CONTRACT
NO. 01-30-T-127199-0200
AMENDMENT NO. _____
This number must appear on all invoices, correspondence and documents pertaining to this contract.

CITY OF TUCSON – PIMA COUNTY SUPPLEMENTAL INTERGOVERNMENTAL AGREEMENT RELATING TO EFFLUENT

This is an Intergovernmental Agreement dated this 7th day of February, 2000, by and between the City of Tucson, Arizona, a municipal corporation, hereinafter sometimes referred to as the "City", Pima County, a body politic and corporate, a political subdivision of the State of Arizona, hereinafter sometimes referred to as the "County", and the Pima County Flood Control District, ("District") a special taxing district organized pursuant to Article 1, Chapter 21, Title 48 of the Arizona Revised Statutes.

SECTION I. RECITALS

1.1. City, County and District are empowered by A.R.S. Title 11, Chapter 7, Article 3 to enter into this Supplemental Intergovernmental Agreement ("Supplemental IGA").

1.2. On June 26, 1979, the City and the County entered into an intergovernmental agreement with respect to the transfer of the City's sewer system to the County and the disposition and use of effluent from the County's sewer treatment plants ("1979 IGA").

1.3. The County and the Flood Control District are the owners of land in the bed of the Santa Cruz River.

1.4. Matter No. CV99-18367, City of Tucson v. Pima County, Arizona, et al is pending in the Superior Court of Maricopa County, Arizona.

1.5. On May 7, 1999, ADWR issued Permit No. 71-545944.001 to the City and the United States for a managed recharge facility in the Santa Cruz River bed between Roger Road and Ina Road and Permits Nos. 73-545943.0100 and 73-545943.0200 to the City and the United States, respectively, for effluent storage in the facility. On June 4, 1999 the County and the Flood Control District filed an appeal from the issuance of these permits. On June 7, 1999, Cortaro-Marana Irrigation District, Cortaro Water Users' Association, the Town of Marana and the Avra Valley Irrigation and Drainage District filed an appeal from the issuance of the permits. Hearings on the appeals were conducted by the Office of Administrative Hearings as Matter No. 99A-USWS001-DWR in September, 1999 and are scheduled to continue on February 15, 2000.

1.6. The City and County intend to supplement the 1979 IGA by entering into this Supplemental IGA.

1.7. The District desires to be a party to this Supplemental IGA.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties covenant and agree as follows:

SECTION II. STATEMENT OF PURPOSE.

The purpose of this Supplemental IGA is to supplement the terms and provisions of the 1979 IGA; in the event of a conflict between the terms and provisions of this Supplemental IGA

and the terms and provisions of the 1979 IGA, the terms and provisions of this Supplemental IGA will govern. Capitalized terms are defined in Section III below. It is the intent of the parties that the interpretation and implementation of this Supplemental IGA be guided by the following principles. The parties agree that the provisions of the 1979 IGA and of this Supplemental IGA are consistent with these principles:

2.1 Effluent is an important long term renewable source of water in the Tucson Active Management Area; every reasonable effort should be made to:

2.1.1 Use Effluent to replace current groundwater uses within the service area of the Water Provider which provides the water from which the effluent is derived;

2.1.2 Encourage the use of Effluent in place of groundwater for future uses within such service area where feasible; and

2.1.3 Preserve Effluent for use by Water Providers in meeting long term potable water demands.

2.2 The uses of Effluent are limited unless the Effluent is treated to Reclaimed Water standards. The costs of treating Effluent to Reclaimed Water standards and the costs of distributing Reclaimed Water should, as a general rule, be paid by the users of the Reclaimed Water. The parties will cooperate in efforts to lower those costs where feasible.

2.3 Reasonable quantities of Effluent should be reserved for use in Riparian Projects. Beneficiaries or operators of these Projects should pay the costs of distributing the Effluent and the costs of treating the Effluent to Reclaimed Water standards and distributing the Reclaimed Water. To the extent that the use of the Reclaimed Water in a Riparian Project is interruptible, recoverable costs should be limited to the operating expenses of producing and distributing the Reclaimed Water.

2.4 Reasonable efforts should be made, consistent with the principles and purposes of this Supplemental IGA, to give other Water Providers reasonable access to Effluent derived from the water they supply, so long as they pay all costs associated with the use of said Effluent.

SECTION III. DEFINITIONS.

Notwithstanding any similarities as may appear when compared to the definitions in the 1980 Groundwater Management Act or elsewhere in A.R.S. Title 45, or any other statute, or to the definitions in the 1979 IGA, the following words and phrases shall have the following defined meanings for the purpose of this Supplemental IGA, and for purposes of the 1979 IGA:

3.1. Addendum: an amendment, addition, or deletion to this Supplemental IGA adopted and approved by the parties shall be called an "Addendum" and shall be numbered and dated, such as "Addendum 1, Adopted May 1, 2000".

3.2. Available Effluent: the quantity of Effluent remaining in any calendar year after the delivery of the SAWRSA Effluent to the United States and the delivery of the Conservation Pool Effluent, as provided in Section V below.

3.3. Costs: all actual fiscal year capital payments and operating expenses. (Exhibit A hereto explains the methodology for determining Costs for each component of the City's Reclaimed Water System. Exhibit A-1 illustrates the application of that methodology, utilizing preliminary FY 1999 amounts.).

3.4. Default: an act or omission which violates this Supplemental IGA.

3.5. Effluent: wastewater that has received a minimum of secondary wastewater treatment, including wastewater that has received treatment to Reclaimed Water standards or higher standards.

