



# Office of the City Clerk

City Hall  
121 N. LaSalle St.  
Room 107  
Chicago, IL 60602  
www.chicityclerk.com

## Legislation Details (With Text)

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**File #:** O2013-8587  
**Type:** Ordinance  
**File created:** 11/13/2013  
**Status:** Passed  
**In control:** City Council  
**Final action:** 12/11/2013  
**Title:** General permit with Metropolitan Water Reclamation District of Greater Chicago for access to property at W 31st St and S Sacramento Ave  
**Sponsors:** Emanuel, Rahm  
**Indexes:** Miscellaneous  
**Attachments:** 1. O2013-8587.pdf

Date	Ver.	Action By	Action	Result
12/11/2013	1	City Council	Passed	Pass
12/5/2013	1	Committee on Housing and Real Estate	Recommended to Pass	Pass
11/13/2013	1	City Council	Referred	

OFFICE OF THE MAYOR  
CITY OF CHICAGO

RAHM EMANUEL  
MAYOR

November 13,2013

TO THE HONORABLE, THE CITY COUNCIL OF THE CITY OF  
CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Fleet and Facility Management, I transmit herewith an ordinance authorizing the execution of a use permit for the Metropolitan Water Reclamation District.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

**ORDINANCE BE IT ORDAINED BY THE CITY**

**COUNCIL OF THE CITY OF CHICAGO:**

SECTION 1: On behalf of the City of Chicago, the Commissioner of the Department of Fleet and Facility Management is authorized to execute a General Permit with the Metropolitan Water Reclamation District of Greater Chicago governing the City's access to approximately 4.35 acres of land property located at 31<sup>st</sup> Street and Sacramento Avenue; such General Permit to be approved as to form and legality by the Corporation Counsel in substantially the following form:

**REV. 00-00-00**

**GENERAL PERMIT**

**THIS PERMIT made this       day of       , 20\_ , by and between THE METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO, a body corporate and politic, organized and existing under the laws of the State of Illinois hereinafter called "District," and THE CITY OF CHICAGO, a municipal corporation and home rule unit of government organized and existing under the laws of the State of Illinois hereinafter called "Permittee."**

**ARTICLE ONE**

1       The District for and in consideration of the payment of the permit fees hereinafter set forth, hereby issues to the Permittee a permit and license to use the following described real estate situated in the County of Cook, State of Illinois for the sole and exclusive purpose of warehouse, garage, shop, storage, parking, office space and related municipal functions and for no other purpose whatsoever. (For pictorial representation of permit premises, see Exhibit A attached hereto and made a part hereof).

2       This Permit shall be effective from the 1st day of April, 2013, to the 30th  
2       day of September, 2014       , at which time Permittee shall vacate said premises and re-  
2       move Permittee's effects therefrom at Permittee's cost, unless said Permit shall be ter-  
2       minated sooner by virtue of the provisions hereinafter provided.

**ARTICLE TWO**

1       Permittee hereby agrees that in consideration for the granting of this Permit, Permittee shall pay to the District the sum of Sixty-Nine Thousand and NO/100 DOLLARS (\$69,000) for the period from April 1, 2013 through March 31, 2014 payable on or before January 31, 2014 and the sum of Thirty-Four Thousand Five-Hundred and No/100 Dollars (\$34,500) payable on or before May 31, 2014.

2 In addition thereto. Permittee shall pay on or before the due date therefor, all real estate taxes, special assessments and all other taxes, assessments and charges which may be levied against the property or the District by any governmental authority empowered to do so, on account of Permittee's use of the Permit Premises.

### **ARTICLE THREE**

1 Permittee agrees and specifically understands that this Permit is confined solely to the non-exclusive privilege to Permittee to use the premises set forth in Article One, and no other; that the authority and permission herein given does not thereby grant unto Permittee any interest or estate in the said lands of the District and that the District retains dominion, possession and control of said lands, including access thereto at all times.

2 Permittee further agrees and specifically understands that the District shall have the right to enter upon the premises herein described for the purpose of making

such surveys, soil borings or other purposes as may be deemed necessary by the District in the furtherance of its corporate purpose.

3.03 The District shall not be liable for any loss, cost or damage to the Permittee by reason of the exercise of the right to make such surveys, soil borings or other purposes as may be deemed necessary by the District in the furtherance of its corporate purpose so long as the exercise of such right is not made with negligence or willful misconduct by the District or any of its agents.

