

RECEIVED

2003 MAR -7 P 4:39

BEFORE THE ARIZONA CORPORATION COMMISSION

AZ CORP COMMISSION
DOCUMENT CONTROL

MARC SPITZER
Chairman

Arizona Corporation Commission

JIM IRVIN
Commissioner

DOCKETED

WILLIAM A. MUNDELL
Commissioner

MAR - 7 2003

MIKE GLEASON
Commissioner

DOCKETED BY 

JEFF HATCH-MILLER
Commissioner

IN THE MATTER OF THE APPLICATION
OF ICR WATER USERS ASSOCIATION,
INC. FOR AN EXTENSION FOR ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY

Docket No: W-02824A-01-0450

ICR WATER USERS
ASSOCIATION, INC.'S
NOTICE OF COMPLIANCE

On June 1, 2001, ICR Water Users Association, Inc. ("ICR") filed with the Arizona Corporation Commission ("Commission") an application for an extension of its Certificate of Convenience and Necessity ("CC&N") to provide public water utility service to various parts of Yavapai County. That application included a copy of the Main Extension Agreement with Harvard Simon I, L.L.C. ("Harvard") dated March 5, 2001.

On January 15, 2002, the Commission issued Decision No. 64360, granting ICR's request for an extension of its CC&N, subject to certain conditions. These conditions are:

1. That ICR file with the Director of the Commission's Utilities Division within 365 days of the effective date of Decision No. 64360:

1 a. a copy of the developer's water adequacy report for Phase I which is
2 to be issued by the Arizona Department of Water Resources;

3 b. a copy of the developer's Certificate of Approval to Construct with
4 the appropriate main extension agreement;

5 c. a copy of ICR's Yavapai County franchise for the extension area; and

6 d. an amended agreement between ICR and Harvard which provides that
7 ownership of the wells which Harvard has drilled for the purpose of providing water to the
8 extension area be transferred to ICR.

9 On June 14, 2002, Intervenor Harvard filed a copy of the water adequacy
10 report for Phase I of Talking Rock Ranch, issued by the Arizona Department of Water
11 Resources.

12 On January 13 2003, ICR filed with the Commission the developer's
13 Approval to Construct and ICR's franchise agreement with Yavapai County. ICR also
14 requested an extension of sixty (60) days from the January 15, 2003 deadline to file an
15 amendment to its Main Extension Agreement with Harvard providing, in part, for the
16 advance of production wells from Harvard to ICR, and to file a copy of the relevant
17 documents transferring ownership of the production wells from Harvard to ICR as
18 required by Commission Decision No. 64360.

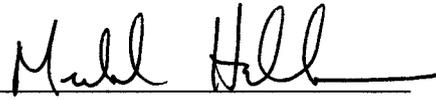
19 In a Procedural Order dated March 3, 2003, the Administrative Law Judge
20 granted that extension.

21 ICR hereby submits a copy of the First Amendment to Main Extension
22 Agreement dated February 25, 2003, attached as Exhibit A, and the amended Well
23 Agreement dated February 25, 2003, attached as Exhibit B.

24
25
26

1 RESPECTFULLY SUBMITTED this 7th day of March, 2003.

2 LEWIS AND ROCA LLP

3
4 By: 

5 Thomas H. Campbell
6 Michael T. Hallam
7 40 N. Central Avenue
8 Phoenix, Arizona 85004

9 Attorneys ICR Water Users Association, Inc.

10 Original and thirteen (13) copies of
11 the foregoing hand-delivered
12 this 7th day of March, 2003, to:

13 ARIZONA CORPORATION COMMISSION
14 Docket Control
15 1200 W. Washington Street
16 Phoenix, Arizona 85007

17 Copy of the foregoing hand-delivered
18 this 7th day of March, 2003, to:

19 Marc E. Stern, Administrative Law Judge
20 Hearing Division
21 ARIZONA CORPORATION COMMISSION
22 1200 W. Washington Street
23 Phoenix, Arizona 85007

24 Patrick Williams, Compliance Manager
25 Utilities Division
26 ARIZONA CORPORATION COMMISSION
1200 W. Washington Street
Phoenix, Arizona 85007

Ernest Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 W. Washington Street
Phoenix, Arizona 85007

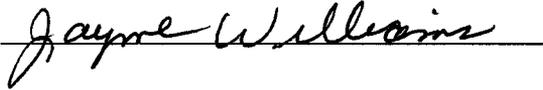
LEWIS
AND
ROCA
LLP

LAWYERS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Copy of the foregoing mailed
this 7th day of March, 2003, to:

Jay Shapiro
Patrick Black
FENNEMORE CRAIG
3003 N. Central Avenue
Suite 2600
Phoenix, Arizona 85012-2913
Attorneys for Harvard Simon I, L.L.C.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

EXHIBIT A

FIRST AMENDMENT TO MAIN EXTENSION AGREEMENT

25th THIS FIRST AMENDMENT TO MAIN EXTENSION AGREEMENT is made this day of February, 2003, by and between ICR WATER USERS ASSOCIATION, an Arizona public service corporation ("Company"), and HARVARD SIMON I, L.L.C., an Arizona corporation ("Developer"), for the purposes and consideration hereinafter set forth.

RECITALS

A. Company and Developer previously entered into that certain Main Extension Agreement, dated March 5, 2001 ("the Agreement"), pertaining to the extension of water utility service to 3470 acres of real property generally situated in Yavapai County, Arizona ("the Property").

B. Subsequent to execution of the Agreement, on January 15, 2002 the Arizona Corporation Commission ("Commission") issued Decision No. 64360 extending Company's CC&N conditioned upon Developer transferring ownership of certain wells and related water production facilities to the Company.

C. Based on the Commission's Order, the parties desire to amend and modify certain provisions of the Agreement, as set forth below.

NOW, THEREFORE, in consideration of the following covenants and agreements, and other good and valuable consideration, Company and Developer hereby agree to amend the Agreement, as follows:

1. Amendment to Agreement.

(a) Off-Site Facilities. Paragraph 1(a) of the Agreement is amended to provide that the "Facilities" include two production wells that have been installed and constructed by Developer and are described as Production Well 3 and Production Well 2 in that Well Agreement to be executed by Company, Developer and Talking Rock Golf, L.L.C. concurrently with the execution of this Agreement (the "Well Agreement"). A Revised Exhibit "C" reflecting the actual costs of the two production wells is attached hereto and incorporated herein by this reference.

(b) Utility's Use of the Facilities. Paragraph 1(b) of the Agreement is amended to provide that Company covenants and agrees that Company shall use and operate the production wells installed and constructed by Developer and transferred to Company pursuant to the Well Agreement only in accordance with the use restrictions contained in the Well Agreement and the conditions and restrictions contained in that Special Warranty Deed from Bluegreen West Corporation to Talking Rock Land dated January 26, 2001 and recorded on January 26, 2001 in book 3807, page 626, records of Yavapai County, Arizona, pursuant to which Developer's affiliate acquired the location of the production wells.

(c) Transfer of Ownership. Paragraph 5(a) of the Agreement is amended to provide that, pursuant to the Well Agreement, (i) immediately after the approval of this First

Amendment by the Commission or its staff, Developer will transfer and convey Production Well 3 to the Company, via Bill of Sale in form attached to the Well Agreement; and (ii) on or before the date that the Company provides water service to the 800th single-family residence at the Property, Developer's affiliate, Talking Rock Golf, will transfer and convey Production Well 2 to the Company, via Bill of Sale in form attached to the Well Agreement. All other Facilities shall be conveyed in accordance with the terms of the Agreement.

(d) Determination of Amount of Developer Advances. Paragraph 8 of the Agreement is amended to provide that the actual costs of Production Well 3 and Production Well 2, including all equipment, pumps, motors, valves, pipes, electrical system and other appurtenances installed and constructed by Developer and transferred and conveyed by Developer or by Talking Rock Golf to Company, shall constitute an advance in aid of construction and shall be refundable to Developer in accordance with paragraph 9 of the Agreement.

(e) Agreement Submission. Paragraph 13(a) of the Agreement is amended to provide that the Company shall be responsible for promptly seeking Commission approval of this First Amendment.

2. Inconsistencies; Governing Agreement. With regard to Production Well 3 and Production Well 2, in the event of any inconsistencies between the terms and provisions of the Well Agreement and the terms and provisions of the Agreement, the terms and provisions of the Well Agreement shall govern and prevail.

3. Effect on the Agreement. Except as otherwise expressly provided herein, all terms, covenants and conditions of the Agreement shall remain in full force and effect and be binding upon the parties.

IN WITNESS WHEREOF, ICR WATER USERS ASSOCIATION and HARVARD SIMON I, L.L.C., have caused this First Amendment to Main Extension Agreement to be executed on their behalf by their duly authorized representatives as of the day and year first above written.

ICR WATER USERS ASSOCIATION

By 

J. Swayze McCraine, President

HARVARD SIMON I, L.L.C., an Arizona limited liability company,

By: Harvard Talking Rock, L.L.C.
Its Operating Member

By: Harvard Investments, Inc., an
Nevada corporation
Its Manager

By 
Its President

PHX/MGALLOGL/1257894.3/47094.005

SUPPLEMENT TO EXHIBIT "C"

TALKING ROCK RANCH, Wells and Well Site				
Yavapai County, Arizona				
ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST				
Prepared by: Shephard-Wesnitzer, Inc.				For: Harvard Investments
Item Description	Quantity	Unit	Unit Price	Total
Wells and Well Site				
Well Drilling (3 Wells)	1	ls.	\$200,000.00	\$200,000
Electrical and Controls	1	ls.	\$75,000.00	\$75,000
Well Manifold	3	ea.	\$12,000.00	\$36,000
Site Work and Site Piping	1	ls.	\$60,000.00	\$60,000
Chlorination Equipment	1	ls.	\$18,000.00	\$18,000
Chlorination Conduit	1	ls.	\$3,000.00	\$3,000
Buildings	1	ls.	\$25,000.00	\$25,000
MISCELLANEOUS				
Testing	1	ls.	\$5,000.00	\$5,000
Commission	1	ea.	\$5,700.00	\$5,700
TOTALS				\$427,700



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

EXHIBIT B

WELL AGREEMENT

THIS WELL AGREEMENT (this "Agreement") is made this 25th day of February, 2003 by and between ICR WATER USERS ASSOCIATION, an Arizona public service corporation ("Utility"), HARVARD SIMON I, L.L.C., an Arizona limited liability company ("Developer"), and TALKING ROCK GOLF, L.L.C., an Arizona limited liability company ("Talking Rock Golf") for the purposes and considerations hereinafter set forth.

RECITALS

A. Developer is the Second Beneficiary under the First American Title Insurance Agency of Yavapai, Inc. Trust No. 4750, which trust owns approximately 3,470 acres of real property situated in Yavapai County, Arizona, more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property"). Developer is authorized to obtain water and wastewater utility services for the Property. A portion of the Property, approximately 400 acres, was previously located within Utility's Certificate of Convenience and Necessity ("CC&N") as shown in the map attached hereto as Exhibit "B" and incorporated herein by this reference. Until recently, the remainder of the Property, approximately 3,070 acres (the "Extension Area"), as shown in Exhibit "B," was not located in the certificated service area of the Utility or of any other certificated water utility provider or in the service area of any municipal water utility service provider. The majority of the Property, approximately 2,500 acres, is located in an area eligible for membership in Utility pursuant to Utility's By-Laws.

B. Utility is a public service corporation as defined in Article XV, Section 2 of the Arizona Constitution and, as such, is regulated by the Arizona Corporation Commission ("Commission"). Utility has been granted a CC&N by the Commission authorizing Utility to provide water utility services.

C. Developer is developing a residential community at the Property to be known as the Talking Rock Ranch that will contain approximately 1627 residential dwellings, certain common areas and a ranch compound with a clubhouse, swimming pool, tennis courts and a health and fitness center. Developer requested that water utility service be extended and provided to the Property by Utility in furtherance of Developer's planned development of the Property. Pursuant to that Main Extension Agreement (Water Service) dated March 5, 2001, between Utility and Developer (the "Main Extension Agreement"), Utility sought approval from the Commission to extend Utilities' CC&N to include the Extension Area and to take all other actions and obtain other government approvals as necessary in connection with the extension of Utility's CC&N to include the Extension Area. Thereafter, Utility is willing to extend water utility service to the Property in accordance with the terms and conditions set forth in the Main Extension Agreement and in accordance with relevant law, including the rules and regulations of the Commission.

D. Pursuant to the Main Extension Agreement, Developer is obligated to construct and install certain Facilities, as defined in the Main Extension Agreement, including without limitation an off-site water transmission main (the "Off-Site Main") described in Exhibit "C" to the Main Extension Agreement.

E. On January 15, 2002, the Commission issued Decision No. 64630, extending Utilities' CC&N to include the Extension Area, subject to certain conditions stated in the Decision. One condition stated in Decision No. 64630 is that Developer should advance to Utility the wells Developer has drilled for the purpose of providing water to the Property.

F. Pursuant to that First Amendment to Main Extension Agreement to be executed by the parties concurrently with their execution of this Agreement (the "First Amendment"), the Facilities to be constructed and installed by Developer will include the Production Wells, as herein defined. Upon the Commission's approval of the First Amendment, the term 'Main Extension Agreement' used herein shall mean the Main Extension Agreement as modified by the First Amendment.

G. Talking Rock Golf has constructed an 18-hole golf course at the Property, with a driving range, other practice facilities, storage lakes and related amenities and facilities (the "Golf Course"). Except as provided in the Main Extension Agreement, Talking Rock Golf will arrange for its own supply of water to the Golf Course for construction of the Golf Course, and for landscape irrigation, lake fill and other nonpotable purposes, as provided in this Agreement.

H. Developer has drilled two wells on the real property described on Exhibit "D" (the "Wellsite"). Talking Rock Golf owns the Wellsite. Pump tests of the wells indicate that the wells at the Wellsite have the potential to produce an adequate quality and quantity of water for Utility to use as a domestic water supply for the Property. In addition, pump tests indicate that wells at the Wellsite and at property adjacent to the Wellsite have the potential to produce an adequate quality and quantity of water to supply construction water and to provide the Golf Course with water for landscape irrigation and lake fill purposes.

I. Utility wishes to use water from wells drilled at the Wellsite as a domestic water supply for the Property, and Developer is willing to convey certain wells at the Wellsite to Utility for use as the domestic water supply for the Property, on the terms, conditions and restrictions contained herein.

NOW, THEREFORE, in consideration of the following covenants and agreements, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

AGREEMENTS

1. Construction of Wells by Developer.

(a) Developer has caused two wells to be drilled, constructed, installed and equipped at the Wellsite, as depicted on Exhibit "E." Production Well 2 and Production Well 3, both as depicted on Exhibit "E", are sometimes referred to herein, individually, as a "Production Well," and, together, as the "Production Wells." In addition, Developer has caused a third well to be drilled, constructed, installed and equipped at property located immediately adjacent to the Wellsite (the "Adjacent Property"), which well is depicted on Exhibit "E" as Production Well 1. Well pump tests conducted by Southwest Ground-water Consultants, Inc. indicate that Production Well 2 has an estimated production capacity of 530 gallons per minute ("gpm"), assuming pumping for 12 hours per day independent of Production Well 1 and

Production Well 3, and Production Well 3 has an estimated production capacity of 430 gpm, assuming pumping for 12 hours per day, independent of Production Well 1 and Production Well 2. Developer has provided to Utility a copy of a letter dated October 31, 2002 summarizing the pump tests run by Southwest Ground-water Consultants, Inc. on Production Well 2 and Production Well 3.

(b) Developer obtained approval to construct the Production Wells from all agencies having regulatory jurisdiction, including Yavapai County Environmental Services Department and Arizona Department of Environmental Quality ("ADEQ"). Developer has caused Production Well 2 and Production Well 3 to be drilled, constructed, installed and equipped at the Wellsite in substantial accordance with the design for the same approved by Yavapai County Environmental Services Department and ADEQ. Utility's engineers have tested and inspected Production Well 2 and Production Well 3. Based on that inspection and testing, Utility has requested several modifications to the equipment installed at the Production Wells as described in that letter to Shephard-Wesnitzer, Inc. from Dava and Associates dated June 19, 2002 (the "Well Modifications").

2. Transfer and Conveyance of Production Well 3. Immediately following the approval of the First Amendment by the Commission or the Commission staff (as necessary) and the approval by the Commission or the Commission staff (as necessary) of this Well Agreement, if such approval is required by the Commission, Developer will transfer and convey Production Well 3 to Utility, including all equipment, pumps, motors, valves, pipes, electrical system, and other appurtenances, by Bill of Sale in form attached as Exhibit "F," and on the terms and conditions stated in paragraph 4. In the Bill of Sale for Production Well 3, Developer will also transfer and convey to Utility the piping, valves and other facilities necessary to connect Production Well 3 to the Off-side Main (such piping, valves and other facilities being referred to herein as the "PW-3 Connection Facilities").

3. Transfer and Conveyance of Production Well 2. On or before the date that Utility provides water service to the 800th single-family residence at the Property, Talking Rock Golf will transfer and convey Production Well 2 to Utility, including all equipment, pumps, motors, valves, pipes, electrical system and other appurtenances, by Bill of Sale in the form attached as Exhibit "F," and on the terms and conditions stated in paragraph 4. In the Bill of Sale for Production Well 2, Talking Rock Golf will also transfer and convey to Utility the piping, valves and other facilities necessary to connect Production Well 2 to the Off-Site Main (such piping, valves and other facilities being referred to herein as the "PW-2 Connection Facilities").

4. Terms and Conditions of Transfer and Conveyance. The transfer and conveyance of Production Well 2 and the transfer and conveyance of Production Well 3 shall each be on the following terms and conditions:

(a) Concurrently with the execution of the Bill of Sale for Production Well 3 and the execution of the Bill of Sale for Production Well 2, as the case may be, Talking Rock Golf will grant an easement to Utility over, under, upon and across the Wellsite, together with an access easement over and across the Wellsite and other property allowing ingress and egress to the Production Well then being conveyed from a public right-of-way, and a pipeline easement, if necessary, for the Off-Site Main or for the PW-3 Connection Facilities and the PW-2 Connection Facilities, in form attached as Exhibit "G" (each, an "Easement"). The Wellsite

and other property over which the Easement is granted is referred to herein as the "Easement Area".

