

ATTACHMENT 1

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF NAPERVILLE AND THE COUNTY OF WILL FOR THE OPERATION OF A HOUSEHOLD HAZARDOUS WASTE FACILITY

THIS AGREEMENT ("Agreement") is entered into this _____ day of _____, 2018, between the City of Naperville, (hereinafter referred to as the "CITY"), a municipal corporation and home rule unit of local government under the laws and the Constitution of the State of Illinois, with offices at 400 South Eagle Street, Naperville Illinois 60540, and the County of Will (hereinafter referred to as the "COUNTY"), a body corporate and politic, with offices at 58 East Clinton Street, Suite 500, Joliet, Illinois 60432.

RECITALS

WHEREAS, the CITY and the COUNTY are public agencies within the meaning of the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq., as amended; and

WHEREAS, Article VII, section 10, of the 1970 Constitution of the State of Illinois encourages and provides for units of local government to contract and otherwise associate with the state to exercise, combine or transfer any power or function; and

WHEREAS, the City of Naperville is a home rule municipal corporation situated in Will and DuPage Counties under and by the Constitution and laws of the State of Illinois and has acted in the exercise of its statutory and home rule authority in the exercise of this Agreement; and

WHEREAS, on December 6, 2012 the CITY and the Illinois Environmental Protection Agency (the "IEPA") entered into an intergovernmental agreement (the "2012 IEPA Agreement"), for the purpose of cooperative funding, construction, and operation of a facility on CITY-owned property (hereinafter referred to as FACILITY) to collect household hazardous waste from the members of the public, including Will County residents; and

WHEREAS, the 2012 IEPA Agreement expired on December 31, 2017; and

WHEREAS, the CITY and the IEPA have entered into an addendum ("ADDENDUM") to the 2012 IEPA Agreement which ADDENDUM shall be effective from January 1, 2018 through June 30, 2018, and which ADDENDUM modifies certain terms of the 2012 IEPA Agreement and requires the CITY to operate the FACILITY within a maximum cap ("CAP") for the waste hauling services paid for by the IEPA; and

WHEREAS, the 2012 IEPA Agreement and the ADDENDUM are cumulatively referenced hereinafter as the "IEPA AGREEMENT" and are attached hereto and made part hereof as **Exhibit A1 and A2**; and

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WHEREAS, the current Intergovernmental Agreement Between the City of Naperville and the County of Will for the Operation of a Household Hazardous Waste Collection Facility expired on December 31, 2017; and

WHEREAS, in order to protect against environmental damage, the continuing destruction of the environment, and harm to the public health, safety and welfare which may result from the improper and unsafe transportation, treatment, storage, disposal and dumping of household hazardous waste (hereinafter referred to as HHW), the CITY and the COUNTY have determined to continue to promote the CITY'S HHW collection program to COUNTY residents; and

WHEREAS, since the COUNTY will provide funding as provided for herein for the operation of the FACILITY, it is in the parties' best interests to clarify their rights and responsibilities with respect to the FACILITY.

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties agree that:

1.0 RECITALS INCORPORATED.

1.1 The foregoing Recitals are incorporated herein by reference as though fully set forth.

1.2 If there is a conflict between the terms and provisions of this Agreement and the IEPA AGREEMENT, the terms and provisions of the IEPA AGREEMENT shall control.

2.0 TERM OF THIS AGREEMENT.

2.1 This Agreement shall be in effect from January 1, 2018 through December 31, 2018 unless terminated sooner in accordance with Section 16 or Section 22.1 of this Agreement.

3.1 SITE LOCATION, DESIGN AND CONSTRUCTION.

3.1 At its sole expense, the CITY will maintain a site for the FACILITY. The FACILITY is located at the City's Department of Public Works site located at 156 Fort Hill Drive, Naperville, Illinois, 60540.

3.2 The CITY will maintain a storage/containment building on the FACILITY site, which shall meet all AGENCY permit criteria set forth in 35 Ill. Adm. Code 807 and 35 Ill. Adm. Code 811 as amended from time to time.

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3.3 The CITY will list the COUNTY on any signs at the FACILITY that acknowledge sources of funding.

4.0 HOURS OF OPERATION OF THE FACILITY.

4.1 Except in cases of emergency, the CITY shall provide two (2) HHW drop-off days each week, those days being Saturday and Sunday from 9:00 A.M. to 2:00 P.M. The FACILITY shall be available on a first come first served basis as determined by the capacity of the FACILITY.

4.2 The FACILITY will be available for use by residents of the COUNTY during the term of this Agreement and pursuant to the terms of this Agreement.

4.3 The CITY shall have the right to modify the days and hours during which the FACILITY will operate, provided that the CITY first obtains approval from the AGENCY and notifies the COUNTY immediately of any such changes.

4.4 The FACILITY shall operate at least ten (10) hours per week.

4.5 Notwithstanding the provision contained in paragraph 4.4, the FACILITY shall not operate on New Year's Eve and New Year's Day, Easter Sunday, July 4th, Christmas Eve and Christmas Day, or on other holidays that would cause a rise in the normal per hour labor rate.

4.6 The CITY shall not charge residents of Will County any fee for utilizing the FACILITY.

5.0 TRANSPORTATION AND DISPOSAL CONTRACTOR.

5.1 Pursuant to the IEPA AGREEMENT, the IEPA shall provide a hazardous waste collection firm (hereinafter the CONTRACTOR) to safely collect, transport, and dispose of the HHW collected at the FACILITY subject to the CAP and other provisions set forth in the IEPA AGREEMENT.

5.2 The IEPA shall pay all fees incurred by the CONTRACTOR in collecting, safely transporting and properly disposing of the HHW collected from the FACILITY subject to the CAP and other provisions set forth in the IEPA AGREEMENT.