### **ARTICLE FOUR - Omitted**

1 The District hereby reserves the right to terminate this Permit upon giving thirty (30) days notice, in writing, of such termination to Permittee and thereupon Permittee shall vacate said premises and remove its effects therefrom, and restore the premises to the condition existing prior to Permittee's entry thereon, at Permittee's cost.

2 In the event Permittee uses or allows the premises to be used for any illegal or immoral purposes, or for any purpose other than that hereinabove specifically provided, or violates any of the provisions hereof, this Permit may be terminated by the District upon giving three (3) days notice, in writing, to Permittee, and thereupon Permittee shall forthwith vacate said premises and remove Permittee's effects therefrom, and restore the premises to the condition existing prior to Permittee's entry thereon, at Permittee's cost.

3 The District shall not be liable to Permittee for any loss, cost or damage incurred by the Permittee by reason of the exercise of the right of the District to cancel this Permit.

4 For purposes of this Article and all other Articles referencing Permittee's obligation to restore the premises to the condition existing prior to its entry thereon the applicable date shall be April 1, 1914, the date of the original lease between the District and the Permittee.

### **ARTICLE FIVE**

5.01 Subject to allocation of adequate appropriations and other applicable legislative procedures, requirements, and approvals, the Permittee shall be solely responsible for and shall

defend, indemnify, keep and save harmless the District, its Commissioners, officers, agents and employees, against all injuries, deaths, losses, damages, claims, patent claims, liens, suits, liabilities, judgments, costs and expenses which may in any wise accrue, directly or indirectly, against the District, its Commissioners, officers, agents or employees, in consequence of the granting of this Permit, or which may in anywise result therefrom or from any work done hereunder, whether or not it shall be alleged or determined that the act was caused through negligence or omission of the Permittee, or Permittee's employees, or of any contractor or subcontractor, or their employees, if any, and the Permittee shall, at Permittee's sole expense appear, defend and pay all charges of Attorneys and all costs and other expenses arising therefrom or incurred in connection therewith, and if any judgment shall be rendered against the District, its Commissioners, officers, agents or employees, in any such

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action the Permittee shall, at the Permittee's sole expense, satisfy and discharge the same. Notwithstanding the foregoing, the Permittee shall not be responsible for any negligence or willful misconduct of the District, its Commissioners, officers, agents and employees.

**5.02 SELF-INSURER**

If Permittee is a self-insurer. Permittee, prior to entering upon said premises and using the same for the purposes for which this Lease is granted, shall prepare and transmit to the District a letter of self-insurance, and that Permittee undertakes and shall insure the District to cover those liabilities in the respective amounts therefor, as set forth as follows:

**COMPREHENSIVE GENERAL LIABILITY Combined Single Limit Bodily Injury Liability  
Property Damage Liability (Including Liability for Environmental Contamination of  
Adjacent Properties) in the amount of not less than \$4,000,000.00 per occurrence  
and  
ALL RISK PROPERTY INSURANCE (Including Coverage for Environmental Contamination  
of Demised Premises) in the amount of not less than \$4,000,000.00 per occurrence  
INCLUDING FIRE AND EXTENDED COVERAGE in an amount not less than the replacement  
cost of improvements located on the premises\***

\*Strike where applicable.

This self-insurance letter shall be signed by such risk management officer or agent of the Permittee having sufficient knowledge of the fiscal structure and financial status of the Permittee to make such a statement on behalf of the Permittee.

5.03 Permittee expressly understands and agrees that any insurance protection or bond required by this Permit, or otherwise provided by Permittee, shall in no way limit the responsibility to defend, indemnify, keep and save harmless the District, as hereinabove provided in Section 5.01.

**ARTICLE SIX**

6.01 It is further expressly understood that the District shall not be liable to the Permittee for any loss, cost, or expense which the Permittee shall sustain by reason of any damage to its property or business caused by or growing out of the construction, repair, reconstruction, maintenance,

existence, operation, or failure of any of the sewers, structures, or other works or equipment of the District now located or to be constructed on said premises, or on the land of the District adjacent to said premises. Notwithstanding the foregoing, the Permittee shall not be responsible for any negligence or willful misconduct of the District, its Commissioners, officers, agents and employees.