3.6. Initial Delivery Period: three times the number of years between 1995 and the year in which the County completes the repair and upgrade of the wastewater treatment facilities at Randolph Park and begins the delivery of Reclaimed Water to the City pursuant to Section XII hereof. For example, if the completion occurs and delivery begins in the year 2000, the Initial Delivery Period would be fifteen years.

3.7. Metropolitan Area: the area which is now or in the future served by the Roger Road, Ina Road, or Randolph Park treatment plants, or by any additional collection and treatment facilities hereafter constructed which: 1) are physically integrated into the existing metropolitan sewerage system, or 2) serve any portion of the integrated water service area of the City, or 3) serve any portion of the water service area of a Water Provider that was served by treatment plants in the metropolitan area, as defined in the 1979 IGA, on the date of the execution of this Supplemental IGA. Notwithstanding this definition, the existing treatment facilities at Mount Lemmon, Arivaca Junction, Avra Valley, Green Valley, Marana, Rillito, Corona de Tucson, and Pima County Fairgrounds shall be denominated as non-metropolitan facilities.

3.8. Non-Metropolitan Area: any area located outside of the Metropolitan Area as defined herein.

3.9. Public Use: use on County parks, County golf courses, and other County or publicly owned and operated property; use for landscaping on public streets and highways; or a use which will replace an existing use of groundwater or avoid a new use of groundwater on County or District property; uses which replace the use of groundwater or other potable resources for construction, including but not limited to, compaction, equipment wash down, and air pollution control; use in a Riparian Project.

3.10. Reclaimed Water: Effluent that has received treatment to a quality suitable for open access reuse under state and federal laws.

3.11. Riparian Project: a project that is 1) accepted by the United States Fish and Wildlife Service as a part of a Habitat Conservation Plan for purposes of permitting under the Endangered Species Act, or 2) designated as a Riparian Project for purposes of environmental restoration by mutual written agreement of the City and County..

3.12. SAWRSA Effluent: the 28,200 acre feet, plus losses, of annual effluent entitlement which the City assigned and conveyed to the United States by contract dated October 11, 1983, pursuant to the provisions of the Southern Arizona Water Rights Settlement Act.

3.13. Water Provider: a public entity that owns and operates a water utility system within the Tucson Active Management Area, provides water service, and holds a designation of assured water supply from the Arizona Department of Water Resources ("ADWR").

SECTION IV. PROVISIONS RELATING TO NON-METROPOLITAN EFFLUENT.

4.1. City Control Waiver. The City waives its right of unilateral control over the use and disposition of Effluent discharged from County treatment plants in Non-Metropolitan areas, provided, however, if any Effluent is put to a use other than Public Use, the following conditions will apply to such Effluent:

4.1.1 None of the Costs of distributing such Effluent from the point of production to the point(s) of use are charged to sewer ratepayers within the City of Tucson or to County taxpayers within the City of Tucson; and

4.1.2 None of the Costs of treating such Effluent to meet reuse plans, in excess of federal and state standards for discharge into the waters of the United States, are charged to sewer rate payers within the City of Tucson or to County taxpayers within the City of Tucson; and

4.1.3 County agrees that it will charge each user of such Effluent from a treatment plant located in a Non-Metropolitan Area a fee per acre foot which contains a production component which is not less than the City's actual average per acre foot operating Costs of the production/treatment of Reclaimed Water during the previous fiscal year; the City's operating Costs per acre foot of Reclaimed Water produced during the previous fiscal year shall be determined in accordance with the methodology described in Exhibit A hereto and the example of the application of that methodology in Exhibit A-1. The results of the application of the methodology for FY 1999 are stated in Exhibit B hereto. This provision will not apply to any existing contractual obligations of the County. This provision may be waived by mutual written agreement between the City and County.

4.1.4 If the disposal of Effluent from a treatment plant located in a Non-Metropolitan Area will reduce treatment costs, including capital, maintenance and operating expense, the projected savings per acre foot can be applied by the County to reduce the per acre foot fee required by the provisions of sub-paragraph 4.1.3 of this Agreement. In the event of such reduction, the County shall provide to the City substantiation of the projected savings from such disposal.

4.2. City Net Profit Waiver. The City waives its right to 50% of the net profit from the disposition of Effluent discharged from County treatment plants in Non-Metropolitan Areas provided that the conditions stated in Subsections 4.1.1, 4.1.2 and 4.1.3 are met with regard to such Effluent.

SECTION V: PROVISIONS RELATING TO EFFLUENT FOR RIPARIAN PROJECTS

5.1 Conservation Effluent Pool.

City and County agree that a pool of Effluent (the "Conservation Effluent Pool") shall be made available to Riparian Projects each year on the following terms and conditions:

5.1.1 The quantity of Effluent contributed per annum to the Conservation Effluent Pool shall be 5,000 acre feet during the five year period commencing on the effective date of this Supplemental IGA. After the five year period, a sufficient quantity of Effluent shall be contributed annually to the Conservation Effluent Pool to meet the demand for such Effluent by operators of Riparian Projects up to a maximum of 10,000 acre feet of total Effluent per annum. In the event that the total annual demand for Effluent by operators of Riparian Projects exceeds 10,000 acre feet, the City and County will meet and determine whether the quantity of Effluent contributed per annum to the Conservation Effluent Pool should be increased. In the event that the parties cannot agree on whether and how much to increase the Conservation Effluent Pool, the quantity of Effluent contributed to the Conservation Effluent Pool will not be increased.

5.1.2 Effluent in the Conservation Effluent Pool shall be contributed from Metropolitan Effluent on the following basis:

5.1.2.1 Effluent will be contributed to the Conservation Effluent Pool after the United States has taken the SAWRSA effluent;

5.1.2.2 From the Effluent remaining after the contribution to the Conservation Effluent Pool, the County will be entitled to take its 10%;

5.1.2.3 Any Effluent assigned to a Water Provider will bear its pro-rata share of the contribution to the Conservation Effluent Pool.

