

**AGREEMENT TO SHARE COSTS ASSOCIATED WITH SEEKING TO OBTAIN APPROVAL
FOR THE OPERATION OF THE FLOOD CONTROL SPACE
IN MODIFIED ROOSEVELT DAM UNDER A TEMPORARY DEVIATION
TO THE WATER CONTROL PLAN
AMONG VARIOUS PARTICIPATING ENTITIES,
AND
SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**

1. PARTIES:

This Agreement to Share Costs Associated with Seeking to Obtain Approval for Operation of the Flood Control Space in Modified Roosevelt Dam Under a Temporary Deviation to the Water Control Plan (“Agreement”), entered into this ____ day of _____, 2021 is by and among the Arizona cities of Avondale, Chandler, Glendale, Mesa, Peoria, Phoenix, Scottsdale, and Tempe, Town of Gilbert, Roosevelt Water Conservation District, Buckeye Water Conservation and Drainage District, Salt River Pima-Maricopa Indian Community, Roosevelt Irrigation District, and Freeport Minerals Corporation (“Participating Entities”); and the Salt River Project Agricultural Improvement and Power District (“SRP”). SRP and the Participating Entities are referred to collectively as “Parties”.

2. RECITALS:

This Agreement is made with regard to the following:

- 2.1 SRP will propose and seek to obtain approval from the United States Army Corps of Engineers (“Corps of Engineers”) and United States Department of the Interior’s Bureau of Reclamation (“Reclamation”) to authorize SRP to operate the flood control space in Modified Roosevelt Dam (“Flood Control Space”) under a planned deviation (“Temporary Deviation Plan”).
- 2.2 The Temporary Deviation Plan is expected to allow SRP to extend the required evacuation period for water within the first five (5) feet of the Flood Control Space (“Temporary Deviation Space”) from twenty (20) days to one hundred and twenty (120) days after such water first occupies such space. It is expected that the Temporary Deviation Plan will allow SRP to extend the required evacuation period once a year in a maximum of three (3) years over a five (5) year period.

- 2.3 The purpose of this Agreement is to set terms and conditions among the Parties for (1) the estimated costs SRP is expected to incur to seek and obtain approval for the Temporary Deviation Plan, (2) how the costs will be shared among the Parties, and (3) the process for the Participating Entities to pay their cost share.
- 2.4 SRP executed a reimbursement agreement with Reclamation on May 21, 2020 (“Reclamation-SRP Reimbursement Agreement”) to complete risk assessments and environmental compliance activities necessary to facilitate a federal decision on the Temporary Deviation Plan. The goal at the time of execution of the Reclamation-SRP Reimbursement Agreement was to obtain formal federal approval of the Temporary Deviation Plan by no later than February 2023.
- 2.5 The Parties have executed a nonbinding term sheet dated May 7, 2021 that, among other things, summarizes the principle terms for agreements (1) to share costs among SRP and the Participating Entities to seek and obtain approval from the Corps of Engineers and Reclamation for the Temporary Deviation Plan, and (2) for SRP to operate the Flood Control Space under the Temporary Deviation Plan (“Participating Entities-SRP Term Sheet” attached hereto as Exhibit A). This Agreement fulfills the intent of the cost share agreement identified in Paragraph 3 of the SRP-Participating Entities Term Sheet.

3. AGREEMENT:

NOW, THEREFORE, in consideration of the mutual covenants herein set forth and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

4. INCORPORATION OF RECITALS:

The recitals listed above are hereby incorporated into and expressly made part of this Agreement.

5. DEFINITIONS:

The listed terms, when used with initial capitalization, whether in singular or plural, shall have the meaning specified in Exhibit B.

6. SCOPE:

This Agreement is intended to set terms and conditions for (1) the estimated costs SRP is expected to incur to seek and obtain approval for the Temporary Deviation Plan, (2) how the costs will be shared among the Parties, and (3) the process for the Participating Entities to pay their cost share.

7. EFFECTIVE DATE AND TERM OF AGREEMENT:

7.1. This Agreement shall become effective upon the execution by the Parties and shall remain effective until terminated as provided in Subparagraphs 7.2 or 7.3.

7.2. This Agreement will terminate when the both of the following have occurred: (1) the Temporary Deviation Plan is approved by the Corps of Engineers and Reclamation, and (2) when the last funds are transferred from the Participating Entities to SRP as provided in Paragraph 10.

7.3. This Agreement may terminate as provided in this Subparagraph 7.3 in the event the Corps of Engineers and Reclamation make a final determination that they will not approve the Temporary Deviation Plan. In such an event, (1) SRP will meet and confer with the Participating Entities on such determination and whether SRP and the Participating Entities have exhausted their reasonable options to seek approval of the Temporary Deviation Plan, and (2) after such meeting, SRP may terminate this Agreement. In such an event, SRP will provide written notice to the Participating Entities of the termination of this Agreement. The Agreement will terminate on the date SRP sends the written notice of termination under this Subparagraph 7.3.

8. AUTHORIZED REPRESENTATIVES:

Within sixty (60) days after execution of this Agreement, each Party shall designate in writing to the other Parties or by electronic mail with read receipt to the other Parties, an Authorized Representative and an alternate to administer this Agreement on behalf of the designating Party. Written notice of a change of an Authorized Representative or alternate shall be provided within (60) days of such change. The alternate shall act only in the absence of the Authorized Representative. Neither the Authorized Representatives nor the alternates shall have authority to amend, modify, or supplement this Agreement. Agreements of the Authorized Representatives pursuant to this Agreement shall be in writing and signed by them.

