

**FIRST SUPPLEMENTAL WATER RIGHTS TRANSFER, WATER EXCHANGE, AND
WATER DELIVERY AND USE AGREEMENT
FOR THE BONITA CREEK LAND AND HOMEOWNERS' ASSOCIATION WATER SYSTEM
AMONG
SALT RIVER VALLEY WATER USERS' ASSOCIATION,
SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT,
AND
BONITA CREEK LAND AND HOMEOWNERS' ASSOCIATION**

JUNE 2018

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1. PARTIES:

The Parties to this First Supplemental Water Rights Transfer, Water Exchange, and Water Delivery and Use Agreement for the Bonita Creek Water System ("Agreement") entered into this 18 day of June, 2018, are BONITA CREEK LAND AND HOMEOWNERS' ASSOCIATION, an Arizona non-profit corporation ("BCLHOA"); and the SALT RIVER VALLEY WATER USERS' ASSOCIATION, an Arizona Corporation ("Association"), and the SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, a political subdivision of the State of Arizona ("District"). The Association and the District are sometimes collectively referred to as "SRP." BCLHOA and SRP are referred to individually as "Party" and collectively as "Parties."

2. RECITALS:

This Agreement is made with regard to the following:

2.1 The Association is the agent of the United States of America in the operation of the Salt River Federal Reclamation Project, a federal reclamation project, pursuant to an agreement dated September 6, 1917, and is also the agent for the District in the operation of portions of the federal reclamation project pursuant to an agreement dated March 22, 1937, as amended by agreements dated February 28, 1944, and September 12, 1949. C.C. Cragin Reservoir, formerly known as Blue Ridge Reservoir, is a component of the Salt River Federal Reclamation Project. The District holds the water right for water stored in and diverted from C.C. Cragin Reservoir under Certificate of Water Right ("CWR") No. 3696.0001.

2.2 Association shareholders hold decreed water rights to the normal flow of the Salt

and Verde Rivers including appropriable water of Bonita Creek, a tributary of the East Verde River located in northern Gila County, which is a tributary of the Verde River, with priority dates from 1869 through 1909.

- 2.3 BCLHOA, through its public water system (No. 04-024), develops and distributes water from Bonita Creek under a certificate of convenience and necessity (W-02195A) to customers within its service area located in northern Gila County. BCLHOA currently diverts surface water from Bonita Creek to serve customers within its service area and may in the future construct wells adjacent to Bonita Creek to withdraw water to serve its customers within its service area. Its predecessor in interest, Bonita Water Company, filed an application to appropriate water from Bonita Creek under Arizona law on August 3, 1956, which was subsequently rejected by the Arizona State Land Department. BCLHOA filed an application to appropriate water from Bonita Creek on November 6, 1992, which SRP protested and remains unresolved. SRP believes that BCLHOA does not have a right to divert appropriable water of Bonita Creek and that such diversions adversely impact SRP shareholders' senior vested water rights to the Verde River System.
- 2.4 Under provisions of the Arizona Water Settlements Act of 2004 (Public Law 108-451), up to 3,500 acre-feet of water per year may be made available from C.C. Cragin Reservoir for municipal and domestic uses in northern Gila County, Arizona without cost to the Salt River Federal Reclamation Project.
- 2.5 SRP and the BCLHOA are parties to the agreement entitled "Water Rights Transfer, and Water Delivery and Use Agreement among Salt River Valley Water Users Association, Salt River Project Agricultural Improvement and Power District, and Bonita Creek Land and Homeowners' Association, executed on October 14, 2015 ("2015 Agreement"). The Parties desire to amend and restate the 2015 Agreement as provided herein.
- 2.6 In an effort to eliminate future conflict with SRP over the use of appropriable water of Bonita Creek and withdrawal of water from wells adjacent to Bonita Creek, the Parties desire to enter into this Agreement.
- 2.7 Through this Agreement, SRP intends to sever and transfer a portion of its right to stored water from C.C. Cragin Reservoir to the BCLHOA. However, BCLHOA, due to its geographical location, cannot physically use stored water from C.C. Cragin

Reservoir without considerable expense. Accordingly, the Parties intend to enter into an exempt water exchange under A.R.S. § 45-1002(A)(1) where SRP will accept delivery of stored water from C.C. Cragin Reservoir into the East Verde River for use by its shareholders in exchange for BCLHOA diverting appropriable water of Bonita Creek and/or withdrawing water from wells adjacent to Bonita Creek to deliver to its water customers.

2.8 The Parties recognize that certain residents who own parcels of land and reside within the Bonita Creek Water Service Area privately divert appropriable water of Bonita Creek and/or withdraw water from wells adjacent to Bonita Creek for domestic uses. Parties desire to provide these residents with an option to avoid future conflict with SRP over these diversions and withdrawals through the terms of this Agreement.

3. **FIRST SUPPLEMENTAL AGREEMENT:**

The 2015 Agreement shall remain in full force and effect, except as amended and restated by this First Supplemental Agreement, and in the event any conflict shall be found to exist or incongruity arise as between the 2015 Agreement and this First Supplemental Agreement, the terms and provisions of this First Supplemental Agreement shall govern and control. This First Supplemental Agreement is referred to hereafter as the Agreement. In consideration of the mutual covenants herein set forth, the Parties hereto agree as follows:

4. **DEFINITIONS:**

The definitions used in this Agreement shall govern the interpretation of this Agreement only. As used in this Agreement, the following terms, when capitalized, mean:

4.1 Active Conservation Capacity: The capacity of C.C. Cragin Reservoir used to store water on a continuous basis, excluding water stored in the Inactive Capacity. The initial Active Conservation Capacity shall be set at 12,832 acre-feet and shall be adjusted periodically as provided in Subparagraph 8.6.

4.2 ADWR: The Arizona Department of Water Resources or its successor agency.

4.3 Authorized Representative(s): Representatives of the Parties appointed to administer certain provisions of this Agreement, pursuant to Paragraph 19.

- 4.4 **BCLHOA**: The Bonita Creek Land and Homeowners' Association that owns and operates the Bonita Creek Land and Homeowners' Association Water System and serves water to BCLHOA Water Customers within the exterior boundaries of its Certificate of Convenience and Necessity No. W-02195A and the BCLHOA Water Service Area.
- 4.5 **BCLHOA Stored Water**: The quantity of water from C.C. Cragin Reservoir allocated to BCLHOA for the BCLHOA Water Service Area as determined under Paragraph 8 and exchanged with SRP for Surface Water and Underground Water under Paragraph 10.
- 4.6 **BCLHOA Stored Water Account**: Water account established by SRP under Subparagraph 15.1.
- 4.7 **BCLHOA Water Customers**: Residents within the BCLHOA Water Service Area that receive water service from the BCLHOA.
- 4.8 **BCLHOA Water Service Area**: The area shown on the BCLHOA Water Service Area map attached hereto as Exhibit 4.8 where Surface Water may be diverted and Underground Water may be withdrawn by BCLHOA under Subparagraph 9.3 in exchange for BCLHOA Stored Water under Paragraph 10 for delivery to BCLHOA Water Customers. The exterior boundaries of the BCLHOA Water Service Area are defined by legal description in Exhibit 4.8 and include all land located within the exterior boundaries of the BCLHOA's Certificate of Convenience and Necessity No. W-02195A. The BCLHOA Water Service Area may be amended from time to time by agreement of the Authorized Representatives and compliance with applicable regulatory requirements.
- 4.9 **Bonita Creek Residents**: Private parcel owners within the BCLHOA Water Service Area that, under Paragraph 16, (1) divert Surface Water for use on the parcels and/or (2) operate private wells located on the parcels where Bonita Creek Residents withdraw Underground Water for use on parcels. Bonita Creek Residents may also be BCLHOA Water Customers.
- 4.10 **C.C. Cragin Project**: The water storage reservoir known as C.C. Cragin Reservoir situated in Coconino and Gila Counties, Arizona, consisting generally of C.C. Cragin Dam and all pipelines, tunnels, buildings, hydroelectric generating

facilities, and other structures of every kind, transmission, telephone and fiber optic lines, pumps, machinery, tools, and appliances; and all real or personal property, appurtenant to or used, or constructed or otherwise acquired to be used, in connection with C.C. Cragin Reservoir.

- 4.11 **Cumulative Total**: The total quantity of Surface Water diverted and Underground Water withdrawn by BCLHOA at the Points of Receipt during the Water Year to serve BCLHOA Water Customers. The Cumulative Total also includes the total quantity of Surface Water diverted and Underground Water withdrawn by Bonita Creek Residents under Paragraph 16 during the Water Year.
- 4.12 **Delivery Point**: The point along the East Verde River where SRP delivers BCLHOA Stored Water from the C.C. Cragin Project and measured at the measuring device known as the USGS gage No. 09507580, East Verde Diversion from East Clear Creek near Pine, Arizona.
- 4.13 **Flow Measurement System**: A flow measurement system configured to relevant industry standards including a primary water measurement device or method (flow meter, weir, gate, electronic transducer, etc.) and a detection device (float, depth probe, manometer, flow meter, etc.) for the real-time monitoring of water able to (1) indicate a rate of flow for operation purposes, and (2) produce a volume totalization for water accounting purposes. The detection device shall be electronically compatible with SRP requirements for data collection, software, telemetry, and water totalization methods and reporting, unless otherwise agreed by the Authorized Representatives. The Flow Measurement System shall be configured to enable an adequate secondary measurement (field verification) for proof of accuracy as provided for in Exhibit 14.1 of this Agreement.
- 4.14 **Inactive Capacity**: The capacity of C.C. Cragin Reservoir below the intake of the pump inlet tunnel at C.C. Cragin Reservoir.
- 4.15 **Net May 1 Storage**: The total quantity of water in storage in the Active Conservation Capacity on May 1 of each year.
- 4.16 **Operation, Maintenance, and Capital Budget Plan**: An annual plan developed by SRP addressing the capital requirements and the operation and maintenance ("O&M") activities for the C.C. Cragin Project and the planned budget reflecting SRP's Capital Costs and SRP's O&M Costs associated with the C.C. Cragin Project

from May 1 through the following April 30 of each year.

4.17 Points of Measurement: Points agreed to by the Authorized Representatives where it is required to accurately ascertain the total quantity of:

4.17.1 BCLHOA Stored Water delivered by SRP to the Delivery Point;

4.17.2 Surface Water diverted by BCLHOA;

4.17.3 Underground Water withdrawn by BCLHOA;

**4.17.4 Surface Water diverted by Bonita Creek Residents under Paragraph 16;
and**

**4.17.5 Underground Water withdrawn by Bonita Creek Residents under
Paragraph 16.**

The Points of Measurement, which may be changed by the Authorized Representatives upon mutual agreement, are listed in Exhibit 4.17.

4.18 Points of Receipt: The points where the BCLHOA and Bonita Creek Residents divert Surface Water and withdraw Underground Water in exchange for BCLHOA Stored Water. Points of Receipt include points where:

4.18.1 Surface Water is diverted by BCLHOA;

4.18.2 Underground Water is withdrawn by BCLHOA;

**4.18.3 Surface Water is diverted by Bonita Creek Residents under Paragraph 16;
and**

**4.18.4 Underground Water is withdrawn by Bonita Creek Residents under
Paragraph 16.**

The Points of Receipt, which may be changed by the Authorized Representatives upon mutual agreement, are listed in Exhibit 4.17.

4.19 Salt River Project (SRP): The Salt River Project Agricultural Improvement and Power District and the Salt River Valley Water Users' Association.

- 4.20 SRP's Capital Costs: All costs incurred by SRP for the acquisition and improvement of land, facilities, equipment, and inventories related to the C.C. Cragin Project, which shall include but not be limited to labor, overhead, materials, supplies, spare parts, equipment purchase and rental, and transportation. Prior to May 1, 2009, all expenses incurred by SRP shall be accrued as SRP's Capital Costs.
- 4.21 SRP's O&M Costs: All costs incurred by SRP for the operation and maintenance of all C.C. Cragin facilities, except for those costs defined as SRP's Capital Costs. Such costs shall include, but not be limited to, costs for the following items: insurance, inspections, permits, taxes, fees (including administrative fees), licenses, contract services, legal services, accounting, travel, environmental compliance, repairs, testing, labor, salaries, overhead, materials, supplies, expenses, equipment, vehicles, energy, and fuel.
- 4.22 Surface Water: All appropriable water of Bonita Creek and its tributaries under Arizona law that is diverted by BCLHOA or Bonita Creek Residents under this Agreement in exchange for BCLHOA Stored Water.
- 4.23 Underground Water: All water withdrawn from underground sources from wells located within the BCLHOA Water Service Area by the BCLHOA and Bonita Creek Residents under this Agreement in exchange for BCLHOA Stored Water. The Parties agree under Paragraph 5 that for purposes of this Agreement, Underground Water is appropriable water of Bonita Creek and its tributaries under Arizona law.
- 4.24 Water Year: Period from May 1 to April 30 each year.