(b) Each Production Well and the Easement therefor will be transferred, conveyed and granted subject to taxes and assessments not yet due and payable, and subject to the terms, limitations and conditions stated in this Well Agreement and all matters of record. Notwithstanding the foregoing, all monetary liens encumbering the Production Well then being transferred will be released at the time of the transfer and conveyance (other than liens for taxes and assessments not yet due and payable). Any monetary liens encumbering the Easement Area for a Production Well will be released at the time the Easement for the Production Well is granted, unless the holder of the monetary lien has consented to the Easement. At the time of the transfer, Developer will provide evidence in the form of lien waivers or other appropriate documents that all claims of contractors, subcontractors, mechanics and materialmen with respect to the Production Well then being transferred have been paid and are fully satisfied. Without limiting the foregoing, Utility acknowledges and agrees to accept each Production Well and each Easement subject to the conditions and restrictions contained in that Special Warranty Deed from Bluegreen West Corporation to Talking Rock Land, L.L.C. dated January 26, 2001 and recorded on January 26, 2001 in book 3807, page 626, records of Yavapai County, Arizona, pursuant to which the Well site was conveyed to Talking Rock Land, L.L.C., an Arizona limited liability company, an affiliate of Developer ("Talking Rock Land").

(c) Prior to the transfer of a Production Well to Utility, Utility shall have its engineers test and inspect the Production Well then being transferred at reasonable times as determined by the parties. Following testing and inspection, Utility shall issue a written notice of acceptance of the Production Well then being transferred to Developer (as to Production Well 3) or to Talking Rock Golf (as to Production Well 2); provided, however, that (i) ADEQ has issued an approval of construction for the Production Well; (ii) the Production Well in question is reasonably acceptable to Utility; and (iii) all Well Modifications have been completed at the Production Well in question, to the reasonable satisfaction of Utility. Utility shall consider a Production Well to be reasonably acceptable to Utility under subparagraph (ii) above if the Production Well is in substantially the same condition as existed at Utility's earlier inspection and testing of the Production Well referred to in paragraph 1(b), except that the Well Modifications shall have been completed and except for ordinary wear and tear. At the time of the transfer, Developer shall provide to Utility three (3) sets of "as-built" drawings and specifications for the Production Well then being transferred, certified and sealed by Developer's engineer to be true and correct.

(d) Developer warrants that, upon transfer to Utility, Production Well 3 will be free from all defects and deficiencies in construction, materials and/or workmanship for a period of time commensurate with the warranty period provided to Developer by contractors retained by Developer to construct Production Well 3, but in no event, for a period of less than one (1) year from the date of Utility's acceptance. Talking Rock Golf warrants that, upon transfer to Utility, Production Well 2 will be free from all defects and deficiencies in construction, materials and/or workmanship for one (1) year from the date of Utility's acceptance of Production Well 2. During the warranty period, Developer, as to Production Well 3, and Talking Rock Golf, as to Production Well 2, agree to promptly undertake any necessary corrective construction efforts required to remedy any defects and deficiencies in construction, materials and/or workmanship upon notice by Utility. Upon Utility's acceptance of a Production

Well, Developer shall assign any guaranties and warranties issued in connection with construction of that Production Well that are still in effect. Upon Utility's acceptance of a Production Well, Utility shall be deemed to have accepted that Production Well in an "as is" and "as-constructed" condition, subject only to the warranty period concerning defects and deficiencies in construction, materials and/or workmanship provided for herein. Each Production Well will be transferred, conveyed and granted without representation or warranty as to the quantity or quality of water that may be produced from the Production Well, either at the time of the conveyance or in the future.

(e) Without the express written consent of Developer and Talking Rock Golf, Utility shall not increase the production capacity of a Production Well transferred and conveyed by Developer to Utility beyond the production capacity of that Production Well identified in the Bill of Sale for that Production Well.

(f) This Agreement shall survive each transfer and conveyance of a Production Well and the grant of each Easement. All terms, conditions, covenants and restrictions pertaining to the use of the Production Wells contained in this Agreement shall continue in full force and effect after each such transfer, conveyance and grant. In particular, Utility will accept each Production Well transferred and conveyed to Utility subject to the production limitations stated in paragraph 12 and the limitations on location of use stated in paragraph 13.

5. Water Service. After Developer or Talking Rock Golf transfers and conveys a Production Well to Utility under paragraph 2 or paragraph 3, Utility will deliver water to the Property from the transferred and conveyed Production Well for the purpose of providing domestic water service to customers within the Property for all purposes, including common area landscape watering, but excluding (i) water service to the Golf Course for landscape irrigation and lake fill purposes at the Golf Course, until such time as Talking Rock Golf requests water service to the Golf Course pursuant to the Main Extension Agreement, and (ii) water service for construction purposes. All deliveries by Utility from the transferred and conveyed Production Well shall be subject to the terms, conditions, covenants and restrictions of this Agreement. This paragraph does not limit Utility's obligations under paragraphs 14 and 15 to allow Developer to use unused capacity in the transferred and conveyed Production Well for golf course irrigation and for construction purposes, as provided in those paragraphs.

6. Construction of Off-Site Transmission Main and Other Facilities. Developer has planned, designed, constructed and installed the Off-Site Main as provided in the Main Extension Agreement. The Off-Site Main extends from the Wellsite along the alignment shown on Exhibit "C" to a meter (the "Utility Meter") at that 300,000 gallon storage facility located at the Property approximately as shown on Exhibit "C." Developer has designed, constructed and installed a pump station, booster pumps and related infrastructure at the storage facility located at the Property and may plan, design, construct and install a second pump station located at the Property as provided in the Main Extension Agreement (the "Pump Station"). Upon the Developer's transfer and conveyance of Production Well 3, Developer will also transfer and convey to Utility the Off-Site Main, the 300,000-gallon storage facility and the Pump Station, including all equipment, valves, booster pumps, electrical systems and related infrastructure and appurtenances, by Bill of Sale in the form attached as Exhibit "H," and pursuant to the terms of the Main Extension Agreement. The Off-Site Main, the 300,000 gallon

storage facility, the Pump Station and all related infrastructure are referred to herein as the "Other Facilities."

7. Condition to Obligations. Developer's obligation to transfer and convey Production Well 3 to Utility, Talking Rock Golf's obligation to transfer and convey Production Well 2 to Utility and Utility's obligation to accept Production Well 2 and Production Well 3 are subject to the approval of the First Amendment by the Commission or the Commission staff (as necessary), and the approval of this Well Agreement by the Commission or the Commission staff (as necessary), if such approval is required by the Commission. In addition, Utility's obligation to accept Production Well 2 and Production Well 3 is subject to the condition that ADEQ has issued an approval of construction for the Production Well then being transferred. If the Commission or the Commission's staff determines that the First Amendment does not satisfy the conditions stated in Decision No. 64630, Developer and Utility will amend the First Amendment (and Developer, Talking Rock Golf and Utility will amend this Well Agreement, if necessary) to address the inadequacies of the First Amendment identified by the Commission or the Commission's staff.

8. Ownership and Operation by Developer Prior to Transfer. Until such time as Developer transfers and conveys Production Well 3, the PW-3 Connection Facilities and the Other Facilities to Utility pursuant to this Agreement (a) Developer shall own Production Well 3, the PW-3 Connection Facilities and the Other Facilities, and shall have the exclusive right to physical possession and control of, and the right of access to, Production Well 3, the PW-3 Connection Facilities and the Other Facilities; (b) Developer shall own the plans and specifications for Production Well 3, the PW-3 Connection Facilities and the Other Facilities, and any guaranties or warranties issued in connection therewith; (c) Developer shall manage and operate Production Well 3, the PW-3 Connection Facilities and the Other Facilities in accordance with standard utility practices and in accordance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction applicable to domestic water systems; provided, however, that Developer shall have no obligation to test water pumped from Production Well 3 or to treat water pumped from Production Well 3; (d) Developer shall maintain and repair Production Well 3, the PW-3 Connection Facilities and the Other Facilities as necessary to keep Production Well 3 and the Other Facilities in good condition and repair; and (e) Developer shall pay all costs and expenses of operating, managing, maintaining, repairing and replacing Production Well 3, the PW-3 Connection Facilities and the Other Facilities. Developer may delegate its obligations under this paragraph to a contractor that is experienced in the operation, maintenance and repair of water systems and has been approved by Utility, which approval will not be unreasonably withheld or delayed, provided, however, that such delegation shall not release Developer from its obligations under this paragraph.

9. Ownership and Operation by Talking Rock Golf Prior to Transfer. Until such time as Talking Rock Golf transfers and conveys Production Well 2 and the PW-2 Connection Facilities to Utility pursuant to this Agreement (a) Talking Rock Golf shall own Production Well 2 and the PW-2 Connection Facilities, and shall have the exclusive right to physical possession and control of, and the right of access to, Production Well 2 and the PW-2 Connection Facilities; (b) Talking Rock Golf shall own the plans and specifications for Production Well 2 and the PW-2 Connection Facilities, and any guaranties or warranties issued in connection therewith; (c) Talking Rock Golf shall manage and operate Production Well 2 and the PW-2 Connection Facilities in accordance with standard utility practices and in accordance

with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction applicable to domestic water systems; provided, however, that Talking Rock Golf shall have no obligation to test water pumped from Production Well 2 or to treat water pumped from Production Well 2; (d) Talking Rock Golf shall maintain and repair Production Well 2 and the PW-2 Connection Facilities as necessary to keep Production Well 2 and the PW-2 Connection Facilities in good condition and repair; and (e) Talking Rock Golf shall pay all costs and expenses of operating, managing, maintaining, repairing and replacing Production Well 2 and the PW-2 Connection Facilities. Talking Rock Golf may delegate its obligations under this paragraph to a contractor that is experienced in the operation, maintenance and repair of water systems and has been approved by Utility, which approval will not be unreasonably withheld or delayed, provided, however, that such delegation shall not release Talking Rock Golf from its obligations under this paragraph. Until such time as Talking Rock Golf transfers and conveys Production Well 2 to Utility, Production Well 2 shall be considered a Golf Course Well, as provided in paragraph 14.

10. Ownership and Operation After Transfer.

(a) Following the transfer and conveyance of Production Well 3, the PW-3 Connection Facilities and the Other Facilities to Utility, and without changing or modifying the terms, conditions and limitations stated in this Agreement or in the Easement, (i) Utility shall own Production Well 3, the Other Facilities, and the PW-3 Connection Facilities, and shall have the right to physical possession and control of, and the right of access to Production Well 3, the Other Facilities, and the PW-3 Connection Facilities; (ii) Utility shall manage and operate Production Well 3, the Other Facilities and the PW-3 Connection Facilities in accordance with standard utility practices and in accordance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction applicable to domestic water systems; (iii) Utility shall maintain and repair Production Well 3, the Other Facilities and the PW-3 Connection Facilities as necessary to keep Production Well 3, the Other Facilities and the PW-3 Connection Facilities in good condition and repair; and (iv) Utility shall pay all costs and expenses of operating, managing, maintaining, repairing and replacing Production Well 3, the Other Facilities and the PW-3 Connection Facilities, subject to the terms of paragraph 18. Utility may delegate its obligations under this paragraph to another contractor experienced in the operation, maintenance and repair of water systems, provided, however, that such delegation shall not release Utility from its obligations under this paragraph.

(b) Following the transfer and conveyance of Production Well 2 and the PW-2 Connection Facilities to Utility, and without changing or modifying the terms, conditions and limitations stated in this Agreement or in the Easement, (i) Utility shall own Production Well 2 and the PW-2 Connection Facilities, and shall have the right to physical possession and control of, and the right of access to Production Well 2 and the PW-2 Connection Facilities; (ii) Utility shall manage and operate Production Well and the PW-2 Connection Facilities in accordance with standard utility practices and in accordance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction applicable to domestic water systems; (iii) Utility shall maintain and repair Production Well 2 and the PW-2 Connection Facilities as necessary to keep Production Well 2 and the PW-2 Connection Facilities in good condition and repair; and (iv) Utility shall pay all costs and expenses of operating, managing, maintaining, repairing and replacing Production Well 2 and the PW-2 Connection Facilities, subject to the terms of paragraph 18. Utility may delegate its obligations

under this paragraph to another contractor experienced in the operation, maintenance and repair of water systems, provided, however, that such delegation shall not release Utility from its obligations under this paragraph.

11. Testing; Treatment; Chlorination Facilities.

(a) Water quality testing at Production Well 1, Production Well 2 and Production Well 3 indicates that the water pumped from all three wells may be suitable for domestic water purposes without additional treatment. Notwithstanding the groundwater quality, Utility has requested, and Talking Rock Golf has designed and is willing to install certain facilities at the Wellsite having sufficient capacity to treat all water withdrawn from the Production Wells (the "Chlorination Facilities"). The Chlorination Facilities will consist of, collectively, (i) three chlorinators and three injection pumps, solution tank, control systems and other equipment and materials as provided in the approved design for the Chlorination Facilities described in paragraph 11(b); (ii) a small building located at the Wellsite as depicted on Exhibit "E" that will enclose the chlorinators, injection pumps, solution tank, control systems and other equipment; (iii) three 3/4-inch diameter pipelines that will each convey chlorine solution from a chlorinator to one of the Production Wells (each, a "Chlorine Pipeline"); and (iv) connections, valves and other equipment necessary to connect each Chlorine Pipeline to a Production Well.

(b) Talking Rock Golf will cause the installation of the Chlorination Facilities, as follows:

(i) The design of the Chlorination Facilities has been approved by ADEQ, the Yavapai County Environmental Services Department and Utility. On or before ninety (90) days after the date hereof, Talking Rock Golf will cause the Chlorination Facilities to be installed at the Wellsite in substantial accordance with the design for the same approved by Utility and the pertinent regulatory agencies. If Talking Rock Golf transfers and conveys Production Well 3 to Utility prior to Talking Rock Golf completing the installation of the Chlorination Pipeline for Production Well 3, Utility will allow Talking Rock Golf, its agents and contractors, access to Production Well 3 at times mutually acceptable to Utility and Talking Rock Golf for the purpose of connecting said Chlorination Pipeline to Production Well 3.

(ii) Following installation of the Chlorination Facilities, Utility shall have its engineers test and inspect the Chlorination Facilities at such reasonable times as determined by the parties. Following such testing and inspection, Utility shall issue a written notice of acceptance of the Chlorination Facilities, provided, however, that ADEQ has issued an approval of construction for the Chlorination Facilities, and the Chlorination Facilities are reasonably acceptable to Utility. Utility shall consider the Chlorination Facilities reasonably acceptable to Utility if they have been installed in substantial compliance with the design for the same approved by Utility and by the pertinent regulatory agencies.

(iii) Immediately following the issuance by Utility of a notice of acceptance for the Chlorination Facilities, Talking Rock Golf will transfer and convey the Chlorination Facilities to Utility by Bill of Sale substantially in the form of attached Exhibit "I." Upon delivery of the Bill of Sale for the Chlorination Facilities, Utility shall be deemed to have accepted the Chlorination Facilities in an "as is" and "as-constructed" condition, subject only to the warranty concerning defects and deficiencies in construction, materials and/or workmanship

provided in the Bill of Sale. The parties acknowledge that the Bill of Sale for the Chlorination Facilities may be delivered by Talking Rock Golf separate from and after the delivery by Talking Rock Golf of the Bill of Sale for Production Well 3 pursuant to paragraph 2 hereof.

(iv) Concurrently with the execution of the Bill of Sale for the Chlorination Facilities, Talking Rock Golf will grant an easement to Utility over, under, upon and across the Wellsite containing the building that is part of the Chlorination Facilities, together with an access easement over and across the Wellsite and other property, allowing ingress and egress to said building from a public right-of-way, and together with pipeline easements for the Chlorination Pipelines substantially in the form attached as Exhibit "J" (the "Chlorination Facilities Easement").

(v) The Chlorination Facilities and the Chlorination Facilities Easement will be transferred, conveyed and granted subject to taxes and assessments not yet due and payable, and subject to the terms, limitations and conditions stated in this Well Agreement and all matters of record. Notwithstanding the foregoing, all monetary liens encumbering the Chlorination Facilities will be released at the time of the transfer and conveyance (other than liens for taxes and assessments not yet due and payable). Any monetary liens encumbering the easement area described in the Chlorination Facilities Easement will be released at the time the Chlorination Facilities Easement is granted, unless the holder of the monetary lien has consented to the Chlorination Facilities Easement. At the time of the transfer, Talking Rock Golf will provide evidence in the form of lien waivers or other appropriate documents that all claims of contractors, subcontractors, mechanics and materialmen with respect to the Chlorination Facilities have been paid and are fully satisfied.

(vi) Following the transfer and conveyance of Chlorination Facilities to Utility, and without changing or modifying the terms, conditions and limitations stated in this Agreement or the Chlorination Facilities Easement, (i) Utility shall own the Chlorination Facilities, and shall have the right to physical possession and control of, and the right of access to the Chlorination Facilities; (ii) Utility shall manage and operate the Chlorination Facilities in accordance with standard utility practices and in accordance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction applicable to domestic water systems; (iii) Utility shall maintain and repair the Chlorination Facilities as necessary to keep the Chlorination Facilities in good condition and repair; and (iv) Utility shall be responsible for all costs and expenses of operating, managing, maintaining, repairing and replacing the Chlorination Facilities, subject to the terms of paragraph 18. Utility may delegate its obligations under this paragraph to another contractor experienced in the operation, maintenance and repair of water treatment systems, provided, however, that such delegation shall not release Utility from its obligations under this paragraph.

(c) Following the transfer and conveyance of Production Well 3 to Utility, Utility shall perform all water quality testing and monitoring of water delivered to the Utility Meter as required by all governmental authorities having jurisdiction. Utility will provide copies of water quality test results to Developer. Talking Rock Golf will grant Utility access to Production Well 3, Production Well 2 and Production Well 1 (as herein defined) to permit water quality monitoring and testing by Utility as provided in the Easement.

(d) Utility shall treat all water delivered to the Utility Meter as

necessary to meet water quality standards imposed by all regulatory agencies having jurisdiction, as such standards may change from time to time. ALL WATER PUMPED FROM PRODUCTION WELL 3, PRODUCTION WELL 2 AND PRODUCTION WELL 1 SHALL BE ACCEPTED BY UTILITY "AS IS," AND NEITHER DEVELOPER NOR TALKING ROCK GOLF MAKE ANY REPRESENTATIONS OR WARRANTIES OF ANY NATURE REGARDING, NOR SHALL DEVELOPER OR TALKING ROCK GOLF BE IN ANY WAY RESPONSIBLE FOR, THE QUALITY OR QUANTITY OF WATER AVAILABLE FROM PRODUCTION WELL 3, PRODUCTION WELL 2 OR PRODUCTION WELL 1, EITHER NOW OR IN THE FUTURE.

