

Arizona Water Settlement Agreement

This Agreement is among the **United States of America**, acting through the Secretary of the Interior (**Secretary**) and the United States Bureau of Reclamation, Lower Colorado Regional Office; and the **State of Arizona**, acting through the Arizona Department of Water Resources (**ADWR**); and the **Central Arizona Water Conservation District (CAWCD)**, a political subdivision of the State of Arizona.

1. Recitals of Authority

- 1.1 The United States, acting through the Department of the Interior, is entering into this Agreement pursuant to the Act of June 17, 1902, 32 Stat. 388, and acts amendatory thereof and supplementary thereto, including, but not limited to the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057), as amended, the Reclamation Project Act of August 4, 1939 (53 Stat. 1187), as amended, the Colorado River Basin Project Act of September 30, 1968 (82 Stat. 885), as amended, all collectively referred to as the "Federal Reclamation Laws."
- 1.2 The State of Arizona, acting through the Arizona Department of Water Resources, is entering into this Agreement pursuant to Arizona Revised Statutes, Title 45, Ch. 1.
- 1.3 The Central Arizona Water Conservation District is entering into this Agreement pursuant to Arizona Revised Statutes, Title 48, Ch. 22.
- 1.4 This Agreement was "authorized, ratified and confirmed" by section 106(a)(1) of Pub. L. 108-451, including such amendments to this Agreement that are "consistent with" Title 1 of Pub. L. 108-451. Further, the Secretary was "directed to" execute this Agreement pursuant to section 106(a)(2) of Pub. L. 108-451, except to the extent that any provision of this Agreement conflicts with any provision of Title 1 of Pub. L. 108-451.

2. Definitions

- 2.1 "1983 ROD" shall mean the record of decision published March 24, 1983, 48 Fed. Reg. 12446.
- 2.2 "Act" shall mean the Arizona Water Settlements Act, Pub. L. 108-451.
- 2.3 "CAIDD" shall mean the Central Arizona Irrigation and Drainage District, a political subdivision of the State of Arizona.

- 2.4 “CAP” shall mean the Central Arizona Project, as authorized and constructed pursuant to the Colorado River Basin Project Act of 1968. For purposes of this Agreement, CAP shall have the same meaning as described in the CAP Repayment Stipulation.
- 2.5 “CAP Repayment Stipulation” shall mean the Revised Stipulation Regarding a Stay of Litigation, Resolution of Issues During the Stay and for Ultimate Judgment Upon Satisfaction of Conditions, filed with the United States District Court for the District of Arizona in *Central Arizona Water Conservation District v. United States, et al.*, No. CIV-95-625-TUC-WDB (EHC), No. CIV-95-1720-PHX-EHC (Consolidated Action), and that court’s order dated April 28, 2003, and any amendments or revisions thereof.
- 2.6 “Currently Uncontracted M&I Priority water” shall mean 65,647 acre-feet of CAP municipal and industrial priority water that was allocated in the 1983 ROD, but for which a long-term contract has not been entered.
- 2.7 “GRIC Settlement Agreement” shall mean the Gila River Indian Community Water Rights Settlement Agreement as defined in the Act.
- 2.8 “HIDD” shall mean the Hohokam Irrigation and Drainage District, a political subdivision of the State of Arizona.
- 2.9 “Hohokam Agreement” shall mean the Agreement Among the United States, the Central Arizona Water Conservation District, the Hohokam Irrigation and Drainage District, and the Arizona Cities of Chandler, Mesa, Phoenix and Scottsdale, dated December 21, 1993.
- 2.10 “Hohokam 9(d) Debt” shall mean that portion of the debt to the United States incurred by HIDD under section 9(d) of the Reclamation Project Act of 1939 that is payable by HIDD under section 4.2.2 of the Hohokam Agreement.
- 2.11 “MSIDD” shall mean the Maricopa-Stanfield Irrigation & Drainage District, a political subdivision of the State of Arizona.
- 2.12 “NIA Priority water” shall mean CAP water having a non-Indian agricultural priority as described in subparagraph 8.16 of the GRIC Settlement Agreement.
- 2.13 “Trust Water” shall mean NIA Priority water held in trust by ADWR under this Agreement pursuant to section 104(a)(2) of Pub. L. 108-451.

3. Purpose of this Agreement

- 3.1 This Agreement memorializes the parties' intended approach to settle all current CAP allocation issues between the United States and the State of Arizona by agreeing to make certain quantities of NIA Priority water available to the Secretary for allocation to Indian communities, and certain quantities available to ADWR to be held in trust for future allocation by the Secretary to non-Indian users within Arizona in a manner consistent with the Act.
- 3.2 This Agreement also requires a reallocation of the Currently Uncontracted M&I Priority water, and an allocation of and contract for mainstream Colorado River water under the Boulder Canyon Project Act of 1928 to the Mohave County Water Authority in exchange for the voluntary relinquishment by Mohave County Water Authority of certain contractual rights to NIA Priority water and other Colorado River water.
- 3.3 This Agreement serves as the trust contract referred to in subsections 104(a)(2)(A) and (B) of Pub. L. 108-451.

4. Quantification of NIA Priority water available for Contract.

- 4.1 The parties agree that, for the purpose of entering into long term contracts and subcontracts for CAP water under the Colorado River Basin Project Act of 1968 and the CAP Repayment Stipulation, the quantity of CAP water available for long-term contract or subcontract, and the quantity of NIA Priority water available for long term contracts and subcontracts shall be calculated as follows:
 - 4.1.1 The normal year supply of Colorado River water available for CAP is deemed to be 1,490,000 acre-feet per year for purposes of long-term contracting. This supply includes the CAP Project Water delivered in accordance with the Ak-Chin Indian Community Water Rights Settlement Act of 1984, Pub. L. 98-530 (the "Ak-Chin Act"), and the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988, Pub. L. 100-512 (the "SRPMIC Act"). Nothing in this Agreement shall preclude CAWCD from diverting more than 1,490,000 acre-feet of Colorado River water in any year, but such excess diversion shall not be available for long-term contract or subcontract.
 - 4.1.2 To determine the amount of CAP water available for long-term contract and subcontract, canal losses and other operational losses for the CAP system must be subtracted. For purposes of this Agreement, such losses shall be deemed to be 75,000 acre-feet per year for a normal year supply.

- 4.1.3 The normal year supply of CAP water available for long-term contract or subcontract shall be 1,415,000 acre-feet (1,490,000 acre-feet diverted from the Colorado River less 75,000 acre-feet of system loss).
- 4.1.4 Of the 1,415,000 acre-feet available for long-term contract or subcontract, the Secretary allocated 309,828 acre-feet to Indian uses and 638,823 acre-feet to municipal and industrial ("M&I") uses in the 1983 ROD. That left 466,349 acre-feet available for use by non-Indian agriculture in a normal year (the "1983 NIA Supply").
- 4.1.5 The 1983 NIA Supply was subsequently reduced as follows:
- 4.1.5.1 Under the Ak-Chin Act, the Secretary acquired 50,000 acre-feet of Colorado River water from the Yuma-Mesa Division of the Gila Project. After deducting for CAP system losses (deemed to be 5%), this acquisition resulted in a decrease of 47,500 acre-feet in the amount of CAP water available for use by non-Indian agriculture in a normal year.
- 4.1.5.2 Under the SRPMIC Act, the Secretary acquired 22,000 acre-feet of Colorado River water from the Wellton-Mohawk Irrigation and Drainage District. After deducting for CAP system losses (deemed to be 5%), this acquisition resulted in a decrease of 20,900 acre-feet in the amount of CAP water available for use by non-Indian agriculture in a normal year.
- 4.1.5.3 Under the Fort McDowell Indian Community Water Rights Settlement Act of 1990, Pub. L. 101-628, the Secretary acquired the CAP entitlement of Harquahala Valley Irrigation District and was authorized to convert that water from CAP non-Indian agricultural priority to CAP Indian priority. This acquisition resulted in a decrease of 33,251 acre-feet in the amount of CAP water available for use by non-Indian agriculture in a normal year.
- 4.1.5.4 Under the SRPMIC Act, the Roosevelt Water Conservation District ("RWCD") assigned 5,000 acre-feet of its CAP entitlement to certain Arizona cities. That assignment resulted in a corresponding decrease in the amount of CAP water available for use by non-Indian agriculture in a normal year.

- 4.1.5.5 Under an August 7, 1992 agreement among RWCD, the Secretary and the Gila River Indian Community ("GRIC"), RWCD relinquished the remainder of its CAP entitlement for the use and benefit of GRIC. That relinquishment resulted in a decrease of 18,600 acre-feet in the amount of CAP water available for use by non-Indian agriculture in a normal year.
- 4.1.5.6 Under the Hohokam Agreement, the CAP entitlement of HIDD and certain additional non-Indian agricultural water was subcontracted to the cities of Chandler, Mesa, Phoenix and Scottsdale. That action resulted in a decrease of 47,303 acre-feet in the amount of CAP water available for use by non-Indian agriculture in a normal year.
- 4.1.6 As a result of the reductions in the non-Indian agricultural water supply described in subparagraph 4.1.5, the remaining amount of CAP water available for use by non-Indian agriculture in a normal year is 293,795 acre-feet.
- 4.2 The parties agree that the maximum amount of NIA Priority water that may be available for reallocation under this Agreement is 293,795 acre-feet.

5. Water Available for Reallocation.

5.1 Voluntary Relinquishments.

- 5.1.1 CAWCD shall distribute voluntary relinquishment agreements in the form attached as Exhibit 5.1.1 to this Agreement to Maricopa-Stanfield Irrigation & Drainage District, Central Arizona Irrigation and Drainage District, Chandler Heights Citrus Irrigation District, Queen Creek Irrigation District, San Tan Irrigation District, Tonopah Irrigation District and New Magma Irrigation and Drainage District (collectively, the Agricultural subcontractors).
- 5.1.2 Each Agricultural subcontractor will be given a reasonable amount of time to execute a voluntary relinquishment agreement.
- 5.1.3 The voluntary relinquishment agreements shall become effective upon satisfaction of all conditions contained therein.
- 5.1.4 For purposes of this Agreement, the total amount of NIA Priority water that may be relinquished by each Agricultural subcontractor is deemed to be as shown in table 5.1.4.

Table 5.1.4

Agricultural subcontractor	NIA Priority water (acre-feet)
Maricopa-Stanfield Irrigation & Drainage District	89,861
Central Arizona Irrigation and Drainage District	89,821
Chandler Heights Citrus Irrigation District	1,185
Queen Creek Irrigation District	19,078
San Tan Irrigation District	3,041
Tonopah Irrigation District	7,821
New Magma Irrigation and Drainage District	11,415

5.1.5 If any Agricultural subcontractor retains a portion of its entitlement to NIA Priority water for its own benefit or designates a portion of its entitlement for the benefit of an individual landowner within the Agricultural subcontractor's service area as provided in paragraph 6, then the amount deemed to be relinquished by that Agricultural subcontractor shall be reduced by the amount of entitlement retained or designated. For example, if Maricopa-Stanfield Irrigation & Drainage District designated 9,026 acre-feet of its current entitlement, then it would be deemed to have relinquished 80,835 acre-feet (89,861 minus 9,026).

5.1.6 Any water relinquished under a voluntary relinquishment agreement shall be available for reallocation in accordance with paragraph 9.

5.2 Uncontracted NIA Priority Water.

5.2.1 The provisions of this subparagraph 5.2 shall become effective upon enactment of the Act.

5.2.2 The Secretary shall publish a notice in the Federal Register in substantially the same form as Exhibit 5.2.2 modifying and terminating the applicable provisions of the Record of Decision published in the Federal Register on February 5, 1992 (57 Fed. Reg. 4470), and reallocating CAP water in accordance with the Act. Such notice shall state that it is published pursuant to the Act and is therefore a revocable action under the applicable provisions of the Act.

5.2.3 Following publication of the notice pursuant to subparagraph 5.2.2, 71,573 acre-feet of NIA Priority water shall be available for reallocation in accordance with paragraph 9. Such water is in addition to water available for reallocation under subparagraph 5.1.6.

6. Retention of NIA Priority Water by Agricultural Subcontractors

- 6.1 Any Agricultural subcontractor with an existing water service subcontract for NIA Priority water may elect to retain a portion of its current entitlement to NIA Priority water for its own benefit or designate a portion of its current entitlement to NIA Priority water for the benefit of an individual landowner within the Agricultural subcontractor's service area. Such election must be made at the time the Agricultural subcontractor executes a voluntary relinquishment agreement. Table 6.1 identifies those Agricultural subcontractors that have an existing water service subcontract for NIA Priority water and the current entitlement for each, expressed both as a percentage of the available CAP agricultural water supply and as a fixed quantity of the NIA Priority water available for long-term contracting as described in paragraph 4.2.

Table 6.1

Agricultural subcontractor	Current Entitlement (percentage of ag supply)	Current Entitlement (fixed quantity in acre-feet)
Maricopa-Stanfield Irrigation & Drainage District	20.48%	60,169
Central Arizona Irrigation and Drainage District	18.01%	52,912
Chandler Heights Citrus Irrigation District	0.28%	823
Queen Creek Irrigation District	4.83%	14,190
San Tan Irrigation District	0.77%	2,262
Tonopah Irrigation District	1.98%	5,817

- 6.2 The retained or designated entitlement shall be expressed as a fixed quantity of NIA Priority water. For example, if MSIDD retained 10 percent of its current entitlement, then it would be entitled to 6,017 acre-feet of NIA Priority water.
- 6.3 CAWCD will charge the same rate for delivery of the retained or designated NIA Priority water as it charges other long-term CAP subcontractors.
- 6.4 CAWCD will require the subcontractor to take delivery of all retained or designated NIA Priority water under its subcontract before it may receive any other CAP water, whether for direct or in lieu use.
- 6.5 The Secretary and CAWCD shall require payment to CAWCD each year of a 9(d) debt service charge in connection with the retained or designated water. The annual 9(d) debt service charge shall be computed by multiplying the

annual 9(d) debt payment shown in Exhibit 7.2 for the Agricultural subcontractor that retained or designated the water by the ratio obtained by dividing the NIA Priority water entitlement retained or designated by the current entitlement for the Agricultural subcontractor as shown in Table 6.1. For example, if MSIDD designated 10 percent of its current entitlement for the benefit of a particular landowner within MSIDD, then that landowner would be responsible each year for paying CAWCD 10 percent of the 9(d) debt payment shown in Exhibit 7.2 for MSIDD for that year.

- 6.6 The Secretary and CAWCD shall amend the CAP water service subcontract of any Agricultural subcontractor that retains a portion of its current entitlement to NIA Priority water. The amended subcontract shall: (i) be for a fixed quantity of NIA Priority water; (ii) require the subcontractor to pay 9(d) debt service charges to CAWCD; (iii) provide that CAP water may be used only within the subcontractor's service area, which is delineated on a map filed with CAWCD and approved by CAWCD and the Secretary; (iv) provide that failure to make any payment when due, including any 9(d) debt service charge, shall cause the subcontract to terminate; and (v) provide that upon termination the NIA Priority water entitlement under the subcontract shall immediately be reallocated to ADWR as provided in subparagraph 9.3. The form of amended subcontract shall be as in Exhibit 6.6 to this Agreement.
- 6.7 For NIA Priority water designated by an Agricultural subcontractor for the benefit of an individual landowner within the Agricultural subcontractor's service area, the Secretary and CAWCD shall offer to enter into an appropriate subcontract with the landowner beneficiary. The designated NIA Priority water may only be used on CAP eligible acres owned by the landowner beneficiary within the Agricultural subcontractor's service area. The subcontract with the landowner beneficiary shall comply with subparagraphs 6.2 through 6.6 above and shall be in substantially the same form as Exhibit 6.6 to this Agreement.
- 6.7.1 The Secretary shall not allocate or contract the designated NIA Priority water to any entity other than the designated landowner beneficiary for 60 days following execution of the relinquishment agreement designating NIA Priority water for the benefit of that landowner. If the individual landowner for whose benefit the NIA Priority water was designated does not execute a subcontract for that water within 60 days after execution of the relinquishment agreement designating NIA Priority water for its benefit, the designated water shall be deemed relinquished and shall immediately be reallocated to ADWR as provided in subparagraph 9.3.
- 6.7.2 The Agricultural subcontractor shall have no further rights or obligations as to any portion of its CAP entitlement designated for the benefit of an individual landowner.

7. Discharge and Assumption of Debt Due under § 9(d) of the Reclamation Project Act of 1939 (43 U.S.C. § 485h).

- 7.1. Except as provided in subparagraph 7.3, this paragraph 7 shall become effective upon satisfaction of all conditions in subparagraph 13.3.
- 7.2. Exhibit 7.2 lists those Agricultural subcontractors eligible to participate in voluntary relinquishment agreements that have incurred debt to the United States under section 9(d) of the Reclamation Project Act of 1939 and identifies for each subcontractor the 9(d) debt payments remaining after payment of all installments due through December 31, 2003. Exhibit 7.2 also identifies the Hohokam 9(d) Debt.
- 7.3. Any Agricultural subcontractor that executes a voluntary relinquishment agreement as provided in subparagraph 5.1 shall be relieved of its 9(d) debt in accordance with this paragraph and subparagraph 6.5, effective upon satisfaction of all conditions in the voluntary relinquishment agreement.
- 7.4. HIDD shall be entitled to relief from the Hohokam 9(d) Debt in accordance with this paragraph.
- 7.5. CAWCD shall promptly remit to the United States all 9(d) debt service charges collected pursuant to paragraph 6.5.
- 7.6. For HIDD and for each Agricultural subcontractor that has executed a voluntary relinquishment agreement as provided in subparagraph 5.1, the United States shall annually apply the 9(d) debt service charges remitted by CAWCD pursuant to subparagraph 7.5 against the installment payments shown on Exhibit 7.2 and shall declare the remainder of that year's installment payments to be non-reimbursable and non-returnable to the United States, up to an aggregate total of \$73,561,337.00. Discharge of payments under this subparagraph shall not accelerate any remaining payments and shall not affect any obligation the Agricultural subcontractor or its assignee(s) may have to pay 9(d) debt service charges to CAWCD under its subcontract as amended pursuant to subparagraphs 6.5 and 6.6.
- 7.7. After \$73,561,337.00 of 9(d) debt has been discharged under paragraph 7.6, CAWCD shall pay to the United States all remaining installment payments shown on Exhibit 7.2 for HIDD and for each Agricultural subcontractor that executed a voluntary relinquishment agreement as provided in subparagraph 5.1. The installments assumed by CAWCD shall be due and payable to the United States on the same dates and in the

same amount that they would have been due absent this Agreement, consistent with any applicable extensions approved by the Secretary.