5. SCOPE OF AGREEMENT:

This Agreement shall encompass only the following services or arrangements between the Parties:

- 5.1 Agreement among the Parties to the following with respect to water rights to and hydrologic conditions of Bonita Creek, the East Verde River, and their tributaries:

- 5.1.1 Except for the right to divert Surface Water and withdraw Underground Water in exchange for BCLHOA Stored Water under this Agreement, BCLHOA has no right to appropriable water of Bonita Creek and its tributaries under Arizona law;
- 5.1.2 For purposes of this Agreement, water that BCLHOA withdraws from wells located within the BCLHOA Water Service Area is appropriable water of Bonita Creek and its tributaries under Arizona law;
- 5.1.3 For purposes of this Agreement, withdrawing one acre-foot of water from wells located within the BCLHOA Service Area is equivalent to diverting one acre-foot of appropriable water of Bonita Creek and its tributaries;
- 5.1.4 For purposes of this Agreement, a hydrologic connection exists between appropriable water of Bonita Creek and its tributaries and appropriable water of the East Verde River and its tributaries such that diverting one acre-foot of appropriable water of Bonita Creek and its tributaries is equivalent to diverting one acre-foot of appropriable water of the East Verde River and its tributaries; and
- 5.1.5 In the event this Agreement is terminated under Paragraph 6.0, the Parties agree that:
 - 5.1.5.1 Nothing contained in this Agreement shall be used as an admission against BCLHOA that there is a hydrologic connection between appropriable water of Bonita Creek and its tributaries and appropriable water of the East Verde River and its tributaries;
 - 5.1.5.2 Nothing contained in this Agreement shall be used as an admission against SRP that there is no hydrologic connection between the appropriable water of Bonita Creek and its tributaries and appropriable water of the East Verde River and its tributaries;
 - 5.1.5.3 Nothing contained in this Agreement shall be used as an admission against BCLHOA that water it is withdrawing from wells located within the BCLHOA Water Service Area is not percolating groundwater under Arizona law; and

5.1.5.4 Nothing contained in this Agreement shall be used as an admission against SRP that water withdrawn by BCLHOA from wells located within the BCLHOA Water Service Area is not appropriable water of Bonita Creek and its tributaries.

- 5.2 The partial severance and transfer of the right to use stored water from C.C. Cragin Reservoir associated with CWR No. 3696.0001 from SRP to BCLHOA for use within the BCLHOA Water Service Area in quantities not to exceed the quantities described in Subparagraph 7.1. To the extent the water right severed and transferred to BCLHOA is not used by BCLHOA, it shall continue to be used by SRP.
- 5.3 An exempt water exchange under A.R.S. § 45-1002(A)(1) between the Parties under which the BCLHOA may divert Surface Water and/or withdraw Underground Water from within the BCLHOA Water Service Area to which SRP and its shareholders have valid senior rights in exchange for SRP's acceptance of the BCLHOA Stored Water into the East Verde River for use by SRP shareholders.
- 5.4 The diversion and delivery of BCLHOA Stored Water by SRP from C.C. Cragin Reservoir to the Delivery Point for use by SRP shareholders under the exempt water exchange.
- 5.5 Diversion, withdrawal, and delivery of Surface Water and Underground Water by BCLHOA to serve BCLHOA Water Customers in BCLHOA Water Service Area under Paragraph 9.3 in an aggregate quantity equal to or less than the quantity of BCLHOA Stored Water exchanged annually under Paragraph 10.
- 5.6 Limitations on diversion of Surface Water and withdrawal of Underground Water and the use of water received from others by BCLHOA.
- 5.7 Provision for Bonita Creek Residents to become agents of the BCLHOA for the diversion, withdrawal and use of Surface Water and Underground Water on the Bonita Creek Residents' individual land parcels under Paragraph 16.
- 5.8 Limitations on the diversion of Surface Water and withdrawal of Underground Water and the use of water received from others by Bonita Creek Residents.

6. EFFECTIVE DATE AND TERM OF AGREEMENT:

- 6.1 This Agreement shall become effective upon execution by the Parties (“Effective Date”) and unless terminated pursuant to Subparagraphs 6.2, 6.3, 6.4, 6.5, 6.6, 6.7 or 6.8, this Agreement shall remain in effect in perpetuity.
- 6.2 This Agreement shall terminate upon the occurrence of any of the following: (1) C.C. Cragin Reservoir no longer exists or is permanently disabled from storing water within the Active Conservation Capacity due to any circumstance; (2) BCLHOA is permanently precluded from using any water from Bonita Creek in the BCLHOA Water Service Area under the exempt exchange in Paragraph 10; (3) as provided in Subparagraph 7.6; or (4) ADWR determines, in a final non-appealable order, not to approve the severance and transfer of a portion of CWR No. 3696.0001 to BCLHOA as provided in Paragraph 7.
- 6.3 SRP may automatically and unilaterally terminate this Agreement if the BCLHOA, by nonuse of Surface Water and Underground Water, creates conditions whereby the water right described in Subparagraphs 5.2 and 7.1.1 may be forfeited or abandoned under Arizona law. The Parties hereby express their intent NOT to forfeit or abandon the water rights included under this Agreement. For purposes of this Agreement, the Parties agree that SRP may automatically and unilaterally terminate this Agreement if BCLHOA does not use Surface Water and Underground Water within the BCLHOA Water Service Area for any four (4) consecutive year time period. SRP agrees that BCLHOA is not in violation of this Subparagraph due to its non-use of a portion of its BCLHOA Stored Water as its municipal demand increases to full development within the BCLHOA Water Service Area.
- 6.4 SRP may automatically and unilaterally terminate this Agreement if BCLHOA does not satisfy its payment obligations under paragraph 18.
- 6.5 SRP may automatically and unilaterally terminate this Agreement if BCLHOA does not seek and receive SRP’s consent under Subparagraph 7.8.
- 6.6 SRP may automatically and unilaterally terminate this Agreement if BCLHOA does not comply with the insurance requirements contained in Paragraph 13.

6.7 SRP may automatically and unilaterally terminate this Agreement if BCLHOA does not perform its obligations under Subparagraph 11.4 in the event it exceeds its Cumulative Total in a Water Year.

6.8 SRP may automatically and unilaterally terminate this Agreement if BCLHOA does not terminate the Resident Agreement under the conditions provided under Subparagraph 16.4.

7. TRANSFER OF WATER RIGHTS; REVERSION:

7.1 The District shall:

7.1.1 Upon the Effective Date of this Agreement, assign to BCLHOA that portion of the right to use stored water under CWR No. 3696.0001 exclusively for use within the BCLHOA Water Service Area so as to yield at the Delivery Point, an average quantity of fifteen (15) acre-feet per Water Year, not to exceed seventeen and forty-five hundredths (17.45) acre-feet per Water Year.

7.1.2 When mutually agreed to by the Parties, file with ADWR an application to sever and transfer the assigned portion of water right under CWR No. 3696.0001 to BCLHOA for municipal uses exclusively within the BCLHOA Water Service Area. The assignment, as provided for in Subparagraphs 7.1.1 and the severance and transfer application shall become Exhibit 7.1. For purposes of this Agreement, "municipal uses" shall mean all beneficial uses of water, other than the use of water for application to two or more acres of land to produce plants or parts of plants for sale or human consumption, or for use as feed for livestock, range livestock or poultry, as such terms are defined in A.R.S. § 3-1201. The quantity of water available to BCLHOA for use within the BCLHOA Water Service Area each calendar year pursuant to the certificate of water right referenced in Subparagraph 7.5 shall be determined pursuant to Paragraph 8.

7.2 It is expressly understood by the Parties that the portion of the water right assigned in Subparagraph 7.1.1 is limited to a right to use stored water from C.C. Cragin Reservoir under the exchange under Paragraph 10 and that no storage right in C.C. Cragin Reservoir is granted to BCLHOA. Nothing in this Subparagraph shall prevent BCLHOA from storing water within the BCLHOA

Water Service Area so long as it is in compliance with this Agreement. Subject to Subparagraph 8.4, SRP shall not take any action to impair the BCLHOA's ability to exercise the water right assigned in Subparagraph 7.1.1, provided that the severance and transfer contemplated in Subparagraph 7.1.2 is approved by ADWR.

- 7.3 SRP shall pay, and BCLHOA shall reimburse SRP, for all application, notice, publication, and other fees and expenses, including legal fees and expenses, associated with ADWR's water right severance and transfer administrative process for the application referenced in Subparagraph 7.1.2.
- 7.4 SRP and BCLHOA shall jointly cooperate and support the severance and transfer application through ADWR's administrative process.
- 7.5 The certificate of water right, when issued to BCLHOA by ADWR, shall become Exhibit 7.5 of this Agreement.
- 7.6 If, at any time after the Effective Date of this Agreement, BCLHOA determines that it no longer needs or desires the right to stored water from C.C. Cragin Reservoir described in Paragraph 7, BCLHOA shall immediately assign such water rights to SRP, at no cost to SRP, and this Agreement shall thereafter terminate. Provided, however, that if a certificate of water right has been issued to BCLHOA, SRP and BCLHOA shall jointly cooperate and support a subsequent application for severance and transfer of the water rights to SRP under ADWR's administrative process.
- 7.7 In the event this Agreement is terminated for any reason, including pursuant to Subparagraphs 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, or 6.8, BCLHOA shall immediately reassign the water right assigned to it pursuant to Subparagraph 7.1, at no cost to SRP. Provided, however, that if a certificate of water right has been issued to the BCLHOA, SRP and BCLHOA shall jointly cooperate and support a subsequent application for severance and transfer of the water rights to SRP under ADWR's administrative process. The obligations described in this Subparagraph 7.7 shall survive termination of this Agreement.
- 7.8 In the event this Agreement is terminated for any reason including pursuant to Subparagraphs 6.2, 6.3, 6.4, 6.5, 6.6, 6.7 or 6.8, and BCLHOA is not available to jointly cooperate and support a subsequent assignment and/or application for

severance and transfer of the right to stored water from C.C. Cragin Reservoir to SRP under ADWR's administrative process pursuant to Subparagraphs 7.6 and 7.7, the Parties agree that they do not intend to forfeit or abandon the right to stored water from C.C. Cragin Reservoir and that such water right will automatically revert to SRP. BCLHOA hereby expresses its consent to the assignment and/or severance and transfer of the right to stored water in C.C. Cragin Reservoir back to SRP in the event this Agreement is terminated under this Subparagraph and executes the "Consent to Assignment and/or Severance and Transfer" document attached hereto as Exhibit 7.8. The Parties agree that BCLHOA cannot transfer or assign this Agreement to any successors or assignees without the written consent of SRP. This obligation to receive the consent of SRP for any transfer or assignment continues to be binding upon and enforceable against any and all successors and assignees. As a condition precedent of any transfer or assignment of this Agreement to any successor or assignee is for that successor or assignee to execute an updated Exhibit 7.8 which will become Exhibit 7.8 to the Agreement. SRP agrees that it will not unreasonably withhold its consent to the assignment or transfer of this Agreement and agrees to provide its decision regarding its consent within a reasonable time.

8. BCLHOA STORED WATER:

- 8.1 On May 1 of each year, SRP shall calculate the quantity of BCLHOA Stored Water to be credited to BCLHOA for exchange of Surface Water and Underground Water to be diverted and used exclusively within the BCLHOA Water Service Area from May 1 of that year through April 30 of the following calendar year as the sum of: (1) one hundred thirty-six thousandths of a percent (0.136%) of Net May 1 Storage, plus (2) one hundred thirty-six thousandths of a percent (0.136%) of the quantity of water diverted from C.C. Cragin Reservoir during the period from January 1 through April 30 of that year by SRP for its own use. Provided, however, that the sum of (1) and (2) shall not exceed the lesser of either one hundred thirty-six thousandths of a percent (0.136%) of the Active Conservation Capacity, or a quantity of water that would produce an average of fifteen (15) acre-feet, not to exceed seventeen and forty-five hundredths (17.45) acre-feet in any one Water Year, for the Water Years from the first May 1 following the Effective Date.
- 8.2 BCLHOA Stored Water credits shall not be subject to daily evaporation and seepage losses occurring at C.C. Cragin Reservoir or transmission losses for

BCLHOA Stored Water transported from C.C. Cragin Reservoir to the Delivery Point.

- 8.3 BCLHOA Stored Water credits remaining in the BCLHOA Stored Water account at 11:59 p.m. on April 30 of each year shall not be carried forward and the credits in the BCLHOA Stored Water account, as prescribed in Paragraph 15, shall be set to zero at that time. Subparagraph 11.3 shall apply in the event that BCLHOA diverts water in excess of the available BCLHOA Stored Water credits in any Water Year.
- 8.4 BCLHOA Stored Water credits shall be subject to reduction as provided in this Subparagraph if any agency of the state or federal government, or other entity with requisite jurisdiction, requests or requires SRP to release water from C.C. Cragin Dam to: (1) preserve the structural safety of C.C. Cragin Dam, (2) mitigate environmental impacts of the C.C. Cragin Project, (3) satisfy senior downstream water rights, or (4) preserve the structural safety of C.C. Cragin Dam if a reasonable person would determine independently of such a request or requirement that it is necessary or prudent to release water from C.C. Cragin Dam. In the event that SRP releases water from C.C. Cragin Reservoir pursuant to this Subparagraph 8.4, BCLHOA Stored Water credits shall be reduced by one hundred thirty-six thousandths of a percent (0.136%) of the quantity of water released, up to the quantity of any remaining BCLHOA Stored Water credits in its account at the time such releases are made.
- 8.5 If SRP releases water from C.C. Cragin Dam pursuant to Subparagraph 8.4, SRP shall make reasonable efforts to notify BCLHOA prior to making such releases of water from C.C. Cragin Dam, provided that nothing in this Subparagraph 8.5 shall be deemed or construed to in any manner limit SRP's ability to make such releases.
- 8.6 The Parties acknowledge that sedimentation will reduce the water storage capacity at C.C. Cragin Reservoir. In coordination with BCLHOA and in conjunction with the Operation, Maintenance and Capital Budget Plan, SRP may plan and conduct periodic sediment surveys to determine the total water storage capacity and the Active Conservation Capacity of C.C. Cragin Reservoir. Costs for the sediment survey shall be included in SRP's O&M Costs. Beginning on May 1 immediately after completion of the most recent sediment survey, the quantity specified in Subparagraph 4.1 shall be adjusted to reflect the Active

Conservation Capacity determined in the sediment survey. Such adjusted quantity shall be used for purposes of determining the BCLHOA Stored Water quantity pursuant to Subparagraph 8.1 until next adjusted.

