

CONTRACT	
NO.	<u>01-03-T-133586-1203</u>
AMENDMENT NO.	_____
This number must appear on all invoices, correspondence and documents pertaining to this contract.	

F. ANN RODRIGUEZ, RECORDER
 RECORDED BY: PSG
 DEPUTY RECORDER
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 PIMA CO CLERK OF THE BOARD
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INTERGOVERNMENTAL AGREEMENT
 BETWEEN
 THE CITY OF TUCSON
 AND
 PIMA COUNTY
 FOR
 TREATING EFFLUENT
 AND
 WHEELING RECLAIMED WATER

122010001

EX A TO RESOLUTION NO. 19730
 CITY OF TUCSON CONTRACT NO. 0249-04

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF TUCSON AND PIMA COUNTY
FOR TREATING EFFLUENT AND WHEELING RECLAIMED WATER**

This Intergovernmental Agreement for treating County Effluent and Wheeling County and other Reclaimed Water ("Wheeling Agreement") by and between the City of Tucson, Arizona, a municipal corporation ("City") and Pima County, a body politic and corporate of the State of Arizona, ("County"), is made as of this 8th day of December, 2003.

RECITALS

- A. The Wheeling Agreement set forth herein is made pursuant to the provisions of the City of Tucson-Pima County Supplemental Intergovernmental Agreement Relating to Effluent No. 01-30-T-127199-0200 effective March 14, 2000 ("Supplemental IGA"), the Intergovernmental Agreement between the City and the County, Contract Number 01-05-T-122738-0997, recorded on June 20, 1997 ("Kino Sports Park Effluent Agreement"), the June 26, 1979 Intergovernmental Agreement between the City and the County ("1979 IGA"), and other applicable laws of the State of Arizona, the City of Tucson, and Pima County.
- B. The City of Tucson and Pima County are empowered by A.R.S. § 11-951 *et. seq.* to enter into this Wheeling Agreement.
- C. The City of Tucson is engaged in the development and operation of a Reclaimed Water system pursuant to the laws of the State of Arizona, involving the treatment of Effluent and the conveyance of Reclaimed Water.
- D. Pima County is engaged in the operation of wastewater treatment facilities that produce secondarily treated Effluent, a portion of which is delivered to the City Reclaimed Water system.
- E. The County is entitled to certain Effluent in accordance with the 1979 IGA and the Supplemental IGA, and intends to wheel a portion of County Reclaimed Water through the City Reclaimed Water system.
- F. Effluent is available to the County at the Metropolitan Area treatment facilities, the Ina Road Water Pollution Control Facility (WPCF), the Roger Road Wastewater Treatment Plant (WWTP), and the Randolph Park Water Reclamation Facility (WRF) pursuant to the provisions of the 1979 IGA and the Supplemental IGA.
- G. Section 9 of the Kino Sports Park Effluent Agreement provides as follows: "The rate to be paid for reclaimed water delivered to Kino for Phases I and II shall be the same as the rate established in the Tucson Code for all users of reclaimed water." Funds paid by Pima County for Kino Sports Park Effluent during the period of time between the adoption of the Supplemental IGA and the operation of the Randolph Park WRF will be credited against the outstanding capital

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costs of the reclaimed water delivery pipeline to Kino. Exhibit G of the Supplemental IGA identifies this allocation of funds for reclaimed water that was delivered to Kino through January 2000. Exhibit C of this agreement further details the allocation of these funds for reclaimed water that has been delivered to Kino through February 2002.

- H. Subsection 11.3 of the Supplemental IGA provides as follows: "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."
- I. Subsection 12.2 of the Supplemental IGA provides that: "During the Initial Delivery Period, up to an average of 1,000 acre feet per year of Reclaimed Water from 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." Subsection 12.3 allows for: "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."
- J. Pima County is the owner of certain property located in Pima County, Arizona, including: the Kino Sports Park Complex; Kino Hospital; the Juvenile Detention Facility; the Kino Ecosystem Restoration Project ("KERP"); and other properties immediately adjacent to the Kino Sports Complex (all collectively referred to as "Kino") at the intersection of Ajo Way and Country Club Road. (See Attachment I: Map of Kino Properties)
- K. Pima County is the owner of certain other properties, including various parks and recreational facilities, located in Pima County, Arizona.
- L. The County desires to operate an on-site Reclaimed Water distribution system at Kino for Public Uses as provided in the Supplemental IGA.
- M. Kino is currently receiving Non-Interruptible Reclaimed Water service at the Commodity Rate pursuant to the Kino Sports Park Effluent Agreement and the Supplemental IGA. The City will continue providing Non-Interruptible Reclaimed Water service to Kino at the Commodity Rate as provided in the Kino Sports Park Effluent Agreement and the Supplemental IGA until the Randolph Park WRF is in operation and delivering water to the City in excess of the County delivery responsibilities under Section 12.2 of the Supplemental IGA. Section 12.3 of the Supplemental IGA governs the wheeling of County Reclaimed Water from the Randolph Park WRF by the City to Kino, and Exhibit G of the Supplemental IGA provides a methodology for the allocation of funds paid for the Capital Costs associated with the installation of the Kino pipeline.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the City and County agree as follows:

AGREEMENT

I. Purpose.

The purpose of this Wheeling Agreement is to provide the terms, conditions and responsibilities of the City and the County for the treatment of the County's Effluent and the conveyance and delivery of County and other Reclaimed Water to the County pursuant to Subsections 11.3 and 12.3 of the Supplemental IGA.

II. Scope.

The scope of this Agreement is limited specifically to the treatment, conveyance and delivery of County and other Reclaimed Water to the City of Tucson Water Department Accounts and other locations listed in Appendix A. Unless otherwise adopted by the governing boards of the City and County, and outlined in amendments to Appendix A, this Agreement is limited to the Points of Delivery specified in Appendix A.