- 7.8. The Secretary shall amend the 9(d) debt repayment contracts of HIDD and each Agricultural subcontractor that has executed a voluntary relinquishment agreement as provided in subparagraph 5.1 to conform to this paragraph.

8. Interim Provisions

- 8.1. Pursuant to section 106(b)(2) of the Act, the Secretary shall extend on an annual basis the 9(d) debt repayment schedule in Exhibit 7.2. The effect of each annual extension shall be to postpone the due date of all remaining installment payments by one year. Such extensions shall commence with payments due in calendar year 2004 and shall continue until all conditions in subparagraph 13.3 have been satisfied or until this Agreement is terminated, whichever comes first. No penalties, interest or other liability shall accrue as a result of any such extension.
- 8.1.1. When all conditions in subparagraph 13.3 have been satisfied, 9(d) debt repayment shall be in accordance with paragraph 7.
- 8.1.2. If this Agreement is terminated, then each Agricultural subcontractor shall be responsible for repayment to the United States of its 9(d) debt in accordance with its repayment contract as modified by the extension(s) provided by Reclamation pursuant to federal law, including those provided under subparagraph 8.1. This subparagraph shall survive termination of this Agreement.
- 8.1.3. This paragraph 8.1 shall not apply to the portion of any 9(d) debt payment that is required to be paid by an Agricultural subcontractor or landowner pursuant to subparagraph 6.5. Payment of 9(d) debt service charges pursuant to subparagraph 6.5 shall be made in the same year as shown on the schedule of payments in Exhibit 7.2.
- 8.2. Beginning in 2004 and continuing until all conditions in subparagraph 13.3 have been satisfied or until this Agreement is terminated, whichever comes first, CAWCD shall provide excess CAP water to HIDD and to any Agricultural subcontractor that has executed a voluntary relinquishment agreement as provided in paragraph 5.1 in accordance with the agricultural pool and pricing policy for 2004 to 2030 adopted by the CAWCD Board of Directors and the excess water contract attached as Exhibit 8.2 to this Agreement.

- 8.2.1. When all conditions in subparagraph 13.3 have been satisfied, CAWCD shall provide water in accordance with the voluntary relinquishment agreement and excess water contract attached thereto.
- 8.2.2. If this Agreement is terminated, then CAWCD shall be under no obligation to continue providing water in accordance with the agricultural pool and pricing policy for 2004 to 2030 adopted by the CAWCD Board of Directors.

9. Reallocation of NIA Priority Water

- 9.1. The provisions of this paragraph 9 shall become effective upon enactment of the Act.

- 9.2. Water Available to the Secretary for Indian Uses.

- 9.2.1. The first 197,500 acre-feet of NIA Priority water available under paragraph 5 for reallocation shall be reallocated by the Secretary as follows:

- 9.2.1.1. The Secretary shall reallocate 102,000 acre-feet to the Gila River Indian Community in accordance with section 104(a)(1)(A)(i) of the Act.
- 9.2.1.2. The Secretary shall reallocate 28,200 acre-feet to the Tohono O'Odham Nation in accordance with section 104(a)(1)(A)(ii) of the Act.
- 9.2.1.3. The Secretary shall retain 67,300 acre-feet for reallocation to Arizona Indian tribes, subject to the conditions specified in section 104(a)(1)(B) of the Act.

- 9.3. Water Available to ADWR for Non-Indian M&I Uses.

- 9.3.1. After 197,500 acre-feet has been made available to the Secretary for reallocation under subparagraph 9.2, all remaining NIA Priority water available under paragraph 5 for reallocation shall be reallocated by the Secretary to ADWR in accordance with section 104(a)(2) of the Act.
- 9.3.2. If any additional NIA Priority water becomes available for reallocation pursuant to subparagraph 6.7.1 or as a result of the termination of a CAP subcontract amended as provided in subparagraph 6.6, the Secretary shall immediately reallocate that water to ADWR.

- 9.3.3. ADWR shall hold all water reallocated to it under this subparagraph in trust for future reallocation to non-Indian M&I water users in accordance with this subparagraph 9.3 and section 104(a)(2) of the Act. ADWR may not use any of the reallocated water itself.
- 9.3.4. The Trust Water held by ADWR under this Agreement shall be reallocated to non-Indian M&I water users in accordance with section 104(a)(2)(C) of the Act, ADWR policy and the following:
- 9.3.4.1. ADWR shall not make a recommendation to the Secretary for Trust Water prior to January 1, 2010, but may thereafter recommend that any or all Trust Water be reallocated to specified M&I water users. The Secretary shall act upon such recommendation in accordance with the Act.
- 9.3.4.2. ADWR shall make Trust Water available for reallocation to non-Indian M&I water users within the State of Arizona at periodic intervals, starting in 2010. Only those M&I water users that meet the criteria established by ADWR shall be eligible to receive Trust Water. ADWR shall retain a sufficient amount of Trust Water through 2030 to satisfy the rights of first refusal described in paragraphs 9.3.4.3 through 9.3.4.6.
- 9.3.4.3. Through 2020, M&I water providers serving the area shown on Exhibit 9.3.4.3 (the "CAIDD Area") that meet ADWR's eligibility criteria shall have a right of first refusal to 7.8% of the Trust Water offered at each interval, up to an aggregate maximum of 7,500 acre-feet. Exhibit 9.3.4.3 shall be amended to exclude any lands for which NIA Priority water is being retained by CAIDD or its designee(s) as provided in paragraph 6.
- 9.3.4.3.1. If, at the time ADWR makes Trust Water available to non-Indian M&I water users, NIA Priority water is being retained by CAIDD or its designee(s) as provided in paragraph 6, the retained water shall count against the aggregate maximum of 7,500 acre-feet for the CAIDD Area, but shall not count against the 7.8% right of first refusal unless the 7.8% plus the retained water would exceed 7,500 acre-feet.
- 9.3.4.3.2. If M&I water providers serving the CAIDD Area do not exercise their full right of first refusal, then the

unexercised portion of that right shall carry forward to the next offering of Trust Water.

9.3.4.4. Through 2020, M&I water providers serving the area shown on Exhibit 9.3.4.4 (the "MSIDD Area") that meet ADWR's eligibility criteria shall have a right of first refusal to 7.8% of the Trust Water offered at each interval, up to an aggregate maximum of 7,500 acre-feet. Exhibit 9.3.4.4 shall be amended to exclude any lands for which NIA Priority water is being retained by MSIDD or its designee(s) as provided in paragraph 6.

9.3.4.4.1. If, at the time ADWR makes Trust Water available to non-Indian M&I water users, NIA Priority water is being retained by MSIDD or its designee(s) as provided in paragraph 6, the retained water shall count against the aggregate maximum of 7,500 acre-feet for the MSIDD Area, but shall not count against the 7.8% right of first refusal unless the 7.8% plus the retained water would exceed 7,500 acre-feet.

9.3.4.4.2. If M&I water providers serving the MSIDD Area do not exercise their full right of first refusal, then the unexercised portion of that right will carry forward to the next offering of Trust Water.

9.3.4.5. From 2021 through 2030, the rights of first refusal described in paragraphs 9.3.4.3 and 9.3.4.4 shall be combined and shall be available to M&I water providers that are serving either the CAIDD Area or the MSIDD Area and that meet ADWR's eligibility criteria.

9.3.4.6. Beginning in 2030, if M&I water providers serving the CAIDD Area of MSIDD Area have not exercised their right of first refusal as to all of the Trust Water available under paragraphs 9.3.4.3 through 9.3.4.5, then the Pinal County Water Augmentation Authority (PCWAA) shall have a right of second refusal as to the remainder of that water. PCWAAA must meet the criteria established by ADWR to be eligible to receive Trust Water.

9.3.4.7. The rights of refusal described in paragraphs 9.3.4.3 through 9.3.4.6 do not limit the amount of Trust Water that may be reassigned to M&I water providers in Pinal County. If M&I water providers in Pinal County request additional Trust Water

over and above the amount available to them under their right of first or second refusal, ADWR shall consider their request for additional water on the same basis as requests for Trust Water from M&I water providers serving other areas.

- 9.4. All NIA Priority water reallocated under this paragraph shall retain its NIA priority.
- 9.5. All reallocations made under subparagraphs 9.2 and 9.3 and all contracts for NIA Priority water reallocated under subparagraphs 9.2 and 9.3 shall be contingent on satisfaction of all conditions in subparagraph 13.3 and all conditions in the voluntary relinquishment agreements by the dates specified therein.

10. Reallocation of Currently Uncontracted M&I Priority Water.

- 10.1. The provisions of this paragraph 10 shall become effective upon enactment of the Act.
- 10.2. In accordance with the Act, the Secretary shall allocate the Currently Uncontracted M&I Priority water as shown in Table 10.2.

Table 10.2

Applicant	Amount (acre feet)	Applicant	Amount (acre feet)
Town of Superior	285	AVRA Cooperative	808
Cave Creek Water Company	806	City of Chandler	4,986
Chaparral Water Company	1,931	Del Lago (Vail) Water Company	1,071
Town of El Mirage	508	City of Glendale	3,053
City of Goodyear	7,211	Community Water Company of Green Valley	1,521
H2O Water Company	147	Metropolitan Domestic Water Improvement District	4,602
City of Mesa	7,115	Town of Oro Valley	3,557
City of Peoria	5,527	City of Phoenix	8,206
City of Scottsdale	2,981	City of Surprise	2,876
Tucson Water	8,206	Valley Utilities Water Company	250
TOTAL			65,647

- 10.3. The Secretary and CAWCD shall offer M&I subcontracts to the above listed providers reflecting the amount of water in this reallocation in addition to any water already under contract to that provider. The new

subcontract or amendment to existing subcontract shall conform to the requirements of subsections 104(d)(1) and (2) of the Act.

- 10.4. All contracts for Currently Uncontracted M&I Priority water allocated under this paragraph 10 shall be contingent on satisfaction of all conditions in subparagraph 13.3 by the date specified therein.

11. Allocation of Mainstream Colorado River Water

- 11.1. This paragraph 11 shall become effective upon execution of this Agreement and shall survive termination of this Agreement.
- 11.2. Upon execution of this Agreement, the Secretary shall, in cooperation with the Mohave County Water Authority, amend Bureau of Reclamation Contract No. 5-07-30-W0320, dated December 12, 1995, to accomplish the following: (i) allocate and contract to Mohave County Water Authority 3,500 acre-feet of Arizona fourth priority mainstream Colorado River water; (ii) delete the allocation and contract of 3,500 acre-feet of Arizona fifth and sixth priority mainstream Colorado River water; and (iii) delete the reference to allocation of future NIA Priority water to Mohave County Water Authority.
- 11.3. The Secretary shall reserve 3,500 acre-feet of currently uncontracted Arizona fourth priority mainstream Colorado River water for use in a future Navajo-Hopi Indian water rights settlement. The water reserved under this subparagraph shall not be allocated, nor shall any contract be issued under the Boulder Canyon Project Act for the use of this water, until a final Indian water rights settlement for the Navajo Nation has been approved by Congress, finalizing Navajo claims to the mainstream of the Colorado River within Arizona.

12. Miscellaneous Provisions

- 12.1. MSIDD and CAIDD are express third party beneficiaries as to the rights of first refusal set forth in subparagraphs 9.3.4.3 through 9.3.4.6. Mohave County Water Authority is an express third party beneficiary as to paragraph 11. No other third-party beneficiaries are expressed or implied by this Agreement.
- 12.2. Nothing in this Agreement is intended to affect any party's obligations under applicable law.
- 12.3. No party shall take any action that is inconsistent with the party's ability to perform its obligations under this Agreement, including obligations that arise upon passage of the Act and fulfillment of the conditions of subparagraph 13.3 and the voluntary relinquishment agreements.

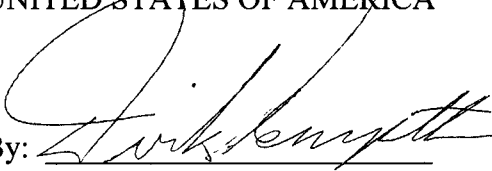
- 12.4. Nothing in this Agreement may be used against either CAWCD or the United States in Central Arizona Water Conservation District v. United States, Nos. CIV 95-625-TUC-WDB (EHC) and CIV 95-1720-PHX-EHC (Consolidated Action). This subparagraph shall survive termination of this Agreement.

13. Effectiveness and Termination

- 13.1. Except as expressly provided in paragraphs 5.2, 7, 9 and 10, this Agreement is effective upon execution by the parties.
- 13.2. The United States may terminate this Agreement if the total amount of water available for reallocation under paragraph 9 is less than 197,500 acre-feet.
- 13.3. This Agreement shall terminate if all of the following conditions have not been satisfied by December 31, 2007:
- 13.3.1. The Gila River Indian Community water rights settlement agreement has been executed by the parties thereto and has been authorized, ratified and confirmed by Congress.
 - 13.3.2. This Agreement has been authorized, ratified and confirmed by Congress.
 - 13.3.3. Congress has passed legislation declaring up to \$73,561,337 in 9(d) debt to be non-reimbursable and non-returnable to the United States in accordance with subparagraph 7.6.
 - 13.3.4. Congress has passed legislation declaring land within the exterior boundaries of CAWCD or served by CAP water to be exempt from the Reclamation Reform Act and any other acreage limitation or full cost pricing provision of federal law.
 - 13.3.5. Final judgment has been entered by the United States District Court for the District of Arizona in *Central Arizona Water Conservation District v. United States, et al.*, No. CIV-95-625-TUC-WDB (EHC), No. CIV-95-1720-PHX-EHC (Consolidated Action), in accordance with the CAP Repayment Stipulation.
 - 13.3.6. Any other action or event as to which the Secretary is to publish a statement of findings under section 207(c) of the Act has occurred.
- 13.4. Except as expressly provided in paragraph 11 and subparagraphs 8.1.2 and 12.4, no provision of this Agreement shall survive termination.

- 13.5. If the date by which the Secretary is required to publish a statement of findings under section 207(c) of the Act is amended by subsequent act of Congress, then the deadline for satisfying the conditions in paragraph 13.3 will automatically be amended to conform.

UNITED STATES OF AMERICA

By: 
Secretary of the Interior

CENTRAL ARIZONA WATER
CONSERVATION DISTRICT

By: 
President

Attest:


Secretary

ARIZONA DEPARTMENT OF
WATER RESOURCES

By: 
Director

Exhibits

Exhibit 5.1.1	Voluntary Relinquishment Agreement
	(A) Full Relinquishment
	(B) Partial Relinquishment
	(C) Relinquishment with Individual Landowner Designation
Exhibit 5.2.2	Federal Register Notice
Exhibit 6.6	Amended NIA Subcontract
Exhibit 7.2	9(d) Debt Payment Schedule
Exhibit 8.2	New Excess Water Contract
Exhibit 9.3.4.3	CAIDD Area Map
Exhibit 9.3.4.4	MSIDD Area Map

Exhibit 5.1.1 (A)
Voluntary Relinquishment Agreement
(Full Relinquishment)

AGREEMENT AMONG THE UNITED STATES,
CENTRAL ARIZONA WATER CONSERVATION DISTRICT
AND _____

PROVIDING FOR THE RELINQUISHMENT OF
CENTRAL ARIZONA PROJECT WATER

This Agreement is made as of the ____ day of _____ 200__ in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, including but not limited to the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057), as amended, the Reclamation Project Act of August 4, 1939 (53 Stat. 1187), as amended, the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), and the Colorado River Basin Project Act of September 30, 1968 (82 Stat. 885), as amended (the "Basin Project Act"), among the United States, Central Arizona Water Conservation District ("CAWCD"), and _____ (the "Subcontractor"), with its principal place of business in _____, Arizona.

RECITALS

A. The United States, CAWCD and the Subcontractor have entered into Subcontract No. _____, captioned "Subcontract Among the United States, the Central Arizona Water Conservation District, and _____ Providing for Water Service, Central Arizona Project," dated _____ (the "Subcontract"), providing for the delivery of non-Indian agricultural priority Central Arizona Project ("CAP") water to the Subcontractor.

B. By notice published in the Federal Register on February 5, 1992, the Secretary of the Interior allocated an additional percentage of non-Indian agricultural priority CAP water to the Subcontractor (the "Reallocated Water").

C. The United States and the Subcontractor have entered into a contract pursuant to

section 9(d) of the Reclamation Project Act of 1939 (the "9(d) Repayment Contract"), under which a distribution system was constructed to deliver water from the CAP to the Subcontractor and the Subcontractor incurred certain debt to the United States.

D. On November 8, 1993, CAWCD and the Subcontractor entered into a Letter Agreement regarding certain of those parties' rights and obligations under the Subcontract.

E. On January 1, 1994, CAWCD and the Subcontractor entered into a contract whereby CAWCD agreed to deliver excess CAP water to the Subcontractor at favorable prices through December 31, 2003 (the "Excess Water Contract").

F. The United States has challenged the validity of the Letter Agreement and Excess Water Contract in Central Arizona Water Conservation District v. United States, Nos. CIV 95-625-TUC-WDB (EHC) and CIV 95-1720-PHX-EHC (Consolidated Action) (the "CAP Repayment Litigation").

G. The United States and CAWCD entered into a Stipulation Regarding a Stay of Litigation, Resolution of Issues During the Stay and for Ultimate Judgment upon the Satisfaction of Conditions, filed with the United States District Court on May 3, 2000, in the CAP Repayment Litigation (the "Stipulation"). The Stipulation clarifies CAWCD's right to sell excess CAP water, but it does not expressly resolve the dispute regarding the Letter Agreement and Excess Water Contract.

H. The United States desires to obtain rights to an additional quantity of CAP water to facilitate Indian water rights settlements.

I. If the conditions specified herein are satisfied, the Subcontractor is willing to relinquish all of its entitlement to CAP water under the Subcontract and any rights it may have to the Reallocated Water for the purposes of resolving the dispute regarding the validity of the

Letter Agreement and Excess Water Contract, facilitating the settlement of water rights claims made by the Gila River Indian Community, receiving relief from certain distribution system debt, obtaining a replacement water supply at a favorable price, and obtaining an exemption from the acreage limitation and full cost pricing provisions of federal law, including but not limited to the Reclamation Reform Act of 1982.

AGREEMENT

1. Definitions. Definitions included in the Subcontract and Stipulation are applicable to this Agreement. The first letters of terms so defined are capitalized herein. In addition, the following definitions shall apply to this Agreement:

a. “Master Agreement” shall mean the Arizona Water Settlement Agreement among the United States, the Arizona Department of Water Resources and CAWCD, in the form attached hereto as Exhibit A.

d. “New Excess Water Contract” shall mean the agreement between CAWCD and the Subcontractor in the form attached hereto as Exhibit B.

