

**Agreement Between the City of Thousand Oaks and the Camrosa Water District  
for the Beneficial Use of Water Pursuant to State Water Resources Control Board  
Water Right Decision 1638**

This Agreement is entered into this 28 the day of May, 2013 by and between the City of Thousand Oaks, a California general law city (hereinafter referred to as "**City**"); and the Camrosa Water District, a county water district organized under the County Water District Law of the State of California (hereinafter referred to as "**Camrosa**").

RECITALS

- A. The City and Camrosa have a common interest in maximizing the beneficial use of waters available for appropriation as described in the State Water Resources Control Board Water Right Decision 1638 and corresponding Water Right Permit 20952 issued by the State Water Resources Control Board to the City (hereinafter referred to as "**City Water Rights**").
- B. The City and Camrosa have cooperated in harmonizing the legal, institutional, financial, and operational aspects of their joint relationships to maximize the use of water made available under the City Water Rights.
- C. The City and Camrosa acknowledge that cooperatively they can most effectively maximize the beneficial use of the water available under the City Water Rights.
- D. In anticipation of the State Water Resources Control Board's Water Right Decision 1638 and based on the City's original Water Right application, first the City and the Calleguas Municipal Water District ("**Calleguas**"), and then Calleguas and Camrosa, executed agreements to cooperate in the appropriation of water pursuant to the pending water right decision. Subsequent to the State Water Resources Control Board's Water Right Decision 1638, but prior to appropriation of water under Water Right Permit 20952, the City and Calleguas renegotiated their previous agreement incorporating portions of Water Right Decision 1638 and portions of the City's original water right application. Camrosa and Calleguas continued to operate under their previous agreement.
- E. With Camrosa's assumption of full operation of the physical facilities necessary to appropriate the water pursuant to the City Water Rights, and the recoupment of Calleguas' capital investment in said facilities, the City, Calleguas and Camrosa have proven amenable to Calleguas ceding any and all control over or participation in the operation and management of said facilities, as outlined in any previous agreement pertaining thereto, and the City and Camrosa desire to re-establish and consolidate the terms of their contractual relationship consistent with the City Water Rights and the parties' relative roles in developing the City Water Rights.

- F. In re-establishing the terms under this Agreement, the parties wish to make this Agreement substantially cost or revenue neutral to all parties as compared to the terms of the previous agreements. This Agreement shall be interpreted consistent with this purpose.
- G. The parties acknowledge that through their cooperation to maximize the beneficial use of the waters available for appropriation under the City Water Rights, they have developed a water resource with regional significance.

NOW, THEREFORE, IT IS AGREED as follows:

1. Definitions

For the purposes of this Agreement, the following definitions shall apply:

- a. “**City Measurement Station**” shall refer to the flume and measurement apparatus placed by the City below the confluence of the north and south forks of the Arroyo Conejo to measure the combined flows from the Hill Canyon Wastewater Treatment Plant and water flowing downstream from the forks of the Arroyo Conejo. This facility is owned and operated by the City.
- b. “**Camrosa Diversion**” shall refer to the Conejo Creek Diversion structure located downstream and adjacent to the U.S. Highway 101 bridge over Conejo Creek and designated by Decision 1638 as the point of diversion for water appropriated pursuant to any water right or license pursuant to Water Right Decision 1638. This facility is owned and operated by Camrosa.
- c. “**PVCWD Pipeline**” shall refer to the pipelines constructed by Camrosa and Calleguas which extend from the Camrosa Storage Ponds pump station to the point of connection to the intersection of Laguna Road and Las Posas Road. This pipeline is owned and operated by Camrosa.
- d. “**Camrosa Storage Ponds**” shall refer to Camrosa’s ponds located east of Conejo Creek and adjacent to Old Dairy Road.
- e. “**Camrosa/Pleasant Valley Metering Stations**” shall refer to the water metering station where water is metered for delivery into the Pleasant Valley County Water District’s (PVCWD) irrigation water distribution system and any other meters connected to the Camrosa pipeline delivering water to the service area of PVCWD. These facilities are owned and operated by Camrosa.
- f. “**CFS**” shall mean cubic feet per second, a measurement of flowing water, which on a continuous basis equates to 724 acre feet per year, or 0.646 million gallons per day.

- g. “**City Water Rights**” shall refer to the City’s Water Right Permit 20952 issued by the State Water Resources Control Board pursuant to Water Right Decision 1638, and any subsequent license granted by the State Water Resources Control Board relating to the same.

