



RESOLUTION NO. 2024-1147

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CAMP VERDE, YAVAPAI COUNTY, ARIZONA APPROVING THE YAVAPAI-APACHE NATION WATER RIGHTS SETTLEMENT AGREEMENT AMONG THE UNITED STATES OF AMERICA, THE STATE OF ARIZONA, THE YAVAPAI-APACHE NATION, THE SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, THE SALT RIVER VALLEY WATER USERS' ASSOCIATION, THE CENTRAL ARIZONA WATER CONSERVATION DISTRICT, THE TOWN OF CAMP VERDE, THE TOWN OF CLARKDALE, AND THE CITY OF COTTONWOOD AND AUTHORIZING THE MAYOR TO EXECUTE THE SETTLEMENT AGREEMENT AND ALL DOCUMENTS NECESSARY TO CARRY OUT THE SETTLEMENT AGREEMENT.

WHEREAS, proceedings to determine the nature and extent of the rights to water in the Verde Valley are pending in the Gila River Adjudication proceedings; and

WHEREAS, recognizing that the final resolution of the Gila River Adjudication may take many years, entail great expense, prolong uncertainty concerning the availability of water supplies, and seriously impair the long-term economic well-being of all parties, the Yavapai-Apache Nation, the Town of Camp Verde, and other neighboring non-Indian communities have agreed to permanently settle the water rights of the Yavapai-Apache Nation through the Yavapai-Apache Nation Water Rights Settlement Agreement ("Settlement Agreement"); and

WHEREAS, the Yavapai-Apache Nation, the United States as trustee for the Yavapai-Apache Nation, and the Town of Camp Verde have agreed to permanently settle and resolve the water rights claims and disputes among them consistent with the terms of the Settlement Agreement; and

WHEREAS, the Mayor and Common Council of the Town of Camp Verde have determined that entering into the Settlement Agreement will further the interests and welfare of the Town's residents.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Common Council of the Town of Camp Verde, Arizona, as follows:

1. The recitals set forth above are adopted by the Town Council; and
2. The Town Council of the Town of Camp Verde hereby approves the Yavapai-Apache Nation Water Rights Settlement Agreement in substantially the same form as attached in Exhibit A; and
3. The Town Council of the Town of Camp Verde hereby authorizes the Mayor to

execute the Yavapai-Apache Nation Water Rights Settlement Agreement and all documents necessary to carry out the Settlement Agreement on behalf of the Town of Camp Verde and hereby authorizes the Town Manager and Town Attorney to take all actions necessary to carry out the purpose and intent of this Resolution.


PASSED AND ADOPTED by the Mayor and Common Council of the Town of Camp Verde this 7th day of August, 2024.



Dee Jenkins, Mayor

Attest:


Town Clerk

Approved as to form:


Trish Stunan-Town Attorney

EXHIBIT A

YAVAPAI-APACHE NATION WATER RIGHTS SETTLEMENT AGREEMENT

[See following pages.]

**AGREEMENT
 AMONG THE YAVAPAI-APACHE NATION, THE UNITED STATES,
 AND
 THE TOWN OF CAMP VERDE**

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This Agreement dated as of this ____ day of _____, 2024, is entered into by and among the Yavapai-Apache Nation, the Town of Camp Verde, and the United States of

America in the capacity as set forth in this Agreement.

1.0 RECITALS

1.1 Proceedings to determine the nature and extent of rights to water of the Yavapai-Apache Nation, on behalf of the Nation and the Members of the Nation, the United States acting as trustee for the Nation and the Members of the Nation, the Town, and other claimants are pending in the Gila River Adjudication Proceedings.

1.2 Recognizing that final resolution of the Gila River Adjudication Proceedings may take many years, entail great expense, prolong uncertainty concerning the availability of water supplies, and seriously impair the long-term economic well-being of all Parties, the Yavapai-Apache Nation, the United States, the Nation's neighboring non-Indian communities, and other Arizona Water users have agreed to permanently settle the Water Rights of the Yavapai-Apache Nation on behalf of the Nation and the Members of the Nation (but not Members in the capacity of the Members as Allottees), and the United States acting as trustee for the Yavapai-Apache Nation and the Members of the Yavapai-Apache Nation (but not Members in the capacity of the Members as Allottees).

1.3 In keeping with its trust responsibility to Indian Tribes and to promote tribal sovereignty and economic self-sufficiency, it is the policy of the United States to, wherever possible, permanently resolve Water Rights claims of Indian Tribes without lengthy and costly litigation.

1.4 The Town asserts rights to the Use of Water in Yavapai County, Arizona.

1.5 The Town Diverts Water for M&I Uses from a system of wells, pumps, pipelines, and other water infrastructure located within the Verde River Watershed using the Town's

Water Facilities.

1.6 The Act provides for the settlement of the Water Rights claims of the Nation, and for agreement among the Nation, the United States, the State of Arizona, the Salt River Project, the Town of Camp Verde, the Town of Clarkdale, and the City of Cottonwood, and certain other named Parties.

1.7 Accordingly, the Parties have agreed to permanently settle the Water Rights and damage claims of the Nation as provided for in the Settlement Agreement, and to resolve permanently any disputes between (a) the Yavapai-Apache Nation and the Members of the Yavapai-Apache Nation (but not Members in the capacity of the Members as Allottees) and the United States acting as trustee for the Nation and the Members of the Yavapai-Apache Nation (but not Members in the capacity of the Members as Allottees), and (b) the Town, regarding the Use of Water by the Town as provided in this Agreement.

NOW, THEREFORE, the Parties agree as follows:

2.0 DEFINITIONS

Capitalized terms in this Agreement that are not expressly defined shall have the same meaning as in the Settlement Agreement. For purposes of this Agreement, the following terms shall have the following meanings when capitalized in this Agreement:

2.1 "Act" means the Yavapai - Apache Nation Water Rights Settlement Act of 20__, the form of which is attached as Exhibit 2.2 to the Settlement Agreement.

2.2 "ADWR" means the Arizona Department of Water Resources or its successor agency.

2.3 "AFY" means acre-feet per Year.

2.4 "Agreement" means this agreement and all Attachments hereto, which are

incorporated here by reference.

2.5 "Allottee" means an individual Indian holding an undivided fractional beneficial interest in the Dinah Hood Allotment, or an Indian Tribe holding an undivided fractional beneficial interest in the Dinah Hood Allotment.

2.6 "Attachment" means an attachment to this Agreement.

2.7 "Camp Verde", "Town of Camp Verde", or "Town" means the Town of Camp Verde, Arizona, a municipal corporation.

2.8 "CAP" or "Central Arizona Project" means the reclamation project authorized and constructed by the United States in accordance with Title III of the Colorado River Basin Project Act (43 U.S.C. §1521 *et seq.*).

2.9 "CAP Repayment Stipulation" has the same meaning as set forth in the Settlement Agreement.

2.10 "CAP Water" has the meaning given the term 'Project Water' in the CAP Repayment Stipulation.

2.11 "C.C. Cragin Dam and Reservoir" means: (a) the C.C. Cragin Dam and Reservoir located on East Clear Creek in Coconino County, Arizona, owned by the United States and operated by the Salt River Project Agricultural Improvement and Power District; (b) associated facilities located in Gila and Coconino Counties, Arizona, including pipelines, tunnels, buildings, hydroelectric generating facilities and other structures of every kind; transmission, telephone and fiber optic lines; pumps, machinery, tools and appliances; and (c) all real or personal property, appurtenant to or used, or constructed or otherwise acquired to be used, in connection with the C.C. Cragin Dam and Reservoir. The term "C.C. Cragin Dam and Reservoir" does not include the Cragin-Verde Pipeline Project.

2.12 “Clean Water Act” means the laws codified generally in the United States Code in Title 33, Chapter 26.

2.13 “Community Water System Report” means the annual report required to be filed with the Arizona Department of Water Resources by a Public Water System pursuant to A.R.S. Title 45, Chapter 1, Article 14, and all amendments thereto.

2.14 “Cragin-Verde Pipeline Project” or “CVPP” means the water infrastructure project described in section ___ of the Act.

2.15 “Cragin Water” means, for purposes of this Agreement, the amount of Water made available under section ___ of the Act to the Verde Valley Communities from Water stored in C.C. Cragin Dam and Reservoir and delivered to the Verde Valley Communities through the Cragin-Verde Pipeline Project and other future constructed infrastructure, as authorized by the Act and under the terms of a separate agreement with SRP, the Nation, and other affected Parties.

2.16 “Discharge”, “Discharged”, or “Discharging” means to discharge, as authorized by law, highly treated Effluent or another Water source that is not Surface Water to the Verde River or the Verde River Subflow by means of pipe, rapid infiltration, recharge facility, conveyance structure, or any other legal means.

2.17 “Discharge Plan” means a plan developed by the Town pursuant to Subparagraph 5.1.5 or 5.1.6, and any amendments to such plan.

2.18 “Diversion” means the act to Divert.

2.19 “Divert” or “Diverting” means to receive, withdraw or develop and produce or capture Water using: (a) ditch, canal, flume, bypass, pipeline, pit, collection or infiltration gallery, conduit, well, pump, turnout, dam, or any other mechanical device; or (B) any

other human act.

2.20 “Effective Date” means the date the Settlement Agreement, including all exhibits (including this Agreement), is signed by all Parties, other than the United States.

2.21 “Effluent” means water that: (a) has been used in the State for domestic, municipal, or industrial purposes, other than solely for hydropower generation; and (b) is available for reuse for any purpose in accordance with applicable law this Agreement, regardless of whether the water has been treated to improve the quality of the water.

2.22 “Enforceability Date” has the same meaning as set forth in the Settlement Agreement.