9. ESTIMATED COSTS:

- 9.1 SRP estimates it will cost about \$1,211,549 for SRP to complete the work necessary to seek and obtain approval and authorization for the Temporary Deviation Plan. These costs include those for environmental and cultural resources compliance, among others. An itemized list of estimated costs is included as Exhibit C.
- 9.2 In the event the actual costs referenced in Exhibit C increase above a total of \$1,500,000, SRP and the Participating Entities shall meet and confer to discuss whether to incur such increased costs.
- 9.3 In the event the actual costs referenced in Exhibit C are below the total estimated cost of \$1,211,549, cost savings will be shared among SRP and the Participating Entities in the same proportion as the estimated costs.

10. PAYMENT:

- 10.1. Each Participating Entity shall pay a share of costs for SRP to complete the work necessary to seek and obtain approval and authorization for the Temporary Deviation Plan. The share of costs for each Participating Entity is based on the percentage of the Temporary Deviation Water that will be apportioned to that Participating Entity. Exhibit D shows the percentage of costs and Temporary Deviation Water allocated to each Participating Entity under the Temporary Deviation Plan that will be incorporated into the temporary operating agreement described in Paragraph 4 of the Participating Entities-SRP Term Sheet.
- 10.2. SRP will notify the Participating Entities of unforeseen costs within a reasonable time. Parties will share unforeseen costs based on the apportionment described in Subparagraph 10.1, within the limitations described in Subparagraph 9.2.
- 10.3. SRP shall send an invoice to each Participating entity for their cost share within five (5) days after execution of this Agreement, or within five (5) days after SRP notifies the Participating Entities of unforeseen costs as provided in Subparagraph 10.2, and the Participating Entities shall pay such invoices within sixty (60) days after SRP sends such invoices.
- 10.4. Any bills not paid when due shall be delinquent and shall bear interest at the Wall Street Journal Prime Rate, on the date the bill was due plus 5% (Wall Street Journal Prime Rate plus 5%) per annum from the date when the bill was due until the bill

is paid in full (including any accrued interest). In the event the Wall Street Journal no longer publishes the Wall Street Journal Prime Rate, the Authorized Representatives shall select an appropriate substitute.

- 10.5. In the event any portion of any bill is disputed, the disputed amount shall be paid under protest when due and shall be accompanied by a written statement indicating the basis for the protest. If the protest is found to be valid, the Participating Entity shall be refunded any overpayment plus interest, accrued at the rate set forth in Subparagraph 10.4, prorated by days from the date payment was credited to the Participating Entity to the date the refund check is mailed.
- 10.6. In the event any delinquent amount is not paid by the Participating Entity within sixty (60) days after receipt by the Participating Entity of written notice by SRP to the Participating Entity of the delinquency and the remedies available to SRP under this Agreement if the delinquent amount is not paid, SRP shall have the right, without liability of any kind, to suspend the delivery of Temporary Deviation Water so long as the said amount remains unpaid. Nothing herein shall limit the rights of SRP to use any other available legal remedy to effect collection of said amounts.

11. DISPUTE RESOLUTION; RECORDS INSPECTION; CHOICE OF LAW:

- 11.1. Any dispute under this Agreement shall first be submitted to the Authorized Representatives for resolution. If the matter cannot be resolved by the Authorized Representatives, any Party may submit the matter to the SRP General Manager and the Party's chief operating officer. If the matter cannot be resolved by the SRP General Manager and the Party's chief operating officer, any Party may bring suit upon the matter, provided however, that it is expressly agreed that the venue shall only be in Maricopa County Superior Court or its successor court. In the event a dispute arises wherein the Salt River Pima Maricopa Indian Community is a party then the Parties agree the venue shall be in a court of competent jurisdiction.
- 11.2. Upon reasonable request by a Participating Entity, SRP will allow such Participating Entity to inspect the records documenting the costs of seeking the Temporary Deviation Plan.
- 11.3. This Agreement shall be governed and construed in accordance with the laws of the State of Arizona and any applicable federal law.

- 11.4. In the event of any future dispute or action arising under this Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and costs incurred therein, including expert witness fees.
- 11.5. Pending the resolution of a dispute, the Parties shall proceed, to the extent legally permissible, in a manner consistent with this Agreement, and shall make payments required in accordance with the applicable provisions of this Agreement. Amounts paid by a Party under this Subparagraph 11.4 during the pendency of such dispute shall be subject to refund and adjustment upon a final resolution of any dispute involving an amount due.

12. UNCONTROLLABLE FORCES:

No party shall be considered to be in default in the performance of any of its obligations hereunder if failure of performance is due to an uncontrollable force. The term "uncontrollable force" shall mean any cause beyond the control of the party affected, including but not limited to failure of facilities, flood, earthquake, tornado, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, and action or nonaction by or failure to obtain the necessary authorizations or approvals from any governmental agency or authority or the electorate, labor or material shortage, sabotage and restraint by Court order or public authority, which by exercise of due diligence and foresight such party could not reasonably have been expected to avoid and which by exercise of due diligence it shall be unable to overcome. Nothing herein shall be construed so as to require either Party to settle any strike or labor dispute in which it is involved. Either party rendered able to fulfill any obligation hereunder by reason of an uncontrollable force shall exercise due diligence to remove such inability.