2. Cooperation and Diligence in Perfecting Water Right License and Sharing Records

The parties agree to cooperate and exercise due diligence in meeting the requirements of the City Water Rights as specified below: (See Exhibit A for Calendar of routine actions required by the City’s Water Rights and this Agreement)

- a. The City shall be responsible for submitting such documentation to the State Water Resources Control Board as required to comply with Water Right Permit 20952, including without limitation Section 6 regarding complete application of water authorized by said Permit by December 31, 2025 or any extension granted thereto. In the event that the parties concur that additional water could be applied to beneficial use within the quantities limited by Water Right Permit 20952, Section 5; the City shall be responsible for petitioning the State Water Resources Control Board for an extension for a reasonable amount of time to put the full quantity of water provided by Water Right Permit 20952 to beneficial use.
- b. The City shall be responsible for submitting annual progress reports to the State Water Resources Control Board to comply with Water Right Permit 20952, Sections 15 and 16. The City shall provide copies of said progress reports to Camrosa.
- c. Camrosa shall keep metered records of dates of diversion, quantity of water diverted, and records documenting the bypass flow as required by Water Right Permit 20952, Sections 15 and 16, regarding quantification of flows. Such records shall be made available to the City for use in submitting its annual progress report above or as necessary to document water use under Water Right Permit 20952.
- d. Camrosa shall be responsible for submitting to the State Water Resources Control Board all reports documenting compliance with Water Right Permit 20952, Section 12, regarding water use efficiency and conservation. Camrosa shall provide copies of said reports to the City.
- e. The parties agree to share and provide the documents and information specified on Exhibit A attached to this Agreement and such other documents and information as the parties deem

reasonably necessary to maximize the water available under Water Right Permit 20952. It is the obligation of the City to timely advise Camrosa in writing of any such documents and information which are not specifically required in this Agreement.

3. Basis for Water Available for Sale

The City Water Rights provide the basis for the water available for sale by the City. Under Decision 1638, the quantity of water that the parties may put to beneficial use is described in terms of streamflow available at the Camrosa Diversion. That streamflow is quantified as:

Effluent discharged from the Hill Canyon Wastewater Treatment Plant

*minus* 2.0 CFS to account for channel losses en route to the point of diversion

*minus* 2.0 CFS dedicated by City to protect instream environmental resources

*plus* 4.0 CFS when the total streamflow at the Camrosa Diversion is greater than the sum of the effluent discharged from the Hill Canyon Treatment Plant plus the required downstream bypass of 6.0 CFS

*minus* 0.82 CFS to satisfy downstream Water Right License #12598, up to 306 acre feet per year.

As a practical matter, given the technical constraints in the continuous measurement and reconciliation of real-time flows, and various complicating factors, the parties agree that a reasonable and rational translation of Water Right Decision 1638's quantification of the City's Water Rights for the purposes of this Agreement is described in Section 4. Notwithstanding the foregoing, the City acknowledges and agrees that the City is ultimately responsible for maintaining the City's Water Rights including compliance with Water Right Decision 1638.

4. Quantification of Water Available for Sale

For the purposes of this Agreement, the parties agree that the water available for sale shall be determined annually and quantified as follows:

Twelve times the average monthly streamflow recorded at the City Measurement Station for the months of June, July, and August of the preceding year

*minus* 1448 acre feet to account for 2.0 CFS channel losses between the City Measurement Station and the Camrosa Diversion

*minus* 4344 acre feet to account for 6.0 CFS bypass downstream from the Camrosa Diversion

*minus* 306 acre feet to account for Water Right License #12598 downstream from the Camrosa Diversion (see Exhibit B for example calculation of water available).

5. Availability of Water and Purchase Commitments Among the Parties

- a. The City agrees to make available to Camrosa the total quantity of water available for sale as quantified in Section 4. Camrosa agrees to purchase from the City all such water made available to Camrosa under this Agreement for the price determined under Section 6 of this Agreement.
- b. Camrosa agrees to make the 6.0 CFS bypass releases downstream of the Camrosa Diversion as quantified in Section 4.
- c. Pursuant to Water Right Decision 1638, all water made available under this Agreement is limited to use within the boundaries of Camrosa and within the boundaries of the PVCWD.

6. Cost for Water Made Available

- a. The unit price per acre foot of water covered under this Agreement upon the Effective Date of this Agreement is \$104.89 per acre foot.
- b. On September 1<sup>st</sup> of each year, the parties agree to adjust the unit price per acre foot of water as described in subsections c and d below.
- c. The adjusted unit price per acre foot of water shall be determined by adjusting the previous year's unit price per acre foot of water by the annual percentage change from the preceding July to July period in the Consumer Price Index (Los Angeles-Riverside-Orange County, All Urban Consumers) as published by the U.S. Bureau of Labor Statistics (See Exhibit B for sample calculation). Notwithstanding the foregoing, in no event shall the adjusted unit price be more than 107% of the previous year's unit price and in no event shall the adjusted unit price be less than 93% of the previous year's unit price.
- d. The adjusted unit price so determined shall then be the amount per acre foot applied to the water available for sale, as quantified pursuant to Section 4, until the next September adjustment.