6.0 ACCEPTABLE WASTE.

6.1 The CITY shall determine the household hazardous waste to be collected at the FACILITY except that the FACILITY shall not accept ammunition, explosives, latex paint, radioactive materials, compressed cylinders, non-special, non-contaminated

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wastes, including trash and non-hazardous debris, potentially infectious medical waste and any wastes generated by businesses, institutions, industries or agricultural, commercial or governmental facilities, unless agreed to in writing by the CITY and the AGENCY. Copies of such agreements shall be submitted to the COUNTY immediately, and no COUNTY funds can be used for such activities until approved by the COUNTY by amendment to this AGREEMENT.

7.0 **Reserved.**

8.0 **PERSONNEL.**

8.1 FACILITY personnel shall be CITY employees, and shall not be considered COUNTY employees for any purposes, and shall be trained in accordance with the provisions of the IEPA AGREEMENT as modified from time to time.

9.0 **FEES AND REPORTS.**

9.1 The County shall pay the CITY three payments of \$8,333.33 for FACILITY operational expenses, within 30 days of meeting the reporting requirements outlined below. Failure to provide the reports by each deadline (June 30, 2018, September 29, 2018 and January 26, 2019) may result in the forfeiture of any remaining funds if such failure is not cured within thirty (30) days of notice by the COUNTY. Data from January 1 through May 28 will be included in the June 30 report. Data from June 3 through September 30 will be included in the October 9 report. Data from October 1 through December 31 will be included in January 30, 2019 report.

9.2 The CITY shall use such funds only for costs and expenses related to the FACILITY, and shall submit quarterly written reports to the COUNTY documenting the number of COUNTY residents by town and/or township using the FACILITY. This means that when a participant arrives at the FACILITY, they will be asked to provide the town and county where they reside. Since reporting of COUNTY residents utilizing the FACILITY is crucial to the planning of the COUNTY'S household hazardous waste program, payment will not be submitted by the COUNTY to the CITY until such reports have been received. This information may also be used by both CITY and the COUNTY to seek funding from other governmental entities.

9.3 The CITY shall provide to the COUNTY statistics including but not limited to a monthly breakdown of the number of service days, number of cars per operational day and the amount of household hazardous waste collected by county and municipality.

9.4 The CITY shall also provide to the COUNTY a summary of expenses related to the operations incurred during the previous quarter. The CITY shall submit reports that include the reportable operational expenses and volume of waste received. The reports should provide an itemization by type (i.e., personnel, training, supplies

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and other expenses directly related to FACILITY operation) and shall be sufficiently detailed to allow the COUNTY to determine eligibility for release of payment.

9.5 Reportable operational expenses shall include, but not be limited to purchase of equipment/supplies necessary to operate the FACILITY, such as personal protective equipment, latex gloves, absorbent pads, labor costs, utilities, and other expenses directly related to the FACILITY'S operation.

9.6 If the CITY receives funds from other sources for FACILITY operational expenses, the CITY shall apply such donations to FACILITY reportable operational expenses. The CITY shall provide adequate documentation to the COUNTY that it has complied with this Section upon the request of the COUNTY.

10.0 PARTIES' LIABILITY.

10.1 The CITY shall be solely liable for any and all damages or cleanup costs resulting from spills or releases of wastes, fires, or explosions which result from any activity caused by, or arising out of, or occurring in connection with the CITY'S employees' unloading, bulking, lab packing and placement of HHW in the storage building.

10.2 The CITY shall be liable for any and all damages to the storage building, regardless of the cause.

10.3 Except for any negligent or willful act on the part of CITY employees, the IEPA and/or its CONTRACTOR shall be solely liable for the HHW at the FACILITY from the time the HHW is correctly and properly placed in the storage building in accordance with the IEPA'S AND CONTRACTOR'S specifications.

10.4 The IEPA shall become and remain the generator of record and take title to all HHW, including F027 designated wastes, collected at the FACILITY, from the time the HHW is correctly and properly placed in the storage building in accordance with AGENCY'S and CONTRACTOR' specifications.

10.5 The terms of this Section 10 shall not create any liability for the COUNTY.

11.0 PUBLIC INFORMATION PROGRAM.

11.1 At its sole cost and expense, the COUNTY shall develop and print public information in a form acceptable to the CITY, promoting the HHW program and FACILITY. The COUNTY shall distribute such information to its respective residents.

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11.2 The COUNTY shall seek and welcome the IEPA'S assistance in improving the quality of information reaching CITY and COUNTY residents concerning the importance of waste minimization and alternatives to the use of hazardous materials.

11.3 The CITY and the COUNTY will work together to promote the availability of the FACILITY for residents of Will County.

12.0 DEVELOPMENT OF ADDITIONAL HOUSEHOLD HAZARDOUS WASTE COLLECTION EVENTS.

12.1 The COUNTY shall use its best efforts to offer one-day household hazardous waste collection events capable of accepting material from residents from throughout the COUNTY in an effort to ease the burden on the FACILITY. The COUNTY may develop its own HHW Facility at a convenient location to its residents, and then may or may not continue the one-day collection events.

12.2 If the capacity of the FACILITY is taxed beyond its limits, the CITY may limit its use in any way the CITY sees fit in order to protect the public's health, welfare, and safety. If this action is deemed necessary, Will County residents will be treated in a similar manner to other residents using the Facility, but in no event shall Will County residents be charged for use of the FACILITY.

13.0 ENTIRE AGREEMENT.

13.1 This Agreement represents the entire agreement between the parties with respect to the operation of the FACILITY, and supersedes all previous communications or understandings whether oral or written.

