

**SANTA BARBARA  
COUNTY WATER AGENCY**

CACHUMA PROJECT MEMBER UNIT CONTRACT  
MONTECITO WATER DISTRICT

THIS CONTRACT, made this 12 day of March, 1996 at and in the County of Santa Barbara, State of California, between THE SANTA BARBARA COUNTY WATER AGENCY, hereinafter referred to as the "Water Agency", established by Chapter 1501 of the 1945 Statutes of California, as amended, and the MONTECITO WATER DISTRICT, hereinafter referred to as "Montecito", a County Water District,

WITNESSETH, that:

EXPLANATORY RECITALS

WHEREAS, the United States of America, Department of the Interior, Bureau of Reclamation, hereinafter referred to as the "United States," constructed the Cachuma Project (including but not limited to Bradbury Dam, Tecolote Tunnel, Glen Anne Reservoir, Lauro Reservoir, the South Coast Conduit and appurtenant works) for diversion, storage, carriage and distribution of waters of the Santa Ynez River and its tributaries for irrigation, municipal, domestic and industrial uses; and

WHEREAS, on September 12, 1949, the United States entered into Contract No. I75r-1802 ("Original Master Contract") with the Water Agency for a water supply from the Cachuma Project for the use and benefit of Carpinteria County Water District, the City of Santa Barbara, Goleta Water District, Montecito Water District, Santa Ynez River Water Conservation District and Summerland Water District; and

WHEREAS, on September 12, 1949 the Water Agency entered into an agreement entitled "Contract for the Furnishing of Water to the Montecito Water District" with the Montecito Water District ("Montecito") for the furnishing of a water supply to Montecito ("Original Member Unit Contract"), for which Montecito has made payment to the Water Agency upon the basis, at the rates and pursuant to the conditions set forth in said contract; and

WHEREAS, on December 27, 1954 the Water Agency entered into an agreement entitled "Contract for the Furnishing of Water to the Santa Ynez River Water Conservation District" with Santa Ynez River Water Conservation District for the furnishing of a water supply from the Cachuma Project to and for the use and benefit of the lands thereafter included within the boundaries of the Santa Ynez River Water Conservation District, Improvement District No. 1 ("ID #1") ("Original Member Unit Contract"), for which ID #1 has made payment to the Water Agency upon the basis, at the rates and pursuant to the conditions set forth in said contract; and

WHEREAS, on August 9, 1993, the Santa Ynez River Water Conservation District assigned to the Santa Ynez River Water Conservation District, Improvement District No. 1 ("Santa Ynez ID#1", herein) its rights and obligations under its Original Master Contract and Original Member Unit Contract; and

WHEREAS, reorganization of the Summerland Water District into, and as part of, the Montecito Water District, was authorized at the election of November 7, 1995, and approved by action of the Local Agency Formation Commission and the Santa Barbara County Board of Supervisors, duly recorded December 6, 1995; and,

WHEREAS, the Carpinteria County Water District, the City of Santa Barbara, the Goleta Water District, the Montecito Water District, and the Santa Ynez River Water Conservation District, Improvement District No. 1 are referred to herein as the "Cachuma Member Units" or the "Member Units;" and

WHEREAS, on March 1, 1993, and, as amended and restated on August 18, 1993, the Cachuma Member Units entered into a Joint Exercise of Powers Agreement to form the Cachuma Project Authority ("Authority") for a number of stated purposes, including, without limitation, facilitating renewal of the Original Master Contract and the Original Member Unit Contracts in order to ensure continued delivery of the entire yield of the Cachuma Project to the Member Units; and,

WHEREAS, since April 2, 1993, the United States, the Water Agency and the Authority, on behalf of the Cachuma Member Units, have been preparing an Environmental Impact Statement and Environmental Impact Report (EIS/EIR) pursuant to the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA) respectively, to address environmental impacts, if any, of the long-term renewal of the Original Master Contract and the Original Member Unit Contracts; and,