9. DELIVERY AND DISTRIBUTION:

- 9.1 To the extent that there are credits in the BCLHOA Stored Water Account, and subject to Paragraph 11, water deliveries by SRP to the Delivery Point shall be made upon BCLHOA's request. Requests for delivery by BCLHOA shall be provided to the designated SRP department in conformance with procedures established by SRP.
- 9.2 SRP shall be responsible for transporting BCLHOA Stored Water to the Delivery Point; as such point may be revised by the Authorized Representatives.
- 9.3 BCLHOA may divert Surface Water and withdraw Underground Water from the Points of Receipt in exchange for BCLHOA Stored Water under Paragraph 10 exclusively for transportation and distribution to BCLHOA Water Customers within the Bonita Creek Water Service Area subject to the conditions described in this Agreement, including Paragraph 11. BCLHOA shall have the sole responsibility for delivery and transportation of the Surface Water and Underground Water to BCLHOA Water Customers under this Agreement.
- 9.4 BCLHOA's right to fix or determine the rates or charges imposed by BCLHOA for service from BCLHOA's water system including, without limitation, rates or charges, for the delivery of Surface Water and Underground Water shall not be limited by any provisions of this Agreement and such rates or charges shall be within the sole discretion of the BCLHOA, in accordance with any regulatory requirements.

10. EXEMPT WATER EXCHANGE:

The Parties agree to participate in an exempt water exchange under A.R.S. § 45-1002(A)(1) that consists of the following:

- 10.1 Subject to the limitations under Paragraphs 11 and 16, BCLHOA agrees to divert Surface Water or withdraw Underground Water from within the BCLHOA Water Service Area at the Points of Receipt for delivery to the BCLHOA Water

Customers under this Agreement in a quantity not to exceed the quantity of BCLHOA Stored Water ordered and delivered under Paragraph 9.1; and

10.2 SRP agrees to accept BCLHOA Stored Water at the Delivery Point in exchange for the Surface Water diverted and Underground Water withdrawn by BCLHOA under Paragraph 9 and the Bonita Creek Residents under Paragraph 16; and

10.3 The exempt exchange does not include a quantity exceeding seventeen and forty-five hundredths (17.45) acre-feet in any twelve month period which is less than the statutory limit under A.R.S. § 45-1002(A)(2).

11. SURFACE WATER DIVERTED AND UNDERGROUND WATER WITHDRAWN BY THE BCLHOA AND WATER RECEIVED FROM OTHERS:

11.1 Upon the Effective Date, for the purpose of water deliveries exclusively to the BCLHOA Water Service Area, BCLHOA agrees not to: (1) divert Surface Water from locations on Bonita Creek outside the BCLHOA Water Service Area, including from current and future land administered by the United States Forest Service, or any successor agency; (2) withdraw Underground Water from wells located outside the exterior boundaries of the BCLHOA Water Service Area, including from current and future land administered by the United States Forest Service, or any successor agency; (3) receive appropriable water of Bonita Creek and its tributaries from others, including Bonita Creek Residents; and (4) receive water withdrawn from wells owned by others, including Bonita Creek Residents including from wells located outside the exterior boundaries of the BCLHOA Water Service Area. Nothing in this Subparagraph 11.1 shall prevent BCLHOA from diverting Surface Water from the segment of Bonita Creek adjacent to the boundary of the BCLHOA Water Service Area. Nothing in this Agreement shall be construed to prevent BCLHOA from rehabilitating, replacing, or deepening their existing wells.

11.2 Upon the first May 1 following the Effective Date, BCLHOA shall limit the quantity of the Cumulative Total during the Water Year so as not to exceed the quantity of BCLHOA Stored Water calculated under Paragraph 8.

11.3 If the Cumulative Total exceeds the quantity of BCLHOA Stored Water calculated under Paragraph 8 for the Water Year, BCLHOA shall, during the subsequent Water Year, perform one or more of the following:

- 11.3.1 Reduce BCLHOA's withdrawal of Underground Water or diversion of Surface Water by at least the quantity of water the Cumulative Total exceeded the quantity of BCLHOA Stored Water calculated under Paragraph 8 for the prior Water Year; or
- 11.3.2 Deliver or cause to be delivered to SRP a quantity of water equal to at least the quantity of water the Cumulative Total exceeded the quantity of BCLHOA Stored Water calculated under Paragraph 8 for the prior Water Year.
- 11.4 If BCLHOA does not perform the obligations under Subparagraph 11.3, SRP may terminate this Agreement. Provided, however, that BCLHOA's obligations under Subparagraph 11.3 survive termination of this Agreement.
- 11.5 Under Emergency Conditions, BCLHOA may use Surface Water or Underground Water in excess of the quantity permitted in Subparagraph 11.2 without triggering the obligations under Subparagraph 11.3. For purposes of this Subparagraph, "Emergency Conditions" shall mean those periods when BCLHOA Stored Water is not available for delivery to Delivery Point for use by SRP shareholders, or is available in such quantities that BCLHOA is unable to supply the municipal use demands within the limitations in Subparagraph 11.2 but only after using all BCLHOA Stored Water physically available to BCLHOA. When BCLHOA determines that such Emergency Conditions exist or are imminent, BCLHOA shall request a meeting of the Authorized Representatives at which BCLHOA shall explain why it concludes that Emergency Conditions exist or are imminent, and how long the BCLHOA anticipates those conditions will persist, if a reasonable basis for making that projection exists. The Authorized Representatives shall cooperate in good faith in agreeing that such Emergency Conditions do or do not exist, or are or are not imminent.
- 11.6 Under Emergency Conditions, and subject to Paragraph 13, BCLHOA may, at no cost to SRP, physically transport BCLHOA Stored Water directly from the Delivery Point for distribution to BCLHOA Water Customers. For purposes of this Subparagraph, "Emergency Conditions" shall mean those periods when Surface Water and Underground Water is not available for delivery to BCLHOA Water Customers, or is available in such reduced quantities that the BCLHOA is unable to supply the municipal use demands within the limitations in Paragraph 11. When BCLHOA determines that such Emergency Conditions exist or are

imminent, BCLHOA shall request a meeting of the Authorized Representatives at which the BCLHOA shall explain why it concludes that Emergency Conditions exist or are imminent, and how long BCLHOA anticipates those conditions will persist, if a reasonable basis for making that projection exists. The Authorized Representatives shall cooperate in good faith in agreeing that such Emergency Conditions do or do not exist, or are or are not imminent.

12. INTERRUPTIONS OR REDUCTIONS IN DELIVERY:

Water delivered to the Delivery Point on behalf of BCLHOA shall be in accordance with the BCLHOA's request pursuant to Paragraph 9, except for (1) interruptions or reductions in deliveries due to: (A) water supply or water delivery facility limitations, or (B) uncontrollable forces as defined in Paragraph 20; (2) interruptions or reductions which are reasonably necessary or desirable for the purposes of maintenance, repairs, replacements, installations, investigations and inspections of the C.C. Cragin Project equipment, works, and facilities including, but not limited to, system dry-ups; provided that SRP, except in case of emergency, will give BCLHOA reasonable, advance notice of temporary interruptions or reductions and will attempt to remove the cause thereof with diligence; and (3) interruptions or reductions in deliveries due to BCLHOA's delinquency in the payment of charges billed by SRP as described in Subparagraph 18.2.6.

13. WATER QUALITY, INDEMNITY, AND INSURANCE:

In the event that the Parties agree that BCLHOA has established that Emergency Conditions exist under Subparagraph 11.6 and exercises the option to physically transport BCLHOA Stored Water directly from the Delivery Point for distribution to BCLHOA Water Customers, BCLHOA agrees to the following conditions:

13.1 SRP neither guarantees nor warrants the quality of water SRP delivers to BCLHOA at the Delivery Point pursuant to this Agreement. BCLHOA assumes all responsibility and liability for purifying or otherwise treating such water delivered by SRP at the Delivery Point to meet applicable water quality standards established by federal, state or local authorities. BCLHOA shall and does hereby release SRP from liability for any claims related to the quality of water delivered by SRP to the Delivery Point, except liability resulting in whole or in part from SRP's gross negligence. Except as provided in the preceding sentence, BCLHOA shall assume all liability against all losses, of whatsoever kind or nature, whether

found in tort, strict liability or contract, from claims by third parties resulting from the delivery of such water to BCLHOA and to the Delivery Point. BCLHOA shall defend and hold harmless SRP, members of its governing bodies, its directors, governors, employees, officers, and agents from and against all such claims for such losses except those losses resulting in whole or in part from SRP's gross negligence. Nothing in this Agreement precludes BCLHOA from asserting claims of whatsoever kind or nature, whether found in tort, strict liability or contract, against persons or entities other than SRP, members of its governing bodies, its directors, governors, employees, officers, or agents, as a result of actions or failures to act that impair the quality of water delivered to the Delivery Point from the C.C. Cragin Project.

- 13.2 Without limiting any liabilities or any other obligations of BCLHOA under this Agreement, BCLHOA shall provide and maintain, with forms and insurers acceptable to SRP, until all the obligations under this Agreement are satisfied, the minimum insurance coverage as follows: Commercial General Liability insurance with a minimum combined single limit of TWO MILLION DOLLARS (\$2,000,000) each occurrence. BCLHOA may achieve this minimum insurance coverage through a combination of one or more policies including regular and umbrella coverages. The policies shall include coverage for bodily injury liability, property damage liability, personal injury liability and contractual liability for liability assumed under this Agreement or any other associated contract. The policies shall contain a severability of interests provision.
- 13.3 The policies required herein shall be endorsed to include SRP, members of its governing bodies, its directors, governors, officers, employees, and agents as additional insureds, and shall stipulate that the insurance afforded for SRP, members of its governing bodies, its directors, governors, officers, employees, and agents shall be primary insurance and that any insurance carried by SRP, members of its governing bodies, its directors, governors, officers, employees, and agents shall be excess and not contributory insurance.
- 13.4 BCLHOA and its insurers providing the required coverage shall waive all rights of subrogation against SRP, members of its governing bodies, its directors, governors, officers, employees, and agents.
- 13.5 Prior to the Effective Date of this Agreement, BCLHOA shall furnish SRP with Certificates of Insurance as evidence that policies providing the required

coverage, conditions and limits are in full force and effect. BCLHOA shall immediately notify SRP of any cancellation, termination or material alteration of any of the policies providing the required coverages. The original Certificates of Insurance and any notices of cancellation, termination, or alteration shall be sent directly to SRP's Authorized Representative under paragraph 19 of this Agreement.

13.6 SRP reserves the right to request and receive certified copies of any or all of the above policies and/or endorsements.

13.7 The insurance policies may provide coverage which contains deductibles or self-insured retentions. BCLHOA shall be solely responsible for deductibles and/or self-insured retentions and SRP, at its option, may require BCLHOA to secure the payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

14. FLOW MEASUREMENT:

14.1 BCLHOA shall, at its sole expense and with the approval of the Authorized Representatives, construct, install, and maintain a primary Flow Measurement System at each Point of Measurement in accordance with manufacturers' specifications for the specific application and Exhibit 14.1. At all Points of Measurement, BCLHOA shall maintain the accuracy of the associated Flow Measurement System as close to zero error as practical but in no event shall a uniform distribution of accumulated error deviate from actual volume by more than:

14.1.1. plus or minus five percent (5%) at the flow (rate) indicating device, unless otherwise agreed by the Authorized Representatives, and

14.1.2. plus or minus two percent (2%) of the annual totalized volume, unless otherwise agreed by the Authorized Representatives.

14.2 BCLHOA shall prepare and regularly implement testing and recalibration procedures for the Flow Measurement Systems, which procedures must be approved by the Authorized Representatives. At least once every year at the Points of Measurement, unless otherwise agreed by the Authorized

Representatives, BCLHOA shall recalibrate its Flow Measurement Systems as close to zero error as practical, but in no event shall error exceed the accuracy standard in Subparagraph 14.1. BCLHOA shall orally or in writing notify SRP's Authorized Representative of when such recalibration is planned so that SRP may observe the procedure. SRP may at reasonable times, at its sole expense and after reasonable notice to BCLHOA, test or have tested the Flow Measurement System to determine its accuracy. Such test shall be performed in accordance with industry standards and shall not interfere with the operation of BCLHOA's water system. Annual secondary flow verification tests shall be performed in accordance with the procedures in Exhibit 14.1 (Validation Criteria for Points of Measurement: Closed-Pressurized Pipe Configurations) of this Agreement.