7. Costs Related to the Operation and Maintenance of Facilities (See Exhibit C for map of facilities).

- a. The City agrees to operate and maintain the City Measurement Station at its sole expense.
- b. Camrosa agrees to operate and maintain the Camrosa Diversion, Camrosa Storage Ponds, and the related pump station at the Camrosa Storage Ponds at its sole expense.
- c. Camrosa agrees to operate and maintain the PVCWD Pipeline. Routine maintenance of this pipeline will be at Camrosa's sole expense and shall include routine inspection and surveillance of pipeline right-of-way, valves, and other appurtenances and first response to reported emergencies.

8. Water Quality and Quantity Limitation

- a. The parties acknowledge that the City cannot guarantee to Camrosa the quality of water downstream of the City Measurement Station. Camrosa agrees to hold the City harmless from any and all claims, lawsuits, demands, judgments or other liability arising out of, directly or indirectly, the use of the water delivered under this Agreement, including but not limited to impurities, pollution, or chemicals which may be introduced downstream of the City Measurement Station into the water made available under this Agreement.
- b. The City agrees to exercise its best efforts to comply with the requirements of its National Pollution Discharge Elimination Permit (hereinafter referred to as "**NPDES Permit**") as well as all other applicable Federal, State and County statutes, laws and ordinances regarding the City's discharge of effluent to Conejo Creek and surface waters constituting water made available by the City under this Agreement.
- c. In the event that the City cannot treat its effluent substantially to the standards in applicable NPDES Permit or other applicable Federal, State, or County regulation, or in the event that the City is aware of a sewage spill or any other hazardous material introduced into the City's drainage system that would impair the quality of water subject to this Agreement, the City will immediately notify Camrosa by telephone. In particular, in the event that any substance listed pursuant to Public Health and Safety Code Section 25249.8 is discharged, the City shall immediately notify Camrosa by telephone. Camrosa shall provide the City at all times a current listing of emergency telephone numbers. The City will further

notify by telephone Camrosa when water made available under this Agreement is no longer impaired and available for beneficial reuse.

- d. Quantification of water impaired for reuse: Where water made available by the City at the City Measurement Station is rendered unusable for beneficial reuse due to failure to meet its NPDES Permit standards, hazardous materials spills, or standards in its municipal storm water permit, such water will be quantified by the City per day for every day or portion of any day when water is impaired for reuse and a pro-rated credit shall be applied to Camrosa for the cost of water as quantified in Section 6.
- e. The parties recognize that certain actions by agencies with statutory authority to regulate the water governed by this Agreement may jeopardize the ability of the parties to place the City Water Rights to beneficial use. Examples of these actions include, but are not limited to: modification of the City Water Rights, new regulation on the use of surface water, or implementation of Clean Water Act standards limiting the beneficial uses of such water or requiring additional treatment facilities. Either party may, upon written notice of such action to the other parties, request consultation among the parties to negotiate such amendments to this Agreement as may be necessary to continue to maximize the beneficial use of water available to the parties under the City Water Rights. To the extent that any action by others limits the ability of the parties to place the City Water Rights to beneficial use, the provisions for payment under this Agreement, to the extent of such limitation, shall be suspended pending renegotiation of this Agreement.
- f. The parties recognize that certain other conditions could substantially affect the balance of obligation and benefit among the parties such that the individual interests of one or more of the parties would no longer be rationally related to continued cooperation in maximizing the beneficial use of the water under the terms of this Agreement. Examples of these conditions include, but are not limited to: the inability of either party to deliver water due to distribution or treatment system failure, regulatory changes, or water quality degradation to the point that it is no longer acceptable to the customer base. In response to such changed conditions, either party may upon written notice of such action to the other party request consultation among the parties to negotiate such amendments to this Agreement as may be necessary to continue to maximize the beneficial use of water available to the parties under the City Water Rights. To the extent that any action by others limits the ability of the parties to place the City Water Rights to beneficial use, the provisions for payment of such water

under this Agreement shall be suspended pending renegotiation of this Agreement.

9. Schedule for Payments

- a. City shall bill Camrosa no later than October 1<sup>st</sup> for payment due for the period twelve months preceding measured from September 1<sup>st</sup> through August 31<sup>st</sup>. Payments shall be made to the City by Camrosa on or about November 15 of each year during the term of this Agreement. Payment for the last year (or any partial year) of this Agreement will be based upon the number of full months the water was made available by the City during the last year of the term of this Agreement.