2. Relinquishment of CAP Entitlement.

a. The Subcontractor hereby relinquishes all of its entitlement to CAP water under the Subcontract.

b. The Subcontractor relinquishes any and all rights it may have to the Reallocated Water.

c. The relinquishments made under this paragraph shall not be permanent or irrevocable until all conditions to this Agreement have been satisfied.

3. Amendment of Subcontract. The parties shall amend the Subcontract to provide that, upon satisfaction of all conditions to this Agreement, the Subcontract shall terminate, any

and all rights and privileges under the Subcontract shall be permanently relinquished, and any attendant obligations and liabilities of the Subcontractor under the Subcontract shall be deemed to be fully satisfied and discharged.

4. Reallocation of Relinquished Water. Any water conditionally relinquished under this Agreement shall be available for conditional reallocation in accordance with paragraph 9 of the Master Agreement.

5. Replacement Water Supply. CAWCD shall deliver excess CAP water in accordance with the New Excess Water Contract beginning January 1, 2004.

6. Distribution System Debt Relief. The Subcontractor shall be relieved of its debt under the 9(d) Repayment Contract as provided in the Master Agreement. The United States and the Subcontractor shall amend the 9(d) Repayment Contract to conform to this Agreement and the Master Agreement.

7. Effectiveness and Termination.

a. This Agreement shall be effective upon execution by all parties hereto.

b. This Agreement shall terminate on December 31, 2007, if all of the following conditions have not been satisfied by that date:

(1) The Master Agreement has been executed by the parties thereto and all conditions precedent to that agreement have been satisfied.

(2) The Gila River Indian Community water rights settlement agreement has been executed by the parties thereto and has been authorized, ratified and confirmed by Congress.

(3) Final judgment has been entered by the United States District Court for the District of Arizona in *Central Arizona Water Conservation District v. United*

States, et al., No. CIV-95-625-TUC-WDB (EHC), No. CIV-95-1720-PHX-EHC (Consolidated Action), in accordance with the CAP Repayment Stipulation.

(4) Congress has passed legislation declaring a portion of the Subcontractor's obligation under the Repayment Contract to be non-reimbursable and non-returnable in accordance with the Master Agreement.

(5) Congress has passed legislation declaring land within the Subcontractor's boundaries to be exempt from the Reclamation Reform Act and any other acreage limitation or full cost pricing provision of federal law.

(6) CAWCD and the Subcontractor have executed the New Excess Water Contract.

(7) The Subcontractor has obtained the landowner approvals and court authorizations identified in Exhibit C.

(8) The Subcontractor and the United States have executed an amendment to the 9(d) Repayment Contract as required by paragraph 6(c) of this Agreement.

c. If this Agreement is terminated:

(1) Any amendment to the Subcontract under paragraph 3 of this Agreement shall be null and void and the Subcontract shall be restored to full force and effect.

(2) Any reallocation of water conditionally relinquished under this Agreement shall be null and void.

(3) Any contract for delivery of water conditionally relinquished under this Agreement shall be null and void.

(4) The New Excess Water Contract shall terminate.

UNITED STATES OF AMERICA

By: _____

CENTRAL ARIZONA WATER
CONSERVATION DISTRICT

Attest: _____
Secretary

By: _____
President

[Subcontractor]

By: _____

EXHIBIT A - Master Agreement

EXHIBIT B —New Excess Water Contract

EXHIBIT C — Landowner Approvals and Court Authorizations

Exhibit 5.1.1 (B)
Voluntary Relinquishment Agreement
(Partial Relinquishment)

AGREEMENT AMONG THE UNITED STATES,
CENTRAL ARIZONA WATER CONSERVATION DISTRICT
AND _____

PROVIDING FOR THE RELINQUISHMENT OF
CENTRAL ARIZONA PROJECT WATER

This Agreement is made as of the ____ day of _____ 200__ in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, including but not limited to the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057), as amended, the Reclamation Project Act of August 4, 1939 (53 Stat. 1187), as amended, the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), and the Colorado River Basin Project Act of September 30, 1968 (82 Stat. 885), as amended (the "Basin Project Act"), among the United States, Central Arizona Water Conservation District ("CAWCD"), and _____ (the "Subcontractor"), with its principal place of business in _____, Arizona.

RECITALS

A. The United States, CAWCD and the Subcontractor have entered into Subcontract No. _____, captioned "Subcontract Among the United States, the Central Arizona Water Conservation District, and _____ Providing for Water Service, Central Arizona Project," dated _____ (the "Subcontract"), providing for the delivery of non-Indian agricultural priority Central Arizona Project ("CAP") water to the Subcontractor.

B. By notice published in the Federal Register on February 5, 1992, the Secretary of the Interior allocated an additional percentage of non-Indian agricultural priority CAP water to the Subcontractor (the "Reallocated Water").

C. The United States and the Subcontractor have entered into a contract pursuant to

section 9(d) of the Reclamation Project Act of 1939 (the "9(d) Repayment Contract"), under which a distribution system was constructed to deliver water from the CAP to the Subcontractor and the Subcontractor incurred certain debt to the United States.

D. On November 8, 1993, CAWCD and the Subcontractor entered into a Letter Agreement regarding certain of those parties' rights and obligations under the Subcontract.

E. On January 1, 1994, CAWCD and the Subcontractor entered into a contract whereby CAWCD agreed to deliver excess CAP water to the Subcontractor at favorable prices through December 31, 2003 (the "Excess Water Contract").

F. The United States has challenged the validity of the Letter Agreement and Excess Water Contract in Central Arizona Water Conservation District v. United States, Nos. CIV 95-625-TUC-WDB (EHC) and CIV 95-1720-PHX-EHC (Consolidated Action) (the "CAP Repayment Litigation").

G. The United States and CAWCD entered into a Stipulation Regarding a Stay of Litigation, Resolution of Issues During the Stay and for Ultimate Judgment upon the Satisfaction of Conditions, filed with the United States District Court on May 3, 2000, in the CAP Repayment Litigation (the "Stipulation"). The Stipulation clarifies CAWCD's right to sell excess CAP water, but it does not expressly resolve the dispute regarding the Letter Agreement and Excess Water Contract.

H. The United States desires to obtain rights to an additional quantity of CAP water to facilitate Indian water rights settlements.

I. If the conditions specified herein are satisfied, the Subcontractor is willing to relinquish a portion of its entitlement to CAP water under the Subcontract and any rights it may have to the Reallocated Water for the purposes of resolving the dispute regarding the validity of

the Letter Agreement and Excess Water Contract, facilitating the settlement of water rights claims made by the Gila River Indian Community, receiving relief from certain distribution system debt, obtaining a replacement water supply at a favorable price, and obtaining an exemption from the acreage limitation and full cost pricing provisions of federal law, including but not limited to the Reclamation Reform Act of 1982.

AGREEMENT

1. Definitions. Definitions included in the Subcontract and Stipulation are applicable to this Agreement. The first letters of terms so defined are capitalized herein. In addition, the following definitions shall apply to this Agreement:

a. “Amended Subcontract” shall mean the agreement among the United States, CAWCD and the Subcontractor in the form attached hereto as Exhibit B.

b. “Master Agreement” shall mean the Arizona Water Settlement Agreement among the United States, the Arizona Department of Water Resources and CAWCD, in the form attached hereto as Exhibit A.

d. “New Excess Water Contract” shall mean the agreement between CAWCD and the Subcontractor in the form attached hereto as Exhibit C.

2. Relinquishment of CAP Entitlement.

a. The Subcontractor hereby retains ____ acre-feet and relinquishes the remainder of its annual entitlement to CAP water under the Subcontract.

b. The Subcontractor relinquishes any and all rights it may have to the Reallocated Water.

c. The relinquishments made under this paragraph shall not be permanent or irrevocable until all conditions to this Agreement have been satisfied.

3. Amendment of Subcontract. The parties shall execute the Amended Subcontract for the _____ acre-feet of CAP entitlement retained by the Subcontractor. The Amended Subcontract shall not become effective before January 1, 2004, and shall terminate if and when this Agreement terminates.

4. Assignment of Amended Subcontract. The Subcontractor may assign the Amended Subcontract, in whole or in part, to an individual landowner within the Subcontractor's service area for use on CAP eligible acres owned by the individual landowner as provided in paragraph 6.7 of the Master Agreement.

5. Reallocation of Relinquished Water. Any water conditionally relinquished under this Agreement shall be available for conditional reallocation in accordance with paragraph 9 of the Master Agreement.

6. Replacement Water Supply. CAWCD shall deliver excess CAP water in accordance with the New Excess Water Contract beginning January 1, 2004.

7. Distribution System Debt Relief.

a. The Subcontractor shall be relieved of its debt under the 9(d) Repayment Contract as provided in the Master Agreement.

b. The Subcontractor agrees to pay 9(d) debt service charges associated with CAP entitlement retained under this Agreement as provided in the Amended Subcontract.

c. The United States and the Subcontractor shall amend the 9(d) Repayment Contract to conform to this Agreement and the Master Agreement.

8. Effectiveness and Termination.

a. This Agreement shall be effective upon execution by all parties hereto.

b. This Agreement shall terminate on December 31, 2007, if all of the

following conditions have not been satisfied by that date:

(1) The Master Agreement has been executed by the parties thereto and all conditions to that agreement have been satisfied.

(2) The Gila River Indian Community water rights settlement agreement has been executed by the parties thereto and has been authorized, ratified and confirmed by Congress.

(3) Final judgment has been entered by the United States District Court for the District of Arizona in *Central Arizona Water Conservation District v. United States, et al.*, No. CIV-95-625-TUC-WDB (EHC), No. CIV-95-1720-PHX-EHC (Consolidated Action), in accordance with the CAP Repayment Stipulation.

(4) Congress has passed legislation declaring a portion of the Subcontractor's obligation under the Repayment Contract to be non-reimbursable and non-returnable in accordance with the Master Agreement.

(5) Congress has passed legislation declaring land within the Subcontractor's boundaries to be exempt from the Reclamation Reform Act and any other acreage limitation or full cost pricing provision of federal law.

(6) CAWCD and the Subcontractor have executed the New Excess Water Contract.

(7) The Subcontractor has obtained the landowner approvals and court authorizations identified in Exhibit D.

(8) The Subcontractor and the United States have executed an amendment to the 9(d) Repayment Contract as required by paragraph 7(c) of this Agreement.

c. If this Agreement is terminated:

(1) The Amended Subcontract shall be null and void and the Subcontract shall be restored to full force and effect.

(2) Any reallocation of water conditionally relinquished under this Agreement shall be null and void.

(3) Any contract for delivery of water conditionally relinquished under this Agreement shall be null and void.

(4) The New Excess Water Contract shall terminate.

UNITED STATES OF AMERICA

By: _____

CENTRAL ARIZONA WATER
CONSERVATION DISTRICT

Attest: _____
Secretary

By: _____
President

[Subcontractor]

By: _____

EXHIBIT A - Master Agreement

EXHIBIT B — Amended Subcontract

EXHIBIT C — New Excess Water Contract

EXHIBIT D — Landowner Approvals and Court Authorizations

Exhibit 5.1.1 (C)
Voluntary Relinquishment Agreement
(Relinquishment with Individual Landowner Designation)

AGREEMENT AMONG THE UNITED STATES,
CENTRAL ARIZONA WATER CONSERVATION DISTRICT
AND _____

PROVIDING FOR THE RELINQUISHMENT OF
CENTRAL ARIZONA PROJECT WATER

This Agreement is made as of the ____ day of _____ 200__ in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, including but not limited to the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057), as amended, the Reclamation Project Act of August 4, 1939 (53 Stat. 1187), as amended, the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), and the Colorado River Basin Project Act of September 30, 1968 (82 Stat. 885), as amended (the "Basin Project Act"), among the United States, Central Arizona Water Conservation District ("CAWCD"), and _____ (the "Subcontractor"), with its principal place of business in _____, Arizona.

RECITALS

A. The United States, CAWCD and the Subcontractor have entered into Subcontract No. _____, captioned "Subcontract Among the United States, the Central Arizona Water Conservation District, and _____ Providing for Water Service, Central Arizona Project," dated _____ (the "Subcontract"), providing for the delivery of non-Indian agricultural priority Central Arizona Project ("CAP") water to the Subcontractor.

B. By notice published in the Federal Register on February 5, 1992, the Secretary of the Interior allocated an additional percentage of non-Indian agricultural priority CAP water to the Subcontractor (the "Reallocated Water").

C. The United States and the Subcontractor have entered into a contract pursuant to section

9(d) of the Reclamation Project Act of 1939 (the “9(d) Repayment Contract”), under which a distribution system was constructed to deliver water from the CAP to the Subcontractor and the Subcontractor incurred certain debt to the United States.

D. On November 8, 1993, CAWCD and the Subcontractor entered into a Letter Agreement regarding certain of those parties’ rights and obligations under the Subcontract.

E. On January 1, 1994, CAWCD and the Subcontractor entered into a contract whereby CAWCD agreed to deliver excess CAP water to the Subcontractor at favorable prices through December 31, 2003 (the “Excess Water Contract”).

F. The United States has challenged the validity of the Letter Agreement and Excess Water Contract in Central Arizona Water Conservation District v. United States, Nos. CIV 95-625-TUC-WDB (EHC) and CIV 95-1720-PHX-EHC (Consolidated Action) (the “CAP Repayment Litigation”).

G. The United States and CAWCD entered into a Stipulation Regarding a Stay of Litigation, Resolution of Issues During the Stay and for Ultimate Judgment upon the Satisfaction of Conditions, filed with the United States District Court on May 3, 2000, in the CAP Repayment Litigation (the “Stipulation”). The Stipulation clarifies CAWCD’s right to sell excess CAP water, but it does not expressly resolve the dispute regarding the Letter Agreement and Excess Water Contract.

H. The United States desires to obtain rights to an additional quantity of CAP water to facilitate Indian water rights settlements.

I. Under the terms and conditions specified herein, the Subcontractor is willing to relinquish its entitlement to CAP water under the Subcontract and any rights it may have to the Reallocated Water for the purposes of resolving the dispute regarding the validity of the Letter

Agreement and Excess Water Contract, facilitating the settlement of water rights claims made by the Gila River Indian Community, receiving relief from certain distribution system debt, obtaining a replacement water supply at a favorable price, and obtaining an exemption from the acreage limitation and full cost pricing provisions of federal law, including but not limited to the Reclamation Reform Act of 1982.

J. One or more landowners within the Subcontractor's boundaries has indicated a desire to contract for a proportionate share of the Subcontractor's CAP water entitlement.

AGREEMENT

1. Definitions. Definitions included in the Subcontract and Stipulation are applicable to this Agreement. The first letters of terms so defined are capitalized herein. In addition, the following definitions shall apply to this Agreement:

a. "Landowner Subcontract" shall mean an agreement among the United States, CAWCD and an individual landowner in the form attached hereto as Exhibit B.

b. "Master Agreement" shall mean the Arizona Water Settlement Agreement among the United States, the Arizona Department of Water Resources and CAWCD, in the form attached hereto as Exhibit A.

d. "New Excess Water Contract" shall mean the agreement between CAWCD and the Subcontractor in the form attached hereto as Exhibit C.

2. Relinquishment of CAP Entitlement.

a. In accordance with paragraph 6 of the Master Agreement, the Subcontractor hereby designates ____ acre-feet of its annual entitlement to CAP water under the Subcontract for the benefit of _____ and relinquishes the remainder of its annual entitlement to CAP water under the Subcontract.

b. The Subcontractor relinquishes any and all rights it may have to the Reallocated Water.

c. The designation(s) and relinquishments made under this paragraph shall not be permanent or irrevocable until all conditions to this Agreement have been satisfied.

3. Status of Subcontract. Upon satisfaction of all conditions to this Agreement, the Subcontract shall terminate, any and all rights and privileges under the Subcontract shall be permanently relinquished, and any attendant obligations and liabilities of the Subcontractor under the Subcontract shall be deemed to be fully satisfied and discharged.

4. Landowner Subcontract. The United States and CAWCD shall offer to enter into a Landowner Subcontract with _____ for _____ acre-feet of non-Indian agricultural priority CAP water annually. If _____ fails to execute a Landowner Subcontract within 60 days after the execution of this Agreement, then the water designated for the benefit of _____ under paragraph 2 shall be deemed relinquished and shall immediately be reallocated to the Arizona Department of Water Resources as provided in subparagraph 9.3 of the Master Agreement.

5. Reallocation of Relinquished Water. Any water conditionally relinquished under this Agreement shall be available for conditional reallocation in accordance with paragraph 9 of the Master Agreement.

6. Replacement Water Supply. CAWCD shall deliver excess CAP water in accordance with the New Excess Water Contract beginning January 1, 2004.

7. Distribution System Debt Relief.

a. The Subcontractor shall be relieved of its debt under the 9(d) Repayment Contract as provided in the Master Agreement.

b. _____ shall be required to pay 9(d) debt service charges associated with

the CAP entitlement designated for its benefit under paragraph 2 of this Agreement as provided in the Landowner Subcontract.

c. The United States and the Subcontractor shall amend the 9(d) Repayment Contract to conform to this Agreement and the Master Agreement.

8. Effectiveness and Termination.

a. This Agreement shall be effective upon execution by all parties hereto.

b. This Agreement shall terminate on December 31, 2007, if all of the following conditions have not been satisfied by that date:

(1) The Master Agreement has been executed by the parties thereto and all conditions to that agreement have been satisfied.

(2) The Gila River Indian Community water rights settlement agreement has been executed by the parties thereto and has been authorized, ratified and confirmed by Congress.

(3) Final judgment has been entered by the United States District Court for the District of Arizona in *Central Arizona Water Conservation District v. United States, et al.*, No. CIV-95-625-TUC-WDB (EHC), No. CIV-95-1720-PHX-EHC (Consolidated Action), in accordance with the CAP Repayment Stipulation.

(4) Congress has passed legislation declaring a portion of the Subcontractor's obligation under the Repayment Contract to be non-reimbursable and non-returnable in accordance with the Master Agreement.

(5) Congress has passed legislation declaring land within the Subcontractor's boundaries to be exempt from the Reclamation Reform Act and any other acreage limitation or full cost pricing provision of federal law.

(6) CAWCD and the Subcontractor have executed the New Excess Water Contract.

(7) The Subcontractor has obtained the landowner approvals and court authorizations identified in Exhibit D.

(8) The Subcontractor and the United States have executed an amendment to the 9(d) Repayment Contract as required by paragraph 7(c) of this Agreement.

c. If this Agreement is terminated:

(1) The Landowner Subcontract shall be null and void and the Subcontract shall be restored to full force and effect.

(2) Any reallocation of water conditionally relinquished under this Agreement shall be null and void.

(3) Any contract for delivery of water conditionally relinquished under this Agreement shall be null and void.

(4) The New Excess Water Contract shall terminate.