14.3 In the event that water accounting records or any routine or special test of the Flow Measurement System discloses an annual volume, or a flow measurement error, that exceeds the limits provided in Subparagraph 14.1, all bills and water accounting affected by such limits having been exceeded may be adjusted by SRP based on the best available data, subject to Subparagraph 18.2 and Paragraph 24. Adjustments shall not encompass more than the elapsed time since the last preceding test.

14.4 The method of measurement required by Bonita Creek Residents for Surface Water diverted and Underground Water withdrawn under Paragraph 16 shall be determined by mutual agreement of the Parties so long as the chosen method shall accurately measure the quantity of Surface Water diverted and Underground Water withdrawn by Bonita Creek Residents under Paragraph 16 to add to the Cumulative Total under Subparagraph 11.2.

15. WATER ACCOUNTING AND REPORTING:

15.1 SRP shall establish a BCLHOA Stored Water Account for BCLHOA and shall:

15.1.1 Credit the BCLHOA Stored Water Account at 12:01 a.m. on May 1 of each year with the quantity of BCLHOA Stored Water as provided for in Subparagraph 8.1.

15.1.2 If elected by BCLHOA under Subparagraph 11.3.1, debit the BCLHOA Stored Water Account with the quantity of water the Cumulative Total

exceeded the quantity of BCLHOA Stored Water for the previous Water Year.

15.1.3 Debit the BCLHOA Stored Water Account with the quantity of BCLHOA Stored Water diverted from C.C. Cragin Reservoir and delivered to the Delivery Point.

15.1.4 Debit the BCLHOA Stored Water Account in accordance with Subparagraph 8.4 in the event that water is released from C.C. Cragin Dam.

15.1.5 Extinguish all unused BCLHOA Stored Water credits remaining in the BCLHOA Stored Water Account at 11:59 p.m. on April 30 of each year as provided for in Subparagraph 8.3.

15.2 SRP shall maintain a record of the total quantity of BCLHOA Stored Water diverted and delivered to the Delivery Point. The quantity of BCLHOA Stored Water for which BCLHOA will be charged and deemed to have received shall be the greater of the Cumulative Total or the quantity of BCLHOA Stored Water ordered by BCLHOA and delivered by SRP to the Delivery Point.

15.3 Unless the Authorized Representatives agree on a different schedule, BCLHOA shall report to SRP each quarter:

15.3.1 The quantity of Underground Water withdrawn by BCLHOA under Paragraph 11 and Bonita Creek Residents under Paragraph 16 each month; and

15.3.2 The quantity of Surface Water diverted by BCLHOA under Paragraph 11 and Bonita Creek Residents under Paragraph 16 each month.

15.4 BCLHOA shall report the quantity of water pursuant to Subparagraph 15.3 for each month on or before the eighth (8th) business day of January, April, July, and October of each year to the SRP department designated by SRP in a form as agreed to by SRP.

15.5 SRP shall report the quantities prescribed in this Paragraph 15 and the associated water accounting to BCLHOA on a monthly basis by the end of the month

following the month for which the accounting was performed. Such report shall include a year-to-date accounting summary on a month-end basis.

16. SURFACE WATER DIVERTED AND UNDERGROUND WATER WITHDRAWN BY THE BONITA CREEK RESIDENTS AND RECEIVED FROM OTHERS:

16.1 The Parties agree that individual Bonita Creek Residents may become agents of the BCLHOA in delivery of Surface Water and Underground Water exchanged for BCLHOA Stored Water to the parcel owned by the Bonita Creek Resident under the following conditions:

16.1.1 Bonita Creek Resident agrees to the following with respect to water rights and hydrologic conditions of Bonita Creek, the East Verde River and their tributaries:

16.1.1.1 Except for the right to divert Surface Water and withdraw Underground Water in exchange for BCLHOA Stored Water as an agent of BCLHOA under the BCLHOA-Bonita Creek Resident Agency Agreement, Bonita Creek Resident has no right to appropriable water of Bonita Creek and its tributaries under Arizona law;

16.1.1.2 For purposes of the BCLHOA-Bonita Creek Resident Agency Agreement, water that Bonita Creek Resident withdraws from wells located within the exterior boundaries of the parcel owned by Bonita Creek Resident is appropriable water of Bonita Creek and its tributaries under Arizona law;

16.1.1.3 For purposes of the BCLHOA-Bonita Creek Resident Agency Agreement, withdrawing one acre-foot of water from wells located within the exterior boundaries of the parcel owned by the Bonita Creek Resident is equivalent to diverting one acre-foot of appropriable water of Bonita Creek and its tributaries;

16.1.1.4 For purposes of the BCLHOA-Bonita Creek Resident Agency Agreement, a hydrologic connection exists between

appropriable water of Bonita Creek and its tributaries and appropriable water of the East Verde River and its tributaries such that diverting one acre foot of appropriable water of Bonita Creek and its tributaries is equivalent to diverting one acre-foot of appropriable water of the East Verde River and its tributaries; and

- 16.1.2 The Bonita Creek Resident agrees to become an agent of the BCLHOA in delivery of Surface Water and Underground Water exchanged for the BCLHOA Stored Water to the parcel owned by the Bonita Creek Resident.
- 16.1.3 The Bonita Creek Resident agrees that Surface Water diverted by the Bonita Creek Resident shall only be used on the parcel owned by the Bonita Creek Resident and Underground Water withdrawn by the Bonita Creek Resident shall only be withdrawn from wells located on the parcel owned by the Bonita Creek Resident and used on the parcel owned by the Bonita Creek Resident.
- 16.1.4 The Bonita Creek Resident agrees not to receive Surface Water or Underground Water from others, including from sources outside the exterior boundaries of the Bonita Creek Resident's parcel other than Surface Water and Underground Water received from BCLHOA as a Bonita Creek Water Customer.
- 16.1.5 The Bonita Creek Resident, at their own expense, agrees to measure the quantities of Surface Water diverted and Underground Water withdrawn and report those quantities to the BCLHOA to be included in the BCLHOA's reporting requirements under Subparagraph 15.3. Bonita Creek Resident agrees to comply with the Flow Measurement Requirements as agreed to with SRP under Subparagraph 14.4.
- 16.1.6 The Bonita Creek Resident agrees to the limitations on Surface Water diversions and Underground Water withdrawals provided in Paragraph 11.
- 16.1.7 The Bonita Creek Resident agrees to execute the Resident Agency Agreement for Bonita Creek Resident Water Delivery and Use between Bonita Creek Resident and BCLHOA ("BCLHOA-Bonita Creek Resident

Agency Agreement”) attached hereto as Exhibit 16.1.7. Bonita Creek Resident agrees that SRP shall be an express third-party beneficiary to the BCLHOA-Bonita Creek Resident Agreement.

16.1.8 The Bonita Creek Resident agrees that the BCLHOA-Bonita Creek Resident Agreement terminates if this Agreement terminates for any reason.

16.1.9 The Bonita Creek Resident agrees to grant SRP and BCLHOA, their employees and agents the right of access to its facilities serving Surface Water and Underground Water, including, but not limited to Bonita Creek Resident well sites, water diversion facilities, water storage facilities, and water recovery facilities, rights of way, and easements, at reasonable times agreed to by SRP and the Bonita Creek Resident and after reasonable notice from the request by SRP, for purposes of ascertaining compliance with this Agreement and the BCLHOA-Bonita Creek Resident Agreement, including the right to test any water measurement system used by the Bonita Creek Resident to gather and report data pursuant to this Agreement and the BCLHOA-Bonita Creek Resident Agreement.

16.1.10 The Bonita Creek Resident agrees to withdraw any claims to appropriable water of Bonita Creek and its tributaries currently filed in the Gila River General Stream Adjudication related to the parcel owned by the Bonita Creek Resident and agrees not to file any such claim while the BCLHOA-Bonita Creek Resident Agreement is effective.

16.2 BCLHOA agrees that SRP shall be an express third-party beneficiary to the BCLHOA-Bonita Creek Resident Agency Agreement.

16.3 BCLHOA shall terminate the BCLHOA-Bonita Creek Resident Agreement under Paragraph 6 of the BCLHOA-Bonita Creek Resident Agreement if this Agreement terminates for any reason.

16.4 If requested by SRP, BCLHOA shall terminate the BCLHOA-Bonita Creek Resident Agency Agreement under Paragraph 6 of the BCLHOA-Bonita Creek Resident Agency Agreement if the Bonita Creek Resident does not comply with the following paragraphs of the BCLHOA-Bonita Creek Resident Agency Agreement:

16.4.1 The flow measurement requirements under Paragraph 10;

16.4.2 The reporting requirements under Paragraph 11; or

16.4.3 The access provisions under Paragraph 14.

16.5 The Parties agree that all Surface Water diverted and Underground Water withdrawn by Bonita Creek Residents under this Paragraph 16 and the BCLHOA-Bonita Creek Resident Agency Agreement shall count towards the Cumulative Total under Paragraph 11.

17. OPERATION, MAINTENANCE, AND CAPITAL BUDGET PLAN:

17.1 SRP shall prepare an Operation, Maintenance, and Capital Budget Plan ("Plan") prior to each SRP fiscal year (currently May through April). Such Plan shall include, at a minimum, a description and schedule of the projected operation and maintenance activities, the budget level cost estimates of such activities, the budget level cost estimate of any capital improvements and acquisitions, and the projected water delivery schedule for each Party for each month of the Plan. The budget level cost estimates shall be increased by ten percent (10%) for contingencies. Development of the Plan shall be accomplished in the following manner:

17.1.1 On or before November 1 of each year, SRP shall develop a runoff and water storage forecast and SRP's projected delivery schedule for water from C.C. Cragin Reservoir to the East Verde River for the succeeding May 1 through April 30 time period.

17.1.2 On or before December 1 of each year, the BCLHOA shall submit to SRP the projected water orders for BCLHOA Stored Water on a monthly basis for the succeeding calendar year.

17.1.3 On or before February 1 of each year, SRP shall submit the proposed Plan to BCLHOA, together with any revision to the runoff and water storage forecast and delivery schedule as provided for in Subparagraph 17.1.1.

17.1.4 SRP shall finalize the Plan prior to April 1 of that year.

17.1.5 SRP shall keep its normal and customary records of its costs attributable for this Agreement, which shall be founded on generally accepted industry practices.

17.2 The Plan may be modified to accommodate operations, maintenance, and capital construction activities not anticipated prior to the adoption of the initial Plan. Such revised Plan shall remain in effect until the next revised Plan becomes effective.

18. BILLING AND PAYMENT OF CHARGES; ADJUSTMENTS:

18.1 BCLHOA shall pay SRP the following:

18.1.1 One hundred thirty-six thousandths of a percent (0.136%) of SRP's Capital Costs accrued to the C.C. Cragin Project from the date it was acquired by the District through April 30, 2009.

18.1.2 One hundred thirty-six thousandths of a percent (0.136%) of SRP's Capital Costs and one hundred thirty-six thousandths of a percent (0.136%) of SRP's O&M Costs incurred from May 1, 2009 through April of SRP's most recently completed fiscal year prior to the Effective Date of this Agreement.

18.1.3 Beginning on May 1 of the SRP fiscal year in which this Agreement becomes effective, through April 30, 2017, one hundred thirty-six thousandths of a percent (0.136%) of SRP's Capital Costs and one hundred thirty-six thousandths of a percent (0.136%) of SRP's O&M Costs budgeted according to the Plan developed each year pursuant to Paragraph 17 of this Agreement.

18.1.4 Beginning May 1, 2017, one hundred thirty-six thousandths of a percent (0.136%) of SRP's Capital Costs and SRP's O&M Costs calculated pursuant to a three (3) year average rate ("Average Rate"). For purposes of this Agreement, Average Rate shall mean the rate as set forth in Exhibit 18.2.3, due semi-annually in October and April.

18.2 SRP shall bill the charges described in Subparagraph 18.1 to BCLHOA, including any adjustments to previous charges, in accordance with the following:

- 18.2.1 SRP shall bill BCLHOA and BCLHOA shall pay SRP the costs as set forth in Subparagraphs 18.1.1 and 18.1.2 of this Agreement within thirty (30) days of the Effective Date of this Agreement.
- 18.2.2 Through April 30, 2017, SRP shall bill BCLHOA the costs as set forth in Subparagraphs 18.1.3 by no later than June 30 of each year and BCLHOA shall pay SRP quarterly, in four (4) equal installments beginning no later than July 10, October 10, January 10, and April 10. The bill shall include a reconciliation of SRP's Capital Costs and SRP's O&M Costs so that such budgeted costs paid by BCLHOA do not exceed BCLHOA's share of SRP's Capital Costs and SRP's O&M Costs as those costs are defined in Subparagraphs 4.20 and 4.21. In the event this Agreement becomes effective after June 30 of any SRP fiscal year, SRP shall bill BCLHOA within thirty (30) days of the Effective Date of this Agreement and BCLHOA shall pay SRP under terms and conditions mutually agreeable to the Parties.
- 18.2.3 SRP shall bill BCLHOA semi-annually the Average Rate pursuant to Subparagraph 18.1.4 by no later than September 30 and March 31 of each year and BCLHOA shall pay SRP no later than October 31 and April 30, respectively. The Average Rate shall be a calculated three (3) year average of SRP's O&M and Capital costs, as set forth in Exhibit 18.2.3. Beginning in May 2020, and every three (3) years thereafter, SRP will review and revise the calculated Average Rate specified in this Subparagraph 18.2.3. Upon request, SRP will provide documentation of any revisions to the Average Rate.
- 18.2.4 BCLHOA shall pay SRP in good funds as provided for in Subparagraph 18.2. Amounts billed pursuant to Subparagraph 18.2 that are not paid on or before the due date shall be payable with interest accrued on each calendar day from the due date to the date of payment. The interest rate shall be at the effective prime commercial lending rate per annum published by the Wall Street Journal, or at the maximum rate, if any, permitted by Arizona law, whichever is lower. The receipt of any such interest payment shall first be applied to any interest charges owed, and then to the charges for services rendered.