13. NOTICE; CHANGE OF NAME OR ADDRESS:

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

13.1.1. If to SRP:

Salt River Project Agricultural Improvement and Power District
c/o Corporate Secretary
P.O. Box 52025
Phoenix, AZ 85072-2205

with a copy to:

General Manager and CEO
Salt River Project Agricultural Improvement and Power District
P.O. Box 52025
Phoenix, AZ 85072-2205

13.1.2. If to the City of Avondale:

City of Avondale
c/o City Manager
11465 W. Civic Center Drive
Avondale, AZ 85323

with a copy to:

13.1.3. If to the City of Chandler:

City of Chandler
c/o Utility Resource Manager
PO Box 4008, M.S. 905
Chandler, AZ 85244-4008

with a copy to:

Chandler City Attorney
P O Box 4008, MS 602
Chandler, AZ 85225

13.1.4. If to the City of Glendale:

City of Glendale
c/o Water Resource Manager
5850 West Glendale Avenue, Ste. 431
Glendale, AZ 85301

with a copy to:

13.1.5. If to the City of Mesa:

City of Mesa
c/o Water Resources Department Director
PO Box 1466
Mesa, AZ 85211

with a copy to:

13.1.6. If to the City of Peoria:

City of Peoria
c/o Water Services Director
8401 W. Monroe Street
Peoria, AZ 85345

with a copy to:

13.1.7. If to the City of Phoenix:

Water Resources Management Advisor
Water Services Department
City of Phoenix
200 West Washington Street, 12th Floor
Phoenix, Arizona 85003-1611

With a copy to:

City Attorney
City of Phoenix
200 West Washington Street, 13th Floor
Phoenix, Arizona 85003-1611

13.1.8. If to the City of Scottsdale:

City of Scottsdale – Scottsdale Water
c/o Executive Director
9312 N. 94th Street
Scottsdale, AZ 85258

with a copy to:

13.1.9. If to the City of Tempe:

City of Tempe
c/o Municipal Utilities Director
31 E. 5th Street
Tempe, AZ 85281

with a copy to:

13.1.10. If to the Town of the Gilbert:

Town of Gilbert
c/o Town Manager
50 E. Civic Center Drive
Gilbert, AZ 85296

with a copy to:

13.1.11. If to Roosevelt Water Conservation District:

Roosevelt Water Conservation District
PO Box 100
Higley, AZ 85212

with a copy to:

13.1.12. If to the Buckeye Water Conservation and Drainage District:

Buckeye Water Conservation and Drainage District
c/o General Manager
205 Roosevelt
Buckeye, AZ 85326

with a copy to:

13.1.13. If to the Salt River Pima-Maricopa Indian Community:

Salt River Pima-Maricopa Indian Community:
c/o Public Works Director
1005 E. Osborn Road
Scottsdale, AZ 85256

13.1.14 . If to the Roosevelt Irrigation District:

Roosevelt Irrigation District
103 W. Baseline Road
Buckeye, AZ 85326

with a copy to:

13.1.15 . If to Freeport Minerals Corporation:

Freeport Minerals Corporation
c/o _____
333 N. Central Avenue
Phoenix, AZ 85004

with a copy to:

13.2 Any Party may change the addressee or address to which communications or copies are to be sent by giving notice of such change under Subparagraph 13.1.

14. SEVERABILITY:

Should any part of this Agreement be declared, in a final decision by a court or tribunal of competent jurisdiction, to be unconstitutional, invalid, or beyond the authority of either Party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the

remainder of this Agreement, absent the excised portion, can be reasonably interpreted to give effect to the intentions of the Parties.

15. WAIVER:

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

16. BINDING AGREEMENT:

All of the provisions of this Agreement shall be binding upon, and inure to the benefit of, the Parties and their heirs, successors and assigns; provided, however, that no Party shall assign its rights and obligations under this Agreement to another entity without the written consent of the other Parties. Such consent to assignment shall not, however, be unreasonably withheld, conditioned, or delayed.

17. NO THIRD-PARTY BENEFICIARIES:

This Agreement is solely for the benefit of the Parties and does not create nor shall it be construed to create rights to any third party. No third party may enforce the terms and conditions of this Agreement.

18. NO PARTNERSHIP AND NO JOINT VENTURE:

Nothing contained in this Agreement shall be construed as creating a partnership or joint venture between the Parties hereto. The covenants, obligations, and liabilities contained in this Agreement are intended to be several and not joint or collective, and nothing contained herein shall be construed to create an association, joint venture, agency, trust, or partnership, or to impose a trust or partnership covenant, obligation, fiduciary duty, or liability between the Parties. Each Party shall be individually responsible for its own covenants, obligations, and liabilities as provided herein.

19. AUTHORITY:

The undersigned representative of each Party certifies that he or she is fully authorized by the Party whom he or she represents to enter into the terms and conditions of this Agreement and to legally bind the Party to it.

20. CONFLICT OF INTEREST:

Pursuant to A.R.S. § 38-511, a Party who is a political subdivision of the State may cancel this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of a Party is, at any time while this Agreement is in effect, an employee of another Party in any capacity, or a consultant to another Party with respect to the subject matter of this Agreement. The cancellation shall be effective when written notice is received unless the notice specifies a later time.