III. Definitions.

The terms defined in Section III of the Supplemental IGA shall have the same meaning in this Wheeling Agreement. In addition, the following terms have been used in this Wheeling Agreement:

- A. Appendix A. Attachment which is the listing of County properties which receive or may receive Reclaimed Water, including Points of Delivery, Meter Number, Meter Location, and City of Tucson Water account number as appropriate.
- B. Appendix B. Attachment which contains the Environmental Rate and Reclaimed Cost of Services at the effective date of this Agreement. The Environmental Rate will be updated annually by the parties as provided in the Supplemental IGA.
- C. Appendix C. Calculation of the rate to reimburse the City of Tucson for the Kino Reclaimed Water Line pursuant to Exhibits G and G-1 of the Supplemental IGA.
- D. Commodity Rate. The rate established by Section 27-32.1 of the Tucson City Code, or any subsequently codified retail rate adopted by the City of Tucson Mayor and Council that applies to all of reclaimed water; the Commodity Rate is comprised of an O&M and Capital Component.
- E. Environmental Rate. The rate established by the City pursuant to the methodology stated in Subsection 5.2.2.1 of the Supplemental IGA.
- F. Existing: As applied to City and County infrastructure improvements, the term "existing" means infrastructure that had been constructed, or for which a notice to proceed with

construction had been issued, on the Effective Date of the 2000 Supplemental IGA. A map of the Tucson Water Reclaimed System as of the Effective Date of the 2000 Supplemental IGA is found in Attachment II.

- G. Ina Road WPCF. The Ina Road Water Pollution Control Facility, Marana, Arizona.
- H. Interruptible As Available. Reclaimed Water production and delivery services provided by the City on a capacity available basis, as determined by the City.
- I. Kino Ecosystem Restoration Project (KERP). A flood control detention basin, formerly known as Tucson Ajo Detention Basin, originally built in 1966 by the United States Army Corps of Engineers, located near the intersection of Ajo Way and Forgeus Street, which includes the Sam Lena Recreation Area. The site is intended to be a restored riparian habitat in a joint effort by Pima County and the United States Army Corps of Engineers.
- J. Kino Sports Complex. A recreational facility operated by the Pima County Stadium District, ("Stadium District") located at 2500 West Ajo Way. This site includes a major league baseball stadium known as Tucson Electric Park, practice fields, soccer fields and adjacent common areas.
- K. Metropolitan Area. The definition for Metropolitan Area is the same as used in Subsection 3.7 of the Supplemental IGA.
- L. Non-Interruptible. Reclaimed Water production and delivery services provided by the City with the same degree of reliability and at the same cost as such services are provided to the City's retail Reclaimed Water customers.
- M. Point of Delivery. Point of connection between the City's Reclaimed Water system and the County's on-site distribution system at the City meter addresses identified in Appendix A. Each Point of Delivery will be located at or adjacent to the County property on which the Reclaimed Water will be used.
- N. Randolph Park WRF. The Randolph Park Water Reclamation Facility, Tucson, Arizona.
- O. Reclaimed Water. Effluent that has received treatment to a quality suitable for open access reuse under state and federal laws.
- P. Regulatory Authority: The specific permits, general permits, or other regulations that apply to the reuse of Reclaimed Water within the State of Arizona. As of the adoption of this Agreement, the City of Tucson operates its Reclaimed Water delivery system under a specific permit issued by the Arizona Department of Environmental Quality.
- Q. Roger Road WWTP. The Roger Road Wastewater Treatment Plant, Tucson, Arizona.
- R. Undeliverable Water. Water that exceeds the terms of the County's Aquifer Protection Permit (APP) or National Pollutant Discharge Elimination System (NPDES) Permit that have

been issued for Kino prior to the effective date of this Agreement or any water that must be disposed of following remediation of the Reclaimed Water pipeline to Kino.

IV. Treatment and Conveyance.

- A. The City agrees to provide: 1) treatment of the County's Effluent suitable to meet the terms of the City's Reclaimed Water Reuse Permit; and 2) conveyance service for the County's Reclaimed Water and other Reclaimed Water in accordance with the terms and conditions of the Supplemental IGA and this Wheeling Agreement.
- B. Beginning with the effective date of this Agreement, the County will prepare an annual report based on the calendar year, accounting for use, including recharge, storage, recovery, and sale and direct Public Use, of the County's entitlement to Effluent pursuant to the 1979 and Supplemental IGAs, for the Metropolitan Area wastewater treatment plants, including deliveries of excess water from Randolph WRF under Section 12.3 of the Supplemental IGA. This report shall be issued and delivered to the Director of the City of Tucson Water Department by March 31st of each year for the preceding year.
- C. In the event the County, in any calendar year, exceeds its entitlement to Effluent and County Effluent Credits under the 1979 IGA and the Supplemental IGA, the amount of such excess usage shall be calculated in acre-feet. Within thirty (30) days following the beginning of the subsequent fiscal year, the County will pay the City for each acre-foot of excess usage the Commodity Rate in effect at the time of excess usage. For purposes of accounting for effluent usage under the 1979 IGA and Supplemental IGA, any such reimbursed excess deliveries paid for by the County shall be considered as production from City Effluent.
- D. The City of Tucson is providing treatment and conveyance services only and is not responsible for the use, effects, or disposal of the Reclaimed Water beyond the County Points of Delivery.

V. Interruptions of Delivery.

- A. Except for the delivery capacity of non-interruptible reclaimed water produced by the Randolph Park WRF, the City's production of Reclaimed Water from County Effluent from Metropolitan area wastewater treatment plants to County Points of Delivery shall be under the Environmental Rate on an Interruptible As Available basis. The City may interrupt deliveries of Reclaimed Water whenever and for as long as treatment or delivery capacity is needed to serve Non-Interruptible Reclaimed Water Customers.
- B. Except for the delivery capacity volume of non-interruptible reclaimed water produced by the Randolph Park WRF, the City, in determining the need for expansion of Reclaimed Water treatment or delivery capacity, will not include in its demand calculations any volume of Reclaimed Water delivered from City's production of Reclaimed Water from County Effluent from Metropolitan area wastewater treatment plants delivered to the County on an Interruptible As Available basis. The City shall not be responsible for constructing

NON-INTERRUPTIBLE

additional improvements to its Reclaimed Water treatment or delivery system, as it existed in February 2000, to deliver water produced by the Randolph Park WRF to new County points of Delivery.

