

**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

Table of Contents

	<u>Page</u>
<u>ARTICLE I TRUSTEE AND TRUST FUND.....</u>	<u>1</u>
<u>ARTICLE II GENERAL DUTIES OF TRUSTEE</u>	<u>2</u>
<u>ARTICLE III INVESTMENT POWERS AND DUTIES OF THE TRUSTEE</u>	<u>2</u>
<u>ARTICLE IV DISBURSEMENTS AND EXPENSES</u>	<u>3</u>
<u>ARTICLE V ACCOUNTING AND AUDITING</u>	<u>4</u>
<u>ARTICLE VI MISCELLANEOUS PROVISIONS.....</u>	<u>5</u>
<u>ARTICLE VII AMENDMENT AND TERMINATION.....</u>	<u>5</u>
<u>ARTICLE VIII LIMITED EFFECT OF PLAN AND TRUST.....</u>	<u>5</u>
<u>ARTICLE IX PROTECTIVE CLAUSE</u>	<u>6</u>
<u>ARTICLE X MISCELLANEOUS</u>	<u>6</u>

**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 ~~65th~~ day of ~~December~~March, ~~2007~~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, ~~or its designee~~ (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, ~~their spouses~~, and eligible dependents ~~and the Plan is intended to satisfy the requirement of Section 115 of the Code~~; and

WHEREAS, the District ~~wishes to establish~~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 ~~hereto do~~ hereby ~~establish~~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

~~TRUSTEES~~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 ~~carry into effect~~fund the ~~provisions of the Plan created prior to, or concurrently herewith and forming a part hereof. All of the definitions in such Plan are hereby incorporated herein by reference~~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, ~~any and all contributions and assets paid or delivered to the Trustee pursuant to the Plan.~~

Section 1.02. All of the assets at any time held hereunder by the Trustee are hereinafter referred to collectively as the “Trust Fund.” ~~All right, title and interest in and to the assets of the~~

Section 1.03. The Trust Fund shall ~~be at all times, vested exclusively in the Plan.~~

~~*Section 1.03.* The Trustee shall receive, take and hold any contributions paid to the Trustee inconsist of such cash or ~~in~~ other property acceptable to the Trustee. All contributions so received as shall from time to time be transferred to the Trustee by the District, together with the income ~~therefrom~~ and any other increment thereon ~~shall be held, managed and administered by the Trustee pursuant to the terms of this Agreement without distinction between principal and income and without liability for the payment of interest hereon.~~~~

ARTICLE II

GENERAL DUTIES OF TRUSTEE

~~*Section 2.01.* It shall be the duty of the Trustee to hold title to assets held in respect of the Plan in the Trust’s name. The Trustee shall not be responsible for the custody, investment, safekeeping or disposition of any assets comprising the Trust, to the extent such functions are performed by the Treasurer of the District, or agents, custodians, or both.~~

~~*Section 2.02.* At the direction of the Administrator, the Trustee shall pay benefits required under the Plan.~~

~~*Section 2.03.* It shall be the duty of the Treasurer, 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 2.04.* It shall be the duty of the Director of Finance/Clerk, and any other individuals so designated by the Trustee, to provide for a financial audit of the Trust on at least an annual basis. The cost of conducting the audit shall be the responsibility of the Trust.~~

~~*Section 2.05.* The Administrator of the Plan shall have sole responsibility for determining the existence, non-existence, nature and amount of the rights and interests of all persons in the Trust Fund.~~

ARTICLE III

CONTRIBUTIONS

~~Section 3.01.~~ 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 ~~ARTICLE IV~~

INVESTMENT POWERS AND DUTIES OF THE TRUSTEE

~~Section 4.01.~~ ~~If Trust assets are not held exclusively in mutual funds or exchange traded funds, the Trustee may appoint one or more investment managers to manage and control all or part of the assets of the Trust.~~

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 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. ~~Section 4.02.~~ The Trustee shall have ~~total discretion and authority with regard to the investment of the assets of the Trust to which it holds title. The Trustee is authorized and empowered to delegate to the Treasurer of the District, and other individuals as deemed appropriate,~~ the following powers, ~~rights and duties, each of~~ which shall be ~~subject to~~ exercised at the approval direction of the ~~Trustee~~ 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 ~~such agents,~~ investment advisors or investment managers and legal counsel ~~as it deems advisable or proper in connection with its duties~~ 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 ~~agents,~~ advisors and managers and legal counsel a reasonable fee. ~~The Trustee shall not be liable for the acts of such agents, advisors and legal counsel 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;~~
- (c) ~~(e)~~ 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 ~~4.23.03~~ 4.23.03(a).

Section 3.04. ~~Section 4.03.~~ Notwithstanding anything to the contrary herein, the assets of the Trust shall be held by the Trustee as titleholder only. ~~Persons holding custody or possession of assets titled to the Trust shall include the District, the investment manager, and any agents and subagents.~~ The Treasurer of the District is authorized to establish depository accounts for and in the name of the Trust.