21. ENTIRE AGREEMENT; MODIFICATION; COUNTERPARTS:

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

[signatures on the following pages]

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

**SALT RIVER PROJECT AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT**

By: _____
Name: David C. Roberts
Title: Associate General Manager
Water Resources

APPROVED AS TO FORM

By: _____
Name: Patrick B. Sigl
Title: Supervising Attorney, Environment, Land
& Water Rights

CITY OF AVONDALE

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM

By: _____

Name: _____

Title: _____

CITY OF CHANDLER

By: _____

Name: Gregg Capps

Title: Utility Resource Manager

APPROVED AS TO FORM

By: _____

Name: Jenny J. Winkler

Title: Assistant City Attorney

CITY OF GLENDALE

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM

By: _____

Name: _____

Title: _____

CITY OF MESA

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM

By: _____

Name: _____

Title: _____

CITY OF PEORIA

By: _____

Name: _____

Title: _____

ATTEST

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM

By: _____

Name: _____

Title: _____

CITY OF PHOENIX

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM

By: _____

Name: _____

Title: _____

CITY OF SCOTTSDALE

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM

By: _____

Name: _____

Title: _____

CITY OF TEMPE

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM

By: _____

Name: _____

Title: _____

TOWN OF GILBERT

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM

By: _____

Name: _____

Title: _____

ROOSEVELT WATER CONSERVATION DISTRICT

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM

By: _____

Name: _____

Title: _____

**BUCKEYE WATER CONSERVATION AND
DRAINAGE DISTRICT**

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM

By: _____

Name: _____

Title: _____

**SALT RIVER PIMA-MARICOPA INDIAN
COMMUNITY**

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM

By: _____

Name: _____

Title: _____

ROOSEVELT IRRIGATION DISTRICT

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM

By: _____

Name: _____

Title: _____

FREEPORT MINERALS CORPORATION

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM

By: _____

Name: _____

Title: _____

Exhibit A

Nonbinding Participating Entities-SRP Term Sheet

SUMMARY OF TERMS

Summary of Principle Terms for Agreements Among SRP and the Participating Entities to Obtain and Implement a Temporary Deviation to the Water Control Plan For Modified Roosevelt Dam

This term sheet (“Term Sheet”) summarizes the principle terms for SRP and the Participating Entities (defined below) to (1) share costs for SRP to seek and obtain approval from the U.S. Army Corps of Engineers (“Corps of Engineers”) and the Bureau of Reclamation (“Reclamation”) for a temporary deviation to the Water Control Plan (“Cost Share Agreement”) and (2) describe the principle terms for an agreement on how SRP will operate the Flood Control Space under the Temporary Deviation Plan (“Temporary Operating Agreement”). This term sheet is nonbinding, subject to legal review, and negotiation of final written agreements to implement the terms described herein as well as approval of such agreements by the appropriate governing boards, councils, or executive management. By executing this Term Sheet, the undersigned agrees to seek approval of the agreements from their appropriate and respective governing boards, councils, or executive management so long as the agreements are prepared consistent with the principle terms provided herein. The capitalized terms in this Term Sheet are defined in Attachment A.

1. PARTIES TO THE AGREEMENTS:

Cities of Avondale, Chandler, Glendale, Mesa, Peoria, Phoenix, Scottsdale, and Tempe; Town of Gilbert; Roosevelt Water Conservation District, Buckeye Water Conservation and Drainage District, Roosevelt Irrigation District, Salt River Pima-Maricopa Indian Community, and Freeport McMoRan Inc. (“Participating Entities”); Salt River Valley Water Users' Association and the Salt River Project Agricultural Improvement and Power District (collectively “SRP”). SRP and the Participating Entities are referred to collectively as “Parties”.

2. DESCRIPTION OF PROPOSED TEMPORARY DEVIATION PLAN:

SRP will propose and seek approval from the Corps of Engineers and Reclamation to authorize SRP to operate the flood control space in Modified Roosevelt Dam (“Flood Control Space”) under the Temporary Deviation Plan. Under the Temporary Deviation Plan, SRP may declare a Temporary Deviation Event once a year in a maximum of three (3) years during a five (5) year period (“Temporary Deviation Period”). The Temporary Deviation Period is expected to begin in calendar year 2023. During a Temporary Deviation Event, SRP must evacuate water from the first five (5) feet of the Flood Control Space (“Temporary Deviation Space,” as generally illustrated in Attachment B) within one

hundred and twenty (120) days after such water first occupies such space. SRP shall measure the volume of water it will be evacuating from the Temporary Deviation Space during a Temporary Deviation Event, notify and deliver such water ("Temporary Deviation Water") to the Parties according to the share of Temporary Deviation Water allocated to each Party.

3. COST SHARE AGREEMENT:

The Cost Share Agreement will describe (1) the estimated costs SRP is expected to incur to seek and obtain approval for the Temporary Deviation Plan, (2) how the costs will be shared among the Parties, and (3) the process for the Participating Entities to pay their cost share.

- a. The Cost Share Agreement is expected to be executed by the Parties in June 2021 and will become effective when executed. The Cost Share Agreement will terminate when the Temporary Deviation Plan is approved by the Corps of Engineers and Reclamation. In the event the Corps of Engineers and Reclamation do not approve the Temporary Deviation Plan, the Parties may terminate the Cost Share Agreement by mutual written agreement.
- b. SRP estimates it will cost \$1,211,549 for SRP to complete the work necessary to seek and obtain approval and authorization for the Temporary Deviation Plan. These costs include those for environmental and cultural resources compliance, among others. An itemized list of estimated costs is included as Attachment C. In the event the costs referenced in Attachment C increase above a total of \$1,500,000, SRP and the Participating Entities shall meet and confer to discuss whether to incur such increased costs. SRP will notify the Participating Entities of unforeseen costs within a reasonable time. The Parties will share unforeseen costs under terms set forth in the Cost Share Agreement.
- c. Each Participating Entity shall pay its share of costs based on the percentage of the Temporary Deviation Water that will be allocated to that Participating Entity. Attachment D shows the share and estimated costs allocated to the Participating Entity. SRP shall send an invoice to each Participating entity for their cost share within five (5) days after execution of the Cost Share Agreement and the Participating Entities shall pay such invoice within thirty (30) days after SRP sends such invoice.