2.23 “Exchange” means a trade between one (1) or more persons or entities, of any Water for any other Water, if each person or entity has a right or claim to use the Water the person or entity provides in the trade, regardless of whether the Water is traded in equal quantities or other consideration is included in the trade.

2.24 “Gila River Adjudication Court” means the Superior Court of the State, in and for the County of Maricopa, exercising jurisdiction over the Gila River Adjudication Proceedings and any other judicial body to which jurisdiction or authority over the Gila River Adjudication or the administration of water rights decreed in the Gila River Adjudication has been delegated.

2.25 “Gila River Adjudication Proceedings” means that action pending in the Superior Court of the State, in and for the County of Maricopa, *In re the General Adjudication of All Rights to Use Water In the Gila River System and Source, W-1 (Salt), W-2 (Verde), W-3 (Upper Gila), W-4 (San Pedro) (Consolidated)*.

2.26 “Groundwater” means all water beneath the surface of the Earth within the State

that is not: (a) Surface Water; (b) Effluent; or (c) Colorado River Water.

2.27 “Groundwater Importation Area” means the area depicted on the map in Attachment C where the Town may construct a well to Divert Water from Groundwater sources for importation to the Town under Subparagraph 10.4 that will not count against the Town’s Maximum Average Annual Diversion Amount under Subparagraph 4.1. The GIS shape file for the Groundwater Importation Area is on file with ADWR.

2.28 “Historic Water Right” or “Historic Water Rights” means any valid Surface Water Right, such as an historic Irrigation right, that (a) was perfected prior to June 12, 1919; (b) has not been abandoned, forfeited, or lost under State law; and (c) was Diverted for Use for at least one (1) Year during the five (5) Year period immediately preceding the Effective Date or was enrolled in an approved water conservation plan by the Director of the ADWR prior to the Effective Date pursuant to A.R.S. 45-189.01, now or as amended. The Town’s existing Historic Water Rights are tabulated in Attachment H.

2.29 “Highway 260 Joint Sewer Service Area” is the area depicted on the map in Attachment E where the Town and the Nation intend to jointly fund and develop sewer infrastructure under the Interconnection and Exchange Agreement entered into under this Agreement. The GIS shape file for the Highway 260 Joint Sewer Service Area is on file with ADWR. Attachment E to this Agreement shall be updated by the Town and the Nation from time to time by mutual agreement to correct any errors or reflect any changes or additions to the Highway 260 Joint Sewer Service Area.

2.30 “Imported Water” means Water that is Diverted by or for the Town from a well located within the Groundwater Importation Area as set forth in Subparagraph 10.4 and depicted in Attachment C to this Agreement.

2.31 "Impoundment" means any human-made permanent body of Water on the surface of the Earth, including Stockponds, lakes, Effluent ponds, open-air water storage tanks, irrigation ponds, and gravel pits. For purposes of this Agreement, the term Impoundment does not include recharge basins or swimming pools.

2.32 "Interconnection and Exchange Agreement" means the intergovernmental agreement under Arizona Revised Statutes, Title 11, Chapter 7, Article 3 between the Town of Camp Verde and the Yavapai-Apache Nation that sets forth additional terms and conditions under which the Town and the Nation will interconnect their potable water and sewer systems and Exchange certain Surface Water and other Water sources as provided for in Subparagraph 12.0.

2.33 "Irrigation" or "Irrigate" or "Irrigated" means the application of Water to two or more acres of land for the maintenance of turf or to produce plants or parts of plants for sale or human consumption, or for use as feed for livestock, range livestock or poultry.

2.34 "Joint Recharge Project" means a project that is jointly owned, managed, or operated by the Town and the Nation, or among the Town and the Nation and any other entity, for the recharge and recovery Water as permitted by this Agreement, the Act, the Settlement Agreement, and applicable law.

2.35 "Large-Capacity Production Well" means a production well with a casing diameter of greater than 6 inches and a pumping capacity exceeding 100 gallons per minute.

2.36 "Long-Term Storage Credit" or "LTSC" means a credit or credits from the underground storage of Water for more than a Year in a facility permitted under State law.

2.37 "M&I Use" or "M&I Uses" means the Use of Water by the Town for domestic, municipal, industrial, and commercial purposes.

2.38 "Maximum Average Annual Diversion Amount" means an amount of Water in acre-feet per year as described in Subparagraph 4.1 of this Agreement based on a 5-Year rolling average calculated in accordance with Subparagraph 13.1.

2.39 "Member" means any person duly enrolled as a member of the Yavapai-Apache Nation.

2.40 "Monitoring Well" means a well means that is used to measure or monitor the level, quality, quantity, or movement of Underground Water.

2.41 "Paragraph" means a numbered paragraph of this Agreement including all Subparagraphs in such Paragraph.

2.42 "Party" means a person or entity represented by a signatory to this Agreement and "Parties" means more than one of such persons or entities. Notwithstanding the foregoing, if the term is used specifically with reference to the Settlement Agreement, "Party" means a person or entity represented by a signatory to the Settlement Agreement, and "Parties" means more than one of such persons or entities. The participation of the United States as a Party to this Agreement is in the capacity described in Subparagraph 2.57.

2.43 "Public Water System" means a water system that: (a) provides water for human consumption through pipes or other constructed conveyances; and (b) has at least fifteen service connections or regularly serves an average of at least twenty-five persons daily for at least sixty days a Year.

2.44 "Replacement Well" means a well that: (a) is constructed to replace a well in existence on the Effective Date; (b) is located no more than 660 feet from the well being replaced; and (c) has a pumping capacity and case diameter that does not exceed the pumping capacity and case diameter of the well being replaced.

2.45 "Safe Drinking Water Act" means the Safe Drinking Water Act, P.L. 93-523, 88 Stat. 1660 (1974), and all amendments thereto.

2.46 "Secretary" means the Secretary of the United States Department of the Interior or the Secretary's designee.

2.47 "Settlement Agreement" means (a) the Yavapai-Apache Water Rights Settlement Agreement, dated _____, 2024; and (b) any amendment or exhibit (including exhibit amendments) to that Settlement Agreement that are (i) made in accordance with the Act, or (ii) otherwise approved by the Secretary and the Parties.

2.48 "SRP" or "Salt River Project" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State, and the Salt River Valley Water Users' Association, an Arizona Territorial Corporation.

2.49 "State" means the State of Arizona.

2.50 "Subparagraph" means a numbered subparagraph of this Agreement.

2.51 "Surface Water" means all Water that is appropriable under State law.

2.52 "Tabulation of Town's Existing Historic Water Rights" means any the Historic Water Rights of the Town existing prior to the Effective Date that are identified by the Town and agreed to by Parties prior to the Enforceability Date and added to Attachment H to this Agreement.

2.53 "Town Existing Sewer Service Area" means the area that is receiving sanitary sewer service from the Town on the Effective Date as show on the map in Attachment B. Attachment B shall be updated by the Town from time to time to correct any errors or reflect any changes or additions to the Town Existing Sewer Service Area.

2.54 "Town Limits" means the municipal boundaries of the Town and any additions to

the Town Limits which may be annexed under applicable law. The Town's existing Town's Limits are depicted on the map in Attachment A to this Agreement, which may be amended from time to time in accordance with Subparagraph 6.2.

2.55 "Town Water Service Area" or "Water Service Area" means the area served Water by the Town for a non-Irrigation Use as provided in A.R.S. § 45-402(31)(a) or under applicable law for Uses inside or outside the Town Limits (but not on the Yavapai-Apache Reservation, YAN Trust Land, or YAN After-Acquired Trust Land). The current Town Water Service Area is depicted on the map in Attachment F to this Agreement, which shall be amended from time to time in to reflect additions or changes to the Town Service Area in accordance with Subparagraph 6.3.

2.56 "Underground Water" means all Water beneath the surface of the Earth, within the State, regardless of its legal characterization as appropriable or non-appropriable under State, Federal, or other law. For purpose of this Agreement, "Underground Water" does not include Water that is accounted for as Long-Term Storage Credits under Paragraph 9.0 of this Agreement.

2.57 "United States" or "United States of America" means the United States acting as trustee for the YAN and the Members of the YAN (but not Members in the capacity of the Members as Allottees), except as otherwise expressly provided in this Agreement. When the term 'United States' or 'United States of America' is used in reference to a particular agreement or contract, the term means the United States acting in the capacity as set forth in such agreement or contract.

2.58 "Use" means any beneficial use recognized as beneficial under State law.

2.59 "Verde River Watershed" means all lands located within the surface water drainage

of the Verde River and its tributaries, depicted on the map attached as Exhibit 2.87 to the Settlement Agreement.

2.60 “Verde River Subflow Zone” or “Subflow Zone” means the area delineated within the Verde River by the ADWR on a map or maps that is approved by the Gila River Adjudication Court.

2.61 “Verde Valley Communities” means the communities, including the Town, located in the Verde River Watershed that have the option to obtain Cragin Water for municipal and domestic purposes as provided for in Section ___ of the Act.

2.62 “Water” when used without a modifying adjective, means; (a) Groundwater; (b) Surface Water; (c) Colorado River Water; or (D) Effluent.

2.63 “Water Budget” means the Maximum Average Annual Diversion Amount permitted to be Diverted and Used by the Town in the Town Water Service Area as described in Subparagraphs 4.1 and calculated in accordance with Subparagraph 13.1.

2.64 “Water Facilities” means all infrastructure and facilities used by the Town to Divert, treat, Use, store, recover, Discharge, or otherwise to develop or provide Water to its customers, and all future infrastructure and facilities used by the Town for this purpose.

2.65 “Water Right” means any right in or to Groundwater, Surface Water, Colorado River Water, or Effluent under Federal, State, or other law.