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6.02 The Permittee also agrees that if the District incurs any additional expense for additional work which the District would not have had to incur if this Permit had not been executed, then, in that event, the Permittee agrees to pay to the District such additional expense as determined by the Executive Director of the District, promptly upon rendition of bills therefor to the Permittee.

**ARTICLE SEVEN**

1 It is understood and agreed by and between the parties hereto that the Permittee shall not erect any new structure of any type or kind upon said premises except with the consent, in writing, of the Executive Director first had and obtained.

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

3 The Permittee, prior to entering upon said premises and using the same for the purposes for which this Permit is granted, shall, at Permittee's sole cost and expense, obtain all permits, consents and licenses which may be required under any and all statutes, laws, ordinances and regulations of the District, the United States of America, the State of Illinois, the County, or the city, village, town or municipality in which the subject property is located, and furnish to the District suitable evidence thereof.

4 The Permittee covenants and agrees not to maintain any nuisance on the Permit premises which shall be in any manner injurious to the health and comfort of persons residing or being in the vicinity of said premises, and the Permittee further covenants and agrees to keep the Permit premises in a clean and sanitary condition.

5 The Permittee covenants and agrees that it shall strictly comply with any and all statutes, laws, ordinances and regulations of the District, the United States of America, the State of Illinois, the County and the city, village, town or municipality in which the subject property is located, which in any manner affect this Permit, any work done hereunder or control or limit in any way the actions of Permittee, its agents, servants and employees, or of any contractor or subcontractor of Permittee, or their employees.

6 Permittee covenants and agrees that on or before the termination date of this Permit, Permittee shall remove or cause to be removed, any and all debris on the premises described in this Permit, and any and all equipment, facilities, or other things erected or placed upon said premises, and will yield up said premises to the District in as good condition as when the same was entered upon by Permittee on April 1, 1914. Upon Permittee's failure so to do, the District may do so at the sole expense and cost of Permittee.

**ARTICLE EIGHT**

8.01 Any notice herein provided to be given shall be deemed properly served if delivered in writing personally or mailed by registered or certified mail, postage pre-

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paid, return receipt requested to the District in care of the Executive Director, 100 East Erie Street, Chicago, Illinois 60611, or to the Permittee in care of:

City of Chicago Department of Fleet and Facility  
Management Office of Real Estate Management 30 North  
LaSalle Street, Room 300 Chicago, Illinois 60602

or to such other persons or addresses as either party may from time to time designate in writing.

2 In the event that the Permittee hereinabove contemplated shall consist of two or more parties, each and every party shall be jointly and severally liable for the faithful and complete performance of each and every provision of this Permit.

3 Permittee expressly acknowledges that the District has made no representations, warranties, express or implied, as to the adequacy, fitness or condition of Permit Premises or the improvements upon the Permit Premises. Except as set forth in Article Nine herein. Permittee accepts the Permit Premises and the improvements thereon, if any, 'AS-IS" and 'WITH ALL FAULTS". Permittee acknowledges that it has inspected the permit premises and has satisfied itself as to the adequacy, fitness and condition thereof.

4 Permittee agrees and specifically understands that the District shall not issue or execute this Permit and license, unless within 28 days of Permittee's receipt of this Permit Agreement, Permittee causes same to be duly executed and returned to the District with evidence of compliance with all terms contained herein.

5 This Permit Agreement shall be mutually cancelable by the Permittee upon Permittee's giving ninety (90) days notice in writing, of such cancellation to the District and thereupon Permittee shall vacate said premises and remove its effects therefrom, and restore the premises to the condition existing prior to Permittee's entry thereon (April 1,1914), at Permittee's cost.

6 If the land is to be used for public use and recreation, Permittee shall, during the term of this Permit, at its sole cost and expense, construct, erect and maintain, at one or more prominent locations on the permit premises, tastefully designed and constructed permanent signs which acknowledge the cooperation and support of the District in connection with Permittee's use of the permit premises. The style, text and size of the sign(s) shall be approved in advance of erection thereof by the Executive Director of the District, and shall, at minimum state that:

**"THIS FACILITY IS PROVIDED IN PART AS A COMMUNITY SERVICE  
WITH THE COOPERATION AND SUPPORT OF THE METROPOLITAN  
WATER RECLAMATION DISTRICT OF GREATER CHICAGO"**

