

# ACTION BRIEF

BOARD OF DIRECTORS



## Agenda Number 8.c.1

**CONTACT:** Landon Loveland  
623-869-2885  
lloveland@cap-az.com

Kenneth Seasholes  
623-869-2476  
kseasholes@cap-az.com

**MEETING DATE:** Thursday, September 7, 2023

**AGENDA ITEM:** Discussion and Consideration of Action to Approve a Standard Form CAWCD Firming Water Delivery Agreement (*Water Supply*<sup>^</sup>) - Loveland

**RECOMMENDATION:** Staff supports the recommendation to the CAWCD Board for approval of the CAWCD Firming Water Delivery Agreement.

---

**FISCAL IMPLICATIONS:** No

**Impact on Budget:**

Additional spending authority requested:

**Impact on Reserves:**

**Impact on Rates:**

---

**LINKAGE TO STRATEGIC PLAN, POLICY, STATUTE OR GUIDING PRINCIPLE:**

2022 CAWCD Board Strategic Plan

Water Supply: *Providing a reliable CAP water supply for the short- and long-term*

Strategic Issue: *Facilitate deliveries of non-Project water through the CAP system, pursuant to the System Use Agreement*

Strategic Issue: *Work collaboratively in the recovery of water stored by the Arizona Water Banking Authority*

**PREVIOUS BOARD ACTION/ACTIVITY:**

05/19/2022 CAGRD & Underground Storage Committee - Report on Recovery Planning and Implementation

11/17/2022 CAGRD & Underground Storage Committee - Report on Recovery Planning and Implementation

05/18/2022 CAGRD & Underground Storage Committee - Report on Recovery Planning and Implementation

08/03/2023 CAWCD Board - Report on CAP System Use Agreement Report on CAP System Use Agreement

08/17/2023 Discussion and Consideration of Action to Recommend the Board Approve a Standard Form CAWCD Firming Agreement

**ISSUE SUMMARY/DESCRIPTION:**

All deliveries of water in the CAP system require some form of water delivery contract, and the CAWCD Firming Water Delivery Agreement (Agreement) can serve this role for water that is delivered to supplement (firm) a CAP M&I subcontract (M&I or NIA priority) that has been reduced in shortage. This Agreement is contemplated in Article 8 of the 2017 CAP System Use Agreement (SUA) between CAWCD and Reclamation, and section 8.4 of the SUA provides for Reclamation to develop a similar agreement for firming Tribal contracts.

The most common expected use of this Agreement is for M&I priority subcontractors that elect to have CAWCD provide Firming Water on behalf of the Arizona Water Banking Authority (AWBA). CAWCD can develop Firming Water in several ways, including recovering (pumping) Long-Term Storage Credits transferred from the AWBA utilizing a partner's permitted recovery wells and then exchanging that supply for CAP water; exchanging credits for CAP water supplies held by the CAGR; or directly discharging recovered water into the CAP aqueduct. The CAWCD Firming Water Delivery Agreement is the contractual mechanism for the M&I subcontractor to receive that water, and contains the same basic provisions contained in the subcontract itself (e.g., scheduling, no warrantee of water quality, etc.). The Agreement is also written to cover situations where a CAP M&I subcontractor has developed their own supply that they wish to have delivered through the CAP system exclusively for firming. In that case, the Agreement can serve in place of a CAWCD or Reclamation Wheeling Contract (as those are defined in the SUA).

This Agreement has undergone a number of revisions in response to stakeholder comments. In particular, efforts have been made to clarify the relationship between the Agreement and other provisions of the SUA, now included as an exhibit, and noting that the scope is limited to the terms and conditions for the receipt of Exchange Water or non-Project Water delivered via the CAP system for firming. The particular means by which those supplies are developed falls outside the scope of this agreement, and to further emphasize the purpose of the document, the words "water delivery" were added to the title.

**SUGGESTED MOTION:**

I move that the CAWCD Board approve the "CAWCD Firming Water Delivery Agreement" in substantially the same form as attached to the brief.

**ATTACHMENTS:**

1. Presentation
2. Firming Agreement\_2023-08-16\_Clean