AGREEMENT TO FIRM FUTURE SUPPLIES

This Agreement to Firm Future Supplies ("Agreement") is made this 4th day of FEBRUARY, 2005 ("Effective Date"), by and between the Arizona Water Banking Authority ("AWBA") and the Mohave County Water Authority ("MCWA"), collectively referred to as the "Parties" and individually as the "Party."

RECITALS

1. AWBA is an agency of the State of Arizona and was created to store the State of Arizona's unused Colorado River water entitlement in western, central and southern Arizona and, in part, to develop long-term storage credits to firm existing water supplies for municipal and industrial ("M&I") users along the Colorado River during Colorado River shortages.

2. MCWA is a corporate and political body of the State of Arizona and a post-1968 M&I user of Colorado River water in the State of Arizona that is outside the service area of the Central Arizona Water Conservation District ("CAWCD").

3. AWBA is mandated by A.R.S. § 45-2457 to reserve a reasonable number of long-term storage credits accrued with general fund appropriations for the benefit of M&I users of Colorado River water in the State of Arizona that are outside the service area of CAWCD.

4. On January 21, 1998, AWBA adopted a motion identifying 420,000 acre-feet as the reasonable number of long-term storage credits to be developed and set aside for the benefit of M&I users of Colorado River water in the State of Arizona that are outside the service area of CAWCD. As of the Effective Date, AWBA has developed approximately 395,678 of the 420,000 acre-feet of long-term storage credits.

5. On March 20, 2002, AWBA adopted Resolution 2002-1, which provided, in part, that the first priority of the use of long-term storage credits accrued with general fund appropriations shall be to develop and set aside a reasonable number of long-term storage credits as determined by AWBA's commission for the benefit of M&I users of Colorado River water in the State of Arizona that are outside the service area of CAWCD.

6. On July 1, 2002, AWBA and CAWCD entered into the "Agreement Between the Central Arizona Water Conservation District and the Arizona Water Banking Authority Providing for the Delivery of Excess Central Arizona Project Water." The agreement provides that "excess water" as defined in the agreement is available to AWBA for banking purposes in accordance with the terms of the agreement.

7. MCWA intends to enter into subcontracts on or before June 30, 2005, with various Colorado River users possessing contracts for M&I water uses with priorities

equal to the Central Arizona Project ("CAP") to include their respective Shortages in this Agreement.

8. MCWA recognizes that it is necessary for it to take the following actions in order for it to perform under this Agreement: (1) establish a long-term storage credit account with the Arizona Department of Water Resources and (2) enter into a water exchange agreement with an entity that has access to CAP water in order to utilize the long-term storage credits developed for MCWA under this Agreement.

9. The Parties desire to provide: (1) a specific commitment by AWBA to insure the number of acre-feet of long-term storage credits identified in Exhibit A, attached hereto, are available for the benefit of MCWA during times of Shortage; and (2) that MCWA makes specific payments in consideration of AWBA's commitments set forth in this Agreement.

ARTICLE 1

DEFINITIONS

1.1. Definitions.

For the purposes of this Agreement, the following terms shall have the meaning defined in this Subarticle. Defined terms are identified by initial letter capitalization.

1.1.1. "ADWR" shall mean the Arizona Department of Water Resources.

1.1.2. "Agreement" shall mean this Agreement to Firm Future Supplies.

1.1.3. "AWBA" shall mean the Arizona Water Banking Authority.

1.1.4. "CAP" shall mean the Central Arizona Project, as authorized by the Colorado River Basin Project Act, 43 U.S.C. § 1501 *et seq.*, and as operated under that certain Master Repayment Contract dated December 1, 1988, Contract No. 14-06-W-245 between CAWCD and the United States Bureau of Reclamation, as amended.

1.1.5. "CAWCD" shall mean the Central Arizona Water Conservation District.

1.1.6. "Effective Date" shall mean the date that this Agreement is fully executed by all parties.

1.1.7. "LTS Credits" shall mean long-term storages credits as defined in A.R.S. § 45-802.01.

1.1.8. "M&I Users" shall mean municipal and industrial users of Colorado River water possessing contracts for M&I water uses with priorities equal to CAP in the State of Arizona that are outside the service area of CAWCD.

1.1.9. "MCWA's LTS Credit Account" shall mean MCWA's LTS Credit account established with ADWR in connection with this Agreement, which account shall separately track the firming credits held for each of MCWA's member agencies who have executed an MCWA Subcontract.