WHEREAS, since December 9, 1994, there have been negotiations among the United States, the Water Agency and the Authority, on behalf of the Cachuma Member Units, on the terms and conditions of a long-term renewal contract, but due to the procedural requirements of Federal Reclamation law and policy the parties were unable to complete all Federal pre-requisites to allow execution of a long-term renewal contract before the date on which the Original Master Contract and the Original Member Unit Contract were due to expire; and,

WHEREAS, in order to ensure continued delivery of Cachuma Project water to the Cachuma Member Units, on April 25, 1995, the United States and the Water Agency entered into a "Contract Between the United States and Santa Barbara County Water Agency Providing for Water Service from the Project," which contract is denominated Contract No. I75r-1802IR ("Phase I Renewal Master Contract") which (i) constituted the initial phase of the renewal of the Original Master Contract, (ii) preserved and extended the rights and obligations of the United States, the Water Agency and the Cachuma Member Units under the Original Master Contract

and Reclamation law, and (iii) provided for the continued delivery to the Cachuma Member Units of Cachuma Project water on the terms and conditions of the Original Master Contract, as modified by the Phase I Renewal Master Contract, through April 14, 1996; and

WHEREAS, on April 25, 1995, the Water Agency entered into a "Member Unit Contract" with the Montecito Water District ("Phase I Renewal Member Unit Contract") which (i) constituted the initial phase of the renewal of the Original Member Unit Contract, (ii) preserved and extended the rights and obligations of the Water Agency and the Cachuma Member Units under the Original Member Unit Contract and Reclamation law, and (iii) provided for the continued delivery to the Cachuma Member Units of Cachuma Project water on the terms and conditions of the Original Master Contract, as modified by the Phase I Renewal Master Contract, through April 14, 1996; and

WHEREAS, the Agency, for the benefit of the Cachuma Member Units, has the right to renew the Original Master Contract and the Phase I Renewal Master Contract pursuant to the Act of July 2, 1956 (70 Stat. 483) and the Act of June 21, 1963 (77 Stat. 68), and the Original Master Contract; and

WHEREAS, the United States has determined that the Member Units have the capability to fully utilize for reasonable and beneficial use the entire yield of the Cachuma Project, and the Agency and the Cachuma Member Units have to date fulfilled all of their obligations under the Original Master Contract, the Original Member Unit Contracts, the Phase I Renewal Master Contract and the Phase I Renewal Member Unit Contracts; and

WHEREAS, the Authority, on behalf of the Cachuma Member Units, and the Water Agency have made a timely request for renewal of the Original Master Contract and the Original Member Unit Contracts, and have taken all steps required by Federal Reclamation law and the laws of the State of California to exercise the right of renewal granted pursuant to Federal Reclamation law and the Original Master Contract; and

WHEREAS, the Authority, on behalf of the Cachuma Member Units, and the Water Agency have negotiated with the United States for renewal and extension of the Original Master Contract, Original Member Unit Contracts, the Phase I Renewal Master Contract and Phase I Renewal Member Unit Contracts in order to continue without interruption the rights and obligations of the parties under Reclamation Law and pursuant to said contracts; and

WHEREAS, the renewal contract which has been negotiated with the United States and released for public review on November 14, 1995 ("Long Term Renewal Master Contract" and "Master Contract," herein) provides that, prior to delivery of Cachuma Project water, the Water Agency shall enter into contractual relationships with each of the Cachuma Member Units, which contracts shall provide that they are subject to the terms of the Long Term Renewal Master Contract; and,

WHEREAS, on or about the time of this agreement, and in order to provide appropriate adjustment to the water rates due under said Long Term Renewal Master Contract, the Cachuma Member Units have entered into the "Agreement Regarding Cachuma Project Water Rates and Administration" (the "Water Rate Agreement," herein); and,

WHEREAS, for ease of reference, all references herein to "Master Contract" shall be construed to refer to the Long Term Renewal Master Contract (I75r-1802R) including, without reservation, each and every provision thereof which may survive its termination,

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is hereby mutually agreed by the parties hereto as follows:

### CONTRACT TERM

1. This Contract shall be effective as of May 15, 1995 ("effective date") and shall remain in effect through September 30, 2020, a period coterminous with the Master Contract (No. I75r-1802R). This contract shall continue in effect the rights, obligations and interests of the Cachuma Member Units in the Cachuma Project. At the expiration of the Master Contract and in the event the Water Agency requests a renewal of the contract, Montecito, at its option and upon timely request to the Water Agency, may renew this contract subject to the then existing law and the terms of the Master Contract as so renewed.

