

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

This Purchase and Sale Agreement is made this 6th day of August, 2013, (the "Effective Date"), between 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 City of Tucson ("Tucson").

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 Tucson pursuant to Arizona Revised Statutes Title 45, Chapter 3.1, for the benefit of CAGR member lands and member service areas.

C. Tucson 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 Long-Term Storage Credit Volume" means for any given year during the term of this Agreement, the annual volume of Long-Term Storage Credits to be acquired by CAWCD in that year as indicated in the Annual Notice submitted by CAWCD to Tucson pursuant to Article 3.1 below.

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 2.3 below.

- 1.5 "CAWCD" means the Central Arizona Water Conservation District.
- 1.6 "CAGR" means the Central Arizona Groundwater Replenishment District, the replenishment authority operated by CAWCD.
- 1.7 "CAGR's Account(s)" means (i) the long-term storage account established pursuant to Arizona Revised Statutes § 45-859.01 for the Tucson Active Management Area, account No. 70-411120.0001; (ii) the conservation district account established pursuant Arizona Revised Statutes § 45-859.01 for the Tucson Active Management Area, Account No. 75-411120 and/or the (iii) the conservation district replenishment reserve subaccount for the Tucson Active Management Area, account No 70-411120.0002.
- 1.8 "Long-Term Storage Credit" is as defined in Arizona Revised Statutes § 45-802.01(11).
- 1.9 "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 below.
- 1.10 "Tucson" means the City of Tucson.
- 1.11 "Tucson's Long-Term Storage Account" means the account established pursuant to Arizona Revised Statutes § 45-852.01 in Tucson's name, account No. 70-411111.

ARTICLE 2 PURCHASE OF LONG-TERM STORAGE CREDITS

- 2.1 Sale and Purchase. Subject to the terms and conditions of this Agreement, beginning in 2014, each year during the term of this Agreement, Tucson agrees to sell, transfer and assign and CAWCD agrees to purchase, accept and pay for 4,000 acre-feet of Long-Term Storage Credits. The total volume of Long-Term Storage Credits that Tucson agrees to sell and CAWCD agrees to purchase during the term of this Agreement is 100,000 acre-feet.
- 2.2 Option to Purchase Additional Credits. Subject to the terms and conditions of this Agreement, beginning in 2014, each year during the term of this Agreement, CAWCD shall have the option to purchase up to an additional 1,000 acre-feet of Long-Term Storage Credits from Tucson. Provided, however, the total volume of Long-Term Storage Credits that Tucson agrees to sell and CAWCD agrees to purchase during the term of this Agreement is 100,000 acre-feet.
- 2.3 Annual Purchase Price. 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 in 2014 shall be \$ 157.00 multiplied by the Annual Long-Term Storage Credit Volume for 2014. The Annual Purchase Price for the Long-Term Storage Credits to be transferred pursuant to this Agreement in each year after 2014, shall be calculated as follows:

AP = [(CAP Fixed OM&R Charge* + CAP Pumping Energy Charge* + CAP Underground Water Storage O&M Charge*) x 1.02] x 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.

2.4 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.

2.5 Long-Term Storage Credits.

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

2.5.2 The Long-Term Storage Credits to be transferred to CAWCD must have been accrued by Tucson at underground storage facilities or groundwater savings facilities located in the Tucson Active Management Area.

2.5.2 The Long-Term Storage Credits to be sold by Tucson were stored, or will be stored, at the underground storage facilities, under the ADWR Facility Permit and ADWR Storage Permits set forth on Exhibit A. The Parties acknowledge that Exhibit A may be amended from time to time during the term of this Agreement to reflect amendments to Tucson's existing underground storage facility permits or to add new permitted underground storage facilities. Tucson, in its sole discretion, may determine the origin of the Long-Term Storage Credits it wishes to transfer to CAWCD in any particular year by specifying in writing the Facility Permit Number where the credits were accrued and the Water Storage Permit Number authorizing such storage.

ARTICLE 3 TIME AND MANNER OF TRANSFER

3.1 Annual Notice. On or before January 15, 2014, and on or before January 15 of each year thereafter during the term of this Agreement, CAWCD shall notify Tucson of the volume of Long-Term Storage Credits it desires to acquire from Tucson during such year (the "Annual Long-Term Storage Credit Volume") (i.e., the 4,000 acre-feet annual acquisition pursuant to Article 2.1 above, plus any additional Long-Term Storage Credits to be acquired in that year pursuant to CAWCD's option under Article 2.2 above).

