for the Chicago Area Waterway System ("CAWS");

WHEREAS, one component of that rulemaking is the proposed development of more stringent dissolved-oxygen standards for the CAWS;

WHEREAS, the MWRD has reached a tentative agreement with various non-governmental organizations ("NGOs") whereby the MWRD would support the State's proposed new dissolved-oxygen standards and relinquish its wet-weather use proposal (currently pending before the Illinois Pollution Control Board) in consideration for the NGOs commitment to support the State's issuance of an initial 5-year variance to the MWRD with regard to the proposed new standards;

WHEREAS, an additional facet of this agreement involves the MWRD's commitment of \$500,000 to facilitate habitat improvement projects for aquatic life throughout the CAWS;

WHEREAS, the Department is the state administrative agency charged with conservation of aquatic life in Illinois (20 ILCS 805/805-100);

WHEREAS, the Department "has the power to accept, receive, expend, and administer, including by grant, agreement, or contract, those funds that are made available to the Department from the federal government and other public and private sources in the exercise of its statutory powers and duties" (20 ILCS 805/805-70(a));

WHEREAS, the Department has expertise with respect to habitat improvement related to aquatic life within the State's waterways (20 ILCS 805/805-100; 515 ILCS 5/1-5);

WHEREAS, the Department has significant experience coordinating habitat improvement projects, including the financing of such projects through the granting of public funds;

WHEREAS, the National Fish and Wildlife Foundation ("Foundation"), is a non-profit organization established by Congress (16 U.S.C. 3701 *et seq.*) to encourage, accept, and administer public and private grants for the benefit of, or in

conjunction with, various entities to undertake and conduct such activities as will further the conservation and management of fish, wildlife, and plant resources of the United States;

WHEREAS, a team of public and private organizations created the Chi-Cal Rivers Fund ("Fund"), to be administered by the Foundation, in order to utilize funds from public and private donors for a variety of stated purposes, including enhancing fish and wildlife habitat in the Chicago River and Calumet River watersheds;

WHEREAS, the MWRD's plan to contribute to habitat improvement may be more effective, economic, and comprehensive if the MWRD and the Department cooperate and use their joint efforts and resources;

WHEREAS, in order to maximize the benefit of the \$500,000 that the MWRD intends to contribute towards habitat improvement, the MWRD seeks to partner with the Department and draw on its unique expertise with regard to habitat improvement projects;

WHEREAS, the Department has determined that the most effective way to maximize the benefit of the MWRD's habitat improvement contribution is to grant that \$500,000 to the Fund and thereby leverage the money to attract additional funding from private donors for the purpose of habitat improvement;

WHEREAS, the Department and the MWRD will jointly participate with the Foundation during the selection process for grant applicants;

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;

WHEREAS, on June 20, 2013, the MWRD's Board of Commissioners authorized the MWRD to negotiate an intergovernmental agreement with the Department and, on August 29, 2013, authorized the MWRD to formally enter into that intergovernmental agreement; and

NOW THEREFORE, in consideration of the matters set forth, the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the Department and MWRD hereby agree as follows:

1. **EFFECTIVE DATE:** This Agreement becomes effective on the date that the last signature is affixed hereto.
2. **PURPOSE, AMOUNT, AND CONDITIONS OF FUNDING:** The MWRD agrees to pay to the Department, and the Department agrees to accept, funds from the MWRD in the amount of \$500,000, to be deposited in an account of the Department used only for the purpose of fulfilling this agreement. The funds will not be available to any other state agency.

The Department agrees, upon receipt of the aforesaid funds, to grant \$500,000 to the Fund exclusively for projects relating to habitat enhancement in the portions of the CAWS within Cook County. The ultimate approval and award of any grants from these funds by the Fund shall be subject to the Department's and MWRD's written consent, through a subsequent agreement with the Fund and the Foundation that complies with all of the Department's grant requirements. The Department may not use the funds for any other purpose, and any corresponding contract, agreement, or memorandum of understanding between the Department, Fund, and/or Foundation shall be subject to the written consent of the MWRD.

