

LICENSE

THIS LICENSE, made this 25th day of JUNE, 1979, by and between the City of Tucson, a municipal corporation, hereinafter sometimes referred to as City, and Pima County, a political subdivision of the State of Arizona, hereinafter sometimes referred to as County.

WHEREAS, on the 25th day of JUNE, 1979, the City and County entered into an intergovernmental agreement (IGA) for the transfer of the City sewer system to Pima County; and

WHEREAS, that as part of the consideration for the above-mentioned intergovernmental agreement Pima County agrees to grant to the City of Tucson a license to use the public right-of-way within Pima County for the purpose of installing, extending, enlarging or maintaining the public water system owned, operated and maintained by the City.

NOW, THEREFORE, the City and County agree:

Sec. 1. A license is hereby granted by County to the City of Tucson to use the public right-of-way throughout Pima County for the purpose of providing water services to the inhabitants of Pima County.

Sec. 2.1. City of Tucson, for the duration of this license and for the purposes hereinabove expressed, shall have the right:

a. To construct and maintain and otherwise make changes in a water transmission and distribution system in or within public right-of-way in Pima County; and

b. To construct underground water lines and other appurtenances for the transmission, service and distribution of water throughout Pima County; to maintain this transmission, service and distribution system and any extension thereof; and to make any and all necessary excavations therefor, in, over, under and across all or any of the streets, alleys, avenues and public grounds of Pima County, to be exercised in such manner only, however, as to offer the least interference with the public use of said streets, alleys, avenues and public grounds, and all

CERTIFIED

6080-1031

subject to the valid applicable ordinances, rules and regulations of Pima County, all valid applicable State statutes, laws, and Constitutional provisions.

In undertaking any construction, maintenance, reconstruction or excavation work, upon any facilities located in, over, under or across said streets, alleys, avenues and public grounds, City or Tucson shall apply for and obtain an excavation and backfill permit, or require any contractor doing the work to apply for and obtain a permit, from the County and shall comply with the valid ordinances, rules and regulations of the County. No permit shall be denied in any instance where the City complies with the valid requirements therefor. In order to promote and protect continuing reliable water service, the City may undertake such emergency measures as it deems necessary when circumstances warrant, notwithstanding any other provisions hereof.

Sec. 2.2. Utility Planning and Coordination Committee

a. City agrees to include Pima County on the Utility Planning and Coordination Committee which has been established by City Ordinance No. 4465, adopted April 12, 1976. County agrees to be a member of this committee.

b. The purpose of the Utility Planning and Coordination Committee shall be as follows with respect to the City and County:

(1) To provide coordination between the County and the City in the expansion of the County sewer and the City water utilities, respectively.

(2) To insure that long-range planning of the County and the City on the extension of utility services maximizes the efficient and orderly expansion of the utility systems.

(3) To insure that the County and the City utility systems are expanded and modified in the public interest, avoiding undue cost burdens upon customers and taxpayers, that such expansions and modifications are coordinated in a manner to avoid arbitrary or reasonably avoidable interference with utility facilities of others.

(4) To minimize costs associated with growth or changes to the County and the City utility systems occasioned by changes, relocations or other modifications in those systems which affect presently existing facilities of the County and the City.

c. The Committee shall meet and review annually the proposed capital improvement programs of the City and the County for the succeeding fiscal year in accordance with the designated purposes of the Committee as set forth in Section 2.2(b) hereof and, should appropriate governmental action be deemed advisable, submit a recommendation of such action to the Mayor and Council or Board of Supervisors.

All proposed changes of the nature hereinafter set forth in the County sewer system or the City water system within Pima County shall be submitted to the Utility Planning and Coordination Committee sixty (60) days prior to the County or City commencing construction on any such project. Changes which shall be submitted to the Committee hereunder shall be, on the County's part, any extension, replacement or construction of new County sewer lines or other County facilities which would cause relocation of City facilities; on the City's part, any extensions, replacement or construction of new City water lines or other municipal facilities which would cause relocation of County facilities.

Sec. 3. The right, privilege and license hereby granted shall extend to and include all those streets, alleys, avenues and other public grounds as the same are now designated, or may be designated in the future within Pima County and any part thereof, or as now located or as they may be hereafter altered or extended within the present or any future limits of said Pima County.

Sec. 4. The City hereby agrees to indemnify and hold harmless the County, its officers, boards, commissions, employees, and agents against and from any and all claims, demands, causes

CERTIFIED

of action, suits, proceedings, regardless of the merits of the same, damages, including damages to County property, liability, costs or expenses of every type, all or any part thereof which arises by reason of any injury to any person or persons, including death, or property damage, resulting from the negligence of the City, its officers, agents, employees and servants while exercising any of the rights, privileges and powers granted herein, except where the County's negligence has in some manner contributed.

Sec. 5a. City of Tucson may pay for the cost of all repairs to County improvements made necessary by any of the operations of the City under the license granted hereby, or the City may make repairs to streets, sidewalks, curbs and gutters itself at its own cost in accordance with County specifications.

Sec. 5b. The County agrees to bear the cost of any relocation or adjustment of County sewer facilities caused by City construction projects undertaken in County right-of-way. The foregoing provisions shall not be applicable where State or Federal funds are provided for payment of utility relocation costs. The County will accomplish such relocation in a timely fashion so as to not unduly delay the County project. City?

Sec. 5c. County agrees to bear the cost of any relocation or adjustment of City water facilities caused by County construction projects undertaken in County right-of-way.

Sec. 6. Effective Date of License. This license shall be effective upon filing the original executed license with the office of the Pima County Recorder.

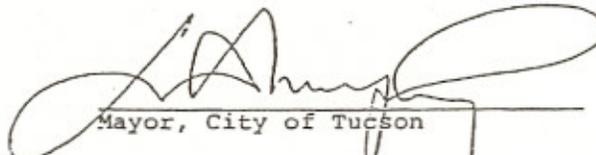
Sec. 7. Duration. This license shall terminate on June 30, 1979, at midnight, if the provisions of Article VIII of the intergovernmental agreement have not been fully executed. If the provisions of Article VII of that agreement have been fully executed by midnight on June 30, 1979, then this license shall continue indefinitely and shall be subject to termination

CERTIFIED

by any of the parties or their successors or assigns hereto upon ninety (90) days prior written notice and based only upon the material breach of the provisions of the intergovernmental agreement.

Sec. 8. Legal Jurisdiction. Nothing in this license shall be construed as either limiting or extending the legal jurisdiction of either the City or the County.

Sec. 9. Assignment. Subject to the provisions of Article VII of the intergovernmental agreement, the terms of this license shall be binding on the successors and assigns of the parties hereto.



Mayor, City of Tucson

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney



Chairman, Pima County Board of Supervisors

ATTEST:



Clerk, Board of Supervisors

APPROVED AS TO FORM:



Rose Silver, Special Counsel
to the Civil Division of the
Pima County Attorney's Office