9. Third-Party Beneficiaries. _____ is an express third party beneficiary as to subparagraph 2(a) and paragraph 4 of this Agreement. No other third-party beneficiaries are expressed or implied by this Agreement.

UNITED STATES OF AMERICA

By: _____

CENTRAL ARIZONA WATER
CONSERVATION DISTRICT

Attest: _____
Secretary

By: _____
President

[Subcontractor]

By: _____

EXHIBIT A - Master Agreement

EXHIBIT B — Landowner Subcontract

EXHIBIT C — New Excess Water Contract

EXHIBIT D — Landowner Approvals and Court Authorizations

Exhibit 5.2.2
Federal Register Notice

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Central Arizona Project (CAP), Arizona; Water Allocations

AGENCY: Office of the Secretary, Interior

ACTION: Notice of Modification to the Secretary of the Interior's Record of Decision, Publication of a Final Decision of CAP Water Reallocation

SUMMARY: The Department is rescinding the February 5, 1992, CAP Water Reallocation Decision that modified the March 24, 1983, CAP Water Allocation Decision. The Department is publishing a Final Decision of CAP Water Reallocation in accordance with the Arizona Water Settlements Act (Settlements Act).

FOR FURTHER INFORMATION CONTACT: Randy Chandler, 623-773-6215

SUPPLEMENTARY INFORMATION:

- I. Previous Notices Related to CAP Water
- II. Background of CAP Water Reallocations

I. Previous Notices Related to CAP Water

Previous notices related to CAP water were published in the Federal Register (FR) at 37 FR 28082, December 20, 1972; 40 FR 17297, April 18, 1975; 41 FR 45883, October 18, 1976; 45 FR 52938, August 8, 1980; 45 FR 81265, December 10, 1980; 48 FR 12446, March 24, 1983; 56 FR 28404, June 20, 1991; 56 FR 29704, June 28, 1991; 57 FR 4470, February 5, 1992; 57 FR 48388, October 23, 1992; 65 FR 39177, June 23, 2000; 65 FR 43037, July 12, 2000; 67 FR 38514, June 4, 2002; 68 FR 36578, June 18,

2003; and 69 FR 9378, February 27, 2004. These notices and decisions were made pursuant to the authority vested in the Secretary of the Interior (Secretary) by the Reclamation Act of 1902, as amended and supplemented (32 Stat. 388, 43 U.S.C. 391), the Boulder Canyon Project Act of December 21, 1928 (45 Stat 1057), the Colorado River Basin Project Act of September 30, 1968 (82 Stat. 885, 43 U.S.C. 1501), and in recognition of the Secretary's trust responsibility to Indian tribes.

II. Background of CAP Water Allocations

In the Record of Decision published in the Federal Register on March 24, 1983, the Secretary, among other things, allocated CAP water for Indian uses, non-Indian municipal and industrial (M&I) uses, and the remaining amount for non-Indian agricultural uses. Subject to certain conditions, the CAP water for Indian uses was allocated to 12 Indian tribes for irrigation use or for maintaining tribal homelands. Also subject to certain conditions, the CAP water for M&I uses was allocated based on the State of Arizona's 1982 allocation recommendations for non-Indian entities that provided an amount of CAP water for M&I use to certain non-Indian entities, with the remaining amount of CAP water allocated for non-Indian agricultural use.

The CAP non-Indian agricultural water was allocated to 23 non-Indian irrigation districts or other agricultural entities. The CAP non-Indian agricultural water was allocated to each entity as a percentage of the non-Indian agricultural water supply that was available in any given year. Based on the 1983 decision, CAP water service contracts were executed with Indian tribes, which are two-party agreements between the United States and the Indian tribe. CAP non-Indian M&I water service subcontracts and CAP non-Indian agricultural water service subcontracts were executed with those entities

desiring to enter into subcontracts for CAP water. The CAP water service subcontracts for the non-Indian M&I water and the non-Indian agricultural water are three-party subcontracts among the entity, the Central Arizona Water Conservation District (CAWCD), and the Bureau of Reclamation (Reclamation). Some of the entities that were allocated non-Indian agricultural water and M&I priority water elected to not contract for the offered allocations. After completing the initial subcontracting process, 29.3 percent of the non-Indian agricultural supply and 65,647 acre-feet of M&I water was not under contract.

Congress enacted the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988 (102 Stat. 2558) (SRPMIC Act). Pursuant to section 11(h) of the SRPMIC Act, the Secretary was required to request a reallocation recommendation from the Arizona Department of Water Resources (ADWR) for the remaining non-Indian agricultural water that was not under contract. The Secretary was also required to reallocate the uncontracted CAP water for non-Indian agricultural use and to offer new or amendatory subcontracts for such water.

By letter dated January 7, 1991, ADWR recommended an allocation to the Secretary. The Secretary published a notice in the Federal Register on June 20, 1991 (56 FR 28404), inviting public comments on the proposed reallocation of CAP water. After considering the public comments, the Secretary published a final decision in the Federal Register on February 5, 1992 (57 FR 4470). That decision contemplated that new or amendatory CAP water service subcontracts would be offered soon thereafter.

CAP water service subcontracts for the reallocated water were not executed for several reasons, including but not limited to the following: (1) some entities could not

meet the financial feasibility requirements for receipt of CAP water; (2) lack of agreement on the form of the CAP water service subcontract to offer the entities, and (3) financial difficulties of the CAP non-Indian agricultural sector.

Beginning in the early 1990s, long-term utilization of the CAP water available for reallocation under the 1992 decision and from the uncontracted M&I water was a central issue in negotiations to resolve various operational and financial disputes between Reclamation and CAWCD. After attempts at negotiations failed, water contracting issues were included in litigation and a resulting stipulated settlement between the United States and CAWCD. To implement some of the conditions contained in the stipulated settlement, new Federal legislation was required.

After the 1992 decision but before Federal legislation was enacted, the Secretary published in the Federal Register on June 4, 2002 (67 FR 38514), a notice of proposed modification to the 1983 decision. The 1983 decision provided that the M&I allocation can be made more firm by execution of feasible non-potable effluent exchanges with Indian tribes and the M&I allocation was subject to adoption of a pooling concept whereby all M&I entities share in the benefits of effluent exchanges. The pooling concept provision was included in the CAP M&I water service subcontracts. The 2002 proposed modification to the 1983 decision was to delete the mandatory effluent pooling provision in M&I subcontracts with the cities of Chandler and Mesa and from other M&I water service subcontracts upon request. That provision in the CAP M&I water service subcontracts was an impediment to effluent exchanges and effective water management in central Arizona. The final decision was published in the Federal Register on June 18,

2003 (68 FR 36578), that deleted the mandatory effluent pooling provision, after review and consideration of public comment.

On December 10, 2004, the Settlements Act was enacted (Public Law 108-451). The Settlements Act provides, among other things, for (1) a final allocation of CAP water, with a CAP supply permanently designated for Indian uses and a CAP supply designated for non-Indian M&I or non-Indian agricultural uses, (2) a reallocation by the Secretary of 65,647 acre-feet of currently uncontracted CAP M&I water to 20 specific M&I entities, (3) ratification of the Arizona Water Settlement Agreement (the “master agreement”) among the United States, ADWR, and CAWCD, which provides a statutory-based framework to enable the CAP non-Indian agricultural districts to relinquish existing rights to the delivery of CAP non-Indian agricultural priority water under their CAP water service subcontracts, including their rights, if any, to the reallocated water, and (4) a reallocation of the relinquished and uncontracted non-Indian agricultural supply to various Arizona Indian tribes and ADWR for future M&I use. The Settlements Act provides, in section 111, that certain actions, including the allocation decisions referenced herein “shall be void” if “the Secretary [of the Interior] does not publish a statement of findings under section 207(c) by December 31, 2007.” The Settlements Act also repeals section 11(h) of the SRPMIC Act. To reallocate the CAP non-Indian agricultural water and the uncontracted CAP M&I water in accordance with the Settlements Act, it is necessary to modify the 1983 decision, as amended and supplemented, rescind the 1992 decision, and publish a final reallocation decision.

DECISION:

The 1992 CAP Water Reallocation Decision is rescinded as of the date of this notice. The Final Decision of CAP Water Reallocation, in accordance with the Settlements Act that modifies the 1983 CAP Water Allocation Decision, as amended and supplemented, follows. Except as modified herein, the 1983 CAP Water Allocation Decision, as amended and supplemented, shall continue to be in full force and effect.

FINAL REALLOCATION DECISION:

This final reallocation decision is effective as of the date of this notice subject to section 111 of the Settlements Act and is made to memorialize the reallocation of CAP water in accordance with the Settlements Act, as set forth below:

1. Reallocation to Arizona Indian Tribes.

(A) I hereby reallocate 197,500 acre-feet of agricultural priority water per year pursuant to section 104(a)(1)(A) of the Settlements Act, made available pursuant to the master agreement for use by Arizona Indian tribes, of which

(i) 102,000 acre-feet per year is hereby reallocated to the Gila River Indian Community;

(ii) 28,200 acre-feet per year is hereby reallocated to the Tohono O'odham Nation; and

(iii) 67,300 acre-feet per year is hereby retained for reallocation to Arizona Indian tribes,
subject to the following conditions as specified in section 104(a)(1)(B) of the Settlements Act.

(B) Conditions: The reallocation of agricultural priority water made herein pursuant to section 104(a)(1)(A)(iii) of the Settlements Act shall be subject to the conditions that

(1) such water shall be used to resolve Indian water claims in Arizona, and may be allocated by the Secretary of the Interior to Arizona Indian tribes in fulfillment of future Arizona Indian water rights settlement agreements approved by an Act of Congress. In the absence of an Arizona Indian water rights settlement that is approved by an Act of Congress after the date of enactment of the Settlements Act, the Secretary shall not allocate any such water until December 31, 2030. Any allocations made by the Secretary after such date shall be accompanied by a certification that the Secretary is making the allocation in order to assist in the resolution of an Arizona Indian water right claim. Any such water allocated to an Arizona Indian tribe pursuant to a water delivery contract with the Secretary under this clause shall be counted on an acre-foot per acre-foot basis against any claim to water for that Tribe's reservation.

(2) notwithstanding clause 1 above and in accordance with section 104(a)(1)(B)(ii) of the Settlements Act, I hereby retain 6,411 acre-feet of water per year for use for a future water rights settlement agreement approved by an Act of Congress that settles the Navajo Nation's claims to water in the State of Arizona. If Congress does not approve this settlement before December 31, 2030, the 6,411 acre-feet of CAP water shall be available to the Secretary of the Interior under clause 1 above; and

(3) the agricultural priority water shall not, without specific authorization by Act of Congress, be leased, exchanged, forborne, or otherwise transferred by an Arizona

Indian tribe for any direct or indirect use outside the reservation of the Arizona Indian tribe.

(C) In consultation with Arizona Indian tribes and the State of Arizona, the Secretary of the Interior shall prepare a report for Congress by December 31, 2016, that assesses whether the potential benefits of section 104(a)(1)(A)(iii) of the Settlements Act are being conveyed to Arizona Indian tribes pursuant to water rights settlements enacted subsequent to the Settlements Act. For those Arizona Indian tribes who have not yet settled water rights claims, the report shall describe whether any active negotiations are taking place and identify any critical water needs that exist on the reservation of each such Indian tribe. The report shall also identify and report on the use of unused quantities of agricultural priority water made available to Arizona Indian tribes under section 104(a)(1)(A)(iii) of the Settlements Act.

2. Reallocation to ADWR.

(A) I hereby reallocate up to 96,295 acre-feet of agricultural priority water per year to ADWR, pursuant to section 104(a)(2)(A) of the Settlements Act and subject to subparagraph 9.3 of the master agreement, to be held under contract in trust for further allocation pursuant to section 104(a)(2)(C) of the Settlements Act. Direct use of the agricultural priority water by ADWR is prohibited under the master agreement and this notice.

(1) Further Allocation: In accordance with section 104(a)(2)(C) of the Settlements Act, before water may be further allocated the Director of ADWR shall submit to the Secretary of the Interior a recommendation for reallocation. As soon as practicable after receiving the recommendation, the Secretary shall carry out all of the

necessary reviews of the proposed reallocation in accordance with applicable Federal law. If the Director's recommendation is rejected, the Secretary shall request a revised recommendation from the Director of ADWR and proceed with any reviews required.

(B) The reallocation of agricultural priority water to ADWR pursuant to section 104(a)(2)(A) and section 104(a)(2)(C) of the Settlements Act is subject to the master agreement, including certain rights provided by the master agreement to water users in Pinal County, Arizona.

(C) The agricultural priority water reallocated to the ADWR shall be subject to the condition that the water retain its non-Indian agricultural delivery priority.

3. Reallocation of Uncontracted Central Arizona Project M&I Priority Water, as recommended by the Director of ADWR.

(A) I hereby reallocate 65,647 acre-feet of uncontracted M&I water per year to the State of Arizona entities, pursuant to section 104(2)(D)(b)(1) of the Settlements Act, as shown in the following Table 1 - Uncontracted M&I Water.

Table 1 - Uncontracted M&I Water

State of Arizona Entity	Amount in Acre-feet Per Year	State of Arizona Entity	Amount in Acre-feet Per Year
Town of Superior	285	City of Chandler	4,986
Cave Creek Water Company	806	Del Lago (Vail) Water Company	1,071
Chaparral Water Company	1,931	City of Glendale	3,053
Town of El Mirage	508	Community Water Company of Green Valley	1,521
City of Goodyear	7,211	Metropolitan Domestic Water Improvement District	4,602
H2O Water Company	147	Town of Oro Valley	3,557
City of Mesa	7,115	City of Phoenix	8,206
City of Peoria	5,527	City of Surprise	2,876
City of Scottsdale	2,981	City of Tucson	8,206
AVRA Cooperative	808	Valley Utilities Water Company	250
Total Water Reallocated:			65,647

4. Contracting for Reallocated Water.

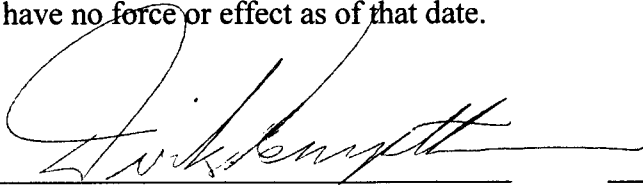
(A) I hereby direct the Commissioner of Reclamation, through his Regional Director, Lower Colorado Region, Boulder City, Nevada to proceed, in accordance with the Settlements Act, with offering to enter into contracts, amendments to contracts, subcontracts, or amendments to subcontracts for the delivery of the agricultural priority water to the Arizona Indian tribes as described in this notice, the agricultural priority water to ADWR as described in this notice and in accordance with the master agreement, and the uncontracted M&I water to entities as described in Table 1 of this notice.

(B) If the Secretary is precluded under applicable Federal law from entering into a subcontract with an entity identified in Table 1 of this notice, then the Secretary shall request a revised recommendation from the Director of ADWR and reallocate and enter

into a subcontract for the delivery of water in accordance with section 104(b)(2)(B) of the Settlements Act and section 4 (A) of this notice.

EFFECTIVE DATE:

This Final Reallocation Decision is effective as of the date of this notice and is revocable under the applicable provisions of the Settlements Act. In the event that a statement of findings is not published in the Federal Register by December 31, 2007, as required by section 207(c) of the Settlements Act, this Final Reallocation Decision and all decisions made herein will, be void and automatically revoked as of January 1, 2008, and shall have no force or effect as of that date.



Secretary of the Interior

AUG 22 2006

Date

Exhibit 6.6
Amended Non-Indian Agricultural Subcontract

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

AMENDED SUBCONTRACT AMONG THE UNITED STATES,
THE CENTRAL ARIZONA WATER CONSERVATION DISTRICT,
AND _____
PROVIDING FOR WATER SERVICE

CENTRAL ARIZONA PROJECT

1. PREAMBLE:

THIS SUBCONTRACT, made this 1st day of January, 2004, in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, including but not limited to the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057), as amended, the Reclamation Project Act of August 4, 1939 (53 Stat. 1187), as amended, the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), and particularly the Colorado River Basin Project Act of September 30, 1968 (82 Stat. 885), as amended, all collectively hereinafter referred to as the "Federal Reclamation Laws," among the UNITED STATES OF AMERICA, hereinafter referred to as the "United States" acting through the Secretary of the Interior, the CENTRAL ARIZONA WATER CONSERVATION DISTRICT, hereinafter referred to as the "Contractor," a water conservation district organized under the laws of Arizona, with its principal place of business in Phoenix, Arizona, and the _____, hereinafter referred to as the "Subcontractor," with its principal place of business in _____, Arizona;

WITNESSETH, THAT:

2. EXPLANATORY RECITALS:

WHEREAS, the Colorado River Basin Project Act provides, among other things, that for the purposes of furnishing irrigation and municipal and industrial water supplies to water deficient areas of Arizona and western New Mexico through direct diversion or exchange of water, control of floods, conservation and development of fish and wildlife resources, enhancement of recreation opportunities, and for other purposes, the Secretary of the Interior shall construct, operate, and maintain the Central Arizona Project; and

WHEREAS, pursuant to the provisions of Arizona Revised Statutes §§ 48-3701 et seq., the Contractor has been organized with the power to enter into a contract or contracts with the Secretary of the Interior to accomplish the purposes of Arizona Revised Statutes §§ 48-3701 et seq.; and

WHEREAS, pursuant to Section 304(b)(1) of the Colorado River Basin Project Act, the Secretary of the Interior has determined that it is necessary to effect repayment of the cost of constructing the Central Arizona Project pursuant to a master contract and that the United States, together with the Contractor, shall be a party to contracts that are in conformity with and subsidiary to the master contract; and

WHEREAS, the United States and the Contractor entered into Contract No. 14-06-W-245, Amendment No. 1, dated December 1, 1988, hereinafter referred to as the "Repayment Contract," a copy of which is attached hereto as Exhibit "A" and by this reference made a part

hereof, whereby the Contractor agrees to repay to the United States the reimbursable costs of the Central Arizona Project allocated to the Contractor; and

WHEREAS, the United States, the Contractor and the Subcontractor entered into this subcontract for water supplies available under the Central Arizona Project in 1983; and

WHEREAS, the United States, the Contractor and the Arizona Department of Water Resources have entered into the Arizona Water Settlement Agreement, under which the United States agreed to discharge and the Contractor agreed to pay certain debt owed by the Subcontractor under section 9(d) of the Reclamation Project Act of 1939 (43 U.S.C. §485h) if the Subcontractor agreed to relinquish some or all of its entitlement to Project agricultural water under this subcontract; and

WHEREAS, the United States, the Contractor and the Subcontractor have entered into an Agreement Providing for the Partial Relinquishment of Central Arizona Project Water ("Relinquishment Agreement"), under which the Subcontractor agreed to relinquish a portion of its entitlement to Project agricultural water under this subcontract but elected to retain the remainder of its subcontract entitlement; and

WHEREAS, the Subcontractor agreed in the Relinquishment Agreement to pay certain 9(d) debt service charges to the Contractor if the Subcontractor elected to retain any of its entitlement to Project agricultural water under this subcontract;

NOW THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is agreed as follows:

3. DEFINITIONS:

Definitions included in the Repayment Contract are applicable to this subcontract; Provided, however, That the terms "Agricultural water" or "Irrigation water" shall mean water used for the purposes defined in the Repayment Contract on tracts of land operated in units of more than 5 acres. The first letters of terms so defined are capitalized herein. As heretofore indicated, a copy of the Repayment Contract is attached as Exhibit "A."

