

**PURCHASE AND SALE
AGREEMENT FOR
LONG TERM STORAGE CREDITS**

This Purchase and Sale Agreement is made this 1st day of December, 2016, (the "Effective Date"), between and among the Central Arizona Water Conservation District ("CAWCD"), a multi-county water conservation district organized and existing under the laws of the State of Arizona, and the Town of Florence, a municipal corporation of the State of Arizona ("Florence").

RECITALS

A. CAWCD operates the Central Arizona Project ("CAP"). CAWCD also provides replenishment services to member lands and member service areas under authorities provided in Title 48, Chapter 22, Article 4 of the Arizona Revised Statutes. These replenishment authorities are commonly referred to as the Central Arizona Groundwater Replenishment District or CAGR. CAGR is not a separate legal entity, but functions within and is operated by CAWCD.

B. CAWCD desires to purchase Long-Term Storage Credits developed by Florence pursuant to Arizona Revised Statutes Title 45, Chapter 3.1, for the benefit of CAGR member lands and member service areas.

C. Florence is willing to sell and transfer certain Long-Term Storage Credits to CAWCD under the price, terms and conditions set forth herein.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, and intending to be legally bound, the parties hereby agree as follows:

**ARTICLE 1
DEFINITIONS**

As used in this Agreement, the following terms, when capitalized, shall mean:

- 1.1 "ADWR" means the Arizona Department of Water Resources.
- 1.2 "Agreement" means this Purchase and Sale Agreement for Long-Term Storage Credits.
- 1.3 "Annual Notice" means the notice submitted by Florence to CAWCD pursuant to Article 3.1 of this Agreement.
- 1.4 "Annual Purchase Price" means the annual purchase price for Long-Term Storage Credits to be transferred pursuant to the terms of this Agreement as calculated pursuant to Article 2.2 of this Agreement.
- 1.5 "CAGR" means the Central Arizona Groundwater Replenishment District, the

replenishment authority operated by CAWCD.

1.6 "CAGR's Account(s)" means (i) the long-term storage account established pursuant to Arizona Revised Statutes § 45-859.01 for the Phoenix Active Management Area, account No. 70-441120.0001; (ii) the conservation district account established pursuant Arizona Revised Statutes § 45-859.01 for the Phoenix Active Management Area, Account No. 75-441120.0000 and/or the (iii) the conservation district replenishment reserve subaccount for the Phoenix Active Management Area, account No 70-441120.0002.

1.7 "CAWCD" means the Central Arizona Water Conservation District.

1.8 "CAP" means the Central Arizona Project.

1.9 "Estimated Annual Long-Term Storage Credit Volume" is as defined in Article 3.1 of this Agreement.

1.10 "Final Annual Long-Term Storage Credit Volume" is as defined in Article 4.1 of this Agreement.

1.11 "Florence" means the Town of Florence.

1.12 "Florence's CAP Water" means the 2,048 acre-feet per year of CAP M&I priority water available to Florence under the Subcontract among the United States, the Central Arizona Water Conservation District, and the Town of Florence, Providing for Water Service, Subcontract No. 07-XX-30-W0481.

1.13 "Florence's Long-Term Storage Account" means the account established pursuant to Arizona Revised Statutes § 45-852.01 in Florence's name to hold the Long-Term Storage Credits accrued by Florence through the storage of Florence's CAP Water in the Phoenix Active Management Area.

1.14 "Florence's Water Storage Permit" means the water storage permit obtained by Florence pursuant to Arizona Revised Statutes § 45-831.01 and Article 2.5.1 of this Agreement authorizing Florence to store Florence's CAP Water at the TID Groundwater Savings Facility.

1.15 "Initial Term" is as defined in Article 6.1 of this Agreement.

1.16 "Long-Term Storage Credit" is as defined in Arizona Revised Statutes § 45-802.01(11).

1.17 "Long-Term Storage Credit Transfer Form" is a form, approved by ADWR, to effectuate the assignment of Long-Term Storage Credits, as defined in Arizona Revised Statutes § 45-854.01(B), and more specifically described in Article 3.2 of this Agreement.

1.18 "Renewal Term(s)" is as defined in Article 6.1 of this Agreement.

1.19 "TID Groundwater Savings Facility" means the Tonopah Irrigation District Groundwater Savings Facility, ADWR Facility permit number 72-534439.0004. CAWCD and Florence

acknowledge that the ADWR Facility permit number for the TID Groundwater Savings Facility may be modified by ADWR upon renewal or modification of the facility's permit.