2.66 “Well Protection Protocol” means the protocol developed by the Nation and the Town under Subparagraph 12.2.6 to protect their respective investments in the development of existing and future wells needed to provide a reliable Water supply to their citizens. The Well Protection Protocol is attached to this Agreement as Attachment G. The geographic area where the Nation and Town shall comply with the obligations set

forth in the Well Protection Protocol when drilling Large-Capacity Production Wells is depicted in Attachment C. The GIS shape file for the Well Protection Protocol Area is on file with ADWR.

2.67 "YAN After-Acquired Trust Land" means land that is taken into trust by the United States for the benefit of the YAN pursuant to applicable federal law after the Enforceability Date.

2.68 "YAN CAP Water" means CAP Water to which the YAN is entitled pursuant to Subparagraph 6.1 of the Settlement Agreement and section ___ of the Act, and as provided in the YAN Amended CAP Water Delivery Contract.

2.69 "YAN Districts" means: (a) the Camp Verde District; (b) the Middle Verde District; (c) the Montezuma District; (d) the Clarkdale District; and (e) the Rimrock District of the YAN Reservation, each of which districts is separately depicted in the Settlement Agreement as Exhibits 2.96A, 2.96B, 2.96C, 2.96D, and 2.96E, respectively, and any additions to a YAN District under applicable law. Exhibits 2.96A, 2.96B, 2.96C, 2.96D, and 2.96E shall be updated before the Enforceability Date to correct any errors or reflect any additions to the YAN Districts.

2.70 "YAN Existing Sewer Service Area" means the area, both on and off the Reservation, that is receiving sanitary sewer service from the Nation, or from the United States on behalf of the Nation, on the Effective date as shown on the map in Attachment D. Attachment D to this Agreement shall be updated by the Nation from time to time to correct any errors or reflect any changes or additions to the YAN Existing Sewer Service Area.

2.71 "YAN Fee Land" means land that, as of the Enforceability Date, is: (a) located

outside the exterior boundaries of the YAN Reservation; (b) owned in fee by the YAN and has not been taken into trust by the United States for the benefit of the YAN; and (c) as described and shown in Exhibit 2.98 of the Settlement Agreement, as updated before the Enforceability Date to correct any errors or reflect any additions or subtractions to YAN Fee Land.

2.72 "YAN Land" means, collectively, the YAN Reservation, YAN Trust Land, and YAN Fee Land.

2.73 "YAN Point of Compliance" means the location of the Verde River proximate to the instream flow measurement device located at Global Positioning System coordinates 34.6116972, -111.8984306 within the Middle Verde District of the Reservation. Currently, the flow measurement device is United States Geological Survey Gage No. 09504950 identified as the "Verde River Above Camp Verde" gage.

2.74 "YAN Trust Land" means land that, as of the Enforceability Date, is (a) located outside the boundaries of the YAN Reservation; (b) held in trust by the United States for the benefit of the YAN; and (c) depicted on the map attached as Exhibit 2.103, as updated before the Enforceability Date to correct any errors or reflect any additions or subtractions to YAN Trust Land.

2.75 "YAN Water Service Area" means the Yavapai-Apache Reservation, YAN Trust Lands, or YAN After-Acquired Trust Lands, where the Nation, or the United States acting as trustee for the Nation, is currently or will in the future provide potable water, directly or by Exchange, using the Water sources listed in Subparagraph 4.1 of the Settlement Agreement.

2.76 "Yavapai Apache Nation", "YAN", or the "Nation" means the Yavapai-Apache

Nation of the Camp Verde Indian Reservation, Arizona, a federally recognized Indian Tribe organized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934, 48 Stat. 987 (25 U.S.C. § 5123).

2.77 "Yavapai-Apache Reservation" or "YAN Reservation" or "Reservation" has the same meaning as set forth in the Settlement Agreement.

2.78 "Year" means a calendar year. When not capitalized, the term "year" shall have the meaning in the Paragraph or Subparagraph in which the term is used.

3.0 ATTACHMENTS

The following is a list of Attachments to this Agreement, all of which are incorporated herein by reference. Modifications or amendments to the Attachments shall be made in accordance with this Agreement, and shall be consistent with the requirements of the Settlement Agreement and the Act.

Attachment	Description
A	Map of Town Limits
B	Map of the Town Existing Sewer Service Area
C	Map of the Groundwater Importation Area & Well Protection Protocol Area
D	Map of YAN Existing Sewer Service Area
E	Map of Highway 260 Joint Sewer Service Area
F	Town Water Service Area
G	Well Protection Protocol
H	Tabulation of Town's Existing Historic Water Rights

4.0 TOWN'S WATER BUDGET

4.1 M&I Uses Within Town Water Service Area. Except as otherwise provided for in this Agreement, the Nation on behalf of the Nation and the Members of the Nation (but

not Members in the capacity of the Members as Allottees), and the United States acting as trustee for the Nation and the Members of the Nation (but not Members in the capacity of the Members as Allottees), shall not object to the Town's total Diversion of a Maximum Average Annual Diversion Amount of **7,752.00 AFY** from (a) Underground Water for M&I Uses within the Town Water Service Area, now or as may be extended by the Town; and (b) Historic Water Rights tabulated in Attachment H of this Agreement, if applicable. The Town's Maximum Diversion Amount shall be calculated using a 5-Year rolling calendar average in accordance with Subparagraph 13.1.

4.2 All Water Diverted under Subparagraph 4.1 shall be accounted for pursuant to Paragraph 13.0 of this Agreement.

4.3 The Diversion and Use of the Water sources described in Subparagraph 13.3 shall not be included for purposes of calculating the Maximum Average Annual Diversion Amount set forth in Subparagraph 4.1.

4.4 In no event may the Town Divert or Use Water in excess of the Maximum Average Annual Diversion Amount set forth in Subparagraph 4.1, except (a) as provided for in Subparagraph 4.3; or (b) pursuant to the mitigation requirements described in Subparagraph 5.0.

5.0 MITIGATION FOR EXCEEDANCE OF THE WATER BUDGET

5.1 In recognition of the importance of preserving their shared aquifer, and maintaining flows in the Verde River to the Yavapai-Apache Nation and the Verde Valley Communities, the Town shall provide mitigation for any exceedance of the Maximum Average Annual Diversion Amount set forth in Subparagraph 4.1, no later than December

31 of the Year following the Year when an exceedance has occurred, as follows:

5.1.1 Reduction in Use. The Town may reduce its Diversion and Use of Water for M&I Uses by the amount of the exceedance in the Town's Water Budget.

5.1.2 Recovery and Use of Long-Term Storage Credits. The Town may Divert and Use Long-Term Storage Credits as provided in Paragraph 9.0. The Town shall Divert and Use one (1) acre-foot of Long-Term Storage Credits for each one (1) acre-foot of exceedance in the Town's Water Budget.

5.1.3 Aquifer Recharge. Pursuant to all applicable requirements of State or Federal law, the Town may recharge Effluent, Imported Water, Cragin Water, CAP Water, or any other mutually agreed upon source of Water to support aquifer conditions or well production under a plan agreed to by the Town and the Nation, which may include recharge to a Joint Recharge Facility, that shall, at the minimum, reasonably ensure that (1) acre-foot of Water is recharged to the aquifer for each one (1) acre-foot of exceedance in the Town's Water Budget. Any recharge to the aquifer for mitigation purposes under this Subparagraph 5.1.3 shall not (a) result in the accrual of LTSC for the Town; or (b) be recovered by the Town. The Town's recharge to the aquifer under this Subparagraph 5.1.3 shall not adversely degrade the quality of Water in the aquifer such that future recovery and use of that Water would require additional treatment by the Nation to meet Safe Drinking Water Act standards.

5.1.4 Acquisition of Historic Water Rights. The Town may acquire Historic Water Rights appurtenant to Irrigated lands with points of Diversion located downstream of the YAN Point of Compliance that are not already included in the Tabulation of Town's Existing Historic Water Rights listed in Attachment H to this Agreement and may

temporarily fallow, within one (1) Year following the Town's exceedance, one (1) acre-foot of water associated with the acquired Historic Water Right for each one (1) acre-foot of exceedance in the Town's Water Budget.

5.1.5 Discharge to the Verde River.

5.1.5.1 To meet its mitigation obligation under Subparagraph 5.1.5, if legally permitted by the Clean Water Act and pursuant to all other requirements of State or Federal law, the Town may Discharge Effluent upstream of the YAN Point of Compliance to the surface waters of the Verde River pursuant to a Discharge Plan developed by the Town that will ensure one (1) acre-foot of Effluent is Discharged to the Verde River for each one (1) acre-foot of exceedance in the Town's Water Budget.

5.1.5.2 For any new point of Discharge of Effluent to the Verde River for mitigation purposes under Subparagraph 5.1.5.1, at least six (6) months in advance of Discharging Effluent to the Verde River from a new point of Discharge, the Town shall provide notice and a copy of the Discharge Plan to the Nation in accordance with Subparagraph 20.16. After the first Discharge Plan is prepared, at least 60 days in advance of Discharging Effluent to the Verde River from any new point of Discharge for mitigation purposes or for any amendment to the Discharge Plan, the Town shall provide notice and a copy of any planned amendment to the Discharge Plan in accordance with Subparagraph 20.16.

5.1.5.3 The discharge plan shall, at minimum, include: (a) the location of the point or points of Discharge to the Verde River; and (b) the estimated amount and rate of Discharge at each point of Discharge.

5.1.5.4 In addition to the notice required by Subparagraph 5.1.5.2, the

Town shall provide the Nation with notice and a copy of any application or subsequently amended application for a Pollution Discharge Elimination System permit, in accordance with Subparagraph 20.16, at least 30 days prior to its submission to the Arizona Department of Environmental Quality or the United States Environmental Protection Agency, as applicable, if such permit is required by the Clean Water Act to authorize a Discharge under Subparagraph 5.1.5.1. Thereafter, within 14 days, the Town agrees to meet and confer with the Nation upon request in a good faith effort to resolve any concerns that the Nation may have with the Application.