14.0 NOTICES.

14.1 Any notice required hereunder shall be deemed properly given to the party to be notified at the time it is personally delivered, mailed by certified mail, return receipt requested, to the party's address or sent by facsimile. The address of each party is as specified below; either party may change its address for receiving notices by giving notice thereof in compliance with the terms of this subsection.

FOR THE CITY

City Manager
City of Naperville
400 South Eagle Street
Naperville, IL 60540
Attn: Public Works Director
Facsimile: (630) 420-4100

FOR THE COUNTY

Director
R R & E Division
Will County Land Use Department
58 East Clinton Street Suite 100
Joliet, IL 60432
Facsimile: (815) 722-3410

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15.0 AUTHORITY TO ADMINISTER THE AGREEMENT.

15.1 The Public Works Director for the CITY, or his or her designee, and the Director of the COUNTY'S Resource Recovery & Energy Division, or his or her designee, shall have complete authority to transmit instructions, receive information, and administer the work covered by this Agreement and send any notices required by this Agreement under their respective signatures.

16.0 AMENDMENT, MODIFICATION OR TERMINATION OF THIS AGREEMENT.

16.1 No modification or amendment to this Agreement shall be effective until approved by the parties in writing.

16.2 If the COUNTY fails to make any payment required pursuant to section 9.0 of this Agreement, the CITY may, at its option, declare this Agreement to be immediately null and void and of no further effect.

16.3 In addition to the procedure set forth in subsection 16.2, this Agreement may be terminated at any time, for any reason, by either party by the delivery to the other party of thirty (30) days written notice. Upon termination, the COUNTY shall be entitled to a pro-rated refund of its annual fee for the remainder of the year the FACILITY would not be available to the COUNTY, less any costs associated with the termination of this Agreement as deemed necessary by the CITY.

16.4 Mailing of the notice specified in subsections 16.2 and 16.3 shall constitute personal notice and shall be deemed to have been given at the time of mailing.

16.5 Should the IEPA decide, at its sole discretion, to cease cooperative funding pursuant to the IEPA AGREEMENT, or should the Illinois General Assembly fail to allocate sufficient funds to the IEPA for this program, this Agreement shall terminate in accordance with termination of the IEPA funding. The COUNTY, however, shall pay its share of the FACILITY'S expenses pursuant to Section 9.0 of this Agreement through the effective date of such termination. The COUNTY and the CITY reserve the right to enter into negotiations to establish an alternative means of disposing of the household hazardous waste collected at the FACILITY.

17.0 NON-ASSIGNMENT.

17.1 This Agreement shall not be assigned by either party without the written consent of the other party, which consent shall not be unreasonably withheld.

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18.0 GOVERNING LAW AND VENUE.

18.1 This Agreement shall be governed by the laws of the State of Illinois as to both interpretation and performance.

19.0 SAVINGS CLAUSE.

19.1 If any provision of this Agreement, or the application of such provision, shall be rendered or declared invalid by a court of competent jurisdiction, or by reason of its requiring any steps, actions or results, the remaining parts or portions of this Agreement shall remain in full force and effect.

20.0 CAPTIONS AND PARAGRAPH HEADINGS.

20.1 Captions and paragraph headings are for convenience only and are not a part of this Agreement and shall not be used in construing it.

21.0 NON-WAIVER OF RIGHTS.

21.1 No failure of either party to exercise any power given to it hereunder or to insist upon strict compliance by the other party with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

22.0 CAP PROVISION.

22.1 Notwithstanding any other provision herein, if the CITY determines that measures need to be taken to avoid exceeding the CAP, the CITY shall contact the COUNTY to discuss options to prevent exceeding the CAP and shall use good faith efforts to maintain the services described herein. However, if the CITY determines that appointment based drop-offs at the FACILITY, and/or termination of all services at the FACILITY, are necessary in order to avoid exceeding the CAP, the City shall give not less than fourteen (14) days' notice to the COUNTY of such action(s).

THE PARTIES TO THIS AGREEMENT by their signatures acknowledge they have read and understand this agreement and intent to be bound by its terms.

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COUNTY OF WILL

By: _____
Lawrence M. Walsh
County Executive

ATTEST

By: _____
Nancy Schultz Voots
County Clerk

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CITY OF NAPERVILLE

By: _____
Douglas A. Krieger
City Manager

ATTEST

By: _____
Pam Gallahue, Ph.D.
City Clerk

Agency Contract # EPA-13002

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE
CITY OF NAPERVILLE AND THE
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
TO OPERATE A LONG TERM
HOUSEHOLD HAZARDOUS WASTE COLLECTION FACILITY**

THIS INTERGOVERNMENTAL AGREEMENT (AGREEMENT) is entered into this 6th day of December, 2012, between the City of Naperville, (CITY), a home rule municipal corporation with offices at 400 South Eagle, Naperville, Illinois 60540, and the Illinois Environmental Protection Agency, (ILLINOIS EPA), 1021 North Grand Avenue East, Springfield, Illinois 62794-9276, an agency of the Executive Branch of the government of the State of Illinois created by the Illinois General Assembly in the Illinois Environmental Protection Act, 415 ILCS 5/4 (2010).