1.1.10. "MCWA's Subaccount" shall mean the subaccount established by AWBA in connection with this Agreement.

1.1.11. "MCWA Subcontract" shall mean a contract entered into prior to June 30, 2005, between MCWA and an M&I User to include its Shortage in this Agreement. The number of acre-feet of LTS Credits subject to the MCWA Subcontracts, if any, are identified in Exhibit A, attached hereto.

1.1.12. "Prepayment" shall mean the payment by MCWA to AWBA of a portion of the Replacement Costs as set forth in Subarticle 3.2. herein.

1.1.13. "Replacement Costs" shall mean the cost to replace the LTS Credits as set forth in Subarticle 3.2. herein.

1.1.14. "Shortage" shall mean the shortage declared by the Secretary of the United States Department of the Interior in the Annual Operation Plan for Colorado River reservoirs.

ARTICLE 2

TERM OF THE AGREEMENT

2.1. Term.

2.1.1. This Agreement shall be effective when executed by all Parties. This Agreement shall terminate when all of the LTS Credits identified in Exhibit A as set forth in Subarticle 3.1.1. have been transferred to MCWA's LTS Credit Account or on December 31, 2096, whichever is earlier. Any LTS Credits remaining in MCWA's LTS Credit Account at the termination of this Agreement shall revert to the sole and exclusive benefit of AWBA pursuant to A.R.S. § 45-2457, unless this Agreement is extended by all Parties in a written agreement.

//

//

ARTICLE 3

LONG-TERM STORAGE CREDITS

3.1. LTS Credits for MCWA.

3.1.1. The number of acre-feet of LTS Credits subject to the MCWA Subcontracts, if any, as well as the number of LTS Credits designated by MCWA in an amount not to exceed its proportional share of the 420,000 acre-feet of LTS Credits developed and set aside for the M&I Users are identified in Exhibit A, attached hereto. Exhibit A may be amended from time to time to reflect additional acre-feet of LTS Credits subject to this Agreement, but in no event shall Exhibit A be amended or superseded by another Exhibit A after July 15, 2005. The initial Exhibit A is attached hereto and made a part of this Agreement, and shall be in force and effect in accordance with its respective provision until superseded by a subsequent exhibit executed by all parties. In the event that Exhibit A does not identify any acre-feet of LTS Credits on July 15, 2005, AWBA shall have the right to terminate this Agreement on or after July 16, 2005, and each Party shall be relieved of their respective duties and obligations under this Agreement.

3.1.2. The number of acre-feet of LTS Credits developed and set aside for the benefit of M&I Users as of the Effective Date are identified in Exhibit B, attached hereto. Exhibit B may be amended from time to time to reflect the actual number of acre-feet of LTS Credits developed by AWBA to benefit M&I Users. The initial Exhibit B is attached hereto and made a part of this Agreement, and shall be in force and effect in accordance with its respective provision until superseded by a subsequent exhibit executed by all parties. In the event that the number of LTS Credits identified in Resolution 2002-1 adopted by AWBA on March 20, 2002 (420,000 acre-feet) is modified by AWBA, the Parties agree to renegotiate in good faith the terms of this Agreement to reflect the modified number of LTS Credits to be developed and set aside for the benefit of M&I Users by AWBA.

3.1.3. AWBA shall take all actions necessary to insure that LTS Credits in the maximum number of acre-feet of LTS Credits identified in Exhibit A are developed and set aside for the benefit of MCWA. Such actions may include storage of Colorado River water, assignment of LTS Credits previously developed through the storage of Colorado River water, or any other action consistent with Title 45, Chapter 14 of the Arizona Revised Statutes. Nothing in this Subarticle, however, shall require AWBA to independently seek general fund appropriations from the Arizona State Legislature for the development of LTS Credits subject to this Agreement.

3.1.4. On or before July 31, 2005, AWBA shall establish the MCWA Subaccount and shall assign to the MCWA Subaccount the number of acre-feet of LTS Credits developed to benefit M&I Users identified in Exhibit A. The number of acre-feet of LTS Credits identified in Exhibit A that may be assigned to the MCWA Subaccount shall be reduced by a percentage equal to the number of acre-feet of LTS Credits identified in Exhibit B divided by 420,000. AWBA shall assign the remaining acre-feet of LTS Credits to the MCWA Subaccount once AWBA develops the entire 420,000 acre-feet of LTS Credits. By way of example only, Exhibit B provides that 396,000 acre-feet of the 420,000 acre-feet of the LTS Credits identified benefiting the M&I Users have been developed. Exhibit A identifies 71,356 acre-feet of LTS Credits. Under this scenario, AWBA would be required to assign 94% (396,000/420,000) of the 71,356 acre-feet of LTS Credits (67,075 acre-feet) to the MCWA Subaccount. Once AWBA develops the entire 420,000 acre-feet of LTS Credits, AWBA would be required to assign the remaining 6% of the 71,356 acre-feet of LTS Credits (4,281 acre-feet) to the MCWA Subaccount.

3.1.5. The sum total of the LTS Credits which may be transferred to MCWA's LTS Credit Account shall not exceed the amounts identified in Exhibit A and shall only be transferred to MCWA's LTS Credit Account from the MCWA Subaccount if: (1) the Secretary of the United States Department of the Interior declares a Shortage; and (2) MCWA has entered into a water exchange agreement with an entity who has access to CAP water. In the event that MCWA does not enter into such a water exchange agreement by June 30, 2005, AWBA shall have the right to terminate this Agreement on July 1, 2005, and each Party shall be relieved of their respective duties and obligations under this Agreement.

3.1.6. At MCWA's request, the amount of LTS Credits transferred to MCWA's LTS Credit Account in any given year pursuant to this Agreement shall be no greater than the amount of the Shortage actually borne by MCWA for that year, and, in no event, shall the sum total exceed the number of acre-feet of LTS Credits identified in Exhibit A. Any LTS Credits transferred to MCWA's LTS Credit Account under this Subarticle not utilized pursuant to a water exchange agreement shall be returned to the MCWA Subaccount before March 1 of the following year.

3.1.7. AWBA's obligations under Article 3 herein are contingent upon the Arizona State Legislature providing AWBA sufficient general funds to develop the number of acre-feet of LTS Credits above amounts identified in Exhibit B subject to this Agreement.

//

//

3.2. Payments by MCWA.

3.2.1. In consideration of AWBA's obligations under Subarticle 3.1. and pursuant to A.R.S. § 45-2457(B)(2)(a)(ii), MCWA shall pay the Replacement Costs of the LTS Credits transferred to MCWA's LTS Credit Account under this Agreement. MCWA shall prepay a portion of the Replacement Costs to AWBA (the "Prepayment") as set forth in Subarticle 3.2.3.1. The Prepayment does not reflect the total amount of the Replacement Costs.

3.2.2. MCWA's obligation to make the Prepayment shall be made regardless of whether any LTS Credits are transferred to MCWA's LTS Credit Account. No portion of the Prepayment shall be returned to MCWA in the event that LTS Credits are not transferred to MCWA's LTS Credit Account under Subarticle 3.1.

3.2.3. The Prepayment shall be calculated and charged to MCWA in accordance with Subarticle 3.2.3.1., and billed and paid by MCWA as provided in Subarticle 3.2.3.3. The Replacement Costs shall be calculated and charged to MCWA in accordance with Subarticle 3.2.3.2. and billed and paid by MCWA as provided in Subarticle 3.2.3.3.

3.2.3.1. The Prepayment shall equal the total number of acre-feet of LTS Credits identified in Exhibit A as of July 15, 2005, multiplied by $20.00.

3.2.3.2. The Replacement Costs for the LTS Credits transferred to MCWA's LTS Credit Account shall consist of the following pricing components computed on a per acre-foot basis:

3.2.3.2.1. Any cost to purchase water, transport water through the CAP and store water. AWBA agrees that the storage of water under this Agreement shall take into account the location, manner and cost of storing all water stored by AWBA in the State of Arizona. AWBA agrees that the selection of storage facilities for water stored under this Agreement and for others in Arizona shall not be made in a manner that unreasonably allocates the higher storage cost to the storage of water under this Agreement;

3.2.3.2.2. A payment in lieu of property taxes, calculated as described in A.R.S. § 48-3715; and

3.2.3.2.3. Any additional costs as may be reasonably incurred by AWBA, including, but not limited to, costs AWBA is required by A.R.S. § 45-2424 to reimburse ADWR and CAWCD for the services provided by each agency to AWBA pursuant to the provisions of A.R.S. § 45-2424 and the "Intergovernmental Agreement Among the Arizona Department of Water Resources, Arizona Water Banking Authority and Central Arizona Water Conservation District" entered into on July 1, 2002.

