

**WELL LEASE AND CREDIT RECOVERY AGREEMENT  
AMONG  
CITY OF GOODYEAR,  
SALT RIVER VALLEY WATER USERS' ASSOCIATION,  
AND  
SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**

**1. PARTIES:**

This Well Lease and Credit Recovery Agreement ("Agreement"), entered into this \_\_\_\_ day of \_\_\_\_\_, 2019 is by and among the City of Goodyear, an Arizona municipality ("Goodyear"), the Salt River Valley Water Users' Association, an Arizona corporation ("Association"), and the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona ("District"). The Association and District are referred to collectively as "SRP". Goodyear and SRP are referred to individually as "Party" and collectively as "Parties."

**2. RECITALS:**

This Agreement is made with regard to the following:

- 2.1 Shareholders of the Association are owners of land within the Salt River Reservoir District ("SRRD"), having valid appropriative rights to waters of the Salt and Verde Rivers. The Association is responsible for delivery to shareholder lands of waters developed, controlled, or stored by it for the benefit of such lands. The Association is the agent of the District in the operation of the water delivery system of the Salt River Project, a federal reclamation project pursuant to an agreement dated March 22, 1937, as amended by agreements dated February 28, 1944, and September 12, 1949, and is also the agent of the United States of America in the operation of said federal reclamation project pursuant to a contract dated September 6, 1917.
- 2.2 Goodyear is a municipal corporation that serves water to customers within its service area. Goodyear holds water resource assets including contracts/leases for Central Arizona Project ("CAP") water. Goodyear currently does not have physical access to the CAP canal to facilitate direct delivery of those CAP water supplies.
- 2.3 Goodyear and SRP are parties to an agreement entitled "CAP/SRP Interconnection Facility Lease and Water Transportation Agreement among City of Goodyear, Salt River Valley Water Users' Association, and Salt River Project Agricultural

Improvement and Power District” dated February 7, 2017 (“Goodyear-SRP CSIF and WTA” as defined in Subparagraph 5.7).

- 2.4 Goodyear seeks to recover long-term storage credits and have SRP deliver the recovered water to delivery points under the Goodyear-SRP CSIF and WTA.
- 2.5 SRP agrees to allow Goodyear to obtain recovery well permits on certain SRP production wells, lease such production wells to recover its long-term storage credits in accordance with this Agreement, and transport water recovered under its recovery well permits in accordance with the Goodyear-SRP CSIF and WTA.

### **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:**

- 5.1 ADWR: The Arizona Department of Water Resources.
- 5.2 Annual Administration Fee: The Annual Administration Fee that Goodyear shall pay to SRP for administration and water accounting related to the well lease and water transportation services provided under this Agreement as provided in Subparagraph 15.3.
- 5.3 Goodyear Long-Term Storage Credits (“Goodyear LTSCs”): Long-term storage credits (“LTSCs”), as described in A.R.S. § 45-852.01, that are or will be recorded in the Goodyear LTSC Account with ADWR. Goodyear LTSCs may be or may have been earned by (1) Goodyear by storing Goodyear water supplies under a permit issued pursuant to A.R.S. § 45-831.01 within the exterior boundaries of the Salt River Reservoir District or (2) by acquiring LTSCs from another entity that previously stored water supplies under a permit issued pursuant to A.R.S. § 45-831.01 within the Salt River Reservoir District. The legal character of the Goodyear water supplies stored under a permit issued pursuant to A.R.S. § 45-831.01 or acquired from another entity that previously stored water supplies under a permit issued pursuant to A.R.S. 45-831.01 shall not be Salt River Reclamation Project water supplies.

