

ATTACHMENT 2

AMENDED AND RESTATED AGREEMENT BETWEEN METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA AND WESTERN MUNICIPAL WATER DISTRICT FOR DELIVERIES PURSUANT TO CYCLIC COST OFFSET CREDIT PROGRAM

This Amended and Restated Agreement is made as of Month Day, 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”).

Section 1. Purpose of Agreement

- a. Metropolitan is a wholesale provider 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 that includes lands within the Santa Ana River Watershed and portions of Riverside and San Bernardino Counties 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”). Western was created under the Municipal Water District Law of 1911. Cal. Wat. Code, §§ 71000 et seq.
- c. Metropolitan and Western have entered into an agreement dated August 1, 2019 (“Western-Metropolitan Cyclic Agreement”) and on December 20, 2023, entered into the Amended and Restated Western-Metropolitan Cyclic Agreement (“Amended Cyclic Agreement”). The Amended Cyclic Agreement, which is incorporated herein by reference, provides for the delivery of water by Metropolitan to Western in advance of demand for the water by Western through a cyclic account (“Western-Metropolitan Cyclic Account” or “Account”).
- d. The Parties entered into the Agreement Between Metropolitan Water District of Southern California and Western Municipal Water District for In-Lieu Treated Deliveries dated August 1, 2019 (“2019 CCOP Agreement”). The Parties intend for this Cyclic Cost Offset Agreement to amend and restate the 2019 CCOP Agreement.

- e. Through this Agreement, the Parties intend to provide for a means of delivering water from Metropolitan into the Western-Metropolitan Cyclic Account, which deliveries are intended to be subject to the specific terms in this Agreement. The Parties intend for the Amended Cyclic Agreement to apply with respect to all other terms.

Section 2. Designated In-Lieu Treated Deliveries.

Metropolitan's General Manager has determined that water supply conditions are such that Metropolitan may not be able to capture all available supplies efficiently in available storage. Given the current State Water Project allocation increase of 100 percent, uncertainties due to increased Article 21 supplies, and continued lower demands, supplies available for storage in calendar year (CY) 2023 may exceed Metropolitan's ability to store in CY 2023. Accordingly, Metropolitan agrees to pre-deliver treated water to Western to assist Metropolitan in managing its water resources. Western agrees to take treated water from Metropolitan pursuant to this Cyclic Cost Offset Agreement for delivery into the Western-Metropolitan Cyclic Account in the Basins through in-lieu means ("In-Lieu Treated Deliveries").

The amount, location, and timing of the delivery schedule, along with an operating plan, will be mutually agreed upon prior to delivery by Metropolitan pursuant to execution of a purchase agreement. The actual amount of In-Lieu Deliveries credited by Metropolitan may be higher or lower based on operational conditions and the *Certification Procedures For In-Lieu Treated Deliveries for Cyclic Agreement Between Metropolitan Water District of Southern California and Western Municipal Water District* ("In-Lieu Treated Deliveries Certification Procedures") consistent with the principles of Attachment 1 referenced in Section 8. In-Lieu Treated Deliveries will be made upon Metropolitan's written request and Western's written acceptance of additional treated water deliveries. Western represents and warrants that In-Lieu Treated Deliveries are in addition to its projected full-service deliveries (treated or untreated) that would normally occur without this Agreement.

Western represents and warrants that an amount equivalent to the In-Lieu Treated Deliveries will be credited to Metropolitan as stored water in the Basins, pursuant to an intentional reduction in groundwater production by Western, certified and reconciled according to Section 8, until such time as the water is purchased by Western pursuant to the terms of the Amended Cyclic Agreement and Section 9 of this Agreement.

Section 3. Term.

This Agreement is effective as of December 20, 2023, and shall continue until 2033, or until the termination of the Amended Cyclic Agreement and is applicable only to In-Lieu Treated Deliveries, as certified and reconciled according to Section 8. Metropolitan, at its sole discretion, can interrupt the program authorizing In-Lieu Treated Deliveries by providing 15 days' notice to Western.

Pursuant to the Metropolitan's Board action on April 10, 2019, Metropolitan's General Manager may make a determination regarding water supply conditions and Metropolitan's ability to capture all available supplies at any time during the term of this Agreement. When such determination is made, and Western agrees to accept water pursuant to this Agreement, the Parties will enter into a purchase agreement in accordance with Section 2.

