

**ORDINANCE NO. \_21-25**

**AN ORDINANCE AUTHORIZING A MULTI-COUNTY MUNICIPALITY  
INTERGOVERNMENTAL AGREEMENT BETWEEN THE  
VILLAGE OF EAST DUNDEE AND THE METROPOLITAN WATER  
RECLAMATION DISTRICT OF GREATER CHICAGO**

**WHEREAS**, the Village of East Dundee (“Village”) is a home rule unit of local government pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, the Village desires to enter into the “Multi-County Municipality Intergovernmental Agreement Between the Village of East Dundee and the Metropolitan Water Reclamation District of Greater Chicago” attached hereto as EXHIBIT A and made part hereof (“Agreement”), by and between the Village and the Metropolitan Water Reclamation District of Greater Chicago; and

**WHEREAS**, the President and Board of Trustees find that the public's health, safety and welfare are best served by the Village entering into the Agreement;

**NOW THEREFORE BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AS FOLLOWS:**

**SECTION 1: Incorporation.** That each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Ordinance.

**SECTION 2: Approval.** The Agreement is hereby approved, and the President and Clerk of the Village are hereby authorized and directed to execute and deliver such other instruments as may be necessary or convenient to carry out the terms of the Agreement.

**SECTION 3: Severability.** That if any Section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such Section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

**SECTION 4: Repeal.** That all ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

**SECTION 5: Effect.** That this Ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

**ADOPTED** this 21st day of June, 2021 pursuant to a roll call vote as follows:

AYES: Trustees Mahony, Andresen, Runze, Brittin, Saviano  
and Treiber

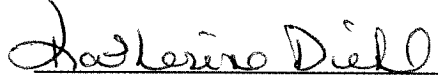
NAYES: Ø

ABSENT: Ø

**APPROVED** by me this 21st day of June, 2021.

  
\_\_\_\_\_  
Jeffrey Lynam, Village President

**ATTEST:**

  
\_\_\_\_\_  
Katherine Diehl, Village Clerk

Published in pamphlet form this 21st day of June, 2021, under the authority of the Village President and Board of Trustees.

Recorded in the Village records on June 22, 2021.

**EXHIBIT A**

**Agreement**

(attached)

**MULTI-COUNTY MUNICIPALITY INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE VILLAGE OF EAST DUNDEE AND THE METROPOLITAN WATER  
RECLAMATION DISTRICT OF GREATER CHICAGO**

**THIS INTERGOVERNMENTAL AGREEMENT** (“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 (“District”) and the Village of East Dundee (“Village”), 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 and the Illinois Municipal Code, 65 ILCS 5/1-1-1, *et seq.* For convenience, the District and the City may be referred to individually as a “Party” and collectively as the “Parties.”

**WITNESSETH:**

**WHEREAS**, on November 17, 2004, the Illinois General Assembly passed Public Act 093-1049 (“Act”) which was amended on June 18, 2014 by Public Act 098-0652; and

**WHEREAS**, the Act declares that stormwater management in Cook County, Illinois 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 (“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, February 15, 2018, April 4, 2019, May 16, 2019, and May 7, 2020; 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 Kane County, the Village has corporate area within both Cook County and Kane County and is therefore a multi-county municipality as defined in the WMO; and

**WHEREAS**, Article 2, Section 207 of the WMO provides that a multi-county municipality may adopt and enforce the stormwater management ordinance of a county adjacent to Cook County, Illinois if the municipality has corporate area within the adjacent county; and

**WHEREAS**, Kane County adopted the Kane County Stormwater Management Ordinance (hereinafter “KCSMO”), attached hereto as Exhibit 2, pursuant to statutory authorization in the Counties Code, 55 ILCS 5/5-1062; and

**WHEREAS**, the KCSMO prescribes by ordinance reasonable rules and regulations for floodplain and stormwater management in Kane County; and

**WHEREAS**, the Village submitted to the District a Letter of Intent to adopt, administer and enforce the KCSMO within the corporate area of the Village, said Letter of Intent bearing the date of February 24, 2021, and

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

**WHEREAS**, on June 3, 2019, the Village's Board of Trustees adopted by reference the KCSMO, as amended by Kane County on June 1, 2019; and

**WHEREAS**, floodplain and stormwater management may be administered more effectively and uniformly with the Village 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 April 15, 2021, the District's Board of Commissioners authorized the District to enter into an intergovernmental agreement with the Village; and

WHEREAS, on June 21, 2021, the Village's Board of Trustees authorized the Village 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 Village 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 Village**

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

**Article 3. Watershed Management Permits**

1. Article 2, Section 207 of the WMO regulates development activities for Multi-County Municipalities and describes the circumstances under which a Watershed Management Permit is required.
2. A Watershed Management Permit from the District shall not be required for any development activity enumerated in Article 2, Section 201.1 or Sections 201.2.E and 201.2.F of the WMO proposed within the Village's corporate limits. For such development activities, the Village shall issue permits within its corporate area in conformance with the terms and conditions of the KCSMO.
3. Upon request, the Village shall reasonably cooperate with the District on administrative proceedings related to variances, appeals, and violations of the WMO. The Village's reasonable cooperation shall include assistance in the form of supporting documents, information, and, if necessary, testimony.

**Article 4. Inspections**

1. The Village shall inspect the construction and operations related to any development activity located within the corporate area of the Village as required by and in conformance with the KCSMO.
2. In conformance with Article 2, Section 205 and Article 10 of the WMO, the District may inspect any development subject to a Watershed Management Permit within the Village 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 KCSMO, and all other applicable local, state and federal laws.

**Article 5. Stop-Work Orders**

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

**Article 6. Violations**

1. The Village shall investigate complaints of violation of the KCSMO and/or a permit issued by the Village under the KCSMO in conformance with the requirements of the KCSMO.
2. The Village shall conduct or otherwise be responsible under this Agreement for all administrative proceedings to remedy violations of the KCSMO or of a permit issued by the Village under the KCSMO, in conformance with the applicable provisions of that ordinance.
3. The Village shall notify the District within seven (7) days of any suspected violation of either the WMO or of a Watershed Management Permit within the corporate area of the Village within Cook County or a 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 Village within Cook County or within a service agreement area.

**Article 7. Audits**

1. The District may audit the Village periodically to ensure compliance with this Agreement.
2. During an audit, the District may:
  - a. Meet with staff of the Village, which may include an enforcement officer, Professional Engineer and/or a wetland specialist;
  - b. Verify that the Village complies with all requirements listed in Article 2, Section 207.2 of the WMO;
  - c. Verify that permits the Village issued conform to the KCSMO; and
  - d. Verify compliance with this Agreement.

**Article 8. Termination by the Village**

1. The Village may, at its option, and upon giving a sixty (60) day written notice to the District in the manner provided in Article 26 below, terminate this Agreement.
2. In the event of termination of this Agreement by the Village as allowed in Article 8, Section 1 herein, all provisions of the WMO shall thereafter apply within the Cook County portion of the Village 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 Village's corporate area in Cook County. A Watershed Management Permit will continue to be required for all qualified sewer construction within a service agreement area. All permits issued before termination by the Village under the KCSMO for development activity located in the Cook County portion of the Village 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 Village to adopt the KCSMO, including all amendments, by reference;  
or
  - b. Adoption of an ordinance by the Village with less stringent standards than the KCSMO;  
or
  - c. Failure of the Village to administer or enforce the KCSMO; or
  - d. Failure by the Village to comply with any requirement of Section 207.2 of the WMO;  
or
  - e. Breach of this Agreement by the Village;



2. The District may also terminate this Agreement if the Village's legal authority to administer the KCSMO is revoked by statute, ordinance or court order;
3. The District shall promptly notify the Village of any deficiency with respect to any provision of this Agreement, which the Village 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 Village.
4. If the Village 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 Village's corporate area in Cook County. A Watershed Management Permit will continue to be required for all qualified sewer construction within a service agreement area. All permits issued before termination by the Village under the KCSMO for development activity located in the Cook County portion of the Village shall remain valid and shall be administered by the District.

**Article 10. Effective Date**

This Agreement becomes effective on the date that the last signature is affixed hereto ("Effective Date").

**Article 11. Duration**

Subject to the terms and conditions of Articles 8 and 9 above, this Agreement shall remain in full force and effect for perpetuity.

**Article 12. Non-Assignment**

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

**Article 13. 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 14. Indemnification**

The Village shall defend, indemnify and hold harmless the District, its commissioners, officers, employees and other agents ("District Parties") 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 Parties and arise out of, or are in any way related to, any authority, duty or obligation bestowed on the Village pursuant to this Agreement and/or the WMO.

**Article 15. Covenants, Representations, and Warranties of the Village**

The Village covenants, represents, and warrants as follows:

- a. The Village has legal authority to perform all responsibilities of the KCSMO and this Agreement;
- b. The Village has legal authority to adopt the KCSMO and has adopted the KCSMO, including all amendments, by reference;
- c. The Village has legal authority to issue stop work orders as allowed under the KCSMO;
- d. The Village has full authority to execute, deliver and perform, or cause to be performed, this Agreement;
- e. The individuals signing this Agreement and all other documents executed on behalf of the Village are duly authorized to sign same on behalf of and to bind the Village; and
- f. 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 Village or any instrument to which the Village is bound or any judgment, decree or order of any court or governmental body or any applicable law, rule or regulation.