RECITALS

WHEREAS, the CITY and the ILLINOIS EPA are public agencies within the meaning of the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.* (2010); and

WHEREAS, the CITY is a home rule municipal corporation under and by virtue of the Constitution and laws of the State of Illinois, and has acted in the exercise of its statutory and home rule authority in the exercise of this AGREEMENT; and

WHEREAS, Article VII, Section 10 of the 1970 Constitution of the State of Illinois encourages and provides for municipalities and units of local government to cooperate, contract and otherwise associate with other agencies for their mutual benefit; and

WHEREAS, in order to protect against environmental damage and harm to public health, safety and welfare that may result from improper and unsafe transportation, treatment, storage, disposal, and dumping of commonly used household hazardous wastes (HHW), the City Council determined to provide a HHW collection program with assistance and financing from the ILLINOIS EPA and other government entities including, but not limited to, the County of DuPage, the County of Kane, the County of Will, and the City of Aurora; and

WHEREAS, to that end, the CITY submitted its "Proposal for Providing a Household Hazardous Waste Collection Program" in response to the ILLINOIS EPA's "Request for Proposals to Co-Host a Long-Term Household Hazardous Waste Collection Facility," dated December 4, 1991, the ILLINOIS EPA accepted that proposal, and the agreement was extended in 1998, 2004, and 2007 (2007 Agreement); and

WHEREAS, the ILLINOIS EPA and the CITY wish to extend the 2007 Agreement set to expire on December 31, 2012, as modified herein, and it is appropriate to clarify the parties' responsibilities before extending the 2007 Agreement to operate a HHW collection facility (FACILITY) within the CITY;

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NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties agree that:

1.0 RECITALS INCORPORATED.

- 1.1 The foregoing Recitals are incorporated by reference as though fully set forth herein.

2.0 TERM OF THIS AGREEMENT.

- 2.1 The term of this AGREEMENT shall be from the effective date specified in Section 15.1 through December 31, 2017.
- 2.2 In the event the ILLINOIS EPA foresees it will not renew this AGREEMENT or that it must terminate this AGREEMENT pursuant to Section 10.0, the ILLINOIS EPA will provide the CITY with as much advance notice as possible so appropriate notification can be given to the other participating units of government and plans can be made for closure of the FACILITY in a timely manner.

3.0 FACILITY LOCATION, DESIGN, CONSTRUCTION AND OPERATION.

- 3.1 At no cost to the ILLINOIS EPA and subject to the contributions from other participating government entities as set forth in the Recitals, the CITY shall continue to operate and maintain the FACILITY located at Fire Station #4, 1971 Brookdale Road, Naperville, 60566, property owned by the CITY. Any change in location shall be approved by the ILLINOIS EPA in writing.
- 3.2 The CITY shall comply with all applicable environmental regulations and obtain all necessary permits and local approvals including, but not limited to, ILLINOIS EPA non-hazardous waste transfer/storage permits. Waste shall not be collected unless all necessary permits and local approvals have been obtained. The CITY shall maintain valid permits for the FACILITY and comply with all requirements therein.
- 3.3 The FACILITY shall include a storage/containment building(s) for the HHW that meets or exceeds all permit criteria for design and operation of such structures as provided at 35 Ill. Adm. Code 807 or at any superseding regulations. Any modification or expansion of the structure(s) shall be in compliance with applicable regulations and permit requirements. In addition to compliance with permit criteria, the FACILITY shall satisfy the following requirements:
 - 3.3.a. The size and configuration of the property shall allow for efficient unloading, segregating, and storage of wastes and easy entry and exit for participants and large CONTRACTOR (see Section 5.0) vehicles.

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- 3.3.b. All unloading zones, waste handling areas and storage areas shall be located on a level, intact asphalt or concrete surface.
- 3.3.c. Sites shall be properly fenced (seven (7) ft. high minimum) to completely surround the active portion of the FACILITY. Gates to control entry shall be operational at all times and secured during non-operating hours. In the alternative, fencing and gates are not required if the site is supervised 24 hours per day, seven days per week and the waste storage building(s) is secured during non-operating hours. Except for unloading, residents shall not be allowed access to the active portion of the FACILITY.
- 3.3.d. Traffic shall be directed to move freely and safely within the FACILITY and to prevent traffic hazards in the areas surrounding the FACILITY.
- 3.3.e. All wastes shall be placed in a storage building located at the FACILITY that is lockable, vented, labeled, within the fenced area, and in compliance with all permit requirements. All wastes shall be placed inside the storage building at the close of each collection day.
- 3.3.f. The CITY shall appoint a local project manager to be the main contact with the ILLINOIS EPA. That person shall be an employee or contractual employee of the CITY, a high school graduate, and possess at least eight semester hours of college-level chemistry. The City shall promptly notify the ILLINOIS EPA if the project manager is changed and provide a resume detailing the new project manager's education and experience.
- 3.3.g. All collection personnel shall obtain and maintain a physician's certification of physical ability to handle waste materials, wear safety equipment, and perform light physical labor. All collection personnel shall successfully complete the training required under Section 7.0. The CITY shall provide the ILLINOIS EPA with a list of all collection personnel. The City shall promptly notify the ILLINOIS EPA of changes in personnel. Except as provided in Section 7.0, the CITY shall be responsible for all costs for the personnel including, but not limited to, salary, benefits, travel, and personal protective equipment.
- 3.3.h. The CITY shall develop safety and emergency contingency plans to protect the health and safety of collection personnel, ILLINOIS EPA personnel, the CONTRACTOR, and the public. All collection personnel shall be familiar with the plans and comply with them fully. A red bulletin board shall be placed in a conspicuous area, within clear view from the unloading area, and have the phrase "Emergency Information" printed large enough to be seen from the unloading area and in a contrasting color. At a minimum, the following shall be attached to the bulletin board:

- Location of the nearest telephone or other communication device;

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- Phone numbers for all emergency services including ambulance, hospital, poison information center, fire department, police department, sheriff, airport and state police; and
- A map to the nearest 24-hour medical center.

The FACILITY shall be equipped with safety equipment (e.g., personal protective gear, eye wash, fire extinguishers, first aid supplies) necessary to prevent or treat injury to collection personnel and public participants. The FACILITY shall be equipped with at least one accessible communication device (e.g., telephone, cellular telephone, two-way radio) to summon emergency assistance in case of an accident.