5.1.3 Effluent in the Conservation Effluent Pool shall be available to any entity (an "operator") that operates a Riparian Project. In the event that the quantity of Effluent in the Conservation Effluent Pool is insufficient to meet the demand, the Effluent shall be apportioned among the Riparian Projects. Effluent in the Effluent Conservation Pool not used in the year that the Effluent is contributed to the Pool shall not be carried over to the next year.

5.1.4 The terms and conditions by which Effluent will be made available to operators of the Riparian Projects shall be established in a Conservation Effluent Pool Agreement to be negotiated by the City and County not inconsistent with the terms and conditions of this Supplemental IGA.

5.2 Charges for Effluent for Riparian Projects

5.2.1 With regard to Riparian Projects not requiring Reclaimed Water, Effluent shall be made available from the Conservation Effluent Pool at no charge to the operator by the City. The operator requiring Effluent shall take delivery of the Effluent at the secondary treatment

facility and shall be solely responsible at the operator's sole cost and expense for transporting the Effluent to the Riparian Project.

5.2.2 With regard to Riparian Projects requiring Reclaimed Water, the City shall produce and deliver Reclaimed Water from the Conservation Effluent Pool to Riparian Projects on the following terms and conditions:

5.2.2.1 The City shall produce and deliver the Reclaimed Water on an interruptible basis to Riparian Projects and shall charge an Environmental Rate to be paid by operators or beneficiaries of the Riparian Projects. The Environmental Rate shall be based on recovery of the average operational expenses per acre foot of the production and delivery of Reclaimed Water in the Reclaimed Water System. Exhibit A describes the methodology to be used in determining these operational expenses; Exhibit A-1 illustrates the application of this methodology; and Exhibit B contains the rates that result from the application of this methodology.

5.2.2.2 Notwithstanding the City's obligation to deliver Reclaimed Water on an interruptible basis at an Environmental Rate, the City shall not be obligated to deliver Reclaimed Water if specific capital improvements are needed for the production or delivery of Reclaimed Water to a particular Riparian Project and the operator fails to finance the costs of the capital improvements.

5.2.3 Non-interruptible service of Reclaimed Water for Riparian Projects will be provided at the same price and on the same terms as retail service to users of Reclaimed Water.

SECTION VI. COUNTY AND FLOOD CONTROL DISTRICT COOPERATION IN EFFLUENT MANAGED RECHARGE PROJECTS IN SANTA CRUZ RIVER BED.

6.1. County agrees to execute the Consent in the form attached hereto as Exhibit C, to allow the City and the United States to use the County's land in the Santa Cruz River bed, between Roger Road and Ina Road, for the sole purposes of percolating and transporting effluent in County lands in the Santa Cruz stream bed for an effluent managed recharge facility.

6.2. Flood Control District agrees to execute the Consent in the form attached hereto as Exhibit D, to allow the City and the United States to use the Flood Control District's land in the Santa Cruz River bed, between Roger Road and Ina Road, for the sole purposes of percolating and transporting effluent in District lands in the Santa Cruz stream bed for an effluent managed recharge facility, subject to the District's right to construct and maintain bank protection and grade control structures.

6.3. County and Flood Control District hereby withdraw their protests of ADWR Permits Nos. 71-545944.001, 73-545943.0100 and 73-545943.0200 and stipulate to the dismissal of their appeals in Matter No. 99A-USWS001-DWR before the Office of Administrative Hearings. County and District agree to execute additional documents consistent with their withdrawal and stipulation for dismissal.

6.4. The City intends, with the United States, to file a joint application for an effluent managed recharge facility in the Santa Cruz River bed from Ina Road north to the northerly boundary of the Tucson Active Management Area. The City agrees to formally consult with the County and District in developing the joint application and agrees to provide the County and District with copies of all documents submitted to ADWR as part of the joint application.

6.4.1 County agrees that it will support the application and will execute and deliver to the City a Consent, in the form attached as Exhibit E, to allow the City to use the County's land in the Santa Cruz River bed north of Ina Road, for the sole purposes of percolating and transporting effluent in County lands in the Santa Cruz stream bed for an effluent managed recharge facility. County may, at its option, elect to join in the application set forth in Subsection 6.4.

6.4.2 Flood Control District agrees that it will support the application and will execute and deliver to the City a Consent, in the form attached as Exhibit F, to allow the City to use the Flood Control District's land in the Santa Cruz River bed north of Ina Road, for the sole purposes of percolating and transporting effluent in District lands in the Santa Cruz stream bed for an effluent managed recharge facility, subject to the District's right to construct and maintain bank protection and grade control structures.

6.5. City agrees that County may store Effluent in the managed recharge facilities of the City pursuant to an effluent storage permit issued by ADWR to the County. City agrees that, as part of the City program to recover its stored Effluent, it will recover, on an interruptible basis, Effluent stored by the County. The City will be responsible for operating such managed recharge facility and may charge a fee for the use of each such facility which allocates the operating costs among the users of the facility pro-rata to the quantity of Effluent stored in the facility. For County stored Effluent recovered by the City, the County agrees to pay the City's average operating costs per acre foot of producing Reclaimed Water. Exhibit A describes the methodology to be used in determining these average operational expenses; exhibit A-1 illustrates the application of this methodology; and Exhibit B contains the rates that result from the application of this methodology. In the event that the County is paying a storage fee pursuant to Subsection 6.7 based upon pre-storage treatment costs, pre-storage treatment costs will be excluded from the average operational expenses charged to the County for recovery of stored Effluent.