**ARTICLE 2
PURCHASE OF LONG-TERM STORAGE CREDITS**

2.1 Sale and Purchase. Subject to the terms and conditions of this Agreement, beginning January 1, 2018, each year during the term of this Agreement, Florence agrees to sell, transfer and assign to CAWCD all Long-Term Storage Credits created from the storage of Florence's CAP Water minus losses as determined by ADWR pursuant to A.R.S. § 45-852.01(C). CAWCD agrees to purchase, accept and pay for such Long-Term Storage Credits. Provided, however, Florence shall not be obligated to sell, transfer and assign Long-Term Storage Credits to CAWCD pursuant to this Agreement, for any year in which Florence is unable, for reasons beyond its control, to store CAP water and/or accrue CAP water Long-Term Storage Credits at the TID Groundwater Savings Facility or at another underground storage facility or groundwater savings facility agreed to by CAWCD pursuant to Article 2.6 of this Agreement.

2.2 Annual Purchase Price Calculation. The Annual Purchase Price for the Long-Term Storage Credits to be transferred pursuant to this Agreement will vary from year to year and shall be based on components of the CAP published rate schedule. The Annual Purchase Price for the Long-Term Storage Credits to be transferred each year pursuant to this Agreement shall be calculated as follows:

$$AP = [(CAP \text{ Long Term M\&I Subcontract Capital Charge} + CAP \text{ Fixed OM\&R Charge}^* + CAP \text{ Pumping Energy Rate Charge}^* + CAP \text{ Underground Water Storage O\&M Charge for the Phoenix AMA}^*) / .94] \times \text{Final Annual Long-Term Storage Credit Volume for the applicable year}$$

where

AP = the Annual Purchase Price for Long-Term Storage Credits transferred in the applicable year

*As published in CAP's Annual Rate Schedule for the year in which the credits are transferred.

[The following is an example calculation of the Annual Purchase Price using the applicable CAP charges for 2017 and a Final Annual Long-Term Storage Credit Volume of 2,000 acre-feet of Long-Term Storage Credits:

$$AP = [(\$31 \text{ (CAP Long Term M\&I Subcontract Capital Charge)} + \$87 \text{ (CAP Fixed OM\&R Charge}^*) + \$77 \text{ (CAP Pumping Energy Rate Charge}^*) + \$12 \text{ (CAP Underground Water Storage O\&M Charge for the Phoenix AMA}^*)] / .94 = \$220.21 / \text{Long-Term Storage Credit}] \times 2,000 \text{ acre-feet of Long-Term Storage Credits (example Final Annual Long-Term Storage Credit Volume)} = \$440,420 \quad]$$

2.3 Type of Water. It is the intent of the parties that all Long-Term Storage Credits purchased and sold under this Agreement shall retain the identity of the source of water used to generate such Long-Term Storage Credits.

2.4 Long-Term Storage Credits.

2.4.1 The Long-Term Storage Credits to be sold by Florence are from Florence's Long-Term Storage Account and shall be transferred to CAGR's Account(s) subject to the terms and conditions of this Agreement.

2.4.2 Except as otherwise agreed to by CAWCD pursuant to Article 2.6 of this Agreement, the Long-Term Storage Credits to be sold by Florence to CAWCD under this Agreement will be stored at the TID Groundwater Savings Facility.

2.5 Water Storage Permit; Obligation to Store Water.

2.5.1 Florence shall apply for and obtain a water storage permit from ADWR pursuant to Arizona Revised Statutes § 45-831.01 authorizing Florence to store Florence CAP Water at the TID Groundwater Savings Facility. Florence shall provide CAWCD with a copy of the permit within ten (10) days of ADWR's issuance of Florence's Water Storage Permit.

2.5.2 Florence shall provide CAWCD with a copy of any agreement between Florence and the Tonopah Irrigation District authorizing Florence to store Florence's CAP Water in the TID Groundwater Savings Facility and any amendments to such agreement.

2.5.3 Except as otherwise agreed to by CAWCD pursuant to Article 2.6 of this Agreement, commencing January 1, 2017, and continuing each year during the term of this Agreement, Florence shall store the entire annual volume of Florence's CAP Water at the TID Groundwater Savings Facility for the purpose of creating Long-Term Storage Credits to sell to CAWCD under this Agreement. Provided, however, Florence shall not be obligated to store the entire annual volume of Florence's CAP Water in any year in which Florence is unable to do so for reasons beyond its control.