3.2.3.3. The Prepayment and Replacement Costs shall be billed and paid as follows:

3.2.3.3.1. MCWA shall pay to AWBA the Prepayment in twenty (20) equal consecutive quarterly payments due on or before the 15th day of March, June, September and December of each year, commencing the quarter immediately following a written request for payment by AWBA. In no event shall the first quarterly payment of the Prepayment be due before July 1, 2005.

3.2.3.3.1.1. Replacement Costs for LTS Credits transferred to MCWA's LTS Credit Account under Subarticle 3.1. shall be first credited against the Prepayment. Once the Prepayment is exhausted, MCWA shall pay that portion of the Replacement Costs not already credited against the Prepayment as set forth in Subarticle 3.2.3.3.1.2.

3.2.3.3.1.2. No later than March 15 of the year following the year in which AWBA transfers LTS Credits to MCWA's LTS Credit Account, AWBA shall provide MCWA with a year-end account reconciliation showing the LTS Credits transferred to MCWA's LTS Credit Account and whether the Replacement Costs of the LTS Credits exceed the balance of the Prepayment. If the year-end account-reconciliation demonstrates that additional Replacement Costs are owed to AWBA, MCWA shall pay those Replacement Costs within three (3) years of the date an invoice is submitted by AWBA.

3.2.3.3.2. Subject to the approval of AWBA, MCWA may assign to AWBA the number of LTS Credits held by MCWA in lieu of MCWA paying the Replacement Costs as set forth in Subarticle 3.2.3.2. herein. The assignment of LTS Credits transferred to AWBA under this Subarticle shall take place within thirty (30) days after ADWR transfers the LTS Credits subject to this Agreement to MCWA's LTS Credit Account.

ARTICLE 4

DELINQUENT CHARGES AND SURETY OF PERFORMANCE

4.1. Delinquency charges under the terms of this Agreement.

4.1.1. The Parties agree that monetary damages will be ineffective in remedying any breach of this Agreement, other than nonpayment, and that a court may order specific performance.

4.1.2. All payments due under this Agreement shall be paid promptly on the date required and, if not paid, shall be delinquent. Interest on delinquent payments may be assessed from the business day of the month on which the charge was due and shall accrue at the prime rate of interest as established by the greater of the rate prescribed in the Federal Register by the Department of the Treasury for application to overdue payments, or the interest rate of 0.5 percent per month described by Section 6 of the Reclamation 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. Any payment received shall first be applied to any interest owed, and then to charges owed.

4.1.3. In the event any portion of the charges are disputed, the disputed amount shall be paid when due, but may be accompanied by a written statement indicating the basis for any dispute. If the dispute is found to be valid, MCWA shall be refunded any overpayment plus interest, accrued at the rate as set forth in Subarticle 4.1.2, prorated by days from the date payment was credited to MCWA to the date the refund check is issued.

4.1.4. In the event any delinquent amount is not paid by MCWA within thirty (30) days after receipt by MCWA of written notice from AWBA of the delinquency, AWBA shall have the right, without liability of any kind, to suspend its performance under this Agreement so long as the delinquent amount remains unpaid. Such suspension shall not affect the LTS credits

remaining in MCWA's LTS Credit Account. Nothing herein shall limit the rights of AWBA to use any other available legal remedy to effect collection of delinquent amounts.

4.2. Surety of performance under the terms of this Agreement.

4.2.1. In the event that a dispute arises over any action to be undertaken pursuant to the terms of this Agreement, the Parties recognize and acknowledge that time is of the essence in the conduct of the Parties under the terms of this Agreement.

4.2.2. AWBA shall insure that there are in effect all third party contracts necessary for the development of the LTS Credits as provided in Article 3 herein, the provisions of such contracts to be consistent with the provisions of this Agreement. AWBA shall use its best efforts to insure that all such third party contracts are enforced in a manner consistent with the terms of this Agreement.

ARTICLE 5

OTHER PROVISIONS

5.1 Uncontrollable forces.

5.1.1. Neither Party shall be considered to be in default in the performance of any of its obligations under this Agreement when a failure to perform shall be due to uncontrollable forces. The term "uncontrollable forces" shall mean any cause beyond the control of the Party unable to perform such obligation, including, but not limited to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, strike, labor dispute, labor or material shortage, sabotage, government priorities other than those of the Parties and restraint by court order or public authority, and action or nonaction by, or failure to obtain the necessary authorizations or approvals from, any government agency or authority, which by exercise of due diligence such Party could not reasonably have been expected to avoid and which by exercise of due diligence it shall be unable to overcome. Nothing contained herein shall be construed to require either Party to settle any strike or labor dispute in which it is involved.