(e) Utility shall be solely responsible for (i) the planning, design, installation and construction of any and all parts, components, equipment or materials installed at any location for the treatment of water pumped from Production Well 3, Production Well 2 or Production Well 1, excluding the Chlorination Facilities (the "Additional Treatment Facilities"), and (ii) the planning, design, installation and construction of the piping, valves and other facilities necessary to connect Production Well 1, Production Well 2 or Production Well 3 to any Additional Treatment Facilities (the "Additional Connection Facilities"). Neither Developer nor Talking Rock Golf shall have any obligation to pay any costs or expenses whatsoever related to the planning, design, installation or construction of the Additional Treatment Facilities or the Additional Connection Facilities, or any costs or expenses whatsoever related to the replacement of any of the Chlorination Facilities, the Additional Treatment Facilities (if any), or the Additional Connection Facilities (if any). Talking Rock Golf will allow Utility to construct and install any Additional Treatment Facilities or Additional Connection Facilities at the Wellsite and at the Adjacent Property and to operate, maintain, repair and replace the same, subject to the terms of this Agreement, the Easement and the Chlorination Facilities Easement; provided, however, that Utility shall comply with all fencing and landscaping requirements for the Additional Treatment Facilities imposed by Talking Rock Golf or Developer, and shall submit the plans for the Additional Treatment Facilities and the Additional Connection Facilities to Talking Rock Golf and Developer for their approval, which will not be unreasonably withheld or delayed, all as provided in the Easement and the Chlorination Facilities Easement. If the Additional Treatment Facilities are for Production Well 1 and must be located on the Adjacent Property as reasonably determined by Utility, Talking Rock Golf will grant an easement to Utility on, over, across and upon the Adjacent Property for such Additional Treatment Facilities in form reasonably acceptable to Utility and Talking Rock Golf. The term "Treatment Facilities" when used in this Well Agreement means the Chlorination Facilities, any Additional Treatment Facilities and any Additional Connection Facilities.

(f) Promptly after Utility determines that Additional Treatment Facilities are necessary and that Utility will install the Additional Treatment Facilities at the Wellsite and/or at the Adjacent Property, Utility will notify Developer and Talking Rock Golf of Utility's determination. Thereafter, Utility will design the Additional Treatment Facilities as required under this paragraph and will submit the final plans and specifications to Developer and Talking Rock Golf for approval, as required under this paragraph. Utility will also submit to Developer and Talking Rock Golf the final plans and specifications for any Additional Connection Facilities necessary to connect the Production Wells to the Additional Treatment Facilities.

12. Maximum Amount; Flow Rate. In any calendar year, the maximum total

amount of water Utility may withdraw from the Production Wells transferred and conveyed to Utility shall be 554 acre-feet ("Maximum Amount"). The Maximum Amount is based on the expected annual domestic demand for water at the Property at full-build, plus twenty-five percent (25%). In any calendar year, Utility shall not withdraw water from the Production Wells transferred and conveyed to Utility in excess of the Maximum Amount. The Maximum Amount shall not include water withdrawn from a Production Well and wheeled by Utility to the Golf Course pursuant to paragraph 14 and shall not include water withdrawn from a Production Well and wheeled by Utility to the Property for construction purposes pursuant to paragraph 15. The maximum flow rate measured at the Utility Meter that may be utilized by Utility for domestic water purposes (the "Maximum Flow Rate") shall be the lesser of (a) the actual combined production capacity of the Production Wells transferred and conveyed to Utility at the particular time in question under customary operating parameters, or (b) 687.5 gpm, which is based on the peak daily demand for water at the Property at full buildout, plus twenty-five (25%). The Maximum Flow Rate shall not include the flow rate of water withdrawn from a Golf Course Well (herein defined) or withdrawn from the Production Wells transferred and conveyed to Utility and wheeled to the Golf Course Meter pursuant to paragraph 14 or withdrawn from the Production Wells transferred and conveyed to Utility and wheeled to construction meters at the Property pursuant to paragraph 15. Utility shall have absolutely no right whatsoever to withdraw water from the Production Wells transferred and conveyed to Utility in excess of the Maximum Amount or to utilize water delivered to the Utility Meter for domestic water purposes at a rate in excess of the Maximum Flow Rate.

13. Location of Use. Utility shall use all water withdrawn from the Production Wells transferred and conveyed to Utility (a) to serve customers located within the Property; (b) to satisfy Talking Rock Golf's request for water for the Golf Course, to the extent water is wheeled to the Golf Course from a Production Well pursuant to paragraph 14, and (c) to satisfy Developer's request for construction water wheeled under paragraph 15. Utility shall not withdraw water from the Production Wells transferred and conveyed to Utility for any other purpose, or deliver such water to any other location, or serve such water to any customers located outside the Property.

14. Golf Course Water; Wheeling. Utility acknowledges that Talking Rock Golf has constructed the Golf Course at the Property. Except as provided in the Main Extension Agreement, Talking Rock Golf will provide water to the Golf Course, as follows:

(a) Developer has caused Production Well 1 to be constructed and installed at the Adjacent Property, having an estimated production rate of 525 gpm, assuming pumping for 12 hours per day independent of Production Well 2 and Production Well 3. Developer has conveyed Production Well 1 and Production Well 2 to Talking Rock Golf, along with the PW-2 Connection Facilities and the piping, valves and other facilities necessary to connect Production Well 1 to the Off-Site Main (the "PW-1 Connection Facilities"). Following the conveyance of Production Well 3 to Utility, and without limiting its rights under this paragraph 14, Talking Rock Golf will deliver water from Production Well 1 and Production Well 2 to the Golf Course to satisfy the landscape irrigation and lake fill demands at the Golf Course. Following the conveyance of Production Well 2 to Utility, and without limiting its rights under this paragraph 14, Talking Rock Golf will deliver water from Production Well 1 to satisfy the landscape irrigation and lake fill demands at the Golf Course. The terms "landscape irrigation" and "golf course irrigation" when used in this Well Agreement mean the irrigation of any and all

landscaping located anywhere on the Golf Course, whether such landscaping is turf or non-turf, and without regard to whether the water is delivered through sprinklers or drip irrigators or other means. The term "Golf Course Wells" when used in this Well Agreement (i) means Production Well 1 and Production Well 2, until such time as Talking Rock Golf conveys Production Well 2 to Utility pursuant to this Well Agreement, and (ii), after Talking Rock Golf conveys Production Well 2 to Utility, means Production Well 1.

(b) Utility acknowledges that Developer had installed the PW-1 Connection Facilities, at the cost and expense of Developer. Developer submitted the design of the PW-1 Connection Facilities to Utility for its approval, and Utility approved said design. Developer has caused PW-1 Connection Facilities to be constructed and installed in substantial accordance with the design for the same approved by Utility.

(c) Talking Rock Golf shall manage, operate, maintain, repair and replace Production Well 1 and the PW-1 Connection Facilities at its sole cost and expense. Talking Rock Golf shall manage, operate, maintain, repair and replace Production Well 2 and the PW-2 Connection Facilities, at its sole cost and expense, until Talking Rock Golf conveys Production Well 2 and the PW-2 Connection Facilities to Utility. Talking Rock Golf shall operate, manage, maintain and repair the Golf Course Wells, the PW-1 Connection Facilities and the PW-2 Connection Facilities in accordance with standard utility practice applicable to domestic water systems and in accordance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction applicable to domestic water systems ("Applicable Law"); provided, however, that Talking Rock Golf shall have no obligation to test water pumped from a Golf Course Well or to treat water pumped from a Golf Course Well. Utility and Talking Rock Golf will periodically (not less than once per calendar year) meet and review standard utility practices and the Applicable Law pertinent to the operation, management, maintenance and repair of domestic wells and domestic water delivery systems. Talking Rock Golf will utilize only personnel familiar with said standard utility practices and the Applicable Law in the operation, management, maintenance and repair of the Golf Course Wells, the PW-1 Connection Facilities and the PW-2 Connection Facilities. Utility may, at its request and from time to time, observe and supervise Talking Rock Golf's operation, management, maintenance and repair of the Golf Course Wells, the PW-1 Connection Facilities and the PW-2 Connection Facilities to ensure compliance with this paragraph.

(d) (i) Utility, Developer and Talking Rock Golf acknowledge and agree that: (A) the total estimated production capacity of Production Well 2 and Production Well 3 is greater than the Maximum Flow Rate of 687.5 gpm; (B) Utility will not need to use the entire production capacity of Production Well 2 and Production Well 3 (as estimated) in order to provide domestic water service to all customers within the Property; (C) even after full build-out of the Property, during some hours of the day, there will be unused production capacity in the Production Wells transferred and conveyed to Utility pursuant to this Agreement. For example, and not by way of limitation, after full build-out of the Property, unused production capacity in the Production Wells transferred and conveyed to Utility is likely to be available from approximately 10 p.m. of each day to approximately 6 a.m. of the following day.

(ii) Upon request by Talking Rock Golf, Utility will allow Talking Rock Golf to use the entire unused production capacity of the transferred and conveyed Production Wells available from time to time to provide water to the Golf Course for golf course

irrigation and lake-fill purposes. Utility shall reasonably determine the amount of the unused production capacity of the Production Wells transferred and conveyed to Utility and the hours during which such unused capacity exists. Utility will operate the transferred and conveyed Production Wells, as agent for Talking Rock Golf, to allow water from the transferred and conveyed Production Wells to be delivered to the Golf Course for landscape irrigation and lake fill purposes during the hours that unused production capacity is available at the Production Wells and up to the entire unused production capacity so available. Talking Rock Golf may request the use of the unused production capacity at any and all Production Wells transferred and conveyed to Utility. Talking Rock Golf may request the use of the unused production capacity at a Production Well even if Talking Rock Golf is not using the entire production capacity of the Golf Course Wells. While a Production Well is used for both domestic water service and for golf course irrigation and lake-fill purposes at the Golf Course, Talking Rock Golf and Utility will share the costs of operation, maintenance and repair of the Production Well as provided in paragraph 18(c).

(iii) Utility shall charge Talking Rock Golf a Wheeling Charge for the amount of water withdrawn from the transferred and conveyed Production Wells and delivered to the Golf Course pursuant to this subparagraph, billed and paid as provided in subparagraph 14(f) and paragraph 19. Utility's willingness to allow Talking Rock Golf to use the unused capacity in the Production Wells transferred and conveyed to Utility and to operate the Production Wells transferred and conveyed to Utility for the benefit of Talking Rock Golf is in consideration of Developer's installation of the Production Wells and Developer's and Talking Rock Golf's willingness to convey Production Well 3 and Production Well 2 entirely to Utility, rather than conveying an undivided tenant-in-common interest in the Production Wells to Utility.

(e) Except as provided below, following the transfer and conveyance of Production Well 3 to Utility pursuant to paragraph 3, Utility shall wheel up to 400 acre-feet per year of water for golf course irrigation and lake-fill purposes through the Off-Site Main, the Pump Station and the storage and domestic delivery system at the Property to a water meter installed by Developer at the golf course storage lake (the "Golf Course Meter"). Notwithstanding the foregoing, during calendar year 2003, Utility shall wheel up to 518 acre feet of water to the Golf Course Meter for golf course irrigation and lake-fill purposes, Utility acknowledging that such greater amount of water is necessary for landscape grow-in purposes. The wheeled water shall include water produced at the Golf Course Wells and water produced at the Production Wells transferred and conveyed to Utility that have unused production capacity as provided in paragraph 14(d). The Treatment Facilities, the Off-Site Main, the Pump Station and the storage and domestic delivery system at the Property have been and will be sized to accommodate the peak water deliveries for the Golf Course and for domestic water service to customers within the Property. Utility will operate the Treatment Facilities, the Off-Site Main, the Pump Station and the storage and domestic delivery system at the Property, as agent for Talking Rock Golf, to allow water to be wheeled from the Production Wells transferred and conveyed to Utility and the Golf Course Wells for landscape irrigation and lake-fill purposes at the Golf Course as provided in this paragraph 14. Except during emergency situations described in paragraph 14(j), the flow rate as measured at the Utility Meter of the water that Utility must wheel through the Off-Site Main for golf course irrigation and lake-fill purposes and the flow rate as measured at the Golf Course Meter of the water that Utility must wheel through the Pump Station and the storage and domestic water delivery system of the Property for golf course irrigation and lake-fill purposes shall be the lesser of (i) the flow rate requested by Talking Rock

Golf, or (ii) the actual production rate of the Golf Course Wells at the particular time in question, plus the combined unused production capacity of the transferred and conveyed Production Wells at the particular time in question, or (iv) 925 gpm. Utility acknowledges and agrees that the transfer and conveyance of the Chlorination Facilities may occur after Utility has commenced wheeling water from the Golf Course Wells to the Golf Course as provided herein.

(f) In consideration of the agreement of Utility to wheel water to the Golf Course, Talking Rock Golf will pay Utility \$10.00 per acre foot of water (the "Wheeling Charge") wheeled from the transferred and conveyed Production Wells or the Golf Course Wells through the Off-Site Main, the Pump Station and the Property's storage and domestic delivery system to the Golf Course, as measured at the Golf Course Meter. The Wheeling Charge shall increase as of January 1, 2004 and on January 1 of each calendar year thereafter in accordance with the percentage increase in the Consumer Price Index as developed by the United States Bureau of Labor Statistics (Consumer Price Index for Urban Consumers (U), 1982-1984 = 100, U.S. City Average) (the "CPI") as of the relevant Adjustment Date over the CPI as of January 1, 2001 (such increase is referred to as the "Inflation Adjustment"). The CPI will be determined as of September 30 of each year (the "Adjustment Date"), and Talking Rock Golf will notify Utility, prior to December 1 of that year, of Talking Rock Golf's calculation of the Inflation Adjustment and the applicable price increase, if any, to be implemented as of the ensuing January 1. If the CPI ceases to be published or available, Talking Rock Golf may select another index that, in Talking Rock Golf's reasonable discretion, approximates the CPI, and such index shall thereafter be used instead of the CPI in calculating the applicable Inflation Adjustment under this paragraph. If the CPI remains the same or if the CPI decreases for any given year, the Wheeling Charge shall remain unchanged from the preceding year.

(g) On a monthly basis, Talking Rock Golf will pay Utility the Wheeling Charge for the amount of water wheeled from the transferred and conveyed Production Wells or the Golf Course Wells to the Golf Course during the immediately-preceding billing period. Each said payment shall be paid within fifteen (15) days after delivery of the calculation of the Wheeling Charge pursuant to paragraph 19. If Talking Rock Golf fails to timely make a payment of a Wheeling Charge under the subparagraph, and Talking Rock Golf does not cure such failure within ten (10) days after Talking Rock Golf receives written notice from Utility of such failure, Utility may refuse to wheel water from the transferred and conveyed Production Wells or the Golf Course Wells to the Golf Course until such time as Talking Rock Golf pays the delinquent amount to Utility.

(h) Other than the payment of the Wheeling Charge and the amounts due under paragraph 18, neither Developer, nor Talking Rock Golf, nor any successor or assign of either of them shall have any obligation to pay for the delivery of water wheeled to the Golf Course pursuant to this Agreement, or to pay for the operation, maintenance, repair or replacement of any facilities used in the wheeling of water to the Golf Course pursuant to this Well Agreement, including the Treatment Facilities, the Off-Site Main, the Pump Station and the storage and delivery system at the Property.

(i) Utility acknowledges and agrees that Talking Rock Golf may withdraw water from the Golf Course Wells in any quantity and deliver such water to the Golf Course for golf course irrigation and lake fill purposes, and this Agreement shall not, in any way, affect or limit Talking Rock Golf's right to so withdraw and deliver water. The foregoing

sentence does not modify the limitations on the amount of water that Utility is obligated to wheel under paragraph 14(e), or the maximum flow rate for wheeled water.

(j) In the event that an emergency causes a reduction in the transmission capacity of the Off-Site Main, or a reduction in the treatment capacity of the Treatment Facilities, or a reduction in the storage or delivery capacity of the Pump Station or any other component of the domestic water system at the Property and such reduction causes a shortage of water for domestic delivery to Utility customers located at the Property, (i) Utility may use so much of the transmission capacity of the Off-Site Main or the treatment capacity of the Treatment Facilities, or the storage or delivery capacity of the Pump Station and all other components of the domestic water system at the Property (as the case may be) as is necessary to satisfy the domestic water demands of Utility's customers located at the Property, for so long as the emergency exists, and (ii) Utility will use the remaining transmission capacity of the Off-Site Main, or the remaining treatment capacity of the Treatment Facilities, or the remaining storage or delivery capacity of the Pump Station and the other components of the domestic water system at the Property (as the case may be) to wheel water for golf course irrigation pursuant to this paragraph. Utility will immediately take such actions as are necessary to restore the transmission capacity of the Off-Site Main, or the treatment capacity of the Treatment Facilities, or the remaining storage or delivery capacity of the domestic water system at the Property (as the case may be) to the capacity that existing prior to the occurrence of the emergency.

15. Construction Water; Wheeling. Developer will provide water to the Property for construction purposes, as follows:

(a) Developer may use water from the transferred and conveyed Production Wells for construction purposes at the Property. At Developer's request, Utility will operate the transferred and conveyed Production Wells as Developer's agent to allow water from the transferred and conveyed Production Wells to be delivered to the Property for construction purposes. While the Production Wells are used for both domestic water service and for construction purposes, Utility will charge Talking Rock Golf for a share of the costs of operation, maintenance and repair of the Production Wells as provided in paragraph 18(b) and (c).

(b) Utility shall wheel up to 125 acre-feet per year of water for construction purposes through the Off-Site Main, the Pump Station and the storage and domestic delivery system at the Property to construction meters to be installed at the Property. Utility will operate the Treatment Facilities, the Off-Site Main, the Pump Station and the storage and domestic delivery system at the Property, as agent for Developer, to allow water to be wheeled from the Production Wells transferred and conveyed to Utility for construction purposes at the Property. Except in emergency situations described in paragraph 15(f), the flow rate as measured at the construction meters of the water that Utility must wheel through the Pump Station and the storage and domestic water delivery system of the Property for construction purposes shall be the lesser of (i) the flow rate requested by Developer, or (ii) the actual combined production capacity of the transferred and conveyed Production Wells at the particular time in question, less the production rate necessary to satisfy then-existing domestic water demands, and less the production rate necessary to satisfy Talking Rock Golf's requests for the use of unused production capacity at the transferred and conveyed Production Wells pursuant to paragraph 14(d).

(c) In consideration of the agreement of Utility to wheel water to the Property for construction purposes, Developer shall cause Talking Rock Golf to pay Utility the Wheeling Charge for water wheeled from the transferred and conveyed Production Wells through the Off-Site Main, the Pump Station and the Property's storage and domestic delivery system to the Property for construction purposes, as measured at the construction meters.