6.6. The City shall not undertake any managed or constructed recharge project, or recovery plan associated with same, which proximately results in groundwater pollution, associated with any landfill, which violates state or federal water quality standards. In the event that the City's activities in this regard cause actual pollution to the groundwater from an existing landfill, in violation of state or federal water quality standards, the City shall be responsible for any remediation required as a proximate result of the City's activities. City agrees to regularly consult with County with regard to managed and constructed recharge facilities and recovery plans associated with same in order to protect the groundwater from pollution from any landfill and promote remediation programs. City agrees to consult with County to determine whether recovery wells can be placed in locations that assist the County in its remediation of pollution from County landfills.

6.7. The County has federal National Pollution Discharge Elimination Permits for the discharge of effluent to the Santa Cruz River for the Ina Road Regional Wastewater Treatment Facility (No. AZ0020001) and the Roger Road Regional Wastewater Treatment Facility (No. AZ0020923). The County is obtaining a State Aquifer Protection Permit for discharging effluent to the Santa Cruz River for both the Ina and Roger Road Regional Wastewater Treatment Facilities. The County will continue to be responsible for meeting the requirements of these permits or future permits if effluent is discharged from either facility into the Santa Cruz River, a water of the United States. If additional treatment is legally required because of the existence of a City managed recharge facility, the City will be responsible for the additional treatment costs and may establish a storage fee for use of the facility to recover these pre-storage treatment costs pro-rata, among the storage permittees, to the amount of Effluent stored.

SECTION VII. CONSTRUCTED EFFLUENT RECHARGE PROJECTS

7.1. City, County and Flood Control District agree to cooperate in planning and establishing Effluent constructed recharge projects for City and/or County operation in the Metropolitan Area. The constructed recharge facilities will be available for storage of SAWRSA Effluent and Effluent of the City, the County and Water Providers. The County has federal National Pollution Discharge Elimination Permits for the discharge of effluent to the Santa Cruz River for the Ina Road Regional Wastewater Treatment Facility (No. AZ0020001) and the Roger Road Regional Wastewater Treatment Facility (No. AZ0020923). The County is obtaining a State Aquifer Protection Permit for discharging effluent to the Santa Cruz River for both the Ina and Roger Road Regional Wastewater Treatment Facilities. The County will continue to be responsible for meeting the requirements of these permits or future permits if effluent is discharged from either facility into the Santa Cruz River, a water of the United States.

7.2. The City will be responsible for constructing any constructed recharge facility that the City operates and may charge a storage fee for the use of each such facility which allocates the amortized construction costs among the users of the facility pro-rata to the quantity of Effluent stored in the facility. In the event that the Federal and/or State standards for discharge into a constructed recharge project are higher than the standards for discharge into the stream bed, the City, if it decides to establish a constructed recharge facility, will be responsible for additional treatment costs and will include these as a pre-storage treatment cost element in the storage fee for the use of each such facility.

7.2.1 The City may choose to require each user of the facility to finance the construction costs pro-rata to the quantity of Effluent stored by that user in the facility, in lieu of the construction component of the storage fee.

7.2.2 For County stored Effluent recovered by the City, the County agrees to pay the City's average operating costs per acre foot of production/treatment of Reclaimed Water. Exhibit A describes the methodology to be used in determining these average operational expenses; exhibit A-1 illustrates the application of this methodology; and exhibit B contains the rates that result from the application of this methodology. In the event that the County is paying a storage fee which includes a pre-storage treatment cost element pursuant to Subsection 7.2, this cost element will be excluded from the average operational expenses charged to the County for recovery of stored Effluent.

SECTION VIII. COUNTY COOPERATION IN CITY ESTABLISHMENT OF RECLAIMED WATER PRODUCTION FACILITY AT INA ROAD TREATMENT PLANT AND COUNTY EXPANSION OF ROGER ROAD TREATMENT PLANT.

8.1. County agrees to provide to the City approximately 10 acres of land on which the City can establish a Reclaimed Water production facility for Effluent from the Ina Road Treatment Plant. City and County will jointly select an appropriate, cost efficient parcel of land reasonably proximate to the Ina Road Treatment Plant. In the event that the City and County are unable to reach agreement on the parcel to be provided to the City within 365 days after the effective date of this Supplemental IGA, either the City or the County may submit the unresolved issues to alternative dispute resolution pursuant to Section XIV of this Supplemental IGA.

8.2. City agrees to provide to the County land for expansion or modification of the Roger Road Treatment Plant. City and County will jointly select an appropriate, cost efficient parcel of land reasonably proximate to the Roger Road Treatment Plant. In the event that the City and County are unable to reach agreement on the parcel to be provided to the County within 365 days after the effective date of this Supplemental IGA, either the City or the County may submit the unresolved issues to alternative dispute resolution pursuant to Section XIV of this Supplemental IGA.

SECTION IX. DIVISION OF EFFLUENT PRODUCED FROM THE NEW TREATMENT FACILITY AT INA ROAD.

9.1. County is constructing a new treatment facility at Ina Road, the product of which will be Effluent treated to a standard beyond secondary. Prior to completion of the new facility, City and County will attempt to reach agreement on protocols for access by the City and County to Effluent from the new facility. In the event that City and County are unable to reach agreement on such protocols, the following will govern access to Effluent from the new Ina Road facility:

9.1.1 County shall be entitled to take, from Available Effluent, up to its full daily entitlement of Effluent from the two Ina Road treatment plants. Effluent taken by the County from the Ina Road treatment plants shall be divided between the old treatment plant and the new treatment plant in the proportion which the average daily output of Available Effluent from each plant bore during the previous calendar year to the average daily output of Available Effluent from the two plants. The County may choose to take a portion of its 10% share from the Roger Road plant, provided that Effluent taken from the Roger Road plant shall be excess to the needs of the City.