5.1.6 Discharge to the Subflow Zone.

5.1.6.1 To meet its mitigation obligation under this Subparagraph 5.1.6, if legally permitted by the Clean Water Act and pursuant to all other requirements of State or Federal law, the Town may Discharge Effluent upstream of the YAN Point of Compliance to the Verde River Subflow Zone pursuant to a discharge plan developed by the Town that will ensure one (1) acre-foot of Effluent reaches the Verde River Subflow Zone for each one (1) acre-foot exceedance in the Town's Water Budget.

5.1.6.2 For any new point of Discharge of Effluent to the Verde River Subflow Zone for mitigation purposes under Subparagraph 5.1.6.1, at least six (6) months in advance of Discharging Effluent to the Verde River Subflow Zone from a new point of Discharge, the Town shall provide notice and a copy of the Discharge Plan with the information described in Subparagraph 5.1.6.3, to the Nation in accordance with Subparagraph 20.16. After the first Discharge Plan is prepared, at least 60 days in advance of Discharging Effluent to the Subflow Zone from any new point of Discharge for mitigation purposes or for any amendment to the Discharge Plan, the Town shall provide

notice and a copy of any planned amendment to the Discharge Plan in accordance with Subparagraph 20.16.

5.1.6.3 The Discharge Plan shall include: (a) the location of the point or points of Discharge to the Verde River Subflow Zone; (b) the method of Discharge (e.g. infiltration basin, injection/dry well, etc.); (c) the estimated amount and rate of Discharge at each point of Discharge; and (d) the technical basis and calculation demonstrating how one (1) acre-foot of Effluent will reach the Verde River Subflow Zone for each one (1) acre-foot of exceedance in the Town's Water Budget.

5.1.6.4 Within 30 days of the notice provided by the Town pursuant to Subparagraph 5.1.6.2, the Nation may object to the technical basis and calculation demonstrating how one (1) acre-foot of Effluent will reach the Verde River Subflow Zone for each one (1) acre-foot of exceedance in the Town's Water Budget by providing notice to the Town. If notice is provided to the Town by the Nation under this Subparagraph 5.1.6.4, the Town and the Nation shall meet and confer to consider a means to resolve the objection by mutual agreement of the Town and the Nation. If the objection cannot be resolved, the Nation may seek enforcement of its rights under Subparagraph 5.1.6 in the Gila River Adjudication Court.

5.1.6.5 In addition to the notice required by Subparagraph 5.1.6.2, the Town shall provide the Nation with notice and a copy of any application or subsequently amended application for a Pollution Discharge Elimination System permit, in accordance with Subparagraph 20.16, at least 30 days prior to its submission to the Arizona Department of Environmental Quality or the United States Environmental Protection Agency, as applicable, if such permit is required by the Clean Water Act to authorize a

Discharge under Subparagraph 5.1.6. Thereafter, within 14 days, the Town agrees to meet and confer with the Nation upon request in a good faith effort to resolve any concerns that the Nation may have with the Application.

5.1.7 Mitigation by Mutual Agreement. The Town may undertake other legal mitigation strategies to meet its mitigation obligations under this Paragraph 5.0 upon the written approval and agreement of the Town and the Nation and, if necessary, the approval of any other Party to this Agreement, the Gila River Adjudication Court, or any necessary regulatory agency, government, or authority.

5.2 The Town may select from one or any combination of the mitigation strategies prescribed by Subparagraphs 5.1.1 through 5.1.7 and shall report the use of these mitigation strategies in the annual report described in Subparagraph 14.3.

5.3 The Town may seek to avoid an exceedance by carrying out mitigation pursuant to Subparagraph 5.1 prior to the occurrence of an exceedance. Such mitigation shall be subtracted from the Water Uses accounted against the City's Water Budget in the Year in which it occurs.

5.4 To the extent that the acquisition, Diversion, or Use of any source of Water to be Used for mitigation pursuant to this Paragraph 5.0 is subject to the approval of other persons or entities, or subject to compliance requirements by third parties, the burden of obtaining such approvals or meeting such compliance requirements is solely and exclusively the burden of the Town and not of any other Party.

6.0 FUTURE DEVELOPMENT

6.1 After the date of the enactment of the Act, the Town and the Nation shall:

6.1.1 Encourage the use of water efficient fixtures and the use of native or

drought tolerant plants for outdoor landscaping.

6.1.2 Encourage the Use of Effluent, Historic Water Rights, or a combination thereof, for turf or other landscaping areas not using native or drought tolerant plants, including for schools, parks, cemeteries, golf courses, or common areas;

6.1.3 To the extent permitted by law, neither the Town nor the Nation shall deliver Water (other than Effluent, greywater, or harvested rainwater) for Use in ornamental water features, including ponds and lakes, with a capacity of 0.10 acre-feet or more. For purposes of this Subparagraph 6.1.3, “ornamental water features” does not include swimming pools.

6.2 The Town Limits, as depicted in Attachment A, are expected to change over time. The Town shall include a map of the Town’s then-existing Town Limits in the annual report required by Subparagraph 14.3 and such map shall be automatically addended to Attachment A of this Agreement.

6.3 The Town Water Service Area, as depicted in Attachment F, is expected to change over time. The Town shall include a map of the Town’s then-existing Town Water Service Area in the annual report required by Subparagraph 14.3 and such map shall be automatically addended to Attachment F of this Agreement.

7.0 WELL DEVELOPMENT

7.1 The Nation and the United States acting as trustee for the Nation shall not object, challenge or dispute the construction of future wells by the Town that comply with the Well Protection Protocol attached as Attachment G and the terms of this Agreement.

7.2 The Town shall not construct a well that Diverts Water after the Effective Date that is located within the lateral extent of the Verde River Subflow Zone.

7.2 Notwithstanding Subparagraphs 7.1 and 7.2, neither the Nation or the United States acting as trustee for the Nation shall object to the construction of a Replacement Well by the Town which may or may not be located within the lateral extent of the Verde River Subflow Zone.

7.3 Notice For Well Drilling. In addition to complying with any notice or other requirements of the Well Protection Protocol described in 12.2.6, if the Town seeks to drill a new well after the Effective Date, including a Replacement Well, the Town shall provide the Nation with notice pursuant to 20.16 that includes a copy of any filing required by ADWR to drill the well. Copies of filings provided to the Nation pursuant to this Subparagraph 7.3 shall be provided no later than 30 days after the filing is submitted by the Town to ADWR. Within 30 days of the notice provided by the Town, the Nation may object to the construction of a new well or the Replacement Well by providing notice to the Town. The notice shall specify how, in the Nation's view, operation of the well or Replacement Well would violate the terms of Subparagraphs 7.1 or 7.2. If notice is provided to the Town under this Subparagraph 7.3, the Town and the Nation shall meet and confer to consider a means to resolve the objection by mutual agreement of the Town and the Nation. If the objection cannot be resolved, the Nation may seek enforcement of its rights under Paragraph 7.0 in the Gila River Adjudication Court.

8.0 HISTORIC WATER RIGHTS; CONVERSION TO M&I USE

8.1 If the Town identifies Historic Water Rights for inclusion in the Tabulation of the Town's Historic Water Rights prior to the Enforceability Date, those rights, upon the agreement of the Parties, shall be included in Attachment H to this Agreement and the Town's Diversion of the Water described in the Town's Tabulation of Historic Water Rights

shall be counted against the Maximum Average Annual Diversion Amount set forth in Subparagraph 4.1. If the Town does not identify such Historic Water Rights or agreement on the existence of these Historic Water cannot be achieved prior to the Enforceability Date, Attachment H shall be removed from this Agreement.

8.2 If, after the Effective Date, the Town acquires additional Historic Water Rights, the Town's Diversion of Water pursuant to those additional Historic Water Rights shall not be counted against the Water Budget set forth in Subparagraph 4.1.

8.3 The Nation and the Members of the Nation (but not Members in the capacity of the Members as Allottees), and the United States acting as trustee for the Nation and the Members of the Nation (but not Members in the capacity of the Members as Allottees), shall not object to Town's application filed under State law to: (a) sever and transfer the Historic Water Rights from appurtenant lands with points of diversion located downstream of the YAN Point of Compliance to an M&I Use within its Service Area; or (b) change the point of Diversion or means of Diversion for Historic Water Rights from appurtenant lands with points of diversion located downstream of the YAN Point of Compliance to an existing well or to a well otherwise constructed in conformance with this Agreement, if the well is to facilitate the Town's Use of Historic Water Rights for an M&I Use within the Town Water Service Area.

9.0 UNDERGROUND STORAGE

The Town may participate in the underground storage of Water in storage facilities permitted under State Law for the accumulation and subsequent recovery, Diversion, and Use of Long-Term Storage Credits provided that the Use of the LTSCs is within the Town Service Area. The subsequent Diversion and Use of LTSCs by the Town shall (a) be in

accordance with State law; and (b) not count against the Town's Water Budget set forth in Subparagraph 4.1.

10.0 OTHER WATER PROVISIONS

10.1 Cragin Water. The Town may elect to import and Use Cragin Water for M&I Uses directly or by Exchange as provided for in section ___ of the Act, under terms and conditions reasonably agreed upon by SRP, the Nation, and any other affected Parties to the Settlement Agreement. The Town's importation, Diversion, and Use of Cragin Water shall not count against the Town's Water Budget set forth in Subparagraph 4.1.