4. TEMPORARY OPERATING AGREEMENT:

The Temporary Operating Agreement will describe (1) how SRP will operate the Flood Control Space under the Temporary Deviation Plan, (2) how it will evacuate and deliver

Temporary Deviation Water from the Temporary Deviation Space to the Parties, and (3) the fees each Participating entity shall pay during the Temporary Deviation Period.

- a. Term. The Temporary Operating Agreement will become effective upon execution by the Parties and approval of the Temporary Deviation Plan by the Corps of Engineers and Reclamation. It will terminate following the conclusion of (1) the third Temporary Deviation Event, final delivery of Temporary Deviation Water, and payment of monies owed, or (2) the Temporary Deviation Period, whichever is sooner.
- b. Spill Conditions. SRP shall operate the Flood Control Space in Modified Roosevelt Dam under Spill Conditions while the (1) inflows into the Salt River Reservoir System exceed SRP Deliveries (i.e. water level in the Temporary Deviation Space is increasing), and (2) water level in Modified Roosevelt Dam is above the Temporary Deviation Space.
- c. Temporary Deviation Water. SRP shall (1) measure the highest elevation that water levels reach in the Temporary Deviation Space at the point where SRP Deliveries exceed inflows into the Salt River Reservoir System and (2) calculate such volume and apportion such water to the Participating Entities as Temporary Deviation Water. Attachment D includes the percentage of Temporary Deviation Water that will be apportioned to the Participating Entity. If additional precipitation events occur during a Temporary Deviation Event and additional water enters the Temporary Deviation Space, such water volume will be calculated and apportioned to the Participating Entities using the same percentages.
- d. Ordering and Delivery of Temporary Deviation Water. Participating Entities may order Temporary Deviation Water during a Temporary Deviation Event by requesting delivery prior to five (5) days before the end of the Temporary Deviation Event. SRP shall deliver and transport Temporary Deviation Water to Participating Entities on a mutually agreed upon schedule and under the applicable delivery agreement. SRP water delivery obligations to shareholders and contractors of the Salt River Valley Water Users' Association shall take priority over delivery of Temporary Deviation Water if any delivery capacity limitations arise. Any unused Temporary Deviation Water remaining at the end of a Temporary Deviation Event will be evacuated on the last day of such event and used to meet SRP Deliveries.

- e. Water Accounting and Reporting. SRP shall provide water accounting for the total volume of Temporary Deviation Water evacuated, apportioned, and delivered under the Temporary Operating Agreement. SRP shall send an initial report to Participating Entities within five (5) days after the time that the amount of Temporary Deviation Water is determined and send updated reports at the end of each month during a Temporary Deviation Event.
- f. Use of Temporary Deviation Water. Participating Entities and SRP may directly use, share between participants, exchange, or store underground Temporary Deviation Water pursuant to Arizona law.
- g. Fees. Participating Entities shall pay a one-time fee not to exceed three thousand two hundred fifty dollars (\$3,250.00) for creation of accounts to track volumes and delivery of Temporary Deviation Water billed at execution of the Temporary Operating Agreement. In a year that SRP declares a Temporary Deviation Event, Participating Entities shall pay an administrative fee of four thousand four hundred and two dollars (\$4,402.00), adjusted annually to account for inflation or other cost changes, for that year to administer the water accounting and reporting for the Temporary Deviation Event. Fees shall be revisited if a long-term program is developed for the Flood Control Space.
- h. Water Transportation Fees. Participating Entities will not be charged any applicable fees for transportation of Temporary Deviation Water during the Temporary Deviation Period. Fees shall be revisited if a long-term program is developed for the Flood Control Space.
- i. Transmission Losses. Transmission Losses shall be deducted from the Temporary Deviation Water apportioned to each Participating Entity at an amount of 6.3 percent at the time of scheduled delivery, which is deemed for the purposes of the Agreement to be the amount of water lost through transmission from Modified Roosevelt Dam to Granite Reef Dam. Participating entities shall not be charged for transmission losses between Granite Reef Dam and the point of delivery. Transmission losses within SRP's water delivery system below Granite Reef Dam shall be revisited if a long-term program is developed for the Flood Control Space.

[signatures on the following pages]

SALT RIVER PROJECT

By: 

Name: David C. Roberts

Title: Associate General Manager
Water Resources

Date: May 7, 2021

[PARTICIPATING ENTITY]

By: _____

Name: _____ for Charles M Montoya

Title: _____ City Manager

Date: _____

ATTEST:

CITY OF CHANDLER

By: Gregg W. Capps

Name: GREGG W. CAPPS

Title: Utility Resource Manager

Date: 3/31/2021

CITY OF GLENDALE

By: City of Glendale *

Name: Drew Swierzkowski

Title: Water Resource Manager

Date: 4/9/2021

* Pending Glendale City Council
Approvals

CITY OF MESA

By: Jake West

Name: Jake West

Title: Water Resources Department Director

Date: March 7, 2021

CITY OF PEORIA

By: David Burks

Name: David Burks

Title: Deputy Water Services Director

Date: 04/08/2021

CITY OF PHOENIX
[PARTICIPATING ENTITY]

By: Cynthia S. Campbell

Name: Cynthia Campbell

Title: Water Resources Mgmt Advisor

Date: April 24, 2021

CITY OF SCOTTSDALE

By: 

Name: BRIAN K. BIESEMEYER

Title: Executive Director, Scottsdale Water

Date: 3-29-21

CITY OF TEMPE

By: Terrance Piekarz

Name: Terrance Piekarz

Title: Municipal Utilities Director

Date: April 9, 2021

TOWN OF GILBERT

By: _____

Name: Patrick S. Banger

Title: Town Manager

Date: April 8, 2021

ROOSEVELT WATER CONSERVATION DISTRICT

By: [Signature]

Name: STAN M. LEONARD

Title: G.M.

