

ATTACHMENT 1

AMENDED AND RESTATED CYCLIC AGREEMENT BETWEEN THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA AND WESTERN MUNICIPAL WATER DISTRICT

This Amended and Restated Cyclic Agreement (“Agreement”) is made as of December 20, 2023, by and between the METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (“Metropolitan”), a public agency of the State of California, and WESTERN MUNICIPAL WATER DISTRICT (“Western”), a public agency of the State of California (collectively, the “Parties”).

RECITALS

A. Metropolitan is a voluntary cooperative providing wholesale water services to its 26 member agencies, created under the Metropolitan Water District Act (“MWD Act”). Wat. Code Appen., §§ 109-25, 109-130.

B. Western is a member public agency of Metropolitan and a retail and wholesale water provider with a service area located in Riverside County. Western was created under the Municipal Water District Act of 1911. Wat. Code, §71000, *et seq.*

C. Western is a regional entity that provides services within the Santa Ana River Watershed and portions of Riverside and San Bernardino areas including the Riverside-Arlington Basin, Chino Basin, Elsinore Basins (Coldwater-Bedford Subbasin, and Elsinore Valley Subbasin), Temescal Basin, Temecula-Pauba Basin, and the San Bernardino Basin Area (“Basins”).

D. Metropolitan imports water from the California State Water Project (“SWP”) and the Colorado River and delivers those supplies to its member agencies, including Western.

E. Through this Agreement, the Parties intend to provide for the potential delivery of water by Metropolitan to Western in advance of demand for the water, which water will be

stored in a cyclic account. Western represents it has or will obtain all necessary authorizations for storage of water in the Basins, prior to delivery.

F. The Parties entered into that certain Cyclic Storage Agreement Between Metropolitan Water District of Southern California and Western Municipal Water District dated August 1, 2019 (“2019 Agreement”). The Parties intend for this Agreement to amend and restate the 2019 Agreement.

COVENANTS

In consideration of the above recitals, the covenants, and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, IT IS AGREED:

1. **Incorporation of Recitals**

The Recitals set forth above are incorporated herein and made an operative part of this Agreement.

2. **Pre-Delivery of Metropolitan Water**

Western hereby agrees to enter into a cyclic arrangement with Metropolitan through this Agreement. In order to manage its water resources, Metropolitan may deliver water in advance of Western's purchase and demand of that water. Metropolitan may request that Western accept delivery of up to 40,000 acre-feet of water to the Basins through direct spreading or injection, or though in-lieu means (“Cyclic Account”). Western may accept delivery of Metropolitan water through written confirmation to Metropolitan that the water may be delivered to Western for future purchase by Western, in accordance with the terms of this Agreement. Western shall be solely responsible for storing any water delivered by Metropolitan and account for that water in

the Cyclic Account and its obligation to purchase the water from Metropolitan remains regardless of whether Western secures proper storage for that water in the Basins or whether any losses are attributed to the Cyclic Account in the Basins.

This Agreement is separate and apart from the Parties' Conjunctive Use Program (CUP) Agreement. Metropolitan in its sole discretion, will determine whether water delivered to Western for storage will be credited to the Conjunctive Use Account under the Parties' CUP Agreement or will be credited to the Cyclic Account under this Agreement. The Parties shall not deliver water within the same operating year to both accounts simultaneously, without mutual agreement.

3. Delivery into Cyclic Account

The amount of water delivered to Western by Metropolitan under this Agreement shall not exceed 40,000 acre-feet at any point in time. Prior to any delivery of water by Metropolitan into the Cyclic Account, the Parties shall mutually agree (1) to the amount, location, and timing of actual water delivered pursuant to this Agreement, and (2) to a schedule by which Western shall purchase the delivered water. Any amendment to the delivery schedule shall require mutual written agreement. Until such time as Western purchases the delivered water in accordance with Section 7, the water shall be accounted for in the Cyclic Account, pursuant to Section 4.

4. Cyclic Account

Western agrees to perform accounting of deliveries and purchases to the Cyclic Account pursuant to this Agreement. Western will account for all deliveries in and out of the Cyclic Account and will maintain a record of the balance of water in the Cyclic Account. The Parties to this Agreement will confirm accounting of transactions and balance at the end of each fiscal year. Western will be responsible for obtaining any authorizations, permits, or approvals from

any managing authority with jurisdiction over the Basin, such as a watermaster or groundwater sustainability agency.

5. Delivery from the Cyclic Account

Metropolitan shall deliver water to Western from the Cyclic Account in accordance with the purchase schedule agreed by the parties. Metropolitan will bill Western for the water at the time of purchase in accordance with Section 7. In the event Western does not meet its purchase obligation in accordance with Section 7, Metropolitan retains the prerogative to meet regular water demands by Western either from water in the Cyclic Account in the Basins or from water in its distribution system. Metropolitan need not provide advance notice to Western when it exercises its prerogative under this Section.

6. Loss of Water

There shall be no losses assigned to the Cyclic Account in the Basins. Water delivered through direct spreading or injection, or through in-lieu means into the Cyclic Account shall be fully credited to the Cyclic Account.

