

FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT
AMONG THE ARIZONA MUNICIPAL CORPORATIONS OF GILBERT,
QUEEN CREEK, AND MESA CONCERNING THE CONSTRUCTION
AND OPERATION OF THE GREENFIELD WATER RECLAMATION
PLANT

This First Amendment to Intergovernmental Agreement (the "Amendment") is entered into this _____ day of _____, 2018, among the Arizona municipal corporations of Gilbert, Queen Creek, and Mesa.

WHEREAS, MESA, GILBERT and QUEEN CREEK entered into that certain Intergovernmental Agreement Among the Arizona Municipal Corporations of Gilbert, Queen Creek and Mesa Concerning the Construction and Operation of the Greenfield Water Reclamation Plant dated _____, 2018, and recorded _____, 2018, as Instrument No. 2018-_____, Official Records of Maricopa County, Arizona (the "IGA"); and

WHEREAS, the Parties desire to amend the IGA as provided herein.

NOW, THEREFORE, for and in consideration of the terms and conditions of this Amendment, the Parties agree as follows:

1. Incorporation of Recitals, Capitalized Terms. The above recitals are hereby incorporated into this Amendment by this reference. Any capitalized term herein contained shall bear the meaning ascribed to such term in the Agreement unless otherwise herein defined.

2. Monthly Rental Charge. The formula for the monthly rental charge set forth in Section 6.1.1 of the IGA is hereby deleted in its entirety and replaced with the following formula: "MRC = (QC) (EQ) + (CODC) (ECOD) + (SSC) (ESS) + (NC) (EN) + (ESC) (EES)".

3. Buffer Area. Section 27 of the IGA is deleted in its entirety and replaced with the following Section 27:

"27. Buffer Area.

27.1 For the purposes of this Section 27, the "Buffer Area" is that real property described in Exhibit H. The Buffer Area shall at all times be subject to future Capital Improvement Projects and expansions, consistent with applicable setback requirements set forth in Arizona Administrative Code ("A.A.C.") Section R18-9-B201(I)(2), and further subject to the terms (including early termination or expiration) of the lease described in Section 27.3.

27.2 The "Future Project Area" and "Early Termination Area A" portions of the Buffer Area as labelled and described in Exhibit H-1 may be used on an exclusive basis for future Capital Improvement Projects and expansions and

Related Facilities, and apportioned among the Parties on the basis of the Current Facility Ownership Shares and in accordance with this Section.

27.2.1 Allocations under this Section for future Capital Improvement Projects and expansions (including storm-water retention) shall be attributed to each Party based on such party's ownership capacities for that expansion or Capital Improvement Project in accordance with Section 10.

27.2.2 Allocations under this Section for multi-party Related Facilities and associated storm-water retention shall be attributed to each Party based on participation in such Related Facility.

27.2.3 The allocations under this Section shall not necessarily apply to single contiguous areas within the Buffer Area and may be subject to an equitable allocation among non-contiguous areas.

27.2.4 Gilbert's existing Related Facilities located within the Buffer Area (referred to by Gilbert as Gilbert's Reclaimed Water Reservoir 3) shall be considered as part of Gilbert's allocation under this Section.

27.2.5 The allocations under this Section shall be considered and included as part of the land cost reapportionment as described in Section 10.4 of this Agreement.

27.2.6 "Related Facilities" as used in this Section shall mean buildings, structures, works, pipes, equipment, storage and holding tanks, ponds and pools, and other works and improvements related to the storage, transportation, use, exchange, sale and other disposition of Greenfield Water Reclamation Plant treated water and other related products, including but not limited to, discharge storage facilities, but excluding bio-solids or methane co-generation stations/ facilities.

27.3 Mesa and Queen Creek agree that Gilbert may lease those portions of the Buffer Area labeled "Leased Area" and "Limited Use Area" on Exhibit H-1 for a term of thirty (30) years. Gilbert shall have the right under such lease to continue and expand Gilbert's recreational uses in the Leased Area. Gilbert's use of the Limited Use Area shall be subject to storm-water retention and material and equipment lay-down, staging, and storage for the GWRP as provided in the map legend to Exhibit H-1 and the thirty-year lease. The areas labeled on Exhibit H-1 as "Early Termination Area A" and "Early Termination Area B" shall also be included in the thirty-year lease for recreational uses consistent with the map legend to Exhibit H-1, but the lease of these areas shall be subject to early termination by Mesa or Gilbert after the fifth (5th) year of the lease term.

