

**METROPOLITAN WATER  
RECLAMATION DISTRICT  
RETIREE HEALTH CARE TRUST  
AGREEMENT**

**Adopted 12/06/07  
Revised 03/05/20**

**METROPOLITAN WATER RECLAMATION DISTRICT  
RETIREE HEALTH CARE TRUST  
Amended and Restated Effective March 5, 2020**

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**METROPOLITAN WATER RECLAMATION DISTRICT  
RETIREE HEALTH CARE TRUST AGREEMENT  
Amended and Restated Effective March 5, 2020**

THIS AMENDED AND RESTATED AGREEMENT is made as of the 5<sup>th</sup> day of March, 2020, by and between the Metropolitan Water Reclamation District of Greater Chicago, Illinois, a special District and unit of local government (the “*District*”) and the Metropolitan Water Reclamation District of Greater Chicago, acting through its Board of Commissioners as Trustee (the “*Trustee*”).

***RECITALS***

WHEREAS, the District is a political subdivision of the State of Illinois exempt from federal income tax under the Internal Revenue Code of 1986 (the “*Code*”);

WHEREAS, it is an essential function and is integral to the activities of the District to provide certain health and welfare benefits to its retired employees and their eligible dependents;

WHEREAS, the District has adopted a plan known as the Metropolitan Water Reclamation District Retiree Health Care Plan (the “*Plan*”) which provides for post-retirement health benefits for the exclusive benefit of its eligible retired employees and eligible dependents; and

WHEREAS, the District established this trust pursuant to 70 ILCS 2605/9.6d for the exclusive benefit of certain of its retired employees and their eligible dependents to fund benefits provided under the Plan; and

WHEREAS, it is intended that all income derived from the Trust Fund (as defined in Section 1.02) shall be excludable from gross income pursuant to Section 115 of the Code.

Now, THEREFORE, the parties hereby amend and restate this trust, by executing this Amended and Restated Agreement and the District and Trustee do hereby covenant and agree as follows:

**ARTICLE I**

**TRUSTEE AND TRUST FUND**

*Section 1.01.* This Trust shall be entitled the Metropolitan Water Reclamation District Retiree Health Care Trust (hereinafter referred to as the “*Trust*”), and shall fund the post-employment health benefits provided under the Plan. The Trustee hereby agrees to act as Trustee of the Trust, and to take, hold, invest, administer and distribute in accordance with the following provisions.

*Section 1.02.* All of the assets at any time held hereunder by the Trustee are hereinafter referred to collectively as the “*Trust Fund*.”

*Section 1.03.* The Trust Fund shall consist of such cash or other property acceptable to the Trustee as shall from time to time be transferred to the Trustee by the District, together with the income and any other increment thereon. All such transfers shall be irrevocable. The Trustee shall receive all contributions paid in cash or other property acceptable to the Trustee, and all contributions so received together with the income therefrom and any increment thereon shall be held, managed and administered by the Trustee pursuant to this Agreement. The Trustee shall have no duty to require any contributions to be made to the Trustee by the District or to determine that the amounts received comply with the Plan, or to determine that the Trust Fund is adequate to provide the benefits payable pursuant to the Plan. At no time shall any part of the Trust Fund be used for or diverted to any purpose other than for the exclusive purpose of providing post-employment benefits to certain retired employees and their dependents.

## **ARTICLE II**

### **GENERAL DUTIES OF TRUSTEE**

*Section 2.01.* The Trustee shall hold title to assets held in respect of the Plan in the Trust's name. The Trustee shall hold, administer, collect the income of and make payments from the Trust Fund, all as hereinafter provided. The Trustee shall have only those powers, rights, duties and responsibilities expressly set forth in this Trust Agreement.

*Section 2.02.* The Trustee may retain agents, advisors and legal counsel as it deems advisable or proper in connections with its duties and to pay such agents, advisors and legal counsel a reasonable fee. The Trustee shall not be liable for the acts of such agents, advisors and legal counsel or for the acts done in good faith and in reliance upon the advice of such agents, advisors and legal counsel, provided it has used reasonable care in selecting such agents, advisors and legal counsel.

*Section 2.03.* The Trustee shall not be responsible in any respect for the administration of the Plan or the interpretation of the terms of the Plan.

## **ARTICLE III**

### **INVESTMENT POWERS AND DUTIES OF THE TRUSTEE**

*Section 3.01.* The Trustee shall adopt an Investment Policy which shall set out the investments in which the Trust Fund may be invested and which may set out investment goals, objectives and other guidelines.

