



ARIZONA WATER COMPANY

AGREEMENT FOR EXTENSION OF WATER FACILITIES

CUSTOMER: Tucson Copper Hill Estates, LLC
Name

6216 Baker Road Ste 200
Address

Eden Prairie, MN 55436
City and State Zip Code

Contract No. 3463
 W.A. No. 2-3948

DATE OF AGREEMENT: October 7, 2005

DATE OF COST ESTIMATE: (Attachment "A"): October 7, 2005 WATER SYSTEM: Oracle

WATER FACILITIES: Install an onsite water distribution system to serve Copper Hill Estates as per drawing (Attachment "B").

REFUNDABLE ADVANCE IN AID OF CONSTRUCTION for:	<u>Installation of 6,045 L.F. of 8" D.I.P. and 275 L.F. of 6" D.I.P. with related fittings and 61 service connections.</u>	\$	<u>296,925</u>
NON-REFUNDABLE CONTRIBUTION for:	<u>Installation of 13 fire hydrants</u>		<u>25,107</u>
		AGREEMENT TOTAL	\$ <u>322,032</u>
		LESS: COST OF CONSTRUCTION	<u>294,707</u>
		BALANCE DUE	\$ <u>27,325</u>

THIS AGREEMENT is made and entered into by and between ARIZONA WATER COMPANY, an Arizona corporation, (hereinafter called the "Company"), and the Customer named above. In consideration of the services to be performed by the Company and the sums of money to be paid by the Customer, in accordance with the related Cost Estimate, it is agreed as follows: (SEE ADDENDUM, ATTACHED HERETO)

- The Company will construct, or will arrange for the construction of the Water Facilities as described above.
- The Customer will pay to the Company upon signing this Agreement the Total shown above, receipt of which is hereby acknowledged by the company. The Total shown above to be paid by the customer to the Company is the Company's estimated cost of construction of the Water Facilities. The Company will determine and inform the Customer of the actual cost of construction within sixty (60) days after the completion of construction or the Company's receipt of all invoices and charges related to the construction. If the Company's actual cost of construction is less than the Total amount paid, the Company will refund the difference to the Customer; conversely, if the Company's actual cost of construction is more than the Total amount paid, the Customer shall pay the difference to the Company within sixty (60) days of receipt of an invoice from the Company. However, if the actual cost is more than five percent (5%) greater than the Total amount paid, the Customer will only be required to pay five percent (5%) more than the Total amount paid, unless the Company can demonstrate that the increased costs were beyond its control and could not be foreseen at the time the estimate for the Total amount paid was made. The Company and the Customer further agree that the amount subject to refund pursuant to paragraph 3 of this Agreement shall be the refundable portion of the Company's actual cost of construction. Information about the actual cost of construction will be attached to this Agreement and forwarded to the Customer.
- Refunds of any advances in aid of construction shall be made as follows: Each year for a period of 10 years the Company shall pay to the Customer or the Customer's assignee or successor in interest, provided the Company has first received written notice and evidence of such assignment or succession and approved of same, an amount equal to 10 percent of the total gross annual revenue received by the Company from water sales to each bona fide customer whose service line is directly connected to pipelines installed pursuant to this Agreement. Refunds shall be made by the Company on or before August 31 of each year, covering any water revenues received during the preceding July 1 to June 30 period. *Any balance remaining subject to refund at the end of the 10-year period shall become non-refundable.* Aggregate refunds shall in no event exceed the total of the refundable advance in aid of construction received from the Customer. No interest shall be paid by the Company on any amounts paid hereunder.
- All Water Facilities installed under this Agreement shall be the sole property of the Company, and the customer shall have no right, title or interest in or to any such facilities.
- The size, design, type and quality of materials and of the system, location and manner of installation, shall be specified by the Company and shall comply with requirements of the Arizona Corporation Commission or other public agencies having authority therein.
- The Customer agrees to furnish to the Company adequate and recordable easements and required surveying necessary to serve each parcel or lot within the Customer's subdivision, tract, development, or project.
- The Customer agrees that all easements and rights-of-way shall be free of obstacles which may interfere with the construction of the Company's Water Facilities. If the Customer's subdivision, tract, development, or project involves road construction, all roads and drainageways will be brought to grade by the Customer prior to the commencement of the installation of the Company's Water Facilities. No pavement or curbs shall be installed prior to completion of all Water Facilities. If any street, road, alley or drainageway is installed at a different grade or location after the beginning of the installation of Water Facilities, the Customer shall bear all costs incurred by the Company to relocate the Water Facilities as a result of said facilities having improper cover or location. Such costs shall be non-refundable.
- The Customer agrees to pay to the Company any additional costs incurred as a result of design changes made or caused by the Customer or its employees, agents, servants, contractors or subcontractors, the Arizona Department of Environmental Quality, the Arizona Corporation Commission, any county health department or other public agency under whose jurisdiction the subject construction may fall, or anticipated or un-anticipated changes in existing Company facilities, due to any work associated with this subdivision, tract, development or project which causes said facilities to have improper cover or location.
- This Agreement shall be binding upon and for the benefit of the successors and assigns of the Company and the Customer. No assignment or transfer of this Agreement by the Customer shall be binding upon the Company or create any rights in the assignee until such assignment or transfer is approved and accepted in writing by the Company.
- This Agreement, and all rights and obligations hereunder, including those regarding water service to the Customer, are subject to the Arizona Corporation Commission's "Rules and Regulations Relating to the Operation of Domestic Water Utility Companies" and the Company's tariff schedule TC-243, "Terms and Conditions for the Provision of Water Service."