27.4 Pursuant to A.A.C Section R18-9-B201(I)(2), Gilbert, as the owner of the real property described in Exhibit I, hereby waives all of the setback

requirements set forth in A.A.C. Section R18-9-B201(I) as they relate to the Buffer Area and the GWRP. Gilbert hereby acknowledges that such waiver will facilitate potential future capital projects and expansions, as well as related facilities, in the Buffer Area. Gilbert further acknowledges that it is aware of the established setbacks in A.A.C. Section R18-9-B201(I), of the basic design of the GWRP, and of the potential for noise and odor from the GWRP.

27.5 No Party shall take any action or allow or make any use of land acquired for the site or Buffer Area of the GWRP that impedes or interferes in any way with the use of the land as a water reclamation plant.

4. Counterpart Execution. This Amendment may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

5. No Further Modifications. Except as amended herein, the terms and conditions of the IGA shall remain in full force and effect.

6. Integration with IGA. This Amendment shall be considered an integral part of the IGA and construed with the IGA as if the provisions hereof were set forth therein. In the event of any conflict between the terms and provisions of this Amendment and the terms and provisions of the IGA, the terms and provisions of this Amendment shall control.

IN WITNESS WHEREOF, the Parties have executed this Amendment.

[signatures appear on following pages]

GILBERT SIGNATURE PAGE TO FIRST AMENDMENT TO INTERGOVERNMENTAL
AGREEMENT AMONG THE ARIZONA MUNICIPAL CORPORATIONS OF GILBERT,
QUEEN CREEK, AND MESA CONCERNING THE CONSTRUCTION AND
OPERATION OF THE GREENFIELD WATER RECLAMATION PLANT

ATTEST:

TOWN OF GILBERT

By _____
Town Clerk

By _____
Mayor

Determined to be in proper form and
within the powers and authority
granted under the laws of the State of
Arizona to the Town of Gilbert:

By _____
Town Attorney

MESA SIGNATURE PAGE TO FIRST AMENDMENT TO INTERGOVERNMENTAL
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QUEEN CREEK, AND MESA CONCERNING THE CONSTRUCTION AND
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ATTEST:

CITY OF MESA

By _____
City Clerk

By _____
CITY MANAGER

Determined to be in proper form and
within the powers and authority
granted under the laws of the State of
Arizona to the City of Mesa:

By _____
City Attorney

QUEEN CREEK SIGNATURE PAGE TO FIRST AMENDMENT TO
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ATTEST:

TOWN OF QUEEN CREEK

BY _____
TOWN CLERK

BY _____
MAYOR

Determined to be in proper form and
within the powers and authority
granted under the laws of the State of
Arizona to the Town of Queen Creek:

BY _____
TOWN ATTORNEY

EXHIBIT H

BUFFER AREA LEGAL DESCRIPTION

A parcel located in Section 9, Township 2 South, Range 6 East, Gila & Salt River Base & Meridian, Maricopa County, Arizona, more particularly described as follows:

Beginning at the Center of said Section 9,

Thence North 00 21'21" East a distance of 1522.46 feet;

Thence South 89°57'26" East a distance of 2625.64 feet;

Thence South 00 19' 10" East a distance of 1521.74 feet;

Thence South 00°33' 47" West a distance of 1320.30 feet;

Thence South 89°59'35" West a distance of 2638.81 feet;

Thence North 00 21'21" East a distance of 1321.82 feet to the point of beginning;

EXCEPT the following described parcel:

Beginning at the Center of said Section 9,

Thence South 89 58'23" East a distance of 797.02 feet to the TRUE POINT OF BEGINNING.

Thence North 00 21'21" East a distance of 764.99 feet;

Thence South 89 58'23" East a distance of 1409.38 feet;

Thence South 00 21'21" West a distance of 1735.49 feet;

Thence North 89 58'23" West a distance of 1409.38 feet;