Date: 5/4/20

**BUCKEYE WATER CONSERVATION &
DRAINAGE DISTRICT**

By: Noel Carter

Name: Noel Carter

Title: General Manager

Date: 4/6/2021

Roosevelt Irrigation District

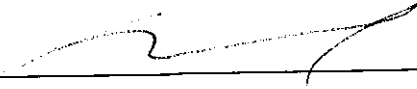
By: 

Name: DONOVAN L. NEESE

Title: SUPERINTENDENT

Date: 4/23/2021

**SALT RIVER PIMA-MARICOPA INDIAN
COMMUNITY**

By: _____

Name: Mike Byrd

Title: Assistant PW Director

Date: April 15, 2021

Freeport Minerals Corporation

By: Francis McAllister

Name: FRANCIS McALLISTER

Title: VICE PRESIDENT

Date: 4/29/21

Attachment A

Definitions

Flood Control Space: Reservoir space behind Modified Roosevelt Dam corresponding to the approximately 24 feet of elevation from 2150.78 feet above mean sea level to 2174.87 feet above mean sea level. The Flood Control Space is operated by SRP under a water control agreement with the U.S. Army Corp of Engineers (“Corps of Engineers”) and the U.S. Bureau of Reclamation (“Reclamation”).

Spill Conditions: The conditions described in Sections 4.32, 7.4, and 7.6 of the 1993 Operating Agreement for Additional Active Conservation Capacity at Modified Roosevelt Dam under which SRP delivers spill water to the entities in Appendix 1 of that agreement (also certain Participating Entities) where such water does not count against their respective contractual entitlements.

SRP Deliveries: SRP water deliveries, including those from the Salt River Reservoir System, to SRP shareholders and contractors.

Temporary Deviation Event: An event to regulate water in the Flood Control Space at Modified Roosevelt Dam under which SRP must evacuate water occupying the Temporary Deviation Space within one-hundred and twenty days (120) of such water first occupying such space.

Temporary Deviation Period: Five (5) year period under which SRP may declare a Temporary Deviation Event in three (3) of those five (5) years.

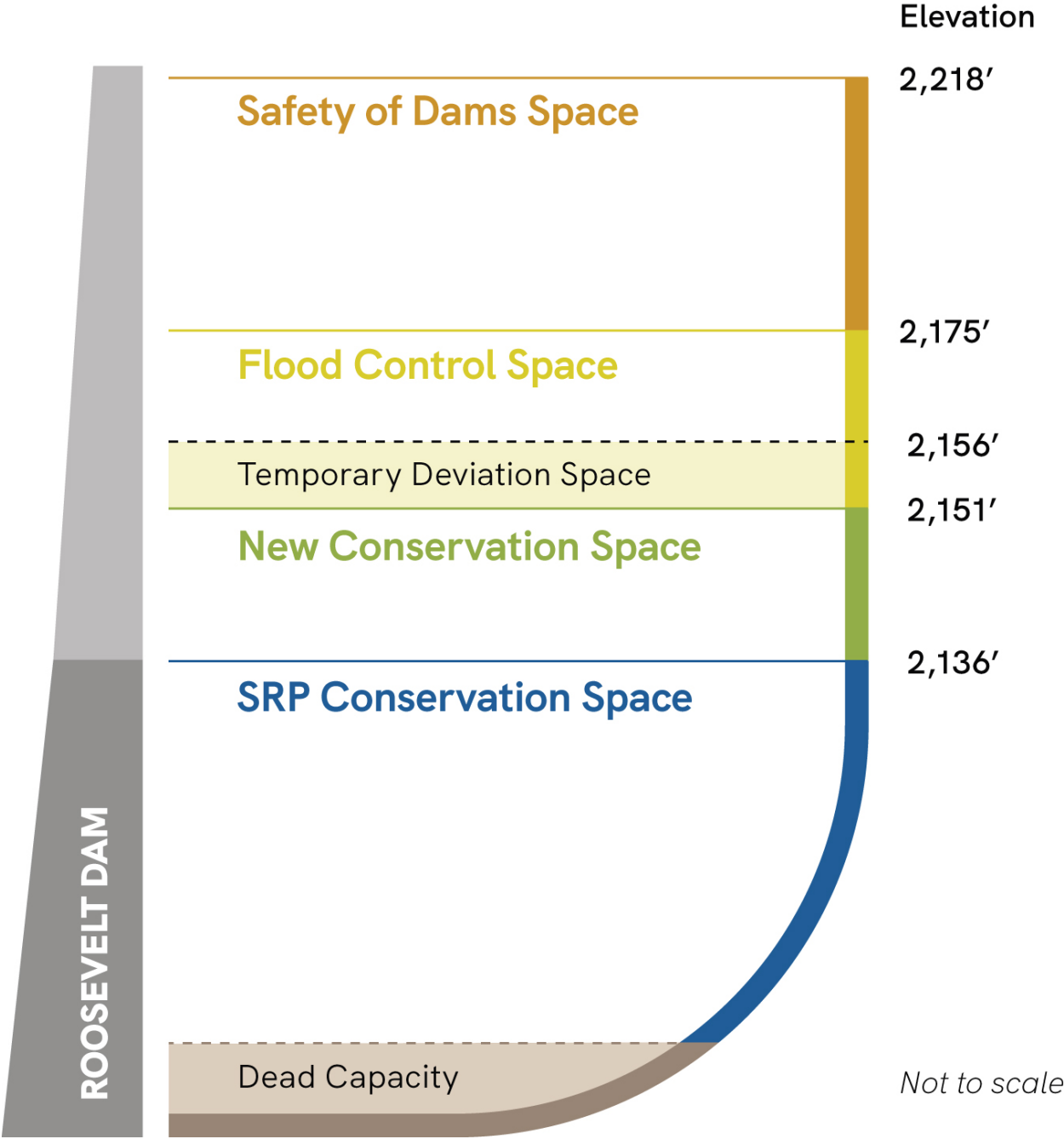
Temporary Deviation Plan: A planned deviation in flood control operations as approved by the Corps of Engineers and Reclamation that authorizes SRP to declare one (1) Temporary Deviation Event per year, in three (3) out of five (5) years during the Temporary Deviation Period.