- C. The City agrees to notify the County of impending interruptions in the production and delivery of Reclaimed Water pursuant to Section XIII of this Wheeling Agreement.
- D. The City shall have no liability, either financial or otherwise, for any damages incurred by the County due to any interruptions in the production or delivery of Reclaimed Water provided under this Wheeling Agreement, unless said damages are incurred due to breach of this Agreement by the City.
- E. Upon operation of the Randolph Park WRF, the City shall wheel County produced Reclaimed Water to County Points of Delivery in accordance with Subsections 12.2 and 12.3 of the Supplemental IGA.

VI. Reclaimed Water Quality Standards.

The quality of Reclaimed Water delivered by the City shall at all times be based upon the standards which meet "open access reuse requirements" or equivalent requirements based upon the City's Reclaimed Water Reuse Permit.

VII. Compliance with Regulations.

- A. With respect to Reclaimed Water delivered under a City permit, the County agrees, at its sole cost, to obey any federal, state or local laws, rules, regulations and standards, relating to the use of Reclaimed Water for all uses of any Reclaimed Water delivered to the County by the City. Such laws, regulations, and standards may include, but are not limited to: (1) requirements and restrictions governing use of the Reclaimed Water; (2) limits on Reclaimed Water contact with employees, members, guests, members of the public and adjoining properties; (3) control of access to the Reclaimed Water, its delivery system, and the area of storage and use; and, (4) warning signs on the delivery system, and the area of storage and use.
- B. Pima County Natural Resources Parks and Recreation sites, and other County sites, will operate under the same Regulatory Authority as the City's other Reclaimed Water customers, unless the City and the County mutually agree that the County may obtain its own Reclaimed Reuse Permit for a particular site or sites.
- C. The County shall obtain necessary Reclaimed Water Reuse Permits for Kino Sports Complex and KERP delivery sites and will assure that any other entity authorized to receive water pursuant to this agreement will have the appropriate Reclaimed Water Reuse Permit.
- D. The City will not be obligated to deliver Reclaimed Water to other County Points of Delivery if the County does not have such additional permits as may be required for the use of the Reclaimed Water (e.g., APP or NPDES) at the point of use. The City will provide copies of

its applicable permits to the County, and the County will provide copies of its applicable permits to the City.

- E. The County is subject to the use requirements set forth under the City's Reuse Permit for Reclaimed Water conveyed to County Points of Delivery, unless the County has obtained its own Reuse Permit for a specific site upon agreement by the City.

VIII. Reclaimed Water Delivery Volumes.

- A. The County is only obligated to pay the City for Reclaimed Water taken by the County at its Points of Delivery in accordance with this Wheeling Agreement, the Supplemental IGA, and the 1997 Kino Sports Park Effluent Agreement, until the 1997 Agreement is nullified by the County construction of the Randolph Treatment Plant and repayment of its Capital obligations for the Kino Reclaimed Pipeline.
- B. Notwithstanding the provisions of Subsection A of this Section, the County agrees to make reasonable attempts to take delivery of a minimum of 500,000 gallons of Reclaimed Water each month at Kino in order to aid in maintaining water quality in the Kino delivery pipeline. If Undeliverable Water is present in the Kino Reclaimed Delivery pipeline and the County has taken delivery of less than 500,000 gallons during the previous 30-day period, the provisions of Section XIV (D)(4) of this Agreement will not apply, and the County will be responsible to pay the cost to disinfect the Kino Reclaimed Delivery pipeline and to accept such water into the County wastewater collection system pursuant to Section XIV (D)(3) of this Agreement. The City and County agree that Section 8 of the Kino Sports Park Effluent Agreement addressing the annual delivery of reclaimed water is superseded by this Agreement.
- C. The City will make reasonable attempts to take a minimum of 500,000 gallons of Reclaimed Water each day from the Randolph Park WRF in order to aid in maintaining the wastewater treatment process.

IX. Costs and Rate Determination.

- A. Except for water delivered at the Commodity Rate under the provisions of the Kino Sports Park Effluent Agreement and Supplemental IGA, the City of Tucson will charge the Environmental Rate for deliveries of County Reclaimed Water pursuant to this Agreement until such time as Randolph Park WRF is in operation.
- B. After the Randolph Park WRF is in operation and to the extent that the Randolph Park WRF produces more Reclaimed Water than required to serve the County's obligations to the City under Subsection 12.2 of the Supplemental IGA, the City agrees to wheel Reclaimed Water produced by the Randolph Park WRF to the County for Public Uses in existing City delivery pipelines at a fee based on the average operating expenses of the Reclaimed Water distribution system and any remaining capital component for the Kino pipeline in accordance with Subsection 12.3 of the Supplemental IGA.