- 5.4 Goodyear LTSC Account: Account created by ADWR under A.R.S. § 45-852.01 that contains Goodyear LTSCs.
- 5.5 Goodyear Recovered Water: Underground water withdrawn from SRP Recovery Wells under Subparagraph 9 of this Agreement and in accordance with A.R.S. § 45-834.01. The legal nature of such water will be LTSCs owned by Goodyear created from the storage of water, other than Salt River Reclamation Project water supplies, within the SRRD (“Goodyear LTSCs”). Such Goodyear LTSCs may have been originally stored by another entity but must be transferred to the Goodyear LTSC Account prior to being recovered under Paragraph 9.
- 5.6 Goodyear Recovery Well Permit: A Permit that Goodyear obtains from ADWR under A.R.S. § 45-834.01 to recover Goodyear LTSCs under this Agreement including any renewal or modifications.
- 5.7 Goodyear-SRP CSIF Lease and WTA: The agreement entitled “CAP/SRP Interconnection Facility Lease and Water Transportation Agreement Among City of Goodyear, Salt River Valley Water Users' Association, and Salt River Project Agricultural Improvement and Power District” dated February 7, 2017.
- 5.8 Association Water Delivery System: The system of infrastructure operated and maintained by the Association to deliver water to its shareholders including Association Canals, Association Laterals, drain ditches, gates and measuring devices.
- 5.9 Authorized Representatives: Those representatives of the Parties appointed to administer the provisions of this Agreement under Paragraph 8.
- 5.10 CPI Index: The Consumer Price Index for All Urban Consumers published by the United States Bureau of Labor Statistics as referenced in Subparagraph 15.4.
- 5.11 Effective Date: The date this Agreement becomes effective as provided in Subparagraph 7.1.
- 5.12 Long-Term Storage Credits (“LTSCs”): Water stored that meets the requirements of A.R.S. § 45-852.01 and that has been credited to a long-term storage account with the ADWR.
- 5.13 Lost and Unaccounted Water Percentage: The percentage of total system losses for the Association Water Delivery System as reported annually to ADWR under the applicable management plan adopted by the director of ADWR under A.R.S. § 45-561 *et seq.*

- 5.14 Point(s) of Delivery: The points designated in **Exhibit 4.14** of the Goodyear-SRP CSIF Lease and WTA at which SRP delivers Goodyear Recovered Water under Paragraph 10. Points of Delivery may be added or deleted under Subparagraph 7.2.1 of the Goodyear-SRP CSIF Lease and WTA.
- 5.15 Point(s) of Receipt: The points designated in **Exhibit 4.15** of the Goodyear-SRP CSIF Lease and WTA where Goodyear LTSCs are recovered by withdrawing Goodyear Recovered Water for transportation through the Association Water Delivery System. Points of Receipt may be added or deleted under Subparagraph 7.2.1 of the Goodyear-SRP CSIF Lease and WTA.
- 5.16 Recovery Well Lease Fee: Fee Goodyear pays to SRP to lease SRP Recovery Wells under Paragraph 9 as provided in Subparagraph 15.1.
- 5.17 Salt River Reservoir District: The Salt River Reservoir District, as defined by the Articles of Incorporation of the Salt River Valley Water Users' Association.
- 5.19 SRP Recovery Wells: SRP wells leased to Goodyear to recover Goodyear LTSCs under A.R.S. § 45-834.01. The SRP Recovery Wells that are eligible for lease by Goodyear are listed in Exhibit 5.19 and may be modified from time to time to add or delete wells by mutual written agreement of the Authorized Representatives.
- 5.20 Water Transportation Fee: Fee Goodyear pays to SRP for transportation of Goodyear Recovered Water under Paragraph 10 from the Points of Receipt to the Points of Delivery as provided in Subparagraph 15.2.

**6. SCOPE OF SERVICE:**

This Agreement is limited to: (1) the lease of SRP Recovery Wells under Paragraph 9 for (2) use by Goodyear when Goodyear requests delivery of Goodyear LTSCs by withdrawing Goodyear Recovered Water from SRP Recovery Wells. The Parties agree that the transportation of the Goodyear Recovered Water from the Points of Receipt to the Points of Delivery through the Association Water Delivery System shall be done in accordance with the Goodyear-SRP CSIF Lease and WTA as provided in Paragraph 10.

**7. EFFECTIVE DATE AND TERM:**

- 7.1 This Agreement shall become effective upon execution by the Parties ("Effective Date") and shall terminate at 11:59 p.m. on December 31, 2066 unless the Parties extend the term under Subparagraph 7.2 or the Agreement is terminated under Subparagraph 7.3.