3.3.i. The CITY shall report quarterly to the ILLINOIS EPA and maintain legible, detailed, accurate records and reports of all activities completed at the FACILITY including:

- Written summaries of the numbers of participants and amounts and types of wastes received, a drum inventory, and the manifest numbers of the drums;
- Written summaries of the amounts and types of reusable materials recycled or redistributed;
- Written summaries of any and all incidents at the FACILITY that involve releases of wastes, spills, injuries, fires or explosions;
- Logs of all publicity types utilized and methods of determining the effectiveness of each; and
- Proposed changes and suggested improvements for the collection.

4.0 PARTICIPATION AND HOURS OF OPERATION OF THE FACILITY.

- 4.1 At no cost to the ILLINOIS EPA and subject to the contributions from other participating government entities as set forth in the Recitals, the CITY shall provide two HHW drop-off days each week, those days being Saturday and Sunday.
- 4.2 The FACILITY shall operate at least ten (10) hours per week.
- 4.3 The CITY may modify the days and hours during which the FACILITY operates upon written approval of the ILLINOIS EPA.
- 4.4 Participation in the HHW collection program shall be available to any resident of the State of Illinois.

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5.0 TRANSPORTATION AND DISPOSAL CONTRACTOR.

- 5.1 At no cost to the ILLINOIS EPA and subject to the contributions from other participating government entities as set forth in the Recitals, the CITY shall pay all capital construction, maintenance, personnel, transportation and operating costs for the FACILITY.
- 5.2 At its sole expense, the ILLINOIS EPA shall provide a hazardous waste collection firm (CONTRACTOR) to pick up, transport and dispose of the acceptable HHW stored at the FACILITY. The ILLINOIS EPA reserves the right to change the CONTRACTOR, but shall notify the CITY immediately after any such change is effective.
- 5.3 The CITY shall not be required to pay any costs incurred by the CONTRACTOR in picking up, transporting and disposing of the HHW that has been collected at the FACILITY.
- 5.4 All wastes received at the FACILITY for pickup, transportation and disposal by the CONTRACTOR shall be packed for transportation in accordance with the ILLINOIS EPA's specifications for its CONTRACTOR. The CONTRACTOR shall reject improperly packed wastes.
- 5.5 The frequency with which the CONTRACTOR picks up the waste from the FACILITY shall be determined by the ILLINOIS EPA. HHW shall be picked up on an as-needed basis. Upon notification of need by the CITY and approval by the ILLINOIS EPA project manager, the CONTRACTOR shall be required to pick up HHW at the FACILITY within five (5) working days. Notification of need may be provided by telephone to the manager of the ILLINOIS EPA's Waste Reduction and Compliance Section or the manager's designated representative. The CONTRACTOR shall provide all drums, materials for packaging, and transportation for the packaged wastes to the treatment or disposal sites designated by the ILLINOIS EPA. The CONTRACTOR shall inspect packing lists to ensure they meet all applicable requirements, check drums for proper packing for transportation, seal and label drums, and load them for shipment. The CONTRACTOR shall provide replacements for placards and labels, shipping containers, manifests, packing materials, and any other supplies necessary for transportation of the HHW.

6.0 ACCEPTABLE AND UNACCEPTABLE WASTES.

- 6.1 The ILLINOIS EPA shall authorize its CONTRACTOR to accept aerosol containers, corrosives, oxidizers, solvents, oil-based paints, inorganic poison solids, organic poisons and pesticides, waste oils; Pentachlorophenol, Silvex, and 2,4,5-Trichlorophenol; household batteries, fluorescent tubes, and other unknown wastes (any wastes exhibiting undetermined characteristics) or hazardous substances that are not unacceptable pursuant to Section 6.2 of the

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AGREEMENT. The ILLINOIS EPA shall provide pick-up, transportation, disposal and related supplies only for the wastes listed in Section 6.1.

- 6.2 The ILLINOIS EPA shall prohibit its CONTRACTOR from accepting ammunition, explosives, radioactive materials, lead-acid batteries, compressed gas containers (other than aerosol containers), and non-special, non-contaminated wastes, including trash and non-hazardous debris. The CITY shall be responsible for pick-up, transportation, disposal and related supplies for all wastes not specified in Section 6.1.
- 6.3 The CITY may accept other wastes for recycling upon written approval from the ILLINOIS EPA. The CITY should pursue every avenue to recycle empty paint cans and all other non-hazardous waste (e.g., cardboard boxes) delivered to the FACILITY. The CITY should secure outlets (e.g., non-profit groups, charitable organizations) for any unopened, useable consumer products brought to the FACILITY.
- 6.4 The CITY shall reject all wastes from business, institutional, industrial, agricultural, government, or commercial entities unless otherwise agreed in writing by the ILLINOIS EPA and the CITY.

7.0 PERSONNEL TRAINING.

- 7.1 At its sole expense, the ILLINOIS EPA shall require the CONTRACTOR to provide training for the FACILITY'S on-site collection staff in the proper method of operating a HHW collection station and in all aspects of receiving, identifying, segregating and packing the wastes in a proper and safe manner.
- 7.2 The training shall consist of a minimum two-day course of no less than fifteen hours including:
 - 7.2.a. Federal and state legal requirements applicable to HHW handling;
 - 7.2.b. The methods of collecting HHW from the public and identifying unknown materials;
 - 7.2.c. Bulking procedures, the use of different types of containers, record keeping, storage procedures, fire safety, and emergency precautions and procedures;
 - 7.2.d. Procedures for waste shipment, including packaging, labeling and manifest preparation;
 - 7.2.e. Procedures for long-term record keeping, including wastes received, manifests, and disposal information;

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- 7.2.f. The development of an emergency plan addressing first aid in the event of a release, spill, or clean-up and police and fire protection; and
- 7.2.g Field practice in waste segregation, bulking, packaging, and record keeping.
- 7.3 The ILLINOIS EPA shall not be responsible for paying the salaries, wages, benefits or miscellaneous expenses of CITY personnel undergoing training or assigned to the FACILITY.