*Section 3.02.* The Treasurer of the District shall be responsible for managing and directing the investment of the Trust Fund, provided that, if consistent with the Investment Policy described in 3.01, the Treasurer may, with the approval of the Board of Commissioners of the District, enter into, or direct the Trustee to enter into, a contract or contracts with one or more investment managers for the purpose of providing the investment management services required hereunder.

*Section 3.03.* The Trustee shall have the following powers which shall be exercised at the direction of the Treasurer of the District:

(a) To purchase and cause stocks, bonds, exchange-traded funds, mutual funds, or other investments to be registered in its name as Trustee or in the name of a nominee, or to take and keep the same unregistered;

(b) To employ investment advisors or investment managers and legal counsel recommended by the Treasurer and approved by the Board of Commissioners or by the OPEB Trust Executive Committee appointed by the Board of Commissioners (the "OPEB Trust Committee") or by another delegate and to pay such advisors and managers and legal counsel a reasonable fee.

(c) To exercise where applicable and appropriate any rights of ownership in any contracts of insurance in which any part of the Trust may be invested and to pay the premiums thereon; and

(d) To buy, sell, convey or transfer, invest and reinvest any part of each and every kind of investment listed above in Section 3.03(a).

*Section 3.04.* Notwithstanding anything to the contrary herein, the assets of the Trust shall be held by the Trustee as titleholder only. The Treasurer of the District is authorized to establish depository accounts for and in the name of the Trust.

*Section 3.05.* Notwithstanding anything to the contrary herein, the District or, if so designated by the District, the investment manager or another agent of the District, will be responsible for valuing all assets so acquired for all purposes of the Trust and of holding, investing, trading and disposing of the same. The District will indemnify and hold the Trustee harmless against any and all claims, actions, demands, liabilities, losses, damages, or expenses of whatsoever kind and nature, which arise from or are related to any use of such valuation by the Trustee or holding, trading, or disposition of such assets.

*Section 3.06.* The Trustee shall and hereby does indemnify and hold harmless the District from any and all actions, claims, demands, liabilities, losses, damages and reasonable expenses of whatsoever kind and nature in connection with or arising out of (a) the Trustee's failure to follow the directions of the District, the investment manager, or agents thereof; (b) any disbursements made without the direction of the District, the investment manager or agents thereof; and (c) the Trustee's negligence, willful misconduct, or recklessness with respect to the Trustee's duties under this Trust.

*Section 3.07.* The Trustee shall not be liable for the acts of such agents, advisors and legal counsel employed by it as provided in Section 3.03(b) or for the acts done in good faith and in reliance upon the advice of such agents, advisors and legal counsel.

## **ARTICLE IV**

### **DISBURSEMENTS AND EXPENSES**

*Section 4.01.* The Trustee shall make such payments from the Trust Fund to and/or for the benefit of Plan participants at such times, to such persons and in such amounts as shall be specified by the Administrator of the Plan (as defined in the Plan). The Trustee shall be fully

protected if it acts in accordance with a written direction signed by a person the Trustee reasonably believes is authorized to act for the Administrator or if it fails to act in the absence of such a direction. The Trustee shall have no duty to make any investigation or inquiry as to the propriety of any such direction.

*Section 4.02.* The District and Trustee may be reimbursed for expenses reasonably incurred by them in the administration of the Trust. All such expenses, including, without limitation, reasonable fees of accountants and legal counsel to the extent not otherwise reimbursed, shall constitute a charge against and may be paid from the Trust upon the direction of the Trustee.

## **ARTICLE V**

### **ACCOUNTING AND AUDITING**

*Section 5.01.* The Trustee shall not be required to keep account of the investments, receipts, disbursements, and other transactions of the Trust. All accounts, books, and records relating thereto shall be maintained by or at the direction of the Treasurer of the District, who shall comprehensively report the status of the Trust account at the end of each calendar quarter to the OPEB Trust Committee or to such other person or committee as the Board of Commissioners may designate.

*Section 5.02.* It shall be the duty of the Treasurer of the District, and any other individuals so designated by the Trustee, to submit an annual report to the Trustee. The report shall include the following:

- (1) A balance sheet, showing the financial conditions of the Trust as of the end of the calendar year.
- (2) A statement of receipts and disbursements during such year;
- (3) A statement showing changes in the asset, liability, reserve and surplus accounts during such year;
- (4) A detailed statement of investments as of the end of the year; and
- (5) Any additional information as is deemed necessary for proper interpretation of the condition of the Trust or as required by the Government Accounting Standards Board.