- 7.2 Unless this Agreement is terminated under Subparagraph 7.3, the Parties may, by mutual written agreement, extend the term of this Agreement for an additional fifty (50) years to 11:59 p.m. on December 31, 2116. The Parties shall meet and confer on whether to extend the term of this Agreement under this Subparagraph 7.2 and shall execute such mutual written agreement prior to August 1, 2066.
- 7.3 This Agreement shall terminate upon the earlier of the following:
- 7.3.1 This Agreement shall terminate under Subparagraph 7.1 on 11:59 p.m. on December 31, 2066 unless extended for an additional fifty (50) years under Subparagraph 7.2 to 11:59 p.m. on December 31, 2116;
- 7.3.2 This Agreement shall terminate in the event the Goodyear-SRP CSIF Lease and WTA terminates for any reason;
- 7.3.3 Goodyear may terminate this Agreement with ninety (90) days written notice to SRP;
- 7.3.4 The Parties shall terminate this Agreement as provided in Subparagraph 12.3; and
- 7.3.5 SRP may terminate this Agreement as provided in Paragraph 24.

**8. AUTHORIZED REPRESENTATIVES:**

- 8.1 Within thirty (30) days after execution of this Agreement, each Party shall designate in writing to the other Party, 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 thirty (30) 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.
- 8.2 In addition to any other responsibilities assigned to the Authorized Representatives in this Agreement, the Authorized Representatives, by mutual written agreement:
- 8.2.1 May locate, add, or delete Points of Delivery as authorized under Subparagraphs 5.14 and 10.3 and Points of Receipt under Subparagraph 5.15;

- 8.2.2 May add or delete SRP Recovery Wells under Subparagraph 5.19;
- 8.2.3 Shall perform the water reporting requirements under Subparagraph 14.2;
- 8.2.4 Shall agree on a replacement index as provided in Subparagraph 5.11;
- 8.2.5 Shall agree in writing on the appropriate measurement procedures for the addition of new Points of Delivery under Subparagraph 19.2;
- 8.2.6 Shall perform the responsibilities regarding dispute resolution as authorized under Paragraph 20; and
- 8.2.7 Shall perform the responsibilities regarding audit procedures as authorized in Paragraph 21.

**9. LEASE OF SRP WELLS TO RECOVER GOODYEAR LTSCS:**

- 9.1 SRP shall lease capacity in SRP Recovery Wells to Goodyear for the purpose of recovering Goodyear LTSCs by withdrawing Goodyear Recovered Water for transportation to Points of Delivery under Paragraph 10.
- 9.2 The recovery of Goodyear LTSCs under this Paragraph 9 shall be limited as follows:
  - 9.2.1 Unless otherwise agreed to in writing by the Authorized Representatives, the maximum quantity of Goodyear Recovered Water that Goodyear may recover from SRP Recovery Wells for transportation to the Points of Delivery shall not exceed one thousand, two hundred and fifty (1,250 a/f) acre-feet in any one (1) calendar year.
  - 9.2.2 Goodyear agrees that it may only recover Goodyear LTSCs that (1) have been created and credited to its Goodyear LTSC Account, and (2) have been created through water stored within the Salt River Reservoir District. Goodyear is solely responsible for ensuring enough Goodyear LTSCs are available in the Goodyear LTSC Account for recovery pursuant to this Agreement. SRP has no obligation to lease SRP Recovery Wells to Goodyear to recover any LTSCs that have not been credited to the Goodyear LTSC Account or that have not been created through the storage of water within the Salt River Reservoir District.

**10. TRANSPORTATION OF GOODYEAR RECOVERED WATER THROUGH THE ASSOCIATION WATER DELIVERY SYSTEM; TRANSPORTATION LOSSES:**

SRP shall transport Goodyear Recovered Water from the Points of Receipt through the Association Water Delivery System to the Points of Delivery in accordance with the terms and conditions of the Goodyear-SRP CSIF Lease and WTA including Paragraph 9 regarding transportation and transportation losses, Paragraph 10 regarding Priority of Service, Paragraph 15 regarding interruptions or curtailments of delivery, Paragraph 18 related to water quality and indemnity, and Paragraph 19 related to future facilities. Goodyear agrees that Paragraph 18 of the Goodyear-SRP CSIF and WTA regarding water quality and indemnity applies to the withdrawal of Goodyear Recovered Water as well as the transportation of Goodyear Water under the Goodyear-SRP CSIF and WTA this Paragraph 10.