(d) On a monthly basis, Developer will pay or cause Talking Rock Golf to pay Utility the Wheeling Charge for the amount of water wheeled from the transferred and conveyed Production Wells to the Property for construction purposes during the immediately-preceding billing period. Each said payment shall be paid within fifteen (15) days after delivery of the calculation of the Wheeling Charge pursuant to paragraph 19. If Developer or Talking Rock Golf fails to timely make a payment of a Wheeling Charge under the subparagraph, and Developer does not cure or cause Talking Rock Golf to cure such failure within ten (10) days after Developer and Talking Rock Golf receive written notice from Utility of such failure, Utility may refuse to wheel water from the Production Wells for construction purposes until such time as Developer pays or causes Talking Rock Golf to pay the delinquent amount to Utility.

(e) Other than the payment of the Wheeling Charge and the amounts due under paragraph 18, neither Developer, nor Talking Rock Golf, nor any successor or assign of either of them shall have any obligation to pay for the delivery of water wheeled to the Property for construction purposes pursuant to this Agreement, or to pay for the operation, maintenance, repair or replacement of any facilities used in the wheeling of water to the Property for construction purposes pursuant to this Agreement, including the Off-Site Main, the Pump Station and the storage and delivery system at the Property.

(f) In the event that an emergency causes a reduction in the transmission capacity of the Off-Site Main, or a reduction in the treatment capacity of the Treatment Facilities, or a reduction in the storage or delivery capacity of the Pump Station or any other component of the domestic water system at the Property and such reduction causes a shortage of water for domestic delivery to Utility customers located at the Property, (i) Utility may use so much of the transmission capacity of the Off-Site Main, or the treatment capacity of the Treatment Facilities, or the storage or delivery capacity of the Pump Station and all other components of domestic water system at the Property (as the case may be) as is necessary to satisfy the domestic water demands of Utility's customers located at the Property, for so long as the emergency exists, and (ii) Utility will use the remaining transmission capacity of the Off-Site Main, or the remaining treatment capacity of the Treatment Facilities, or the remaining storage or delivery capacity of the Pump Station and all other components of the domestic water system at the Property (as the case may be) to wheel water for golf course irrigation pursuant to paragraph 14, and (iii) after satisfying the demands for water described in paragraphs 15(f)(i) and (ii), Utility will use any remaining transmission capacity of the Off-Site Main or any remaining treatment capacity of the Treatment Facilities, or any remaining storage or delivery capacity of the Pump Station and the other components of the domestic water system at the Property (as the case may be) to wheel water to the Property for construction purposes pursuant to this paragraph.

16. Additional Wells. Talking Rock Land, Talking Rock Golf or Developer may drill and equip an additional well or wells at the Property for use in supplying construction water to the Property or for use in supplying golf course irrigation and lake fill

water. Following the completion of such additional well or wells, Utility and the owner of the well will negotiate in good faith for the wheeling by Utility of the water produced for such additional well or wells on terms substantially similar to those contained herein, provided, however, that (a) except as provided below, Utility reasonably determines that there is available capacity in the Off-Site Main, the Pump Station and other components of the storage and delivery system at the Property at the time of day water would be wheeled from such additional well or wells, and (b) Utility reasonably determines that the quality of the water produced from such additional well or wells (after treatment with chlorination facilities similar to those installed by Talking Rock Golf at the Wellsite) is acceptable. Notwithstanding the foregoing, if such additional well or wells is for use in supplying golf course irrigation and lake fill water, and the owner of such well or wells agrees that the flow rate that Utility must wheel through the Off-Site Main, the Pump Station and other components of the storage and delivery system at the Property to the Golf Course shall not exceed 925 gpm (as provided in paragraph 14(e)), Utility shall determine that there is available capacity in the Off-Site Main, the Pump Station and the other components of the storage and delivery system at the Property to wheel water from such additional well or wells.

17. Term. The term of this Agreement shall be perpetual. In the event that the continuing effect of this Agreement is determined to be unenforceable by a court of competent jurisdiction, then the initial term of this Agreement shall be one hundred twenty (120) years, commencing on the date hereof. Thereafter, the term of this Agreement shall be extended, automatically and without notice, for consecutive periods of twenty-five (25) years each after the initial one hundred twenty (120) year period has expired.

18. Costs and Expenses.

(a) Wells Owned and Used by One Party. Talking Rock Golf shall be solely responsible for the costs and expenses of the operation, maintenance and repair of the Golf Course Wells. Except as provided in paragraph 18(c), Utility shall be solely responsible for the costs and expenses of the operation, maintenance and repair of the Production Wells transferred and conveyed to Utility.

(b) Additional Treatment Facilities. In the event that Utility installs Additional Treatment Facilities for the treatment of water withdrawn solely from a Golf Course Well, Talking Rock Golf shall be solely responsible for the costs and expenses of the operation, maintenance and repair of such Additional Treatment Facilities. Except as provided in paragraph 18(c), Utility shall be solely responsible for the costs and expenses of the operation, maintenance and repair of Additional Treatment Facilities installed by Utility for the treatment of water withdrawn solely from Production Wells transferred and conveyed to Utility.

(c) Wells Jointly Used. For each transferred and conveyed Production Well that Utility allows Talking Rock Golf to use to provide water to the Golf Course pursuant to paragraph 14(d) during a particular calendar year or allows Developer to use for construction purposes pursuant to paragraph 15 during a particular calendar year, Utility and Talking Rock Golf will share the costs and expenses of the operation, maintenance and repair of that Production Well and the costs and expenses of the operation, maintenance and repair of any Additional Treatment Facilities installed solely for the treatment of water from that Production Well, as follows:

(i) Fixed Monthly Fee. On or before the first day of each month, commencing with the first month after Developer transfers and conveys Production Well 3 to Utility, Talking Rock Golf will pay Utility the Fixed Monthly Fee (herein defined) as a reasonable estimate of Talking Rock Golf's proportionate share of the Well OM&R Costs (herein defined) for the transferred and conveyed Production Wells incurred or to be incurred during the calendar year in question. "Fixed Monthly Fee" means \$1,250.00 for the year 2003. Thereafter, the Fixed Monthly Fee may be adjusted by Utility no more frequently than once per calendar year by Utility providing written notice of an adjustment in the Fixed Monthly Fee to Talking Rock Golf, along with evidence justifying the adjustment in the Fixed Monthly Fee, such as, for example, the Well OM&R Costs for prior calendar years, or changes in the amount of water wheeled from the transferred and conveyed Production Wells to the Golf Course under paragraph 14 or for construction purposes under paragraph 15. The adjusted Fixed Monthly Fee shall thereafter be due commencing either (A) on the first day of the first month following Talking Rock Golf's receipt of the notice of said adjustment, or (B) on the first day of the second month following Talking Rock Golf's receipt of the notice of said adjustment, if Talking Rock Golf receives the notice of said adjustment on a date that is less than ten (10) days prior to the first day of the first month following Talking Rock Golf's receipt of the notice of said adjustment.

(ii) Actual Proportionate Share. Talking Rock Golf's actual proportionate share of the Well OM&R Costs for a calendar year for the Production Wells governed by this paragraph 18(c) shall be an amount equal to (A) the total amount of Well OM&R Costs incurred by Utility with respect to the transferred and conveyed Production Wells for the calendar year; (B) multiplied by a fraction, (I) the numerator of which shall be the amount of water measured at the Golf Course Meter and at construction meters during the calendar year, less the amount of water withdrawn from the Golf Course Wells during the calendar year, and (II) the denominator of which shall be the amount of water measured at the Utility Meter during the calendar year, less the amount of water withdrawn from that Golf Course Wells during the calendar year.

(iii) On or before January 31st of each calendar year, commencing in 2004, Talking Rock Golf will deliver to Utility the meter readings for the Golf Course Wells, indicating the amount of water withdrawn from the Golf Course Wells during the preceding calendar year.

(d) Pump Station. Utility and Talking Rock Golf will share the costs and expenses of the operation, maintenance and repair of the Pump Station, as follows:

(i) Fixed Pump Station Fee. On or before the first day of each month, commencing with the first month after Developer transfers and conveys Production Well 3 to Utility, Talking Rock Golf will pay Utility the Fixed Pump Station Fee (herein defined) as a reasonable estimate of Talking Rock Golf's proportionate share of the Pump Station OM&R Costs (herein defined) for the Pump Station incurred or to be incurred during the calendar year in question. "Fixed Pump Station Fee" means \$250.00 for the year 2003. Thereafter, the Fixed Pump Station Fee may be adjusted by Utility no more frequently than once per calendar year by Utility providing written notice of an adjustment in the Fixed Pump Station Fee to Talking Rock Golf, along with evidence justifying the adjustment in the Fixed Pump Station Fee, such as, for example, the Pump Station OM&R Costs for prior calendar years, or

changes in the amount of water wheeled to the Golf Course under paragraph 14 or for construction purposes under paragraph 15. The adjusted Fixed Pump Station Fee shall thereafter be due commencing either (A) on the first day of the first month following Talking Rock Golf's receipt of the notice of said adjustment, or (B) on the first day of the second month following Talking Rock Golf's receipt of the notice of said adjustment, if Talking Rock Golf receives the notice of said adjustment on a date that is less than ten (10) days prior to the first day of the first month following Talking Rock Golf's receipt of the notice of said adjustment.

(ii) Actual Proportionate Share. Talking Rock Golf's actual proportionate share of the Pump Station OM&R Costs for a calendar year shall be an amount equal to (A) the total amount of Pump Station OM&R Costs incurred by Utility for the calendar year; (B) multiplied by a fraction, the numerator of which shall be the amount of water measured at the Golf Course Meter and at construction meters during the calendar year, and the denominator of which shall be the amount of water measured at the Utility Meter during the calendar year.

(iii) Alternative Calculation. Notwithstanding the foregoing, if Talking Rock Golf installs a separate water transmission line for the delivery of water withdrawn from the Golf Course Well(s) directly to the Golf Course and does not utilize the Off-Site Main during the course of a calendar year to deliver water withdrawn from the Golf Course Well(s) to the Golf Course, then Talking Rock Golf's actual proportionate share of the Pump Station OM&R Costs for that calendar year shall be an amount equal to (A) the total amount of Pump Station OM&R costs incurred by Utility for the calendar year; (B) multiplied by a fraction, (I) the numerator of which shall be the amount of water measured at the Golf Course Meter and the construction meters during the calendar year, less the amount of water withdrawn from the Golf Course Wells during the calendar year, and (II) the denominator of which shall be the amount of water measured at the Utility Meter during the calendar year.

(e) Treatment Facilities. Talking Rock Golf will pay all costs and expenses of the operation, maintenance and repair of those Additional Treatment Facilities, if any, installed by Utility and used to treat water withdrawn solely from a Golf Course Well, and Utility and Talking Rock Land will share the costs and expenses of the operation, maintenance and repair of the Treatment Facilities used to treat water withdrawn from Production Wells and Golf Course Wells, including the Chlorination Facilities, as follows:

(i) Fixed Treatment Fee. On or before the first day of each month, commencing with the first month after Talking Rock Golf transfers and conveys the Chlorination Facilities to Utility, Talking Rock Golf will pay Utility the Fixed Treatment Fee (herein defined) as a reasonable estimate of the Golf Course Well Treatment OM&R Costs (herein defined) and of the Shared Well Treatment OM&R Costs (herein defined) incurred or to be incurred during the calendar year in question. "Fixed Treatment Fee" means \$250.00 for the year 2003. Thereafter, the Fixed Treatment Fee may be adjusted by Utility no frequently than once per calendar year by Utility providing written notice of an adjustment in the Fixed Treatment Fee to Talking Rock Golf, along with evidence justifying the adjustment in the Fixed Treatment Fee, such as, for example, the Treatment OM&R Costs for prior calendar years, or changes in the amount of water pumped from the Golf Course Wells. The adjusted Fixed Treatment Fee shall thereafter be due commencing either (A) on the first day of the first month following Talking Rock Golf's receipt of the notice of said adjustment, or (B) on the first day of

the second month following Talking Rock Golf's receipt of the notice of said adjustment, if Talking Rock Golf receives notice of said adjustment on a date that is less than ten (10) days prior to the first day of the first month following Talking Rock Golf's receipt of the notice of said adjustment.

(ii) Actual Proportionate Share. Talking Rock Golf's actual proportionate share of the Shared Treatment OM&R Costs for a calendar year shall be an amount equal to (A) the total amount of Shared Treatment OM&R Costs incurred by Utility for the calendar year; (B) multiplied by a fraction, the numerator of which shall be the amount of water measured at the Golf Course Meter and at construction meters during the calendar year, and the denominator of which shall be the amount of water measured at the Utility Meter during the calendar year.

(iii) Alternative Calculation. Notwithstanding the foregoing, if Talking Rock Golf installs a separate water transmission line for the delivery of water withdrawn from the Golf Course Well(s) directly to the Golf Course and does not utilize the Off-Site Main during the course of a calendar year to deliver water withdrawn from the Golf Course Well(s) to the Golf Course and does not utilize the Treatment Facilities to treat the water withdrawn from the Golf Course Wells and delivered to the Golf Course, then Talking Rock Golf's actual proportionate share of the Shared Treatment OM&R Costs for that calendar year shall be an amount equal to (A) the total amount of Shared Treatment OM&R costs incurred by Utility for the calendar year; (B) multiplied by a fraction, (I) the numerator of which shall be the amount of water measured at the Golf Course Meter and the construction meters during the calendar year, less the amount of water withdrawn from the Golf Course Wells during the calendar year, and (II) the denominator of which shall be the amount of water measured at the Utility Meter during the calendar year.

(f) Annual Calculation – Well OM&R Costs. On or before February 15th of each calendar year, Utility will deliver to Talking Rock Golf copies of all invoices and receipts related to Well OM&R Costs for the preceding calendar year pertaining to the Production Wells governed by paragraph 18(c), along with Utility's calculation of Talking Rock Golf's actual proportionate share of the Well OM&R Costs for the Production Wells for the preceding calendar year calculated pursuant to paragraph 18(c)(ii), information on the meter readings used in the calculation, and the amount of any underpayment or overpayment of Well OM&R Costs, taking into account the Fixed Monthly Fee paid by Talking Rock Golf during the calendar year in question. Utility shall reimburse to Talking Rock Golf any overpayment by Talking Rock Golf of Well OM&R Costs at the time that Utility delivers the foregoing information and materials to Talking Rock Golf. Within fifteen (15) days after Talking Rock Golf's receipt of the foregoing information and materials, Talking Rock Golf shall pay to Utility the amount of any underpayment of Talking Rock Golf's actual proportionate share of Well OM&R Costs, without deduction or offset from the underpayment. Notwithstanding the foregoing, Talking Rock Golf may pay any underpayment amount or accept any overpayment amount under protest, reserving any and all rights it may have against Utility in the event that Talking Rock Golf disputes the calculation of Talking Rock Golf's actual proportionate share of Well OM&R Costs. If Talking Rock Golf fails to timely pay the Fixed Monthly Fee under paragraph 18(c)(i) or the amount of any underpayment of Talking Rock Golf's actual proportionate share of Well OM&R Costs under this subparagraph, and Talking Rock Golf does not cure such failure within ten (10) days after Talking Rock Golf receives written notice from

Utility of such failure, Utility may refuse to wheel water from the transferred and conveyed Production Wells or the Golf Course Wells to the Golf Course until such time as Talking Rock Golf pays the delinquent amount to Utility.

(i) "Well OM&R Costs" means any and all costs and expenses of using, operating, maintaining and repairing the transferred and conveyed Production Wells or the Additional Treatment Facilities, if any, installed to treat water withdrawn solely from the transferred and conveyed Production Wells, including without limitation, electricity charges, water quantity measurement and monitoring costs; water quality testing and monitoring costs; water quality treatment costs; personnel costs; supplies; taxes and fees; insurance; and administration and billing costs. Well OM&R Costs do not include Capital Costs (defined below).

(ii) Capital Costs. Neither Developer nor Talking Rock Golf shall have any obligation to pay any costs or expenses whatsoever related to planning, design, installation or construction of any parts, components, equipment or materials installed at the transferred and conveyed Production Wells, after the transfer and conveyance of the Production Well in question to Utility, which are considered capital in nature under generally accepted accounting principles (the "Capital Costs"), whether or not such parts, components, equipment or materials are replacements of currently-existing parts, components, equipment or materials at the transferred and conveyed Production Wells, and whether or not such parts, components, equipment and material are considered Treatment Facilities or replacements of Treatment Facilities. Utility shall be solely responsible for the payment of all Capital Costs. Utility acknowledges and agrees that Developer's installation of the Production Wells, at Developer's cost, is a sufficient contribution to capital by Developer and Talking Rock Golf.

(g) Annual Calculation – Pump Station OM&R Costs. On or before February 15th of each calendar year, Utility will deliver to Talking Rock Golf copies of all invoices and receipts related to Pump Station OM&R Costs for the preceding calendar year, along with Utility's calculation of Talking Rock Golf's actual proportionate share of the Pump Station OM&R Costs for the preceding calendar year calculated pursuant to paragraph 18(d)(ii) or (iii), information on the meter readings used in the calculation, and the amount of any underpayment or overpayment of Pump Station OM&R Costs, taking into account the Fixed Pump Station Fee paid by Talking Rock Golf during the calendar year in question. Utility shall reimburse to Talking Rock Golf any overpayment by Talking Rock Golf of Pump Station OM&R Costs at the time that Utility delivers the foregoing information and materials to Talking Rock Golf. Within fifteen (15) days after Talking Rock Golf's receipt of the foregoing information and materials, Talking Rock Golf shall pay to Utility the amount of any underpayment of Talking Rock Golf's actual proportionate share of Pump Station OM&R Costs, without deduction or offset from the underpayment. Notwithstanding the foregoing, Talking Rock Golf may pay any underpayment amount or accept any overpayment amount under protest, reserving any and all rights it may have against Utility in the event that Talking Rock Golf disputes the calculation of Talking Rock Golf's actual proportionate share of Pump Station OM&R Costs. If Talking Rock Golf fails to timely pay the Fixed Pump Station Fee under paragraph 18(d)(i) or the amount of any underpayment of Talking Rock Golf's actual proportionate share of Pump Station OM&R Costs under this subparagraph, and Talking Rock Golf does not cure such failure within ten (10) days after Talking Rock Golf receives written notice from Utility of such failure, Utility may refuse to wheel water from the transferred and

conveyed Production Wells or the Golf Course Wells to the Golf Course until such time as Talking Rock Golf pays the delinquent amount to Utility.

(i) “Pump Station OM&R Costs” means any and all costs and expenses of using, operating, maintaining and repairing the Pump Station, including without limitation, electricity charges; supplies; personnel costs; taxes and fees; insurance; and administration and billing costs. Pump Station OM&R Costs do not include Pump Station Capital Costs (defined below).