9.1.2 The Conservation Effluent Pool will be divided among the Roger Road plant Effluent, the old Ina Road plant Effluent, and the new Ina Road plant Effluent in the proportion which the average daily Effluent output of each plant bore in the previous calendar year to the total average daily Effluent output of the three plants.

9.1.3 The City shall be entitled to take up to its full 90% of the Effluent divided among the Roger Road plant Effluent, the old Ina Road plant Effluent, and the new Ina Road plant Effluent in the proportion which the average daily output of Available Effluent from each plant bore in the previous calendar year to the total average daily output of Available

Effluent from the three plants, and subject to the availability of Effluent from the Ina Road plants after the County has taken its 10% share. The City may choose to take a larger than proportionate share from the Roger Road plant, in which case the remainder of the Effluent to which the City is entitled from each of the Ina Road plants shall be in the proportion which the average daily output of Available Effluent from each of the Ina Road plants bore in the previous calendar year to the total average daily output of Available Effluent from the Ina Road plants.

9.2. The United States may take its Effluent from the three treatment plants in accordance with a protocol to be agreed between the City and the United States. That protocol will provide that the United States share of Effluent from the new Ina Road facility shall be no greater than the proportion which the average daily output of Effluent from the new Ina Road facility bore in the previous calendar year to the total average daily output of Effluent from the Roger Road plant and the two Ina Road plants.

9.3. Each Water Provider to which the City assigns Effluent shall be entitled to take its Effluent on the basis of the protocol in the agreement between the assignee and the City. That protocol will provide that the Water Provider's share of Effluent from the new Ina Road facility shall be no greater than the proportion which the average daily output of Available Effluent from the new Ina Road facility bore in the previous calendar year to the total average daily output of Available Effluent from the Roger Road plant and the two Ina Road plants. Each assignment agreement between the City and a Water Provider shall provide that the Water Provider takes the Effluent subject to the obligations of the City to the County with regard to that Effluent.

SECTION X. CITY/COUNTY COORDINATION IN WASTEWATER TREATMENT AND RECLAIMED WATER PLANNING, PERMITTING, OPERATION AND MAINTENANCE.

10.1. City and County will meet regularly to discuss issues of mutual concern.

10.2. City and County agree to establish protocols for coordination of the planning, permitting, operation and maintenance of wastewater treatment facilities and programs by the County, the coordination of the planning, permitting, construction, operation and maintenance of flood control facilities, and the coordination of the planning, permitting, operation and maintenance of reclaimed water treatment and delivery facilities and programs by the City.

10.3. City and County agree to consult and cooperate with regard to state and federal wastewater treatment standards and effluent reuse standards with the goals of reducing costs and maximizing the use of Effluent and Reclaimed Water in the water service area of the Effluent user to replace groundwater use and to supplement potable water supplies.

10.4. City and County and District each agree that before filing any administrative or legal protest against an application for permit filed by one of the other parties to this Supplemental IGA, it will give written notice to the applicant and, if feasible, will meet with the applicant and discuss the reasons for the protest.

10.5. City and County agree to annually provide to each other the costs of producing Effluent, recovered Effluent and Reclaimed Water from the Metropolitan and Non-Metropolitan Areas.

10.6. City agrees to provide advance notice to, and consult with, the County as to any activity which would result in material changes in the chemical composition or quality of water which the County treats.

SECTION XI. COUNTY USE OF EFFLUENT FROM TREATMENT PLANTS IN THE METROPOLITAN AREA.

11.1. The County may put its Effluent from treatment plants in the Metropolitan Area on any County property to Public Use.

11.2. The County will not sell, transfer, exchange or assign to any other person or entity, Effluent or Reclaimed Water from any treatment facility in a Metropolitan Area except as provided in Article III H of the 1979 IGA, unless the City agrees in writing to such sale, transfer, exchange or assignment.

11.3. The City agrees to produce, from County Effluent, and deliver County Reclaimed Water in existing City production and delivery facilities on an interruptible as-available basis, and to charge the County for these services at the Environmental Rate.

SECTION XII. RANDOLPH PARK TREATMENT PLANT.

12.1. The Randolph Park Treatment Plant has not been operated since 1995. City and County agree that the Randolph Park Treatment Plant shall be restored to operation on the following basis.

12.1.1 City shall cause the utility service associated with the Randolph Park Treatment Plant which was severed in 1995 to be restored to operating use.

12.1.2 County shall repair and upgrade the wastewater treatment facilities at Randolph Park and, at no cost to the City, shall operate the facilities.

12.2. During the Initial Delivery Period, up to an average of 1,000 acre feet per year of Reclaimed Water from the Randolph Park Plant, as requested by the City, shall be made available to the City for use on the Randolph Park golf courses and Reid Park and in the City Reclaimed Water system. After the Initial Delivery Period, up to an average of 740 acre feet per year of Reclaimed Water from the Randolph Park Plant, as requested by the City, shall be made available to the City for use on the Randolph Park golf courses and Reid Park.

12.3. The balance of the Reclaimed Water produced by the Randolph Park Plant may be put to Public Use by the County. The City agrees to wheel the County Reclaimed Water produced by the Randolph Park Plant in existing City delivery pipelines at a fee based on the average operating expenses of the Reclaimed Water distribution system. With regard to Randolph Park water delivered to Kino Park, the County shall pay a capital charge related to the costs of the Kino pipeline. Exhibit A describes the methodology to be used in determining the operating expenses; Exhibit A-1 illustrates the application of this methodology; and Exhibit B contains the operating expense component of the Randolph Park wheeling rate that results from the application of the methodology. The capital component shall be calculated in accordance with Exhibits G and G-1. The duration of the capital component shall be determined in

accordance with the provisions of Exhibit G. Any Reclaimed Water produced by the Randolph Park Plant that is excess to the needs of the County will be utilized by the City in its Reclaimed Water system.