8.0 LIABILITY, INDEMNIFICATION, AND INSURANCE REQUIREMENTS

- 8.1 The CITY is self-insured against all claims, including worker's compensation, up to the limits of two million dollars (\$2,000,000) per occurrence. The CITY shall be solely liable for any and all damages or cleanup costs relating to exposure to wastes, spills or releases of wastes, fires, or explosions resulting from acts or omissions caused by, arising out of, or occurring in connection with any activities performed at the FACILITY by the CITY's employees or subcontractors. The CITY shall be solely liable for any and all damages to the storage and containment building(s), regardless of cause. However, nothing in this Section 8.1 or this AGREEMENT abrogates, eliminates or otherwise affects any claim or defense the CITY may have under this Section 8.1 against any individual, entity or subcontractor other than the State of Illinois, the ILLINOIS EPA, the Director of the ILLINOIS EPA, or any employee of the ILLINOIS EPA.
- 8.2 The ILLINOIS EPA shall require the CONTRACTOR to maintain comprehensive liability insurance with limits no less than \$1 million per occurrence/\$2 million per year naming the CITY and the ILLINOIS EPA as additional insureds and indemnifying the CITY and the ILLINOIS EPA against any claims for damages or cleanup costs relating to exposure to wastes, spills or releases of wastes, fires, or explosions resulting from any acts or omissions caused by, arising out of, or occurring in connection with the CONTRACTOR's picking up from the FACILITY, transporting, or disposing of the HHW. The ILLINOIS EPA shall provide the CITY with a proper insurance certificate(s) showing the policy limits and coverage afforded the CITY, together with executive summaries of the applicable policies.
- 8.3 The ILLINOIS EPA shall become the generator of record and take title to the HHW picked up by the CONTRACTOR at the time the ILLINOIS EPA or the CONTRACTOR signs the completed Uniform Hazardous Waste Manifest.

9.0 PUBLIC INFORMATION PROGRAM.

- 9.1 The CITY, at no cost to the ILLINOIS EPA and subject to the contributions from other participating government entities as set forth in the Recitals, shall continue its program for encouraging public participation and for informing and educating

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the public about alternatives to household hazardous materials, the proper disposal of these materials, and environmental and resource recovery issues.

- 9.2 The ILLINOIS EPA's assistance shall be sought in improving the quality of information reaching Naperville's citizens relating to the importance of waste minimization and alternatives to using hazardous materials.
- 9.3 For the purpose of discouraging the public's delivery of latex paint to the FACILITY, the CITY, at no cost to the ILLINOIS EPA and subject to the contributions from other participating government entities as set forth in the Recitals, shall develop and distribute brochures, leaflets, etc., including information concerning the proper use and storage of latex paint. Such information shall include, without limitation, alternative disposal methods and recycling opportunities.

10.0 TERMINATION OF THIS AGREEMENT.

- 10.1 Either the ILLINOIS EPA or the CITY may terminate this AGREEMENT prior to the expiration set forth in Section 2.0 by providing thirty (30) days written notice to the other party.
- 10.2 Notice of termination of the AGREEMENT shall be provided in accordance with the requirements of Section 12.0.
- 10.3 In the event the ILLINOIS EPA terminates this AGREEMENT, it shall cooperate with the CITY to arrange for a final pick-up at the FACILITY and shall include notification regarding the closure of the FACILITY on the ILLINOIS EPA website.

11.0 ENTIRE AGREEMENT.

- 11.1 This AGREEMENT represents the entire agreement between the parties with respect to the operation of the FACILITY and supersedes all previous communications or understandings whether oral or written.

12.0 NOTICES.

- 12.1 Unless otherwise provided, any notice required or permitted hereunder shall be deemed properly given to the party to be notified at the time it is personally delivered to the party during regular business hours at the address specified below or mailed by certified mail, return receipt requested, to the address specified below. Either party may change its address for receiving notices by giving notice thereof in compliance with the terms of this subsection.

FOR THE CITY:

Director of Public Works

EXHIBIT A

ATTACHMENT 1

City of Naperville
400 South Eagle Street
Naperville, Illinois 60540

FOR THE ILLINOIS EPA:

Manager
Waste Reduction and Compliance Section
Division of Land Pollution Control
Bureau of Land
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

13.0 AMENDMENT OR MODIFICATION.

- 13.1 No amendment or modification to this AGREEMENT shall be effective until approved by the parties in writing.

14.0 NON-ASSIGNMENT.

- 14.1 This AGREEMENT shall not be assigned by either party.

15.0 EFFECTIVE DATE.

- 15.1 The terms of this AGREEMENT shall become effective upon the date of its execution by authorized representatives of the ILLINOIS EPA and the CITY or upon the expiration of the 2007 Agreement, whichever is later.


16.0 GOVERNING LAW.

- 16.1 This AGREEMENT shall be governed by the laws of the State of Illinois both as to interpretation and performance.

THE PARTIES TO THIS AGREEMENT by their signatures acknowledge they have read and understand this AGREEMENT and intend to be bound by its terms.

