

**SECOND AMENDMENT
TO THE 2009 INTERGOVERNMENTAL AGREEMENT
FOR WATER SERVICE BY THE CITY OF EL MIRAGE
TO THE CITY OF SURPRISE WITHIN THE SURPRISE ORIGINAL TOWNSITE**

This Second Amendment (“Amendment”) is made by and between the CITY OF EL MIRAGE, ARIZONA (“El Mirage”) and the CITY OF SURPRISE, ARIZONA (“Surprise”), both Arizona municipal corporations. El Mirage and Surprise may be referred to in this Amendment each individually as a Party, and collectively as the Parties. This Amendment shall become effective on the date it is approved by each Party’s City Council (the “Effective Date”).

RECITALS

A. On or about March 2, 1977, the Parties entered into (and later extended in January 2002) an agreement pursuant to which El Mirage agreed to provide water service to the Surprise Original Townsite (“OTS”).

B. On or about September 21, 2009, the Parties entered into the 2009 Intergovernmental Agreement For Water Service By The City of El Mirage to the City of Surprise Within the Surprise Original Townsite (“IGA”) for the purpose of setting forth the terms and conditions according to which El Mirage would continue to provide water to the OTS and ensure that OTS customers consistently and reliably receive potable water meeting all regulatory and statutory requirements.

C. The Parties amended the IGA on or about February 2, 2017, (“First Amendment”) by adding Paragraph 5.13 in which the Parties agreed El Mirage would suspend assessment of recharge water fee(s) to its customers within the OTS in exchange for Surprise remitting quarterly payments directly to El Mirage based on the Red Oak Consulting Study dated August 26, 2011, and adopted by El Mirage City Council on November 10, 2011.

D. The First Amendment terminated on June 30, 2021, resulting in El Mirage reinstating its water recharge fee(s) assessment against OTS customers.

E. On September 4, 2024, the El Mirage City Council authorized a contract for a new utility rate study.

F. On May 6, 2025, the El Mirage City Council will consider adopting the City of El Mirage’s 2025 utility rate study, including a \$0.00 water recharge fee, payable by Surprise or the residents of the OTS, effective July 1, 2025.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained in this Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Paragraph 5.13 of the IGA shall be amended as follows:
 - a. Effective for billings after April 30, 2016, through June 30, 2021, charges to customers of the El Mirage water system related to recharge water within the OTS were suspended, and the City of Surprise was assessed directly for the costs related to recharge water within the OTS. Effective July 1, 2021, El Mirage began charging Surprise residents in the OTS for recharge water fees.

Exhibit A:

Calculated Water Extinguishment Credits

City of Surprise - Original Townsite
Estimated Annual Recharge Volumes
July 2025 through June 2035

Fiscal Year (July 1 through June 30)	Estimated Recharge Volume in Acre Feet
FY26	627
FY27	633
FY28	640
FY29	646
FY30	652
FY31	659
FY32	666
FY33	672
FY34	679
FY35	686
Total	6560

Notes:

- * Estimated recharge volume is based on a 64% effluent recharge return.
- * 1% escalator for growth is calculated for the 10-year period.