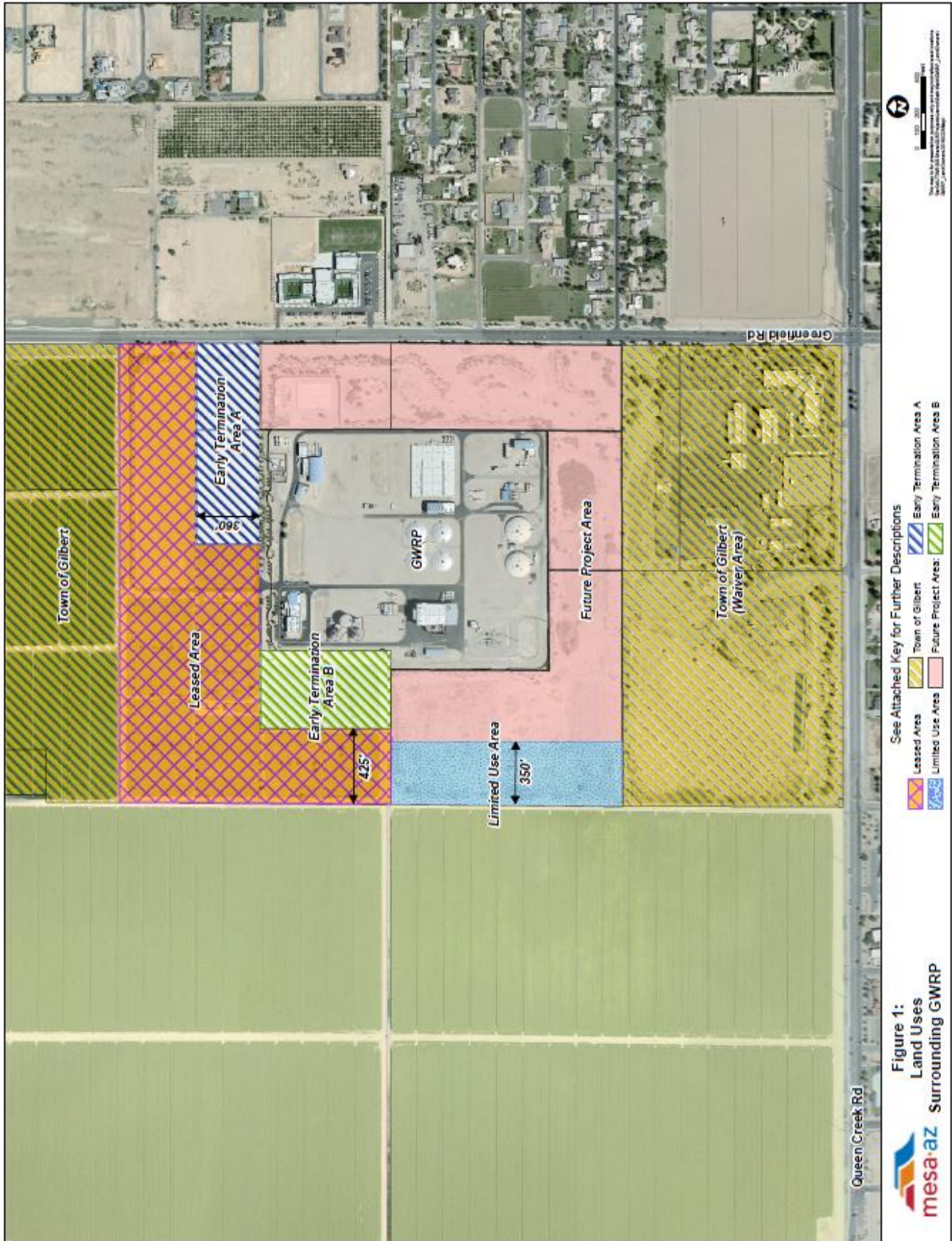
Thence North 00 21'21" East a distance of 970.50 feet to the TRUE POINT OF BEGINNING.

This parcel contains 5,053,198.83 square feet or 116.01 acres, more or less.

EXHIBIT H-1

DEPICTION OF BUFFER AREA

[see attached Map and Map Legend]



(Ex. H-1 - Map Legend)

Early Termination Area A: Leasable by Gilbert under Section 27.3, subject to early termination by any party after five years for Capital Improvement Projects and expansions as well as Related Facilities. In addition, this Area is subject at all times to GWRP (including Capital Improvement Projects and expansions) and Related Facility storm-water retention. Any improvements by Gilbert (or any sublessee) to the Early Termination Area A must be approved in advance in writing by Mesa.

Early Termination Area B: Leasable by Gilbert under section 27.3, subject to early termination by any party after five years for Capital Improvement Projects and expansions. In addition, this Area is subject at all times to GWRP (including Capital Improvement Projects and expansions) storm-water retention. Any improvements by Gilbert (or any sublessee) to the Early Termination Area B must be approved in advance in writing by Mesa.

Future Project Area: This Area may be used for Capital Improvement Projects and expansions and Related Facilities.

Leased Area: This Area may be leased for thirty years by Gilbert for recreational and other uses under Section 27.3.

Limited Use Area: This Area may be leased by Gilbert only for recreational uses, provided that such uses shall at all times remain subject to, and must not interfere in any way with, storm-water retention and material and equipment lay-down, staging, and storage for the GWRP on the Limited Use Area. Additionally, any recreational use improvements by Gilbert (or any sublessee) to the Limited Use Area must be approved in advance in writing by Mesa.

EXHIBIT I

GILBERT PROPERTY

Parcel 1 as shown on the "MAP OF DEDICATION - SOUTH AREA SERVICE CENTER," recorded at Book 808, Page 25, Maricopa County Records, and being a portion of the Southeast Quarter of Section 9, Township 2 South, Range 6 East of the Gila and Salt River Meridian, Maricopa County, Arizona.