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Purchase and Sale Agreement Between Inland Empire Utilities Agency and Western Municipal Water District

This Purchase and Sale Agreement (“Agreement”) is made on _____, 2023, by and between the Inland Empire Utilities Agency (“IEUA”), a member agency of the Metropolitan Water District of Southern California (“Metropolitan”) and Western Municipal Water District (“Western Water”), also a Metropolitan member agency. Western Water and IEUA are herein collectively referred to as “the Parties” and individually as a “Party.”

RECITALS

WHEREAS, the Chino Groundwater Basin (the Chino Basin) is one of the largest subsurface storage aquifers in Southern California and has the potential to store large volumes of water for local use during dry periods; and

WHEREAS, IEUA¹ was formed under the powers of the Municipal Water District Act of 1911, after an affirming vote of the people within a southwestern portion of San Bernardino County on June 6, 1950. Subsequently, IEUA’s service area was annexed into Metropolitan on July 13, 1951. As a Metropolitan member agency, IEUA provides wholesale water services to nine retail water agencies, including the Cucamonga Valley Water District (CVWD); and

WHEREAS, Western Water was formed in 1954 under the powers of the Municipal Water District Act of 1911 and subsequently annexed into Metropolitan to serve as a Metropolitan member agency for the southwestern portion of Riverside County, where it provides both retail and wholesale water delivery services. Jurupa Community Services District is currently the only Western Water retail agency that can pump groundwater from the Chino Basin.

WHEREAS, during a period of extreme drought, IEUA purchased water from Metropolitan that has since been stored in the Chino Basin in a groundwater subaccount of CVWD; and

WHEREAS, IEUA purchased the water from Metropolitan during the months of April, May, and June of 2016 and January, February, and March of 2017, totaling 3,641.600 acre-feet of untreated Tier 1 water; and

WHEREAS, IEUA decided that it wished to sell its groundwater supplies and terminate its storage agreement with CVWD; and

¹ Originally named the Chino Basin Municipal Water District.

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WHEREAS, after offering the Water for sale to IEUA's retail agencies at cost, the only agency to express interest in the purchase of the water was Western Water; and

WHEREAS, IEUA notified Metropolitan of its interest to sell the water to Western Water on August 29, 2023, in compliance with Section 4205 of Metropolitan's Administrative Code, and Metropolitan approved the transaction on September 11, 2023, without restrictions, but requiring notification of the transaction when it occurs so that it can be reported to its Board of Directors; and

WHEREAS, CVWD has faithfully maintained records on the losses associated with the water and a total of 3,596.753 acre-feet remains after losses of 44.847 acre-feet are subtracted; and

NOW, THEREFORE, the Parties hereto agree as follows:

SECTION 1: SALE OF IEUA's WATER

- A. Western Water agrees to purchase from IEUA the entirety of the water stored in a subaccount of CVWD's Chino Basin storage account, represented by CVWD to be 3,596.753 acre-feet through December 31, 2023 (the "Water"), at a price equal to IEUA's original purchase price (Tier 1 price of the water in 2016 and 2017 plus all related Readiness-to-Serve (RTS) charges from Metropolitan, either already paid by IEUA or estimated remaining to be paid). By December 29, 2023, Western Water will provide IEUA with funds in the amount of \$2,572,535.76, representing IEUA's original cost for purchasing 2,272.7 acre-feet at Metropolitan's 2016 Tier 1 price of \$594 per acre-foot (\$1,349,983.80), plus 1,368.9 acre-feet at Metropolitan's 2017 Tier 1 price of \$666 per acre-foot (\$911,687.40), for a total purchase of 3,641.600 acre-feet. Additionally, Western Water agrees to pay IEUA \$143,889.73 to cover IEUA's related RTS expense between fiscal years 2016/2017 and 2023/2024, as represented in **Exhibit A**. Western Water further agrees to pay IEUA upfront by December 29, 2023, for remaining RTS charges through fiscal year 2028/2029, estimated to be \$166,974.83, also as represented in **Exhibit A**. Thus, Western Water's total purchase price for the Water shall be \$2,572,535.76.
- B. IEUA originally purchased 3,641.600 acre-feet from Metropolitan. Over the ensuing years, 44.847 acre-feet have been lost to seepage, leaving a balance of 3,596.753 acre-feet for purchase. Western Water agrees that these and any subsequent losses that may occur prior to the sale of the Water are a normal cost of storing water in the Chino Basin and Western Water assumes this cost by compensating IEUA fully for its original purchase price.
- C. Immediately upon receipt of funds from Western Water, IEUA shall transfer ownership of the Water to Western Water and notify Metropolitan of the transaction. The Parties acknowledge and agree that IEUA shall not be billed for any costs associated with the transfer of the Water or any other related costs. IEUA warrants that upon receipt of funds in the amount of \$2,572,535.76, the sale of the Water will be complete and no additional funds from Western Water will be required. IEUA shall