4. DELIVERY OF WATER:

4.1 Obligations of the United States. Subject to the terms, conditions, and provisions set forth herein and in the Repayment Contract, during such periods as it operates and maintains the Project Works, the United States shall deliver Project Water for Agricultural use by the Subcontractor. The United States shall use all reasonable diligence to make available to the Subcontractor the quantity of Project Water specified in the schedule submitted by the Subcontractor in accordance with Article 4.4. After transfer of OM&R to the Operating Agency, the United States shall make deliveries of Project Water to the Operating Agency which shall make subsequent delivery to the Subcontractor as provided herein.

4.2 Term of Subcontract. This subcontract shall become effective upon its confirmation as provided for in Article 6.12 and shall remain in effect for a period of 50 years beginning with the January 1 of the Year following that in which the Secretary issues the

Notice of Completion of the Water Supply System unless sooner terminated in accordance with Article 5.4; Provided, That this subcontract may be renewed upon written request by the Subcontractor upon terms and conditions of renewal to be agreed upon not later than 1 year prior to the expiration of this subcontract; And Provided further, That such terms and conditions shall be consistent with Article 9.9 of the Repayment Contract.

4.3 Conditions Relating to Delivery and Use. Delivery and use of water under this subcontract is conditioned on the following, and the Subcontractor hereby agrees that:

(a) All uses of Project Water and Return Flow shall be consistent with Arizona water law unless such law is inconsistent with the Congressional directives applicable to the Central Arizona Project. Project Water shall be used within Contractor's service area or place of use. The Contractor's service area or place of use is shown on the map that is attached as Exhibit B and incorporated by this reference.

(b) The system or systems through which water for Agricultural, M&I, and Miscellaneous (including ground-water recharge) purposes is conveyed after delivery to the Subcontractor shall consist of pipelines, canals, distribution systems, or other conduits provided and maintained with linings adequate in the Contracting Officer's judgment to prevent excessive conveyance losses.

(c) The Subcontractor shall not pump, or within its legal authority, permit others to pump ground water from within the exterior boundaries of the Subcontractor's service area for use

outside of said service area unless such pumping is permitted under Title 45, Chapter 2, Arizona Revised Statutes, as it may be amended from time to time, and the Contracting Officer, the Contractor, and the Subcontractor shall agree, or shall have previously agreed, that a surplus of ground water exists and drainage is or was required;

Provided, however, That such pumping may be approved by the Contracting Officer and the Contractor, and approval shall not be unreasonably withheld, if such pumping is in accord with the Basin Project Act and upon submittal by the Subcontractor of a written certification from the Arizona Department of Water Resources or its successor agency that the pumping and transportation of ground water is in accord with Title 45, Chapter 2, Arizona Revised Statutes, as it may be amended from time to time.

(d) The Subcontractor shall not sell or otherwise dispose of or permit the sale or other disposition of any Project Water for use outside of Maricopa, Pinal, and Pima Counties; Provided, however, That this does not prohibit exchanges of Project Water covered by separate agreements.

(e) (i) Project Water scheduled for delivery in any Year under this subcontract may be used by the Subcontractor or resold or exchanged by the Subcontractor pursuant to appropriate agreements approved by the Contracting Officer and the Contractor. If said water is resold or exchanged by the Subcontractor for an amount in excess of that which the Subcontractor is obligated to pay under this subcontract, the excess amount shall be paid forthwith by the Subcontractor to the Contractor for application against the

Contractor's Repayment Obligation to the United States; Provided, however, That the Subcontractor shall be entitled to recover actual costs of transportation, treatment, and distribution, including but not limited to capital costs and OM&R costs.

(ii) Project Water scheduled for delivery in any year under this subcontract that cannot be used, resold, or exchanged by the Subcontractor may be made available by the Contracting Officer and Contractor to other users. If such Project Water is sold to or exchanged with other users, the Subcontractor shall be relieved of its payments hereunder only to the extent of the amount paid to the Contractor by such other users, but not to exceed the amount the Subcontractor is obligated to pay under this subcontract for said water.

(iii) In the event the Subcontractor or the Contracting Officer and the Contractor are unable to sell any portion of the Subcontractor's Project Water scheduled for delivery and not required by the Subcontractor, the Subcontractor shall be relieved of the pumping energy portion of the OM&R charges associated with the undelivered water as determined by the Contractor.

(f) Unless and until otherwise provided by Congress, Project Water shall not be made available directly or indirectly for the irrigation of lands in the Subcontractor's service area which the Secretary determines were not irrigated during the period September 30, 1958, to September 30, 1968, except where otherwise determined by the Secretary for efficiency of the Subcontractor's operation.

(g) Agricultural Water shall be made available only

for the irrigation of eligible lands. "Eligible lands" shall mean those lands which were irrigated during the period of September 30, 1958, to September 30, 1968, and meet all other Federal requirements and which may legally be irrigated pursuant to Title 45, Chapter 2, Arizona Revised Statutes, as it may be amended from time to time. Said eligible lands are shown on Exhibit B.

(h) Agricultural Water shall not be made available to the Subcontractor until there are in effect measures which are adequate in the judgment of the Contracting Officer and the Contractor to control expansion of irrigation from aquifers affected by irrigation in the Subcontractor's service area and to reduce pumping of ground water in the Subcontractor's service area by the amount of Project Agricultural Water received.

(i) Subject to the prior approval of the Contracting Officer and the Contractor, which approval shall not be unreasonably withheld, Agricultural Water made available hereunder for eligible lands may be converted to M&I purposes if and to the extent that such water is no longer required by the Subcontractor for irrigation purposes and shall be converted in all cases where eligible lands receiving Project Agricultural Water have been converted to M&I use; Provided, That the water converted from irrigation to M&I purposes as a result of the conversion of eligible lands to M&I uses shall be used only for M&I purposes within the service area of the entity responsible for serving the converted lands. Such conversion of water use for eligible lands shall be at a rate of up to 1 acre-foot per acre minus the average annual surface water supply for said acre which

was available for use during the 1958-1976 period as determined by the Contracting Officer. Conversion of water from agricultural to M&I purposes shall take effect only upon execution or amendment of an appropriate subcontract among the United States, the Contractor, and the M&I user. All Project Water converted from agricultural to M&I use shall be delivered at the same water service charge per acre-foot as other M&I Water and with the same priority as other Project M&I Water; Provided, That the Contractor's charge to the Subcontractor for water service shall be adjusted to reflect the conversion to M&I uses.

(j) Notwithstanding any other provision of this subcontract, Project Water shall not be delivered to the Subcontractor unless and until the Subcontractor has obtained final environmental clearance from the United States for the system or systems through which Project Water is to be conveyed after delivery to the Subcontractor at the Subcontractor's Project turnout(s). This pertains only to proposed, but not yet built, systems through which Project Water is to be conveyed after delivery to the Subcontractor. Such system(s) shall include all pipelines, canals, distribution systems, treatment, storage, and other facilities through or in which Project Water is conveyed, stored, or treated after delivery to the Subcontractor at the Subcontractor's Project turnout(s). In each instance, final environmental clearance will be based upon a review by the United States of the Subcontractor's plans for taking and using Project Water and will be given or withheld by the United States in accordance with the Final Environmental Impact Statement -- Water Allocations and Water Service Contracting (FES 82-7, filed March 19,

1982) and the National Environmental Policy Act of 1969 (83 Stat. 852). Any additional action(s) required on behalf of the Subcontractor in order to obtain final environmental clearance from the United States will be identified to the Subcontractor by the United States, and no Project Water shall be delivered to the Subcontractor unless and until the Subcontractor has completed all such action(s) to the satisfaction of the United States.

4.4 Procedure for Ordering Water.

(a) At least 15 months prior to the date the Secretary expects to issue the Notice of Completion of the Water Supply System, or as soon thereafter as is practicable, the Contracting Officer shall announce by written notice to the Contractor the amount of Project Water available for delivery during the Year in which said Notice of Completion is issued (initial Year of water delivery) and during the following Year. Within 30 days of receiving such notice, the Contractor shall issue a notice of availability of Project Water to the Subcontractor. The Subcontractor shall, within a reasonable period of time as determined by the Contractor, submit a written schedule to the Contractor and the Contracting Officer showing the quantity of water desired by the Subcontractor during each month of said initial Year and the following Year. The Contractor shall notify the Subcontractor by written notice of the Contractor's action on the requested schedule within 2 months of the date of receipt of such request.

(b) The amounts, times, and rates of delivery of Project Water to the Subcontractor during each Year subsequent to the

Year following said initial Year of water delivery shall be in accordance with a water delivery schedule for that Year. Such schedule shall be determined in the following manner:

(i) On or before June 1 of each Year beginning with the Year following the initial Year of water delivery pursuant to this subcontract, the Contracting Officer shall announce the amount of Project Water available for delivery during the following Year in a written notice to the Contractor. In arriving at this determination, the Contracting Officer, subject to the provisions of the Repayment Contract, shall use his best efforts to maximize the availability and delivery of Arizona's full entitlement of Colorado River water over the term of this subcontract. Within 30 days of receiving said notice, the Contractor shall issue a notice of availability of Project Water to the Subcontractor.

(ii) On or before October 1 of each Year beginning with the Year following said initial Year of water delivery, the Subcontractor shall submit in writing to the Contractor and the Contracting Officer a water delivery schedule indicating the amounts of Project Water desired by the Subcontractor during each month of the following Year along with a preliminary estimate of Project Water desired for the succeeding 2 years.

(iii) Upon receipt of the schedule, the Contractor and the Contracting Officer shall review it and, after consultation with the Subcontractor, shall make only such modifications to the schedule as are necessary to ensure that the amounts, times, and rates of delivery to the Subcontractor are

consistent with the delivery capability of the Project, considering, among other things, the availability of water and the delivery schedules of all subcontractors.

(iv) On or before November 15 of each Year beginning with the Year following said initial Year of water delivery, the Contractor shall determine and furnish to the Subcontractor and the Contracting Officer the water delivery schedule for the following Year which shall show the amount of water to be delivered to the Subcontractor during each month of that Year, contingent upon the Subcontractor remaining eligible to receive water under all terms contained herein.

(c) The monthly water delivery schedules may be amended upon the Subcontractor's written request to the Contractor. Proposed amendments shall be submitted by the Subcontractor to the Contractor no later than 15 days before the desired change is to become effective, and shall be subject to review and modification in like manner as the schedule. The Contractor shall notify the Subcontractor and the Contracting Officer of its action on the Subcontractor's requested schedule modification within 10 days of the Contractor's receipt of such request.

(d) The Contractor and the Subcontractor shall hold the United States, its officers, agents, and employees, harmless on account of damage or claim of damage of any nature whatsoever arising out of or connected with the actions of the Contractor regarding water delivery schedules furnished to the Subcontractor.

(e) In no event shall the Contracting Officer or the

Contractor be required to deliver to the Subcontractor from the Water Supply System in any one month a total amount of Project Water greater than 11 percent of the Subcontractor's annual entitlement for that Year; Provided, however, That the Contracting Officer may deliver a greater percentage in any month if such increased delivery is compatible with the overall delivery of Project Water to other subcontractors as determined by the Contracting Officer and the Contractor and if the Subcontractor agrees to accept such increased deliveries.

4.5 Points of Delivery—Measurement and Responsibility for Distribution of Water.

(a) The water to be furnished to the Subcontractor pursuant to this subcontract shall be delivered at turnouts to be constructed by the United States at such point(s) on the Water Supply System as may be agreed upon in writing by the Contracting Officer and the Contractor, after consultation with the Subcontractor.

(b) Unless the United States and the Subcontractor agree by contract to the contrary, the Subcontractor shall construct and install, at its sole cost and expense, connection facilities required to take and convey the water from the turnouts to the Subcontractor's service area. The Subcontractor shall furnish, for approval of the Contracting Officer, drawings showing the construction to be performed by the Subcontractor within the Water Supply System right-of-way 6 months before starting said construction. The facilities may be installed, operated, and maintained on the Water Supply System right-of-way subject to such reasonable restrictions and

regulations as to type, location, method of installation, operation and maintenance as may be prescribed by the Contracting Officer.

(c) All water delivered from the Water Supply System shall be measured with equipment furnished and installed by the United States and operated and maintained by the United States or the Operating Agency. Upon the request of the Subcontractor or the Contractor, the accuracy of such measurements shall be investigated by the Contracting Officer or the Operating Agency, Contractor, and Subcontractor, and any errors which may be mutually determined to have occurred therein shall be adjusted; Provided, That in the event the parties cannot agree on the required adjustment, the Contracting Officer's determination shall be conclusive.

(d) Neither the United States, the Contractor, nor the Operating Agency shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project Water beyond the delivery point(s) agreed to pursuant to Subarticle 4.5(a). The Subcontractor shall hold the United States, the Contractor, and the Operating Agency harmless on account of damage or claim of damage of any nature whatsoever for which there is legal responsibility, including property damage, personal injury or death arising out of or connected with the Subcontractor's control, carriage, handling, use, disposal, or distribution of such water beyond said delivery point(s).

4.6 Temporary Reductions. In addition to the right of the United States under Subarticle 8.3(a)(iv) of the Repayment Contract temporarily to discontinue or reduce the amount of water to be delivered, the United States or the Operating Agency may, after

consultation with the Contractor, temporarily discontinue or reduce the quantity of water to be furnished to the Subcontractor as herein provided for the purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or any part thereof necessary for the furnishing of water to the Subcontractor, but so far as feasible the United States or the Operating Agency shall coordinate any such discontinuance or reduction with the Subcontractor and shall give the Subcontractor due notice in advance of such temporary discontinuance or reduction, except in case of emergency, in which case no notice need be given. Neither the United States, its officers, agents, and employees, nor the Operating Agency, its officers, agents, and employees, shall be liable for damages when, for any reason whatsoever, any such temporary discontinuance or reduction in delivery of water occurs. If any such discontinuance or temporary reduction results in deliveries to the Subcontractor of less water than what has been paid for in advance, the Subcontractor shall be entitled to be reimbursed for the appropriate proportion of such advance payments prior to the date of the Subcontractor's next payment of water service charges or the Subcontractor may be given credit toward the next payment of water charges if the Subcontractor should so desire.

4.7 Priority in Case of Shortage. Subject to the provisions of Section 304(e) of the Basin Project Act, any Project Water furnished for non-Indians through Project facilities shall, in the event of shortage thereof, as determined by the Contracting Officer after consultation with the Contractor, be reduced pro rata

until exhausted, first for Miscellaneous Water uses and next for Agricultural Water uses before water furnished for non-Indian M&I use is reduced. Thereafter, water for M&I uses shall be reduced pro rata among all non-Indian M&I users. All Project Water converted from agricultural to M&I use shall be delivered with the same priority as other Project M&I Water. Pursuant to the authority vested in the Secretary by the Reclamation Act of 1902 (32 Stat. 388), as amended and supplemented, the Basin Project Act, the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR Part 1505), and the Implementing Procedures of the U. S. Department of the Interior (516 DM 5.4), the relative priorities between Indian and non-Indian uses will be determined by the Secretary consistent with the allocations published in the Federal Register on March 24, 1983.

4.8 Secretarial Control of Return Flow.

(a) The Secretary reserves the right to capture all Return Flow flowing from the exterior boundaries of the Contractor's Service Area as a source of supply and for distribution to and use of the Central Arizona Project to the fullest extent practicable. The Secretary also reserves the right to capture for Project use Return Flow which originates or results from water contracted for from the Central Arizona Project within the boundaries of the Contractor's Service Area if, in his judgment, such Return Flow is not being put to a beneficial use. The Subcontractor may recapture and reuse or sell its Return Flow; Provided, however, That such Return Flow may not be sold for use outside Maricopa, Pinal, and Pima Counties. The

Subcontractor shall, at least 60 days in advance of any proposed sale of such water, furnish the following information in writing to the Contracting Officer and the Contractor:

(i) The name and address of the prospective buyer.

(ii) The location and proposed use of the Return Flow.

(iii) The price to be charged for the Return Flow.

(b) The price charged for the Return Flow may cover the cost incurred by the Subcontractor for Project Water plus the cost required to make the Return Flow usable. If the price received for the Return Flow is greater than the costs incurred by the Subcontractor, as described above, the excess amount shall be forthwith returned by the Subcontractor to the Contractor for application against the Contractor's Repayment Obligation to the United States. Costs required to make Return Flow usable shall include but not be limited to capital costs and OM&R costs including transportation, treatment and distribution, and the portion thereof which may be retained by the Subcontractor shall be subject to the advance approval of the Contractor and the Contracting Officer.

(c) Any Return Flow captured by the United States and determined by the Contracting Officer and the Contractor to be suitable and available for use by the Subcontractor may be delivered by the United States or Operating Agency to the Subcontractor as a part of water supply for which the Subcontractor subcontracts

hereunder and such water shall be accounted and paid for pursuant to the provisions hereof.

(d) All capture, recapture, use, reuse and sale of Return Flow under this article shall be in accord with Arizona water law.

4.9 Water Acquired by Subcontractor Other Than From the United States.

(a) The provisions of Subarticles 6.4(a) and (b) of this subcontract shall not be applicable to or affect non-Project Water or water rights now owned or hereafter acquired by the Subcontractor from sources other than from the United States unless such non-Project Water is transported through distribution facilities of the Subcontractor constructed or financed by the United States. If Project and non-Project Waters are commingled, Subarticles 6.4(a) and (b) of this subcontract shall apply as follows:

(i) If Project and non-Project Waters are transported through non-Federally financed distribution facilities, only Project Water is subject to Subarticles 6.4(a) and (b) of this subcontract.

(ii) If Project and non-Project Waters are transported through Federally financed distribution facilities, both Project and non-Project Waters are subject to Subarticles 6.4 (a) and (b) of the subcontract.