3. The facilities must be constructed in accordance with the approved plans and specifications and shall be made available for inspection by City staff prior to completion.
 4. Such facilities, except those delivery facilities beyond the County's Point of Delivery, shall be transferred to the City of Tucson upon completion of the final inspection by City staff.
 5. The County shall be eligible for reimbursement under the "Protected Facilities" provisions of § 27-37 of the Tucson City Code, or any other such City program by which any future Reclaimed Water user who receives the benefit of the County-financed infrastructure is obligated to reimburse the County for the user's proportionate share of such benefit. The methodology of calculating the amount of such reimbursements shall be developed pursuant to the City Code. The City shall protect for the benefit of the County any production and/or delivery capacity improvements to the City's Reclaimed Water system that are made using County funds. Should the City or another Third Party construct specific capital improvements to the City's existing reclaimed distribution facilities after the adoption of this Agreement, the City or the Third Party may likewise be eligible for reimbursement for the partial costs of construction under the City's "Protected Facilities" or equivalent provisions if the County should later require the use of these capital improvements to deliver Reclaimed Water to a County Point of Delivery.
 6. If requested by the City, the County shall construct and install an oversized capacity Reclaimed Water pipeline to convey County Reclaimed Water to a County Point of Delivery. The oversized pipeline will have delivery capacity in excess of the capacity needed by the County in order to make the Reclaimed Water line a joint use facility. The County agrees to construct the pipeline and the City agrees to reimburse the County the amount that constitutes the City's share of the cost of the oversized pipeline pursuant to City Code provisions for oversized capacity reimbursement.
 7. The City shall not be obligated to connect to a new Point of Delivery unless the above conditions are met.
- B. Prior to completion of the Randolph Park WRF, deliveries of Reclaimed Water to County facilities connected by County-financed infrastructure and listed in Appendix A, other than those deliveries of Reclaimed Water made pursuant to the Kino Sports Park Effluent Agreement, shall be made on an Interruptible As Available basis. Subsequent to the completion of the Randolph Park WRF, deliveries of Reclaimed Water to County facilities connected by County-financed infrastructure also may be made in accordance with Subsection 12.3 of the Supplemental IGA.

XI. Non-Interruptible Service.

- A. Until the Randolph Park WRF becomes operational, Non-Interruptible Reclaimed Water service will be provided to Kino by the City at the Commodity Rate. After the Randolph Park WRF becomes operational, the provisions of Section 12.3 of the Supplemental IGA

shall become effective with respect to deliveries of Reclaimed Water from the Randolph Park WRF.

- B. In order to allow for the effective planning for the City's Reclaimed Water System, the following shall occur once the Randolph Park WRF is operational:
1. Reclaimed Water Service identified as being provided from the Randolph Park WRF to County Points of Delivery will be served under the provisions of Subsection 12.3 of the Supplemental IGA.
 2. Reclaimed Water Service identified as being provided from any other Metropolitan-area Wastewater Treatment Plant to County Points of Delivery will be provided on an Interruptible As Available basis under the Environmental Rate.
 3. County shall record such usage pursuant to Section IV (B) of this Agreement.
- C. Except for Non-Interruptible deliveries to be provided from the Randolph Park WRF, for which a partial list is included as Appendix A the City will not provide Non-Interruptible Reclaimed Water Service to a County Point until five (5) years after initial notification by the County that the County desires Non-Interruptible service at that Point of Delivery. The Point of Delivery must then remain on Non-Interruptible service for a term of at least ten (10) years so that the City may be reasonably reimbursed for the costs of providing this level of service. These terms may be revised by written mutual agreement of the parties with respect to particular Points of Delivery.
- D. Notwithstanding the other provisions of Section XI of this Agreement, the City agrees that it will provide temporary Non-Interruptible Reclaimed Water Service to particular Points of Delivery at the Environmental Rate under the following circumstances: (1) the Non-Interruptible Reclaimed Service must be for the purpose of establishing new desert vegetation at a County site; (2) the County must provide written notice to the City of this purpose prior to the commencement of the service; (3) the amount of Reclaimed Water delivered at the County site for this purpose shall not exceed ten (10) acre feet per year; (4) the term of the provision of Non-Interruptible Reclaimed service at the Environmental Rate shall not exceed three (3) years; and (5) new capital expenditures by the City shall not be required in order to deliver the Reclaimed Water to the County site.
- E. Except as provided in Sections A-D, above, the City will provide Non-Interruptible Service from County Effluent at the Commodity Rate. The City may also, at its discretion, provide County with Non-Interruptible Service from City Effluent at the Commodity Rate.
- XII. County Use of Effluent from Treatment Plants in the Metropolitan Area.
- A. Pursuant to Subsection 11.1 of the Supplemental IGA, the County may put its Effluent from treatment plants in the Metropolitan Area to Public Use on any County Property.
- B. As defined in Subsection 3.9 of the Supplemental IGA, Public Uses include:

1. Use on County parks;
2. Use on County golf courses;
3. Use on other County or publicly owned and operated property;
4. Use for landscaping on public streets and highways;
5. A use which will replace an existing use of groundwater or avoid a new use of groundwater on County or Flood Control District property;
6. Uses which replace the use of groundwater or other potable water resources for construction, including but not limited to, compaction, equipment wash down, and air pollution control;
7. Use in a Riparian Project.

- C. The City agrees to the wheeling of County Effluent to the County Points of Delivery for purposes of irrigating Pima County Natural Resource Parks and Recreation sites and County owned and operated facilities referenced in Appendix A.
- D. This subsection applies to all sites listed in Appendix A and additional sites as mutually agreed upon by the governing bodies of the City and County.

XIII. Notification.

- A. The City shall notify the County of any foreseen interruption in the production, delivery or ability to take Reclaimed Water 48 hours prior to the interruption or as soon as practical when the interruption is not foreseen. In the event that the City takes action to resume the interrupted service, the costs of such action will be the sole responsibility of the City.
- B. Upon interruption of flow for more than five calendar days, regardless of the reason, the City shall notify the County a minimum of 24 hours prior to resumption of flow so that any new discharge to County Permitted facilities can be appropriately sampled.
- C. The notification by the City shall contain the following information:
 1. The commencement of interruption in production and delivery of Reclaimed Water, if the interruption is foreseen;
 2. The anticipated date and time when production and delivery of Reclaimed Water will be restored;
 3. An estimated volume of Reclaimed Water that could be delivered during the 48 hours prior to the interruption to protect irrigation needs;
- D. If an interruption in the production or delivery of Reclaimed Water is due to a break in the Reclaimed Water line, the County shall be informed of this condition as soon as the City is aware that a break in the Reclaimed Water line has occurred.
- E. If an interruption in the production or delivery of Reclaimed Water is due to a violation of the City's Reclaimed Water Reuse Permit, the City shall notify the County of the nature