18.2.5 If BCLHOA disputes any portion of any bill, BCLHOA shall pay the disputed amount under protest when due and include with its payment a written statement indicating the basis for the protest. The matter shall then be resolved in accordance with Paragraph 24. If the protest is resolved and determined to be in favor of BCLHOA, SRP shall refund to BCLHOA any overpayment without interest, within thirty (30) days of the determination.

18.2.6 If BCLHOA does not pay any delinquent amount within thirty (30) days after receipt by BCLHOA of written notice by SRP to BCLHOA of the delinquency, then SRP may use any available legal remedy to collect the delinquent amount. Additionally, SRP may refuse to deliver or discontinue the delivery of water under this Agreement until the delinquent amount is paid in full.

19. APPOINTMENT AND DUTIES OF AUTHORIZED REPRESENTATIVES:

19.1 Each Party shall appoint an Authorized Representative and an alternate, to administer the provisions of this Agreement assigned to the Authorized Representatives. The alternate shall act only in the absence of the Authorized Representative. All decisions and agreements of the Authorized Representatives shall be in writing and be signed by both Authorized Representatives.

19.2 In addition to any other responsibilities assigned to the Authorized Representatives in this Agreement, the Authorized Representatives:

19.2.1 May amend the BCLHOA Water Service Area as shown on the map attached hereto as Exhibit 4.8, pursuant to Subparagraph 4.8.

19.2.2 May change the Delivery Point, pursuant to Subparagraph 9.2.

19.2.3 Shall confer to determine if Emergency Conditions do or do not exist, or are or are not imminent, under Subparagraph 11.5.

19.2.4 Shall approve BCLHOA's Flow Measurement Systems, and the construction, installation and maintenance thereof, pursuant to Subparagraph 14.1 and the methodology for measuring diversions and withdrawals by Bonita Creek Residents under Subparagraph 14.4.

- 19.2.5 Shall approve BCLHOA testing and recalibration procedures for the BCLHOA Flow Measurement Systems and any changes in the required frequency of such testing and recalibration, pursuant to Subparagraph 14.2.
- 19.2.6 Shall approve the manner of access to the premises, rights of way and easements of BCLHOA and Bonita Creek Residents when such access is required by SRP, pursuant to Paragraph 22.
- 19.2.7 Shall arrange for the requesting Party to audit the books, records and documents of the other Party directly pertaining to the billings and water accounting data required to administer this Agreement, pursuant to Subparagraph 23.1.
- 19.2.8 Shall respond to any notification of an exception taken as a result of an audit, pursuant to Subparagraph 23.2.
- 19.2.9 Shall arrange for the owing Party to return water and/or money owed as a result of an audit, pursuant to Subparagraph 23.2, or upon final resolution of a dispute, pursuant to Paragraph 24.
- 19.2.10 Shall jointly address any disputes as provided in Paragraph 24.
- 19.2.11 Shall annually review BCLHOA's water accounting procedures and procedures for the determination of the quantities of BCLHOA Stored Water, Underground Water and Surface Water in accordance with this Agreement.
- 19.2.12 Shall meet at least once every twelve (12) months, unless they otherwise agree, to carry out the duties assigned to them by this Agreement and to discuss additional matters of common concern to the Parties.
- 19.3 If the Authorized Representatives disagree as to any action to be taken or decision to be made, or as to the need for taking any action or making any decision, or as to whether any matter is within the scope of the Authorized Representatives' responsibilities hereunder, the question or questions at issue may be referred to the SRP Associate General Manager Water Resources and the President of BCLHOA. Any issue(s) unresolved by the SRP Associate General Manager Water

Resources and the President of BCLHOA may be addressed in a manner consistent with Paragraph 24.

19.4 Each Party shall notify the other Party in writing within thirty (30) days after Effective Date of the designation of its Authorized Representative and alternate and shall promptly notify the other Party of any subsequent changes in such designation.

19.5 The Authorized Representatives shall have no authority to modify, amend or supplement this Agreement, other than as expressly provided in this Paragraph 19.

20. UNCONTROLLABLE FORCES:

Neither Party shall be considered in default in the performance of any of its obligations hereunder when a failure of performance shall be due to Uncontrollable Forces; provided, however, that BCLHOA shall not be excused from paying its then current obligation pursuant to Subparagraph 18.1.3 and Subparagraph 18.1.4. 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 and restraint by court order or public authority, and action or non-action by, or failure to obtain the necessary authorizations or approvals from, any governmental 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.

21. GILA RIVER BASIN AND LITTLE COLORADO RIVER BASIN WATER RIGHTS ADJUDICATIONS:

21.1 The Parties agree to support each other and take all necessary actions in the Gila River and Little Colorado River General Stream Adjudications to claim and establish their respective rights to the use of stored water from C.C. Cragin Reservoir in accordance with the terms of this Agreement.

21.2 BCLHOA agrees that it cannot assert a valid claim to appropriable water of Bonita Creek and its tributaries under Arizona law in the Gila River General Stream Adjudication and agrees that within ninety (90) days after the Effective Date,

BCLHOA shall either file a claim or amend its existing claim in the Gila River General Stream Adjudication to reflect the BCLHOA Stored Water under this Agreement as the basis for its claim and sole source of the water right for the BCLHOA. BCLHOA shall provide SRP with a copy of such claim or amendment.

- 21.3 Within thirty (30) days after the Effective Date, BCLHOA shall withdraw any pending applications to appropriate water that it has previously filed under Arizona law. BCLHOA shall provide a copy to SRP of its withdrawal under this Subparagraph and the Arizona Department of Water Resources acknowledgement of that request.
- 21.4 SRP shall assert and defend the claims and rights to divert water from East Clear Creek for storage in C.C. Cragin Reservoir in the Gila River and Little Colorado River General Stream Adjudications.
- 21.5 SRP shall assert and defend its claims and rights to store and divert appropriable water from the Verde River and its tributaries, including the East Verde River and Bonita Creek and their tributaries.
- 21.6 BCLHOA shall assert and defend its claim to the diversion of stored water from C.C. Cragin Reservoir to the Delivery Point in exchange for Surface Water and Underground Water to which SRP and its shareholders hold valid senior rights, for use within the BCLHOA Water Service Area in the Gila River and Little Colorado River General Stream Adjudications.
- 21.7 SRP shall assert and defend its claim to the diversion of stored water from C.C. Cragin Reservoir for use within the Salt River Reservoir District and for delivery to BCLHOA at the Delivery Point in accordance with the terms of this Agreement.
- 21.8 Consistent with the terms of this Agreement, BCLHOA shall not object to the claims and water rights of SRP to store, divert, and use water from East Clear Creek and C.C. Cragin Reservoir; and SRP shall not object to BCLHOA's claims and rights to stored water in C.C. Cragin Reservoir.
- 21.9 All of SRP's costs and expenses incurred in asserting and defending the claims as described in Subparagraph 21.4 and Subparagraph 21.7 shall be included in SRP's O&M Costs.

22. ACCESS TO PREMISES AND FACILITIES:

BCLHOA agrees to grant SRP, its employees and agents the right of access to its facilities serving the BCLHOA Water Service Area, including, but not limited to BCLHOA's well sites, water storage facilities, and water recovery facilities, rights of way, and easements in Gila County, at reasonable times agreed to by the Parties and after reasonable notice from the request by SRP, for purposes of ascertaining compliance with this Agreement, including the right to test any water measurement system used by BCLHOA to gather and report data pursuant to this Agreement. Right of access under this Paragraph 22 shall be in a manner approved by the Authorized Representatives.

23. AUDIT:

23.1 Upon reasonable written notice to the Authorized Representative of the other Party, either Party at its expense shall have the right, at all reasonable times, to review and audit the books, records and documents of the other Party directly pertaining to the billings and water accounting data required to administer this Agreement. Each Party shall have the right to conduct such audits no more frequently than once each calendar year. Any audit hereunder may be conducted by an employee of or independent accountant or other suitable professional person designated by the auditing Party. The Party being audited agrees to fully cooperate with any such audit. The right to audit shall extend for a period of at least three (3) years following the date of each payment under this Agreement. The Parties agree to retain all necessary records and documentation during this audit period, or until resolution of the audit exceptions. The foregoing shall not be construed to permit either Party to conduct a general audit of the other Party's records. Information obtained by either Party's representatives in examining the other Party's applicable records to verify such billings and Water Accounting data shall not be disclosed to third parties without prior written consent of the audited Party, unless such disclosure is in response to compulsory judicial or regulatory process or required by state law including the public records law. The Party required to disclose information to a third party shall give the other Party written notice of the disclosure as much in advance as possible.

23.2 The audited Party's Authorized Representative shall be notified in writing of any exception taken as a result of an audit and shall respond to such notification within thirty (30) days. Upon resolution of any exception, A) as to payment of any money due, the owing Party shall directly remit the amount of any exception to the other Party within thirty (30) days, without interest; B) as to any water due, the

Authorized Representatives shall arrange for the owing Party to return the amount owed as soon as practicable.

24. RESOLUTION OF DISPUTES:

Any dispute under this Agreement shall first be submitted to the Authorized Representatives for resolution. If the matter cannot be resolved by the Authorized Representatives, any Party may submit the matter to the SRP Associate General Manager - Water Resources and the President of BCLHOA. If the matter cannot be resolved by the SRP Associate General Manager Water Resources and the President of BCLHOA, any Party may bring suit upon the matter, provided however, that it is expressly agreed that the venue shall only be in the Superior Court of the State of Arizona in and for the County of Maricopa. In the event of any future dispute or action arising under this Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and costs incurred therein, including expert witness fees.

25. ACTION PENDING RESOLUTION OF DISPUTES:

Pending the resolution of a dispute pursuant to Paragraph 24, the Parties shall make payments and otherwise perform, to the extent legally permissible, in a manner consistent with this Agreement. Amounts paid by a Party pursuant to this Paragraph 25 during the pendency of such dispute shall be subject to refund and adjustment upon a final resolution of any dispute involving an amount due. Upon such final resolution, A) money due shall be billed and remitted in accordance with Paragraph 18, and B) as to any water due, the Authorized Representatives shall arrange for the owing Party to return the amount owed as soon as practicable.

26. EXHIBITS:

All Exhibits referred to and attached to this Agreement are incorporated herein by this reference.

27. NOTICES:

Unless otherwise agreed by the Authorized Representatives, any notice, demand or request provided for in this Agreement shall be in writing and delivered in person, or sent by registered or certified mail, postage prepaid, to:

27.1 If to SRP:

Salt River Project
c/o Authorized Representative
PO Box 52025
Phoenix, AZ 85072-2025

Reference: BCLHOA-SRP Water Rights Transfer, Water Exchange, and Water Delivery and Use Agreement

With copies to:

Salt River Project
c/o Legal Services, Land & Water Rights
PO Box 52025
Phoenix, AZ 85072-2025

Salt River Project
c/o Corporate Secretary's Office
PO Box 52025
Phoenix, AZ 85072-2025

27.2 If to BCLHOA:

Bonita Creek Land and Homeowners' Association
c/o President
251 North Big Al's Run
Payson, AZ 85541

Reference: BCLHOA-SRP Water Rights Transfer, Water Exchange, and Water Delivery and Use Agreement

28. WAIVER:

The waiver by either Party of any breach of any term, covenant or condition herein contained 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 herein contained.

29. NO PARTNERSHIP AND NO JOINT VENTURE:

Nothing contained in this Agreement shall be construed as creating a partnership or joint venture among the Parties hereto.

30. GOVERNING LAW:

This Agreement is made under, and shall be governed by, the laws of the State of Arizona.

31. INTERPRETATION:

The Parties hereby acknowledge and agree that each has been given the opportunity to independently review this Agreement with legal counsel, and that this Agreement is the result of negotiations between the Parties. In the event of any ambiguity in or dispute regarding the interpretation of this Agreement, the interpretation shall not be resolved by any rule of interpretation providing for the interpretation against the Party who caused the uncertainty to exist or against the draftsman.

32. HEADINGS:

Title and paragraph headings herein are for reference only and are not part of this Agreement.

33. SRP ASSIGNS AND SUCCESSORS:

For purposes of this Agreement, the District or any Assignee or Successor of Association shall be entitled to the rights and benefits and be bound by the obligations of this Agreement the same as Association.

34. BCLHOA ASSIGNS AND SUCCESSORS:

For purposes of this Agreement, any successors or assignees of BCLHOA shall be entitled to the rights and benefits and be bound by the obligations of this Agreement the same as BCLHOA.