(ii) Capital Costs. Neither Developer nor Talking Rock Golf shall have any obligation to pay any costs or expenses whatsoever related to planning, design, installation or construction of any parts, components, equipment or materials installed at the Pump Station, after the initial installation of the Pump Station, which are considered capital in nature under generally accepted accounting principles (the “Pump Station Capital Costs”), whether or not such parts, components, equipment or materials are replacements of currently-existing parts, components, equipment or materials at the Pump Station. Utility shall be solely responsible for the payment of all Pump Station Capital Costs. Utility acknowledges and agrees that Developer’s installation of the Pump Station, at Developer’s cost, is a sufficient contribution to capital by Developer and Talking Rock Golf.

(h) Annual Calculation – Treatment OM&R Costs. On or before February 15th of each calendar year, Utility will deliver to Talking Rock Golf copies of all invoices and receipts related to Treatment OM&R Costs for the preceding calendar year, along with Utility’s calculation of Talking Rock Golf’s actual proportionate share of the Shared Treatment Costs for the preceding calendar year calculated pursuant to paragraph 18(e)(ii) or (iii), information on the meter readings used in the calculation, and of the amount of any underpayment or overpayment of Treatment OM&R Costs, taking into account the Fixed Treatment Fee paid by Talking Rock Golf during the calendar year in question. Utility shall reimburse to Talking Rock Golf any overpayment by Talking Rock Golf of Treatment OM&R Costs at the time that Utility delivers the foregoing information and materials to Talking Rock Golf. Within fifteen (15) days after Talking Rock Golf’s receipt of the foregoing information and materials, Talking Rock Golf shall pay to Utility the amount of any underpayment of Talking Rock Golf’s actual proportionate share of Treatment OM&R Costs, without deduction or offset from the underpayment. Notwithstanding the foregoing, Talking Rock Golf may pay any underpayment amount or accept any overpayment amount under protest, reserving any and all rights it may have against Utility in the event that Talking Rock Golf disputes the calculation of Talking Rock Golf’s actual proportionate share of Treatment OM&R Costs. If Talking Rock Golf fails to timely pay the Fixed Treatment Fee under paragraph 18(e)(i) or the amount of any underpayment of the actual Treatment OM&R Costs under this subparagraph, and Talking Rock Golf does not cure such failure within ten (10) days after Talking Rock Golf receives written notice from Utility of such failure, Utility may refuse to wheel water from the Golf Course Wells to the Golf Course until such time as Talking Rock Golf pays the delinquent amount to Utility.

(i) “Golf Course Well Treatment OM&R Costs” means any and all costs and expenses of using, operating, maintaining and repairing the Additional Treatment Facilities, if any, used to treat water withdrawn solely from a Golf Course Well, including without limitation, electricity charges; water quality testing and monitoring costs; water quality treatment costs; supplies; personnel costs; taxes and fees; insurance; and

administration and billing costs. Golf Course Well Treatment OM&R Costs do not include Treatment Capital Costs (defined below).

(ii) "Shared Well Treatment OM&R Costs" means any and all costs and expenses of using, operating, maintaining and repairing the Treatment Facilities, including the Chlorination Facilities, used to treat water withdrawn from the Production Wells and the Golf Course Wells, including without limitation, electricity charges; water quality testing and monitoring costs; water quality treatment costs; supplies; personnel costs; taxes and fees; insurance; and administration and billing costs. Shared Well Treatment OM&R Costs do not include Treatment Capital Costs (defined below).

(iii) "Treatment OM&R Costs" means the Golf Course Well Treatment OM&R Costs for a particular year plus the Shared Well Treatment OM&R Costs for the particular year.

(iv) Capital Costs. Neither Developer nor Talking Rock Golf shall have any obligation to pay any costs or expenses whatsoever related to planning, design, installation or construction of any parts, components, equipment or materials installed as Treatment Facilities, which are considered capital in nature under generally accepted accounting principles (the "Treatment Capital Costs"), including any parts, components, equipment or materials that are replacements of the parts, components, equipment or materials installed as part of the Chlorination Facilities. Utility shall be solely responsible for the payment of all Treatment Capital Costs. Utility acknowledges and agrees that the installation of the Chlorination Facilities, at Talking Rock Golf's cost, is a sufficient contribution to capital by Developer and Talking Rock Golf.

19. Practices and Procedures; Meter Reading; Access to Meters. Utility, Developer and Talking Rock Golf will develop practices and procedures for the ordering of water and the operation of the transferred and conveyed Production Wells, the Golf Course Wells, the Treatment Facilities, the Off-Site Main, the Pump Station and the storage and distribution system at the property, with the intent that (a) sufficient water is pumped from the transferred and conveyed Production Wells and delivered to the Property to satisfy, in full and at all times, the domestic water demands at the Property, consistent with the terms, conditions and limitations of this Agreement; (b) sufficient water is pumped from the transferred and conveyed Production Wells and the Golf Course Wells and wheeled to the Golf Course to satisfy, in full and at all times, the demands for golf course irrigation and lake-fill water at the Golf Course, consistent with the terms, conditions and limitations of this Agreement; and (c) sufficient water is pumped from the transferred and conveyed Production Wells and wheeled to the Property to satisfy, in full and at all times, the construction water demands at the Property, consistent with the terms, conditions and limitations of this Agreement. On a monthly basis, Utility will provide Developer and Talking Rock Golf with (i) meter readings from the Utility Meter, the Golf Course Meter, and the construction meters, (ii) a calculation of the amount of water provided for domestic purposes equal to the water measured at the Utility Meter less the water measured at the Golf Course Meter and the construction meters, (iii) a calculation of the Golf Course Wheeling Charge for the billing period in question, equal to the Wheeling Charge multiplied by the amount of water delivered to the Golf Course Meter during the billing period, and (iv) a calculation of the construction Wheeling Charge for the billing period in question, equal to the Wheeling Charge multiplied by the amount of water delivered to the construction meters during

the billing period. Utility will allow Developer and Talking Rock Golf monthly access to the Utility Meter for the purpose of reading the Utility Meter. Talking Rock Golf will allow Developer and Utility monthly access to the Golf Course Meter for the purpose of reading the Golf Course Meter. Developer will cause Talking Rock Land to allow Developer and Utility monthly access to the construction meters for the purpose of reading the construction meters. Developer or Talking Rock Golf may request that Utility calibrate and adjust the Utility Meter not more frequently than twice per calendar year, and Utility will so calibrate and adjust (if necessary) the Utility Meter, at the cost of Talking Rock Golf. Utility may request that Talking Rock Golf calibrate and adjust the Golf Course Meter not more frequently than twice per calendar year, and Talking Rock Golf, at its cost, will so calibrate and adjust (if necessary) the Golf Course Meter.

20. Scheduled Shutdowns. Utility may shut down any of the transferred and conveyed Production Wells, the Treatment Facilities, the Off-Site Main or any other facilities transferred and conveyed to Utility pursuant to this Agreement, for inspection, maintenance and repair, or for the installation of capital replacements, or in the event of an emergency. For scheduled shutdowns, Utility will use reasonable efforts to schedule such shutdowns at times that will minimize adverse impacts on the operation of the Golf Course Wells. Utility shall diligently complete any inspection, repair or maintenance of the Production Wells, the Treatment Facilities, the Off-Site Main or the other facilities transferred and conveyed to Utility pursuant to this Agreement. Interruption of use shall not render Utility liable to Developer or Talking Rock Golf for damages. Utility will provide Developer and Talking Rock Golf with written notice of a shutdown of the transferred and conveyed Production Wells, the Treatment Facilities, the Off-Site Main or the other facilities transferred and conveyed pursuant to this Agreement, as the case may be, not less than ten (10) business days prior to the shutdown, except in the event of an emergency, in which event no prior notice of the shutdown will be required. In the event of an emergency, Utility will immediately take such actions as are reasonably necessary to restore the Production Well or Wells, the Treatment Facilities, the Off-Site Main or the other facilities transferred and conveyed pursuant to this Agreement, as the case may be, to pre-emergency operation.

21. Non-Discrimination Provision. Utility covenants and agrees to treat Developer in a non-discriminatory manner. Utility shall, as a prerequisite to providing service, require all future homebuilders and/or developers contributing or advancing water supply to Utility to serve customers in Utility's certificated service area, to convey ownership of all production well(s) used to supply water to Utility.

22. No Public Dedication. The transfer and conveyance of a Production Well, the Chlorination Facilities, the Off-Site Main or any other property to Utility shall not have the effect of dedicating the Wellsite, the Adjacent Property, any of the Property or any other real property owned by Developer or Talking Rock Golf to any public use or purpose.

23. Estoppel Certificate. A party shall at any time and from time to time upon not less than ten (10) days prior written notice from the other party execute, acknowledge and deliver to the requesting party a statement in writing (a) certifying that this Agreement is unmodified and in full force and effect (or if modified, stating the nature of such modification and certifying that this Agreement, as so modified, is in full force and effect), and the date to which amounts due hereunder are paid in advance, if any; (b) acknowledging that there are not,

to the knowledge of the certifying party, any uncured defaults on the part of the other party hereunder, or specifying such defaults, if there are any claimed; and (c) confirming such other matters as the requesting party may reasonably request. Any such statement may be relied upon by the requesting party, and any prospective purchaser or encumbrancer of the requesting party's property. Upon a failure to sign the statement or notify the requesting party in writing of any inaccuracies in the statement within the time period stated above, the statement submitted by a requesting party shall be deemed approved.

24. Force Majeure. No party to this Agreement shall be liable to the others for failure, default or delay in performing any of its obligations hereunder, other than for the payment of money obligations specified herein, in case such failure, default or delay is caused by strikes or other labor problems; forces of nature, unavoidable accident, fire, acts of the public enemy, interference by civil authorities, passage of laws, orders of the court; adoption of rules or ordinances; acts, failures to act, decisions or orders or regulations of any governmental or military body or agency, office or commission; delays in receipt of materials; or any other cause, whether of similar nature, not within the control of the party affected and which, by the exercise of due diligence, such party is unable to prevent or mitigate the outcome ("Force Majeure Matters"); provided, however, that the party's failure, default or delay in performance shall be excused only for so long as such cause or event is present. Should any Force Majeure Matter occur, the parties hereto agree to proceed with diligence to do whatever is reasonable and necessary with respect to the Force Majeure Matter so that each party may perform its obligations under this Agreement.

25. Insurance. During the term of this Agreement, Talking Rock Golf shall, at its own expense, maintain in full force a policy or policies of commercial general liability insurance and fire and casualty insurance, in such amounts and with such companies as it deems reasonably appropriate. The policy(ies) shall insure Talking Rock Golf, with Utility as an additional named insured, against all liability for injury to persons and property and for the death of any person occurring in or about the Golf Course Wells or the Well site. During the term of this Agreement, Utility shall, at its own expense, maintain in full force a policy or policies of commercial general liability insurance and fire and casualty insurance, in such amounts and with such companies as it deems reasonably appropriate. The policy(ies) shall insure Utility, with Developer, Talking Rock Land and Talking Rock Golf as additional insureds, against all liability for injury to persons and property and for the death of any person occurring at or about the transferred and conveyed Production Wells, the Treatment Facilities, the Off-Site Main, the Other Facilities, Utility's storage, treatment or water distribution system, or caused or alleged to be caused by the delivery of water through Utility's storage, treatment or distribution system.

26. Indemnity. Utility shall indemnify, save and hold harmless Developer, Talking Rock Land and Talking Rock Golf and their members, officers, directors, partners, principals, employees and agents for, from and against any and all loss or damage arising from or relating to the storage, treatment, delivery or service of water withdrawn from a transferred and conveyed Production Well by Utility pursuant to this Agreement or withdrawn from a transferred and conveyed Production Well or a Golf Course Well and wheeled by Utility pursuant to this Agreement, including any liability resulting from the quality of the water or any violation of laws, rules or regulations relating to human health or the safety or protection of the environment.

27. Notices. All notices and other written communications required hereunder

shall be sent to the parties as follows:

Swayze McCraine
ICR Water Users Association
P.O. Box 4413
Prescott, Arizona 86302

Douglas R. Zuber
Harvard Simon I, L.L.C.
c/o Harvard Investment, Inc.
7600 E. Doubletree Ranch Rd., Suite 220
Scottsdale, AZ 85258

Douglas R. Zuber
Talking Rock Golf, L.L.C.
c/o Harvard Investments, Inc.
7600 E. Doubletree Ranch Rd., Suite 220
Scottsdale, AZ 85258

Each party shall advise the other party in writing of any change in the manner in which notice is to be provided hereunder. Notices shall be in writing and shall be given by personal delivery, or by overnight delivery by a national delivery service, or by delivery through the United States Postal Service, registered or certified mail, return receipt requested, postage prepaid. Notices shall be deemed delivered when received, if by personal delivery, or on the next business day after delivery, if by overnight delivery, or on the third day after deposit with the United States Postal Service, addressed as noted above.

28. Right of Assignment.

(a) Developer may assign this Agreement, or any of its rights and obligations hereunder, to another party provided that written notice of such assignment is given to Utility and Talking Rock Golf prior to the effective date of assignment and provided, further, that the assignee assumes in writing Developer's obligations hereunder and agrees to be bound by this Agreement. Upon delivery of such notice and a written assumption of Developer's obligations hereunder, Developer shall be released from all obligations arising under this Agreement after the effective date of the assignment and assumption. With regard to construction at the Property, the rights and obligations under paragraph 15 and under any other provisions of this Agreement pertinent to the delivery of water to the Property for construction purposes may be assigned and delegated by Developer, its successors and assigns, to any future owner of all or any portion of the Property, by the assignor giving written notice of such assignment to Utility and Talking Rock Golf prior to the effective date of assignment, together with an agreement in writing by the assignee to assume Developer's obligations under paragraph 15 and such other provisions of this Agreement, and a description of the property owned by the assignee. Upon delivery of such notice and a written assumption of Developer's obligations under paragraph 15 and such other provisions of this Agreement, Developer shall be released from all obligations arising under paragraph 15 or such other provisions after the effective date of the assignment and assumption that pertain to delivery of construction water to the property

owned by the assignee.

(b) Talking Rock Golf may assign this Agreement, or any of its rights and obligations hereunder, to another party provided that written notice of such assignment is given to Utility and Developer prior to the effective date of assignment and provided, further, that the assignee assumes in writing Talking Rock Golf's obligations hereunder and agrees to be bound by this Agreement. Upon delivery of such notice and a written assumption of Talking Rock Golf's obligations hereunder, Talking Rock Golf shall be released from all obligations arising under this Agreement after the effective date of the assignment and assumption. With regard to the Golf Course, the rights and obligations under paragraph 14 and under any other provisions of this Agreement pertinent to the Golf Course Wells or the delivery of water to the Golf Course from the transferred and conveyed Production Wells or the Golf Course Wells may be assigned and delegated by Talking Rock Golf, its successors and assigns, to any future owner of the Golf Course, by the assignor giving written notice of such assignment to Utility and Developer prior to the effective date of assignment, together with an agreement in writing by the assignee to assume Talking Rock Golf's obligations under paragraph 14 and such other provisions of this Agreement. Upon delivery of such notice and a written assumption of Talking Rock Golf's obligations under paragraph 14 and such other provisions of this Agreement, Talking Rock Golf shall be released from all obligations arising under paragraph 14 or such other provisions after the effective date of the assignment and assumption.

(c) Utility may assign all of its rights under this Agreement, and delegate all of its obligations hereunder, to another water utility company obligated to provide domestic water service to the Property, provided that written notice of such assignment is given to Developer and Talking Rock Golf prior to the effective date of assignment and provided, further, that the assignee assumes in writing Utility's obligations hereunder and agrees to be bound by this Agreement. Upon delivery of such notice and a written assumption of Utility's obligations hereunder, Utility shall be released from all obligations arising under this Agreement after the effective date of the assignment and assumption.

29. Default. If any party breaches, or defaults under, this Agreement, and such breach or default continues for a period of two (2) days with respect to any breach or default by Utility under paragraphs 11, 12, 13, 14 and 15, or for a period of ten (10) days with respect to any default in the payment of money, or for a period of thirty (30) days with respect to any other default, in each case after receipt by the defaulting party of a written notice describing the default, the non-defaulting party may immediately pursue any and all remedies available for such breach or default at law or in equity, including bringing an action for injunctive relief or for specific performance.

30. Attorneys' Fees. The prevailing party in any litigation or other proceeding concerning or related to this Agreement, or the enforcement of thereof, shall be entitled to recover its costs and reasonable attorneys' fees.

31. Time of the Essence. Time is of the essence of every provision hereof.

32. Prior Agreement. Developer and Utility previously entered into a Water Purchase Agreement dated April 27, 2001 (the "Water Purchase Agreement"). Upon the execution and delivery of this Agreement, the Water Purchase Agreement shall be entirely

superceded, terminated, void and of no further force or effect whatsoever. Each party shall, at the request of the other party, confirm in writing that the Water Purchase Agreement is so superceded, terminated, void and of no further force or effect.

33. Miscellaneous. This Agreement shall be governed by the laws of the State of Arizona. Without changing the assignment provision of paragraph 28, this Agreement, and each and every term and condition contained herein, shall be binding upon and inure to the benefit of the successors and assigns of Utility, Developer and Talking Rock Golf. This Agreement sets forth the entire agreement between the parties and supersedes all prior negotiations, understandings and agreements between them, except as otherwise expressly provided herein. No change in, addition to, or waiver of any provisions of this Agreement shall be binding upon any party unless in writing and signed by all parties. This Agreement may be executed in two or more original or facsimile counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument. In case any provision of this Agreement shall be determined to be invalid, illegal or unenforceable, it shall, to the extent possible, be modified in such manner as to be valid, legal and enforceable but so as most nearly to retain the intent of the parties. If such modification is not possible, such provision shall be severed from this Agreement. In either case the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby. The headings in this Agreement are inserted for convenience only, and shall not constitute a part of this Agreement or be used to construe or interpret any of its provisions. The parties have participated jointly in the negotiation and drafting of this Agreement. If a question of interpretation arises, this Agreement shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

ICR WATER USERS ASSOCIATION, an Arizona public service corporation

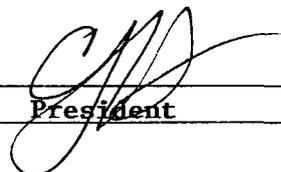
By: 
Its: President

“Utility”

HARVARD SIMON I, L.L.C., an Arizona limited liability company

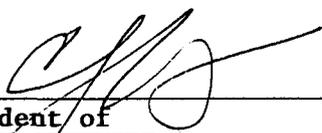
By: Harvard Talking Rock, L.L.C.
Its Operating Member

By: Harvard Investments, Inc., an
Nevada corporation
Its Manager

By: 
Its: President

“Developer”

TALKING ROCK GOLF, L.L.C., an Arizona
limited liability company *

By: 
Its: President of
Harvard Investments, Inc.,
Manager of
Harvard Talking Rock, L.L.C.,
Operating Member of
Harvard Simon I, L.L.C.,
Manager of
TALKING ROCK GOLF, L.L.C.*

PARCEL I:

All of Sections 15 and 16, Township 16 North, Range 3 West, of the Gila and Salt River Base and Meridian, Yavapai County, Arizona.