10. Term of the Agreement

The term of this Agreement is forty (40) years from the Effective Date of this Agreement. The parties, by mutual consent, may extend the term of the Agreement for additional five-year periods.

11. Cooperation and Exchange of Information

The parties agree to cooperate, exchange information, and provide the availability of records necessary for the maintenance of the City Water Rights, administration of this Agreement, and operation of associated facilities.

12. Conservation Credits

From the Effective Date of this Agreement, Camrosa agrees to use reasonable efforts to secure conservation credits from the Fox Canyon Groundwater Management Agency for waters delivered by the project which offset the need to extract groundwater from the aquifers within the Fox Canyon Groundwater Management Agency. Camrosa agrees that one-half of the accumulated credits will be made available to the City.

13. Deliveries to PVCWD

Camrosa agrees to use reasonable diligence in providing surplus water, not needed by Camrosa, to the PVCWD.

14. Assignment

The parties agree that this Agreement may not be assigned without the written consent of all of the non-assigning parties.



15. Waiver: Remedies Cumulative

Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by another party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such parties' rights to demand strict compliance by such other party in the future. No waiver by a party of a default or breach by another party or parties shall be effective or binding upon such party unless made in writing by such party, and no such waiver shall be implied from any omission by a party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified. All of the remedies permitted or available to a party under this Agreement, or at law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

16. Construction of Language of Agreement

The provisions of this Agreement shall be construed as a whole according to its common meaning and purpose of providing a public benefit and not strictly for or against any party. It shall be construed consistent with the provisions hereof, in order to achieve the objectives and purposes of the parties. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neutral genders or vice versa.

17. Mitigation of Damages

In all situations arising out of this Agreement, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other parties.

18. Governing Law

This Agreement, and the rights and obligations of the parties, shall be governed and interpreted in accordance with the laws of the State of California.

19. Captions

The captions or headings in the Agreement are for convenience only and in no other way define, limit or describe the scope or intent of any provision or section of the Agreement.

20. Authorization

Each party represents and warrants to the other that the execution, delivery, election to participate in, and performance of this Agreement (i) are within its powers, (ii) has been duly authorized by all necessary actions on its behalf and all necessary consents or approvals have been obtained and are in full force and effect; and (iii) binds said party and its respective administrators, officers, directors, agents, employees, successors, assigns, principals, joint ventures, insurance carriers, and any others who may claim through it under this Agreement.

21. Entire Agreement Between Parties

This Agreement supersedes any other agreements, either oral or in writing, between or among any of the parties hereto with respect to the beneficial use of water available for appropriation pursuant to State Water Resources Control Board Water Right Decision 1638, and contains all of the covenants and agreements between the parties with respect thereto. Any modifications of this Agreement will be effective only if it is in writing and signed by all of the parties to this Agreement.

22. Partial Invalidity

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way. To the extent permissible the illegal or invalid provision shall be modified, amended, or construed to make it legal or valid and carry out the purposes of the parties hereto.

23. Relationship of the Parties

The relationship of the parties to this Agreement shall be that of independent contractors and in no event shall any party be considered a partner, officer, agent, servant or employee of any other party. Without limiting the foregoing, each party agrees to be solely responsible for any workers compensation, withholding taxes, unemployment insurance and any other employer obligations associated with the described work or obligations assigned to them under this Agreement.

24. Notices

Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

To City:	City of Thousand Oaks Attn: Public Works Director 2100 Thousand Oaks Boulevard Thousand Oaks, CA 91362
To Camrosa:	Camrosa Water District Attn: General Manager 7385 Santa Rosa Road Camarillo, CA 93012

25. Effective Date.

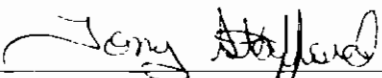
This Agreement shall take effect on September 1, 2013, provided the following events have taken place (the "*Effective Date*"):

- a. Upon due approval of this Agreement as required by its governing documents and applicable law, City shall execute this Agreement and deliver a duly executed original to Camrosa; and
- b. Upon due approval of this Agreement as required by its governing documents and applicable law, Camrosa shall execute this Agreement and deliver a duly executed original to City; and
- c. Upon receipt by Camrosa and City of (1) the Thousand Oaks – Calleguas Termination Agreement duly executed by City and Calleguas, and (2) the Camrosa – Calleguas Termination Agreement duly executed by Camrosa and Calleguas.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date in Ventura County, California.