2.6 Storage of Water at Alternate Facilities. With the prior written consent of CAWCD, Florence may obtain a water storage permit from ADWR pursuant to Arizona Revised Statutes § 45-831.01 authorizing Florence to store Florence CAP Water at underground storage facilities or groundwater savings facilities in the Phoenix Active Management area other than the TID Groundwater Savings Facility, and may store Florence's CAP Water at such alternate facilities, for the purpose of accruing Long-Term Storage Credits to sell to CAWCD. CAWCD shall not unreasonably withhold written consent authorizing Florence to store Florence CAP Water at facilities other than the TID Groundwater Savings Facility. Unless otherwise agreed to in writing by CAWCD, any Long-Term Storage Credits accrued by Florence through the storage of Florence's CAP Water at such alternate facilities shall be sold to CAWCD under the same terms and conditions of this Agreement applicable to Long-Term Storage Credits accrued by Florence through the storage of Florence's CAP Water at the TID Groundwater Savings Facility. Prior to commencing storage of Florence's CAP Water in any alternate facility, Florence shall provide CAWCD with a copy of Florence's water storage permit for that facility and any agreement entered into with the operator of

such facility.

ARTICLE 3 TIME AND MANNER OF TRANSFER

3.1 Annual Notice. On or before February 15, 2018 and on or before February 15 of each year thereafter during the term of this Agreement, Florence shall notify CAWCD of the volume of Long-Term Storage Credits to be sold to CAWCD during such year (the "Estimated Annual Long-Term Storage Credit Volume").

3.2 Long-Term Storage Credit Transfer Form. On or before March 15, 2018, and on or before March 15 of each year thereafter during the term of this Agreement, Florence and CAWCD shall complete, sign and deliver to ADWR the Long-Term Storage Credit Transfer Form to evidence the transfer of the Estimated Annual Long-Term Storage Credit Volume for that year. A copy of the Long-Term Storage Credit Transfer Form is attached as Exhibit A to this Agreement. If ADWR adopts a different Long-Term Storage Credit Transfer form, then the Parties shall utilize that form instead. On or before March 15, 2018, and on or before March 15 of each year thereafter during the term of this Agreement, CAWCD shall submit a fully executed Long-Term Storage Credit Transfer Form to ADWR.

3.3 Additional Actions and Documentation. CAWCD shall pay any administrative fees established by ADWR to effectuate the transfer of Long-Term Storage Credits into CAGR's Account(s). The parties shall cooperate to take such further actions and execute such further documents as may be determined by either party to be necessary or advisable in order to complete the transfer of the Long-Term Storage Credits contemplated by this Agreement.

ARTICLE 4 COMPLETION OF DELIVERY AND PAYMENT

4.1 Completion of Delivery. Delivery of the Long-Term Storage Credits to be transferred to CAWCD in any particular year under this Agreement shall be deemed complete when ADWR notifies CAWCD in writing that ADWR has received and accepted the Long-Term Storage Credit Transfer Form for such year and intends to transfer Long-Term Storage Credits from Florence's Long-Term Storage Account to CAGR's Account(s) ("ADWR Acceptance"). The volume of Long-Term Storage Credits that the ADWR Acceptance provides will be transferred from Florence's Long-Term Storage Account to CAGR's Account(s) in any particular year will be the "Final Annual Long-Term Storage Credit Volume" for that year and will be used to calculate the Annual Purchase Price for that year.

4.2 Payment. Each year during the term of this Agreement, within thirty (30) days after CAWCD's receipt of the ADWR Acceptance, CAWCD shall pay Florence the Annual Purchase Price as calculated pursuant to Article 2.2 of this Agreement.

ARTICLE 5 REJECTION OR INVALIDATION OF TRANSFER

5.1 Rejection or Invalidation of Transfer. If ADWR, pursuant to Arizona Revised

Statutes § 45-854.01 (C), rejects or invalidates any transfer or assignment of Long-Term Storage Credits made hereunder before CAWCD has paid for such Long-Term Storage Credits, CAWCD shall not be obligated to pay for the number of Long-Term Storage Credits affected by such rejection or invalidation. If such rejection or invalidation occurs after payment has been made by CAWCD, Florence shall refund an amount equal to the number of Long-Term Storage Credits affected by such rejection or invalidation times the price per acre-foot paid by CAWCD for the affected Long-Term Storage Credits, as such price is established in Article 2.2 of this Agreement. Florence shall refund such amount within forty-five (45) calendar days after either CAWCD or Florence receives any notice of rejection or invalidation from ADWR. CAWCD shall transfer and assign back to Florence the number of credits affected by any such rejection or invalidation. Florence's obligation to refund any payments under this Article 5 shall expire thirty (30) days after ADWR has issued a non-appealable final agency decision approving the transfer and assignment of the Long-Term Storage Credits into CAGR's Account(s). The Parties' rights and obligations under this Article 5 shall remain in full force and effect, and shall survive termination of this Agreement for purposes of addressing a circumstance where ADWR rejects or invalidates any transfer of Long-Term Storage Credits made hereunder.

