

AGREEMENT TO SELL AND PURCHASE PLANT 33

This Agreement to Sell and Purchase Plant 33 ("Agreement") is entered into this 20th day of May 2025 ("Effective Date") between the City of Chino, a municipal corporation organized under the laws of the State of California ("City"), and the Monte Vista Water District, a local public agency created and operating under authority of Division 12 of the California Water Code ("District"). For purposes of this Agreement, City and District may be referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

A. In November 2004, the Parties entered into an agreement ("2004 Agreement"), which is attached as **Exhibit 1**, to jointly construct, operate, and maintain a facility at the corner of Palo Verde Street and Benson Avenue in the City of Montclair, California, for the purposes of producing water from and injecting water into the Chino Basin and treating such water, for their common benefit. The facility and appurtenances, which was subsequently constructed and is in operation under the 2004 Agreement, is now known as "Plant 33."

B. The Parties desire to enter this Agreement (1) whereby the District purchases the City's ownership interest in both the Plant 33 and Plant 33 real property, which were conveyed to the City via the 2004 Agreement, including the attached grant deed, and are collectively referred to herein as the "City Interest," for the negotiated purchase price of One Million Fifteen Thousand Dollars (\$1,015,000) ("Purchase Price"); and (2) to terminate the 2004 Agreement pursuant to Section 1.01 of the 2004 Agreement.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged and accepted, the Parties agree as follows:

1. Agreement to Sell and Purchase the City Interest. In exchange for the Purchase Price, the City shall sell the City Interest to the District, and the District shall purchase the City Interest from the City. The Purchase Price shall be payable through wire transfer of funds from the District to the City concurrently with District's receipt of the executed quitclaim deed from City transferring the City Interest to District.

2. Previous Agreement. Upon execution of this Agreement, the 2004 Agreement is terminated.

GENERAL PROVISIONS

3. Recitals. The above Recitals are true and correct.

4. Indemnification. Each Party hereby agrees to indemnify and hold the other Party harmless from and against any and all claims, losses, and damages, including legal fees and expenses, caused solely or primarily by such indemnifying Party, which arise out of the implementation of this Agreement.

5. Resolution of Disputes. Any dispute, claim, or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation, or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, shall be determined by arbitration in the County of San Bernardino before three arbitrators. Any arbitration arising out of or related to this Agreement shall be conducted in accordance with the expedited procedures set forth in the JAMS Comprehensive Arbitration Rules and Procedures as those Rules exist on the effective date of this Agreement, including Rules 16.1 and 16.2 of those Rules. The prevailing party in any dispute shall be entitled to recover its reasonable attorneys' fees and costs. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

6. Notices. Unless otherwise provided herein, all notices required to be given pursuant to this Agreement must be given in writing and delivered in person with acknowledged receipt, by overnight courier for next business day delivery with signature required, or by certified mail, return receipt requested, and sent to the intended recipient at the address set forth below:

To City:

City of Chino
Attn: City Manager
13220 Central Avenue
Chino, CA 91710

To District:

Monte Vista Water District
Attn: General Manager
10575 Central Avenue
Montclair, CA 91763

Any notice delivered or sent as provided above will be deemed to have been properly made on the same day it is hand delivered (even if such delivery is refused), on the first business day after delivery to an overnight courier service with instructions for deliver on the next business day, or the third business day after being deposited in the U.S. Mail, certified with return receipt requested. Either Party to this Agreement may change its address for notices hereunder by providing notice of such change to the other Party in the manner set forth above. If the Parties agree to accept electronic service, service of any notice may be effectuated by email to an email address provided by the Parties.

7. Governing Law. The Parties hereby agree that this Agreement is to be governed under the laws of the State of California and construed according to its plain meaning as if drafted by both City and District.

8. Attorneys' Fees. In any proceeding brought to enforce, confirm, modify, or vacate an award in arbitration, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs.

9. Waiver. The failure of either Party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that Party's right to subsequently enforce and compel strict compliance with other terms and provisions contained in this Agreement.

10. Severability. Should any provision of this Agreement be determined to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable.

11. No Third-Party Beneficiaries. This Agreement shall not be deemed to confer any rights upon any individual or entity which is not a party hereto, and the Parties hereto expressly disclaim any such third-party benefit.

12. Successors and Assigns. The terms, conditions, and provisions of this Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns.

13. Further Cooperation. The Parties agree to execute, acknowledge if appropriate, and deliver any and all documents and cooperate in performing any and all acts in any commercially reasonable manner as may be necessary to carry out the intent of this Agreement as set forth in the Recitals and implement the terms and conditions of this Agreement.

14. Complete Agreement and Amendment. This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes and replaces any and all prior negotiations and agreements between the Parties, whether written or oral. This Agreement may be amended only by written instrument signed by both the City and the District.

15. Electronic Signatures and Counterparts. Any Party may execute this Agreement using an "electronic signature," as that term is defined in California Civil Code Section 1633.2, or a "digital signature," as defined by California Government Code Section 16.5. An electronic or digital signature will have full legal effect and enforceability. This Agreement may be executed in counterparts (signatures may be by facsimile or electronic mail), each of which is hereby declared to be an original. All, however, shall constitute but one and the same Agreement.

16. Force Majeure. Upon written notice by a Party, the respective duties and obligations of the Parties will be suspended for the time period that performance by the Party is prevented or substantially impeded by workforce strikes, riots, fire, flood, war, terrorism, governmental action, plague, epidemic, pandemic, outbreaks of infectious disease, or any other public health crisis, including quarantine or other employee restrictions, or acts of God.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

CITY OF CHINO

MONTE VISTA WATER DISTRICT

By: _____
Linda Reich, City Manager

By: _____
Justin M. Scott-Coe, General Manager

By: _____
Eunice Ulloa, Mayor

By: _____
Sandra S. Rose, President

ATTEST:

By: _____
Natalie Gonzaga, City Clerk

APPROVED AS TO FORM:

By: _____
Fred Galante, City Attorney

By: _____
Andrew B. Gagen,
Kidman Gagen Law LLP