**11. PRIORITY OF SERVICE AND SUSPENSION OR REDUCTIONS IN DELIVERY:**

- 11.1 Goodyear LTSCs recovered by withdrawing Goodyear Recovered Water through SRP Recovery Wells and transporting the Goodyear Recovered Water from the Points of Delivery to the Points of Receipt through the Association Water Delivery System is permitted only to the extent that such withdrawal and transportation does not impair nor prejudice the diversion, transportation, and delivery of water (1) to Association shareholders, (2) pursuant to existing decrees and existing contracts between SRP and any third party, or (3) pursuant to any Indian water rights settlements (as provided in the settlements).
- 11.2 Goodyear Recovered Water shall be withdrawn and transported, as among all contractors for such service from SRP, according to the capacity of the Association Water Delivery System as determined by SRP.
- 11.3 SRP shall retain sole responsibility and authority for decisions relating to the operation and maintenance practices of the SRP Recovery Wells and the Association Water Delivery System, including maintenance scheduling and the selection of periods when maintenance will be done. Such periods may include suspension or reductions in the capability of SRP to recover Goodyear LTSCs and transport Goodyear Recovered Water in the Association Water Delivery System or evacuation of the Goodyear Recovered water from the Association Water Delivery System due to emergencies, canal dry-up, excessive storm water inflow, or because SRP determines that significant degradation of water quality in the Association Water Delivery System is occurring or may occur as a result of introduction of Goodyear Recovered Water, and other operational or maintenance related constraints.

11.4 SRP shall have the sole discretion to determine whether circumstances exist for the suspension or reduction of delivery of Goodyear Recovered Water through or evacuation of Goodyear Recovered Water from the Association Water Delivery System under Subparagraphs 11.1, 11.2, and 11.3 and SRP shall assume no liability to Goodyear for such suspensions, reductions, or evacuations. SRP has no obligation to replace any portion of any Goodyear Recovered Water evacuated from the Association Water Delivery System. In no event shall SRP, their governing bodies, officers, employees, or agents be liable to Goodyear for any cost or damage Goodyear may incur as the result of the suspension, reduction, or evacuation of water provided or transported by SRP pursuant to this Agreement. In the event of such suspension, reduction, or evacuation, SRP shall provide Goodyear with reasonable notice of such pending suspension or reduction.

## **12. PERMITS:**

- 12.1 Goodyear shall be responsible for obtaining any permits required, including the Goodyear Recovery Well permit under A.R.S. § 45-834.01 for the SRP Recovery Wells listed in Exhibit 5.19 to recover Goodyear LTSCs by withdrawing Goodyear Recovered Water under Paragraph 9 and transporting it through the Association Water Delivery System to the Points of Delivery under Paragraph 10.
- 12.2 SRP shall assist Goodyear with obtaining the required permits as provided in Subparagraph 12.1, including, but not limited to, providing any consent necessary under A.R.S. § 45-834.01 to allow recovery of Goodyear LTSCs within the Salt River Reservoir District and any documentation, in addition to this Agreement, necessary under A.R.S. § 45-834.01 to establish that Goodyear has the right to use SRP Recovery Wells for the purpose of recovering Goodyear LTSCs. Goodyear shall notify SRP when it obtains the Goodyear Recovery Well permit under A.R.S. § 45-834.01.
- 12.3 This Agreement shall terminate in the event that ADWR, through a final non-appealable order, denies Goodyear the necessary permits to recover Goodyear LTSCs by withdrawing Goodyear Recovered Water and transporting it to the Points of Delivery under this Agreement. Denial of any necessary permit shall not result in liability of either Party to the other. The Parties agree that they shall make good faith efforts to select the wells listed on Exhibit 5.19 so such wells will likely be permitted by ADWR for recovery. In the event ADWR denies necessary recovery well permits for wells listed on Exhibit 5.19, the Parties agree to make good faith efforts to resolve issues related to such denial, which may include (1) selecting



alternative wells under Subparagraphs 5.19 and 8.2.2, and (2) an appeal of ADWR's denial, prior to such final non-appealable order.

**13. NOTICE OF WATER DELIVERIES:**

On or before October 1 of each year, or the next business day thereafter, Goodyear shall notify SRP of its proposed monthly water delivery schedule for the following calendar year. SRP and Goodyear may consult and agree to revise the monthly water delivery schedule as necessary to reasonably accommodate SRP's operational requirements.

**14. WATER ACCOUNTING AND REPORTING:**

14.1 The Parties shall account for the Goodyear LTSCs recovered under this Agreement as provided in this Paragraph 14, and transportation of Goodyear Recovered Water under Paragraph 12 of the Goodyear-SRP CSIF Lease and WTA and shall report to ADWR as required under Arizona law and ADWR policies, rules and regulations.