CITY OF NAPERVILLE

By:


Doug Krieger
City Manager

**ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY**

By:

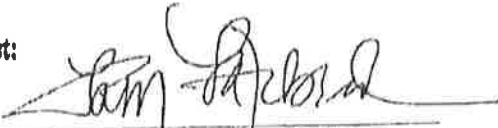

John J. Kim
Interim Director

EXHIBIT A

ATTACHMENT 1

Attest:

By:


Pam LaFeber, Ph.D.
City Clerk

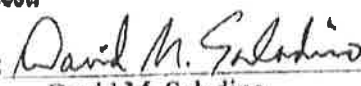
Date:

10-22-12

Naperville2012Renewal(Final).doc

Attest:

By:


David M. Saladino
Environmental Protection Specialist

Date:

December 6, 2012

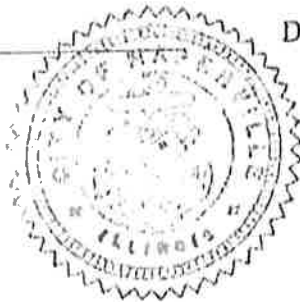


EXHIBIT A

**ADDENDUM TO THE INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF NAPERVILLE AND THE ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY TO OPERATE A LONG-TERM
HOUSEHOLD HAZARDOUS WASTE COLLECTION FACILITY**

THIS ADDENDUM TO THE INTERGOVERNMENTAL AGREEMENT (defined below) is entered into this 19th day of January, 201~~4~~¹⁵, between the City of Naperville, (CITY), a home rule municipal corporation with offices at 400 South Eagle, Naperville, Illinois 60540, and the Illinois Environmental Protection Agency, (ILLINOIS EPA), 1021 North Grand Avenue East, Springfield, Illinois 62794-9276, an agency of the Executive Branch of the government of the State of Illinois created by the Illinois General Assembly under the Illinois Environmental Protection Act, 415 ILCS 5/4. The CITY and the ILLINOIS EPA are together hereinafter referred to as "Parties".

RECITALS

WHEREAS, Section 5 of the Intergovernmental Cooperation Act provides, in part, that "[a]ny one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity or undertaking or to combine, transfer, or exercise any powers, functions, privileges, or authority which any of the public agencies entering into the contract is authorized by law to perform," 5 ILCS 220/5; and

WHEREAS, the CITY and the ILLINOIS EPA are public agencies within the meaning of Section 2 of the Intergovernmental Cooperation Act, 5 ILCS 220/2; and

WHEREAS, the CITY is a home rule municipal corporation under and by virtue of the Constitution and laws of the State of Illinois, and has acted in the exercise of its statutory and home rule authority in the exercise of the AGREEMENT; and

WHEREAS, Article VII, Section 10 of the 1970 Constitution of the State of Illinois encourages and provides for municipalities and units of local government to cooperate, contract and otherwise associate with other agencies for their mutual benefit, and expressly authorizes units of local government to contract with the State to obtain or share services and to exercise, combine, or transfer any power or function, in any manner not prohibited by law or ordinance; and

WHEREAS, the Illinois General Assembly has found that there is a need for household hazardous waste collection centers throughout the State that can be operated to augment existing and future hazardous waste storage facilities, (415 ILCS 90/2); and

WHEREAS, Section 22.16b(d) of the Illinois Environmental Protection Act mandates that ILLINOIS EPA establish household hazardous waste collection centers in appropriate places in the State to ensure that said wastes collected are properly disposed of, and authorizes the ILLINOIS EPA to contract with other parties for that purpose, 415 ILCS 5/22.16b(d); and

WHEREAS, in order to protect against environmental damage and harm to public health, safety and welfare that may result from improper and unsafe transportation, treatment, storage, disposal, and dumping of commonly used household hazardous wastes (HHW), the City Council

ATTACHMENT 1

agreed to operate a regional HHW collection program with assistance and financing from the ILLINOIS EPA and the CITY's other local government entities including, but not limited to, the County of DuPage, the County of Kane, the County of Will, and the City of Aurora ("FUNDING PARTNERS"); and

WHEREAS, to that end, the CITY submitted its "Proposal for Providing a Household Hazardous Waste Collection Program" ("Proposal") in response to the ILLINOIS EPA's "Request for Proposals to Co-Host a Long-Term Household Hazardous Waste Collection Facility," dated December 4, 1991; the ILLINOIS EPA accepted that proposal, and the agreement was extended in 1998, 2004, 2007, and 2012, and was amended in 2014, a copy of which is attached hereto ("INTERGOVERNMENTAL AGREEMENT" or "AGREEMENT"); and

WHEREAS, the AGREEMENT provides for the CITY's operation of a HHW collection program at a CITY owned facility located at 156 Fort Hill Drive, Naperville, 60540 ("FACILITY"); and

WHEREAS, ILLINOIS EPA has entered a Contract with an HHW hauler ("CONTRACTOR") to pick up, transport and dispose of HHW from the FACILITY, to provide supplies and materials to the CITY for the operation of its HHW program, and to provide training to the CITY's collection personnel as provided in the AGREEMENT ("CONTRACTOR'S SERVICES"); and

WHEREAS, the ILLINOIS EPA and the CITY have mutually agreed to extend the term of the AGREEMENT as herein provided in order for the Parties to finalize a new Agreement and for the CITY to negotiate any necessary amendments or new Agreements with its FUNDING PARTNERS while endeavoring not to disrupt the CITY's operation of its HHW collection program.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, the Parties agree as follows:

- 1.0 The foregoing Recitals are incorporated by reference as though fully set forth herein.
- 2.0 The AGREEMENT is hereby amended as follows:
 - 2.1 The term of the AGREEMENT is extended through June 30, 2018, unless sooner terminated as therein provided or as provided in accordance with Section 2.3 below.
 - 2.2 During the period of January 1, 2018 through June 30, 2018, ILLINOIS EPA's payments to CONTRACTOR for CONTRACTOR's SERVICES and any other payments required by ILLINOIS EPA to CONTRACTOR required under the AGREEMENT shall not exceed \$250,000 ("MAXIMUM PAYMENT AMOUNT" or "AMOUNT"), except as expressly provided in Section 2.2.1 or 2.2.2 below, subject to the availability of sufficient funds and appropriations as provided in Section 2.3 below.