1. City Meter Compound. The Parties agree the City Meter Compound (Point of Delivery) will be accessible to the District and the County, for the purposes of sampling, meter reading and the restriction of flow in the event testing reveals an exceedence of any permit requirement. The County and the District shall have control of a shut off valve, installed in the meter compound, and may elect not to accept Reclaimed Water from the City which violates the terms of the City's Reclaimed Water Reuse Permit.
2. Pump House. The County shall grant the City access to the irrigation pump house for inspection and maintenance of the level control device located within the pump house. The County will retain access to the level control system for read-only purposes.
3. Backflow valve. The County shall install and have access to a backflow prevention device on the City's Reclaimed Water Line located within the City Meter Compound. The County shall be responsible for the inspection and maintenance of this backflow prevention device.
4. Connection to Public Sanitary Sewer System. The County shall install and have access to a connection to the public sanitary sewer system to dispose of Undeliverable Water from within the Reclaimed Water delivery system. The pipeline to convey Undeliverable Water to the sanitary sewer system shall be equipped with a totalizing meter which shall be connected to a Wastewater Management Department network for flow monitoring. The City will not bill the County for Undeliverable Water caused by a violation of the City's Reclaimed Water Reuse Permit. The City may have access to read the totalizing meter so that the City may track the discharge of degraded Reclaimed Water to the public sanitary sewer system.
5. Emergency Access to Wet Well On/Off Valve. The City shall have control of an on/off valve that will allow Reclaimed Water to enter the wet well directly for emergency situations. Anticipated emergency situations may include basin contamination, flood damage and drought conditions. The on/off valve will control the direct feed of Reclaimed Water to the wet well. The County is responsible for contacting the City in an emergency situation with a request that the on/off valve be opened. The City will open the valve within eight (8) hours of notification by the County.
6. Irrigation Pond Isolation Valve. The County shall have control of the irrigation pond isolation valve that separates the irrigation pond from the Reclaimed Water wet well. Should the irrigation pond isolation valve require closure due to an emergency situation (basin contamination, flood damage and drought conditions), the County will notify the City that the valve will be closed within eight (8) hours of closure by the County.

D. Permit Compliance.

in Appendix B shall be reviewed and adjusted annually by the City according to the terms of the Supplemental Agreement.

- C. The Capital Component associated with the Kino pipeline shall be reviewed and adjusted annually by the City according to the terms of Subsection 12.3 and Exhibits G and G-1 of the Supplemental IGA. Payment of the Capital Component of the Kino pipeline shall cease once the debt is satisfied pursuant to Exhibits G and G-1 of the Supplemental IGA.

XVI. Billings and Payments.

- A. The City shall bill the County each month for the charges incurred under the terms and conditions of this Wheeling Agreement and the Supplemental IGA for Reclaimed Water produced and delivered to the Points of Delivery. The City shall individually bill each meter location listed in Appendix A.
- B. The City may also bill the County for excess usage calculated under the provisions of Subsection IV. (C) of this Agreement.
- C. All payments to the City shall be due within 60 days after the date of the City of Tucson's billing. All payments to the County shall be due within 60 days after the date of the Pima County billing.
- D. The City shall have no obligation to continue deliveries to the County under the terms of this Wheeling Agreement if the County is more than 60 days in arrears in payment due the City. Any billing disputes may be subject to the Alternative Dispute Resolution process described in the Supplemental IGA.

XVII. Duration and Termination.

The term of this Wheeling Agreement shall continue concurrently with the Supplement IGA and shall be subject to termination by either party or its successors or assigns upon one year's prior written notice and based only upon the material breach of the provisions of this Wheeling Agreement or the Supplemental IGA, or upon the adoption of incompatible amendments to, or the termination of the Supplemental IGA.

XVIII. Force Majeure.

In the event any Party is rendered unable, wholly or in part, by force majeure reasons to carry out its obligations under this Agreement, the obligations of both the County and the City so far as they are affected by such force majeure shall be suspended during the continuance of any inability so caused, but for no longer period. Such cause shall be so far as possible remedied with the best efforts of the disabled Party and with all reasonable dispatch. The term "force majeure" as employed in this Agreement shall mean acts of God, strikes, lockouts or other industrial or labor disturbances, acts of the public enemy, wars, terrorism, blockades, insurrections, riots, epidemics, land slides, lightning, earthquakes, fires, storms, floods, washouts, droughts, unavoidable interruptions in electric power to drive pumps,

interruptions by government not due to the fault of the Parties, including injunctions, civil disturbances, explosions, well collapses, breakage or accident to machinery or transmission facilities, or action or non-action by governmental bodies in approving or failing to act upon applications for approvals or permits which are not due to the negligence or willful action of the Parties. Nothing herein contained shall be construed as requiring either Party to settle a strike or labor dispute against its will. Nothing herein shall prohibit either Party at its own expense from using whatever self-help remedies may be available to it.

XIX. Mutual Indemnification.

To the fullest extent permitted by law, each party agrees to defend, indemnify, and hold harmless the other party and the other party's officers, agents and employees from all claims, losses, and causes of actions arising out of, resulting from, or in any manner connected with this agreement, but only to the extent that such claim, loss, cause of action, damage or injury is caused or contributed to by the negligent acts or omissions of the indemnifying party.

XX. Future Changes in the Laws, Regulations and Permits.

The City and County agree to timely meet requirements and confer in order to comply with changes in laws, regulations and permits.

XXI. Notices.

All oral and facsimile transmissions of notices, schedules, or requests made in connection with this Wheeling Agreement shall be confirmed in writing and shall be deemed properly served if delivered in person or sent by registered United States mail, postage prepaid. All notices, schedules or requests shall be sent to:

FOR THE COUNTY:

Director, Kathleen M. Chavez
Pima County Wastewater Management
201 North Stone Avenue 8th Floor
Tucson, Arizona 85701-1215

FOR THE CITY:

Director, David Modeer
Tucson Water
P.O. Box 27210
Tucson, AZ 85726

or as otherwise specified from time to time by each party.