**ARTICLE NINE**

**GENERAL ENVIRONMENTAL PROVISIONS 9.01  
DEFINITIONS**

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

- 1) all requirements, including, without limitation, those pertaining to notification, warning, reporting, license-ing, permitting, investigation, and remediation of the presence, creation, manufacture, processing, use, management, distribution, transportation, treatment, storage, disposal, handling, or release of Hazardous Materials;
- 2) all requirements pertaining to the protection of employees or the public from exposure to Hazardous Materials or injuries or harm associated therewith; and
- 3) the Comprehensive Environmental Response, Compensation and Liability Act (Superfund or CERCLA) (42 U.S.C. Sec. 9601 et\_ sea.), the Resource Conservation and Recovery Act (Solid Waste Disposal Act or RCRA) (42 U.S.C. Sec. 6901 et seq.). Clean Air Act (42 U.S.C. Sec 7401 et\_ sea.), the Federal Water Pollution Control Act (Clean Water Act) (33 U.S.C. Sec, 1251 etseqj, the Emergency Planning and Community Right-to-Know Act (42 U.S.C. Sec. 11001 et\_seq.), the Toxic Substances Control Act (15 U.S.C. Sec, 2601 et. seq.), the National Environmental Policy Act (42 U.S.C. Sec. 4321 et seq.), the Rivers and Harbors Act of 1988 (33 U.S.C. Sec. 401 et sea.), the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the Safe Drinking Water Act (42 U.S.C. Sec. 300 (f) et sea., the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.). and all similar state, local and municipal laws relating to the environment.

B. "Hazardous Materials" shall mean:

- (1) any and all asbestos, natural gas, synthetic gas, liquefied natural gas, gasoline, diesel fuel, petroleum, petroleum products, petroleum hydrocarbons, petrole-

urn by-products, petroleum derivatives, crude oil and any fraction of it, polychlorinated biphenyls (PCBs), trichloroethylene, ureaformaldehyde and radon gas;

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

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C. "Phase I Environmental Assessment" shall mean:

- (1) *environmental assessments of real estate, bedrock and groundwater of the type found on the Permit Premises and said assessment shall be conducted in accordance with the ASTM Designation allowed by 40 CFR 312.11 (a) at the time of the assessment and the final AW Appropriate Inquiries Standard.*

D. "Phase II Environmental Assessment" shall mean:

- (1) an assessment of the Permit Premises to identify and quantify any Recognized Environmental Conditions identified in the Phase I accordance with all applicable subsections of the Illinois Environmental Protection Agency Title 35: Environmental Protection, Subtitle G: Waste Disposal, Chapter I: Pollution Control Board. The Phase II Environmental Assessment shall be of the real estate, soils,



bedrock and groundwater of the type found on the Permit Premises and said assessment shall be conducted in accordance with the ASTM Designation E-1903-11, Standard Practice for Environmental Site Assessments: Phase II Environmental Site Assessment Process. Notwithstanding the above, the Permittee agrees to restore the Premises to the condition existing prior to Permittee's entry on April 1, 1914.

#### **9.02 MANUFACTURE, USE, STORAGE, TRANSFER OR DISTRIBUTION OF HAZARDOUS MATERIALS UPON OR WITHIN THE PERMIT**

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

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

#### **9.03 USE OF PREMISES (RESTRICTIONS - ENVIRONMENTAL)**

Permittee shall use the Permit Premises only for purposes expressly authorized by Article 1.01 of this Permit Agreement. Permittee will not do or permit any act that may

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impair the value of the Permit Premises or any part thereof or that could materially increase the dangers, or pose an unreasonable risk of harm, to the health or safety of persons to third parties (on or off the Permit Premises) arising from activities thereon, or that could cause or threaten to cause a public or private nuisance on the Permit Premises or use Permit Premises in any manner (i) which could cause the Permit Premises to become a hazardous waste treatment, storage, or disposal facility within the meaning of, or otherwise bring the Permit Premises within the ambit of, the Resource Conservation and Recovery Act of 1976, Section 6901 et seq. of Title 42 of the United States Code, or any similar state law or local ordinance, (ii) so as to cause a release or threat of release of Hazardous Materials from the Permit Premises within the meaning of, or otherwise bring the Easement Premises within the ambit of, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 9601 et seq. of Title 42 of the United States Code, or any similar state law or local ordinance or any other Environmental Law or (iii) so as to cause a discharge of pollutants or effluents into any water source or system, or the discharge into the air of any emissions, which would require a permit under the Federal Water Pollution Control Act, Section 1251 of Title 33 of the United States Code, or the Clean Air Act, Section 741 of Title 42 of the United States Code, or any similar state law or local ordinance.