ARIZONA WATER COMPANY
 Company

Date Approved: 2-1-06

TUCSON COPPER HILL ESTATES, LLC
 Customer

By: [Signature]
 Title: S.R. ENGINEER

Decision No.: _____
 Director of _____
 Arizona Corporation Commission

By: [Signature]
 Title: _____

KD

By: Bradley H. Morton

**AGREEMENT FOR EXTENSION
OF WATER FACILITIES**

This Addendum to Agreement for Extension of Water Facilities (the "Agreement") is made and entered into as of the 7 day of October, 2005 by and between Arizona Water Company ("Company") and Tucson Copper Hill Estates, LLC ("Customer") for the extension of water service and facilities to serve Copper Hill Estates (the "Subdivision").

The Agreement is hereby modified and amended by mutual agreement of the parties in the following particulars:

1. Section 1 of the Agreement is revised to read as follows:

Customer will arrange for and bear the cost of the construction of all the mains, fire hydrants, and services totaling approximately 6,045 L.F. of 8" D.I.P., 275 L.F. of 6" D.I.P., 61 service connections with related fittings and 13 fire hydrants (collectively, the "Water Facilities") in accordance with plans and specifications reviewed and approved by the Company, and in accordance with the Company's current Construction Specifications & Standard Specification Drawings. Upon final acceptance by the Company, Customer shall thereafter transfer and convey the Water Facilities to the Company by Bill of Sale, together with a perpetual easement for the maintenance thereof, both documents to be prepared and approved by the Company. Customer shall furnish any document pertaining to ownership and title as may be requested by Company including documents which evidence or confirm transfer of possession to Company, and good and merchantable title free and clear of liens, or which contain provisions for satisfaction of liens by Customer. All risk or loss of the water facilities shall be with the Customer until written acceptance by the Company, or any portions thereof. Customer shall repair or cause to be repaired promptly, and at no cost to Company, all damage to the Water Facilities caused by Customer's construction operations until all construction in development for Customer has been completed. Customer acknowledges that Company has the right to, and may in the future, connect its existing or future water systems to the Water Facilities.

2. Section 2 of the Agreement is deleted in its entirety.

3. Section 8 of the Agreement is revised to provide that the Customer shall pay any additional costs incurred as the result of design changes made or caused by any of the persons or entities named therein and shall hold Company harmless therefrom.

4. It is further agreed that the Customer will advise all contractors asked to bid the construction of the Water Facilities that Customer will assign to the Company the duty of inspecting the installation of the Water Facilities for compliance with the Company's current Construction Specifications & Standard Specification Drawings, as referenced in Section 1 of this Addendum. If requested by Company, Customer shall "oversize" the Water Facilities as specified by Company. Company shall reimburse Developer for the differential in material prices of the oversized pipe and appurtenances, versus the material prices of the pipe and appurtenances as specified by the Company in the approved plans.