PARCEL II:

Thence Northeast quarter of Section 17, Township 16 North, Range 3 West, of the Gila and Salt River Base and Meridian, lying Northeasterly of Prescott-Simmons Road, as it existed on June 10, 1920.

EXCEPT all that portion of Section 17, Township 16 North, Range 3 West, of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, more particularly described as follows:

COMMENCING at the point of intersection of the Easterly right of way of the Simmons Road and the North line of said Section 17, being the TRUE POINT OF BEGINNING;

Thence South 89°54' East, along the North line of said Section 17, a distance of 514.55 feet;

Thence South 34°33' East, parallel with the said Simmons Road 514.55 feet;

Thence North 89°54' West, 514.55 feet to a point on the said Easterly right of way of the Simmons Road;

Thence North 34°33' West, 514.55 feet, along the said Easterly right of way of the Simmons Road to the TRUE POINT OF BEGINNING as conveyed in Warranty Deed recorded November 13, 1996 in Book 3310 of Official Records, Page 854.

PARCEL III:

All of Sections 21 and 22, Township 16 North, Range 3 West, of the Gila and Salt River Base and Meridian.

EXCEPT THEREFROM all coal, oil, gas and other mineral deposits as reserved in the Patent recorded in Book 25 of Official Records, Page 106.

(Affects Section 22, Township 16 North, Range 3 West.)

EXCEPT for that portion lying within the following described Parcels:

PARCEL A:

Section 21 and Section 22 of Township 16 North, Range 3 West of the Gila and Salt River Base and Meridian, County of Yavapai, State of Arizona, described as follows:

BEGINNING at the intersection of the South line of said Section 22 and the Westerly sideline of Williamson Valley Road, 100 feet wide (also know as Prescott-Simmons Highway);

Thence along said Westerly line, North $30^{\circ}31'54''$ West, 945.97 feet;

Thence parallel with the Southerly line of said Section 22, North $88^{\circ}54'05''$ West, 2,215.12 feet to the East line of said Section 21;

Thence parallel with the Southerly line of said Section 21, South $86^{\circ}23'15''$ West, 2,826.98 feet;

Thence continuing along said parallel line, South $88^{\circ}48'30''$ West, 1,170.00 feet;

Thence South $03^{\circ}42'29''$ East, 805.67 feet to the South line of said Section 21;

Thence along said Section line, North $88^{\circ}48'30''$ East, 1,151.53 feet to the Southerly quarter corner of said Section, said corner is monumented with a 3 inch diameter brass disk set in concrete, stamped "WJ CHEEK 1961 PE 2398";

Thence continuing along said South line North $86^{\circ}23'15''$ East, 2,804.18 feet to the Southeast corner of said Section 21, said corner is monumented with a 3 inch diameter brass disk set in concrete, stamped "WJ CHEEK 1961 PE 2398";

Thence along the Southerly line of said Section 22, South $88^{\circ}54'05''$ East, 2,684.88 feet to the POINT OF BEGINNING.

PARCEL B:

Any portion lying South of the Northerly right of way line of Nancy Drive as recorded in Book 16 of Maps, Page 63 and East of the Easterly right of way of Williamson Valley Road.

PARCEL IV:

The North half of Section 28, Township 16 North, Range 3 West of the Gila and Salt River Base and Meridian.

EXCEPT for the following described Parcel:

That portion of Section 28, Township 16 North, Range 3 West, of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, described as follows:

BEGINNING at the Northeast corner of said Section 28, said corner is monumented with a 3 inch diameter brass disk set in concrete stamped "WJ CHEEK PE 2398";

Thence along the North line of said Section 28, South 86°23'15" West, 2,804.18 feet to the North quarter corner of said Section 28, said corner is monumented with a 3 inch diameter brass disk set in concrete, stamped "WJ CHEEK PE 2398";

Thence continuing along said North line of Section 28, South 88°48'30" West, 1,151.53 feet to a line parallel with the East line of said Section 28;

Thence along said parallel line, South 03°42'29" East, 2,614.40 feet to the mid-section line of said Section 28;

Thence along said mid-section line, North 88°26'14" East, 3,957.37 feet to the East quarter corner of said Section 28, said corner is monumented with a 3 inch diameter brass disk set in concrete stamped "WJ CHEEK PE 2398";

Thence along the East line of said Section 28, North 03°42'29" West, 2,707.30 feet to the POINT OF BEGINNING.

PARCEL V:

Section 33 of Township 16 North, Range 3 West, of the Gila and Salt River Base and Meridian, County of Yavapai, State of Arizona, lying Northerly and Northwesterly of the following described line:

BEGINNING on the West line of said Section, North 0°12'47" West, 1,992.80 feet from the Southwest corner of said Section, said corner is monumented with a General Land Office survey monument;

Thence North 89°47'13" East, 1051.14 feet to an existing 4 strand barbed wire fence;

Thence generally along said fence line, North 55°49'36" East, 5,326.57 feet to the East line of said Section:

EXCEPT from all Parcels I, II and III any portion lying within Prescott-Simmons-Highway right of way.

PARCEL VI:

A portion of Section 11, Township 16 North, Range 3 West, of the Gila and Salt River Meridian, Yavapai County, Arizona, described as follows:

BEGINNING at the Southwest corner of said Section 11, as depicted on the Survey Plat recorded in Book 53 of Land Surveys, Page 30, records of said Yavapai County;

Thence South 88°11'06" East, along the South line of said Section 11, a distance of 2,711.26 feet to the South quarter corner of said Section 11, as depicted on said Plat;

Thence South $88^{\circ}10'26''$ East, (of record South $88^{\circ}13'$ East), along said South line, a distance of 164.88 feet (of record 165.00 feet), to the Southwest corner of that certain parcel described in Book 2196 of Official Records, Page 746 and Book 3603 of Official Records, page 873, records of said Yavapai County, said corner being monumented with a one-half inch iron bar,

Thence North $00^{\circ}08'09''$ West, (of record North $00^{\circ}06'45''$ West), along the West line thereof, a distance of 1,826.06 feet (of record 1826.19 feet), to the Northwest corner of said Parcel, being also the Southwest corner of that certain parcel described in Book 2633 of Official Records, Page 474, records of said Yavapai County, said corner being monumented with a one-half inch iron bar;

Thence North $00^{\circ}05'23''$ West (of record North $00^{\circ}06'45''$ West), along the West line of said parcel described in Book 2633 of Official Records, Page 474, a distance of 1,829.86 feet (of record 1,837.24 feet), to the Northwest corner thereof, being also the Southwest corner of that certain parcel described in Book 2439 of Official Records, Page 517, records of said Yavapai County, said corner being monumented with a one-half inch iron bar;

Thence North $00^{\circ}07'54''$ West, (of record North $00^{\circ}07'00''$ West), along the West line of said parcel described in Book 2439 of Official Records, Page 517, a distance of 1,832.47 feet (of record 1,832.48 feet), to the Northwest corner of said parcel, said corner being a point on the North line of said Section 11 and being monumented with a one-half inch iron bar,

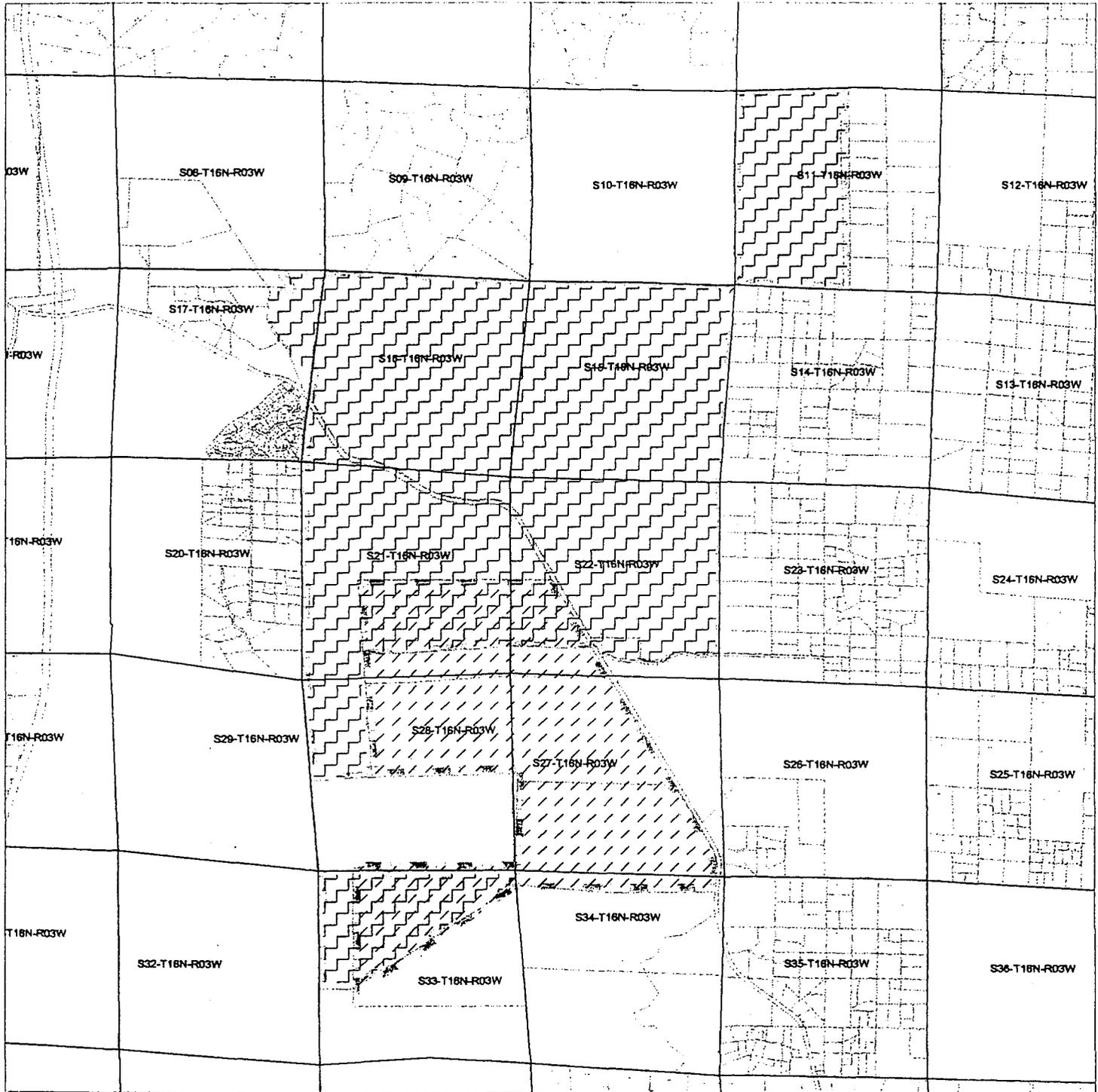
Thence North $88^{\circ}56'36''$ West (of record North $88^{\circ}56'06''$ West), along said north line, a distance of 165.03 feet (of record 165.00 feet), to the North quarter corner of said Section 11, as depicted on said Plat;

Thence North $88^{\circ}56'16''$ West, along said North line, a distance of 2,778.19 feet to the Northwest corner of said Section 11, as depicted on said Plat;

Thence South $00^{\circ}50'19''$ East, along the West line of said Section 11, a distance of 2,726.26 feet to the West quarter corner of said Section 11, as depicted on said Plat;

Thence South $00^{\circ}49'50''$ East, along said West line, a distance of 2,726.10 feet to the POINT OF BEGINNING.

ICR WATER USERS ASSOCIATION EXISTING CC&N AND REQUESTED EXPANSION

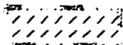


LEGEND

ICR WATER USERS
REQUESTED CC&N EXPANSION



ICR WATER USERS
CC&N AREA



PROPERTY OF
TRUST No. 4750

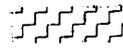


EXHIBIT "B"

TALKING ROCK
PHASE 1-B
TRACT "B"

TALKING ROCK
FUTURE
PHASE 1-C

TALKING ROCK
RANCH LAND

CROSSROADS RANCH ROAD
68' WIDE EASEMENT FOR
INGRESS EGRESS,
PUBLIC UTILITIES,
ROADWAY AND
DRAINAGE PURPOSES

WILLIAMSON
VALLEY ROAD

WATER
TANK SITE
AND
UTILITY METER
SITE



SANTA MARIA VISTA
50' WIDE EASEMENT FOR
INGRESS EGRESS,
PUBLIC UTILITIES,
ROADWAY AND
DRAINAGE PURPOSES

LOT 4 VALLEY VIEW

A = END WATERLINE EASEMENT
"WELL EASEMENT PARCEL TO
SANTA MARIA VISTA"
B = BEGIN EASEMENT
"CROSSROADS RANCH ROAD TO
PHASE 1-B"
C = END EASEMENT "CROSSROADS
RANCH ROAD TO PHASE 1-B"

LOT 1
VALLEY VIEW

LOT 3
VALLEY VIEW

"WELL EASEMENT
ON WELL FIELD"

LOT 2
VALLEY VIEW

BEGINNING WATER LINE
EASEMENT "WELL EASEMENT
PARCEL TO SANTA MARIA VISTA"

WELL SITES



SCALE: 1" = 1000'

Exhibit "C"

SHEPARD - WESNITZER, INC.
CIVIL ENGINEERING AND SURVEYING
1146 W. HWY 89A SUITE B, SEDONA, AZ 86340
(928) 282-1061

JOB NO: 02240
DATE: FEB 03
SCALE: 1" = 1000'
DRAWN: TKH
DESIGN: N/A
CHECKED: EGW

TALKING ROCK RANCH YAVAPAI COUNTY ARIZONA

**EXHIBIT
WATER LINE
EASEMENT**

SHEET

1

OF 1

LEGAL DESCRIPTION
Talking Rock Off-site Water Easement
Well Easement on Well Field
(February 11, 2003)

A parcel of land lying within Parcel 2, Amended Record of Survey of Valley View Estates as recorded in Book 49 of Land Surveys, Page 66 in the Yavapai County Recorder's Office (R1), lying in Section 17, Township 16 North, Range 3 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona;

BEGINNING at the Southeast corner of Section 17, from which the East Quarter corner of Section 17 bears North $04^{\circ}56'24''$ East, a distance of 2644.68 feet (Record per a Results of Survey as recorded in Book 53 of Land Surveys, Page 24 in the Yavapai County Recorders Office (R2) and Basis of Bearings for this description);

Thence North $46^{\circ}18'18''$ West, a distance of 5869.55 feet (R2) to the Southwest corner of said Parcel 2 and the Southwest corner of a Well Easement as recorded in Book 3697 of Official Records, Page 369, Yavapai County Recorder's Office (R3), said point being on the Northerly Right of Way line of Williamson Valley Road;

Thence North $02^{\circ}31'38''$ East, along the Westerly line of said Parcel 2, a distance of 25.48 feet (North $02^{\circ}27'51''$ East, a distance of 25.48 feet R3);

Thence South $76^{\circ}26'12''$ East, along the Northerly line of a 25.00 feet wide Easement for Public Utilities, Public Roadway and Drainage Purposes per R1, a distance of 1.21 feet (South $76^{\circ}30'00''$ East, a distance of 1.21 feet R3), to a point of curvature, the central point of which bears South $13^{\circ}33'48''$ West;

Thence along a curve concave Southwest, having a radius of 1471.23 feet, through a central angle of $05^{\circ}08'20''$, a distance of 131.95 feet (R3);

Thence leaving said Northerly Easement line, North $20^{\circ}12'03''$ West, (North $20^{\circ}15'50''$ West R3), along the Easterly line of R3, a distance of 69.75 feet to the TRUE POINT OF BEGINNING;

Thence continuing along the Easterly line of R3, North $20^{\circ}12'03''$ West (North $20^{\circ}15'50''$ West R3), a distance of 265.15 feet to a point on the West line of said Parcel 2 (per R1);

Thence leaving the Easterly line of R3, North $02^{\circ}31'38''$ East (North $02^{\circ}27'51''$ East R1), along the West line of Parcel 2, a distance of 24.22 feet;

Exhibit "D"

Thence leaving the West line of Parcel 2, North 69°47'57" East, a distance of 65.64 feet;

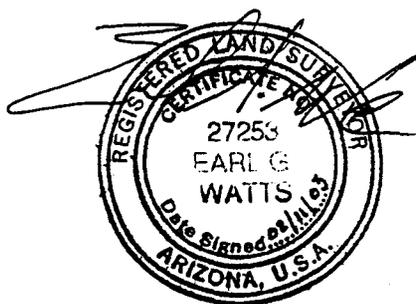
Thence South 40°37'38" East, a distance of 170.16 feet;

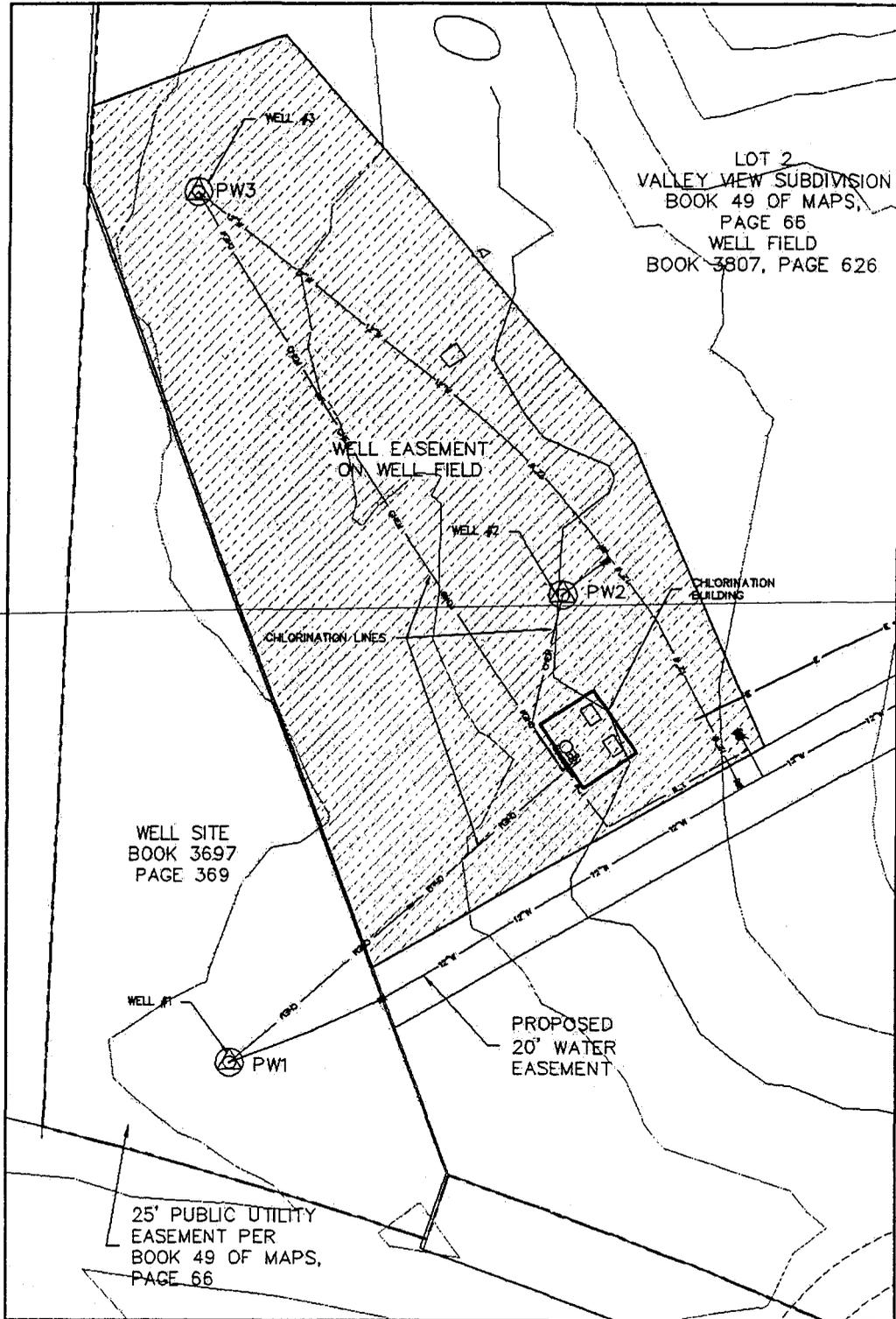
Thence South 22°57'00" East, a distance of 104.63 feet;

Thence South 60°13'27" West, a distance of 141.37 feet to the TRUE POINT OF BEGINNING.