10.2 CAP Water. Pursuant to section ___ of the Act and Subparagraph 6.4 of the Settlement Agreement, the Nation may, in its sole discretion and with the approval of the Secretary, enter into contracts or options to lease or to Exchange YAN CAP Water with the Town under terms acceptable to the Nation. The Use of YAN CAP Water for M&I Uses shall not count against the Town's Water Budget set forth in Subparagraph 4.1.

10.3 Acquisition of Public Water Systems by the Town.

10.3.1 After the Effective Date, if the Town purchases or acquires other existing Public Water Systems in the Verde River Watershed, the Town's Diversion of Water for these Public Water Systems shall not be counted against the Maximum Average Annual Diversion Amount set forth in Subparagraph 4.1, provided that the Town does not exceed the maximum of the total "water withdrawn" reported by the Public Water System in its annual Community Water System Report filed with ADWR for the highest one (1) Year of Water Use from the five (5) Years immediately preceding the Effective Date.

10.3.2 Within 90 days of acquiring a Public Water System, the Town shall provide notice to the Nation of such acquisition and shall provide sufficient information for the

Nation to determine the maximum amount of Water withdrawn during the five (5) Year period as required by Subparagraph 10.3.1.

10.3.3 The Town shall account for its Use of Water under this Subparagraph 10.3 pursuant to Paragraph 13.0 and shall include sufficient information in its annual report under Paragraph 14.0 for the Nation to confirm the Town's continued compliance with this Subparagraph 10.3.

10.4 Imported Water. The Town's Use of Imported Water in the Town Water Service Area for M&I Uses shall not be counted against the Maximum Average Annual Diversion Amount set forth in Subparagraph 4.1 if the well is used to Divert the imported Water is located within the Groundwater Importation Area depicted in Attachment C to this Agreement; provided, however, that Groundwater Diverted by the Town for Importation shall not deplete the Verde River Subflow Zone under the standards established by the Gila River Adjudication Court. If the Town plans to develop a well in the Groundwater Importation Area under this Subparagraph 10.4, the Town shall provide the Nation with the notice required by Subparagraph 7.3. Within 30 days of the notice provided by the Town, the Town agrees to meet and confer with the Nation, upon request, to jointly consider (a) the potential for the well to impact the Verde River Subflow Zone; (b) the potential for the well to adversely impact existing springs, seeps, wetlands, or perennial or intermittent surface waters in the area; and (c) opportunities for the Town to avoid the impacts listed in (a) and (b), above. The Town shall account for its importation and Use of Water under this Subparagraph 10.4 pursuant to Paragraph 13.0 and shall include sufficient information in its annual report under Paragraph 14.0 for the Nation to confirm the Town's compliance with the Agreement.

10.5 Maintenance and Development of Town Water Facilities. The Nation, on behalf of the Nation and the Members of the Nation (but not Members in the capacity of the Members as Allottees), and the United States acting as trustee for the Nation and the Members of the Nation (but not Members in the capacity of the Members as Allottees), shall not object to the maintenance and development of the Town's Water Facilities, provided that these activities are in accordance with this Agreement. Without limiting the generality of the foregoing, the Nation, on behalf of the Nation and the Members of the Nation (but not Members in the capacity of the Members as Allottees), and the United States acting as trustee for the Nation and the Members of the Nation (but not Members in the capacity of the Members as Allottees), shall not object to the following maintenance and development activities provided such activities are in accordance with this Agreement: (a) the construction, modification, relocation, and maintenance of conveyance facilities, including infiltration galleries, discharge facilities, Impoundments, flood retention or retardation basins, municipal storage tanks, or other diversion structures; (b) the maintenance, operation, and repair of existing wells or construction of Replacement Wells; (c) the drilling, maintenance, operation, repair, deepening and replacement of future wells, including monitoring wells; (d) changes in points of Diversion of Water Rights; (e) comingling of Water sources, or (f) the development and Use of Water supplies from any or all sources for M&I Uses.

11.0 WATER AND SEWER SERVICE

11.1 Water Delivered by the Town to the Nation.

11.1.1 The Town shall continue to provide potable Water service to the Nation for Uses within the Camp Verde District and Middle Verde District of the Reservation and

may provide additional potable Water service to the Nation for Use on the Reservation, YAN Trust Land, and YAN After-Acquired Trust Land as provided for in this Subparagraph 11.1 and the Interconnection and Exchange Agreement required by Paragraph 12.0.

11.1.2 After the Enforceability Date, all Water delivered by the Town pursuant to the Interconnection and Exchange Agreement for Use on the Reservation, YAN Trust Land, or YAN After-Acquired Land, shall be delivered by Exchange or by other legal arrangement between the Parties and accounted for from the Nation's Water sources as required by the Settlement Agreement.

11.1.3 The Nation on behalf of itself and its Members or the United States acting on behalf of the Nation and its Members, shall account for and report the Water delivered to the Nation under Subparagraph 11.1.2 as required by the Settlement Agreement.

11.1.4 Any Water Rights delivered by Exchange or otherwise from the Town to the Reservation, YAN Trust Land, and YAN After-Acquired Trust Land under Subparagraph 11.1.2 shall not be counted against the Town's Maximum Average Annual Diversion Amount set forth in Subparagraph 4.1.

11.2 Water Delivered by the Nation to the Town.

11.2.1 The Parties recognize that there may circumstances, including emergency circumstances, where the Town would request, and the Nation would deliver, potable Water to the Town for Use in the Town Water Service Area pursuant to the Interconnection and Exchange Agreement provided for in Paragraph 12.0.

11.2.2 The Water sources delivered by the Nation under Subparagraph 11.2.1 for Use in the Town Water Service Area shall be counted against the Town's Water Budget under Subparagraph 4.1, accounted for by the Town pursuant to Paragraph 13.0,

and reported by the Town pursuant to Paragraph 14.0.

11.2.3 In the event the Nation delivers Water from the Nation's Water Rights described in 8.0 or 9.0 of the Settlement Agreement for Use in the Town Water Service Area, the delivery of such Water shall be by Exchange pursuant to the requirements of the Interconnection and Exchange Agreement and in accordance with the Settlement Agreement.

11.2.4 The Nation shall provide sufficient reporting information to the Town for the Water delivered by the Nation for Use in the Town Water Service Area under Subparagraphs 11.2.1, 11.2.2, and 11.2.3 for the Town to account for this Water and meet its reporting requirements under Paragraph 14.0 of this Agreement.

11.2.5 Measurement and Reporting for Water Delivered by the Town to the Nation. All Water delivered to the YAN Reservation, YAN Trust Land, or YAN After-Acquired Trust Land by the Town shall be measured and accounted for by the Town. For the Water delivered by the Town to the YAN Reservation, YAN Trust Land, or YAN After-Acquired Trust Land (a) the Town's meters shall meet manufacturer specifications and industry accepted standards; (b) the Nation shall have access to all water usage data from each meter; (c) on or before **February 1** of each Year, the Town shall provide to the Nation the water usage data for the prior Year for each meter; (d) the Town shall maintain records related to the installation and maintenance of each meter and all water usage data reported from each meter for a period of seven (7) Years, and shall, at the request of a Party, permit inspection and copying of such records during the regular business hours of the Town, or alternatively, the Town may provide such records directly to the requesting party. The Town shall also provide any additional information the Nation

necessary to account for an Exchange of Water pursuant to the requirements of the Interconnection and Exchange Agreement for the Nation and to allow the Nation to account for this Water and meet the Nation's reporting requirements under the Settlement Agreement.

11.3 Sewer Service Areas.

11.3.1 Existing Sewer Service Areas. The Parties agree that the Town and the Nation shall continue to provide sanitary sewer service to their respective customers within the Town Existing Sewer Service Area and the YAN Existing Sewer Service Area. As of the Effective Date, neither Party will, absent mutual written agreement of the other Party, seek to collect wastewater from any customer located within the other Party's Existing Sewer Service Area.

11.3.2 Highway 260 Joint Sewer Service Area. The collection of wastewater and use of Effluent developed from future customers in the Highway 260 Joint Sewer Service Area shall be determined in accordance with Subparagraphs 11.3.3 and 12.2.5, and the Interconnection and Exchange Agreement.

11.3.3 Future Sewer Connections. The Nation and Town recognize that future developers in the Camp Verde region, including the Nation, will seek to connect their developments either to the Town's or to Nation's sewer collection systems, depending on available treatment capacity, the proximity of existing sewer infrastructure, and the costs of connection and service, among other factors. Recognizing the importance of encouraging the collection and treatment of wastewater and the reuse of Effluent to both Parties, the Nation and Town agree to establish generally consistent rates and fees for the connection and treatment of wastewater, and to work together to ensure that

developers and others connect to the closest available sewer system that has the capacity to capture and treat the wastewater. The Parties shall consider additional terms for connecting future wastewater customers that may be needed to avoid competition between the Town and the Nation, maximize the capture and treatment of wastewater, and facilitate the reuse of Effluent for inclusion in the Interconnection and Exchange Agreement under Paragraph 12.0.

12.0 INTERCONNECTION AND EXCHANGE AGREEMENT

12.1 General Purpose. The Parties provide potable Water service and sanitary sewer service for domestic, municipal, industrial, and commercial purposes within their respective service areas. In addition to serving its own customers, as of the Effective Date, the Town provides potable Water to the Camp Verde District of the Reservation and a “back up” supply of potable Water to certain portions of the Middle Verde District of the Reservation. The Nation, in turn, provides (as of the Effective Date) sanitary sewer service for certain domestic, municipal, industrial, and commercial purposes, located both on and off the Reservation. Given the challenges of drought, the potential for equipment failures, and ongoing development pressures being experienced by the Parties, as well as the opportunity through settlement to bring new Water sources, such as Cragin Water and CAP Water, into the Camp Verde area under section ___ of the Act and the Settlement Agreement, the Parties hereby agree to actively interconnect their respective potable Water and sanitary sewer systems as provided for in this Agreement at the locations and under the terms prescribed by the Nation and Town in the Interconnection and Exchange Agreement described in Subparagraph 12.2 in order to protect and enhance the capacity of their respective systems, provide redundancy, and support the efficient and affordable

operation of their water and sewer systems.