Section 3.05. ~~Section 4.04.~~ 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. ~~Section 4.05.~~ 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 4.06.—In making investments, the Trustee shall consider, among other factors, the short and long term financial needs of the Plan on the basis of information furnished by the District.~~

~~Section 4.07.—All investments made pursuant to the Plan and Trust shall comply with the laws of the State of Illinois.~~

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~~ARTICLE V~~

DISBURSEMENTS AND EXPENSES

Section 4.01. ~~Section 5.01.—~~The ~~District~~Trustee shall make such payments from the Trust Fund to and/or for the benefit of Plan participants at such ~~time~~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 by to act for the provisions of the Plan~~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. ~~Section 5.02.—~~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~~ARTICLE VI~~

ACCOUNTING AND AUDITING

Section 5.01. ~~Section 6.01.—~~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 ~~Administrator~~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 6.02.—As promptly as possible following the close of each year, the Trustee shall file with the Employer a written account setting forth assets titled to the Trust as reported to the Trustee by the Administrator.~~

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. ~~**Section 6.03. The**~~ It shall be the duty of the Director of Finance/Clerk and any other individuals so designated by the Trustee shall 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~~**ARTICLE VII**~~

MISCELLANEOUS PROVISIONS

Section 6.01. ~~**Section 7.01.**~~ 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. ~~**Section 7.02.**~~ 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. ~~**Section 7.03.**~~ 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 ~~Document~~ 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~~ARTICLE VIII~~

AMENDMENT AND TERMINATION

Section 7.01. ~~Section 8.01.~~ The District reserves the right to ~~alter,~~ 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 ~~such~~ amendment must be in writing and shall become effective as of the date of the Trustee's execution of its consent.

Section 7.02. ~~Section 8.02.~~ Upon termination of this Trust and upon the satisfaction of all liabilities under the Plan ~~to provide such benefits,~~ any ~~amount of Employer contributions, plus accrued earnings thereon, remaining must be returned~~ remaining assets of the Trust Fund shall revert to the District.

ARTICLE VIII~~ARTICLE IX~~

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~~ARTICLE X~~

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~~ARTICLE XI~~

MISCELLANEOUS

~~Section 11.01.~~ This Plan shall not be deemed to constitute a contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon him as a Member of this Plan.

~~Section 11.02. No benefit which shall be payable out of the Trust Fund to any person shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, and the same shall not be recognized by the Trustee, except to such extent as may be required by law. Except, however, this provision shall not apply to the extent a person is indebted to the Plan, for any reason, under any provision of this Agreement and at the time a distribution is to be made to or for his benefit, such proportion of the amount distributed as shall equal such indebtedness shall be paid by the Trustee to the Trustee or the Administrator, at the direction of the Administration to apply against or discharge such indebtedness. Prior to making a payment, however, the Participant or beneficiary must be given written notice by the Administrator that such indebtedness is to be deducted in whole or part from his benefits. If the Participant or beneficiary does not agree that the indebtedness is a valid claim against his benefits, he shall be entitled to a review of the validity of the claim in accordance with procedures provided in the Plan.~~

~~In the event a Participant's benefits are garnished or attached by order of any court, the Administrator may bring an action for a declaratory judgment in a court of competent jurisdiction to determine the proper recipient of the benefits to be paid by the Plan. During the pendency of said action, any benefits that become payable shall be paid into the court as they become payable, to be distributed by the court to the recipient it deems proper at the close of said action.~~

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. ~~Section 11.03.~~ This Plan Trust Agreement shall be construed and enforced according to the ~~Aet~~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. ~~Section 11.04.~~ 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.

~~Section 11.05. Any payment to any Participant, his legal representative, Beneficiary, or to any guardian or committee appointed for such Participant or Beneficiary in accordance with the provisions of this Agreement, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Trustee and the Employer, either of whom may require such Member, legal representative, beneficiary, guardian or committee, as a condition precedent to such payment, to~~

~~execute a receipt and release thereof in such form as shall be determined by the Trustee or Employer.~~

IN WITNESS WHEREOF, the Employer and the Trustee have executed this ~~Declaration~~ Amended and Restated Agreement by their respective duly authorized officers, ~~as of the date first hereinabove mentioned.~~

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

THE METROPOLITAN WATER RECLAMATION
DISTRICT OF GREATER CHICAGO

By _____
~~—Gloria Alitto Majewski~~
Frank Avila
Chairman, Committee on Finance

By _____
~~—Harold G. Downs~~
Mary Ann Boyle
Treasurer

By _____
~~—Patrick J. Foley~~
Beverly K. Sanders
Director of ~~Personnel~~ Human Resources

By _____
~~—Richard Lanyon~~
~~—General Superintendent~~
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 ~~Attorney~~ General Counsel

~~Attorney~~

Susan T. Morakalis

General Counsel

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<u>Moved to</u>	
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Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
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Moved to	15
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Format changed	0
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