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

A. In the event of a release, emission, discharge, or disposal of Hazardous Materials in, on, under, or about the Permit Premises or the improvements thereon, during the term of this Permit

(except such release, emission, discharge or disposal by the District, its employees, agents or its other permittees arising out of or in connection with the use authorized by the Permit). Permittee will take all appropriate response action, including any removal and remedial action after the execution date of this Permit Agreement.

#### 9.05 INDEMNIFICATION (ENVIRONMENTAL)

A. In consideration of the execution and delivery of this Permit Agreement, the Permittee indemnifies, exonerates, and holds the District and its officers, officials, Commissioners,, employees, and agents ("Indemnified Parties") free and harmless from and against any and all actions, causes of action, suits, losses, costs, liabilities and damages and expenses incurred in connection with any of these (irrespective of whether any such Indemnified Party is a party to the action for which indemnification is here sought, including reasonable General Counsel's fees, costs and disbursements, incurred by the Indemnified Parties as a result of or arising out of or relating to (i) the imposition of any governmental lien for the recovery of environmental cleanup costs expended by reason of Permittee's activities; or (ii) any investigation, litigation, or proceeding related to any environmental response, audit, compliance, or other matter relating to the protection of the environment, resulting from or related to Permittee's activities; or (iii) the release or threatened release by Permittee, its subsidiaries, or its parent company, of any Hazardous Materials, or the presence of Hazardous Materials on or under the Permit Premises, (except such presence created by the District, its employees, agents or its other permittees), or any property to which the Permittee, its parent company or any of its subsidiaries has sent Hazardous Materials, (including any losses, liabilities, damages, injuries, costs, expenses, or claims asserted or arising under

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any Environmental Law), to the extent caused by or within the control of the Permittee, its parent company or its subsidiaries, provided that, to the extent District is strictly liable under any Environmental Laws, Permittee's obligation to District under this indemnity shall be without regard to fault on the part of the Permittee with respect to the violation of law which results in liability to the District.

#### 9.06 ENVIRONMENTAL COVENANTS

Permittee agrees to and covenants as follows:

A. Permittee covenants and agrees that, throughout the term of the Permit Agreement, all Hazardous Materials which may be used by Permittee or person permitted by Permittee upon the Permit Premises shall be used or stored thereon only in a safe, approved manner, in accordance with all generally accepted industrial standards and all Environmental Laws.

B. Permittee has been issued and is in compliance with all permits, certificates, approvals, licenses, and other authorizations relating to environmental matters and necessary for its business, if any.

C. Permittee, to the best of its knowledge, is not a potentially responsible party with respect to any other facility receiving waste of the Permittee (whether or not from the Permit Premises) under CERCLA or under any statute providing for financial responsibility of private parties for cleanup or other actions with respect to the release or threatened release of any Hazardous Materials.

D. Permittee will take all reasonable steps to prevent a violation of any Environmental Laws and to assure that there will be no spill, discharge, leaks, emission, injection, escape, dumping, or release of any toxic or Hazardous Materials by any persons on the area to be used and under the Permit Agreement.

E. During the term of this permit. Permittee will not allow the installation of asbestos on the area described in Exhibit A or any item, article, container or electrical equipment, including, but not limited to, transformers, capacitors, circuit breakers, re-closers, voltage regulators, switches, electro-magnets and cable, containing PCBs.

F. During the term of this permit. Permittee shall be responsible to install "plugs" of compacted impermeable soil material at intervals of no greater than 100 feet between such plugs along utility trenches which have been backfilled with compacted granular materials in order to minimize cross-site and off-site environmental contaminant migration. The spacing of these plugs should be based on the characteristics of the site, the configuration of the trench or trenches, the characteristics (nature and extent) of the site environmental contamination, and/or the potential for site contamination should a surface of subsurface chemical release occur. Special emphasis should be placed on locating these plugs at all utility trenches where they cross: other utility trenches, containment berms or walls, property boundaries, and lease boundaries.