12.2 Interconnection and Exchange Agreement Required.

12.2.1 The Nation and Town shall enter into an Interconnection and Exchange Agreement prior to the Enforceability Date under which the Town and the Nation will actively interconnect their potable Water systems and sanitary sewer systems for the mutual benefit of the Parties and their citizens.

12.2.2 In negotiating the terms of the Interconnection and Exchange Agreement, the Nation and Town shall act in good faith and use their best efforts to establish fair, equitable, safe, and cost-effective terms for the interconnection of their potable Water and sewer systems which shall include, but not be limited to (a) reasonable rates and fees for the recovery, Diversion, treatment, delivery and Exchange of Water under this Agreement; (b) the funding and development of shared sewer collection and treatment infrastructure, including in the Highway 260 Joint Service Area; (c) the construction, ownership, and use of mutually beneficial Joint Recharge Projects; and (d) any other matter of importance to the Parties under this Agreement. The Interconnection and Exchange Agreement shall comply with the terms of this Agreement, the Act, the Settlement Agreement, and applicable law.

12.2.3 Without limiting the rights of the Nation and the Town to develop other mutually beneficial terms in the Interconnection and Exchange Agreement, the Parties agree that the Interconnection and Exchange Agreement will include provisions to address the circumstances set forth in Subparagraphs 12.2.4, 12.2.5, and 12.2.6.

12.2.4 Exchange Agreement. The Interconnection and Exchange Agreement shall set forth reasonable terms and conditions under which the Parties will Exchange

Water sources with one another to support the delivery of potable water within the Town Water Service Area and the YAN Water Service Area under Paragraph 12.0, including the responsibility of both Parties, if any, to comply with the Exchange requirements set forth in Arizona Revised Statutes, Title 45, Chapter 4 and the Settlement Agreement.

12.2.5 Highway 260 Joint Sewer Service Area. The Interconnection and Exchange Agreement shall set forth reasonable terms and conditions under which the Parties will jointly fund (including with certain funds allocated to the Nation under section ___ of the Act), develop, and use the sanitary sewer infrastructure necessary to collect, treat, and reclaim wastewater in their respective systems to maximize the use of Effluent for the benefit of both Parties from: (a) new developments along Highway 260 within the “Highway 260 Joint Sewer Service Area depicted in Attachment E both within Town Limits and on the Nation’s lands; and (b) existing residences and other developments through potential septic to sewer conversions. The Interconnection and Exchange Agreement shall also, among other things, establish ownership of the phased sewer infrastructure, allocate wastewater collection and treatment responsibilities between the Parties and the financial costs and burdens associated with such collection and treatment, and provide for the reuse, storage, crediting, and recovery of Effluent developed in the Highway 260 Joint Sewer Service Area for mutually beneficial purposes.

12.2.6 Well Protection Protocol. The Nation and Town recognize their shared interest in protecting Water sources in the Camp Verde area and the need to protect their respective investments in existing and future wells that are used by both Parties to provide a reliable Water supply to their citizens. Considering the foregoing, the Nation and Town developed the Well Protection Protocol set forth in Attachment G that shall be used by

the Town and the Nation when either party develops a Large-Capacity Production Well within the Well Protection Protocol Area illustrated in Attachment C. The Well Protection Protocol set forth in Attachment G may be amended by mutual written agreement of the Nation and the Town, without approval of the Gila River Adjudication Court, unless such approval is required by law; provided, however, that no amendment may violate any provisions of this Agreement, the Act, or the Settlement Agreement. In addition to the foregoing, the Town and the Nation may develop additional details for the Well Protection Protocol by mutual written agreement as part of the Interconnection and Exchange Agreement, so long as such details are consistent with Attachment G, without the necessity of amending this Agreement.

12.2.7 Term of the Interconnection and Exchange Agreement. The term of the Interconnection and Exchange Agreement shall be for a period of fifty (50) years. Upon the expiration of the fifty (50) year term, the Interconnection and Exchange Agreement shall be automatically renewed for a period of fifty (50) years and shall be automatically renewed for successive fifty (50) year periods thereafter, unless terminated pursuant to Subparagraph 12.2.9.

12.2.8 Amendments to the Interconnection and Exchange Agreement. The Interconnection and Exchange Agreement may be amended by mutual written agreement of the Nation and the Town, without approval of the Gila River Adjudication Court, unless such approval is required by law; provided, however, that no amendment of the Interconnection and Exchange Agreement may violate any provisions of this Agreement, the Act, or the Settlement Agreement, or adversely affect the rights under the Settlement Agreement of any Party who is not a signatory to such an amendment.

12.2.9 Termination of the Interconnection and Exchange Agreement. The Interconnection and Exchange Agreement may be terminated only by mutual written agreement of the parties to the Interconnection and Exchange Agreement. Any decision to terminate the Interconnection and Exchange Agreement shall be in writing and signed by the parties to the Interconnection and Exchange Agreement. Unless otherwise required by law, the termination of the Interconnection and Exchange Agreement by mutual written agreement under this Subparagraph 12.2.9 shall not require the approval of the Gila River Adjudication Court.

12.2.10 Waiver. If the Nation and Town are unable to enter into the Interconnection and Exchange Agreement required by Subparagraph 12.2 by the Enforceability Date, the Nation may elect to waive the requirement of Subparagraph 12.2, by providing written notice to the Parties.

13.0 ACCOUNTING

13.1 Calculating the Maximum Average Annual Diversion Amount. At the conclusion of the fifth (5th) full Year after the Enforceability Date, the Town's Maximum Average Annual Diversion Amount pursuant to Subparagraph 4.1 shall be calculated as the average of the Town's total Annual Diversion or Use of Water from the Water sources described in Subparagraph 13.2 for the previous five (5) years, less the reductions under Subparagraph 5.3.

13.2 Water Sources Counted Against the Town Water Budget. The Diversion or Use of the following Water sources shall be permitted by this Agreement and counted in any given Year by the Town as a Diversion or Use against the Town's Water Budget:

13.2.1 For the Maximum Average Annual Diversion Amount set forth in

Subparagraph 4.1, any Diversion of Underground Water for M&I Uses in the Town Water Service Area;

13.2.2 For the Maximum Average Annual Diversion Amount set forth in Subparagraph 4.1, any Diversion or Use of Water in the Tabulation of the Town's Existing Historic Water Rights in Attachment H to this Agreement;

13.2.3 Any Diversion into an Impoundment not otherwise accounted for in this Subparagraph 13.2; and

13.1.4 Any Water that is sold, Exchanged, or transferred by the Town to a third-party, if such Diversion or Use of such Water would otherwise have been counted against the Town's Water Budget set forth in Subparagraph 4.1 notwithstanding such sale, Exchange, or transfer, had it the Diversion or Use been made by the Town.

13.3 Water Sources Not Counted Against the Town's Water Budget. The Diversion or Use of the following Water sources by the Town are permitted by this Agreement and shall not be counted in any given Year as a Diversion or Use against the Town's Maximum Average Annual Diversion Amount set forth in Subparagraph 4.1:

13.3.1 Effluent Diverted or Used by the Town within the Town Water Service Area as permitted by this Agreement;

13.3.2 Historic Water Rights not included in the Tabulation of Town's Existing Historic Rights in Attachment H to this Agreement that are acquired by the Town after the Effective date pursuant to Subparagraph 8.2;

13.3.3 The recovery of Long-Term Storage Credits pursuant to Paragraph 9.0;

13.3.4 Cragin Water under Subparagraph 10.1;

13.3.5 CAP Water under Subparagraph 10.2;

13.3.6 Water Diverted or Used by the Town resulting from the acquisition of a Public Water System after the Effective Date as set forth in Subparagraph 10.3;

13.3.7 Imported Water pursuant to Subparagraph 10.4; and

13.3.8 Water Diverted by the Town for delivery to the Nation by Exchange or any other legal means pursuant to Subparagraph 11.1.

13.3.9 Any other source of Water not described in Subparagraph 13.2.

13.4 **Accounting Form.** No later than one (1) Year after the date of the enactment of the Act, the Parties shall develop an agreed upon accounting form to account for Diversions and Uses of Water by the Town pursuant to this Paragraph 13.0, which form may be amended from time to time by mutual agreement provided that the amendment is consistent with this Agreement, the Act, and the Settlement Agreement.

13.4 In the event of any ambiguity in calculating the amount of Water Diverted by the Town counted against its Water Budget under Subparagraph 13.2, or in calculating the amount of Water excluded from the Water Budget pursuant to Subparagraph 13.3, the Parties' intention is that such ambiguity be resolved so as to avoid counting against the Town's Water Budget set forth in Subparagraph 4.1 from any particular source of Water more than once in any given Year.

14.0 REPORTING

14.1 **Metering.** No later than the date of the enactment of the Act, the Town shall commence the installation of metering devices, whose accuracy meets industry standards on all unmetered wells, Impoundments, and other points of Diversion owned or operated by or for the Town sufficient to meet the annual reporting requirements under Subparagraph 14.3. The Town shall complete the installation of such metering devices

and such devices shall be fully operational no later than the Enforceability Date. Thereafter, the Town shall operate and maintain such metering devices in accordance with industry standards.

14.2 Monitoring Devices. In addition to the metering devices required by Subparagraph 14.1, the Town shall undertake monitoring, sampling, testing or other actions, sufficient to meet the annual reporting requirements under Subparagraph 14.3, the Interconnection and Exchange Agreement, or any other obligation of this Agreement.