Containing 0.75 Acres, more or less.

This legal description was prepared by Earl G. Watts, RLS 27253, on behalf of and at the request of Shephard-Wesnitzer, Inc., Sedona, AZ.





LOT 2
 VALLEY MEW SUBDIVISION
 BOOK 49 OF MAPS,
 PAGE 66
 WELL FIELD
 BOOK 3807, PAGE 626

WELL SITE
 BOOK 3697
 PAGE 369

25' PUBLIC UTILITY
 EASEMENT PER
 BOOK 49 OF MAPS,
 PAGE 66

Exhibit "E"

[FORM – Revise for Production Well 2 to reflect Talking Rock Golf
as Seller and other conforming changes.]

When Recorded, Return to:

Michael T. Hallam, Esq.
Lewis and Roca, LLP
40 North Central Avenue
Phoenix, AZ 85004-4429

BILL OF SALE
(Production Well)

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, **HARVARD SIMON I, L.L.C.**, an Arizona limited liability company, (“Seller”), hereby sells, transfers, conveys and absolutely sets over to **ICR WATER USERS ASSOCIATION**, an Arizona public service corporation (“Buyer”), (a) that well identified on Arizona Department of Water Resources records as Well Registration No. 55-_____ located at the property described on Exhibit “1” attached hereto, including all casing, pumps, motors, valves, pipes, meters, electrical facilities and connections, fencing and other parts, equipment, machinery and appurtenances used in the operation of the well (collectively, “Production Well 3”); and (b) that ___-inch water pipeline located at the property described on Exhibit “2” attached hereto, including valves and other parts, equipment, and other connecting facilities, extending from Production Well 3 to the Off-Site Main (herein defined) (collectively, the “PW-3 Connection Facilities”). The Off-Site Main is that 12-inch water transmission pipeline depicted on Exhibit “3” that extends from the wellfield developed by Seller at that property described on Exhibit “4” to a master-planned community commonly known as Talking Rock Ranch.

Seller hereby warrants title to Production Well 3 and the PW-3 Connection Facilities, subject to (i) taxes and assessments not yet due and payable; (ii) the terms, conditions, covenants and restrictions contained in that Well Agreement dated _____, 2003 (the “Well Agreement”) between Seller and Buyer, including, without limitation, paragraphs 12 and 13 thereof; (iii) the terms, conditions, covenants and restrictions contained in that Special Warranty Deed from Bluegreen West Corporation to Talking Rock Land dated January 26, 2001 and recorded on January 26, 2001 in book 3807, page 626, records of Yavapai County, Arizona (the “Deed”); and (iv) all other matters of record. Buyer hereby accepts Production Well 3 and the PW-3 Connection Facilities subject to the terms, conditions, covenants and restrictions contained in the Well Agreement and the terms, conditions, covenants and restrictions contained in the Deed. In addition to the terms, conditions, covenants and restrictions contained in the Well Agreement or in the Deed, Buyer agrees that the maximum production capacity of Production Well 3 shall not exceed 430 gallons per minute, and Buyer shall not increase the production capacity of Production Well 3 beyond 430 gallons per minute without the express written consent of Seller and Talking Rock Golf, L.L.C., an Arizona limited liability company, or their successors and assigns. Notwithstanding

EXHIBIT “F”

anything to the contrary contained herein, Seller warrants title to Production Well 3 free and clear of any monetary liens, encumbrances or security interests (other than liens for taxes and assessments not yet due and payable).

Seller warrants that Production Well 3 will be free from all defects and deficiencies in construction, materials and/or workmanship for the longer of (i) one (1) year from the date hereof, or (ii) for the same period of time that the construction warranties provided to Seller pertaining to Production Well 3 remain in effect, if said construction warranties provided to Seller pertaining to Production Well 3 extend beyond the one-year period. During the warranty period, Seller agrees to promptly undertake any necessary corrective construction efforts required to remedy any defects and deficiencies in construction, materials and/or workmanship upon notice by Buyer. Upon Buyer's acceptance of this Bill of Sale, Buyer shall be deemed to have accepted Production Well 3 in "as is" and "as-constructed" condition, subject only to the warranty concerning defects and deficiencies in construction, materials and/or workmanship provided for herein. Seller makes no representation or warranty whatsoever as to the quantity or quality of water that may be produced from Production Well 3, either on the date hereof or in the future.

IN WITNESS WHEREOF, Seller and Buyer have duly executed this Bill of Sale this ____ day of _____, 2003.

SELLER:

HARVARD SIMON I, L.L.C., an Arizona limited liability company

By: **HARVARD TALKING ROCK, L.L.C.**
Its: Operating Member

By: **HARVARD INVESTMENTS, INC.**,
a Nevada corporation
Its: Manager

By: _____
Its: _____

BUYER:

ICR WATER USERS ASSOCIATION, an Arizona public service corporation

By: _____
Its: _____

STATE OF ARIZONA)
) ss
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 2003, by _____, the _____ of HARVARD INVESTMENTS, INC., a Nevada corporation, Manager of HARVARD TALKING ROCK, L.L.C., Operating Member of HARVARD SIMON I, L.L.C., an Arizona limited liability company, on behalf of the company.

Notary Public

My Commission Expires:

STATE OF ARIZONA)
) ss
County of)

The foregoing instrument was acknowledged before me this ____ day of _____, 2003, by _____, the _____ of ICR WATER USERS ASSOCIATION, an Arizona public service corporation, on behalf of the corporation.

Notary Public

My Commission Expires:

When recorded, return to:

Michael T. Hallam, Esq.
Lewis and Roca
40 North Central Avenue
Phoenix, Arizona 85004-4429

EASEMENT

(Production Wells and Related Facilities)

In consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration paid to TALKING ROCK GOLF, L.L.C., an Arizona limited liability company (“Talking Rock Golf”), by ICR WATER USERS ASSOCIATION, an Arizona public service corporation (“Utility”), the receipt and sufficiency of which are hereby acknowledged, Talking Rock Golf, Utility and HARVARD SIMON I, L.L.C., an Arizona limited liability company (“Developer”) agree as follows:

1. **GRANT OF WELLSITE EASEMENT.** Subject to the conditions, limitations and restrictions stated herein, Talking Rock Golf does hereby grant to Utility, its successors and assigns, a non-exclusive perpetual easement, over, under, upon and across that parcel of land legally described on attached Exhibit “1” (the “Wellsite Easement Parcel”), for the following purposes:

(a) The use, operation, maintenance and repair of that well identified in Arizona Department of Water Resources records as Well Registration No. 55-_____, located at the Wellsite Easement Parcel, which well is referred to as Production Well 3 under that certain Well Agreement dated _____, 2003 between Developer, Utility and Talking Rock Golf (the “Well Agreement”);

(b) The withdrawal of water from Production Well 3 for use by Utility for domestic purposes at the real property described in Exhibit “2” (the “Property”);

(c) The withdrawal of water from Production Well 3 on behalf of and as requested by Talking Rock Golf for the purpose of wheeling water from Production Well 3 to the 18-hole golf course located at the Property pursuant to the Well Agreement;

(d) The withdrawal of water from Production Well 3 on behalf of and as requested by Developer for construction purposes at the Property pursuant to the Well Agreement;

(e) The withdrawal of water from Production Well 3 for water quality monitoring and testing as required by law in amounts reasonably sufficient for the purpose;

EXHIBIT “G”

(f) The installation, use, operation, repair, maintenance and replacement of parts, components, equipment or materials at the Wellsite Easement Property for the treatment of water pumped from Production Well 3 (the "Additional Treatment Facilities");

(g) The use, operation, repair, maintenance and replacement of piping, valves, fittings and other plant utility currently located in the Wellsite Easement Parcel and used for the purpose of delivering water from Production Well 3 to the Property (the "PW-3 Connection Facilities"); and

(h) Pedestrian and vehicular ingress and egress over the Wellsite Easement Parcel as necessary for the exercise by Utility of the rights granted in paragraph 1(a) through 1(g) above.

2. GRANT OF ACCESS EASEMENT. Subject to the conditions, limitations, covenants and restrictions stated herein, Talking Rock Golf does hereby grant to Utility, its successors and assigns, a non-exclusive, perpetual easement on, over and across that parcel of land legally described on attached Exhibit "3" (the "Access Area") for pedestrian and vehicular ingress and egress to the Wellsite Easement Parcel.

3. TREATMENT FACILITIES. At its sole cost and expense, and as further described in the Well Agreement, Utility may install and construct Additional Treatment Facilities at the Wellsite Easement Parcel, in furtherance of the purpose described in paragraph 1(f), provided, however, that:

(a) Utility provides Talking Rock Golf and Developer with plans and specifications for the Additional Treatment Facilities before the plans and specifications are submitted to any regulatory agency for approval. Talking Rock Golf and Developer shall have the right to approve the location, size and design features of the Additional Treatment Facilities, which approval will not be unreasonably withheld or delayed. Approval by Talking Rock Golf and Developer is a condition precedent to Utility installing or constructing any component of the Additional Treatment Facilities;

(b) Talking Rock Golf or Developer may require that Utility change the proposed location of the Additional Treatment Facilities, or any component thereof, as a condition to their approval of the Additional Treatment Facilities;

(c) Utility will comply with all fencing and landscaping requirements for the Additional Treatment Facilities imposed by Talking Rock Golf or the Developer; and

(d) Utility will install and construct the Additional Treatment Facilities at the locations and having the size and design features approved by Talking Rock Golf and Developer.

If Utility's repair, maintenance or replacement of the Additional Treatment Facilities results in any change in the location, size or design features of the Additional Treatment Facilities, the conditions stated in subparagraphs 4(a) through 4(d) shall apply to said repair, maintenance and replacement. Neither Talking Rock Golf nor Developer make any representation or warranty of any nature regarding the quality of water available from Production Well 3, either now or in the future. Utility is solely responsible for treating the water withdrawn from Production Well 3 as

necessary to meet water quality standards imposed by all regulatory agencies having jurisdiction, as such standards may change from time to time. Notwithstanding the approval by Talking Rock Golf or Developer of the location, size and design features of the Additional Treatment Facilities, neither Talking Rock Golf nor Developer shall have any responsibility or liability for the performance or effectiveness of the Additional Treatment Facilities.

4. GENERAL COVENANTS, CONDITIONS, RESTRICTIONS AND LIMITATIONS. The exercise by Utility of the easements granted herein is subject to the following covenants, conditions, restrictions and limitations:

(a) Utility acknowledges and agrees that the Wellsite Easement Parcel encompasses another well identified in Arizona Department of Water Resources records as Well Registration No. 55-_____, which well is referred to as Production Well 2 in the Well Agreement, and also encompasses certain piping, valves, fittings and other plant utility currently located in the Wellsite Easement Parcel and used for the purpose of delivering water from Production Well 2 to the Property (the "PW-2 Connection Facilities"), and that this Easement grants no rights to Utility with respect to Production Well 2 or the PW-2 Connection Facilities;

(b) Utility's use, operation, maintenance and repair of Production Well 3 is subject to the terms, conditions, restrictions and limitations contained in the Well Agreement, including, without limitation, paragraphs 12 and 13 of the Well Agreement;

(c) Utility's use and operation of Production Well 3 is subject to the terms, conditions, restrictions and limitations contained in that Special Warranty Deed from Bluegrass West Corporation to Talking Rock Land dated January 26, 2001 and recorded on January 26, 2001 in Book 3807, Page 626, records of Yavapai County, Arizona (the "Deed");

(d) Without the express written consent of Developer and Talking Rock Golf, or their successors and assigns, Utility shall not increase the production capacity of Production Well 3 beyond 430 gallons per minute;

(e) Utility shall use due care in entering the Wellsite Easement Parcel and the Access Area and in exercising its rights under this instrument;

(f) Utility may shut down Production Well 3, the PW-3 Connection Facilities, or the Additional Treatment Facilities as provided in the Well Agreement;

(g) Except in the event of shutdowns as provided in the Well Agreement, Utility shall not interfere with or disrupt Talking Rock Golf's use of the Wellsite Easement Parcel, or its use, operation, repair, maintenance or replacement of Production Well 2, the PW-2 Connection Facilities or any other wells owned by Talking Rock Golf;

(h) If Utility's exercise of its rights hereunder results in any disturbance of or damage to the Wellsite Easement Parcel or the Access Area, or any improvement thereon, Utility shall restore the Wellsite Easement Parcel or the Access Area to its original condition, including repairing any damage to any improvements located on the Wellsite Easement Parcel to the satisfaction of Talking Rock Golf, replacing any disturbed or damaged landscaping on the Wellsite Easement Parcel or the Access Area (whether naturally existing or intentionally

planted), and compacting, contouring and leveling the Wellsite Easement Parcel or the Access Area to the satisfaction of Talking Rock Golf; and

(i) If a party installs locked gates on the Wellsite Easement Parcel or the Access Area, or on adjacent land such that the other party's access to or use of the Wellsite Easement Parcel or the Access Area for permitted purposes is impeded, such party shall provide the others with keys to those locks.

5. INDEMNITY; RELEASES.

(a) Utility assumes any and all liability for injury to or death of persons and loss or destruction of or damage to property, in any manner arising from or growing out of or alleged to have arisen from or grown out of the entry and use of the Wellsite Easement Parcel or the Access Area or any improvements thereon, by or under Utility, however such injury, death, loss, destruction or damage may occur or be caused;

(b) Utility hereby releases, discharges, protects, indemnifies, saves and holds harmless Talking Rock Golf and Developer from any and all claims, demands, suits, actions, causes of actions, damages, losses, recoveries, judgments, costs and expenses whatsoever, including reasonable attorneys fees and costs, which are caused or occasioned by or have resulted from (or are alleged to have been caused or occasioned by or have resulted from) any use of the Wellsite Easement Parcel or the Access Area by or under Utility;

(c) Utility assumes and shall conduct the defense of any suit or proceeding brought against Talking Rock Golf or Developer for recovery for injury to or death of persons or for loss or destruction of or damage to property in any manner arising from or growing out of (or alleged to have arisen from or to have grown out of) any entry or use of the Wellsite Easement Parcel or the Access Area, or any improvements thereon by or under the Utility, unless Talking Rock Golf or Developer, as the case may be, desires to defend or to participate in the defense of any such suit or proceeding. Utility shall pay and satisfy any judgment which be rendered in any such suit or proceeding against Talking Rock Golf or Developer, together with all costs and expenses incident thereto, including reasonable attorneys fees;

(d) Utility shall protect and keep the title of the Wellsite Easement Parcel or the Access Area free and clear of and from any and all mechanics', laborers', materialmen's or other liens, claims, clouds and encumbrances in any manner arising from or growing out of any entry or use of the Wellsite Easement Parcel or the Access Area, or any improvements thereon, by or under Utility, or any work or operations conducted upon the Wellsite Easement Parcel or the Access Area by or under Utility.

6. RIGHTS OF TALKING ROCK GOLF. Talking Rock Golf reserves the right to use and enjoy the Wellsite Easement Parcel and the Access Area to the fullest extent possible, provided that such use and enjoyment do not unreasonably interfere with Utility's exercise of the rights granted herein.

7. ASSIGNMENT. Utility may assign its rights and delegate its obligations under this Easement only to the successors in interest to Utility who are obligated to provide domestic water service to the Property, provided that written notice of such assignment is given

to Developer and Talking Rock Golf prior to the effective date of the assignment and provided, further, that the assignee assumes in writing Utility's obligations hereunder and agrees to be bound by this Easement, and provided, further, that the assignee has assumed in writing Utility's obligations under the Well Agreement and has agreed to be bound by the Well Agreement. Upon delivery of such notice and a written assumption of Utility's obligations hereunder and under the Well Agreement, Utility shall be released from all obligations arising under this Easement after the effective date of the assignment and assumption.

8. DEFAULT. If any party breaches, or defaults under, this Easement, and such breach or default continues for a period of two (2) days with respect to any breach or default by Utility under any of paragraphs 5(b) through 5(g) or with respect to a breach or default by any party under paragraph 5(i), or for a period of ten (10) days with respect to any other breach or default, in each case after receipt by the defaulting party of a written notice describing the default, the non-defaulting party may immediately pursue any and all remedies available for such breach or default at law or in equity, including bringing an action for injunctive relief or for specific performance. The parties shall provide written notice to each other as provided in the Well Agreement.

9. WARRANTY OF TITLE. Talking Rock Golf covenants that it is the owner of the Wellsite Easement Parcel and the Access Area, subject to existing matters of record, including the Deed, and the rights of parties in possession, and has the right, title and capacity to grant the easements described in this instrument. Notwithstanding the foregoing, Talking Rock Golf warrants that title to the Wellsite Easement Parcel and the Access Area is free and clear of any monetary liens, encumbrances or security interests (other than taxes and assessments not yet due and payable) except those monetary liens, encumbrances and security interests the holders of which have consented to the grant of this Easement.