### PURPOSE AND RESERVATION OF RIGHTS

2. (a) This Contract secures, protects and preserves all rights and benefits in existence under the original Member Unit Contract, the original Master Contract (Contract No. I75r-1802), the Phase I Contract (Contract No. I75r-1802IR), the Master Contract (Contract No. I75r-1802R), and Federal Reclamation law, including Montecito's right to extension or renewal of the Member Unit Contract. The omission of any particular language in this Contract asserting any rights or obligations is not intended to be, nor shall it be interpreted as, a waiver of any such rights or obligations to the extent any such rights or obligations are later determined to exist by a court of competent jurisdiction or by mutual agreement of the parties.

(b) For purposes of construing this contract, all definitions contained in the Master Contract are herein incorporated by reference.

### CONTINUATION OF TERMS AND CONDITIONS OF MEMBER UNIT CONTRACT

3. (a) This Contract is a continuation of the previous Member Unit Contract(s) in connection with the Cachuma Project, and the purpose of the parties in executing this Contract is to continue such water service with no interruption or loss of rights or obligations in any party.

(b) The Master Contract apportions the Cachuma Member Unit interests in the Water Supply from the Cachuma Project in accord with the following percentages:

Carpinteria: 10.94%

Santa Barbara:	32.19%
Goleta:	36.25%
Montecito:	10.31%
Santa Ynez ID#1:	10.31%

Except as provided herein, the Water Agency shall collect from the Cachuma Member Units and transfer on their behalf to the United States, timely payment for water delivered and to be delivered by the United States in such general proportion pursuant to the provisions of the Master Contract and this Member Unit Contract.

### WATER DELIVERY SCHEDULE

4. (a) Prior to each water year, Montecito, or Member Units acting jointly, shall deliver to the Water Agency, in a timely manner, a notice specifying:
  1. The portion of the total quantity of Available Supply that Montecito requests to be delivered during the next Water Year, which portion shall be the proposed Supply To Be Delivered for that Water Year; and,
  2. The schedule by month of the quantities of Project Water that are to be delivered to Montecito, and any transferee thereof during that Water Year, which schedule shall be the proposed "Delivery Schedule" for that Water Year; and,
  3. An estimate of projected water deliveries to be made during the remainder of the Repayment Period. Such estimate shall include projected water deliveries for each Water Year during the remainder of the Repayment Period, with each Water Year's deliveries showing:
    - A. Irrigation Water which will be scheduled to be delivered (Irrigation Water Storage);
    - B. Irrigation Water which will be scheduled to be delivered to the Tecolote Tunnel (Irrigation Water Conveyance);
    - C. Municipal and Industrial Water which will be scheduled to be delivered (M&I Water Storage); and
    - D. Municipal and Industrial Water which will be scheduled to be delivered to the Tecolote Tunnel (M&I Water Conveyance).
- (b) Notwithstanding the provisions in Section (a), alternative reporting procedures may be implemented as agreed upon from time to time by the parties, which procedures are not inconsistent with the terms of the Master Contract.
- (c) Montecito will promptly deliver to the Water Agency any subsequent requests to revise the Proposed Supply To Be Delivered or any revised proposed Delivery Schedule for the Water Year.
- (d) The Water Agency shall coordinate with the Member Units to prepare and submit the water delivery report and all other reports as required under Section 3(g) of the Master Contract. All other provisions of Section 3 of the Master Contract shall be controlling on Montecito and are incorporated herein.
- (e) The Water Agency shall promptly forward all delivery requests to the United States.