14.3 Annual Reporting. No later than **May 1** of the second Year following the Year in which the Enforceability Date occurs, and on May 1 of each Year thereafter, the Town shall provide an annual report to the Parties to this Agreement in a form mutually agreed upon by the Town, the Nation, and the United States acting as trustee for the Nation, showing, for the Year immediately preceding the Year in which the report is filed, the following information:

14.3.1 Except for Water delivered to the Nation, which shall be separately accounted for by the Nation under Subparagraph 11.2.5 of this Agreement, the total amount of Water Diverted by the Town, by source, point of Diversion, and place of Use, and (a) counted against the Town's Water Budget under Subparagraph 13.2; (b) not counted against the Town's Water Budget under Subparagraph 13.3; and (c) counted for mitigation due to an exceedance or advanced mitigation pursuant to 5.0. For purposes of reporting pursuant to this Subparagraph 14.3, the place of Use for M&I Uses located within the Town's then-existing Water Service Area shall be reported as "Within Water Service Area."

14.3.2 The total amount of any reduction in M&I Use by the Town in the Year

immediately following an exceedance under Paragraph 5.1.1;

14.3.3 The total amount of Water Diverted for storage in underground storage facilities permitted under State law, and the total amount of Long-Term Storage Credits recovered for Use by the Town as mitigation under Subparagraph 5.1.2;

14.3.4 The total amount of Water recharged to the aquifer to support aquifer conditions or well production for mitigation purposes under a plan agreed to by the Town and the Nation under Subparagraph 5.1.3;

14.3.5 Any Historic Water Rights acquired by the Town and temporarily fallowed in the prior year for mitigation purposes under Subparagraph 5.1.4;

14.3.6 For Discharge of Effluent to the Verde River pursuant to Subparagraph 5.1.5, (a) the total amount of Effluent Discharged at each point of Discharge; and (b) a copy of the current Discharge Plan described in Subparagraph 5.1.5;

14.3.7 For Discharge of Effluent to the Verde River Subflow Zone pursuant to Subparagraph 5.1.6, (a) the total amount of Effluent Discharged at each point of Discharge; (b) the calculated amount of Effluent that has reached the Verde River Subflow Zone from each point of Discharge; and (c) a copy of the current Discharge Plan described in Subparagraph 5.1.6;

14.3.8 Any reporting required for mitigation by mutual agreement under Subparagraph 5.1.7;

14.3.9 The total amount of Water Diverted for storage in underground storage facilities permitted under State law or recovered for Use by the Town if not otherwise reported pursuant to Subparagraph 14.3.3;

14.3.10 The total amount of Water diverted into Impoundments;

14.3.11 The total amount of Water imported from the Groundwater Importation Area under Subparagraph 10.4 in the prior Year and the points of Diversion used for such importation;

14.3.12 The results of any monitoring, testing, or other action conducted to demonstrate compliance with this Agreement;

14.3.13 A current map of the then-existing Town Limits;

14.3.14 A current map of the Town Water Service Area; and

14.3.15 Such other reports as may be mutually agreed upon by the Town and the Nation.

14.4 The Town shall give notice of the annual report by serving a copy of each such report to each Party as provided in Subparagraph 20.16.

14.5 The Town shall maintain records that support the information reported pursuant to Paragraph 14.3, and shall, at the request of a Party, permit inspection and copying of such records during the regular business hours of the Town, or alternatively, the Town shall provide such records to the requesting Party. The records relating to each annual report shall be maintained for a period of seven (7) years.

14.6 The Parties may modify the form of annual report required by Subparagraph 14.3 by mutual agreement, provided that such modification is consistent with this Agreement, the Act, and the Settlement Agreement.

15.0 MUTUALLY BENEFICIAL ARRANGEMENTS. Nothing in this Agreement prohibits the Nation or the Town from entering into additional agreements and any other mutually beneficial arrangements for (a) the storage, treatment, Use, or delivery of Water; and (b) the Use of Water in excess of the rights set forth herein upon mutual consent of the

Town and the Nation; provided that the agreements or arrangements described in this Paragraph 15.0 do not violate the Interconnection Agreement and Exchange Agreement, the terms of this Agreement, the Act, the Settlement Agreement, or applicable law.

16.0 CONFIRMATION OF RIGHTS

16.1 The Nation, on behalf of the Nation and the Members of the Nation (but not Members in the capacity of the Members as Allottees), and the United States acting as trustee for the Nation and the Members of the Nation (but not Members in the capacity of the Members as Allottees), ratify, confirm, declare to be valid, and agree not to object to, dispute, or challenge in the Gila River Adjudication Proceedings, or in any other judicial or administrative proceeding, the Town's rights to Divert or Use Water in conformance with this Agreement.

16.2 The Nation, on behalf of the Nation and the Members of the Nation (but not Members in the capacity of the Members as Allottees), and the United States acting as trustee for the Nation and the Members of the Nation (but not Members in the capacity of the Members as Allottees), agree not to support, in any way, an objection, dispute, or challenge asserted by any entity against the Town's rights to Divert or Use Water in conformance with this Agreement, in the Gila River Adjudication Proceedings, or in any other judicial or administrative proceeding.

16.3 The Nation, on behalf of the Nation and the Members of the Nation (but not Members in the capacity of the Members as Allottees), and the United States acting as trustee for the Nation and the Members of the Nation (but not Members in the capacity of the Members as Allottees), shall not make a call or assert a senior priority Water Right for YAN Land, including for instream flow as described in Paragraph 11 of the Settlement

Agreement, against the Town's priority and right to store, Divert, and Use Water in conformance with this Agreement.

16.4 After the Effective Date, the Nation, on behalf of the Nation and the Members of the Nation (but not Members in the capacity of the Members as Allottees) shall not to object to the adjudication of the Town's Water Rights by the Gila River Adjudication Court, provided that the Town does not claim or assert (a) the right to appropriate Surface Water in the Verde River Watershed that is in excess of **4,000.00 AFY** of Water; or (b) additional points of diversion from wells located in the Verde River Subflow Zone not in existence on the Effective Date.

17.0 WAIVERS, RELEASES, AND RETENTIONS OF RIGHTS

17.1 The Town and the Nation shall be entitled to all waivers and releases of claims and associated retentions of rights described in Paragraph 13.0 of the Settlement Agreement, which shall take effect on the Enforceability Date.

17.2 Nothing in this Agreement shall affect the Water Rights, or claims for Water Rights, of any individual Member of the Nation for the Dinah Hood Allotment or for lands outside the boundaries of YAN Land.

18.0 DISPUTE RESOLUTION

18.1 Subject to the cure provisions set forth in Subparagraph 18.2, any Party may enforce the rights and obligations under this Agreement in the Gila River Adjudication Court.

18.2 In the event any Party to this Agreement fails to fulfill an obligation under this Agreement, such Party shall have 30 days after receiving written notice of such failure from another Party to this Agreement, to cure, or to implement the means to cure, any

such breach before such other Party may seek a remedy for such breach. If appropriate measures to cure such breach are not (a) initiated within the 30-day period, and (b) completed within six (6) months following the notice of a breach, any Party except for the breaching party shall be able to pursue any and all legal and equitable remedies available under Subparagraph 18.1.

19.0 TOWN OF CAMP VERDE - FOREST SERVICE LAND TRANSFER

The Town of Camp Verde has identified approximately 40 acres of U.S. Forest Service land located at the intersection of Interstate 17 and General Crook Trail ("I-17/General Crook Intersection") within the municipal boundaries of the Town of Camp Verde for the development of a public safety and municipal complex. The Yavapai-Apache Nation understands that the development of a public safety and municipal complex at the I-17/General Crook Intersection will benefit the public health, safety, and welfare of citizens of the Town of Camp Verde, including Tribal members of the Yavapai-Apache Nation, as well as the numerous persons that visit and travel through the region. The Nation therefore agrees to support the Town's expeditious acquisition of up to 40 acres at the I-17/General Crook Intersection from the U.S. Forest Service as may be permitted by law and to coordinate with the Town in these efforts, including with the U.S. Congress, the U.S. Forest Service, the State of Arizona, Yavapai County, and other federal and state agencies.

20.0 MISCELLANEOUS

20.1 Amendments to this Agreement. Except as provided for herein, no modification of this Agreement shall be effective unless it is in writing and signed by all Parties, provided, however, that no amendment of this Agreement may violate any provisions of

the Act, the Settlement Agreement, or this Agreement.

20.2 Waiver. No waiver of any breach of any of the terms or conditions of this Agreement shall be construed as a waiver of any subsequent breach of the same or other terms or conditions of this Agreement.

20.3 Severability. If any provision or clause of this Agreement or application thereof to any person or circumstance is held invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions, clauses or applications of this Agreement which can be given effect without the invalid or unenforceable provision, clause or application, and to this end, the provisions and clauses of this Agreement are severable; provided, however, that if the severance would deprive any Party to this Agreement of its material benefits under this Agreement, that Party to this Agreement shall be released from this Agreement and no Party shall be entitled to the benefits of the waivers provided herein or in the Settlement Agreement.

20.4 Construction and Effect. This Agreement and each of its provisions are to be construed fairly and reasonably. The Paragraph and Subparagraph titles and numbering used in this Agreement are for convenience only and shall not be considered in the construction of this Agreement.

20.5 Successors and Assigns. Each of the terms and conditions of this Agreement shall be binding on and inure to the benefit of the Parties to this Agreement and their successors and assigns.

20.6 Benefits of Agreement. No member or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit that may arise here from.