14.2 Unless otherwise provided by mutual written agreement of the Authorized Representatives, SRP shall report to Goodyear:

14.2.1 The amount of Goodyear LTSCs recovered through withdrawal of Goodyear Recovered Water from SRP Recovery Wells, and

14.2.2 The amount of Goodyear Recovered Water transported to the Points of Delivery, which shall include the calculated transportation losses under Subparagraph 9.3 of the Goodyear-SRP CSIF Lease and WTA.

The amount reported by SRP to Goodyear under Subparagraph 14.2.1 shall also represent the amount of Goodyear Recovered Water withdrawn through the SRP Recovery Wells.

**15. FEES AND CHARGES:**

15.1 Recovery Well Lease Fee: Goodyear shall pay to SRP a Recovery Well Lease Fee of one hundred and fifty-five dollars and seventy-one cents (\$155.71) for each acre-foot or fractional acre-foot (2019 fee) of Goodyear LTSCs requested by Goodyear for recovery by SRP under Paragraph 9.

15.2 Water Transportation Fee: Goodyear shall pay to SRP a Water Transportation Fee in accordance with Subparagraph 13.2 of the Goodyear-SRP CSIF Lease and WTA for each acre-foot or fractional acre-foot (2019 fee) of Goodyear Recovered Water transported by SRP from the Points of Receipt to the Point of Delivery under Paragraph 10.

- 15.3 Annual Administrative Fee: Beginning in the year Goodyear first requests recovery and transportation services under this Agreement, Goodyear shall pay annually to SRP an Annual Administrative Fee of one thousand dollars (\$1,000) for the administration and water accounting related to the well lease and credit recovery services provided under this Agreement (2019 fee). This Annual Administrative Fee shall be in addition to the Annual Administrative Fee charged under Subparagraph 13.3 of the Goodyear-SRP CSIF Lease and WTA for the transportation services provided under that agreement, including any additional Points of Delivery or Points of Receipt. The Annual Administrative Fee shall be prorated for partial years of service resulting from permanent termination of service under Subparagraph 7.2.
- 15.4 Beginning January 1, 2020, and at each January 1 thereafter, the Recovery Well Lease Fee and the Annual Administrative Fee in Subparagraphs 15.1 and 15.3 shall be adjusted upward annually by the greater of (a) three (3) percent, or (b) the percentage change (calculated to the nearest hundredth percent) in the CPI Index measured from the third (3<sup>rd</sup>) quarter to the third (3<sup>rd</sup>) quarter. For purposes of the initial annual adjustment, the CPI Index shall be calculated using the third quarter of 2018 as the base. If the Index is no longer in use, the Authorized Representatives shall agree on a replacement index. Any adjustments to the Water Transportation Fee as described in Subparagraph 15.2 shall be governed by Subparagraph 13.4 of the Goodyear-SRP CSIF Lease and WTA.
- 15.5 On January 1, 2022, and then every five (5) years thereafter, the Recovery Well Lease Fee and Annual Administrative Fee described in Subparagraphs 15.1 and 15.3 shall be subject to revision based on an analysis of the costs incurred by SRP to operate, maintain, and replace the infrastructure associated with such fees. SRP shall meet and confer with Goodyear to explain any proposed increases to the Recovery Well Lease Fee and Annual Administrative Fee prior to revising such fees. Any revisions to the Water Transportation Fee as described in Subparagraph 15.2 shall be governed by Subparagraph 13.5 of the Goodyear-SRP CSIF Lease and WTA.
- 15.6 Other Fees. In addition to the fees set forth in this Paragraph 15, Goodyear shall be responsible to pay all recovery well permit fees, long-term storage credit recovery fees collected under A.R.S. § 45-874.01, and any other fees associated with the recovery of the Goodyear LTSCs and transportation of Goodyear Recovered Water under this Agreement to ADWR or any other governmental entity. SRP shall not be responsible for paying any fees associated with the recovery of Goodyear LTSCs and transportation of Goodyear Recovered Water pursuant to this Agreement to ADWR or any other governmental entity.