ATTACHMENT 1

- 2.2.1 The CITY will use its best efforts to operate its HHW collection program in such a manner as not to exceed the MAXIMUM PAYMENT AMOUNT. If the CITY has any remaining HHW at the FACILITY i) after the ILLINOIS EPA has received invoices from CONTRACTOR reflecting the performance of CONTRACTOR's SERVICES that will result in an aggregate payment of the MAXIMUM PAYMENT AMOUNT (or pro-rated amount as the case may be), or ii) ILLINOIS EPA receives an invoice (or HHW approval form) from CONTRACTOR that will result in the aggregate payment to CONTRACTOR that exceeds the MAXIMUM PAYMENT AMOUNT (or pro-rated amount as the case may be) to remove the remaining HHW at the FACILITY, notwithstanding the CITY's exercise of its best efforts not to exceed said AMOUNT, then the ILLINOIS EPA will pay CONTRACTOR to pick up, transport and dispose of said HHW from the FACILITY (i.e., make a payment in excess of the MAXIMUM PAYMENT AMOUNT), provided that the CITY ceases collecting HHW within one business day of receipt of notice from ILLINOIS EPA that ILLINOIS EPA has received such invoices from the CONTRACTOR.
- 2.2.2 In the event that the ILLINOIS EPA determines, in its sole and absolute discretion, that additional funds (i.e., in excess of the MAXIMUM PAYMENT AMOUNT) are available to pay CONTRACTOR for CONTRACTOR's SERVICES related to the CITY's HHW program, then ILLINOIS EPA may increase the MAXIMUM PAYMENT AMOUNT.
- 2.3 Notwithstanding any provision to the contrary in the AGREEMENT or this Addendum, the payments to CONTRACTOR and any other obligation provided or required by ILLINOIS EPA under the AGREEMENT, as herein amended, are expressly contingent upon and subject to the availability of sufficient funds appropriated for the AGREEMENT and the services being reimbursed for thereunder, as amended herein. The ILLINOIS EPA may terminate or suspend the AGREEMENT and Addendum, in whole or in part, without penalty or further payment being required, if: i) sufficient State funds have not been appropriated to the ILLINOIS EPA, ii) the Governor or the ILLINOIS EPA reserves appropriated funds, iii) the Governor or the ILLINOIS EPA determines that appropriated funds may not be available for payment, or iv) the ILLINOIS EPA determines that there are otherwise insufficient funds available. The ILLINOIS EPA shall provide notice, in writing, to the CITY of any such funding failure and its election to terminate or suspend the AGREEMENT and Addendum as soon as practicable after such determination is made. Any suspension or termination pursuant to this Section will be effective upon the CITY's receipt of said notice notwithstanding any provision in the AGREEMENT or this Addendum to the contrary.
- 2.4 The ILLINOIS EPA will use its best efforts to i) email copies of all CONTRACTOR invoices for FACILITY hauling costs to the CITY's project manager (or such other person designated in writing by the project manager) within five business days of receipt, and ii) provide the CITY with a statement in the last week of each month reflecting the amount invoiced to date under the MAXIMUM PAYMENT AMOUNT.

ATTACHMENT 1

- 2.5 The ILLINOIS EPA will provide technical and programmatic expertise to assist the CITY in making operational changes to function under the MAXIMUM PAYMENT AMOUNT and any subsequent maximum payment amount included under a new Agreement between the Parties. ILLINOIS EPA staff will be available to meet with the CITY to make recommendations concerning operational efficiencies of the FACILITY at reasonable times and with reasonable frequency during the term of this Addendum.
- 2.6 Notwithstanding any provision to the contrary in the AGREEMENT or this Addendum, the frequency with which the CONTRACTOR picks up waste from the FACILITY shall be determined by the CITY, provided that the CITY uses its best efforts to prevent CONTRACTOR's SERVICES costs from exceeding the MAXIMUM PAYMENT AMOUNT.
- 2.7 Notwithstanding any provision to the contrary in the AGREEMENT or this Addendum, and in an effort to comply with the provisions of Section 2.6 above, the CITY, with not less than fourteen (14) days advance written notice to the ILLINOIS EPA, may implement the following with respect to the operation of its HHW collection program: i) revise the dates and hours that the FACILITY will operate; ii) revise the methods of accepting household hazardous waste, including but not limited to an appointment-based schedule; and iii) further restrict the types of household hazardous waste that will be accepted at the FACILITY (provided that only HHW set forth in Section 6.1 of the AGREEMENT may be accepted, and no wastes or other items prohibited under Section 6.2 of the AGREEMENT may be accepted). The CITY shall not charge fees for HHW collected at the FACILITY, or establish the amount and type(s) of fees charged for different types of HHW, without the prior written approval of the ILLINOIS EPA.
- 3.0 The AGREEMENT shall remain in full force and effect as amended herein.

[SIGNATURE PAGE TO FOLLOW]

ATTACHMENT 1

CITY OF NAPERVILLE:

By: Steve Chirico
Steve Chirico
Mayor

Attest:
By: Pam Gallahue
Pam Gallahue, Ph.D.
City Clerk

Date: Jan 8, 2018

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY:

By: Alec Messina
Alec Messina
Director

Attest:
By: James Jennings
James Jennings
Manager, Waste Reduction and
Compliance Section

Date: 1/10/13