SECTION XIII. RECIPROCAL EASEMENTS.

13.1. County agrees to grant, at no charge to City, easements and rights of way over County property for water pipelines and related facilities, and for storage, treatment and pipeline facilities to facilitate City use and disposition of its Effluent and Reclaimed Water, and County shall bear no costs associated therewith.

13.2. City agrees to grant, at no charge to County, easements and rights of way over City property for wastewater pipelines, including sludge lines, and related facilities, and for storage, treatment and pipeline facilities to facilitate County use of its Effluent and Reclaimed Water, and City shall bear no costs associated therewith.

SECTION XIV. ALTERNATIVE DISPUTE RESOLUTION

14.1. The following non-binding alternative dispute resolution process shall be followed for any dispute arising under this Supplemental IGA or the 1979 IGA.

14.1.1 The City and the County shall meet and confer about the issue or issues in an attempt to resolve the dispute. If there are issues that cannot be resolved by City and County, each shall appoint one arbitrator to a three party panel of arbitrators which will decide the dispute. The appointment of the two arbitrators will occur within 30 days of the meeting referred to above.

14.1.2 Arbitrators appointed to the arbitration panel shall be skilled and experienced in the field or fields pertaining to the dispute. The two selected arbitrators shall meet within 30 days of the later of the two arbitrator's appointment, and at their first meeting they shall appoint a third neutral arbitrator to complete the arbitration panel. The third arbitrator shall act as a chairperson of the arbitration panel and shall direct the arbitration proceedings.

14.1.3 The arbitration process shall be limited to the issue or issues submitted by the City or the County. The arbitration panel shall not rewrite, amend, or modify this Supplemental IGA, the 1979 IGA or any other agreement or contract between the Parties.

14.1.4 There shall be no discovery beyond the information and documents made available during the informal meet and confer process provided for in 14.1.1 and the general exchange or availability of records provided for within the 1979 IGA.

14.1.5 No formal evidentiary hearing shall be provided unless one is requested by either the City or the County in writing, at the same meeting that the neutral arbitrator is appointed. Assuming that no hearing has been requested, the arbitration panel will meet as deemed necessary by the panel and shall, in a manner it deems appropriate, receive evidence, receive argument or written briefs from the City and the County, and otherwise gather whatever information is deemed helpful by the panel. The arbitration process to be followed

shall be informal in nature, and the City and the County shall not be entitled to trial-type proceedings under, for example, formal rules of evidence.

14.1.6 In the event that either the City or the County requests a hearing, the arbitration panel shall meet to receive evidence, receive argument and written briefs from the City and the County as follows:

14.1.6.1 The arbitration panel shall, within 5 days of the appointment of the neutral arbitrator, schedule a date for a hearing which shall be held within 20 days of the appointment of the neutral arbitrator.

14.1.6.2 Within 10 days of the appointment of the neutral arbitrator, the City and the County shall each submit a brief of no longer than 15 pages setting forth its case. The brief shall include discussion of all issues relevant to the party's case. Each party shall, as an attachment to its brief, include declarations of not more than two experts and any relevant factual witness. Declarations of expert witnesses must include all opinions to be elicited upon direct testimony and a complete explanation of the basis of these options. Disputes with respect to the sufficiency of declarations or the appropriateness of the testimony shall be resolved by the witnesses available for cross-examination at the time of the arbitration hearing. Factual witnesses for which a declaration is prepared shall be made available for cross-examination at the time of the arbitration hearing only if requested by the other party.

14.1.6.3 Each party shall have the opportunity, within 5 days of the close of hearing, to submit a closing brief not to exceed 10 pages. The closing brief shall be argument with no additional factual evidence to be submitted.

14.1.6.4 There shall be no testifying witness on direct except for expert witnesses.

14.1.6.5 Each party shall have a maximum of four hours to present its case in total. This time shall include opening and closing statements, direct presentation and any cross-examination of the other party's witnesses. Each party shall have the right to reserve part of its time to present up to one hour of rebuttal testimony.

14.1.6.6 The matter shall be deemed submitted at the submission of closing briefs.

14.1.7 The panel of arbitrators shall render its final decision in the dispute within 60 days after the date of naming the third arbitrator. If the arbitrators disagree as to the determination, any two of the three arbitrators may join to form a majority and the decision of those two arbitrators will be final for the panel. The panel will issue a written decision for the City and the County.

14.2. If either the City or the County declines to accept the decision of the arbitration panel, it may initiate an action in the appropriate court within 60 days of the issuance of the panel's written decision to obtain a judicial determination of the underlying dispute. If an action is not filed within 60 days of the panel's decision, the decision of the panel shall be deemed to be final and not subject to judicial review. The decision of the panel and record of the

arbitration shall not be privileged and may be submitted as part of the record by either side in support of its case.

14.3. All costs incurred by the arbitration panel shall be shared equally by the City and the County, and the expenses of the arbitration panel shall be paid expeditiously.

14.4. During the period of time in which a disagreement is being addressed in the ADR process or appropriate judicial proceeding, the City and the County agree that no default or breach of any agreement being addressed in the process will have occurred.

SECTION XV. PENDING LITIGATION.

15.1. The Parties agree that they will within 30 days after the effective date of this Supplemental IGA, stipulate to the dismissal of Matter No. CV99-18367 without prejudice, each party to bear its own costs and attorneys' fees.

SECTION XVI. DURATION AND TERMINATION

This Agreement shall continue indefinitely and shall be subject to termination by any of the parties or their successors or assigns upon one year's prior written notice and based only upon the material breach of the provisions of this Supplemental IGA. The termination of this Supplemental IGA will constitute a termination of the 1979 IGA.