G. The aforesaid representations and warranties shall survive the expiration or termination of the Permit Agreement.

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#### **9.07 COVENANTS (ENVIRONMENTAL)**

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

- A. (1) Use and operate all of the Permit Premises in compliance with all applicable Environmental Laws, keep all material permits, approvals, certificates, and licenses in effect and remain in material compliance with them;
- (2) Undertake reasonable and cost-effective measures to minimize any immediate environmental impact of any spill or leak of any Hazardous Materials caused or permitted by Permittee;

B. Notify District by telephone within two hours of the release of Hazardous Materials, including the extent to which the identity of the Hazardous Materials is known, the quantity thereof and the cause(s) of the release, and provide District within 72 hours of the event, with copies of all written notices by Permittee, its parent and its subsidiaries that are reported to government regulators or received from the governmental regulators.

C. Provide such information that District may reasonably request from time to time to determine compliance by the Permittee with this Article.

D. Permittee covenants and agrees to cooperate with District in any inspection, assessment, monitoring or remediation instituted by District during the Permit Agreement.

#### **9.08 COMPLIANCE (ENVIRONMENTAL)**

The Permittee will cause its parent company and each of its subsidiaries, if any, to exercise due

diligence to comply with all applicable treaties, laws, rules, regulations, and orders of any government authority.

A. In the event of a spill, leak or release of hazardous waste caused by Permittee, its employees or its agents. Permittee shall conduct a Phase I Environmental Assessment, at its own expense, with respect to the Permit Premises and a reasonable area of the adjacent property owned by the District, and submit the written report to the District within 90 days after the spill, leak or discharge. After review of each Phase I Environmental Assessment, District, at its sole discretion, may require Permittee, at Permittee's expense, to obtain a Phase II Environmental Assessment with respect to the premises used under the Permit Agreement. The written report of the Phase II Environmental Assessment shall be submitted to District within 120 days of District's request for same. If the Phase II Assessment discloses the presence of any Hazardous Materials contamination on the Permit Premises or adjacent premises. Permittee shall take immediate action to remediate the contamination and to restore the Permit Premises described in Ex-

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hibit A and adjacent premises owned by the District to a clean and sanitary condition and to the extent required by any and all environmental laws.

B. Capacitors, transformers, or other environmentally sensitive installations or improvements shall be removed at the end of the Permit Agreement, at District's election.

C. If any Environmental Assessment reveals, or District otherwise becomes aware of, the existence of any violation of any Environmental Laws that either Permittee is unwilling to remediate or that District is unwilling to accept. District shall have the right and option to terminate this Agreement and to declare it null and void.

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

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

A. In the event Permittee gives notice pursuant to the provisions of Notice of Environmental Problem, within ninety (90) days Permittee shall submit to District a written report of a site assessment and environmental audit, in scope, form and substance and prepared by an independent, competent and qualified, professional, registered engineer, satisfactory to the District, showing that the engineer made all appropriate inquiry consistent with good commercial and customary practice, such that, consistent with generally accepted engineering practice and procedure, no evidence or indication came to light which would suggest there was a release of

substances on the Permit Premises which could necessitate an environmental response action, and which demonstrates that the Permit Premises complies with, and does not deviate from, all applicable environmental statues, laws, ordinances, rules and regulations, including licenses, permits, or certificates required thereunder, and that the Permittee is in compliance with, and has not deviated from, the representations and warranties previously set forth.

B. District hereby expressly reserves to itself, its agents, General Counsels, employees, consultants, and contractors, an irrevocable license and authorization to enter upon and inspect the Permit Premises and improvements thereon, and perform such tests, including without limitation, subsurface testing, soils, and groundwater test-

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ing, and other tests which may physically invade the Permit Premises or improvements thereon, as the District, in its sole discretion, determines is necessary to protect its interests.

C. Paragraph(s) hereof, which have been crossed out, are expressly excluded as operative terms of this permit.

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**IN WITNESS WHEREOF**, on the day and year first above written, the parties hereto have caused these presents, including Riders and Exhibits, if any, to be duly executed, duly attested and their corporate seals to be hereunto affixed.

**THE METROPOLITAN WATER RECLAMATION DISTRICT  
DISTRICT OF GREATER CHICAGO**

**Mariyana T. Spyropoulos Chairman, Committee on Finance**

**(PERMITTEE'S NAME)**

**By:**

**Title:**

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**31<sup>st</sup> Street and Sacramento Avenue ' General Permit**

SECTION 2: This Ordinance shall be effective from and after the date of its passage and approval.