**POINT OF DIVERSION AND RESPONSIBILITY  
FOR DISTRIBUTION OF WATER**

5. (a) The provisions contained in the Master Contract pursuant to Section 4 shall be controlling on Montecito and are incorporated herein.
- (b) The Water Agency shall not be responsible for the control, carriage, handling, use, disposal, or distribution of Project Water delivered by the United States pursuant to this Contract beyond the delivery point specified in Section 4 of the Master Contract.

**INDEMNITY**

6. Montecito shall indemnify the United States and the Water Agency and its officers, employees, agents and assigns on account of damage or claim of damage of any nature whatsoever for which there is legal responsibility, including property damage, personal injury or death, arising out of or in connection with the control, carriage, handling, use, disposal, or distribution of such Project Water beyond the delivery point specified in Section 4 of the Master Contract, except for any damage or claim arising out of acts performed by, or the failure to act of, the United States, the Water Agency or any of their officers, employees, agents or assigns.

**MEASUREMENT OF WATER WITHIN  
AGENCY'S PLACE OF USE**

7. Montecito shall adhere to the requirements of Section 5 of the Master Contract and shall insure that water delivered for irrigation purposes within the Contractor's Place of Use is measured by meters with an accuracy of  $\pm 6\%$  of actual delivery at each agricultural turnout and that all Project water delivered for municipal and industrial purposes is measured by meters with an accuracy of  $\pm 6\%$  of actual delivery at each municipal and industrial service connection. The Member Units shall provide sufficient information to the Water Agency to verify that the metering is occurring as required.

**CALCULATION OF RATES AND  
METHODS OF PAYMENT FOR WATER**

8. (a) The Water Agency, upon receipt of the rates for the Water Year from the United States, shall promptly notify Montecito of the rates referenced in Section 6(b) of the Master Contract; and Montecito shall make advance semi-annual payments to the Water Agency in a timely manner prior to the start of the Water Year and shall include payment for all Project Water scheduled to be delivered during the first six months of the Water Year pursuant to the provisions of the Water Rates Agreement. The Water Agency shall hold such payments in segregated account(s) until such payment is made to the United States. Member Units may apply payment(s) made under Contract No. I75-1802IR as adjustments to or credits for payment obligations under Contract No. I75-1802R, as permitted by agreement with the United States. The Water Agency

shall make timely payments to the United States pursuant to its obligations in the Master Contract.

(b) The Water Agency shall provide \$100,000 per year during the term hereof for beneficial purposes consistent with the Water Agency Act and within the Santa Ynez River watershed or the Cachuma Project service area. All decisions relating to the expenditure of such funds shall be concurred in, by both: a) the Water Agency and b) the Cachuma Project Authority board, acting by unanimous vote. In the event that the Water Agency and the Cachuma Project Authority board, acting by unanimous vote, are unable to approve such expenditure due to a disagreement, the Water Agency and the Cachuma Project Authority board, shall designate a third party to consider with them the expenditure under disagreement, and a decision respecting such expenditure may be made by any two of the Water Agency, the Cachuma Project Authority board, acting by unanimous vote, and such third party. In the event that the Cachuma Project Authority board and the Water Agency are unable to designate a third party, any party may petition the Presiding Judge of the Superior Court, County of Santa Barbara, for that Judge to select such third party. Following such selection, a decision respecting such expenditure may be made by any two of the Water Agency, the Cachuma Project Authority board, acting by unanimous vote, and such third party selected by the Presiding Judge of said Superior Court.

#### **TRANSFERS OR EXCHANGES OF WATER**

9. The provisions of Section 8 of the Master Contract for the transfer and exchange of water are herein incorporated by reference and are controlling on Montecito. Member Units shall, prior to the initiation of such proposed transfer as requires notice to the United States, give the Water Agency timely written description of each such transfer proposal with sufficient information for the United States to determine if the proposed transfer is consistent with Section 8.

#### **MISCELLANEOUS COSTS**

10. In addition to all other payments to be made by Montecito pursuant to this Contract, Montecito shall timely pay to the Water Agency after receipt of a bill and detailed statement submitted by the Water Agency its percentage share of such specific items of direct costs incurred by the United States for work requested by the Member Units associated with this contract, plus a percentage of such direct costs for the Bureau's administrative and general overhead in accordance with the applicable Bureau of Reclamation policy and procedures. All other provisions of Section 19 entitled "Miscellaneous Costs" in the Master Contract are herein incorporated and are binding on Montecito.

#### **CONSERVATION PLANS**

11. The Water Agency and Montecito shall coordinate the development of the respective conservation plans as provided for in Section 20 of the Master Contract.

## **COMPLIANCE WITH ALL CONDITIONS OF MASTER CONTRACT**

12. All other terms and conditions contained in the Master Contract are incorporated herein and Montecito agrees to be bound by all such provisions. Any and all obligations contained in the Master Contract including, but not limited to, water conservation, recognition of downstream rights, compliance with federal law, water and air pollution control, quality of water, charges for delinquent payments, equal opportunity, benefits, conditions upon payment, compliance with civil rights laws and regulations, privacy act compliance, miscellaneous costs, water conservation, non-project water, books, records and reports, officials not to benefit, and renewal fund requirements are herein accepted as the obligations of the Member Unit. Notwithstanding the individual obligations of each Member Unit, nothing in this agreement shall be construed to prohibit the Member Units from acting jointly in fulfilling their obligations under this agreement

## **COMPLIANCE WITH AND DISCHARGE OF ALL CONDITIONS OF MASTER CONTRACT**

13. The Member Units, at their option and acting jointly, may discharge directly all obligations of the Contractor under the Master Contract, with the exception of any separate respective obligation of the Water Agency under Sections 20 and 27 of the Master Contract. Such direct discharge of obligations by Member Units shall fulfill their obligations under this contract. Member Units shall provide Water Agency with copies of reports, notices, correspondence and other information to assure Water Agency that such obligations are being fulfilled. The Water Agency may resume performance of such obligations under the Master Contract upon failure of the Member Units to assure discharge of those obligations, where such failure may result in default under the Master Contract, and where such failure continues for a period of 30 days after written notice by the Water Agency to Member Units. If the nature of the Member Units' failure is such that more than 30 days are reasonably required for its cure, the Member Units may continue to directly discharge Contractor's obligations if they commence a cure within the 30 day period and thereafter diligently prosecute the cure in such a manner as to avoid default under the Master Contract.

## **BENEFITS OF ASSOCIATED AGREEMENTS**

14. To the extent acknowledged by the United States, the Cachuma Member Units shall be entitled to the use and benefit of the Cachuma Project, project property, transmission lines, and improvements pursuant to the agreements entered into and to be entered into regarding the storage, treatment, transmission, exchange and use of water, including, but not limited to: Joint Exercise of Powers Agreement to form the Central Coast Water Authority; Santa Ynez River / State Water Project Exchange Agreement; the contract for the storage and conveyance of non-project water with Central Coast Water Authority; Contract No. 14-06-200-5222; the agreement to form the Cachuma Operation and Maintenance Board; the agreement to form the Cachuma Project Authority; the Upper Santa Ynez River Operations Agreement, and amendments to such agreements. The Water Agency shall provide for such use and benefit in Cachuma Member



Contracts with the Water Agency. The Cachuma Member Units will provide for, observe and accommodate the operation and effect of such agreements as do not deprive them of the enjoyment of the benefits of this Contract. Montecito shall not cause or create a violation of such agreements, except to the extent that such agreement restricts or avoids the benefits of Montecito's agreement with the Water Agency for its share of Cachuma Project water.

### **NOTICES**

15. (a) All notices and other communications required by this Contract ("notices") shall be in writing and shall be given by one of the following methods:

- (1) By personal delivery, the notice being effective on delivery;
- (2) By first class mail, the notice being effective 5 days after deposit, postage pre-paid, in a United States Postal Service office or mailbox;
- (3) By certified mail, notice being effective on delivery if confirmed by a return receipt;
- (4) By overnight delivery by Federal Express or similar delivery service, notice being effective on delivery if delivery is confirmed by the delivery service;
- (5) By facsimile transmission, notice being effective on receipt, provided that (i) either (A) a duplicate notice is promptly given by one of the other methods permitted by this article, or (B) the receiving party delivers a written confirmation of receipt, and (ii) any notice given by facsimile transmission shall be deemed received on the next business day if it is received after 4:30 p.m. Pacific Time or on a nonbusiness day.

(b) Notices shall be given to the following addresses and facsimile numbers:

**SANTA BARBARA COUNTY WATER AGENCY**  
123 East Anapamu Street  
Santa Barbara, California 93101  
- Facsimile number: 805-568-3434

**MONTECITO WATER DISTRICT**  
583 San Ysidro Road (93108)  
P.O. Box 5037  
Montecito, CA 93150-5037  
- Facsimile number: 805-969-7261

With a copy to:

**CACHUMA PROJECT AUTHORITY**  
Attention: Executive Director  
3301 Laurel Canyon Road  
Santa Barbara, California 93105-2017  
- Facsimile number: 805-569-5825

(c) Any entity identified above may change its address or facsimile number by which notice is to be given pursuant to this provision, by giving notice of the change in any manner specified above.

### EXISTING WATER RIGHTS

16. Subject to agreement between the Water Agency and Montecito:

(a) The water from the Santa Ynez River to be conserved, distributed and used by means of the Cachuma Unit, other than water obtained by means of tunnels in the Santa Ynez Mountain Range, and to be furnished Montecito under this contract, and to be furnished any member unit by the Agency shall be water which, at the time of the appropriation thereof by the United States, was or shall be available for appropriation under the laws of the State of California. The established water rights of Santa Barbara and Montecito, whether such rights are presently fully developed or not, are hereby recognized by the Agency, and shall be preserved notwithstanding the execution of this contract or of any provision of this contract to the contrary, or any operation or use hereunder.

(b) Santa Barbara and Montecito shall not be required to deliver or transfer to the United States the Agency the Cachuma Unit or to any person or entity entitled to water therefrom any water or water rights to which Santa Barbara or Montecito is entitled under their established water rights.

(c) The Agency hereby recognizes and agrees not to take, restrict, impair or interfere with any or all of said presently established rights to water for present use and future development based upon such rights.

### USE OF FACILITIES

17. To the extent acknowledged by the United States, Montecito shall have the right to use the conduits, reservoirs, project transmission lines, property and facilities for the delivery of water, including Cachuma Project water, as required by Montecito, in proportion as the interest of Montecito in the Cachuma Project bears to other Cachuma Member Units requiring the same lines, property and facilities.

### DUTIES OF AGENCY

18. The Water Agency shall promptly and completely fulfill its obligations under this Contract and the Master Contract and shall apply and pay to the United States for credit against obligations of the Water Agency for Montecito under the Master Contract, all sums received by the Agency from Montecito hereunder. The Water Agency shall cooperate fully with Member Units to defend and enforce Member Unit's rights and benefits under this Master Contract.

IN WITNESS WHEREOF, the parties hereto have executed this Member Unit Contract as of the day and year first above written.

**SANTA BARBARA COUNTY  
WATER AGENCY**

By:   
Chair, Board of Directors

ATTEST:  
ZANDRA CHOLMONDELEY  
CLERK OF THE BOARD

By: 

**MONTECITO WATER DISTRICT**

By:   
President, Board of Directors

ATTEST:  
SECRETARY

By: 

APPROVED AS TO FORM:  
STEPHEN SHANE STARK  
COUNTY COUNSEL

By:   
Deputy County Counsel

APPROVED AS TO INSURANCE:  
CHARLES MITCHELL  
RISK MANAGEMENT

By: 

APPROVED AS TO FORM:  
ATTORNEY

By: 

APPROVED AS TO FORM:  
ROBERT W. GEIS  
AUDITOR-CONTROLLER

By: 