3.2 Long-Term Storage Credit Transfer Form. On or before February 15, 2014, and on or before February 15 of each year thereafter during the term of this Agreement, Tucson and CAWCD shall complete, sign and deliver the Long-Term Storage Credit Transfer Form to

evidence the transfer of the Annual Long-Term Storage Credit Volume for that year. A copy of the Long-Term Storage Credit Transfer Form is attached as Exhibit B 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 February 15, 2014, and on or before February 15 of each year thereafter during the term of this Agreement, CAWCD shall submit 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 Annual Long-Term Storage Credit Volume for a particular year shall be deemed complete when ADWR notifies CAWCD in writing that it has received and accepted the Long-Term Storage Credit Transfer Form and intends to transfer Long-Term Storage Credits equal to the Annual Long-Term Storage Credit Volume for such year from Tucson's Long-Term Storage Account to CAGR's Account(s).

4.2 Payment. Each year during the term of this Agreement, within 30 (thirty) days after receiving written notification from ADWR that it has received and accepted the Long-Term Storage Credit Transfer Form and intends to transfer the Annual Long-Term Storage Credit Volume to CAGR's Account(s), CAWCD shall pay Tucson the Annual Purchase Price as calculated pursuant to Article 2.3 above. Provided, however, each year during the term of this agreement, CAWCD shall pay Tucson the Annual Purchase Price as calculated pursuant to Article 2.3 above, no later than June 30 of the applicable year.

ARTICLE 5 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, Tucson 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 for the affected Long-Term Storage Credits, as such price is established in Article 2.3 above. Tucson shall refund such amount within 20 (twenty) business days after either CAWCD or Tucson receives any notice of rejection or invalidation from ADWR. CAWCD shall transfer and assign back to Tucson the number of credits affected by any such rejection or invalidation. Tucson'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

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 is twenty (20) years, with an automatic renewal of this Agreement for an additional five-year term, unless either Party notifies the other in writing at least one-hundred twenty (120) days before the expiration of the initial twenty-year term that it does not wish to renew the Agreement. The Parties contemplate that this Agreement will become effective in 2013, and hence, the initial term of this Agreement will expire on the 20th anniversary of the Effective Date in 2033. Provided, if this Agreement is automatically renewed pursuant to the provisions of this Article, then this Agreement shall terminate on the 25th anniversary of the Effective Date in 2038.

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 thirty days following the receipt of written notice from the other party.

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 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 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 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 Tucson's Warranty of Title. Tucson 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. Tucson shall warrant and defend title against all persons claiming by or through Tucson 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 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, facsimile, 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

TUCSON WATER:

For delivery and
for U.S. Mail use: c/o Director
310 West Alameda
Tucson, Arizona 85726-7210

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

8.9 Prohibition on Resale of Long-Term Storage Credits: CAWCD shall not resell to any third party any of the Long-Term Storage Credits that it acquires from Tucson pursuant to this Agreement.

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: *Pamela J. Pickard*

Its: President

ATTEST: *Sybil Atkins*
Secretary

TUCSON: **THE CITY OF TUCSON**

By: *[Signature]*

Its: Mayor August 6, 2013

ATTEST: *[Signature]*
City Clerk August 6, 2013

Approved as to form:

July 22, 2013
[Signature]
Principal Asst. City Attorney

EXHIBIT A to Exhibit A to Resolution No. 22115
to
Purchase and Sale Agreement for Long-Term Storage Credits

LONG-TERM STORAGE CREDITS

Facility Name	ADWR Facility Permit No.	ADWR Water Storage Permit No.	Credits (AF)	Year(s) Earned	Water Source
LSCMRP	71-591928.0001	73-591928.0000	24,275	2004-2012	Effluent
BKW 1	72-538133.0000	73-545928.0000	9,964	1999-2012	CAP
BKW 2	72-538133.0100	73-538133.0301	53,641	1995-1998	CAP

**EXHIBIT B to Exhibit A to Resolution No. 22115
to
Purchase and Sale Agreement for Long Term Storage Credits**

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

ARIZONA DEPARTMENT OF WATER RESOURCES
Water Management Section
3550 North Central Ave, Phoenix, Arizona 85012
Telephone (602) 771-8585
Fax (602) 771-8689

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

For Official Use Only

DATE RECEIVED: _____

[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

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]

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:

Name of Buyer

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

Contact Person/Telephone Number

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

Mailing Address

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

City/State/Zip

Long -Term Storage Account No. (if any)

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