*Section 5.03.* It shall be the duty of the Director of Finance/Clerk and any other individuals so designated by the Trustee to have the financial statements and records of the Trust audited by an independent auditor at least once each year, or as often as deemed necessary. The purpose of such audit shall be to obtain expert opinion or reasonable assurance that the financial statements accurately depict the financial position of the Trust, and that the results of the operation of the Trust are free of material misstatement. The prescribed audits shall include examination of the financial records and evidence supporting net asset values of the Trust, the changes in net assets available for the benefit of the participants and the disclosures in the financial statements. Such audits shall also include assessment of the accounting principles used and significant

estimates made by Plan management, and an evaluation of the overall financial statement presentation.

## **ARTICLE VI**

### **MISCELLANEOUS PROVISIONS**

*Section 6.01.* Neither the Trustee nor any affiliate thereof shall be required to give any bond or to qualify before, be appointed by, or account to any court of law in the exercise of its powers hereunder.

*Section 6.02.* No person transferring title or receiving a transfer of title from the Trustee shall be obligated to look to the propriety of the acts of the Trustee in connection therewith.

*Section 6.03.* The District shall have the right at all reasonable times during the term of this Trust and for three (3) years after the termination of this Trust Agreement to examine, audit, inspect, review, extract information from, and copy all books, records, accounts, and other documents of the Trustee relating to this Trust Document and the Trustees' performance hereunder.

## **ARTICLE VII**

### **AMENDMENT AND TERMINATION**

*Section 7.01.* The District reserves the right to amend or terminate this Trust at any time for any reason with the written consent of the Trustee, provided that no amendment may provide for the use of Trust assets for any purpose other than for the exclusive benefit of certain retired employees and their dependents to fund benefits provided under the Plan. Any amendment must be in writing and shall become effective as of the date of the Trustee's execution of its consent.

*Section 7.02.* Upon termination of this Trust and upon the satisfaction of all liabilities under the Plan, any remaining assets of the Trust Fund shall revert to the District.

## **ARTICLE VIII**

### **LIMITED EFFECT OF PLAN AND TRUST**

Neither the establishment of the Plan and the Trust or any modification thereof, the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any person covered under the Plan or other person any legal or equitable right against the Trustee, the District or any officer or employee thereof, except as may otherwise be expressly provided in the Plan or in this Trust Document or by applicable law.

## **ARTICLE IX**

### **PROTECTIVE CLAUSE**

Neither the District, nor the Trustee shall be responsible for the validity of any contract of insurance or other arrangement maintained in connection with the Plan, or for the failure on the part of the insurer or provider to make payments provided by such contract, or for the action of any person which may delay payment or render a contract void or unenforceable in whole or in part.

## **ARTICLE X**

### **MISCELLANEOUS**

*Section 10.01.* Neither the establishment of this Trust, nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any employee, retired employee or other person any legal or equitable right against the Trustee, the Plan, the District, or any officer, employee or member of any thereof, except as herein expressly provided; and in no event shall the terms or conditions of employment of any employee, or the control of the District over the same, be modified or in any manner affected hereby.

*Section 10.02.* This Trust Agreement shall be construed and enforced according to the Code and the laws of the State of Illinois, other than its laws respecting choice of law, to the extent not pre-empted by the Internal Revenue Code.

*Section 10.03.* Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.



IN WITNESS WHEREOF, the Employer and the Trustee have executed this Amended and Restated Agreement by their respective duly authorized officers.

**FOR THE METROPOLITAN WATER RECLAMATION  
DISTRICT OF GREATER CHICAGO, AS  
EMPLOYER AND TRUSTEE**

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

By \_\_\_\_\_  
Frank Avila  
Chairman, Committee on Finance

By \_\_\_\_\_  
Mary Ann Boyle  
Treasurer

By \_\_\_\_\_  
Beverly K. Sanders  
Director of Human Resources

By \_\_\_\_\_  
Brian A. Perkovich  
Executive Director

ATTESTED TO BY:

\_\_\_\_\_  
Jacqueline Torres  
Clerk of the Metropolitan Water Reclamation  
District of Greater Chicago  
Date: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Lisa A. Goldberg  
Deputy General Counsel

\_\_\_\_\_  
Susan T. Morakalis  
General Counsel