10. NO MODIFICATION; GOVERNING INSTRUMENT. By the execution of this instrument, the parties do not intend to modify, amend or effect the Well Agreement in any respect. In the event of any conflict between the terms of this instrument and the terms of the Well Agreement, the terms of the Well Agreement shall govern and prevail.

11. EFFECT OF AGREEMENT. This Easement runs with the land, is a burden upon the Wellsite Easement Parcel and the Access Area, is binding upon Talking Rock Golf and all persons having or acquiring any interest in the Wellsite Easement Parcel or the Access Area, and runs to the benefit of Talking Rock Golf, Developer and their successors and assigns. This Easement runs and inures to the benefit of, and is binding upon, Utility, its successors and assigns, subject to the terms of paragraph 8. This Easement will not operate to dedicate any property for public use.

DATED: This ____ day of _____, 2003.

TALKING ROCK GOLF, L.L.C.,
an Arizona limited liability company

By: _____
Its: _____

DEVELOPER:

HARVARD SIMON I, L.L.C., an Arizona
limited liability company

By: Harvard Talking Rock, L.L.C.
Its Operating Member

By: Harvard Investments, Inc., a
Nevada corporation
Its Manager

By: _____
Its _____

ACCEPTED AND AGREED TO:

ICR WATER USERS ASSOCIATION,
an Arizona public service corporation

By: _____
Name: _____
Title: _____

STATE OF ARIZONA)
) ss
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 2003, by _____, the _____ of TALKING ROCK GOLF, L.L.C., an Arizona limited liability company, on behalf of the company.

Notary Public

My Commission Expires:

STATE OF ARIZONA)
) ss
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 2003, by _____, the _____ of HARVARD INVESTMENTS, INC., a Nevada corporation, the Manager of HARVARD TALKING ROCK, L.L.C., an Arizona limited liability company, the Operating Member of HARVARD SIMON I, L.L.C., an Arizona limited liability company, on behalf of the company.

Notary Public

My Commission Expires:

STATE OF ARIZONA)
) ss
County of)

The foregoing instrument was acknowledged before me this ____ day of _____, 2003, by _____, the _____ of ICR WATER USERS ASSOCIATION, an Arizona public service corporation, on behalf of the corporation.

Notary Public

My Commission Expires:

BILL OF SALE
(Off-Site Main and other Facilities)

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, **HARVARD SIMON I, L.L.C.**, an Arizona limited liability company ("Seller"), hereby sells, transfers, conveys and absolutely sets over to **ICR WATER USERS ASSOCIATION**, an Arizona public service corporation ("Buyer"), (a) that 12-inch water transmission main located within the property described on Exhibit "1" attached hereto, (b) that 300,000 gallon water storage facility located at the property described on Exhibit "2" attached hereto; and (c) that pump station located at the property described on attached Exhibit "2", together with all equipment, valves, meters, booster pumps, electrical systems, control systems and related infrastructure and appurtenances (together, the "Facilities"). Seller warrants title to the Facilities free and clear of any liens and encumbrances.

Seller warrants that the Facilities will be free from all defects and deficiencies in construction, materials and/or workmanship for a period the longer of (i) of one (1) year from the date hereof, or (ii) for the same period of time that the construction warranties provided to Seller pertaining to the Facilities remain in effect, if said construction warranties provided to Seller pertaining to the Facilities extend beyond the one-year period. During the warranty period, Seller agrees to promptly undertake any necessary corrective construction efforts required to remedy any defects and deficiencies in construction, materials and/or workmanship upon notice by Buyer. Upon Buyer's acceptance of this Bill of Sale, Buyer shall be deemed to have accepted the Facilities in "as is" and "as-constructed" condition, subject only to the warranty concerning defects and deficiencies in construction, materials and/or workmanship provided for herein.

Dated: _____, 2003.

SELLER:

HARVARD SIMON I, L.L.C., an Arizona limited liability company

By: **HARVARD TALKING ROCK, L.L.C.**
Its: Operating Member

By: **HARVARD INVESTMENTS, INC.**,
a Nevada corporation
Its: Manager

By: _____
Its: _____

EXHIBIT "H"

BUYER:

ICR WATER USERS ASSOCIATION, an Arizona public service corporation

By: _____
Its: _____

STATE OF ARIZONA)
) ss
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 2003, by _____, the _____ of HARVARD INVESTMENTS, INC., a Nevada corporation, Manager of HARVARD TALKING ROCK, L.L.C., Operating Member of HARVARD SIMON I, L.L.C., an Arizona limited liability company, on behalf of the company.

Notary Public

My Commission Expires:

STATE OF ARIZONA)
) ss
County of)

The foregoing instrument was acknowledged before me this ____ day of _____, 2003, by _____, the _____ of ICR WATER USERS ASSOCIATION, an Arizona public service corporation, on behalf of the corporation.

Notary Public

My Commission Expires:

BILL OF SALE
(Chlorination Facilities)

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, **TALKING ROCK GOLF, L.L.C.**, an Arizona limited liability company ("Seller"), hereby sells, transfers, conveys and absolutely sets over to **ICR WATER USERS ASSOCIATION**, an Arizona public service corporation ("Buyer"), that water chlorination equipment and facilities, consisting of (a) three (3) chlorinators and three (3) injection pumps, solution tank, control systems and other related equipment and materials; (b) a building located at the real property described on Exhibit "1" that encloses said chlorinators, injection pumps, solution tank, control systems and other related equipment and materials; and (c) three (3) ___-inch diameter pipelines, together with connections, valves, and other equipment (each, a "Chlorine Pipeline") used to convey chlorine solution from said building to three (3) separate wellsites. The Chlorine Pipelines are located in the real property described on Exhibit "2." All of the water chlorination equipment and facilities described in subparagraphs (a), (b) and (c) are referred to herein collectively as the "Chlorination Facilities." Seller warrants title to the Chlorination Facilities free and clear of any liens and encumbrances.

Seller warrants that the Chlorination Facilities will be free from all defects and deficiencies in construction, materials and/or workmanship for the longer of (i) one (1) year from the date hereof, or (ii) for the same period of time that the construction warranties provided to Seller pertaining to the Chlorination Facilities remain in effect, if said construction warranties provided to Seller pertaining to the Chlorination Facilities extend beyond the one-year period. During the warranty period, Seller agrees to promptly undertake any necessary corrective construction efforts required to remedy any defects and deficiencies in construction, materials and/or workmanship upon notice by Buyer. Upon Buyer's acceptance of this Bill of Sale, Buyer shall be deemed to have accepted the Chlorination Facilities in "as is" and "as-constructed" condition, subject only to the warranty concerning defects and deficiencies in construction, materials and/or workmanship provided for herein.

Dated: _____, 2003.

SELLER:

TALKING ROCK GOLF, L.L.C., an Arizona limited liability company

By: _____
Its: _____

EXHIBIT "I"

BUYER:

ICR WATER USERS ASSOCIATION, an Arizona public service corporation

By: _____
Its: _____

STATE OF ARIZONA)
) ss
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 2003, by _____, the _____ of TALKING ROCK GOLF, L.L.C., an Arizona limited liability company, on behalf of the company.

Notary Public

My Commission Expires:

STATE OF ARIZONA)
) ss
County of)

The foregoing instrument was acknowledged before me this ____ day of _____, 2003, by _____, the _____ of ICR WATER USERS ASSOCIATION, an Arizona public service corporation, on behalf of the corporation.

Notary Public

My Commission Expires:

When recorded, return to:

Michael T. Hallam, Esq.
Lewis and Roca
40 North Central Avenue
Phoenix, Arizona 85004-4429

EASEMENT

(Chlorination Facilities)

In consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration paid to TALKING ROCK GOLF, L.L.C., an Arizona limited liability company ("Talking Rock Golf"), by ICR WATER USERS ASSOCIATION, an Arizona public service corporation ("Utility"), the receipt and sufficiency of which are hereby acknowledged, Talking Rock Golf, Utility and HARVARD SIMON I, L.L.C., an Arizona limited liability company ("Developer") agree as follows:

1. **GRANT OF CHLORINATION FACILITIES EASEMENT.** Subject to the conditions, limitations and restrictions stated herein, Talking Rock Golf does hereby grant to Utility, its successors and assigns, a non-exclusive perpetual easement, over, under, upon and across that parcel of land legally described on attached Exhibit "1" (the "Wellsite Easement Parcel"), for the following purposes:

(a) The use, operation, maintenance, repair and replacement of (i) three chlorinators and three injection pumps, solution tank, control systems and other equipment, installed by Talking Rock Golf at the Wellsite Easement Parcel pursuant to that certain Well Agreement dated _____, 2003 between Developer, Utility and Talking Rock Golf (the "Well Agreement"); (ii) a small building installed by Talking Rock Golf at the Wellsite Easement Parcel that encloses the chlorinators, injection pumps, solution tank, control systems and other equipment; (iii) three ___-inch diameter pipelines (each, a "Chlorine Pipeline") that will each convey chlorine solution from a chlorinator to one of those wells identified in Arizona Department of Water Resources records as Well Registration Nos. 55-_____, 55-_____ and 55-_____, which wells are referred to, respectively, as Production Well 1, 2 and 3 in the Well Agreement; and (iv) connections, valves and other equipment necessary to connect a Chlorine Pipeline to a Production Well, to the extent located at the Wellsite Easement Parcel (all such facilities being referred to collectively as the "Chlorination Facilities"); and

(b) Pedestrian and vehicular ingress and egress over the Wellsite Easement Parcel as necessary for the exercise by Utility of the rights granted in paragraph 1(a) above.

2. **Grant of Easement over Adjacent Property.** Subject to the conditions, limitations and restrictions stated herein, Talking Rock Golf does hereby grant to Utility, its successors and

EXHIBIT "J"

assigns, a non-exclusive perpetual easement, over, under, upon and across that parcel of land legally described on attached Exhibit "2" (the "Adjacent Parcel"), for the following purposes:

(a) The use, operation, maintenance, repair and replacement of (i) the Chlorine Pipeline that will convey chlorine solution from the Wellsite Easement Parcel to Production Well 1, which is located on the Adjacent Parcel; and (ii) connections, valves and other equipment necessary to connect the Chlorine Pipeline to Production Well 1; and

(b) Pedestrian and vehicular ingress and egress over the Wellsite Easement Parcel and the Adjacent Parcel as necessary for the exercise by Utility of the rights granted in paragraph 2(a) above.

3. GRANT OF ACCESS EASEMENT. Subject to the conditions, limitations, covenants and restrictions stated herein, Talking Rock Golf does hereby grant to Utility, its successors and assigns, a non-exclusive, perpetual easement on, over and across that parcel of land legally described on attached Exhibit "3" (the "Access Area") for pedestrian and vehicular ingress and egress to the Wellsite Easement Parcel and the Adjacent Parcel.

4. GENERAL COVENANTS, CONDITIONS, RESTRICTIONS AND LIMITATIONS. The exercise by Utility of the easements granted herein is subject to the following covenants, conditions, restrictions and limitations:

(a) Utility shall use due care in entering the Wellsite Easement Parcel, the Adjacent Parcel and the Access Area and in exercising its rights under this instrument;

(b) Utility may shut down Chlorination Facilities as provided in the Well Agreement;

(c) Except in the event of shutdowns as provided in the Well Agreement, Utility shall not interfere with or disrupt Talking Rock Golf's use of the Wellsite Easement Parcel or the Adjacent Parcel, or its use, operation, repair, maintenance or replacement of Production Well 1 or Production Well 2 or any other wells owned by Talking Rock Golf;

(d) If Utility's exercise of its rights hereunder results in any disturbance of or damage to the Wellsite Easement Parcel, the Adjacent Parcel or the Access Area, or any improvement thereon, Utility shall restore the Wellsite Easement Parcel, the Adjacent Parcel or the Access Area to its original condition, including repairing any damage to any improvements located on the Wellsite Easement Parcel or the Adjacent Parcel to the satisfaction of Talking Rock Golf, replacing any disturbed or damaged landscaping on the Wellsite Easement Parcel, the Adjacent Parcel or the Access Area (whether naturally existing or intentionally planted), and compacting, contouring and leveling the Wellsite Easement Parcel, the Adjacent Parcel or the Access Area to the satisfaction of Talking Rock Golf; and

(e) If a party installs locked gates on the Wellsite Easement Parcel, the Adjacent Parcel or the Access Area, or on adjacent land such that the other party's access to or use of the Wellsite Easement Parcel, the Adjacent Parcel or the Access Area for permitted purposes is impeded, such party shall provide the others with keys to those locks.

5. INDEMNITY; RELEASES.

(a) Utility assumes any and all liability for injury to or death of persons and loss or destruction of or damage to property, in any manner arising from or growing out of or alleged to have arisen from or grown out of the entry and use of the Wellsite Easement Parcel, the Adjacent Parcel or the Access Area or any improvements thereon, by or under Utility, however such injury, death, loss, destruction or damage may occur or be caused;

(b) Utility hereby releases, discharges, protects, indemnifies, saves and holds harmless Talking Rock Golf and Developer from any and all claims, demands, suits, actions, causes of actions, damages, losses, recoveries, judgments, costs and expenses whatsoever, including reasonable attorneys fees and costs, which are caused or occasioned by or have resulted from (or are alleged to have been caused or occasioned by or have resulted from) any use of the Wellsite Easement Parcel, the Adjacent Parcel or the Access Area by or under Utility;

(c) Utility assumes and shall conduct the defense of any suit or proceeding brought against Talking Rock Golf or Developer for recovery for injury to or death of persons or for loss or destruction of or damage to property in any manner arising from or growing out of (or alleged to have arisen from or to have grown out of) any entry or use of the Wellsite Easement Parcel, the Adjacent Parcel or the Access Area, or any improvements thereon by or under the Utility, unless Talking Rock Golf or Developer, as the case may be, desires to defend or to participate in the defense of any such suit or proceeding. Utility shall pay and satisfy any judgment which be rendered in any such suit or proceeding against Talking Rock Golf or Developer, together with all costs and expenses incident thereto, including reasonable attorneys fees;

(d) Utility shall protect and keep the title of the Wellsite Easement Parcel, the Adjacent Parcel or the Access Area free and clear of and from any and all mechanics', laborers', materialmen's or other liens, claims, clouds and encumbrances in any manner arising from or growing out of any entry or use of the Wellsite Easement Parcel, the Adjacent Parcel or the Access Area, or any improvements thereon, by or under Utility, or any work or operations conducted upon the Wellsite Easement Parcel, the Adjacent Parcel or the Access Area by or under Utility.

6. RIGHTS OF TALKING ROCK GOLF. Talking Rock Golf reserves the right to use and enjoy the Wellsite Easement Parcel, the Adjacent Parcel and the Access Area to the fullest extent possible, provided that such use and enjoyment do not unreasonably interfere with Utility's exercise of the rights granted herein.

7. ASSIGNMENT. Utility may assign its rights and delegate its obligations under this Easement only to the successors in interest to Utility who are obligated to provide domestic water service to the Property, provided that written notice of such assignment is given to Developer and Talking Rock Golf prior to the effective date of the assignment and provided, further, that the assignee assumes in writing Utility's obligations hereunder and agrees to be bound by this Easement, and provided, further, that the assignee has assumed in writing Utility's obligations under the Well Agreement and has agreed to be bound by the Well Agreement. Upon delivery of such notice and a written assumption of Utility's obligations hereunder and under the Well Agreement, Utility shall be released from all obligations arising under this

Easement after the effective date of the assignment and assumption.

8. DEFAULT. If any party breaches, or defaults under, this Easement, and such breach or default continues for a period of two (2) days with respect to any breach or default by Utility under any of paragraphs 4(b) or 4(c), or with respect to a breach or default by any party under paragraph 4(e), or for a period of ten (10) days with respect to any other breach or default, in each case after receipt by the defaulting party of a written notice describing the default, the non-defaulting party may immediately pursue any and all remedies available for such breach or default at law or in equity, including bringing an action for injunctive relief or for specific performance. The parties shall provide written notice to each other as provided in the Well Agreement.

9. WARRANTY OF TITLE. Talking Rock Golf covenants that it is the owner of the Wellsite Easement Parcel and the Access Area, subject to existing matters of record, including the Deed, and the rights of parties in possession, and has the right, title and capacity to grant the easements described in this instrument. Notwithstanding the foregoing, Talking Rock Golf warrants that title to the Wellsite Easement Parcel and the Access Area is free and clear of any monetary liens, encumbrances or security interests (other than taxes and assessments not yet due and payable) except those monetary liens, encumbrances and security interests the holders of which have consented to the grant of this Easement.

10. NO MODIFICATION; GOVERNING INSTRUMENT. By the execution of this instrument, the parties do not intend to modify, amend or effect the Well Agreement in any respect. In the event of any conflict between the terms of this instrument and the terms of the Well Agreement, the terms of the Well Agreement shall govern and prevail.

11. EFFECT OF AGREEMENT. This Easement runs with the land, is a burden upon the Wellsite Easement Parcel, the Adjacent Parcel and the Access Area, is binding upon Talking Rock Golf and all persons having or acquiring any interest in the Wellsite Easement Parcel, the Adjacent Parcel or the Access Area, and runs to the benefit of Talking Rock Golf, Developer and their successors and assigns. This Easement runs and inures to the benefit of, and is binding upon, Utility, its successors and assigns, subject to the terms of paragraph 7. This Easement will not operate to dedicate any property for public use.

DATED: This ____ day of _____, 2003.

TALKING ROCK GOLF, L.L.C.,
an Arizona limited liability company

By: _____
Its: _____

DEVELOPER:

HARVARD SIMON I, L.L.C., an Arizona
limited liability company

By: Harvard Talking Rock, L.L.C.
Its Operating Member

By: Harvard Investments, Inc., a
Nevada corporation
Its Manager

By: _____
Its _____

ACCEPTED AND AGREED TO:

ICR WATER USERS ASSOCIATION,
an Arizona public service corporation

By: _____
Name: _____
Title: _____

STATE OF ARIZONA)
) ss
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 2003, by _____, the _____ of TALKING ROCK GOLF, L.L.C., an Arizona limited liability company, on behalf of the company.

Notary Public

My Commission Expires:

STATE OF ARIZONA)
) ss
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 2003, by _____, the _____ of HARVARD INVESTMENTS, INC., a Nevada corporation, the Manager of HARVARD TALKING ROCK, L.L.C., an Arizona limited liability company, the Operating Member of HARVARD SIMON I, L.L.C., an Arizona limited liability company, on behalf of the company.

Notary Public

My Commission Expires:

STATE OF ARIZONA)
) ss
County of)

The foregoing instrument was acknowledged before me this ____ day of _____, 2003, by _____, the _____ of ICR WATER USERS ASSOCIATION, an Arizona public service corporation, on behalf of the corporation.

Notary Public

My Commission Expires:
