

DRAFT

Amendatory Contract
No. I75r-1802RB
USBR-Cachuma-SBCWA-Exhibit #1A

DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Cachuma Project, California

SECOND AMENDMENT TO CONTRACT BETWEEN THE UNITED STATES
AND
SANTA BARBARA COUNTY WATER AGENCY
FOR WATER SERVICE FROM THE PROJECT

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18 Carpinteria Valley Water District, the City of Santa Barbara, Goleta Water District, Montecito
19 Water District (Summerland Water District incorporated into Montecito Water District), and
20 Santa Ynez River Water Conservation District Improvement District No. 1, hereinafter referred
21 to as the Cachuma Member Units; and

22 (c) WHEREAS, on April 14, 1996, the United States and the Contractor entered into
23 Contract No. I75r-1802R, hereinafter referred to as the Master Contract, attached here to as
24 Exhibit E, which provided for the continued water service to the Cachuma Member Units
25 following expiration of Contract No. I75r-1802; and

26 (d) WHEREAS, on September 28, 2020, the United States and the Contractor entered
27 into Amendment Contract No. I75r-1802RA, hereinafter referred to as the Amended Contract,
28 attached hereto as Exhibit F; which provided for continued water service to the Cachuma
29 Member Units effective October 1, 2020 through September 30, 2023 following expiration of
30 Contract No. I75r-1802R; and

31 (e) WHEREAS, the Master Contract as amended by the Amended Contract
32 hereinafter referred to as the Existing Contract; and

33 (f) WHEREAS, the United States has determined that the Contractor to date has
34 fulfilled all of its obligations under the Existing Contract including full repayment of the
35 Cachuma Project as provided for in Exhibit “C” of the Master Contract; and

36 (g) WHEREAS, the Contractor, on behalf of the Cachuma Member Units, and the
37 Cachuma Member Units, have requested a second amendment of the Existing Contract pursuant
38 to that Contract, the Federal Reclamation laws, and the laws of the State of California, for
39 continued water service from the Cachuma Project; and

40 (h) WHEREAS, the United States has completed all appropriate environmental
41 review necessary to provide for execution of this Contract Amendment; and

42 (i) WHEREAS, the United States and the Contractor mutually commit to negotiate
43 and seek to reach agreement on a long-term repayment contract, that has been delayed for
44 reasons beyond the control of the parties including but not limited to addressing the
45 implementation of State Water Resources Control Board Order 2019-0148 adopted on
46 September 17, 2019, and completion of applicable environmental compliance; and

47 (j) WHEREAS, the United States is required to update standard articles in all new or
48 amended contracts; and

49 (k) WHEREAS, on August 19, 1996 the Contractor authorized the Cachuma
50 Operations and Maintenance Board under Resolution No. 239 to discharge certain obligations of
51 the Contractor under the Master Contract, including, but not limited to, collecting payment from
52 the Cachuma Member Units and remitting payment to the United States for water deliveries; and

53 (l) WHEREAS, the United States is willing to amend the Existing Contract pursuant
54 to the terms and conditions set forth below.

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

57 1. **Article 1 of the Existing Contract, entitled DEFINITIONS, is amended as**
58 **follows:**

59 (a) **Subdivision (g) in the Existing Contract is amended and replaced in**
60 **its entirety with the following new subdivision (g).**

61 (g) "Irrigation Water" shall mean the use of Project Water to irrigate
62 land primarily for the production of commercial agricultural crops or livestock, and domestic and
63 other uses that are incidental thereto.

64 (b) Subdivision (i) in the Existing Contract is amended and replaced in its
65 entirety with the following new subdivision (i).

66 (i) "Municipal and Industrial Water" shall mean the use of Project
67 Water for municipal, industrial, and miscellaneous other purposes not falling under the definition
68 of Irrigation Water or within another category of water use under an applicable Federal authority.

69 2. Article 2 of the Existing Contract, entitled TERM OF CONTRACT –
70 RIGHT TO USE OF WATER, is amended as follows:

71 (a) The first sentence in subdivision (a) of Article 2 of I75r-1802RA is deleted
72 in its entirety and replaced with the following: "This Contract shall be effective as of October 1,
73 2023 (Effective Date) through September 30, 2026."

74 3. Article 10 of the Existing Contract, entitled COMPLIANCE WITH
75 FEDERAL RECLAMATION LAWS, is amended and replaced in its entirety with the
76 following:

77 10. The parties agree that the delivery of irrigation water or use of Federal
78 facilities pursuant to this Contract is subject to Federal reclamation law, including but not limited
79 to the Reclamation Reform Act of 1982 (43 U.S.C. 390aa, *et seq.*), as amended and
80 supplemented, and the rules and regulations promulgated by the Secretary of the Interior under
81 Federal reclamation law.

82 4. Article 11 of the Existing Contract, entitled PROTECTION OF WATER
83 AND AIR QUALITY, is amended and replaced in its entirety with the following:

84 11. (a) Omitted

85 (b) The United States will care for, operate and maintain reserved
86 works in a manner that preserves the quality of the water at the highest feasible level as
87 determined by the Contracting Officer. The United States does not warrant the quality of the

88 water delivered to the Contractor and is under no obligation to furnish or construct water
89 treatment facilities to maintain or improve the quality of water delivered to the Contractor.

90 (c) The Contractor will comply with all applicable water and air
91 pollution laws and regulations of the United States and the State of California; and will obtain all
92 required permits or licenses from the appropriate Federal, State, or local authorities necessary for
93 the delivery of water by the Contractor; and will be responsible for compliance with all Federal,
94 State, and local water quality standards applicable to surface and subsurface drainage and/or
95 discharges generated through the use of Federal or Contractor facilities or Project Water
96 provided by the Contractor within its Contractor's Area of Service.

97 (d) This article will not affect or alter any legal obligations of the
98 Secretary to provide drainage or other discharge services.

99 **5. Article 12 of the Existing Contract, entitled CONSTRAINTS ON THE**
100 **AVAILABILITY OF WATER, is amended and replaced in its entirety with the following:**

101 12. (a) In its operation of the Project, the Contracting Officer will use all
102 reasonable means to guard against a condition of shortage in the quantity of water to be made
103 available to the Contractor pursuant to this Contract. In the event the Contracting Officer
104 determines that a condition of shortage appears probable, the Contracting Officer will notify the
105 Contractor of said determination as soon as practicable.

106 (b) If there is a condition of shortage because of inaccurate runoff
107 forecasting or other similar operational errors affecting the Project; drought and other physical or
108 natural causes beyond the control of the Contracting Officer; or actions taken by the Contracting
109 Officer to meet current and future legal obligations, then, no liability shall accrue against the
110 United States or any of its officers, agents, or employees for any damage, direct or indirect,
111 arising therefrom.

112 **6. Article 15 of the Existing Contract, entitled EQUAL EMPLOYMENT**
113 **OPPORTUNITY, is amended and replaced in its entirety with the following:**

114 15. During the performance of this Contract, the Contractor agrees as follows:

115 (a) The Contractor will not discriminate against any employee or
116 applicant for employment because of race, color, religion, sex, sexual orientation, gender

117 identity, or national origin. The Contractor will take affirmative action to ensure that applicants
118 are employed, and that employees are treated during employment, without regard to their race,
119 color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall
120 include, but not be limited to the following: employment, upgrading, demotion, or transfer;
121 recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of
122 compensation; and selection for training, including apprenticeship. The Contractor agrees to
123 post in conspicuous places, available to employees and applicants for employment, notices to be
124 provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

125 (b) The Contractor will, in all solicitations or advertisements for
126 employees placed by or on behalf of the Contractor, state that all qualified applicants will receive
127 consideration for employment without regard to race, color, religion, sex, sexual orientation,
128 gender identity, or national origin.

129 (c) The Contractor will not discharge or in any other manner
130 discriminate against any employee or applicant for employment because such employee or
131 applicant has inquired about, discussed, or disclosed the compensation of the employee or
132 applicant or another employee or applicant. This provision shall not apply to instances in which
133 an employee who has access to the compensation information of other employees or applicants
134 as part of such employee's essential job functions discloses the compensation of such other
135 employees or applicants to individuals who do not otherwise have access to such information,
136 unless such disclosure is in response to a formal complaint or charge, in furtherance of an
137 investigation, proceeding, hearing, or action, including an investigation conducted by the
138 employer, or is consistent with the Contractor's legal duty to furnish information.

139 (d) The Contractor will send to each labor union or representative of
140 workers with which it has a collective bargaining agreement or other contract or understanding, a
141 notice, to be provided by the agency Contracting Officer, advising the labor union or workers'
142 representative of the Contractor's commitments under Section 202 of Executive Order 11246 of
143 September 24, 1965, and shall post copies of the notice in conspicuous places available to
144 employees and applicants for employment.

145 (e) The Contractor will comply with all provisions of Executive Order
146 No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of
147 Labor.

148 (f) The Contractor will furnish all information and reports required by
149 Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of
150 the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and
151 accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to
152 ascertain compliance with such rules, regulations, and orders.

153 (g) In the event of the Contractor's noncompliance with the
154 nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this
155 contract may be canceled, terminated or suspended in whole or in part and the Contractor may be

156 declared ineligible for further Government contracts in accordance with procedures authorized in
157 Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and
158 remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule,
159 regulation, or order of the Secretary of Labor, or as otherwise provided by law.

160 (h) The Contractor will include the provisions of paragraphs (a)
161 through (h) in every subcontract or purchase order unless exempted by the rules, regulations, or
162 orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of
163 September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor.
164 The Contractor will take such action with respect to any subcontract or purchase order as may be
165 directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions
166 for noncompliance: *Provided, however*, that in the event the Contractor becomes involved in, or
167 is threatened with, litigation with a subcontractor or vendor as a result of such direction, the
168 Contractor may request the United States to enter into such litigation to protect the interests of
169 the United States.

170 7. Article 16 of the Existing Contract, entitled GENERAL OBLIGATION –
171 BENEFITS CONDITIONED UPON PAYMENT, is amended and replaced in its entirety
172 with the following:

173 16. (a) The obligation of the Contractor to pay the United States as
174 provided in this Contract is a general obligation of the Contractor notwithstanding the manner in
175 which the obligation may be distributed among the Contractor's water users and notwithstanding
176 the default of individual water users in their obligation to the Contractor.

177 (b) The payment of charges becoming due pursuant to this Contract is
178 a condition precedent to receiving benefits under this Contract. The United States shall not make
179 water available to the Contractor through Project facilities during any period in which the
180 Contractor is in arrears in the advance payment of water rates due the United States. The
181 Contractor shall not deliver water under the terms and conditions of this Contract for lands or
182 parties that are in arrears in the advance payment of water rates as levied or established by the
183 Contractor.

184 8. Article 17 of the Existing Contract, entitled COMPLIANCE WITH CIVIL
185 RIGHTS LAWS AND REGULATIONS, is amended and replaced in its entirety with the
186 following:

187 17. (a) The Contractor shall comply with Title VI of the Civil Rights Act
188 of 1964 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112,
189 Title V, as amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-
190 135, Title III; 42 U.S.C. § 6101, et seq.), Title II of the Americans with Disabilities Act of 1990

191 (Pub. L. 101-336; 42 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and
192 with the applicable implementing regulations and any guidelines imposed by the U.S.
193 Department of the Interior and/or Bureau of Reclamation.

194 (b) These statutes prohibit any person in the United States from being
195 excluded from participation in, being denied the benefits of, or being otherwise subjected to
196 discrimination under any program or activity receiving financial assistance from the Bureau of
197 Reclamation on the grounds of race, color, national origin, disability, or age. By executing this
198 contract, the Contractor agrees to immediately take any measures necessary to implement this
199 obligation, including permitting officials of the United States to inspect premises, programs, and
200 documents.

201 (c) The Contractor makes this agreement in consideration of and for
202 the purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other
203 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of
204 Reclamation, including installment payments after such date on account of arrangements for
205 Federal financial assistance which were approved before such date. The Contractor recognizes
206 and agrees that such Federal assistance will be extended in reliance on the representations and
207 agreements made in this article and that the United States reserves the right to seek judicial
208 enforcement thereof.

209 (d) Complaints of discrimination against the Contractor shall be
210 investigated by the Contracting Officer's Office of Civil Rights.

211 **9. Article 18 of the Existing Contract, entitled PRIVACY ACT**

212 **COMPLIANCE, is amended and replaced in its entirety with the following:**

213 18. (a) The Contractor shall comply with the Privacy Act of 1974 (Privacy
214 Act) (5 U.S.C. § 552a) and the Department of the Interior rules and regulations under the Privacy
215 Act (43 C.F.R. § 2.45, et seq.) in maintaining landholder certification and reporting records
216 required to be submitted to the Contractor for compliance with sections 206, 224(c), and 228 of
217 the Reclamation Reform Act of 1982 (43 U.S.C. §§ 390ff, 390ww, and 390zz), and pursuant to
218 43 C.F.R. § 426.18.