**Article 16. Covenants, Representations, and Warranties of the District**

The District covenants, represents, and warrants as follows:

- a. The District has full authority to execute, deliver and perform, or cause to be performed, this Agreement;

- b. 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;
- c. 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 17. 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 Village.

**Article 18. 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 19. 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, which 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 20. Compliance with Applicable Laws and Deemed Inclusion of Same**

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 21. 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 22. Amendments**

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

**Article 23. 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 24. 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 Village shall be cumulative, and election by the District or the Village of any single remedy shall not constitute a waiver of any other remedy that such party may pursue under this Agreement.

**Article 25. 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, FedEx or other overnight messenger service, first class registered or certified mail, postage prepaid, return receipt requested, or by electronic mail. 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 overnight courier service, on the next business day following deposit with the overnight courier; (c) 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 (d) with respect to notices sent by electronic mail, on the date of notification of delivery receipt, if delivery was during normal business hours of the recipient, or on the next business day, if delivery was outside normal business hours of the recipient. The name of this Agreement i.e., “MULTI-COUNTY MUNICIPALITY INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF EAST DUNDEE 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 26, unless otherwise specified and agreed to by the Parties.

**Article 26. 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) 751-5600  
Email: oconnorc@mwrdd.org

For the Village:  
Director of Public Works  
120 Barrington Avenue  
East Dundee, IL 60118  
Phone: (630) 844-1256  
Email: pcotter@eastdundee.net

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.

**Article 27. Interpretation and Execution.**

1. The Parties agree that this Agreement shall not be construed against a Party by reason of who prepared it.
2. The headings appearing in this Agreement have been inserted for the purpose of convenience and reference. They do not purport to, and shall not be deemed to, define, limit, or extend the scope of the clauses to which they pertain.
3. Each Party agrees to provide a certified copy of the ordinance, bylaw, or other authority demonstrating that the person(s) signing this Agreement is/are authorized to do so and that this Agreement is valid and binding obligation of the Party.

**Article 28. Exhibits and Attachments.**

The following Exhibits are attached to or incorporated into this Agreement with any amended versions of the below documents being attached as they become available.

**Exhibit 1:** District's Watershed Management Ordinance

**Exhibit 2:** Kane County Stormwater Management Ordinance

**IN WITNESS WHEREOF**, the Metropolitan Water Reclamation District of Greater Chicago and the Village of East Dundee, 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 EAST DUNDEE

DocuSigned by:  
*Jeff Lynam*  
BY: 83E7F65D60084CB...  
Jeff Lynam, President

DATE: 7/29/2021 | 10:59 AM CDT

ATTEST:

DocuSigned by:  
*Katherine Diehl*  
BED3D38846A14F6...

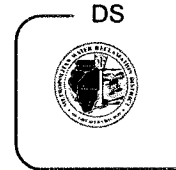
Katherine Diehl, Clerk

Date: 7/29/2021 | 1:31 PM CDT

**METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO**

DocuSigned by:  
*Kimberly Du Bulet*  
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Chairman of the Committee on Stormwater Management

DocuSigned by:  
*Brian Perlovich*  
814773C98867434...  
Executive Director



**ATTEST:**

DocuSigned by:  
*Jacqueline Torres*  
02E2C6C6E55E4D3...  
Clerk

Date: 10/13/2021 | 9:39 AM CDT

**APPROVED AS TO ENGINEERING, OPERATIONS AND TECHNICAL MATTERS:**

DocuSigned by:  
*Maureen Durkin*  
19B4248308BD4AE...  
Engineer of Local Sewer Systems

Date: 7/29/2021 | 3:39 PM EDT

DocuSigned by:  
*Kim Fitz*  
F6418210F39D437...  
Assistant Director of Engineering

Date: 7/30/2021 | 8:32 AM CDT

DocuSigned by:  
*Antonish O'Connor*  
B3D559FFBD4C4EE...  
Director of Engineering

Date: 8/2/2021 | 11:14 AM CDT

**APPROVED AS TO FORM AND LEGALITY:**

DocuSigned by:  
*Jorge Michalopoulos*  
A480BC5C214142C...  
Head Assistant Attorney



Date: 8/3/2021 | 9:38 AM CDT

DocuSigned by:  
*Susan Moraitis*  
60AB3D28A7F44AC...  
General Counsel

Date: 8/3/2021 | 9:53 AM CDT