SECTION XVII. MISCELLANEOUS

17.1. Effective Date. This Supplemental IGA shall be effective upon filing of the original executed Supplemental IGA with the Office of the Pima County Recorder.

17.2. Legal Jurisdiction. Nothing in this Supplemental IGA shall be construed as either limiting or extending the legal jurisdiction of the City or the County or the District.

17.3. Assignment. The terms of the Supplemental IGA shall be binding on the successors and assigns of the parties hereto.

17.4. Remedies. Any party to this Supplemental IGA may seek specific performance hereof, or any other judicial relief in the event of breach of this Supplemental IGA. The election of a remedy shall not be deemed a waiver of any other remedy.

17.5. Modification. City and County recognize that from time to time modification of this Supplemental IGA may be necessary in order to meet the needs and requirements of the community in future years. Therefore, City and County agree that, from time to time, either party to this Supplemental IGA may, upon thirty (30) days prior notice to the other, request a joint meeting of City and County officials to discuss proposed changes to this Supplemental IGA.

17.6. Non-Severability. If any portion of this Supplemental IGA is finally adjudicated invalid, the entire Supplemental IGA shall be null and void. The provisions of this Supplemental IGA are intended to be non-severable.

SIGNED AND ATTESTED this 7th day of February, 2000.

CITY OF TUCSON, a municipal corporation

By _____
Mayor

ATTEST AND COUNTERSIGNED:

_____
CITY CLERK

APPROVED PURSUANT TO A.R.S
Sec. 11-952(d) AS AMENDED

_____
CITY ATTORNEY

PIMA COUNTY, a political subdivision of the State of Arizona

By _____
Chair, Board of Supervisors FEB 0 8 2000

ATTEST:

_____
CLERK OF THE BOARD

APPROVED PURSUANT TO A.R.S.
SEC. 11-952(d) AS AMENDED:

Harlan Agnew
PIMA COUNTY ATTORNEY

PIMA COUNTY FLOOD CONTROL DISTRICT,
a political subdivision of the State of Arizona

By Sharon Bronson
Chair, Board of Directors FEB 0 8 2000

ATTEST:

Lori Godshun
CLERK OF THE BOARD

APPROVED PURSUANT TO A.R.S.
SEC. 11-952(d) AS AMENDED:

Hal Gilbreath
PIMA COUNTY ATTORNEY

EXHIBIT A
To Supplemental IGA

EXHIBIT A
To Supplemental IGA

O&M AND CAPITAL COSTS PER A.F. FOR RECLAIMED WATER

The City's actual system-wide cost per acre foot for *producing* reclaimed water during the most recently completed fiscal year consists of two elements, an Operations & Maintenance (O&M) cost element and a Capital cost element. The City's actual system-wide cost per acre foot for *distributing* reclaimed water during the most recently completed fiscal year also consists of the same two cost elements. For the purposes of this analysis only, the O&M and capital cost elements shall be divided by the acre feet of reclaimed water produced at the City's Reclaimed Water Treatment Plant(s), to calculate the cost per acre foot.

The methodology for the necessary calculations is described below and illustrated in the attached example calculations in Exhibit A-1.

I. O&M Element

A. Expenses recorded in the City account(s) directly responsible for operating the reclaimed water system (currently there is only one such account, 081-710-7127) shall be segregated into three components: (a) 'production/treatment,' (b) 'distribution'; (c) 'administrative/support.' This segregation will be made on the basis the City's Job Cost Report for account 081-710-7127, which provides sufficient information to allow such segregation.

B. 'Administrative/support' expenses shall be allocated to 'production/treatment' and 'distribution' based on the percentage relationship each has to the sum of the two.

C. Total direct 'production/treatment' and 'distribution' expenses shall be increased by an allocation of expenses from (a) other City accounts whose personnel contribute to operating the reclaimed water system and (b) other City accounts whose personnel are responsible for overall management of the City's Water Utility.

D. The specific City accounts whose personnel contribute to operating the reclaimed water system may change over time due to Water Utility re-organizations or other factors. Currently, the specific accounts are: 081-710-7472 and 081-710-7137 (maintenance functions); 081-710-7431 (water quality testing); and 081-710-7426, 081-710-7427, 018-710-7428, and 081-710-7457 (engineering).

E. The bases of allocation for the current specific accounts whose personnel contribute to operating the reclaimed water system shall be as follows and in the order indicated:

1. 081-710-7472: reclaimed water usage as a percentage of the sum of potable and reclaimed usage.

2. 081-710-7137: sum of 081-710-7127 non-power expenses and 081-710-7472 allocation to reclaimed water, as a percentage of total expenses of 081-710-7157, 081-710-7177, 081-710-7227, 081-710-7237, 081-710-7117 (non-power), 081-710-7435, 081-710-7472, and 081-710-7127 (non-power).

3. 081-710-7431: reclaimed water usage as a percentage of the sum of potable and reclaimed usage.

4. 081-710-7426; 081-710-7427; 081-710-7428; and 081-710-7457: reclaimed water system capital additions for the year as percentage of sum of potable and reclaimed systems' additions, excluding additions of land and meters/services.

5. Since the preceding allocation bases for these specific City accounts are numerous as well as complex, to simplify calculations, the net percentage results projected in the City's water rate model for FY 1999 shall be used.

6. That percentage is 11.9% of the total expenses for the specific City accounts.

7. This percentage shall be updated every three years, or when specific accounts change, or when existing allocation factors change, whichever comes first.