35. ENTIRE AGREEMENT:

The terms, covenants and conditions of this Agreement constitute the entire Agreement between the Parties within the scope of the Agreement set forth in Paragraph 5, and no understandings or obligations not herein expressly set forth shall be binding upon them. This Agreement may not be modified or amended in any manner unless in writing and signed by the Parties. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

36. NONSEVERABLE AGREEMENT:

If any material provision of this Agreement is determined to be unenforceable in a final, nonappealable order by a court of competent jurisdiction, the entire Agreement shall be deemed voidable by either Party. In the event of such an order, however, the Parties shall exercise their best efforts, through the use of a dispute resolution process of their choice or, failing that, through the dispute resolution process provided in Paragraph 24, or other process of their choice, to agree on a modification of or replacement for the material unenforceable term or terms to achieve the objectives and preserve the mutual benefits of this Agreement.

[signatures on the following page]

IN WITNESS WHEREOF, this Agreement was executed by the Parties on the date first hereinabove written.

SALT RIVER VALLEY WATER USERS' ASSOCIATION

By David C. Roberts
David C. Roberts
Associate General Manager Water Resources

APPROVED AS TO FORM

Patrick B. Sigl
Patrick B. Sigl
Supervising Attorney, Land & Water Rights

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT

By David C. Roberts
David C. Roberts
Associate General Manager Water Resources

APPROVED AS TO FORM

Patrick B. Sigl
Patrick B. Sigl
Supervising Attorney, Land & Water Rights

BONITA CREEK LAND AND HOMEOWNERS ASSOCIATION, INC.

By Dieter Armbruster
Dieter Armbruster
President

Date 6/18/18

FIRST SUPPLEMENTAL WATER RIGHTS TRANSFER, WATER EXCHANGE, AND
WATER DELIVERY AND USE AGREEMENT
FOR THE BONITA CREEK LAND AND HOMEOWNERS' ASSOCIATION WATER SYSTEM
AMONG
SALT RIVER VALLEY WATER USERS' ASSOCIATION,
SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT,
AND
BONITA CREEK LAND AND HOMEOWNERS' ASSOCIATION

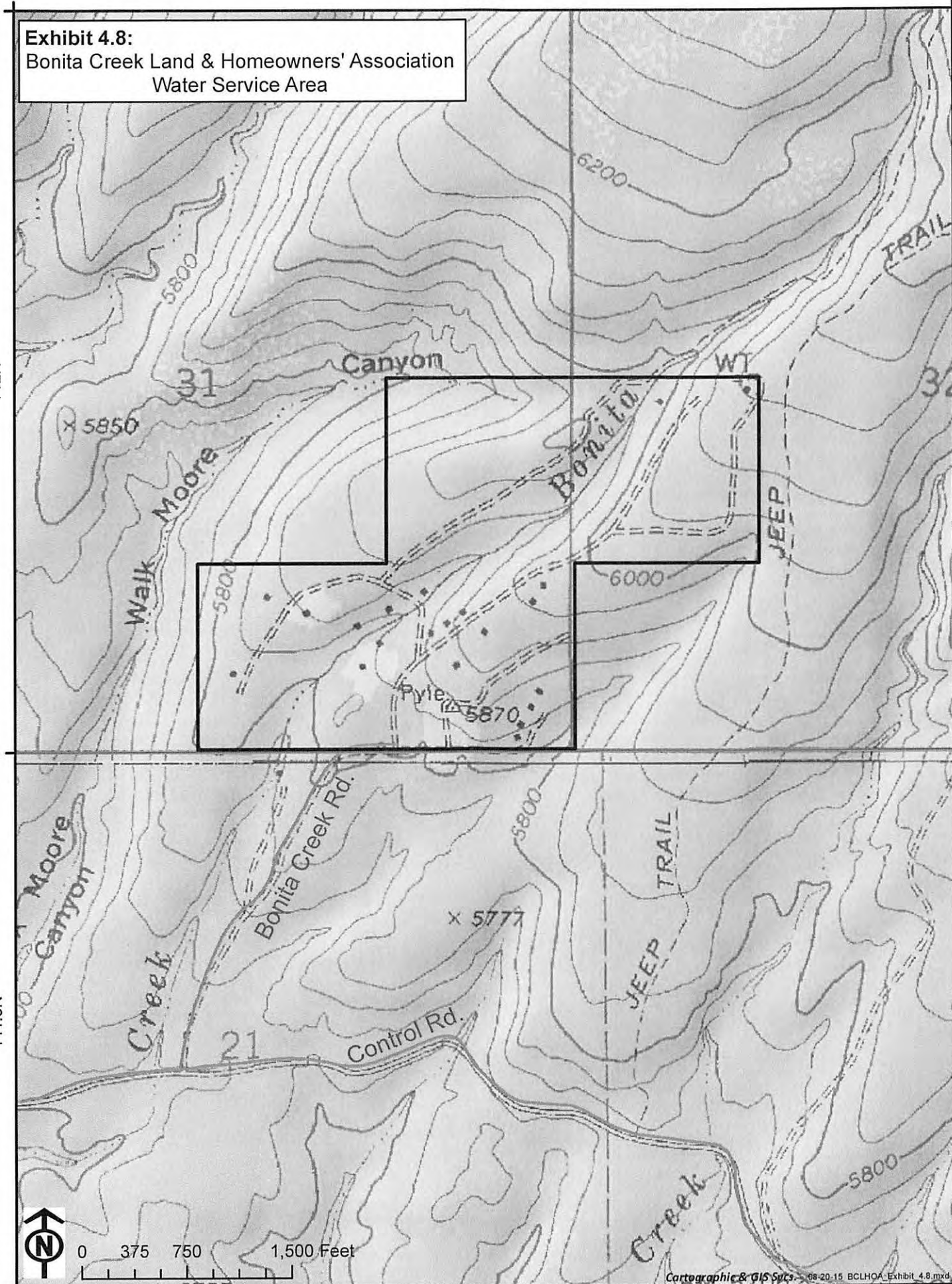
EXHIBIT 4.8

BCLHOA Water Service Area

Exhibit 4.8:
Bonita Creek Land & Homeowners' Association
Water Service Area

T12N

T11.5N



0 375 750 1,500 Feet

FIRST SUPPLEMENTAL WATER RIGHTS TRANSFER, WATER EXCHANGE, AND
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FOR THE BONITA CREEK LAND AND HOMEOWNERS' ASSOCIATION WATER SYSTEM
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AND
BONITA CREEK LAND AND HOMEOWNERS' ASSOCIATION

EXHIBIT 4.17

Points of Measurement

<u>Point of Measurement</u>	<u>Location</u>
1. Delivery Point:	
East Verde River	Section 23, Township 12 North, Range 10 East
2. Points of Receipt:	
Surface Water Diversion	
Bonita Creek	Section 32, Township 12 North, Range 11 East
Underground Water Wells	
N/A	
Location of Surface Water Diversions and Underground Water Wells used by Bonita Creek Residents under Paragraph 16 are listed in Exhibit 5.4 to the BCLHOA-Bonita Creek Resident Agency Agreements	

Notes: This Exhibit to be reviewed annually.

SRP to verify meters at Point of Measurement prior to delivery of BCLHOA Stored Water under this Agreement.

FIRST SUPPLEMENTAL WATER RIGHTS TRANSFER, WATER EXCHANGE, AND
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EXHIBIT 7.1

Water Right Assignment and Severance and Transfer Application

FIRST SUPPLEMENTAL WATER RIGHTS TRANSFER, WATER EXCHANGE, AND
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EXHIBIT 7.5

BCLHOA Certificate of Water Right

FIRST SUPPLEMENTAL WATER RIGHTS TRANSFER, WATER EXCHANGE, AND
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SALT RIVER VALLEY WATER USERS' ASSOCIATION,
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AND
BONITA CREEK LAND AND HOMEOWNERS' ASSOCIATION

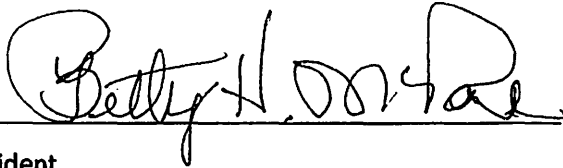
EXHIBIT 7.8

BCLHOA Consent To Assignment and/or Severance And Transfer

Bonita Creek Land and Homeowners' Association Consent to Assignment and/or Severance and Transfer

Bonita Creek Land and Homeowners' Association hereby consents to the assignment and/or severance and transfer of Certificate of Water Right No. _____ (Application No. _____, Permit No. _____) to the Salt River Project. Such consent is determined in accordance with the Water Rights Transfer and Water Delivery and Use Agreement For the Bonita Creek Land and Homeowners' Association Water System among the Salt River Valley Water Users' Association, Salt River Project Agricultural Improvement and Power District, and the Bonita Creek Land and Homeowners' Association dated _____, __, 2015.

BONITA CREEK LAND AND HOMEOWNERS' ASSOCIATION



President

Date: September 6, 2015

NOTE: Specific details regarding the Water Right No., Application No, and Permit No. will be added when known.

FIRST SUPPLEMENTAL WATER RIGHTS TRANSFER, WATER EXCHANGE, AND
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BONITA CREEK LAND AND HOMEOWNERS' ASSOCIATION

EXHIBIT 14.1

Validation Criteria for Points of Measurement:

Closed-Pressurized Pipe Configurations

Acceptable Measurement Devices

1. Primary Flow Measurement System: The Flow Measurement System must have the ability to monitor flow rate on a continuous basis and provide a totalized volume that is within the accuracy limits of 2% stated in Paragraph 14. An electromagnetic flow meter system or its equivalent shall be installed at each Point of Measurement for water that is commonly debris laden, as agreed to by the Authorized Representatives.
2. Secondary Field Method: The secondary field method may be portable and must have the ability to monitor flow rate or totalized volume over at least a 10 minute interval. The method should meet the standards of the American Water Works Association for accuracy requirements and testing procedures ("AWWA Standards") and be within the accuracy limits of 5% stated in Paragraph 14.

Flow Measurement System Installation

1. Primary Flow Measurement System: A Flow Measurement System should be installed in a manner to meet the manufacturer's specified criteria for an "optimal" configuration. An optimal configuration is ten (10) straight-unobstructed pipe diameters upstream of the flow meter and five (5) straight-unobstructed pipe diameters downstream of the flow meter. All control valves, access ports, and invasive pipe components shall be installed up or downstream of the optimal configuration. If the site does not allow for an "optimal" configuration, provide documentation from the manufacturer stating the anticipated accuracy with the given pipe configuration. An accurate assessment of the pipe material within the optimal flow measurement

system configuration should include the pipe material and class or schedule, measured outside diameter, measured wall thickness and measured inside pipe diameter. This assessment shall be permanently affixed to the outside of the pipe near the flow meter.

2. **Secondary Flow Measurement System**: A flow meter should be installed in a manner to meet the manufacturer's specified criteria for an "optimal" configuration. As a general rule this is usually ten (10) diameters upstream and five (5) diameters downstream of straight pipe run from the flow meter. If the site does not allow for an "optimal" configuration, provide documentation describing how the secondary method will be used to assess flow rate to meet the accuracy limits of 5% stated in Paragraph 14.

Secondary Flow Measurement Test Frequency

Paragraph 14 requires that a secondary field test occur annually. A secondary test completed at the end of the calendar year would provide benchmark accuracy for the start of the new calendar year. More frequent secondary tests throughout the year would reduce the reconciliation time interval should a secondary test fail to meet the accuracy limits stated in Paragraph 14. The frequency and time during the year for a secondary test is individual to each site and should take into account the annual water use for that site.

Secondary Flow Measurement Verification Procedure

All sites should employ at least one secondary field test during a calendar year. The length of the test must achieve at least the minimum requirement for the AWWA Standard. Testing intervals longer than 10 minutes will produce higher quality secondary measurements.

1. **Secondary Field Test \leq 5 %**: Results in compliance with Paragraph 14 for the time interval and volume of water between the current and preceding field tests.
2. **10 % \geq Secondary Field Test $>$ 5 %**: Results in compliance with the AWWA Standard and Out of Compliance with Paragraph 14 of this Agreement for the time interval and volume of water between the current and preceding field tests.
 - a. Decide to retest (up to three (3) times within 30 days of failed test). May change the secondary test methodology and/or duration of test
 - i. **Retest \leq 5 %**: Results in compliance with Paragraph 14 for the time interval and volume of water between the current and preceding field tests.
 - ii. **Retest $>$ 5 %**: Results in out of compliance with Paragraph 14 for the time interval and volume of water between the current and preceding field tests. Follow the Out of Compliance Procedure.
 - b. Decide that the flow meter is out of compliance with Paragraph 14 for the time interval and volume of water between the current and preceding field tests. Follow the Out of Compliance Procedure.

3. **Secondary Field Test > 10 %**: Out of Compliance with the AWWA Standard and Paragraph 14 for the time interval and volume of water between the current and preceding field tests.
 - a. Decide to retest [at least two (2) times within seven (7) days of failed test]. May change the secondary test methodology and/or duration of test
 - iii. **Two (2) retests ≤ 5 %**: Compliance with Paragraph 14 for the time interval and volume of water between the current and preceding field tests.
 - iv. **Retest > 5 %**: Out of Compliance with Paragraph 14 for the time interval and volume of water between the current and preceding field tests. Follow the Out of Compliance Procedure.
 - b. Decide that the flow meter is Out of Compliance with Paragraph 14 for the time interval and volume of water between the current and preceding field tests. Follow the Out of Compliance Procedure, below.