Temporary Deviation Space: Reservoir space behind Modified Roosevelt Dam constituting the first five (5) feet of the Flood Control Space.

Temporary Deviation Water: Water that SRP evacuates from the Temporary Deviation Space during a Temporary Deviation Event.

Water Control Plan: Chapter 7 of the document entitled “Water Control Manual, Modified Roosevelt Dam (Theodore Roosevelt Dam), Salt and Gila Rivers, Arizona” dated September 1997 and prepared by the Corps of Engineers.

Attachment B



Attachment C

Itemized Estimated Costs of Seeking Authorization of Temporary Deviation Plan

Cost of Temporary Deviation		
Planning Costs (Reclamation)	\$78,000	FY21: Investigation= \$549k +/- \$109k
Planning Costs (USACE)	\$50,000	
Technical Evaluation Cost	\$233,549	
Env & Cultural Costs to-date	\$163,000	
Legal Analysis-Phase 1	\$25,000	
Env & Cultural Compliance Cost*	\$637,000	FY22: Implementation= \$662k +/- \$132k
Legal Analysis-Phase 2	\$25,000	
Total	\$1,211,549 +/- \$242k (20%)	

*Cost estimates for environmental and cultural resource compliance will be further refined by Reclamation and the Army Corps prior to invitation of environmental and cultural resource compliance activities.

Attachment D

Participating Entity	City of Avondale
Percentage of Temporary Deviation Water	8%
Participant Acre-Feet of Temporary Deviation Space	8,500 acre-feet
Expected Participant Costs	\$94,809

Attachment D

Participating Entity	City of Chandler
Percentage of Temporary Deviation Water	5%
Participant Acre-Feet of Temporary Deviation Space	5,500 acre feet
Expected Participant Costs	\$61,347

Attachment D

Participating Entity	City of Glendale
Percentage of Temporary Deviation Water	5%
Participant Acre-Feet of Temporary Deviation Space	5,500 acre feet
Expected Participant Costs	\$61,341

Attachment D

Participating Entity	City of Mesa
Percentage of Temporary Deviation Water	4%
Participant Acre-Feet of Temporary Deviation Space	4,800 acre feet
Expected Participant Costs	\$53,539

Attachment D

Participating Entity	City of Peoria
Percentage of Temporary Deviation Water	2%
Participant Acre-Feet of Temporary Deviation Space	2,500 acre feet
Expected Participant Costs	\$27,885

Attachment D

Participating Entity	City of Phoenix
Percentage of Temporary Deviation Water	18%
Participant Acre-Feet of Temporary Deviation Space	20,000 acre feet
Expected Participant Costs	\$223,080

Attachment D

Participating Entity	City of Scottsdale
Percentage of Temporary Deviation Water	2%
Participant Acre-Feet of Temporary Deviation Space	2,700 acre feet
Expected Participant Costs	\$30,116

Attachment D

Participating Entity	City of Tempe
Percentage of Temporary Deviation Water	2%
Participant Acre-Feet of Temporary Deviation Space	2,700 acre feet
Expected Participant Costs	\$30,116

Attachment D

Participating Entity	Town of Gilbert
Percentage of Temporary Deviation Water	4%
Participant Acre-Feet of Temporary Deviation Space	4,000 acre feet
Expected Participant Costs	\$44,616

Attachment D

Participating Entity	Roosevelt Water Conservation District
Percentage of Temporary Deviation Water	11%
Participant Acre-Feet of Temporary Deviation Space	11,420 acre feet
Expected Participant Costs	\$127,379

Attachment D

Participating Entity	Buckeye Water Conservation & Drainage District
Percentage of Temporary Deviation Water	5%
Participant Acre-Feet of Temporary Deviation Space	5,000 acre feet
Expected Participant Costs	\$55,770

Attachment D

Participating Entity	Roosevelt Irrigation District
Percentage of Temporary Deviation Water	10%
Participant Acre-Feet of Temporary Deviation Space	11,000 acre-feet
Expected Participant Costs	\$122,694

Attachment D

Participating Entity	Salt River Pima-Maricopa Indian Community
Percentage of Temporary Deviation Water	6%
Participant Acre-Feet of Temporary Deviation Space	6,000 acre feet
Expected Participant Costs	\$66,924

Attachment D

Participating Entity	Freeport Minerals Corporation
Percentage of Temporary Deviation Water	3%
Participant Acre-Feet of Temporary Deviation Space	3,000 acre feet
Expected Participant Costs	\$33,462

Exhibit B

Definitions

Authorized Representatives: Representatives of the Parties appointed to administer the provisions of this Agreement.