ARTICLE 6 EFFECTIVE DATE AND TERM

6.1 Term. This Agreement shall be effective as of the date set forth in the introductory paragraph of this Agreement (the "Effective Date"). The initial term of this Agreement shall extend from the Effective Date to December 31, 2022 (the "Initial Term"). This Agreement will automatically renew for three (3) additional five (5)-year terms (the "Renewal Term(s)"), unless either Party notifies the other in writing at least one-hundred twenty (120) days before the expiration of the Initial Term, or the Renewal Term as applicable, that it does not wish to renew this Agreement. (The Parties intend that Florence will sell and CAWCD will purchase Long-term Storage Credits for five (5) years under the Initial Term of this Agreement, and up to twenty (20) years, if this Agreement is automatically renewed pursuant to the provisions of this Article.)

6.2 Termination. Notwithstanding Section 6.1 of this Agreement, CAWCD may terminate this Agreement if Florence has not commenced storing Florence's CAP Water at the TID Groundwater Savings Facility by October 1, 2017. If CAWCD desires to terminate this Agreement pursuant to this Article 6.2, it shall provide written notice of termination to Florence no later than December 31, 2017.

ARTICLE 7 DEFAULT AND REMEDIES

7.1 Default. The occurrence of any of the following events constitutes an event of default by a party to this Agreement:

7.1.1 The failure of either party to perform any term, covenant, or condition of this Agreement, if that failure continues for sixty (60) days following the receipt of written notice from the other party. The parties shall have an opportunity to cure a potential failure to perform or other breach of this Agreement during the sixty (60) days following receipt of written notice. Both

parties shall cooperate with each other to remedy any default.

7.1.2 (i) The filing by or against either party of a petition to have the party adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against a party, the same is dismissed within sixty (60) days); (ii) the making by a party of any general assignment for the benefit of creditors; (iii) the appointment of a trustee or receiver to take possession of substantially all of the party's assets, when possession is not restored to the party within sixty (60) days; or (iv) the attachment, execution, or other judicial seizure of substantially all of a party's assets, where such seizure is not discharged within sixty (60) days.

7.2 Remedies. If an event of default occurs, the non-defaulting party may immediately terminate this Agreement by written notice to the defaulting party and/or may pursue any other rights available to it in law or equity. The obligation of the defaulting party to pay any amounts due but unpaid as of the date of termination under this provision shall survive such termination.

ARTICLE 8 MISCELLANEOUS PROVISIONS

8.1 Interpretation. This Agreement is governed by and must be construed and interpreted in accordance with and in reference to the laws of the State of Arizona, without regard to its' conflicts of laws provisions. Any action to resolve any dispute regarding this Agreement shall be taken in a state court of competent jurisdiction located in Maricopa County, Arizona.

8.2 Florence's Warranty of Title. Florence warrants that to the best of its actual knowledge it has good and marketable title to the Long-Term Storage Credits that are the subject of this Agreement and agrees to convey marketable title to such Long-Term Storage Credits free and clear of all liens and encumbrances. Florence shall warrant and defend title against all persons claiming by or through Florence and no other.

8.3 Amendments. This Agreement may be modified, amended or revoked only by the express written agreement of the parties hereto.

8.4 Entire Agreement. This Agreement constitutes the entire agreement between the parties and no understandings or obligations not expressly set forth in this Agreement are binding upon the parties.

8.5 Waiver. No delay in exercising any right or remedy shall constitute a waiver unless such right or remedy is waived in writing signed by the waiving party. A waiver by any party of any right or remedy hereunder shall not be construed as a waiver of any other right or remedy, whether pursuant to the same or a different term, condition or covenant.

8.6 Captions. All captions, titles, or headings in this Agreement are used for the purpose of reference and convenience only and do not limit, modify, or otherwise affect any of the provisions of this Agreement.

8.7 Rules, Regulations and Amendment or Successor Statutes. All references in this Agreement to the Arizona Revised Statutes include all rules and regulations promulgated by ADWR under such statutes and all amendment statutes and successor statutes, rules, and regulations to such statutes, rules, and regulations.