XXII. Miscellaneous Provisions.

- A. Dispute Resolution: Any dispute arising under this Wheeling Agreement shall follow the Alternative Dispute Resolution procedures set forth in Section XIV of the Supplemental IGA.
- B. Assignment: No Party shall have the right to assign this Agreement nor any interest herein except to their respective successors. This Agreement shall be binding on the successors of the Parties hereto.
- C. Waiver: Waiver by either Party of any breach of any term, covenant or condition herein contained 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 contained.
- D. Amendment: This Agreement shall not be amended except by written instrument mutually agreed upon and executed by the Parties.
- E. Construction and Interpretation: All provisions of this Agreement shall be construed to be consistent with the 1979 IGA, the Kino Sport Park Effluent Agreement, the Supplemental IGA, and the intention of the Parties expressed in the recitals hereof.
- F. Severability: In the event that any provision of this Agreement or the application thereof is held invalid, such invalidity shall have no effect on other provisions and their application which can be given effect without the invalid provision or application, and to this extent the provisions of the Agreement are severable.
- G. Non-Discrimination. The parties shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin in the course of carrying out duties pursuant to this Agreement. The parties shall comply with applicable provisions of Executive Order 75-5, as amended by Executive Order 99-4, which is incorporated into this Agreement by reference, as if set forth in full herein.
- H. ADA. The parties shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.
- I. Conflict of Interest. This contract is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated herein by reference.
- J. Non-Appropriation. Notwithstanding any other provision in this Agreement, this Agreement may be terminated if for any reason, any party does not appropriate sufficient monies for the purpose of maintaining this Agreement.
- K. Effective Date: This Wheeling Agreement shall be effective upon the filing of the original executed Wheeling Agreement with the Office of the Pima County Recorder.

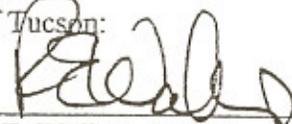
IN WITNESS WHEREOF, the City of Tucson has caused this Intergovernmental Agreement to be executed by the Mayor, upon resolution of the Mayor and Council, and attested to by the City Clerk and the County has caused this Intergovernmental Agreement to be executed by the Chair of its Board of Supervisors, upon resolution of the Board and attested to by the Clerk of the Board.

ATTEST:


Kathy Detrick
City Clerk

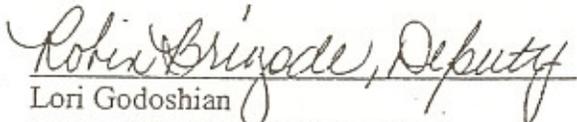
DEC 08 2003

City of Tucson:


Robert E. Walkup, Mayor
City of Tucson

DEC 08 2003

ATTEST:

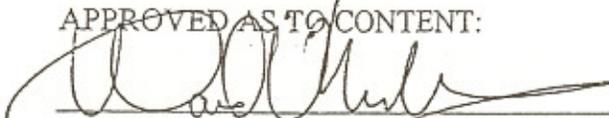

Lori Godoshian
Clerk of the Board of Supervisors

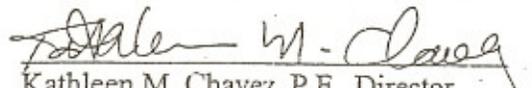
Pima County


Sharon Bronson, Chair
Pima County Board of Supervisors

DEC 16 2003

APPROVED AS TO CONTENT:


David Modeer, Director
City of Tucson Water Department

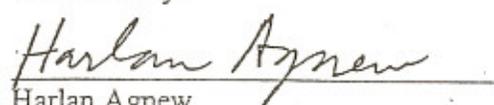

Kathleen M. Chavez, P.E., Director
Pima County Wastewater Management
Department

The foregoing Intergovernmental Agreement between Pima County and the City of Tucson has been reviewed pursuant to A.R.S. §11-952 by the undersigned, who have determined that it is in the proper form and is within the powers and authority granted under the laws of the State of Arizona to those parties to the Intergovernmental Agreement represented by the undersigned.

City of Tucson


Chris Avery
Assistant City Attorney

Pima County


Harlan Agnew
Deputy County Attorney

11-03-03

Appendix A

Point of Delivery	#	Meter #	Meter Location	City of Tucson Water Acct #	Acre-Ft Year	Rate Type
La Canada to Shannon (North Bank) (River Rd Medians La Canada to La Cholla)	1	44032260	4845 N. Flowing Wells	34955-81934	40.0	E
	2	44032261	4845 N. Flowing Wells	34955-81936		
	3	44032262	4845 N. Flowing Wells	34955-81938		
La Canada to Shannon (South Bank)	4	44032257	4765 N. Flowing Wells	34955-81946	10.0	E
La Canada to Shannon (South Bank)	5	44032258	4765 N. Flowing Wells	34955-81942		
La Canada to Shannon (South Bank)	6	44032259	4765 N. Flowing Wells	34955-81944		
Flowing Wells to Stone (North Bank) & Children's Memorial Park	7	44228452	4840 N. La Canada		43.0	E
	8	96111196	4841 N. La Canada			
Flowing Wells to Stone (South Bank)	9	44228454	4760 N. Flowing Wells #1		9.5	E
Flowing Wells To Stone (South Bank)	10	44228455	4760 N. Flowing Wells			
Stone to Campbell (North Bank)	11	44228457	1500 E. River Rd. #2	28007-30698	15.5	E
Stone to Campbell (North Bank)	12	44228458	1500 E. River Rd. #1			
Rillito Track & Park Rillito Track & Park	13	97738770	1490 E. River Rd. #2	428133-456432	68.0	E
	14	1476849	1490 E. River Rd. #1	423133-456434		
Stone to Campbell (South Bank)	15	44228462	1321 E. Prospect Lane #1	28007-28972	14.0	E
Stone to Campbell (South Bank)	16	44228463	1321 E. Prospect Lane #2	28007-28974		
Alvernon to Craycroft (South Bank)	17	98527043	3400 N. Alvernon Way		15.0	E
Alvernon to Craycroft (North Bank)	18	98520734	3800 N. Alvernon Way		15.0	E
Alamo Wash	19	41787647	5097 E. Glenn #1	151921-152684	2.0	E
Alamo Wash		41787579	5097 E. Glenn #2	34951-52682		
Speedway to St. Mary's (West Bank)	21	95428756	756 N. Riverside		18.0	E
Speedway to St. Mary's (West Bank)	22	95111193	757 N. Riverside			
Grant to Speedway (East & West Banks)	23	44032284	830 W. Speedway		30.0	E
Grant to Speedway (East & West Banks)	24	44032283	831 W. Speedway			
George Mehl (Foothills) Park	25	1566591	4000 E. River Rd		30.0	E
George Mehl (Foothills) Park	26	1565590	4000 E. River Rd			
Kino Delivery	27				591.0	O