Corp of Engineers: United States Army Corp of Engineers which is authorized under Section 7 of the Flood Control Act of 1944 to prescribe regulations for the use of the Flood Control Space in Modified Roosevelt Dam allocated for flood control purposes.

Flood Control Space: Water control space in Modified Roosevelt Dam under the jurisdiction of the Corps of Engineers under Section 7 of the Flood Control Act of 1944. Such Flood Control Space corresponds to an elevation from 2150.78 feet above mean sea level to 2174.87 feet above mean sea level.

Modified Roosevelt Dam: Theodore Roosevelt Dam as modified under Plan 6 to increase the height approximately 77 feet.

Modified Roosevelt Dam Operating Agreement: Agreement entitled “Operating Agreement for Additional Active Conservation Capacity at Modified Theodore Roosevelt Dam among The Salt River Project Agricultural Improvement and Power District, Salt River Valley Water Users’ Association, United States Bureau of Reclamation, Flood Control District of Maricopa County, and the Arizona Cities of Chandler, Glendale, Mesa, Phoenix, Scottsdale, and Tempe” dated December 14, 1993 that authorized and provided for SRP’s operations of Modified Roosevelt Dam as described in such agreement.

Modified Roosevelt Reservoir: The reservoir backed up by Modified Roosevelt Dam.

Participating Entities: Arizona cities of Avondale, Chandler, Glendale, Mesa, Peoria, Phoenix, Scottsdale, and Tempe, Town of Gilbert, Roosevelt Water Conservation District, Buckeye Water Conservation and Drainage District, Salt River Pima-Maricopa Indian Community, Roosevelt Irrigation District, and Freeport Minerals Corporation.

Reclamation: United States Department of the Interior’s Bureau of Reclamation.

Temporary Deviation Plan: A planned deviation in flood control operations as authorized by the Corps of Engineers and Reclamation to extend the required evacuation period for water occupying the Temporary Deviation Space from twenty (20) days to one hundred and twenty (120) days of such water first occupying the Temporary Deviation Space.

Temporary Deviation Space: The reservoir space at Modified Roosevelt Dam constituting the first five (5) feet of the Flood Control Space which corresponds to an elevation greater than 2150.78 feet and less than 2155.78 feet.

Temporary Deviation Water: Water that occupies the Temporary Deviation Space and is subject to the one hundred and twenty (120) day evacuation period as provided in the Water Control Plan.

Water Control Agreement: The agreement among Reclamation, the Salt River Project Agricultural Improvement and Power District and the Corp of engineers entitled “Water Control Agreement (WCA) among the Bureau of Reclamation (USBR), the Salt River Project Agricultural Improvement and Power District (SRP), and the Corps of Engineers (COE)” dated November 5, 1996 which authorized SRP’s operations of Modified Roosevelt Dam for flood control and other purposes under the Water Control Plan.

Water Control Manual: The Water Control Manual entitled “Water Control Manual, Modified Roosevelt Dam (Theodore Roosevelt Dam), Salt and Gila Rivers, Arizona” dated September 1997 and prepared by the Corps of Engineers which contains the Water Control Plan in Chapter 7 which describes how SRP shall operate Modified Roosevelt Dam for flood control and other purposes.

Water Control Plan: Chapter 7 of the Water Control Manual which describes how SRP shall operate Modified Roosevelt Dam, including the Flood Control Space, for flood control and other purposes.

Exhibit C

Itemized Estimated Costs of Seeking Authorization of Temporary Deviation Plan

Expected Total Cost of Temporary Deviation	
Planning Costs (Reclamation)	\$ 78,000
Planning Costs (USACE)	\$ 50,000
Technical Evaluation Cost	\$ 233,549
Env & Cultural Compliance Cost	\$ 800,000
Legal Analysis	\$ 50,000
Total	\$ 1,211,549
Cost Contingency* (20%)	+/- \$242,000

*Cost estimates continue to be refined through planning with Reclamation and Corps of Engineers. A +/- 20% contingency is identified as appropriate to include to identify that changes in anticipated costs may occur.

Exhibit D

Party	Acre-Feet of Temporary Deviation Space	Percentage of Temporary Deviation Water	Expected Cost
Avondale	8,500	7.83%	\$ 94,809
BWCDD	5,000	4.60%	\$ 55,770
Chandler	5,500	5.06%	\$ 61,347
Freeport Minerals	3,000	2.76%	\$ 33,462
Gilbert	4,000	3.68%	\$ 44,616
Glendale	5,500	5.06%	\$ 61,347
Mesa	4,800	4.42%	\$ 53,539
Peoria	2,500	2.30%	\$ 27,885
Phoenix	20,000	18.41%	\$ 223,080
RID	11,000	10.13%	\$ 122,694
RWCD	11,420	10.51%	\$ 127,379
Scottsdale	2,700	2.49%	\$ 30,116
SRP Shareholders	16,000	14.73%	\$ 178,464
SRPMIC	6,000	5.52%	\$ 66,924
Tempe	2,700	2.49%	\$ 30,116
Total	108,620	100%	\$ 1,211,549
Cost Contingency (20%)			+/- \$242,000