(b) With respect to the distribution facilities or portions thereof in which commingling occurs as provided in Subarticle (a) (i) hereof, the Subcontractor:

(i) Shall install and be responsible for the OM&R of separate outlets from the distribution facilities for nonexcess and excess lands. At the request of the Contracting Officer, the Subcontractor shall be responsible for the installation and OM&R of water measuring equipment at delivery points to excess lands and, further, shall be responsible for the installation and OM&R of similar equipment for measuring the water available to the Subcontractor other than from the Central Arizona Project, and the Contracting Officer may check and inspect said equipment at any time; and

(ii) Agrees that the quantity of Project Water furnished to it shall be delivered only to eligible lands through the aforesaid outlets. The Subcontractor shall be deemed to be in breach of this Article and Subarticles 6.4(a) and (b) of this subcontract if at any time there is furnished to any excess lands not covered by recordable contracts and served by the distribution facilities, or portions thereof in which commingling occurs, a quantity of water which is greater than that which the Subcontractor has introduced into said system from the supply available other than pursuant to this subcontract.

(c) Should breach of this Article and Subarticles 6.4(a) and (b) be determined by the Contracting Officer, there shall be no further delivery of Project Water to the Subcontractor until the Subcontractor is in compliance with such provisions as determined by the Contracting Officer. In the event that delivery of Project Water

is denied to the Subcontractor due to non-compliance the provisions of Subarticle 4.3 (e) shall apply.

4.10 Water and Air Pollution Control. The Subcontractor, in carrying out this subcontract, shall comply with all applicable water and air pollution laws and regulations of the United States and the State of Arizona and shall obtain all required permits or licenses from the appropriate Federal, State, or local authorities.

4.11 Quality of Water. The operation and maintenance of Project facilities shall be performed in such manner as is practicable to maintain the quality of water made available through such facilities at the highest level reasonably attainable as determined by the Contracting Officer. Neither the United States, the Contractor, nor the Operating Agency warrants the quality of water and is under no obligation to construct or furnish water treatment facilities to maintain or better the quality of water. The Subcontractor waives its right to make a claim against the United States, the Operating Agency, the Contractor or another subcontractor because of changes in water quality caused by the commingling of Project water with other water.

4.12 Exchange Water.

(a) Where the Contracting Officer determines the Subcontractor is physically able to receive Colorado River mainstream water in exchange for or in replacement of existing supplies of water from surface sources other than the Colorado River, the Contracting Officer may require that the Subcontractor accept said mainstream water in exchange for or in replacement of said existing supplies pursuant to the provisions of Section 304 (d) of the Basin Project Act; Provided, however, That a subcontractor on the Project aqueduct shall not be required to enter into exchanges in which existing

supplies of water from surface sources are diverted for use by other subcontractors downstream on the Project aqueduct.

(b) If, in the event of shortages, the Subcontractor has yielded water from other surface water sources in exchange for Colorado River mainstream water supplied by the Contractor or the Operating Agency, the Subcontractor shall have first priority against other users supplied with Project Water that have not yielded water from other surface water sources but only in quantities adequate to replace the water so yielded.

4.13 Entitlement to Project Agricultural Water. Subject to the provisions of Article 4.7 hereof, commencing with the Year in which the Secretary issues the Notice of Completion of the Water Supply System and for each Year thereafter until the term of this subcontract expires, the Subcontractor is entitled to take a maximum of _____ acre-feet of Project Agricultural Water, minus the amount of Project Agricultural Water converted to M&I purposes pursuant to Article 4.3(i).

4.14 Delivery of Project Water Prior to Completion of Project Works. Prior to the date of issuance of the Notice of Completion of the Water Supply System by the Secretary, water may be made available for delivery by the Secretary on a "when available" basis at a water rate and other terms to be determined by the Secretary after consultation with the Contractor.

5. PAYMENTS:

5.1 Water Service Charges for Payment of Operation, Maintenance, and Replacement Costs. Subject to the provisions of

Article 5.5 hereof, the Subcontractor shall pay in advance for Project OM&R costs estimated to be incurred by the United States or the Operating Agency. At least 15 months prior to first delivery of Project Water, or as soon thereafter as is practicable, the Contractor shall furnish the Subcontractor with an estimate of the Subcontractor's share of OM&R costs to the end of the initial Year of water delivery and an estimate of such costs for the following Year. Within a reasonable time of the receipt of said estimates, as determined by the Contractor, but prior to the delivery of water, the Subcontractor shall advance to the Contractor its share of such estimated costs to the end of the initial month of water delivery and without further notice or demand shall on or before the first day of each succeeding month of the initial Year of water delivery and the following Year advance to the Contractor in equal monthly installments the Subcontractor's share of such estimated costs. Advances of monthly payments for each subsequent Year shall be made by the Subcontractor to the Contractor on the basis of annual estimates to be furnished by the Contractor on or before June 1 preceding each said subsequent Year and the advances of payments for said estimated costs shall be due and payable in equal monthly payments on or before the first day of each month of the subsequent Year. Differences between actual OM&R costs and estimated OM&R costs shall be determined by the Contractor and shall be adjusted in the next succeeding annual estimates: Provided, however, That if in the opinion of the Contractor the amount of any annual OM&R estimate is likely to be insufficient to cover the above-mentioned costs during such period, the Contractor may

increase the annual estimate of the Subcontractor's OM&R costs by written notice thereof to the Subcontractor, and the Subcontractor shall forthwith increase its remaining monthly payments in such Year to the Contractor by the amount necessary to cover the insufficiency. All estimates of OM&R costs shall be accompanied by data and computations relied on by the Contractor in determining the amounts of the estimated OM&R costs and shall be subject to joint review by the Subcontractor and the Contractor.

5.2 Agricultural Water Service Charges.

(a) Subject to provisions of Article 5.4 hereof and in addition to the OM&R payments required in Article 5.1 hereof, the Subcontractor shall, in advance of the delivery of Project Agricultural Water by the United States or the Operating Agency, make payments to the Contractor in equal semiannual installments of an Agricultural Water service capital charge of \$2 for each acre-foot of Agricultural Water scheduled for delivery to the Subcontractor pursuant to the provisions of Articles 4.4 and 4.13 hereof. The Agricultural Water service capital charge payment for the quantity of water available for the Subcontractor for the balance of the initial Year of water delivery shall be advanced to the Contractor prior to commencement of delivery of water. Thereafter, for each subsequent Year, payments by the Subcontractor shall be made in equal semiannual installments on or before the December 1 preceding said subsequent Year and the June 1 of said subsequent Year as may be specified by the Contractor in written notices to the Subcontractor.

(b) The Agricultural Water service capital charge may

be adjusted periodically to reflect changes in repayment ability as determined by the Contracting Officer after consultation with the Contractor and Subcontractor. Any changes in the capital charge shall be announced by the Contractor on or before June 1 of the Year preceding the Year in which payable.

(c) On or before the first anniversary of execution of this subcontract and on or before each succeeding anniversary, until Notice of Completion of the Water Supply System is issued, the Subcontractor shall pay, in addition to all other payments required herein, an agricultural subcontract charge which shall be equal to the amount obtained by multiplying the percentage in Subarticle 4.13(a) by \$500,000. Prior to the date of issuance of the Notice of Completion of the Water Supply System, the subcontract charge shall be paid each Year by the Subcontractor to the United States. The Contracting Officer shall advise the Contractor of the amounts and dates of the Subcontractor's payments.

(d) Funds advanced to the United States by the Subcontractor pursuant to Article 5.2(c) as a subcontracting charge shall be credited by the Contractor against the Subcontractor's initial capital charges for water deliveries under this subcontract. Credit provided to the Subcontractor shall include interest from the date the Subcontractor's funds are transferred to the United States through the effective date of credit for payment of capital costs as recorded in the Contractor's records. Interest credited to the Subcontractor shall be at an annual rate of 1 (one) percent less than the weighted rate received by the Contractor on all investments during

the period for which the Subcontractor's payments earn an interest credit.

(e) The obligation of the Subcontractor to pay Agricultural Water service capital charges and corresponding OM&R charges to the Contractor as provided in Articles 5.1 and 5.2 hereof is a general obligation of the Subcontractor notwithstanding the manner in which the obligation may be distributed among the Subcontractor's water users and notwithstanding the default of individual water users in their obligations to the Subcontractor.

(f) Payment of the agricultural subcontract charge and all Agricultural Water service capital and corresponding OM&R charges becoming due hereunder prior to or on the dates stipulated in Articles 5.1 and 5.2 is a condition precedent to delivery of Agricultural Water under this subcontract.

(g) The Subcontractor shall not furnish Agricultural Water made available pursuant to this subcontract to parties which are in arrears in the payment of charges as levied or established by the Contractor.

(h) If deliveries of Project Agricultural Water to the Subcontractor are less than that which has been paid for in advance, the Subcontractor shall be entitled to be reimbursed by the Contractor for the appropriate portion of such advance payments prior to the date of the Subcontractor's next payment of water service charges.

5.3 9(d) Debt Service Charges. In addition to the OM&R payments required in Article 5.1 and the agricultural water service

charges required in Article 5.2, the Subcontractor shall pay the Contractor a 9(d) debt service charge. The 9(d) debt service charge due each year from the Subcontractor is identified in Exhibit C, which is incorporated by reference. The Subcontractor shall pay the 9(d) debt service charge in equal monthly installments. Any partial assignment of the Subcontractor's entitlement to Project agricultural water under Article 4.13 shall carry with it an obligation to pay a proportionate share of the 9(d) debt service charges identified in Exhibit C.

5.4 Default and Termination. The Subcontractor shall have no right to delivery of water from Project facilities during any period in which the Subcontractor may be in arrears in the payment of any charges due the Contractor. Failure of the Subcontractor to make payment of any charge due under this subcontract within 30 days of the due date shall constitute a default. The Contractor shall provide written notice of any default to the Subcontractor. If the Subcontractor remains in default 90 days after the Contractor's written notice, then this subcontract shall terminate. Upon termination, the Subcontractor's entitlement to Project Water under this subcontract shall immediately be transferred in accordance with the Arizona Water Settlement Agreement.

5.5 Requirement to Take or Pay for Project Water. Subject to the provisions of Article 4.3(e) hereof, the Subcontractor shall pay fixed OM&R charges established by the Contractor based on the maximum amount of Project Water available each year under this subcontract regardless of whether such water is scheduled or taken by

the Subcontractor. The Subcontractor shall not be entitled to take delivery of Project Water under any other contract or agreement in any year unless and until the Subcontractor has paid the fixed OM&R charges for the maximum amount of Project Water available under this subcontract in that year.

5.6 Charges for Late Payments. The Subcontractor shall pay a late payment charge on installments or charges that are received after the due date. The late payment charge percentage rate calculated by the Department of the Treasury and published quarterly in the Federal Register shall be used; Provided, That the late payment charge percentage rate shall not be less than 0.5 percent per month. The late payment charge percentage rate applied on an overdue payment shall remain in effect until payment is received. The late payment rate for a 30-day period shall be determined on the day immediately following the due date and shall be applied to the overdue payment for any portion of the 30-day period of delinquency. In the case of partial late payments, the amount received shall first be applied to the late charge on the overdue payment and then to the overdue payment.

6. GENERAL PROVISIONS:

6.1 Repayment Contract Controlling. Pursuant to the Repayment Contract, the United States has agreed to construct and, in the absence of an approved Operating Agency, to operate and maintain the works of the Central Arizona Project and to deliver Project Water to the various subcontractors within the Project Service Area; and the Contractor has obligated itself for the payment of various costs, expenses, and other amounts allocated to the Contractor pursuant to Article 9 of the Repayment Contract. The Subcontractor expressly approves and agrees to all the terms presently set out in the Repayment Contract including Subarticle 8.8(b)(viii) thereof, or as such terms may be hereafter amended, and agrees to be bound by the actions to be taken and the determinations to be made under that Repayment Contract, except as otherwise provided herein.

6.2 Notices. Any notice, demand or request authorized or required by this subcontract shall be deemed to have been given when mailed, postage prepaid, or delivered to the Regional Director, Lower Colorado Region, Bureau of Reclamation, P. O. Box 61470, Boulder City, Nevada 89006-1470, on behalf of the Contractor or Subcontractor; to the Central Arizona Water Conservation District, 23636 North 7th Street, Phoenix, Arizona 85024, on behalf of the United States or Subcontractor; and to _____, on behalf of the United States or Contractor. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this Article for other notices.

6.3 Water Conservation Program.

(a) While the contents and standards of a given water conservation program are primarily matters of State and local determination, there is a strong Federal interest in developing an effective water conservation program because of this subcontract. The Subcontractor shall develop and implement an effective water conservation program for all uses of water which is provided from or conveyed through Federally constructed or Federally financed facilities. That water conservation program shall contain definite goals, appropriate water conservation measures, and time schedules for meeting the water conservation objectives.

(b) A water conservation program, acceptable to the Contractor and the Contracting Officer, shall be in existence prior to one or all of the following: (1) service of Federally stored/conveyed water; (2) transfer of operation and maintenance of the Project facilities to the Contractor or Operating Agency; or (3) transfer of the Project to an operation and maintenance status. The distribution and use of Federally stored/conveyed water and/or the operation of Project facilities transferred to the Contractor shall be consistent with the adopted water conservation program. Following execution of this subcontract, and at subsequent 5-year intervals, the Subcontractor shall resubmit the water conservation plan to the Contractor and the Contracting Officer for review and approval. After review of the results of the previous 5 years and after consultation with the Contractor, the Subcontractor and the Arizona Department of

Water Resources or its successor, the Contracting Officer may require modifications in the water conservation program to better achieve program goals.

6.4 Rules, Regulations, and Determinations.

(a) The parties agree that the delivery of irrigation water or use of Federal facilities pursuant to this subcontract is subject to Reclamation law, as amended and supplemented, including but not limited to the Reclamation Reform Act of 1982 (Public Law 97-293).

(b) The Subcontractor and the Contractor further agree to abide by final rules and regulations promulgated by the Secretary of the Interior covering the enforcement and administration of said limitations and provisions of Reclamation law as amended and supplemented by the Reclamation Reform Act of 1982, including the payment of full costs as provided therein.

(c) The Contracting Officer shall have the right to make, after an opportunity has been offered to the Contractor and Subcontractor for consultation, rules and regulations consistent with the provisions of this subcontract, the laws of the United States and the State of Arizona, to add to or to modify them as may be deemed proper and necessary to carry out this subcontract, and to supply necessary details of its administration which are not covered by express provisions of this subcontract. The Contractor and Subcontractor shall observe such rules and regulations.

(d) Where the terms of this subcontract provide for action to be based upon the opinion or determination of any party to this subcontract, whether or not stated to be conclusive, said terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. In the event that the Contractor or Subcontractor questions any factual determination made by the Contracting Officer, the findings as to the facts shall be made by the Secretary only after consultation with the Contractor or Subcontractor and shall be conclusive upon the parties.

6.5 Officials Not to Benefit.

(a) No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this subcontract or to any benefit that may arise herefrom. This restriction shall not be construed to extend to this subcontract if made with a corporation or company for its general benefit.

(b) No official of the Subcontractor shall receive any benefit that may arise by reason of this subcontract other than as a water user within the Project and in the same manner as other water

users within the Project.

6.6 Assignment Limited-Successors and Assigns Obligated. The provisions of this subcontract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this subcontract or any part or interest therein shall be valid until approved by the Contracting Officer.

6.7 Judicial Remedies Not Foreclosed. Nothing herein shall be construed (a) as depriving any party from pursuing and prosecuting any remedy in any appropriate court of the United States or the State of Arizona which would otherwise be available to such parties even though provisions herein may declare that determinations or decisions of the Secretary or other persons are conclusive or (b) as depriving any party of any defense thereto which would otherwise be available.

6.8 Books, Records, and Reports. The Subcontractor shall establish and maintain accounts and other books and records pertaining to its financial transactions, land use and crop census, water supply, water use, changes of Project works, and to other matters as the Contracting Officer may require. Reports thereon shall be furnished to the Contracting Officer in such form and on such date or dates as he may require. Subject to applicable Federal laws and regulations, each party shall have the right during office hours to examine and make copies of each other's books and records relating to matters covered by this subcontract.

6.9 Changes in Subcontractor's Geographical Jurisdiction. While this subcontract is in effect, no changes shall be made in the Subcontractor's geographical jurisdiction, by inclusion or exclusion of lands, by dissolution, consolidation, merger or otherwise, except upon the Contracting Officer's written consent.

6.10 Equal Opportunity.

During the performance of this subcontract, the Subcontractor agrees as follows:

(a) The Subcontractor shall not discriminate against any employee or applicant for employment because of race, color,

religion, sex, or national origin. The Subcontractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(b) The Subcontractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Subcontractor, state that all qualified applicants shall receive consideration for employment without discrimination because of race, color, religion, sex, or national origin.

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

(d) The Subcontractor shall comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Subcontractor shall furnish all information and reports required by said amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to its books, records, and accounts by the Contracting Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Subcontractor's noncompliance with the nondiscrimination clauses of this subcontract or with any of the rules, regulations, or orders, this subcontract may be canceled, terminated, or suspended, in whole or in part, and the Subcontractor may be

declared ineligible for further Government contracts in accordance with procedures authorized in said amended Executive Order and such other sanctions may be imposed and remedies invoked as provided in said amended Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Subcontractor shall include the provisions of

paragraphs (a) through (g) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such provisions shall be binding upon each subcontractor or vendor. The Subcontractor shall take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance; Provided, however, That in the event a Subcontractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Subcontractor may request the United States to enter into such litigation to protect the interest of the United States.

6.11 Title VI, Civil Rights Act of 1964.

(a) The Subcontractor agrees that it shall comply with Title VI of the Civil Rights Act of July 2, 1964 (78 Stat. 241), and all requirements imposed by or pursuant to the Department of the Interior Regulation (43 CFR 17) issued pursuant to that title, to the end that, in accordance with Title VI of that Act and the Regulation, no person in the United State shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Subcontractor receives financial assistance from the United States and hereby gives assurance that it shall immediately take any measures to effectuate this agreement.

(b) If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Subcontractor by the United States, this assurance obligates the Subcontractor, or in the case of any transfer of such property, any transferee for the period during which the real property or structure is used for a purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance obligates the Subcontractor for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the Subcontractor for the period during which the Federal financial assistance is extended to it by the United States.

(c) This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts, or other Federal financial assistance extended after the date hereof to the Subcontractor by the United States, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Subcontractor recognizes and agrees that such Federal financial assistance shall be extended in reliance on the representations and agreements made in this assurance, and that the United States shall reserve the right to seek judicial enforcement of this assurance. This assurance is binding on the Subcontractor, it successors, transferees, and assignees.