The Customer agrees to require the contractor which will be installing the Water Facilities to arrange for and attend a pre-construction conference with the Company's Division Manager at least two weeks prior to commencing construction of the Water Facilities. Customer shall obtain from the Company a signed Commencement Notice before construction of the Water Facilities begins. Developer's contractor shall comply with the Company's inspection and testing requirements for Water Facilities. Developer/contractor shall give Company adequate notice when the Water Facilities are ready for inspection and testing.

The Company specifically reserves the right to withhold final acceptance of the Water Facilities unless said facilities have been constructed in accordance with the approved plans and specifications and are satisfactory to Company upon inspection and testing. Customer agrees that it will promptly correct all material defects and deficiencies in construction, materials and workmanship upon request by Company made subsequent to inspection by Company and for one year following Company's written final acceptance of the Water Facilities in accordance with the terms of this Agreement.

Customer hereby assumes the entire responsibility and liability for injury or death of any person, or loss or damage to any property contributed to or caused by the active or passive negligence or willful acts or omissions of Customer, its agent, servants, employees, contractors or subcontractors in the execution of the work or in connection therewith. Accordingly, Customer will indemnify and hold harmless the Company, its officers, directors, agents and employees from and against claims or expenses, including penalties and assessments and attorneys' fees to which they or any of them may be subjected by reason of such injury, death, loss, claim, penalty, assessment or damage caused by the active or passive negligence or willful acts or omissions of Customer, its agents, servants, employees, contractors or subcontractors in the execution of the work or in connection therewith: and in case any suit or other proceeding shall be brought on account thereof, Customer will assume the defense at Customer's own expense and will pay all judgements rendered therein. In connection therewith, the Customer shall maintain in full force and effect insurance at no less than the following minimum amounts:

WORKER'S COMPENSATION

In accordance with requirements of the laws of the State of Arizona.

COMPREHENSIVE GENERAL LIABILITY
(Including contractual liability covering death, bodily injury and property damage)

Combined single limit of not less than \$1,000,000 for each occurrence.

AUTOMOTIVE LIABILITY
(Including owned, non-owned and hired vehicles)

Combined single limit of not less than \$1,000,000 for each occurrence.

Such insurance shall name the Company, its officers, agents, and employees as additional insured and be primary for all purposes.

The Company will at all times have the right to require that all of such insurance be placed with insurance companies that are satisfactory to it. The Customer shall file with the Company a certificate evidencing that each policy of insurance for the above coverages in the minimum amounts

specified has been purchased and is in good standing.

Such certificate shall provide that notice be given to the Company at least thirty (30) days prior to cancellation or material change in the form of such policies or any of them. Such certificates shall be kept on file by the Company and the Company must have current certificates on file, or a certificate must accompany any bid proposal, before that proposal will be accepted by the Company.

It is agreed that the Company is not an agent for Customer and shall not incur any costs or expenses on behalf of Customer and that Customer is not an agent for the Company and shall not incur any costs or expenses on behalf of the Company.


5. Customer shall, within 60 days of operational acceptance of Water Facilities by Company, furnish Company with: (a) copies of all bills, invoices and other statements of expenses incurred by Customer covering all of the costs of materials, equipment, supplies, construction and installation of the Water Facilities; (b) lien waivers and releases from contractors, subcontractors and vendors for materials, equipment, supplies and construction included in the Water Facilities; (c) receipts, specifying exact amount of payments in full by Customer to all contractors, subcontractors and vendors for all materials, equipment, supplies, labor and other costs of construction of the Water Facilities; and, (d) 4-mil mylar "as-built" drawings certified as to correctness by an engineer registered in the State of Arizona and showing the locations, materials, sizes and pertinent construction details for Water Facilities.

6. Upon final acceptance, Company will provide water service to the Subdivision in accordance with the rates, charges and conditions set forth in the tariffs of Company as filed with the Arizona Corporation Commission. Those rates are subject to change from time to time upon action by the Commission.

7. Customer agrees that the completion of the Water Facilities will be timed so as to enable Company to provide water service to the Subdivision as such service is requested.

Except as set forth herein, and except as necessary to give effect hereto, the Agreement remains in full force and effect and is unmodified.

Company:
Arizona Water Company

By:  _____

Customer:
Tucson Copper Hill Estates, LLC

By:  _____