//

//

5.2. Notices

5.2.1. Any notice, demand, or request authorized or required by this Agreement shall be in writing and shall be deemed to have been duly given if mailed, first class postage prepaid, or delivered at the following address:

If to the AWBA:

Manager
Arizona Water Banking Authority
Arizona Water Department of Water Resources
500 N. Third Street
Phoenix, Arizona, 85004

If to MCWA:

Chairperson
Mohave County Water Authority
P.O. Box 2419
Bullhead City, AZ 86430

5.3. Assignment limited.

5.3.1 The provisions of this Agreement shall apply to and bind the successors and assigns of the Parties, but no assignment or transfer of this Agreement or any interest therein shall be valid unless and until approved in writing by the non-assigning Party.

5.4. No third party beneficiary.

5.4.1. This Agreement is solely for the benefit of the Parties and does not create, nor shall it be construed to create, rights in any third party unless expressly provided herein. No third party may enforce the terms and conditions of this Agreement except for the holders of a MCWA Subcontract if both of the following occur: (1) AWBA approves the subject MCWA Subcontract in writing and (2) MCWA is dissolved and is no longer in existence.

5.5 Waiver.

5.5.1. The waiver by either Party of any breach of any term, covenant or condition of this Agreement shall not be deemed a waiver of any other term, covenant or condition, or any subsequent breach of the same or any other term, covenant or condition of this Agreement.

5.6. Entire agreement.

5.6.1. The terms, covenants and conditions of this Agreement constitute the entire agreement between the Parties, and no understandings or obligations not expressly set forth in this Agreement shall be binding upon them. This Agreement may not be modified or amended in any manner unless in writing signed by the Parties.

5.7. Governing law.

5.7.1 This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.

5.8. Cancellation.

5.8.1. This Agreement is subject to cancellation in accordance with the provisions of A.R.S. § 38-511.

In Witness of this Agreement, the Parties affix their official signatures below,

acknowledging execution of this document on the 4th day of February, 2005.

Arizona Water Banking Authority

Attest:

By: _____ By: _____

Charles L. Cahoy, Secretary Herbert R. Guenther, Chairman

Mohave County Water Authority

Attest:

By: _____ By: _____

Maureen R. George, Secretary/Treasurer Tom Griffin, Chairman

(Ref.: MCWA RESO. #04-02)

EXHIBIT A

1. This Exhibit A, made this 4th day of February, 2005, to be effective under and as part of the Agreement shall become effective on the date of the Agreement's execution and shall remain in effect until superseded by another Exhibit A executed by all of the parties. This Exhibit A may not be amended or superseded by another Exhibit A after July 15, 2005. This Exhibit A or any superseding Exhibit A shall terminate with the termination of the Agreement.

2. Acre-feet of LTS Credits:

Total: 0

In Witness of this Agreement, the Parties affix their official signatures below, acknowledging execution of this Exhibit A on the 4th day of February, 2005.

Arizona Water Banking Authority

Attest:

By: _____
Charles L. Cahoy, Secretary

By: _____
Herbert R. Guenther, Chairman

Mohave County Water Authority

Attest:

By: _____
Maureen R. George, Secretary/Treasurer

By: _____
Tom Griffin, Chairman

(Ref.: MCWA RESO. #04-02)

EXHIBIT B

1. This Exhibit B, made this 4th day of February, 2005, to be effective under and as part of the Agreement shall become effective on the date of the Agreement's execution and shall remain in effect until superseded by another Exhibit B executed by all of the parties. This Exhibit B or any superseding Exhibit B shall terminate with the termination of the Agreement.

2. Acre-feet of LTS Credits developed by AWBA for the benefit of M&I Users:

   Total: 395,678

In Witness of this Agreement, the Parties affix their official signatures below, acknowledging execution of this Exhibit B on the 4th day of February, 2005.

Arizona Water Banking Authority

Attest:

By: _____
Charles L. Cahoy, Secretary

By: _____
Herbert R. Guenther, Chairman

Mohave County Water Authority

Attest:

By: _____
Maureen R. George, Secretary/Treasurer

By: _____
Tom Griffin, Chairman

(Ref.: MCWA RESO. #04-02)