219 (b) With respect to the application and administration of the criminal
220 penalty provisions of the Privacy Act (5 U.S.C. § 552a(i)), the Contractor and the Contractor's
221 employees who are responsible for maintaining the certification and reporting records referenced
222 in paragraph (a) above are considered to be employees of the Department of the Interior. See
223 5 U.S.C. § 552a(m).

224 (c) The Contracting Officer or a designated representative shall
225 provide the Contractor with current copies of the Department of the Interior Privacy Act
226 regulations and the Bureau of Reclamation Federal Register Privacy Act System of Records

227 Notice (Interior/WBR-31, Acreage Limitation) which govern the maintenance, safeguarding, and
228 disclosure of information contained in the landholders' certification and reporting records.

229 (d) The Contracting Officer shall designate a full-time employee of the
230 Bureau of Reclamation to be the System Manager responsible for making decisions on denials
231 pursuant to 43 C.F.R. §§ 2.61 and 2.64 and amendment requests pursuant to 43 C.F.R. § 2.72.
232 The Contractor is authorized to grant requests by individuals for access to their own records.

233 (e) The Contractor shall forward promptly to the System Manager
234 each proposed denial of access under 43 C.F.R. § 2.64 and each request for amendment of
235 records filed under 43 C.F.R. § 2.71; notify the requester accordingly of such referral; and
236 provide the System Manager with information and records necessary to prepare an appropriate
237 response to the requester. These requirements do not apply to individuals seeking access to their
238 own certification and reporting forms filed with the Contractor pursuant to 43 C.F.R. § 426.18
239 unless the requester elects to cite the Privacy Act as authority for the request.

240 **10. Article 23 of the Existing Contract, entitled BOOKS, RECORDS, AND**

241 **REPORTS, is amended and replaced in its entirety with the following:**

242 23. The Contractor shall establish and maintain accounts and other books and
243 records pertaining to administration of the terms and conditions of this Contract, including the
244 Contractor's financial transactions; water supply data; project operation, maintenance, and
245 replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop
246 census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting
247 Officer may require. Reports shall be furnished to the Contracting Officer in such form and on
248 such date or dates as the Contracting Officer may require. Subject to applicable Federal laws
249 and regulations, each party to this Contract shall have the right during office hours to examine
250 and make copies of the other party's books and records relating to matters covered by this
251 Contract.

252 **11. Article 25 of the Existing Contract, entitled OFFICIALS NOT TO**

253 **BENEFIT, is amended and replaced in its entirety with the following:**

254 25. No Member of or Delegate to the Congress, Resident Commissioner, or
255 official of the Contractor shall benefit from this Contract other than as a water user or landowner
256 in the same manner as other water users or landowners.

257 **12. Article 26 of the Existing Contract, entitled CHANGES IN THE**

258 **CONTRACTOR'S ORGANIZATION OR SERVICE AREA, is amended and replaced in**

259 **its entirety with the following:**

260 26. While this Contract is in effect, no change may be made in the
261 Contractor’s organization, by inclusion or exclusion of lands or by any other changes which may
262 affect the respective rights, obligations, privileges, and duties of either the United States or the
263 Contractor under this Contract including, but not limited to, dissolution, consolidation, or
264 merger, except upon the Contracting Officer’s written consent.

265 **13. Article 29 of the Existing Contract, entitled NOTICES, is amended and**
266 **replaced in its entirety with the following:**

267 29. Any notice, demand, or request authorized or required by this Contract
268 shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid,
269 or delivered to the Area Manager, South-Central California Area Office, 1243 “N” Street,
270 Fresno, California 93721, and on behalf of the United States, when mailed, postage prepaid, or
271 delivered to the Board of Directors as listed in Exhibit “D”. The designation of the addressee or
272 the address may be changed by notice given in the same manner as provided in this article for
273 other notices.

274 **14. Article 33 of the Existing Contract, entitled CONFIRMATION OF**
275 **CONTRACT, is amended and replaced in its entirety with the following:**

276 33. Promptly after the execution of this contract, the Contractor will provide
277 evidence to the Contracting Officer that, pursuant to the laws of the State of California, the
278 Contractor is a legally constituted entity and the contract is lawful, valid, and binding on the
279 Contractor. This contract will not be binding on the United States until the Contractor provides
280 evidence to the Contracting Officer’s satisfaction. In addition to other forms of evidence to meet the
281 requirements of this Article, the Contractor may provide or the Contracting Officer may require a
282 certified copy of a final decree of a court of competent jurisdiction in the State of California,
283 confirming the proceedings on the part of the Contractor for the authorization of the execution of this
284 contract.