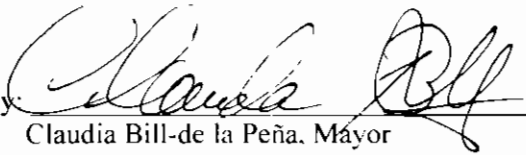
Dated: 6/5, 2013

CAMROSA WATER DISTRICT

By:   
Tony Stafford, General Manager

Dated: May 28, 2013


CITY OF THOUSAND OAKS

By:   
Claudia Bill-de la Peña, Mayor

ATTEST:

  
for Linda D. Lawrence, City Clerk

APPROVED AS TO ADMINISTRATION:

  
for Scott Mitnick, City Manager

APPROVED AS TO FORM:  
Office of the City Attorney

  
Christopher G. Norman, Assistant City Attorney

**Exhibit A**  
**Calendar of Annual Actions**  
**(Agreement Section 2)**

The following actions are required by the Agreement between the City of Thousand Oaks and the Camrosa Water District for the Beneficial Use of Water Pursuant to State Water Resources Control Board Water Right Decision 1638.

<b>Month/Action</b>	<b>Responsible Party</b>	<b>Send to</b>
<u>January</u>		
Daily & monthly diverted & by-pass flows at Camrosa Diversion	Camrosa	City
Water diversion at Camrosa Diversion Annual Report (daily and monthly for the previous calendar year)	Camrosa	City
<u>February, March, April &amp; May</u>		
Daily & monthly diverted & by-pass flows at Camrosa Diversion	Camrosa	City
<u>June</u>		
Daily & monthly diverted & by-pass flows at Camrosa Diversion	Camrosa	City
Daily stream flows at City Measurement Station	City	Camrosa
Annual Progress Reports to SWRCB (due June 30)	City	SWRCB/Camrosa
<u>July &amp; August (August 31 is end of water year)</u>		
Daily & monthly diverted & by-pass flows at Camrosa Diversion	Camrosa	City
Daily stream flows at City Measurement Station	City	Camrosa
<u>September (1<sup>st</sup> is beginning of water year)</u>		
Daily & monthly diverted & by-pass flows at Camrosa Diversion	Camrosa	City
Calculate average monthly stream flow based on June, July, and August	City	Camrosa
Calculate the adjusted unit price per acre foot of water (see Agreement Section 6 & Exhibit B)	City	Camrosa
Invoice for previous 12 months water usage, Sep 1-Aug 31 (due October 1- see Agreement Sections 4, 6 & 9, and Exhibit B)	City	Camrosa
<u>October</u>		
Daily & monthly diverted & by-pass flows at Camrosa Diversion	Camrosa	City
Compliance report for Water Right Permit 20952, Section 12 regarding water use efficiency. (every 5 <sup>th</sup> year starting in 2014)	Camrosa	SWRCB/City
<u>November</u>		
Daily & monthly diverted & by-pass flows at Camrosa Diversion	Camrosa	City
Payment by Camrosa to City (due November 15)	Camrosa	City
<u>December</u>		
Daily & monthly diverted & by-pass flows at Camrosa Diversion	Camrosa	City

## Exhibit B

### Example Calculations of Quantity and Cost of Water Available for Sale (Agreement Sections 4 and 6)

#### **Example water available for sale quantity calculation:**

(Example is for period September 1, 2012 through August 31, 2013)

Average daily flow for June, July and August 2012 = 11.48 mgd

Total water quantity = 11.48 mgd average flow x 365 days x 3.07 acre feet /mg = 12,864 acre feet

12,864 acre feet total water quantity  
Less 1448 acre feet channel losses  
Less 4344 acre feet downstream by-pass  
Less 306 acre feet downstream existing water right

Equals 6,766 acre feet total water available for sale

(reduce total water available for sale further per Subsection 8d, if applicable)

#### **Example water available for sale cost calculation:**

(Calculation occurs in September of each year; example is for September 2013; CPI is for All Urban Consumers, Los Angeles – Riverside – Orange County, All Items, 1982-84 = 100)

2012 price per acre foot of water = \$ 102.90

July 2012 CPI = 235.776

July 2011 CPI = 231.303

Annual percent CPI change = (2012 CPI - 2011 CPI) / 2011 CPI x 100 = (235.776 - 231.303) / 231.303 x 100 = 1.93%

Adjusted unit price for water = 2012 unit price x 1 + annual percent CPI change (decimal) = \$102.90 x 1.0193 = \$104.89 per acre foot

Cost for water available for sale = total water available for sale x adjusted unit price for water = 6,766 acre feet x \$104.89 per acre foot = \$709,686



**EXHIBIT C**  
**(Agreement Section 7)**