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forever relinquish any right, title, interest, or claim to the Water. Western Water shall own the Water outright. IEUA shall cooperate in executing any documentation requested by Western Water to memorialize and formalize the purchase and sale of the Water.

- D. The Parties agree that no action is needed to record this sale with the Chino Basin Watermaster since the Water is not changing storage accounts.
- E. Western Water warrants that it has made arrangements to store the Water for the purchase and sale contemplated by this Agreement.
- F. The Parties agree that the original purchase of the Water counts towards IEUA's Tier 1 purchase order requirements from Metropolitan.

SECTION 2: STORED WATER CREDITS

Following the purchase of the Water and in accordance with Section 1 of this Agreement, Western Water agrees that IEUA shall have no further responsibility for the Water stored in CVWD's account.

SECTION 3 – EFFECTIVE DATE

This Agreement shall be effective from the date of execution of this Agreement by both Parties and shall terminate upon completion of the purchase and sale transaction contemplated by this Agreement.

SECTION 4 – MUTUAL INDEMNIFICATION

Each Party agrees to protect, defend, indemnify, and hold harmless the other Party and its officers, directors, agents, employees, volunteers, attorneys, consultants, and subcontractors from any and all liability, claims, judgments, costs and demands, including demands arising from injuries or death of persons and damage to property, occurring as a result of its own or its respective officers, directors, agents, employees, volunteers, attorneys, consultants, or subcontractor's wrongful or negligent acts or omissions in performing or failing to perform this Agreement. Each Party shall be responsible only to the extent of its negligence. Each Party further agrees to investigate, handle, respond to, and provide defense for any such claims, demands or suit required hereunder at its sole expense. The respective obligations of the Parties under this Section shall survive the expiration or termination of this Agreement.

SECTION 5 – OBSERVING LAWS AND ORDINANCES

The Parties shall at all times observe and comply with all applicable laws, ordinances, regulations, requirements, orders and decrees affecting their respective performance under this Agreement, and a

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Party's failure to comply with applicable laws, ordinances, regulations, requirements, orders or decrees may constitute a breach of this Agreement and entitle the non-breaching Party to remedies as provided in this Agreement.

SECTION 6 – DISPUTE RESOLUTION

The Parties shall seek to resolve any dispute concerning the interpretation or implementation of this Agreement, including but not limited to an alleged breach of this Agreement, through good faith negotiation, involving, as and when appropriate, the general manager or chief executive officer of each of the Parties. A Party alleging a breach of this Agreement or other dispute arising under this Agreement shall send written notice with a reasonably detailed description of the alleged breach or other dispute to the other Party. The Party receiving the notice of the alleged breach or other dispute shall have thirty (30) calendar days to cure any such alleged breach or dispute to the satisfaction of the Party alleging the breach or other dispute. Any alleged breach or other dispute that remains unresolved sixty (60) days after the initial written notice of alleged breach or other dispute is delivered shall be submitted to a single arbitrator with substantial experience in the matter or matters in dispute and conducted in accordance with Judicial Arbitration and Mediation Services (JAMS). The JAMS arbitrator shall apply the JAMS rules of arbitration, which shall govern any arbitration. If the Parties cannot agree on a single arbitrator within ten (10) days of the written election to submit the matter to arbitration, any Party may request JAMS to appoint a single, neutral arbitrator. The Parties shall use their reasonable best efforts to have the arbitration proceedings concluded within ninety (90) business days of selection of the arbitrator.

SECTION 7 – NOTICE

Written notices to be given to any Party pursuant to Section 6 or Section 8 of this Agreement must be given by personal delivery or by registered or certified mail addressed and delivered as set forth below. Other correspondence and invoices may be sent by first class mail, or by electronic mail, addressed and delivered as set forth below:

Inland Empire Utilities Agency
6075 Kimball Avenue
Chino, CA 91708
Attention: Shivaji Deshmukh, P.E.
E-mail: SDeshmukh@ieua.org

Western Municipal Water District
14205 Meridian Parkway
Riverside, CA 92518
Attention: Craig Miller, P.E.
E-mail: CMiller@wmwd.com

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SECTION 8 – TERMINATION FOR CONVENIENCE

In addition to other rights set forth in this Agreement, each Party reserves and has the right to immediately suspend, cancel or terminate this Agreement at any time upon thirty (30) days written notice to the other Party. In the event of such termination, the terminating Party shall pay the other Party any and all amounts owed for all authorized costs or any obligations hereunder up to the date of such termination.

SECTION 9 – REPRESENTATION OF AUTHORITY

Each Party represents to the other that it has the authority to enter into this Agreement and that the individual signing this Agreement on behalf of their respective Party has the authority to execute this Agreement and to bind their respective Party to the terms and conditions of this Agreement.

SECTION 10 – GOVERNING LAW

This Agreement shall be governed by and constructed in accordance with the laws of the State of California in the County of San Bernardino.

SECTION 11 – INCORPORATION OF RECITALS

The Recitals set forth above are incorporated herein and made a part of this Agreement between IEUA and Western Water.

SECTION 12 – ENTIRE AGREEMENT: NO THIRD-PARTY BENEFICIARIES

This Agreement is intended by the Parties as a complete and exclusive statement of the terms of their agreement and it supersedes all prior agreements, written or oral, as to the subject matter of this Agreement. This Agreement may be modified only upon the mutual written agreement of the Parties hereto. No third-party beneficiary is intended or created by the execution of this Agreement.

SECTION 13 – ATTORNEY'S FEES AND COSTS

In any proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing Party, in addition to costs, shall be entitled to recover its reasonable attorney's fees.

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SECTION 14 – COUNTERPARTS

This Agreement may be signed in counterparts, each of which shall constitute an original, and which taken together shall constitute one and the same Agreement. Verifiable facsimile and electronic execution copies of this Agreement shall constitute original counterparts or copies of this Agreement.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed by its respective duly authorized officers. The effective date of this Agreement shall be the in accordance with the terms of this Agreement.

INLAND EMPIRE UTILITIES AGENCY*

Approved as to Form:

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

* a Municipal Water District

WESTERN MUNICIPAL WATER DISTRICT

Approved as to Form:

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

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Exhibit A

Schedule of RTS Payments to Date and Estimate of Remaining RTS Payments

Fiscal Year	AF Purchased	IEUA RTS Payments to Date	Estimated IEUA RTS Payments Remaining
FY 2016-17	2,272.7		
FY 2017-18	1,368.9	\$11,381.61	
FY 2018-19	0	\$18,354.34	
FY 2019-20	0	\$19,545.09	
FY 2020-21	0	\$19,696.22	
FY 2021-22	0	\$21,709.91	
FY 2022-23	0	\$24,612.63	
FY 2023-24	0	\$ 28,589.92	
Subtotal	3,641.600	\$143,889.73	
FY 2024-25			\$36,905.32
FY 2025-26			\$44,374.59
FY 2026-27			\$59,787.52
FY 2027-28			\$23,907.41
Subtotal	3,596.753		\$166,974.83
Total			\$310,864.56

Estimated future payments are based on the following assumptions:

IEUA TYRA Share Growth Factor* **3.0%**

LRFP-NA Scenario D Rate Increase** **7.1%**

*Growth factor estimated based on the average increase of RTS across ten years, applied from FY2026-27 through FY2027-28.

**MWD's Long Range Financial Planning Needs Assessment (LRFP-NA) projected RTS rate increase based on Planning Scenario D, applied to the calculation for applicable years FY2026-27 through FY2027-28.

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CY 2024 RTS Charge (7/2024-12/2024)	\$	3,516,488	
CY 2025 RTS Charge (1/2025-6/2025)	\$	3,999,656	
Estimated Total MWD RTS Charge	\$	7,516,144	
Estimated Standby Charge Collection	\$	2,037,316	
Estimated IEUA Total RTS Obligation	\$	5,478,828	
FY2024-25 RTS Charges			
	TYRA % Allocation	IEUA (Adjusted) RTS Obligation	
CVWD	41.0%	\$	2,246,765.62
WFA	38.5%	\$	2,108,102.15
FWC	18.5%	\$	1,012,403.40
WVWD	0.3%	\$	15,199.88
CBWM	1.1%	\$	59,451.81
IEUA	0.7%	\$	36,905.32
Total	100%	\$	5,478,828
CY 2025 RTS Charge	\$	3,999,656	
CY 2026 RTS Charge	\$	4,119,646	
Estimated Total MWD RTS Charge	\$	8,119,302	
Estimated Standby Charge Collection	\$	2,098,436	
Estimated IEUA Total RTS Obligation	\$	6,020,866	
FY2025-26 RTS Charges			
	TYRA % Allocation	IEUA (Adjusted) RTS Obligation	
CVWD	40.7%	\$	2,451,817.92
WFA	37.9%	\$	2,282,388.94
FWC	19.0%	\$	1,146,478.78
WVWD	0.3%	\$	19,099.92
CBWM	1.2%	\$	74,706.14
IEUA	0.8%	\$	46,374.59
Total	100%	\$	6,020,866
CY 2026 RTS Charge	\$	4,412,141	
CY 2027 RTS Charge	\$	4,544,505	
Estimated Total MWD RTS Charge	\$	8,956,646	
Estimated Standby Charge Collection	\$	2,161,389	
Estimated IEUA TTotal RTS Obligation	\$	6,795,257	
FY2026-27 RTS Charges			
	TYRA % Allocation	IEUA (Adjusted) RTS Obligation	
CVWD	41.4%	\$	2,811,162.45
WFA	36.6%	\$	2,489,357.20
FWC	19.3%	\$	1,314,012.09
WVWD	0.4%	\$	24,624.18
CBWM	1.4%	\$	96,313.39
IEUA	0.9%	\$	59,787.52
Total	100%	\$	6,795,257
CY 2027 RTS Charge	\$	4,243,235	
CY 2028 RTS Charge	\$	4,658,412	
Estimated Total MWD RTS Charge	\$	8,901,647	
Estimated Standby Charge Collection	\$	2,226,231	
Estimated IEUA Total RTS Obligation	\$	6,675,416	
FY2027-28 RTS Charges			
	TYRA % Allocation	IEUA (Adjusted) RTS Obligation	
CVWD	42.9%	\$	2,860,778.23
WFA	35.6%	\$	2,379,627.92
FWC	19.2%	\$	1,282,433.55
WVWD	0.4%	\$	26,202.27
CBWM	1.5%	\$	102,467.05
IEUA	0.4%	\$	23,907.41
Total	100%	\$	6,675,416