6.12 Confirmation of Subcontract. The obligations of the United States pursuant to this subcontract shall be contingent upon its authorization or ratification by the qualified electors of the Subcontractor at an election held for that purpose. The Subcontractor shall furnish the Contracting Officer and the Contractor with a copy of the results of such election. The Subcontractor, after authorization or ratification by election and upon the execution of this subcontract, shall promptly seek a final decree of the proper court of the State of Arizona approving and confirming the subcontract and decreeing and adjudging it to be lawful, valid, and binding on the Subcontractor. The Subcontractor shall furnish to the United State a certified copy of such decree and of all pertinent supporting records. This subcontract shall not be binding on the United States, the Contractor, or the Subcontractor until such final decree has been entered.

6.13 Contingent on Appropriation or Allotment of Funds. The expenditure or advance of any money or the performance of any work by the United States hereunder which may require appropriation of money by the Congress or the allotment of funds shall be contingent upon such appropriation or allotment being made. The failure of the Congress to appropriate funds or the absence of any allotment of funds shall not relieve the Subcontractor from any obligation under this subcontract. No liability shall accrue to the United States in case such funds are not appropriated or allotted.

IN WITNESS WHEREOF, the parties hereto have executed this subcontract No. _____ the day and year first above-written.

Legal Review and Approval

THE UNITED STATES OF AMERICA

By: _____
Field Solicitor
Phoenix, Arizona

By: _____
Regional Director
Lower Colorado Region
Bureau of Reclamation

CENTRAL ARIZONA WATER
CONSERVATION DISTRICT

Attest: _____
Secretary

By: _____
President

[SUBCONTRACTOR]

Attest: _____
Title:

By: _____
Title:

Exhibit 7.2
9(d) Debt Payment Schedule

Payment Date	MSIDD	CAIDD	NMIDD	Tonopah ID	Queen Creek	HHKDD	Chandler Heights ID	San Tan ID	Total Annual Installments	Total Cumulative Debt
2004	345,884	157,840	586,645	140,630	556,974		27,430	189,284	2,004,687	2,004,687
2005	345,884	282,131	586,645	140,630	637,794		35,276	204,570	2,232,930	4,237,617
2006	345,884	282,131	586,645	140,630	702,696		40,698	214,944	2,313,628	6,551,245
2007	432,355	448,659	586,645	144,940	749,210		44,962	223,532	2,630,303	9,181,548
2008	593,504	448,659	586,645	146,920	753,446		44,702	223,288	2,797,164	11,978,712
2009	2,334,717	448,659	586,645	146,920	715,984		40,568	196,654	4,470,147	16,448,859
2010	2,594,130	448,659	586,645	146,920	787,634		48,310	116,494	4,728,792	21,177,651
2011	2,594,130	448,659	586,645	146,920	233,986		52,254		4,062,594	25,240,245
2012	2,594,130	573,555	586,645	166,870			50,642		3,971,842	29,212,087
2013	2,594,130	573,555	586,645	166,870			49,192		3,970,392	33,182,479
2014	2,594,130	573,555	586,645	166,870			45,568		3,966,768	37,149,247
2015	2,594,130	573,555	586,645	169,860			47,092		3,971,282	41,120,529
2016	2,594,130	589,394	586,645	169,860			46,950		3,986,979	45,107,509
2017	2,594,130	640,319	586,645	136,964			50,521		4,008,579	49,116,088
2018	2,594,130	2,097,439	586,645						5,278,214	54,394,302
2019	2,594,130	2,097,439	586,645						5,278,214	59,672,516
2020	2,594,130	2,097,439	586,645			380,000			5,658,214	65,330,730
2021	2,594,130	2,097,439	586,645			380,000			5,658,214	70,988,944
2022	2,594,130	2,097,439	586,645			380,000			5,658,214	76,647,158
2023	2,594,130	2,097,439	586,645			380,000			5,658,214	82,305,372
2024	2,594,130	2,097,439	586,645			380,000			5,658,214	87,963,587
2025	2,594,130	2,097,439	586,645			380,000			5,658,214	93,621,801
2026	2,594,130	2,097,439	586,645			380,000			5,658,214	99,280,015
2027	2,594,130	2,097,439	586,645			380,000			5,658,214	104,938,229
2028	2,594,130	2,097,439	586,645			380,000			5,658,214	110,596,443
2029	2,594,130	2,097,439	519,082			380,000			5,590,651	116,187,094
2030	2,594,130	2,097,439	276,333						4,967,902	121,154,996
2031	2,594,130	2,097,439							4,691,569	125,846,565
2032	2,594,130	2,097,439							4,691,569	130,538,134
2033	2,594,130	2,097,439							4,691,569	135,229,703
2034	2,594,130	2,097,439							4,691,569	139,921,272
2035	2,594,130	2,097,439							4,691,569	144,612,841
2036	1,441,891	2,097,439							3,539,330	148,152,171
2037		2,131,520							2,131,520	150,283,692
2038		2,170,189							2,170,189	152,453,881
2039		2,170,189							2,170,189	154,624,070
2040		2,170,189							2,170,189	156,794,259
2041		2,170,189							2,170,189	158,964,448
2042		2,170,189							2,170,189	161,134,637
2043		1,513,306							1,513,306	162,647,943
Total	73,287,499	60,836,445	15,461,540	2,131,804	5,137,724	3,800,000	624,165	1,368,766	162,647,943	

Revised May 23, 2005

Exhibit 7.2

Exhibit 8.2
New Excess Water Contract

1
2
3 AGREEMENT BETWEEN THE CENTRAL ARIZONA
4 WATER CONSERVATION DISTRICT AND _____
5 PROVIDING FOR THE DELIVERY OF EXCESS
6 CENTRAL ARIZONA PROJECT WATER
7

8 This Agreement is made as of the 1st day of January, 2004, in
9 pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts
10 amendatory thereof or supplementary thereto, including but not limited
11 to the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057,
12 as amended, the Reclamation Project Act of August 4, 1939 (53 Stat.
13 1187), as amended, the Reclamation Reform Act of October 12, 1982 (96
14 Stat. 1263), and particularly the Colorado River Basin Project Act of
15 September 30, 1968 (82 Stat. 885), as amended (the "Basin Project Act"),
16 between the CENTRAL ARIZONA WATER CONSERVATION DISTRICT ("CAWCD"), and
17 _____ (the "Contractor"), with its principal place of business
18 in _____, Arizona.

18 **RECITALS**

19 A. The Basin Project Act provides, among other things, that for
20 the purposes of furnishing irrigation and municipal and industrial
21 ("M&I") water supplies to water deficient areas of Arizona and western
22 New Mexico through direct diversion or exchange of water, control of
23 floods, conservation and development of fish and wildlife resources,
24 enhancement of recreation opportunities, and for other purposes, the
25 Secretary shall construct, operate, and maintain the Central Arizona
26 Project ("CAP").

1 B. The United States and CAWCD have entered into Contract
2 No. 14-06-W-245, Amendment No. 1, dated December 1, 1988 (the "Repayment
3 Contract"), which is incorporated by reference, providing for the
4 delivery of water and repayment of costs of the CAP.

5 C. The United States and CAWCD have entered into the
6 Stipulation Regarding a Stay of Litigation, Resolution of Issues During
7 the Stay and for Ultimate Judgment upon the Satisfaction of Conditions,
8 filed with the United States District Court on May 3, 2000, in Central
9 Arizona Water Conservation District v. United States, No. CIV 95-625-
10 TUC-WDB (EHC), No. CIV 95-1720-PHX-EHC (Consolidated Action) (the
11 "Stipulation"), which modifies the Repayment Contract in certain
12 respects.

13 D. Paragraph 5(d)(2) of the Stipulation grants CAWCD the
14 exclusive right to sell or use Excess Water.

15 E. The United States, CAWCD and the Arizona Department of
16 Water Resources have entered into the Arizona Water Settlement Agreement
17 (the "Water Settlement"), under which CAWCD has agreed to provide Excess
18 Water on the terms and conditions specified in this Agreement.

19 F. The Contractor is in need of a water supply and desires
20 to contract with CAWCD for Excess Water.

21 **AGREEMENT**

22 Repayment Contract and Stipulation Controlling

23 1. The Contractor expressly approves and agrees to all the terms
24 presently set out in the Repayment Contract and Stipulation, or as such
25 terms may be hereafter amended, and agrees to be bound by the actions
26 to be taken and the determinations to be made under those agreements,
except as otherwise provided herein. In the event of any inconsistency

1 between this Agreement and the Repayment Contract, the provisions of the
2 Repayment Contract, as modified by the Stipulation, shall be
3 controlling. Definitions included in the Repayment Contract and
4 Stipulation are applicable to this Agreement. The first letters of
5 terms so defined are capitalized herein.

6 Delivery of Water by CAWCD

7 2. In so far as Project Water supplies and the delivery
8 capability of the Project will permit, and subject to the provisions of
9 the Repayment Contract and Stipulation, CAWCD will deliver Excess Water
10 to the Contractor for Agricultural use, in an amount, and at a water
11 service charge, to be determined in accordance with the terms of this
12 Agreement. The Excess Water to be delivered under this Agreement is
13 from the category of Excess Water established exclusively for non-Indian
14 agricultural use under the policy adopted by the CAWCD Board of
15 Directors on May 18, 2000. This category shall be the highest priority
16 Excess Water. The determination of whether Excess Water is available
17 for delivery in any Year, and, if so, the amount of such Excess Water
18 that is available for delivery under this Agreement in any Year, is a
19 determination within the exclusive discretion of CAWCD; Provided,
20 however, That delivery of Excess Water under this Agreement shall be
21 subject to the prior satisfaction of all water deliveries scheduled
22 pursuant to a long-term contract or subcontract for Project Water
23 service, as that term is used in the Stipulation.

24 Term

25 3. This Agreement is effective on January 1, 2004, and shall
26 continue for a term of one year. This Agreement will be automatically

1 renewed for successive one-year terms until December 31, 2030, unless
2 any of the following occur:

3 (a) The Water Settlement is terminated in accordance with
4 its terms.

5 (b) The Contractor notifies CAWCD by October 1 of any year
6 that it does not wish to renew the Agreement for the following year.

7 (c) This Agreement is terminated in accordance with Article
8 11.

9 Conditions Relating to Delivery and Use

10 4. The delivery and use of water under this Agreement is
11 conditioned on the following, and the Contractor hereby agrees that:

12 (a) All uses of Project Water and Return Flow shall be
13 consistent with Arizona water law unless such law is inconsistent with
14 the Congressional directives applicable to the Central Arizona Project.

15 (b) The system or systems through which Project Water is
16 conveyed after delivery to the Contractor shall consist of pipelines,
17 canals, distribution systems, or other conduits which will prevent
18 excessive conveyance losses.

19 (c) Project Water furnished pursuant to this Agreement shall
20 be delivered through Project Works for use directly or by exchange as
21 permitted by law.

22 (d) Project Water furnished to the Contractor pursuant to
23 this Agreement may not be resold or transferred.

24 (e) Unless and until otherwise provided by Congress,
25 Project Water shall not be made available directly or indirectly for the
26 irrigation of lands in the Contractor's service area which the Secretary

1 determines were not irrigated during the period September 30, 1958, to
2 September 30, 1968, except where otherwise determined by the Secretary
3 for efficiency of the Contractor's operation.

4 (f) Agricultural Water shall be made available only for the
5 irrigation of eligible lands. "Eligible lands" shall mean those lands
6 which were irrigated during the period of September 30, 1958, to
7 September 30, 1968, and meet all other Federal requirements and which
8 may legally be irrigated pursuant to Title 45, Chapter 2, Arizona
9 Revised Statutes, as it may be amended from time to time. Said eligible
10 lands are shown on the map which is attached hereto as Exhibit A and
11 incorporated by this reference.

12 (g) Agricultural Water shall not be made available to the
13 Contractor until there are in effect measures which are adequate to
14 control expansion of irrigation from aquifers affected by irrigation in
15 the Contractor's service area and to reduce pumping of ground water in
16 the Contractor's service area by the amount of Project Agricultural
17 Water received.

18 (h) The Contractor shall not pump, or within its legal
19 authority, permit others to pump ground water from within the exterior
20 boundaries of the Contractor's service area for use outside of said
21 service area unless such pumping is permitted under Title 45, Chapter
22 2, Arizona Revised Statutes, as it may be amended from time to time, and
23 CAWCD and the Contractor shall agree, or shall have previously agreed,
24 that a surplus of ground water exists and drainage is or was required;
25 Provided, however, That such pumping may be approved by CAWCD, and
26 approval shall not be unreasonably withheld, if such pumping is in

1 accord with the Basin Project Act and upon submittal by the Contractor
2 of a written certification from the Arizona Department of Water
3 Resources or its successor agency that the pumping and transportation
4 of ground water is in accord with Title 45, Chapter 2, Arizona Revised
5 Statutes, as it may be amended from time to time.

6 Procedure for Ordering Water

7 5. (a) On or before the date of execution of this Agreement,
8 or as soon thereafter as is practicable, CAWCD will notify the
9 Contractor of the amount of Project Water available for delivery during
10 the first Year under this Agreement (the initial Year of water
11 delivery). The Contractor shall, within a reasonable period of time as
12 determined by CAWCD, submit a written schedule to CAWCD showing the
13 quantity of Excess Water desired by the Contractor during each month of
14 the initial Year of water delivery. CAWCD will review the requested
15 schedule and determine whether Excess Water is available for delivery
16 in the initial Year of water delivery, and, if so, the amount of Excess
17 Water available for delivery under this Agreement during such Year.
18 Within thirty (30) days of CAWCD's receipt of the Contractor's requested
19 schedule, CAWCD shall determine and furnish to the Contractor the water
20 delivery schedule for the initial Year of water delivery which shall
21 show the amount of Excess Water projected to be delivered to the
22 Contractor during each month of such Year, contingent upon the
23 Contractor remaining eligible to receive water under all terms contained
24 herein.

25 (b) The amounts, times, and rates of delivery of Excess
26 Water to the Contractor during each Year subsequent to the initial Year

1 of water delivery shall be in accordance with a water delivery schedule
2 for that Year. Such schedule shall be determined in the following
3 manner:

4 (i) On or before July 1 of each Year beginning with
5 July 1 of the initial Year of water delivery, CAWCD shall issue a notice
6 of availability of Excess Water to the Contractor.

7 (ii) On or before October 1 of each Year beginning with
8 October 1 of the initial Year of water delivery, the Contractor shall
9 submit in writing to CAWCD a water delivery schedule indicating the
10 amounts of Excess Water desired by the Contractor during each month of
11 the following Year.

12 (iii) Upon receipt of the schedule, CAWCD shall review
13 it together with all other water delivery schedules, and determine
14 whether Excess Water is available for delivery in the following Year,
15 and, if so, the amount of Excess Water available for delivery under this
16 Agreement in the following Year.

17 (iv) On or before November 15 of each Year beginning
18 with November 15 of the initial Year of water delivery, CAWCD shall
19 determine and furnish to the Contractor the water delivery schedule for
20 the following Year which shall show the amount of Excess Water to be
21 delivered to the Contractor during each month of that Year, contingent
22 upon the Contractor remaining eligible to receive water under all terms
23 contained herein.

24 (c) The monthly water delivery schedules may be amended upon
25 the Contractor's written request to CAWCD. Proposed amendments shall
26 be submitted by the Contractor to CAWCD no later than 15 days before the

1 desired change is to become effective, and shall be subject to review
2 and modification in like manner as the schedule. CAWCD shall notify the
3 Contractor of its action on the Contractor's requested schedule
4 modification within 10 days of CAWCD's receipt of such request.

5 (d) The Contractor shall hold CAWCD, its officers, agents,
6 and employees, harmless on account of damage or claim of damage of any
7 nature whatsoever arising out of or connected with the actions of CAWCD
8 regarding water delivery schedules furnished by or to the Contractor.

9 Contractor's Project Delivery Point, Measurement
10 and Responsibility for Distribution of Water

11 6. (a) Excess Water furnished to the Contractor pursuant to
12 this agreement shall be delivered to the Contractor at such point(s) on
13 the Water Supply System as are agreed upon in writing by CAWCD and the
14 Contractor. All such point(s) shall hereinafter be referred to as the
15 "Contractor's Project delivery point."

16 (b) The Contractor's Project delivery point shall be a
17 Project turnout or Project turnouts constructed by the United States.
18 All water delivered from the Water Supply system shall be measured with
19 equipment approved by the United States and CAWCD and operated and
20 maintained by CAWCD. Upon the request of the Contractor or CAWCD, the
21 accuracy of such measurements shall be investigated by CAWCD and the
22 Contractor, and any errors which are mutually determined to have
23 occurred therein shall be adjusted; Provided, however, That in the event
24 the parties cannot agree on the required adjustments, CAWCD's
25 determination shall be conclusive.

26 (c) Neither the United States nor CAWCD shall be responsible
for the control, carriage, handling, use, disposal, or distribution of

1 water beyond the Contractor's Project delivery point. The Contractor
2 shall hold the United States and CAWCD harmless on account of damage or
3 claim of damage of any nature whatsoever for which there is legal
4 responsibility, including property damage, personal injury, or death
5 arising out of or connected with the control, carriage, handling, use,
6 disposal, or distribution of water beyond the Contractor's Project
7 delivery point.

8 Interruptions and Reductions

9 7. In addition to the right of the United States under
10 Subarticle 8.3(a)(iv) of the Repayment Contract to temporarily
11 discontinue or reduce the amount of water to be delivered, CAWCD may
12 discontinue or reduce the quantity of water to be furnished to the
13 Contractor as herein provided for the purposes of investigation,
14 inspection, construction, testing, maintenance, repair, or replacement
15 of any of the Project facilities or any part thereof. CAWCD may also
16 discontinue or reduce the quantity of water to be furnished to the
17 Contractor if there is insufficient Project Water or Project delivery
18 capacity to deliver the Contractor's water order, the water orders of
19 other contractors of Excess Water service, and all water deliveries
20 scheduled pursuant to a contract with the United States or a subcontract
21 with the United States and CAWCD providing for Project Water service for
22 a period of 50 years or more. So far as feasible, CAWCD shall attempt
23 to coordinate any such discontinuance or reduction with the Contractor
24 and to give the Contractor due notice in advance of such discontinuance
25 or reduction. In case of emergency, no notice need be given. The
26 United States, its officers, agents, and employees, and CAWCD, its

1 officers, agents, and employees, shall not be liable for damages when,
2 for any reason whatsoever, any interruption, discontinuance, or
3 reduction in delivery of water occurs. If any such discontinuance or
4 temporary reduction results in deliveries to the Contractor of less
5 water than what has been paid for in advance, the Contractor shall be
6 entitled to be reimbursed for the appropriate proportion of such advance
7 payments prior to the date of the Contractor's next payment of water
8 service charges or the Contractor may be given credit toward the next
9 payment of water service charges if the Contractor should so desire.