NOV 2000 11:03 AM

Arthur Pack	28		9101 N. Thornydale		700.0	O
Arthur Pack - Other	29		9101 N Thornydale		72.0	O
Casas Adobes	30		6262 N. Oracle Jaynes Stat		8.0	O
Curtis Park (future)	31		1900 W. Curtis		20.0	O
Denny Dunn	32		4400 W. Massingale Road		24.0	O
Flowing Wells (being built)	33		5510 N. Shannon		24.0	O
Lawrence	34		6777 S. Mark		29.0	O
Littleton	35		6465 S. Craycroft		38.0	O
Los Ninos	36		5432 S. Bryant		31.0	O
Manzanita	37		5200 S. Westover		37.0	O
Meadowbrook	38		2635 W. Sandbrook		24.0	O
McDonald	39		4100 N. Harrison		34.0	O
Northwest Commemorative	40		5955 N. Camino del Tierra		24.0	O
NW/YMCA	41		7770 N. Shannon		3.0	O
NW/YMCA Fields	42		7600 N. Mona Lisa		24.0	O
Cardinal	43		6925 S. Cardinal		19.0	O
Mission Ridge	44		3300 W Tucker		14.0	O
Dan Felix Memorial	45		5790 N. Camino del Tierra		30.0	O
Richardson	46		3500 W. Green Trees		24.0	O
Riverbend (future)	47		3350 E. River		24.0	O
Sunset Point	48		8535 N. Stargrass		24.0	O
Three-Points	49		10211 S. Sasabe		29.0	O
Ted Walker (some future)	50		6775 N. Casa Grande Hwy		72.0	O
Tucson Mountain Park	51		Ajo Way to Kinney Road		40.0	O
Wildwood	52		6201 N. Parsley		24.0	O
Emily Gray Jr High	53		4201 N. Melpomene Way		29.0	O
Murphy	54		4550 N. Camino Escuela		4.0	O
					2,326.0	

E - Environmental Rate

(Note that this will convert to the Average Operating Rate when Randolph Park WRF becomes operational)

O - Average Operating Rate Component pursuant to the Supplemental IGA Section 12.3 (when connected to system)

ATTACHMENT I

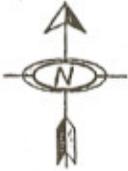
ATTACHMENT 1 TO EX. A TO RESOLUTION 19730

CITY OF TUCSON CONTRACT NO. 0249-04

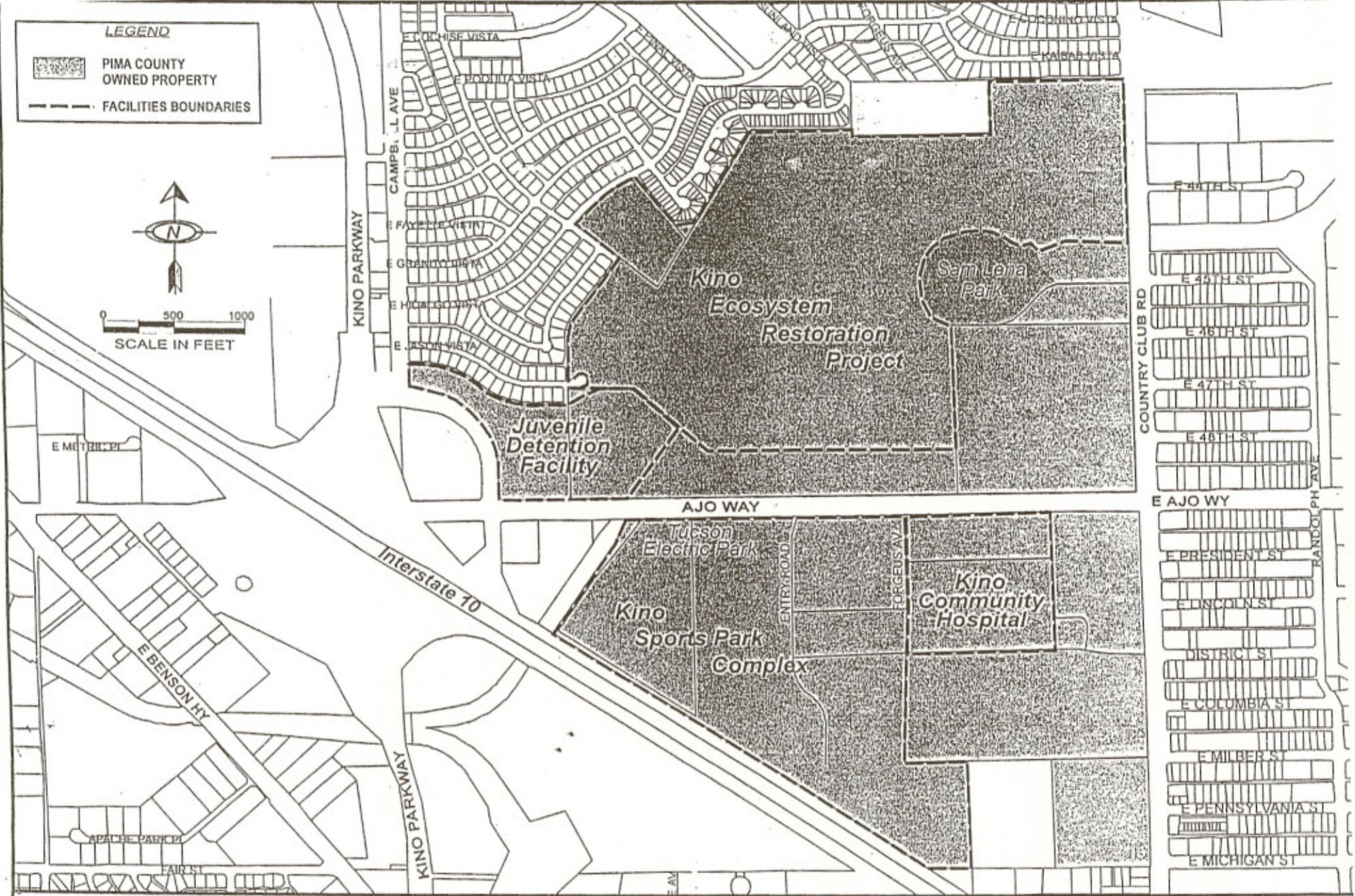
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LEGEND