Section 4. Treatment Surcharge Payment.

Western agrees to pay Metropolitan the Treatment Surcharge effective at the time of the In-Lieu Treated Delivery, which for CY 2023 is \$354 per acre-foot and in CY 2024 is \$353 per acre-foot.

Section 5. Cost-offset Credit Term.

In exchange for Western's acceptance of In-Lieu Treated Deliveries, Metropolitan agrees to pay Western a cost-offset credit of up to the amount approved by the Board. The current credit is available up to \$354 per acre-foot, as determined by Metropolitan pursuant to Section 6. On January 1 of 2024, and every following January 1, the CY 2023 maximum of \$354 per acre-foot amount will continue to be increased by the Consumer Price Index for Urban Wage Earners and Clerical Workers for Los Angeles-Long Beach-Anaheim All Items (CPI-U), calculated as the November Prior Year/November 2022 CPI-U increase rounded to the nearest dollar.

Section 6. Determination of Cost-offset Credit Term.

Metropolitan, at its sole discretion, will determine the Cost-offset Credit Term. Metropolitan will make such determination based on an estimate of costs incurred by Western as a result of taking in-lieu delivery of additional treated water at Metropolitan's request that Western would not otherwise have taken, minus the costs that Western would have incurred if it produced an equivalent amount of water from the Basins. Groundwater losses may be considered

in the determination of the Cost-offset Credit Term at Metropolitan's discretion. Metropolitan shall not be charged more than other parties have been assessed for storage in the Basin. Western will submit its avoided cost estimates for each Basin to Metropolitan, which Metropolitan will review in addition to historical production cost estimates. For 2023, the cost-offset credit term for each Basin holding cyclic storage is shown in the *Cost-offset Credit Term Document* included as Attachment 2.

Western may, at any time prior to reconciliation and certification described in Section 8, request a redetermination of the Cost-offset Credit Term, by submitting documentation that its groundwater production costs have changed. Metropolitan may, in its sole discretion, change the Cost-Offset Credit Term upon review of any such additional documentation and confirmation of changes in costs.

Section 7. Billing Procedures.

Metropolitan will bill Western the Treatment Surcharge in effect at the time Western certifies the In-Lieu Treated Deliveries, in the same manner as Metropolitan bills Western for all other water sales. Metropolitan will pay Western the Cost-offset Credit Term for In-Lieu Treated Deliveries by applying the appropriate credit to Western's meter invoiced amounts, which credit is subject to the certification and reconciliation process described in Section 8.

Section 8. Certification and Reconciliation of In-Lieu Treated Deliveries.

Western shall submit monthly certifications of In-Lieu Treated Deliveries pursuant to this Agreement consistent with Metropolitan's Administrative Code, sections 4506 to 4507. Such certifications will be made pursuant to the *In-Lieu Treated Deliveries Certification Procedures*, attached hereto and incorporated herein as Attachment 1. On a monthly basis Metropolitan will review these certifications for conformance with the operating plans submitted pursuant to the *In-Lieu Treated Deliveries Certification Procedures*. Metropolitan will process certifications of these deliveries made pursuant to this Agreement in accordance with the agreed-upon operating plan in order to ensure In-Lieu Treated Deliveries were made in addition to normal Full-Service deliveries and as a result of actions to reduce groundwater pumping.

Metropolitan will void any credits given for water deliveries that Metropolitan is unable to determine that are qualifying In-Lieu Treated Deliveries under this Agreement, which will result in an equivalent charge to Western's water invoice plus the applicable Full-Service rates

and charges. The total amount of all voided credits shall be billed in the next month following the end-of-year reconciliation.

Metropolitan staff, in collaboration with Western's staff, shall perform an Annual Reconciliation of Western's In-Lieu Treated Deliveries within six months following the final documentation from Western has been received, in accordance with Attachment 1.

Section 9. Purchase of Water Out of Cyclic Account.

Western agrees to purchase the In-Lieu Treated Deliveries out of the Cyclic Account according to the signed purchase agreement. Billing and payment procedures shall be the same as other purchases from the Cyclic Account.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate as of the effective date.

Approved as to Form:

Western Municipal Water District

By: _____
General Counsel

By: _____
Craig Miller
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: _____