Out of Compliance Procedure

1. A site that will not permit a secondary field test, or if the BCLHOA elects to not perform a secondary field test, will be considered out of compliance with Paragraph 14. An agreement between the Authorized Representatives will identify the implications of being out of compliance and outline a course of action for that site.
2. A site that fails a secondary field test is out of compliance. This site is subject to water accounting reconciliation back to the last acceptable secondary field test.

Approval from Salt River Project

Documentation must be submitted to Salt River Project for approval for all existing and future Points of Measurement or if any changes are made to an existing Point of Measurement.

FIRST SUPPLEMENTAL WATER RIGHTS TRANSFER, WATER EXCHANGE, AND
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SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT,
AND
BONITA CREEK LAND AND HOMEOWNERS' ASSOCIATION

EXHIBIT 16.1.7

BCLHOA-Bonita Creek Resident Agreement

RESIDENT AGENCY AGREEMENT FOR BONITA CREEK RESIDENT WATER DELIVERY AND USE
BETWEEN
BONITA CREEK RESIDENT
AND
BONITA CREEK LAND AND HOMEOWNERS' ASSOCIATION, INC.

1. PARTIES:

The Parties to this Agreement for Bonita Creek Resident Water Delivery and Use for the Bonita Creek Land and Homeowners' Water System ("Agreement") entered into this _____ day of _____, 20__, are BONITA CREEK LAND AND HOMEOWNERS' ASSOCIATION, INC., an Arizona corporation ("BCLHOA"), and _____, Bonita Creek Resident ("Resident"). The BCLHOA and Resident are referred to individually as "Party" and collectively as "Parties."

2. RECITALS:

This Agreement is made with regard to the following:

- 2.1 BCLHOA, through its public water system, develops and distributes water to customers within its service area located in northern Gila County ("BCLHOA Water Service Area"). The BCLHOA diverts appropriable water of Bonita Creek for distribution to its customers within the BCLHOA Water Service Area. Bonita Creek HOA desires the option to withdraw water from wells adjacent to Bonita Creek located within its service area for distribution to its customers.
- 2.2 The Salt River Valley Water Users' Association ("Association") shareholders hold decreed water rights to the normal flow of the Salt and Verde Rivers including water flowing in the East Verde River, a tributary of the Verde River located in northern Gila County, with priority dates from 1869 through 1909.
- 2.3 SRP believes that the BCLHOA's use of appropriable water of Bonita Creek and its desire to withdraw water from wells adjacent to the Bonita Creek may adversely impact the regional supply of appropriable water of Bonita Creek and the East Verde River which Association shareholders hold valid, senior vested water rights.

- 2.4 In an effort to eliminate any future conflict with SRP over the use of appropriable water of Bonita Creek through direct diversions and through the withdrawal of water from wells adjacent to the Bonita Creek, BCLHOA entered into an agreement on _____, 20__ entitled "Water Rights Transfer, and Water Delivery and Use Agreement for the Bonita Creek Land and Homeowners' Association Water System Among Salt River Valley Water Users' Association, Salt River Project Agricultural Improvement And Power District, And Bonita Creek Land and Homeowners' Association, Inc." ("BCLHOA-SRP Agreement").
- 2.5 Under the BCLHOA-SRP Agreement, SRP agreed to sever and transfer a portion of its certificated water right to stored water in C.C. Cragin Reservoir from the Salt River Reservoir District to the BCLHOA Water Service Area. Under the BCLHOA-SRP Agreement, SRP shall discharge the BCLHOA entitlement to stored water in C.C. Cragin Reservoir to the East Verde River for use by SRP shareholders in exchange for the BCLHOA diverting Surface Water and withdrawing Underground Water from the Points of Receipt subject to the conditions contained in the BCLHOA-SRP Agreement.
- 2.6 Resident owns a parcel of land ("Property") within the BCLHOA Water Service Area and such parcel is legally described in Exhibit 5.6 and is depicted on the map on Exhibit 5.6A.
- 2.7 Resident also diverts appropriable water of Bonita Creek and/or withdraws water from a well(s) located within the exterior boundaries of its Property located within the BCLHOA Water Service Area. Resident uses this water for domestic purposes on the Property.
- 2.8 SRP believes that Resident's diversion of appropriable water of Bonita Creek and/or withdrawal of water from well(s) adjacent to Bonita Creek located within the exterior boundaries of the Property adversely impacts the regional supply of appropriable water of Bonita Creek and East Verde River and their tributaries which Association shareholders hold senior vested water rights.
- 2.9 Although the BCLHOA, under the BCLHOA-SRP Agreement and associated severance and transfer, will receive a right to divert stored water from C.C. Cragin Reservoir and provide it to SRP shareholders in in exchange for the right to divert Surface Water and/or withdraw Underground Water and distribute it for use on the Property for the benefit of the Resident as a BCLHOA Water

Customer, the Resident does not have an independent right to divert appropriable water of Bonita Creek and its tributaries either through direct diversions from Bonita Creek or as water withdrawn from wells located adjacent to Bonita Creek for use on the Property.

2.10 Paragraph 16 of the BCLHOA-SRP Agreement provides an option for Residents to become agents of the BCLHOA in the diversion Surface Water and/or withdrawal of Underground Water exchanged for the diversion of stored water in C.C. Cragin Reservoir under certain conditions.

2.11 The Parties intend, through this Agreement, that the Resident, as an agent of the BCLHOA, will receive a right to divert Surface Water and/or withdraw Underground Water for use on the Property under the terms and conditions contained herein.

2.12 There may be some residents with property located within the BCLHOA Water Service Area who claim an independent right to use appropriable water of Bonita Creek which is appurtenant to the Property under Arizona law. SRP will review the claim and the basis for the claim and may recognize such right in a process different from the process described under the BCLHOA-SRP Agreement and this Agreement. This Agreement is intended for Residents who agree they have no right to use appropriable water from Bonita Creek and its tributaries.

3. AGREEMENT:

In consideration of the mutual covenants herein set forth, the Parties hereto agree as follows:

4. INCORPORATION OF RECITALS AND EXHIBITS:

The recitals set forth above and all attached exhibits are hereby expressly incorporated and included as part of this Agreement.

5. DEFINITIONS:

The Parties hereby incorporate the definitions contained in the BCLHOA-SRP Agreement attached hereto as Exhibit 5.3. As used in this Agreement, the following terms, when capitalized, mean:

- 5.1 **Annual Administrative Fee:** Fee set by the BCLHOA Board of Directors under Subparagraph 12.1 and paid by the Resident under Subparagraphs 12.2.
- 5.2 **BCLHOA Board of Directors:** Board of Directors of the BCLHOA duly elected under the BCLHOA articles of incorporation and by-laws.
- 5.3 **BCLHOA-SRP Agreement:** Agreement entitled "Water Rights Transfer, and Water Delivery and Use Agreement for the Bonita Creek Land and Homeowners' Association Water System among Salt River Valley Water Users' Association, Salt River Project Agricultural Improvement and Power District, And Bonita Creek Land and Homeowners' Association, Inc." dated _____, 20__ attached hereto as Exhibit 5.3.

5.4 **Points of Measurement:** Points agreed to by the Authorized Representatives and Resident where it is required to accurately ascertain the total quantity of:

5.4.1 Surface Water diverted by Resident under Paragraph 9 herein and Paragraph 16 of the BCLHOA-SRP Agreement; and

5.4.2 Underground Water withdrawn by Resident under Paragraph 9 herein and Paragraph 16 of the BCLHOA-SRP Agreement.

The Points of Measurement, which may be changed by the Authorized Representatives and Resident by mutual agreement, are listed in Exhibit 5.4.

5.5 **Points of Receipt:** Points where Resident, as an agent of the BCLHOA, diverts Surface Water and/or withdraws Underground Water in exchange for BCLHOA Stored Water. Points of Receipt include points where:

5.5.1 Surface Water is diverted by Resident under Paragraph 9 herein and Paragraph 16 of the BCLHOA-SRP Agreement; and

5.5.2 Underground Water is withdrawn by Resident under Paragraph 9 herein and Paragraph 16 of the BCLHOA-SRP Agreement.

The Points of Receipt, which may be changed by the Authorized Representatives and Resident by mutual agreement, are listed in the Points of Measurement in Exhibit 5.4.

- 5.6 **Property:** Real estate land parcel owned by Resident that is the subject of this Agreement. The Property is described by legal description in Exhibit 5.6 and a map of the Property is attached as Exhibit 5.6A.
- 5.7 **Resident Water Allocation:** Quantity of BCLHOA Stored Water allocated to Resident by the Bonita Creek Board of Directors in a Water Year to be diverted from Bonita Creek as Surface Water and/or withdrawn as Underground Water in exchange for BCLHOA Stored Water for use on the property under this Agreement.
- 5.8 **SRP:** The Salt River Valley Water Users' Association, an Arizona corporation, and the Salt River Project Agricultural Improvement and Power District, an agricultural improvement district formed under Title 48, Chapter 17 of the Arizona Revised Statutes.

6. EFFECTIVE DATE AND TERM OF AGREEMENT:

- 6.1 This Agreement shall become effective upon execution by the Parties ("Effective Date") and unless terminated pursuant to Subparagraphs 6.2, 6.3, 6.4, 6.5, 6.6 or 6.7, this Agreement shall remain in effect in perpetuity.
- 6.2 This Agreement terminates automatically if BCLHOA-SRP Agreement terminates for any reason.
- 6.3 BCLHOA may automatically and unilaterally terminate this Agreement if Resident does not comply with the flow measurement requirements under Paragraph 10.
- 6.4 BCLHOA may automatically and unilaterally terminate this Agreement if Resident does not comply with the reporting requirements under Paragraph 11.
- 6.5 BCLHOA may automatically and unilaterally terminate this Agreement if the Resident does not comply with the payment requirements under Paragraph 12.
- 6.6 BCLHOA may automatically and unilaterally terminate this Agreement if the Resident does not comply with the access requirements under Paragraph 14.1.
- 6.7 If, at any time after the Effective Date of this Agreement, Resident may terminate this Agreement if it determines it no longer needs or desires the right to be an

agent of the BCLHOA for the delivery of stored water from C.C. Cragin Reservoir to its Property under Paragraph 8 by first recording written notice of termination with the Property in the real property records of the Gila County Recorder's office and by providing a copy of the termination notice to BCLHOA and SRP under Paragraph 24. The termination will be effective upon sending notice to BCLHOA and SRP under Paragraph 24.

7. RIGHTS TO BONITA CREEK AND ITS TRIBUTARIES:

Resident agrees to the following with respect to water rights to and hydrologic conditions of Bonita Creek, the East Verde River, and their tributaries:

- 7.1 Except for the right to divert Surface Water and withdraw Underground Water in exchange for BCLHOA Stored Water as an agent of BCLHOA under this Agreement, Resident has no right to appropriable water of Bonita Creek and its tributaries under Arizona law;
- 7.2 For purposes of this Agreement, water that Resident withdraws from wells located within the exterior boundaries of the Property is appropriable water of Bonita Creek and its tributaries under Arizona;
- 7.3 For purposes of this Agreement , withdrawing one acre-foot of water from wells located within the exterior boundaries of the Property is equivalent to diverting one acre-foot of appropriable water of Bonita Creek and its tributaries;
- 7.4 For purposes of this Agreement, a hydrologic connection exists between appropriable water of Bonita Creek and its tributaries and appropriable water of the East Verde River and its tributaries such that diverting one acre-foot of appropriable water of Bonita Creek and its tributaries is equivalent to diverting one acre-foot of appropriable water of the East Verde River and its tributaries; and

8. RESIDENT IS AN AGENT OF THE BCLHOA FOR DELIVERY OF SURFACE WATER AND UNDERGROUND WATER:

Resident shall be an agent of the BCLHOA in the delivery of Surface Water and Underground Water to the Property under Paragraph 9.

9. RESIDENT WATER ALLOCATION; SURFACE WATER DIVERTED AND UNDERGROUND WATER WITHDRAWN BY RESIDENT AND WATER RECEIVED FROM OTHERS:

- 9.1 BCLHOA Board of Directors shall set the quantity of BCLHOA Stored Water allocated to Resident in exchange for Surface Water and Underground Water for diversion and withdrawal at the Points of Receipt under Subparagraph 9.2 as an agent of BCLHOA during a Water Year ("Resident Water Allocation").
- 9.2 Resident may divert Surface Water and withdraw Underground Water at the Points of Receipt for use on the Property for domestic uses in a quantity not to exceed the Resident Water Allocation as determined by the BCLHOA Board under Subparagraph 9.1.
- 9.3 Surface Water diverted by Resident shall only be used within the exterior boundaries of the Property and Underground Water withdrawn by Resident shall only be withdrawn from wells located on the Property and the Underground Water shall only be used within the exterior boundaries of the Property.
- 9.4 Resident shall not to receive appropriable water of Bonita Creek and its tributaries from others or water withdrawn from wells by others including from sources outside the exterior boundaries of the Property. Nothing in this Subparagraph shall be construed to prevent Resident from receiving Surface Water and Underground Water from BCLHOA as a BCLHOA Water Customer.

10. FLOW MEASUREMENT:

The Resident, at Resident's own expense, shall measure, at the Points of Measurement, the quantities of Surface Water diverted and Underground Water withdrawn under this Agreement as follows:

- 10.1. Resident shall determine the quantity of Surface Water diverted during a Water Year as follows:
 - 10.1.1 By measuring the area on the Property irrigated, including gardens or turf, and applying a water duty of three (3) acre-feet per acre; or
 - 10.1.2 By another method as agreed to in writing by Resident and both Authorized Representatives of the BCLHOA and SRP.