**16. BILLING AND PAYMENT:**

- 16.1 Bills for services that SRP provides to Goodyear shall be submitted by SRP to Goodyear on or before the twenty-fifth (25th) day of each month (or if such a day is not a business day, on the next succeeding business day) for fees and charges incurred by Goodyear as described in Paragraph 15 for the previous month. Such bills may include adjustments or corrections to bills previously submitted by SRP to Goodyear.
- 16.2 Payment by Goodyear to SRP shall be made in good funds on or before the thirtieth (30th) day following the date on which the bill was postmarked or if such day is not a business day, on the next succeeding business day.
- 16.3 Bills not paid by the due date shall be delinquent and thereafter accrue an interest charge equal to one percent (1%) per month. Any payment received shall first be applied to any interest owed, then to charges for services rendered.
- 16.4 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, Goodyear shall be refunded any overpayment plus interest, accrued at the rate set forth in Subparagraph 16.3, prorated by days from the date payment was credited to Goodyear to the date the refund check is mailed.
- 16.5 In the event any delinquent amount is not paid by Goodyear within thirty (30) days after receipt by Goodyear of written notice by SRP to Goodyear 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 refuse to recover Goodyear LTSCs under Paragraph 9 and transport Goodyear Recovered Water under Paragraph 10 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.

**17. DISTRIBUTION:**

SRP's obligations and responsibilities to Goodyear under this Agreement shall commence at the Points of Receipt and shall terminate at the Points of Delivery. Goodyear shall be responsible and assume full liability for the further distribution of Goodyear Recovered Water received at the Points of Delivery, including, but not limited to, all operation and maintenance costs for delivery to Goodyear's end users.

**18. WATER MEASUREMENT:**

- 18.1 SRP shall be responsible for measuring the amount of Goodyear Recovered Water withdrawn and delivered to the Delivery Point, including deducting any transportation losses under Subparagraph 9.3 of the Goodyear -SRP CSIF Lease and WTA.
- 18.2 In the event the Parties add, change, or remove point(s) of delivery under Subparagraph 5.14, the Authorized Representatives shall agree in writing on appropriate measurement procedures, provided, however that such measurement procedures shall be consistent with SRP policies and procedures regarding gate measurement of water.

**19. DISPUTE RESOLUTION; CHOICE OF LAW:**

- 19.1 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 Public Works Director of Goodyear. If the matter cannot be resolved by the SRP General Manager and the Public Works Director of Goodyear, 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.
- 19.2 This Agreement shall be governed and construed in accordance with the laws of the State of Arizona and any applicable federal law.
- 19.3 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.
- 19.4 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 Subparagraph 16.4 during the pendency of such dispute shall be subject to refund and adjustment upon a final resolution of any dispute involving an amount due. Upon such final resolution, the owed amounts shall be remitted in accordance with the remittance procedures/arrangements contained in Paragraph 16.

## **20. AUDIT:**

- 20.1 Upon reasonable written notice, either Party at its expense shall have the right, at all reasonable times, to review and audit the books, records and documents of the other Party pertaining to the billings and water accounting data required to administer this Agreement. Any such audit may be conducted by an employee of or independent accountant designated by the auditing Party. The Party being audited agrees to fully cooperate with any such audit. This right to audit shall extend for a period of three (3) years following the date of each payment under this Agreement. The Parties agree to retain all necessary records and documentation during this audit period. The foregoing shall not be construed to permit either Party to conduct a general audit of the other Party's records. Information obtained by either Party's representatives in examining the other Party's applicable records to verify such billings and water accounting data shall not be disclosed to third parties without prior written consent of the audited Party, or unless in response to compulsory judicial or regulatory process or state law and after giving the other Party written notice as much in advance as possible.
- 20.2 The audited Party's Authorized Representative shall be notified in writing of any exception taken as a result of an audit and shall respond to such notification within thirty (30) days. Upon resolution of any exception as to payment of any monies due, the owing Party shall directly remit the amount of any exception to the other Party within thirty (30) calendar days, with interest calculated at the rate set forth in Subparagraph 16.3. Interest shall be computed from the date of the original billing to the date of payment by the Party owing as a result of the audit performed in accordance with Paragraph 16.

## **21. UNCONTROLLABLE FORCES:**

No Party shall be considered to be in default in the performance of any of its obligations hereunder when a failure of performance shall be due to uncontrollable forces. The term "uncontrollable forces" shall mean any cause beyond the control of the Party seeking relief from an obligation hereunder including, but not limited to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning or other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, strike, labor dispute, labor or material shortage, sabotage, terrorism, or government priorities and restraint by court order or public authority.