F. The specific City accounts whose personnel are responsible for the overall management of the Water Utility or for general administrative support may change over time. Currently, the specific accounts are: 081-710-7416; 081-710-7417; 081-710-7418; 081-710-7432; 081-710-7434; 081-710-7441; 081-710-7475; 081-710-7425; 081-710-7429; 081-710-7430; 081-710-7470; 081-710-7217; 081-710-7437; 081-710-7438; and 081-710-7439.

1. Allocation bases for these specific City accounts are numerous as well as complex. To simplify calculations, the net percentage results projected in the City's water rate model for FY 1999 shall be used.

2. That percentage is 2.3% of the total expenses for the specific City accounts.

3. This percentage shall be updated every three years, or when specific accounts change, or when existing allocation factors change, whichever comes first.

G. Expenses in E and F shall be allocated to 'production/treatment' and 'distribution' based on the percentage relationship of the two identified in B above.

H. Miscellaneous revenues and operating fund interest earnings available for financing the Water Utility's total O&M shall also be allocated between the potable and reclaimed water systems. To simplify calculations, the percentage of these revenues allocated to reclaimed water in the City's water rate model for FY 1999 shall be used.

1. That percentage is 6.9% of the sum of miscellaneous revenues and operating fund interest earnings.

2. This percentage shall be updated every three years, or when existing allocation factors change, whichever comes first.

3. The revenues allocated to reclaimed water O&M shall be distributed between 'production/treatment' and 'distribution' based on the percentage relationship the expenses of each has to the summed expenses of the two.

4. The 'production/treatment' revenues shall be deducted from the 'production/treatment' expenses.

I. The resulting totals for 'production/treatment' and for 'distribution' shall then each be divided by the reclaimed water produced (in acre feet) for the given fiscal year, as reported by the City's Reclaimed Water Treatment Plant(s), providing the O&M cost per acre foot to produce or distribute reclaimed water for that year.

II. Capital Element

A. Capital expenditures financed by City Water Utility revenues shall be identified and segregated. For FY 1999, such expenditures are composed of the following items: (a) equipment with a unit cost greater than $1,000; (b) debt service payments on bonds secured by water revenues, excluding amortization of any loss or gain on bond refundings; (c) contract payments for capital water facilities (such as those related to the purchase of private water companies); and (d) that portion of the Water Utility's capital program financed by annual revenues. These items may change over time. These capital expenditures occur in City accounts too numerous to list. Should Pima County request a specific listing by account and expenditure amount, the City will provide such a listing.

B. Capital-related revenues and other funding sources, exclusive of Water Utility revenues, shall be identified and segregated from other revenues and sources. For FY 1999, such capital-related sources are composed of the following items: (a) water system connection fees; (b) area development fees recognized as revenue; (c) interest earnings on the debt service fund; (d) interest earnings on the Central Arizona Project reserve fund; (e) interest earnings from the settlement with Metropolitan Water Water Improvement District; (f) use of funds originating in the Metropolitan Water Company reserve account; (g) use of funds originating in the Central Arizona Project reserve fund; and (h) use of working capital originating in the Water Utility's operating fund. These items may change over time. These capital sources are recorded in City accounts too numerous to list. Should Pima County request a specific listing by account and revenue/source amount, the City will provide such a listing.

C. Capital expenditures in A above shall be reduced by capital sources in B above, resulting in the net capital costs to be recovered from revenues generated by the sale of water.

D. The net capital costs shall be allocated between the potable system and the production/treatment and distribution components of the reclaimed water system by restating net capital costs as the depreciation amounts on the respective systems and reclaimed components for the given fiscal year. Any remaining net capital costs shall be allocated based on the percentage relationship the assets of the potable system and each reclaimed component has to the sum of the assets of the three. The following specific allocation methodology shall be followed:

EXHIBIT A
To Supplemental IGA

1. Respective system asset identification shall be based on the City's Property Register which details the completed and installed water facilities of both the potable and reclaimed water systems, the City's 'Holding Account' which details the completed and installed water facilities of both systems which are awaiting entry on the Property Register, and the City's ledger for construction work-in-progress which details the water facilities of both systems currently underway but not completed. In all cases, asset identification shall exclude meters, hydrants, and any other customer-related asset costs, since customer-related costs are excluded from this agreement. Contributed capital for the respective systems shall also be identified and deducted from the previously identified asset totals for each system.

2. The asset total for the reclaimed system shall be segregated into three components: 'production/treatment,' 'distribution,' and 'other.' Specific accounts, too numerous to list, in the City's Property Register, Holding Account, and the ledger for construction in progress, provide the necessary segregation. 'Other' shall be allocated to 'production/treatment' and 'distribution' based on the percentage relationship each has to the sum of the two.

3. Assets, such as 'general plant' which cannot be specifically identified as belonging to either the potable system or the reclaimed system, shall be allocated to the potable system and to the 'production/treatment' and 'distribution' components of the reclaimed system based on the percentage relationship each has to the sum of the three.

4. Following the determination of assets attributable to the potable system and the 'production/treatment' and 'distribution' components of the reclaimed system, the depreciation for the given year, based on City Accounting depreciation factors for asset types, shall be calculated for the potable system and the 'production/treatment' and 'distribution' elements of the reclaimed system.

5. If the sum of depreciation for the potable system and the 'production/treatment' and 'distribution' components of the reclaimed system is less than the net capital cost to be allocated, the remaining portion of the net capital cost shall be allocated among the three, based on the percentage relationship the assets of each has to the sum of the three.

6. The resulting net capital cost for the reclaimed 'production/treatment' and 'distribution' components shall then each be divided by the reclaimed water produced (in acre feet) for the given fiscal year, as reported by the City's Reclaimed Water Treatment Plant(s), providing the capital cost per acre foot to produce reclaimed water for that year.