7. Obligation for Purchase and Payment

Western agrees to purchase water from the Cyclic Account in accordance with Sections 3 and 5 of this Agreement, but no later than the mutually agreed-upon schedule. Western shall be billed by and pay Metropolitan in accordance with the billing and payment provisions in Metropolitan's Administrative Code, as amended or renumbered over time. The purchase of water by Western from the Cyclic Account shall be equivalent to the sale and delivery of water for purposes of applying the provisions of Metropolitan's Administrative Code. Payments to Metropolitan for such sale of water from its Cyclic Account shall be calculated using

Metropolitan's rate for full service untreated or treated water in effect at the time of the sale of water to Western. The sale of water from the Cyclic Account to Western shall be included in the calculation of Western's Ten-Year Rolling Sales Average for purposes of Metropolitan's Readiness-to-Serve Charge at the time water is sold to Western. The Capacity Charge shall not apply to cyclic water sales because Metropolitan shall deliver water for storage at its discretion.

8. Rent or Offset Credit

Unless otherwise agreed in a separate agreement, there shall be no charge, rent assessment, or expense incurred by Metropolitan by reason of the use of the Basins allowed hereunder, nor is there any credit or offset for the benefits thereof, nor shall there be any charge to Metropolitan for the use of physical facilities including service connections, flood control channels, spreading basins or hydrologic services utilized in connection with any pre-delivery and use of the Basins allowed herein.

9. Indemnity Clause

Liability and indemnification shall be determined pursuant to section 4502 of the Metropolitan Administrative Code, as amended or renumbered over time. Metropolitan provides no warranty or guarantee regarding the quality or content of its untreated water or the suitability of its use for replenishment of groundwater basins. Western acknowledges that it is accepting untreated water "as is."

10. Term

The term of this Agreement shall commence on the Effective Date as defined herein and shall terminate 10 years thereafter.

11. Effective Date

The effective date of this agreement shall commence on December 20, 2023.

12. Termination

In the event of a material breach hereunder, any Party hereto may terminate this Agreement upon thirty (30) days' written notice to the other Parties hereto. Metropolitan may require amendment of this Agreement, or its termination, upon sixty (60) days' written notice if its Administrative Code is amended to change (i) the manner in which Metropolitan sets its water rates and charges for the sale and delivery of water (the rate structure), (ii) designations of classes of water service, or (iii) conditions of water service, in a manner which requires amendment of this Agreement. In the event this Agreement must be so amended, it shall be amended to provide water rates and charges applicable to water service for treated and untreated water applicable to all of Metropolitan's member public agencies, except for any charge specifically set to recover costs incurred to meet peak distribution demands. In the event such an amendment to this Agreement cannot be obtained from any Party, this Agreement may be terminated by Metropolitan upon sixty (60) days' written notice to the other Parties hereto.

13. Purchase of Water After Termination

Upon termination of the Agreement or of the mutually agreed purchase schedule, whichever comes later, Western is obligated to purchase all water remaining in the Cyclic Account within 90 days. During this period, all water demands from Western to Metropolitan will be met by the Cyclic Account, and until the Cyclic Account is depleted, Western shall not obtain water from sources other than Metropolitan with the exception of local resource projects developed to offset imported water requirements.

14. Notices

Any notice required hereunder may be given by email or mail, postage prepaid, addressed as follows:

To: Western Municipal Water District
14205 Meridian Parkway
Riverside, CA 92518
Attention: General Manager

To: Metropolitan Water District
700 N. Alameda Street
Los Angeles, CA 90012
Attention: Deven Upadhyay, Executive Officer & Assistant General
Manager – Water Resources
DUpadhyay@mwdh2o.com

15. Interpretation

The Parties have developed this Agreement jointly and in consultation with their respective legal counsel. No ambiguity shall be resolved against any Party on the premise that it or its attorneys were responsible for drafting this Agreement or any of its terms.

16. Governing Law

This Agreement shall be construed in accordance with and be governed by the laws of the State of California.

17. Counterparts

This Agreement may be executed in counterparts, and signatures transmitted via facsimile or electronic mail shall be deemed to be originals.

18. No Third Party Rights

This Agreement does not create any rights enforceable by any person or entity that is not a Party to this Agreement.

19. Authority

The Parties represent that the persons executing this Agreement on their behalf are authorized to do so.

20. Assignment

No Party shall assign its rights under this Agreement without the prior written consent of the other Parties, which consent shall not be unreasonably withheld or delayed.

21. 2019 Agreement

The Parties hereby amend and restate the 2019 Agreement, as defined in Recital F, with this Agreement. This Agreement is an integrated agreement and shall govern over all prior written or oral understandings of the Parties regarding the subject matters contained herein.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be
executed as of the Effective Date.

Approved as to Form:

Western Municipal Water District

By: _____

General Counsel

By: _____

General Manager

Date: _____

Date: _____

Approved as to Form:

The Metropolitan Water District
of Southern California

Marcia L. Scully
General Counsel

Adel Hagekhalil
General Manager

By: _____

Patty Quilizapa
Senior Deputy General Counsel

By: _____

Brad Coffey
Manager, Water Resource Management

Date: _____

Date: _____