10.2 Resident shall determine the quantity of Underground Water withdrawn in a Water Year as follows:

10.2.1 By installing a water meter that is approved in writing by the Authorized Representatives of the BCLHOA and SRP to measure the quantity of Underground Water withdrawn; or

10.2.2 By calculating the quantity of water withdrawn by providing the pump size and quantity of electricity used to BCLHOA for the water year; or

10.2.3 By another method as agreed to in writing by the Resident and both Authorized Representatives of the BCLHOA and SRP.

11. WATER ACCOUNTING AND REPORTING:

11.1 Unless the Authorized Representatives of both the BCLHOA and SRP agree on a different schedule in writing, Resident shall report to BCLHOA each quarter:

11.1.1 The quantity of Underground Water withdrawn by Resident under Paragraph 10 each month; and

11.1.2 The quantity of Surface Water diverted by Resident under Paragraph 10 each month.

11.2 Resident shall report the quantity of Surface Water diverted and Underground Water withdrawn pursuant to Subparagraph 11.1 for each month on or before the eighth (8th) business day of March, June, September, and December to BCLHOA.

12. ANNUAL ADMINISTRATIVE FEE:

12.1 BCLHOA Board of Directors shall set the Annual Administrative Fee.

12.2 Within 10 days after the Effective Date, Resident shall pay the Annual Administrative Fee as set by the BCLHOA Board of Directors under Subparagraph 12.1.

12.3 On each successive May 1, Resident shall pay the Annual Administrative Fee as set by the BCLHOA Board of Directors for the Water Year.

13. GILA RIVER BASIN AND LITTLE COLORADO RIVER BASIN WATER RIGHTS ADJUDICATIONS AND ADWR:

13.1 The Parties agree to support each other and take all necessary actions in the Gila River and Little Colorado River General Stream Adjudications to claim and establish their respective rights to the use of stored water from C. C. Cragin Reservoir in accordance with the terms of this Agreement and the BCLHOA-SRP Agreement.

13.2 Resident agrees that it cannot assert a valid claim to appropriable water of Bonita Creek and its tributaries under Arizona law in the Gila River General Stream Adjudication and agrees that within ninety (90) days after the Effective Date, Resident shall withdraw any claims to appropriable water of Bonita Creek and its tributaries currently filed in the Gila River General Stream Adjudication related to the Property and Resident shall not file any such claim while this Agreement is effective.

13.3 Within thirty (30) days after the Effective Date, Resident shall withdraw any pending applications to appropriate water related to the Property that Resident has previously filed with the Arizona Department of Water Resources or its predecessor agencies under Arizona law.

14. RIGHT OF ACCESS:

Resident shall grant BCLHOA and SRP, their employees and agents the right of access to its facilities diverting Surface Water and/or withdrawing Underground Water, including, but not limited to Resident well sites, water diversion facilities, water storage facilities, and water recovery facilities, rights of way, and easements, at reasonable times agreed to by SRP, the BCLHOA, and Resident and after reasonable notice from the request by SRP and/or the BCLHOA, for purposes of ascertaining compliance with this Agreement and the BCLHOA-SRP Agreement, including the right to test any water measurement system used by Resident to gather and report data pursuant to this Agreement and the BCLHOA-SRP Agreement.

15. AUDIT:

15.1 Upon reasonable written notice to Resident or the Authorized Representatives of SRP or BCLHOA, any Party at its expense shall have the right, at all reasonable times, to review and audit the books, records and documents of any other Party directly pertaining to the billings and water accounting data required to administer this Agreement. Any audit hereunder may be conducted by an employee of or independent accountant or other suitable professional person designated by the auditing Party. The Party being audited shall fully cooperate with any such audit. The right to audit shall extend for a period of three (3) years following the date of each payment under this Agreement. The Parties agree to retain all necessary records and documentation during this audit period. The foregoing shall not be construed to permit any Party to conduct a general audit of the other Party's records. Information obtained by a Party's representatives in examining any other Party's applicable records to verify such billings and Water Accounting data shall not be disclosed to third parties without prior written consent of the audited Party, unless such disclosure is in response to compulsory judicial or regulatory process or required by state law including the public records law. The Party required to disclose information to a third party shall give the other Party written notice of the disclosure as much in advance as possible.

15.2 The audited Party's Authorized Representative shall be notified in writing of any exception taken as a result of an audit and shall respond to such notification within thirty (30) days. Upon resolution of any exception, A) as to payment of any money due, the owing Party shall directly remit the amount of any exception to the other Party within thirty (30) days, with interest calculated in accordance with Subparagraph 18.2.4 of the BCLHOA-SRP Agreement and computed from the date of the original billing to the date of payment by the Party owing as a result of the audit; B) as to any water due, the Authorized Representatives shall arrange for the owing Party to return the amount owed as soon as practicable.

16. RESOLUTION OF DISPUTES:

Any dispute under this Agreement shall first be submitted to the Resident and Authorized Representatives for resolution. If the matter cannot be resolved by the Resident and Authorized Representatives, any Party may submit the matter to the Resident, SRP Associate General Manager Water Resources, and the President of BCLHOA. If the matter cannot be resolved by the Resident, SRP Associate General Manager Water Resources, and

the President of BCLHOA, any Party may bring suit upon the matter, provided however, that it is expressly agreed that the venue shall only be in the Superior Court of the State of Arizona in and for the County of Maricopa. In the event of any future dispute or action arising under this Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and costs incurred therein, including expert witness fees.

17. ACTION PENDING RESOLUTION OF DISPUTES:

Pending the resolution of a dispute pursuant to Paragraph 24, the Parties shall make payments and otherwise perform, to the extent legally permissible, in a manner consistent with this Agreement. Amounts paid by a Party pursuant to this Paragraph 25 during the pendency of such dispute shall be subject to refund and adjustment upon a final resolution of any dispute involving an amount due. Upon such final resolution, A) money due shall be billed and remitted in accordance with Paragraph 18, and B) as to any water due, the Authorized Representatives shall arrange for the owing Party to return the amount owed as soon as practicable.

18. COVENANTS RUNNING WITH THE LAND; BINDING AGREEMENT:

It is the Parties' intention that the covenants contained in this Agreement shall constitute covenants running with the Property and shall bind the real estate described herein and inure to the benefit of and be binding upon and inure to the benefit of the Parties, their heirs, executors, successors, and assigns and all persons now owning or holding or hereafter acquiring any interest in the Property.

19. SRP THIRD PARTY BENEFICIARY:

BCLHOA and Resident hereby acknowledge and agree that SRP is an express third party beneficiary of this Agreement.

20. WAIVER:

The failure of any Party to insist on any one or more instances upon strict performance of any of the obligations of any other Party pursuant to this Agreement or to take advantage of any of its rights hereunder shall not be construed as a waiver of the performance of any such obligation or the relinquishment of any such rights for the future, but the same shall continue and remain in full force and effect.

21. CONTROLLING LAW, JURISDICTION, AND VENUE:

This Agreement shall be interpreted and construed according to Arizona law. The Parties hereby agree that jurisdiction and venue in any action to enforce the provisions of this Agreement shall be proper in the Superior Court in and for Maricopa or Gila County, Arizona.

22. TRANSACTIONS COSTS:

Each Party shall bear its own attorneys' fees, consultants' fees, and other costs associated with negotiating, drafting, and executing this Agreement.

23. ENTIRE AGREEMENT:

This Agreement and the exhibits attached and incorporated herein constitute the entire understanding of the Parties and supersede any previous agreement or understandings on the subjects discussed herein.

24. NOTICE; CHANGE OF NAME OR ADDRESS:

24.1 All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed to have been received either when delivered or on the fifth business day following mailing, by registered or certified mail, postage prepaid, return receipt requested, whichever is earlier, addressed as set forth below:

24.1.1 If to SRP:

Salt River Project
c/o Authorized Representative
PO Box 52025
Phoenix, AZ 85072-2025

Reference: Bonita Creek Land and Homeowners' Association – Bonita Creek Resident Agency Agreement

With copies to:

Salt River Project
c/o Legal Services, Land & Water Rights
PO Box 52025
Phoenix, AZ 85072-2025

Salt River Project
c/o Corporate Secretary's Office
PO Box 52025
Phoenix, AZ 85072-2025

24.1.2 If to BCLHOA:

Bonita Creek Land and Homeowners' Association
c/o President
251 North Big Al's Run
Payson, AZ 85541

Reference: Bonita Creek Land and Homeowners' Association – Bonita
Creek Resident Agency Agreement

24.1.3 If to Resident:

[insert]

24.2 Any Party may change the addressee or address to which communications or copies are to be sent by giving notice of such change of addressee or address in conformity with the provisions of this Paragraph 21 for giving notice.

25. AMENDMENTS:

Any amendment, modification, or termination of this Agreement shall be effected only by an instrument executed and acknowledged by each of the Parties or their successors in interest.

26. TIME OF ESSENCE:

Time is of the essence under this Agreement. Any extension of time for performance under this Agreement by any Party must be in writing.

27. SEVERABILITY:

If any provision or any portion of a provision of this Agreement is deemed to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect the remaining portion of that provision or of any other provision of this Agreement, as each provision of this Agreement shall be deemed to be severable from all other provisions hereof.

28. NOT PARTNERS:

Neither this Agreement, nor any activity of the Parties in connection herewith, shall constitute the Parties as partners for any purposes whatsoever.

29. INTERPRETATION:

The Parties hereby acknowledge and agree that each has been given the opportunity to independently review this Agreement with legal counsel, and that this Agreement is the result of negotiations among the Parties. In the event of any ambiguity in or dispute regarding the interpretation of Agreement, the interpretation shall not be resolved by any rule of interpretation providing for the interpretation against the party who caused the uncertainty to exist or against the draftsman.

30. COUNTERPARTS:

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, with the same force and effect as if all signatures were appended to one instrument.

31. RECORDING:

To the extent allowed by applicable law, each Party hereby consents to the recording of this Agreement with the Gila County Recorder or with any other appropriate governmental agency.

32. NOT PRECEDENT:

The Parties have negotiated this Agreement to resolve specific issues relating to the Property. The terms and conditions of this Agreement are not intended to have any value as precedent with respect to other parcels in the area or other situations.

IN WITNESS HEREOF, this Agreement is executed by the Parties and made effective on the Effective Date.

BCLHOA

By _____
President

Date: _____, 201__

Resident
[INSERT LANDOWNER NAME]

By _____

Date: _____, 201__

STATE OF ARIZONA)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 201__, by _____, the President of the Bonita Creek Land and Homeowners' Association, on behalf of the Bonita Creek Land and Homeowners' Association.

Notary Public

My commission expires:

STATE OF ARIZONA)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 201__, by [LANDOWNER].

Notary Public

My commission expires:

EXHIBIT 5.3

BCLHOA-SRP AGREEMENT

EXHIBIT 5.4

Points of Measurement

Point of Receipt

Location

1. Surface Water Diversion
2. Underground Water Wells:

[Well Registration Number]

EXHIBIT 5.6

LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT 5.6A

MAP OF THE PROPERTY

FIRST SUPPLEMENTAL WATER RIGHTS TRANSFER, WATER EXCHANGE, AND
WATER DELIVERY AND USE AGREEMENT
FOR THE BONITA CREEK LAND AND HOMEOWNERS' ASSOCIATION WATER SYSTEM
AMONG
SALT RIVER VALLEY WATER USERS' ASSOCIATION,
SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT,
AND
BONITA CREEK LAND AND HOMEOWNERS' ASSOCIATION

EXHIBIT 18.2.3

Three (3) Year Average Rate Methodology

- Three (3) year average rate calculation for fiscal years 2018, 2019, and 2020 is based on:
 1. O&M actuals for fiscal years 2016 and 2017,
 2. O&M budget for fiscal year 2018

NOTE: Capital costs and O&M costs are combined and presented as COSTS

Average Rate Calculation for Fiscal Years 2018, 2019, and 2020	COSTS	TOTAL
Reconciliation of Actual Costs for past three (3) years versus three (3) year Average Rate paid (True-Up)	N/A	N/A
FY16 (actual)	\$863,358	\$863,358
FY17 (actual)	\$865,758	\$865,758
FY18 (budgeted)	\$1,365,879	\$1,365,879
Subtotal		\$3,094,995
Administrative & General (A&G) Loads		\$152,924
Total		\$3,247,919
Annual Average Rate based on Three Year Total (Total / 3)		\$1,082,640
Annual Average Rate for BCLHOA (0.136%)		\$1,472

NOTE:

- *Beginning in May 2020, and every three (3) years thereafter, SRP will review and revise BCLHOA's calculated annual average rate as specified in Subparagraph 18.2.3 and this Exhibit 18.2.3.*
- *The A&G load rate to be used in the calculation of the annual average rate will be an average of SRP's corporate rates during the Actual Costs and Budgeted Costs time period.*
- *A&G loads are not included in the calculation of the following:*
 - *True-Up amount*
 - *Actual Costs*
 - *Budgeted Costs*
- *For fiscal years 2018, 2019, and 2020, BCLHOA's annual three (3) year Average Rate without A&G loads is \$1,403.*