10 No Long-Term Commitment to the Delivery of Project Water

11 8. Nothing in this Agreement shall be construed as an allocation
12 of Project Water to the Contractor, nor shall this Agreement entitle the
13 Contractor to any Project Water other than as provided herein.

14 Quality of Water

15 9. CAWCD does not warrant the quality of any Project Water
16 furnished under this Agreement and is under no obligation to construct
17 or furnish water treatment facilities to maintain or better the quality
18 of any Project Water. The Contractor waives its right to make a claim
19 against the United States, CAWCD, or any other Project subcontractor or
20 contractor on account of the quality of Project Water or any changes in
21 water quality caused by the commingling of Project Water with other
22 water.

23 Water Service Charges

24 10. (a) The Contractor shall pay in advance water service
25 charges established annually by CAWCD, which shall be equal to the
26 Pumping Energy Charge established for that year for delivery of water

1 to long-term contractors and subcontractors. On or before the date of
2 execution of this Agreement, or as soon thereafter as is practicable,
3 CAWCD shall furnish the Contractor with the Contractor's water service
4 charges for the initial Year of water delivery (the "initial Year").
5 Within a reasonable time of receipt of said charges, but prior to the
6 delivery of water, the Contractor shall advance to CAWCD, in monthly
7 installments payable on or before the first day of each month of the
8 initial Year, as determined by CAWCD, the water service charges due for
9 Excess Water scheduled for delivery in the initial Year. For each
10 subsequent Year, CAWCD will establish water service charges, and CAWCD
11 will notify the Contractor of the amount of such charges on or before
12 November 15 preceding each said subsequent Year. The Contractor shall
13 make payments of such charges in monthly installments due on or before
14 the first day of each month of said subsequent Year, as determined by
15 CAWCD, for Excess Water scheduled for delivery in said subsequent Year.
16 The Contractor shall pay in advance all water service charges
17 established by CAWCD for Excess Water scheduled for delivery under this
18 Agreement; Provided, however, That the Contractor shall be relieved of
19 the pumping energy portion of the water service charges associated with
20 any Project Water scheduled for delivery that is not delivered to the
21 Contractor.

22 (b) The payment of all water service charges when due under
23 this Agreement is a condition precedent to delivery of Excess Water.

24 (c) The obligation of the Contractor to pay CAWCD as
25 provided in this Agreement is a general obligation of the Contractor
26 notwithstanding the manner in which the obligation may be distributed

1 among the Contractor's water users and notwithstanding the default of
2 individual water users in their obligations to the Contractor.

3 Termination of Contract

4 11. If the Contractor remains in arrears in the payment of any
5 charges due CAWCD for a period of 60 days or more, CAWCD may terminate
6 this Agreement, which termination shall be effective 30 days after
7 mailing written notice of termination to the Contractor. The Contractor
8 shall remain obligated to pay all charges required to be paid under this
9 Agreement during the time period until and including the date of
10 termination. The Contractor's obligation to pay any amounts due but
11 unpaid as of the date of termination shall survive termination of this
12 Agreement. CAWCD's right to terminate this Agreement as provided in
13 this Article 11 shall be in addition to the other rights of CAWCD under
14 this Agreement and to all other rights provided by law.

15 Charges for Delinquent Payments

16 12. (a) The Contractor shall be subject to interest,
17 administrative and penalty charges on delinquent installments or
18 payments. The Contractor shall pay an interest charge for each day the
19 payment is delinquent beyond the due date. When a payment becomes 60
20 days delinquent, the Contractor shall pay an administrative charge to
21 cover additional costs of billing and processing the delinquent payment.
When a payment is delinquent 90 days or more, the Contractor shall pay
an additional penalty charge of 6 percent per year for each day the
payment is delinquent beyond the due date. Further, the Contractor
shall pay any fees incurred for debt collection services associated with
a delinquent payment.

22 (b) The interest charge rate shall be the greater of the
23 rate prescribed quarterly in the Federal Register by the Department of
24 the Treasury for application to overdue payments, or the interest rate
25 of 0.5 percent per month prescribed by Section 6 of the Reclamation
26 Project Act of 1939 (Public Law 76-260). The interest charge rate shall
be determined as of the due date and remain fixed for the duration of
the delinquent period.

(c) When a partial payment on a delinquent account is
received, the amount received shall be applied first to the penalty and

1 administrative charges, second, to the accrued interest, and third to
2 the overdue payment.

3 Rules, Regulations and Determinations

4 13. (a) The parties agree that the delivery of water or the use
5 of Federal facilities pursuant to this Agreement is subject to
6 Reclamation law, as amended and supplemented, and the rules and
7 regulations promulgated by the Secretary of the Interior under
8 Reclamation law.

9 (b) The Contracting Officer shall have the right to make
10 determinations necessary to administer this Agreement that are
11 consistent with the expressed and implied provisions of this Agreement,
12 the laws of the United States and the State of Arizona, and the rules
13 and regulations promulgated by the Secretary of the Interior. Such
14 determinations shall be made in consultation with CAWCD and the
15 Contractor.

16 Compliance with Environmental Laws

17 14. The Contractor, in carrying out this Agreement, shall comply
18 with all applicable environmental laws and regulations of the United
19 States and the State of Arizona and shall obtain all required permits
20 or licenses from the appropriate Federal, State, or local authorities.

21 Equal Opportunity

22 15. During the performance of this Agreement, the Contractor
23 agrees as follows:

24 (a) The Contractor will not discriminate against any
25 employee or applicant for employment because of race, color, religion,
26 sex, or national origin. The Contractor will take affirmative action
to ensure that applicants are employed, and that employees are treated
during employment, without regard to their race, color, religion, sex,
or national origin. Such action shall include, but not be limited to
the following: employment, upgrading, demotion, or transfer;
recruitment or recruitment advertising; layoff or termination; rates of
pay or other forms of compensation; and selection for training,
including apprenticeship. The Contractor agrees to post in conspicuous
places, available to employees and applicants for employment, notices
to be provided by the Contracting Officer setting forth the provisions
of this nondiscrimination clause.

(b) The Contractor will, in all solicitations or
advertisements for employees placed by or on behalf of the Contractor,
state that all qualified applicants will receive consideration for
employment without discrimination because of race, color, religion, sex,
or national origin.

1 (c) The Contractor will send to each labor union or
2 representative of workers with which it has a collective bargaining
3 agreement or other contract or understanding, a notice, to be provided
4 by the Contracting Officer, advising said labor union or workers'
representative of the Contractor's commitments under Section 202 of
Executive Order 11246 of September 24, 1965, as amended, and shall post
copies of the notice in conspicuous places available to employees and
applicants for employment.

5 (d) The Contractor will comply with all provisions of
6 Executive Order No. 11246 of September 24, 1965, as amended, and of the
rules, regulations, and relevant orders of the Secretary of Labor.

7 (e) The Contractor will furnish all information and reports
8 required by said amended Executive Order and by the rules, regulations,
9 and orders of the Secretary of Labor, or pursuant thereto, and will
10 permit access to its books, records, and accounts by the Contracting
11 Officer and the Secretary of Labor for purposes of investigation to
12 ascertain compliance with such rules, regulations, and orders.

13 (f) In the event of the Contractor's noncompliance with the
14 nondiscrimination clauses of this agreement or with any of such rules,
15 regulations, or orders, this agreement may be canceled, terminated, or
16 suspended, in whole or in part, and the Contractor may be declared
17 ineligible for further Government contracts in accordance with
18 procedures authorized in said amended Executive Order, and such other
19 sanctions may be imposed and remedies invoked as provided in said
20 amended Executive Order, or by rule, regulation, or order of the
21 Secretary of Labor, or as otherwise provided by law.

22 (g) The Contractor will include the provisions of paragraphs
23 (a) through (g) in every subcontract or purchase order unless exempted
24 by rules, regulations, or orders of the Secretary of Labor issued
25 pursuant to Section 204 of said amended Executive Order, so that such
26 provisions will be binding upon each subcontractor or vendor. The
Contractor will take such action with respect to any subcontract or
purchase order as may be directed by the Secretary of Labor as a means
of enforcing such provisions, including sanctions for noncompliance;
Provided, however, That in the event the Contractor becomes involved in,
or is threatened with, litigation with a subcontractor or vendor as a
result of such direction, the Contractor may request the United States
to enter into such litigation to protect the interests of the United
States.

Compliance With Civil Rights Laws and Regulations

16. (a) The Contractor shall comply with Title VI of the Civil
Rights Act of 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation
Act of 1975 (Public Law 93-112, as amended), the Age Discrimination Act
of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
laws, as well as with their respective implementing regulations and

1 guidelines imposed by the U.S. Department of the Interior and/or Bureau
2 of Reclamation.

3 (b) These statutes require that no person in the United
4 States shall, on the grounds of race, color, national origin, handicap,
5 or age, be excluded from participation in, be denied the benefits of,
6 or be otherwise subjected to discrimination under any program or
activity receiving financial assistance from the Bureau of Reclamation.
By executing this agreement, the Contractor agrees to immediately take
any measures necessary to implement this obligation, including
permitting officials of the United States to inspect premises, programs,
and documents.

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

12 Books, Records, and Reports

13 17. The Contractor shall establish and maintain accounts and
14 other books and records pertaining to administration of the terms and
15 conditions of this Agreement, including: the Contractor's financial
16 transactions, water supply data, project operation, maintenance and
17 replacement logs, and Project land and right-of-way use agreements; the
18 water users' land-use (crop census), land ownership, land-leasing and
19 water-use data; and other matters that CAWCD may require. Reports
thereon shall be furnished to CAWCD in such form and on such date or
dates as CAWCD may require. Subject to applicable Federal laws and
regulations, each party to this Agreement shall have the right during
office hours to examine and make copies of each other party's books and
records relating to matters covered by this Agreement.

20 Notices

21 18. Any notice, demand, or request authorized or required by this
22 Agreement shall be deemed to have been given, on behalf of CAWCD, when
23 mailed, postage prepaid, or delivered to _____, and on behalf of
24 the Contractor when mailed, postage prepaid, or delivered to the General
25 Manager, Central Arizona Water Conservation District, 23636 North 7th
26 Street, Phoenix, Arizona 85024. The designation of the addressee or the
address may be changed by notice given in the same manner as provided
in this Article for other notices.

Assignment Limited--Successors and Assigns Obligated

19. The provisions of this Agreement shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this Agreement or any right or interest therein shall be valid until approved in writing by CAWCD.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement No. _____ effective the day and year first above-written.

CENTRAL ARIZONA WATER
CONSERVATION DISTRICT

Attest: _____
Secretary

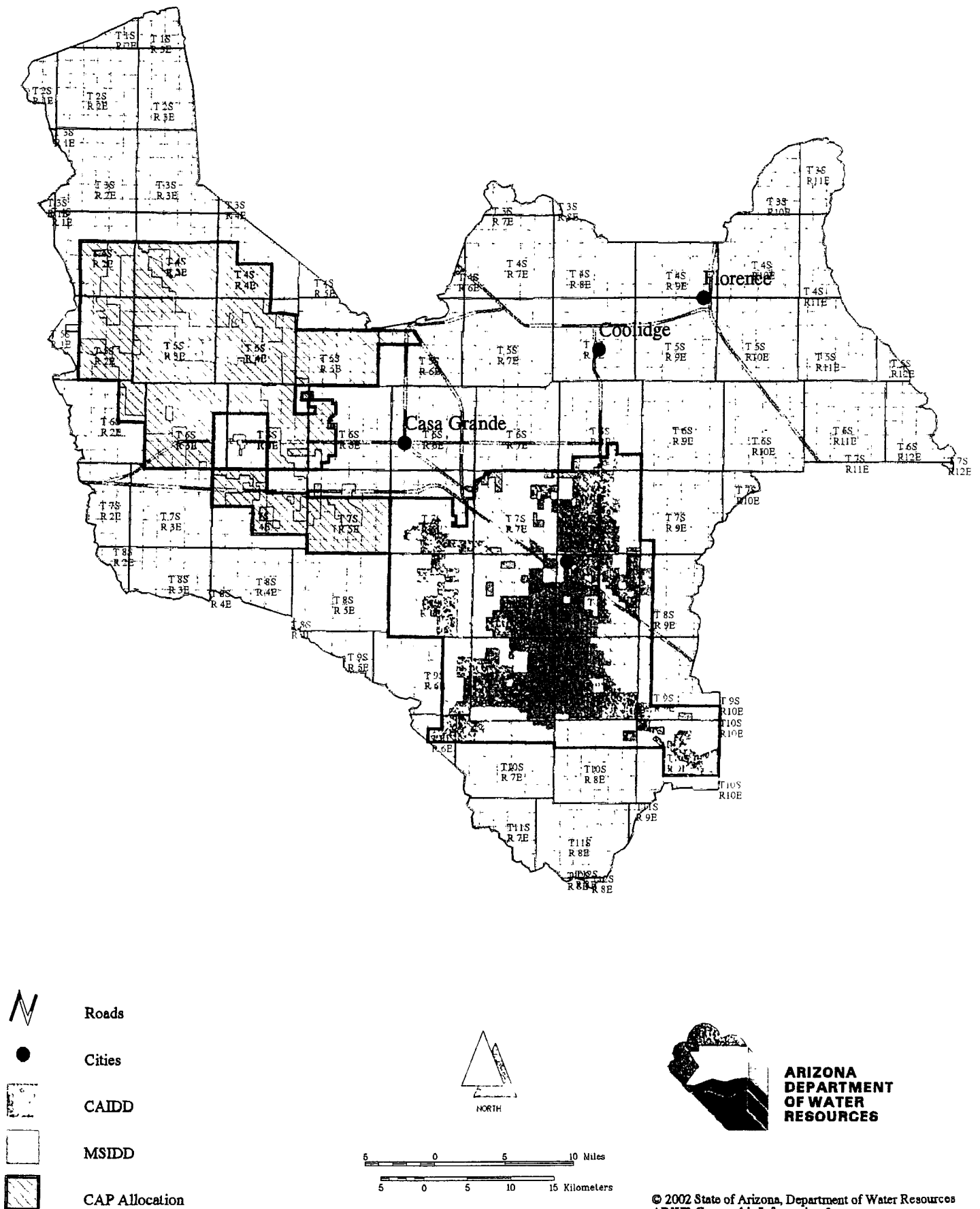
By: _____
President

Attest: _____
Title:

By: _____
Title:

Exhibit 9.3.4.3
CAIDD Area Map

Pinal Active Management Area CAP Allocation that has First Right of Refusal

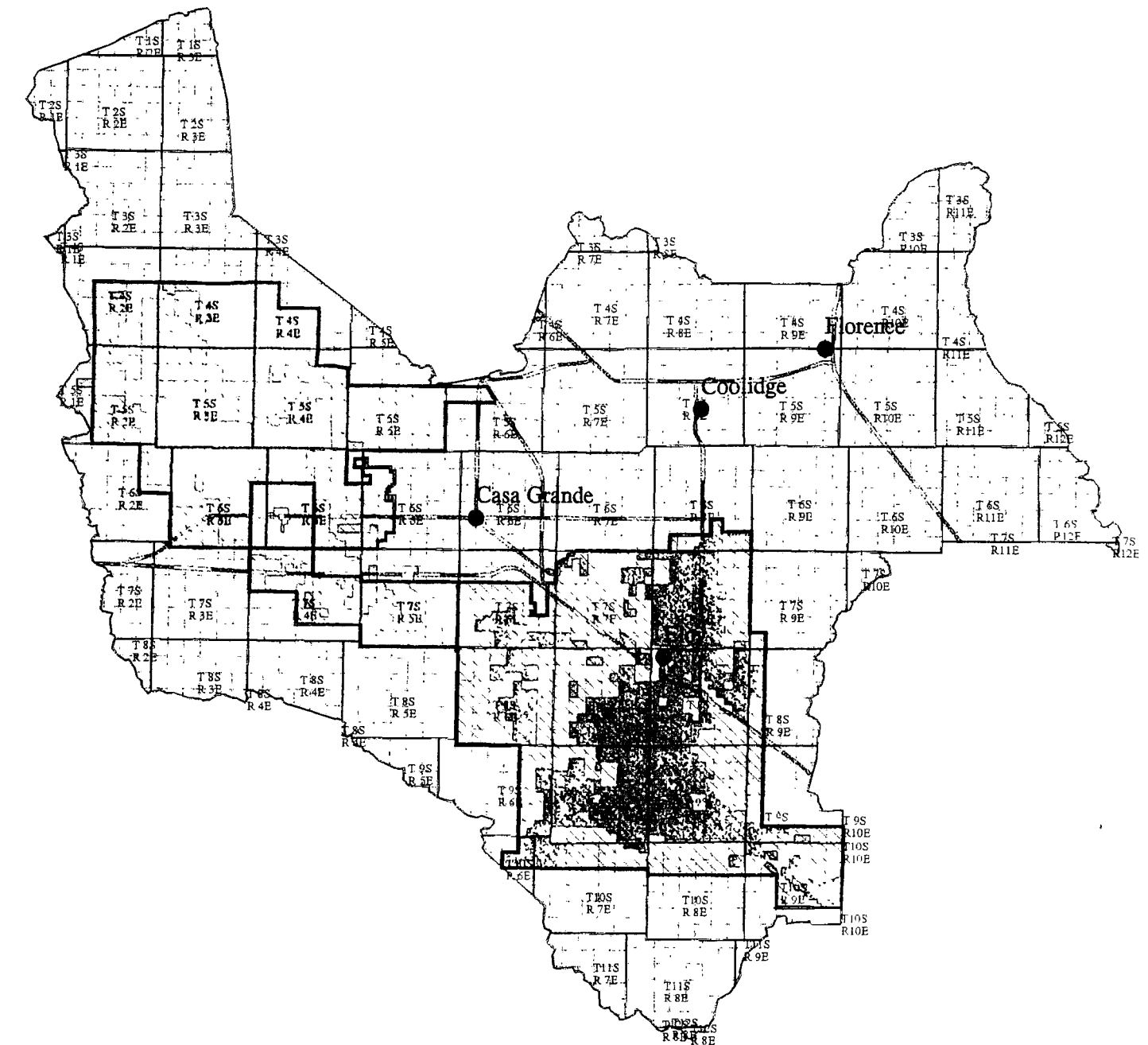


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ADWR Geographic Information Systems
500 North Third Street
Phoenix, AZ 85004
November 14, 2002

Exhibit 9.3.4.4
MSIDD Area Map

Pinal Active Management Area

CAP Allocation that has First Right of Refusal



Roads



Cities



CAIDD



MSIDD



CAP Allocation



NORTH

6 0 5 10 Miles

5 0 5 10 15 Kilometers



**ARIZONA
DEPARTMENT
OF WATER
RESOURCES**

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