In addition, the Fund, the Foundation, and their grantees must comply with the MWRD's Purchasing Act (70 ILCS 2605/11.1-11.24) and the MWRD's Affirmative Action Requirements and Affirmative Action Ordinance (Attachment A).

Furthermore, in order to receive the grant, the Fund, the Foundation, and their grantees must comply with the Prevailing Wage Act, 820 ILCS 130/0.01 *et seq.* Current prevailing wage rates for Cook County are determined by the Illinois Department of Labor. *The prevailing wage rates are revised by the Illinois Department of Labor and are available on the Department of Labor's official website.* The Department will inform the Fund, Foundation, and their grantees that it is their responsibility to obtain and comply with any revisions to the rates should they change during the duration of the subject matter project(s).

If the Department or MWRD identifies any violation of the abovementioned statutes, ordinances, or regulations, that entity must immediately notify the other and, in the case of any such violation, both the MWRD and Department reserve the right to order that funds be withheld and refunded to the MWRD.

3. **TERMINATION:** This Agreement may be terminated in writing signed by either Director of the respective agencies or by their designee. If the MWRD or the Department terminates this agreement after the MWRD's disbursement of the \$500,000 to the Department, but prior to the Department's grant of that sum to the Fund as set forth in this Agreement, then the Department shall refund the entire disbursement to the MWRD within thirty (30) days of termination. Additionally, if the Department fails to complete its grant of the \$500,000 to the Fund by January 1, 2015, or if any of the granted money is not disbursed by the Fund for habitat enhancement projects by that date, then this Agreement will automatically terminate and the Department shall recover and refund any unspent portion of the disbursement to the MWRD by January 31, 2015.
4. **LAWS OF ILLINOIS:** This Agreement shall be governed in all respects by the laws of the State of Illinois.
5. **INDEMNITY AND INSURANCE:** It is understood and agreed that neither party to the agreement shall be liable for any negligent or wrongful acts either of commission or omission unless such liability is imposed by law.
6. **ENTIRE AGREEMENT:** This contract, including these attachments, constitutes the entirety of the Agreement between the parties and supersedes any other agreement or communication, whether written or oral, that may have been made by either party. Amendments or modifications to this Agreement must be in writing and signed by authorized representatives of the parties.
7. **NOTICES:** All notices, submissions or other correspondence required to be given to the Department or to the MWRD shall be delivered or mailed to the following addresses:

Illinois Department of Natural Resources

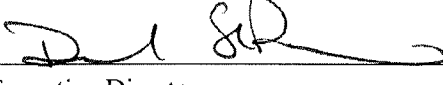
**Diane Tecic, Coastal Program Manager
Illinois Coastal Management Program
160 N. LaSalle St., Suite S-700
Chicago IL 60601
Telephone: 312-814-0665**

The Metropolitan Water Reclamation District of Greater Chicago

**Ronald M. Hill
General Counsel
100 E. Erie St., 3rd Floor
Chicago IL 60611
Telephone: 312-751-6565**

 9/27/13

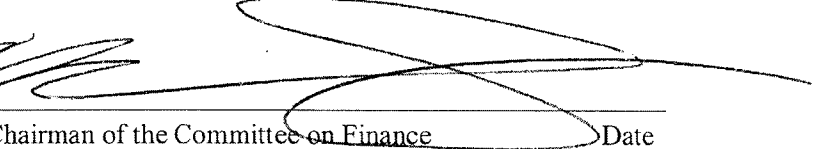
Marc Miller, Director Date



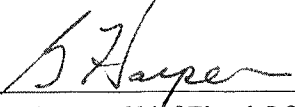
Executive Director Date

 9/18/2013

Jeffrey P. Smith, General Counsel Date



Chairman of the Committee on Finance Date

 9/26/13

Scott Harper, Chief Fiscal Officer Date

 10.14.13

Director of Finance/Clerk Date

Approved as to Form and Legality:

 10/4/13

Head Assistant Attorney Date

APPROVED FOR EXECUTION

Date: 9/18/2013

Legal Counsel: B. Dailey

 10/4/13

General Counsel Date