**22. WATER RIGHTS:**

This Agreement shall not be construed to create, transfer, forfeit, abandon or otherwise affect water rights.

**23. RECLAMATION REFORM ACT:**

In no event shall actions taken under this Agreement subject the Association or its shareholders to provisions of the Reclamation Reform Act of 1982 ("Reclamation Reform Act"), 43 U.S.C. 390, as amended, and regulations attendant thereto, to which Association would not otherwise have been subjected. In the event a federal agency or other administrative or judicial entity subjects or purports to subject Association to the Reclamation Reform Act as a result of actions taken under this Agreement, Association shall be relieved of any further obligations hereunder, and this Agreement shall terminate at Association's discretion.

**24. ASSOCIATION ARTICLES OF INCORPORATION AND BYLAWS:**

This Agreement shall be governed by and subject to the Association's Articles of Incorporation, Bylaws, and rules and regulations.

**25. NOTICES:**

Any notice, demand or request provided for in this Agreement shall be in writing and delivered in person, or sent by registered or certified mail, postage prepaid, to:

**Salt River Project**

Salt River Project  
c/o Corporate Secretary  
P.O. Box 52025  
Phoenix, AZ 85072-2025

Reference: Goodyear/SRP Well Lease, Credit Recovery, and Water Transportation Agreement

(With a copy to SRP's Authorized Representative.)

**Goodyear**

Attention: City Attorney  
190 N. Litchfield Road  
Goodyear, AZ 85338

Reference: Goodyear/SRP Well Lease, Credit Recovery, and Water Transportation Agreement

(With a copy to Goodyear Authorized Representative)

**26. 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.

**27. WAIVER:**

The waiver by either Party of any breach of any term, covenant or condition herein shall not be deemed a waiver of any other term, covenant or condition, or any subsequent breach of the same or any other term, covenant or condition herein.

**28. TRANSFER OF INTEREST AND BINDING EFFECT:**

All of the provisions of this Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective heirs, legal representatives, successors and permitted assigns; provided, however, that neither Party shall assign its rights and obligations under this Agreement to another entity without the written consent of the other Party. Such consent to assignment shall not, however, be unreasonably withheld, conditioned, or delayed.

**29. 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 in any third party. No third party may enforce the terms and conditions of this Agreement.

**30. 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.

**31. 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.

**32. ENTIRE AGREEMENT; MODIFICATION:**


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.

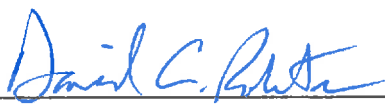
**SALT RIVER VALLEY WATER USERS'  
ASSOCIATION**

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

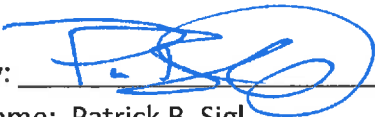
APPROVED AS TO FORM

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

**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, Land & Water  
Rights

**CITY OF GOODYEAR**

By: \_\_\_\_\_  
Julie Arendall, City Manager

Attest: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**WELL LEASE AND CREDIT RECOVERY AGREEMENT  
AMONG  
CITY OF GOODYEAR,  
SALT RIVER VALLEY WATER USERS' ASSOCIATION,  
AND  
SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**

**EXHIBIT 5.19**

**SRP Recovery Wells**

SRP Recovery Wells:

	<u>(SRP Coordinates)</u>	<u>Well Registration</u>
1)	01.0E-07.1N	55-201730
2)	02.0E-04.9N	55-219124
3)	02.9E-14.8N	55-219594
4)	03.0E-13.1N	55-565555
5)	03.1E-12.1N	55-221893
6)	04.9E-15.1N	55-203264
7)	05.0E-08.9N	55-209184
8)	05.1E-16.2N	55-215990
9)	05.4E-17.1N	55-565168
10)	06.0E-10.2N	55-203885
11)	06.0E-11.2N	55-218298
12)	06.0E-15.4N	55-223773
13)	07.0E-15.6N	55-502752
14)	07.6E-15.2N	55-212427
15)	08.5E-14.4N	55-506733
16)	12.1E-08.9N	55-214512
17)	18.6E-07.6N	55-202398
18)	22.5E-09.3N	55-564426
19)	22.9E-10.8N	55-202099
20)	23.5E-10.6N	55-214647
21)	29.9E-08.8N	55-224197
22)	30.4E-09.1N	55-227347