8.8 Conflict of Interest. This parties to this Agreement are hereby notified of A.R.S. § 38-511.

8.9 Notices. Except as otherwise required by law, any notice given in connection with this Agreement must be in writing and must be given by personal delivery, overnight delivery, or United States certified or registered mail. Any such notice must be addressed to the appropriate party at the following address (or at any other address as a party may hereafter designate by written notice given as required by this paragraph):

CAWCD:

For delivery use: c/o General Manager
23636 N. 7th Street
Phoenix, AZ 85024

For U.S. Mail use: c/o General Manager
P.O Box 43020
Phoenix, AZ 85080-3020

TOWN OF FLORENCE:

For delivery use: c/o Town Manager
775 N. Main Street
Florence, AZ 85132

For U.S. Mail use: c/o Town Manager
P.O. Box 2670
Florence, AZ 85132

Notice is deemed to have been given on the date on which notice is personally delivered, delivered to an overnight delivery service or mailed. Notice is deemed to have been received on the date on which the notice is actually received or delivery is refused.

IN WITNESS WHEREOF, the parties to this Agreement have executed this Agreement as of the date first set forth above.

CAWCD: **CENTRAL ARIZONA WATER CONSERVATION DISTRICT**

By: David Atkins

Its: President

ATTEST: Frank P. [Signature]
Secretary

FLORENCE: **TOWN OF FLORENCE**

By: Tom J. Roubi

Its: Chair

ATTEST: [Signature]
Town Council Clerk

EXHIBIT A

LONG-TERM STORAGE CREDIT TRANSFER FORM

ARIZONA DEPARTMENT OF WATER RESOURCES
 Water Planning & Permitting Division
 1110 West Washington St., Suite 310
 Phoenix, Arizona 85007
 Telephone (602) 771-8599
 Fax (602) 771-8689

LONG-TERM STORAGE CREDIT TRANSFER FORM
A.R.S. § 45-854.01

For Official Use Only
DATE RECEIVED: _____

The fee for a Long-Term Storage Credit Transfer is \$250.00 per water storage transfer. Only one transaction may be requested per form. Payment may be made by cash, check, or credit card. Checks should be made payable to the Arizona Department of Water Resources. Failure to enclose the fee will cause the form to be returned. Fees for a Long-Term Credit Transfer are authorized by A.A.C. R12-15-104.

[FOR SELLER]

 Name of Seller

 Long-Term Storage Account No.

 Contact Person/Telephone Number

 Facility Permit Number (where source water was stored)

 Mailing Address

 Water Storage Permit Number (authority to store source water)

 City/State/Zip

 Email

Number of long-term storage credits (in acre-feet) transferred by type(s) of water and year credits were earned.

Type: _____ acre-feet _____ year earned _____

Type: _____ acre-feet _____ year earned _____

[FOR BUYER]

 Name of Buyer

If the transfer includes long-term storage credits earned from the storage of Central Arizona Project (CAP) water in an Active Management Area (AMA), please state:

 Contact Person/Telephone Number

1. The date of Buyer's formation (if Buyer is a legal entity): _____

 Mailing Address

2. The amount of groundwater withdrawn by Buyer in the AMA during the calendar year that the credits were earned:

 City/State/Zip

a. The groundwater right number(s) the Buyer withdrew the groundwater pursuant to:

 Email

 Long -Term Storage Account No. (if any)

Required Signature Block is on Page 2

Pursuant to A.R.S. § 45-854.01(C), the director of the Arizona Department of Water Resources may reject and invalidate any assignment of long-term storage credits in which the stored water would not have met the requirements for long-term storage credits as prescribed by A.R.S. § 45-852.01 if the assignee had stored the water.

The undersigned hereby certify, under penalty of perjury, that the information contained in this report is, to the best of their knowledge and belief, correct and complete and that they are authorized to sign on behalf of the party for whom their signature appears.

Authorized Signature for Seller DATE

Authorized Signature for Buyer DATE

Title

Title

NOTICE

A.R.S. § 41-1030(B), (D), (E) and (F) provide as follows:

B. An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition.

D. This section may be enforced in a private civil action and relief may be awarded against the state. The court may award reasonable attorney fees, damages and all fees associated with the license application to a party that prevails in an action against the state for a violation of this section.

E. A state employee may not intentionally or knowingly violate this section. A violation of this section is cause for disciplinary action or dismissal pursuant to the agency's adopted personnel policy.

F. This section does not abrogate the immunity provided by section 12-820.01 or 12-820.02.