20.7 Third Party Beneficiaries. The Parties do not intend that there be any third-party beneficiaries of this Agreement.

20.8 Good Faith Negotiations. This Agreement has been negotiated in good faith for the purposes of advancing the settlement of legal disputes, including pending litigation, and no information exchanged or offered, or compromises made, in the course of negotiating this Agreement may be used as either evidence or argument by any Party to this Agreement hereto in any legal or administrative proceeding other than a proceeding for the approval of this Agreement.

20.9 Conflict with Settlement Agreement. If there is a conflict between the provisions of this Agreement and the provisions of the Settlement Agreement, for purposes of interpreting this Agreement only, the provisions of this Agreement shall control.

20.10 Entire Agreement. This Agreement is the entire agreement between the Parties. All previous agreements, statements contracts and representations by or among the Parties and their agents relating to the subject matter of this Agreement are hereby merged into this Agreement and no evidence of any such agreement, contract, representation or statement shall be admissible to interpret this Agreement. The Parties warrant that they are not relying on any such agreement, contract, representation or statement as a reason for entering this Agreement.

20.11 No Major Federal Action. Execution of this Agreement by the Secretary shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 1531 *et seq.*).

20.12 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original and all of which, taken together, shall constitute

one agreement.

20.13 No Prohibition on Objections. Except as expressly provided for in this Agreement, nothing in this Agreement or the Settlement Agreement shall be construed to prohibit or in any way limit any of the Parties from objecting to, or opposing, or seeking to place conditions on any severance, transfer, change of use or exchange of Water in the Verde River Watershed.

20.14 Governing Law. This Agreement shall be construed in accordance with applicable State and Federal law.

20.15 Approval, Consent and Ratification. Each Party, by execution of the signature pages by its duly authorized representative(s), does hereby approve, endorse, consent to and ratify this Agreement.

20.16 Notices. Any notice or report required to be given hereunder shall be noticed to the other Parties to this Agreement pursuant to Subparagraph 17.20 of the Settlement Agreement.

21.0 SIGNATURES

IN WITNESS WHEREOF, the Parties have executed this Agreement dated as of the day and year first above written.

YAVAPAI-APACHE NATION

By: _____
Tanya M. Lewis, Chairperson

Dated: _____

Attest: _____
Karla Reimer, Council Secretary

Approved as to form:

Anthony S. Canty
Attorney General for the Yavapai-Apache Nation

THE TOWN OF CAMP VERDE

By:  Dated: 8-15-2024
Dee Jenkins, Mayor

Attest:  - Acting Town Clerk
[insert name], [insert title]

Approved as to form:


[insert name] [Trish Stuhlan]
Attorney for the Town of Camp Verde

THE UNITED STATES OF AMERICA

By: _____ Dated: _____
[insert name]
Secretary of the Interior

Well Protection Protocol

Definitions: The following definitions shall apply for purposes of this Well Protection Protocol between the Yavapai-Apache Nation and the Town of Camp Verde.

“Alert Level” means the depth to water in a monitoring well corresponding 50% of the anticipated 10-year Drawdown.

“Analytical Model” means a solution to a mathematical equation describing flow through an aquifer, aquifer water level with distance from the pumping well, and aquifer storage change over time.

“Drawdown” means a decline in groundwater level caused by groundwater pumping

“Drawdown Limit” means a 10 feet of decline in groundwater level in a well owned by one Party after 20 years of pumping in a proposed or existing new well owned by the other Party.

“Existing Well” means the wells identified in Schedule 1 and future Large-Capacity Production Wells in then in service, which excludes abandoned wells or wells not used in the previous three (3) years. Schedule 1 shall be updated by the Town and the Nation as new Large-Capacity Production Wells are added.

“Impact” means a Drawdown in one well caused by pumping in another well.

“Large-Capacity Production Well” means a production well with a casing diameter of greater than 6 inches and a pumping capacity exceeding 100 gallons per minute.

“Replacement Well” means a well: (a) constructed to replace a well in existence on the date of enactment of the Act; (b) that is located no more than 660 feet from the well being replaced; and (c) with a pumping capacity and case diameter that does not exceed the pumping capacity and case diameter of the well being replaced.

“Numerical Model” means an industry standard groundwater or integrated hydrologic computer code such as MODFLOW or MIKE SHE.

“Parties” means the Yavapai-Apache Nation and the Town of Camp Verde (and not the United States in any capacity).

“Warning Level” means the depth to water in a monitoring well corresponding 80% of the anticipated 10-year Drawdown.

Pursuant to Subparagraph 12.2.6 of the Agreement, the Town of Camp Verde and the Yavapai-Apache Nation have developed the following Well Protection Protocol:

1.0 Before finalizing the location of a new Large-Capacity Production Well that is not a replacement well, the well-drilling Party shall estimate the potential Impact of its future groundwater withdrawals on the target aquifer or aquifers by using an Analytical Model such as the Theis non-equilibrium radial-flow equation or other analytical solution appropriate to the aquifer conditions at the proposed well site. The pumping rate used in the model shall correspond to two-thirds of the design pump capacity for the proposed well.

2.0 The Parties shall confer and mutually agree on the model and aquifer parameters to be used in the Analytical Model analysis. The model must evaluate a reasonable range of aquifer parameters to develop a range of reasonably expected Impacts to the other Party's well(s). If the average of the Analytical Model results predicts an Impact to the other Party's existing well of less than the Drawdown Limit, then no further analysis or mitigation is necessary.

3.0 If the average of the Analytical Model predictions shows an Impact to the other Party's well or wells greater than the Drawdown Limit, then the well-drilling Party, prior to drilling and operating the proposed well, shall either (a) commit to the Avoidance, Minimization, and Mitigation measures described below; or (b) use a 3-dimensional, calibrated Numerical Model (agreed to by both Parties) to further evaluate the potential Impacts to the other Party's well(s) from pumping in the proposed well.

3.1 If the Numerical Model, using a reasonable and mutually agreed-upon range of aquifer parameters, predicts that the new well's Impacts will not exceed the Drawdown Limit, then no further analysis or mitigation is necessary.

3.2 If the Numerical Model predicts that the proposed new well's Impacts would exceed the Drawdown Limit, then the Parties shall confer and agree upon next steps to avoid, minimize, or mitigate damages, as described in Subparagraphs 4.0, 5.0, and 6.0, below.

4.0 Avoidance and Minimization Measures

The Parties agree that the following actions constitute appropriate avoidance and mitigation measures for purposes of this Well Protection Protocol:

4.1 The well-drilling party shall move the proposed well to a location indicated by the Numerical Modeling where its predicted Impacts would not exceed the Drawdown Limit; or

4.2 The well-drilling party shall propose and commit to various operational controls (e.g., reduced pumping) on the well to prevent anticipated future exceedance of the Drawdown Limit as supported by the Numerical Modeling; or

4.3 The well-drilling party shall install one or more monitoring well(s) to anticipate Drawdown Impacts that may exceed the Drawdown Limit; or

4.4 The well-drilling party shall use a combination of strategies described in Subparagraphs 4.1, 4.2, and 4.3, above.

5.0 Monitoring Well Provisions

The Parties agree that the following procedures shall apply to the use of monitoring wells for purposes of this Well Protection Protocol:

5.1 The monitoring well(s) shall be located between the new proposed production well and the other Party's potentially Impacted well(s).

5.2 Using the existing numerical or Analytical Model, the Parties shall identify an Alert Level and a Warning Level in each monitoring well.

5.3 The monitoring well owner shall, for a minimum of 20 years, collect and record monthly depth-to-water measurements in the monitoring well(s).

5.4 The monitoring well owner shall share all groundwater-level data collected from the monitoring well(s) with the other Party on an annual or more frequent basis.

5.5 If the depth-to-water in the monitoring well reaches or exceeds the Alert Level, the owner of the monitoring well will document the occurrence and report it to the other Party.

5.6 If the depth-to-water in the monitoring well reaches or exceeds the Warning Level, the owner of the monitoring well will document the first date of the occurrence and report it to the other Party as well as immediately implementing one or more of the Mitigation Measures below.

6.0 Mitigation Measures

Mitigation Measures shall be implemented if (a) a Warning Level is documented in one or more monitoring well; or (b) the Drawdown Limit is reached or exceeded. Mitigation measures, may include, but not be limited to, the mitigation measures listed in Subparagraph 6.1, 6.2, 6.3, and 6.4, and 6.5, below.

6.1 The owner of the well shall restrict pumping in the new well to a level that will avoid an exceedance of the Drawdown Limit. If this mitigation measure is selected, the Parties shall work together to recalibrate of the Numerical Model (as needed) to predict the new pumping rate that will protect the other Party's well from an exceedance of the Drawdown Limit.

6.2 The owner of the well shall deliver water from the new well or from other legal source to the other Party in an amount sufficient to reasonably mitigate for the harm to the other Party's well.

6.3 The owner of the well shall financially compensate the other Party for the costs associated with the adverse Impact to the production capability of the other Party's well.

6.4 The owner of the well shall deepen or replace the other Party's well.

6.5 The owner of the well and the other Party may mutually agree to any other method of mitigation.

7.0 Qualified Neutral Third-Party

7.1 In the event of any dispute, question, or disagreement between the Parties arising from or relating to this Well Protection Protocol, the Parties agree to use their best efforts to settle the dispute, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If they do not reach such solution within a period of 60 days, then, upon notice by either Party to the other under Subparagraph 20.16 of the Agreement, the Parties shall select a qualified neutral third-party to mediate the dispute, question, or disagreement.

7.2 If the Parties are unable to agree upon a qualified neutral third party to mediate the dispute, question, or disagreement between the Parties, or if the qualified neutral third party is unable to finally resolve the dispute, question, or disagreement, then the matter shall be resolved under Subparagraph 18.0 of the Agreement.