285 **15. Article 35 of the Existing Contract, entitled CONTRACT DRAFTING**
286 **CONSIDERATIONS, is amended and replaced in its entirety with the following:**

287 35. This Contract Amendment has been negotiated and reviewed by the
288 parties hereto, each of whom is sophisticated in the matters to which this Contract Amendment
289 pertains. The double-spaced Articles of this Contract Amendment have been drafted, negotiated,
290 and reviewed by the parties, and no one party shall be considered to have drafted the stated
291 articles. Single-spaced Articles are standard articles pursuant to Reclamation policy.

292 **16. Article 36, entitled CERTIFICATION OF NONSEGREGATED**
293 **FACILITIES, is added to the Existing Contract as follows:**

294 36. The Contractor hereby certifies that it does not maintain or provide for its
295 employees any segregated facilities at any of its establishments and that it does not permit its
296 employees to perform their services at any location under its control where segregated facilities
297 are maintained. It certifies further that it will not maintain or provide for its employees any
298 segregated facilities at any of its establishments and that it will not permit its employees to
299 perform their services at any location under its control where segregated facilities are
300 maintained. The Contractor agrees that a breach of this certification is a violation of the Equal
301 Employment Opportunity clause in this Contract. As used in this certification, the term
302 "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms,
303 restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas,
304 parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing
305 facilities provided for employees which are segregated by explicit directive or are in fact
306 segregated on the basis of race, creed, color, or national origin, because of habit, local custom,
307 disability, or otherwise. The Contractor further agrees that (except where it has obtained
308 identical certifications from proposed subcontractors for specific time periods) it will obtain
309 identical certifications from proposed subcontractors prior to the award of subcontracts
310 exceeding \$10,000 which are not exempt from the provisions of the Equal Employment
311 Opportunity clause; that it will retain such certifications in its files; and that it will forward the
312 following notice to such proposed subcontractors (except where the proposed subcontractors
313 have submitted identical certifications for specific time periods):

314 NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR
315 CERTIFICATIONS OF NONSEGREGATED FACILITIES

316 A Certification of Nonsegregated Facilities must be submitted prior to the award of a
317 subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal
318 Employment Opportunity clause. The certification may be submitted either for each subcontract
319 or for all subcontracts during a period (i.e., quarterly, semiannually, or annually). Note: The
320 penalty for making false statements in offers is prescribed in 18 U.S.C. § 1001.

321 **17. Article 37, entitled MEDIUM FOR TRANSMITTING PAYMENTS, is added**
322 **to the Existing Contract as follows:**

323 37. (a) All payments from the Contractor to the United States under this
324 Contract shall be by the medium requested by the United States on or before the date payment is
325 due. The required method of payment may include checks, wire transfers, or other types of
326 payment specified by the United States.

327 (b) Upon execution of the Contract, the Contractor shall furnish the
328 Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose
329 for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising
330 out of the Contractor's relationship with the United States.

331 **18. Article 36 of the Existing Contract, entitled PRESERVATION OF**
332 **EXISTING CONTRACT, is renumbered Article 38 and amended and replaced in its**
333 **entirety with the following:**

334 38. Except as expressly modified by the provisions of this Contract
335 Amendment, the Existing Contract, along with all amendments to the Existing Contract, shall
336 remain in full force and effect. Exhibits “A” through “D” may be modified without further
337 amendment to this Contract Amendment.

338 IN WITNESS WHEREOF, the parties hereto have executed this Contract

339 Amendment to the Existing Contract on the day and year first above written.

340 THE UNITED STATES OF AMERICA

341 By: _____
342 Regional Director
343 Interior Region 10: California-Great Basin
344 Bureau of Reclamation

345 SANTA BARBARA COUNTY WATER
346 AGENCY

347 By: _____
348 Public Works Director

349 APPROVED AS TO FORM: APPROVED AS TO FORM:

350 By: _____ By: _____
351 Risk Management Deputy

352 APPROVED AS TO ACCOUNTING FORM:

353 By: _____
354 Deputy