-  PIMA COUNTY OWNED PROPERTY
-  FACILITIES BOUNDARIES



0 500 1000
SCALE IN FEET




**PIMA COUNTY
WASTEWATER MANAGEMENT
DEPARTMENT**

PROJECT: **WHEELING AGREEMENT**

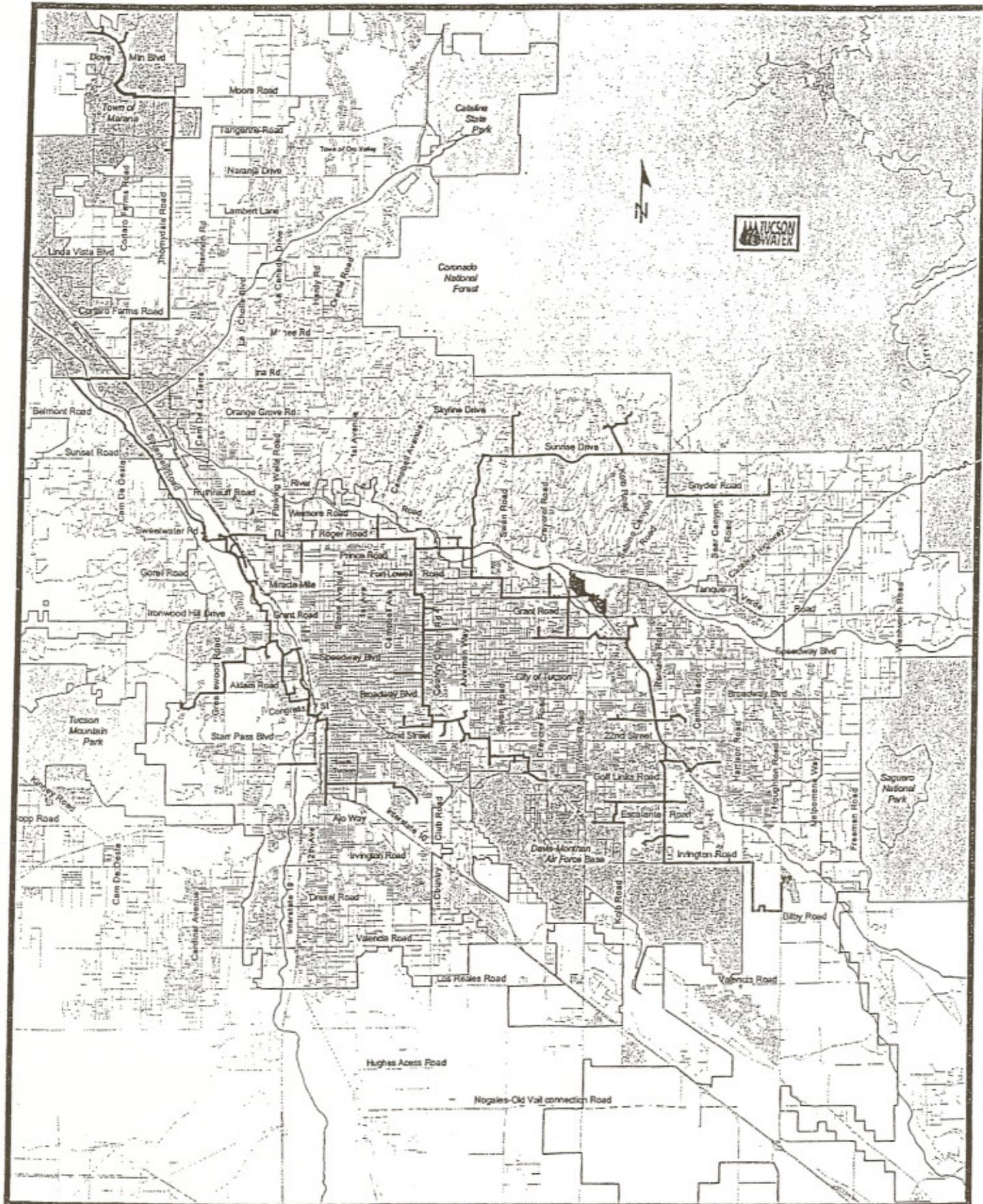
DRAWN BY:

FILE: KINOBSN4.CDR

TITLE: **MAP OF KINO PROPERTIES**

DATE: NOVEMBER 2003

FIGURE: ATTACHMENT-I



Reclaimed Water System - February 2000



SINCE 1900