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ARIZONA CORPORATION COMMISSION

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December 4, 2003

Mr. Floyd Brown
President
Sun City Homeowners Association
10401 West Coggins Drive
Sun City, Arizona 85351

WS-01303A-02-0867
WS-01303A-02-0868
WS-01303A-02-0869
WS-01303A-02-0870
W-01303A-02-0908

AZ CORP COM
DOCUMENT CONTROL

2003 DEC -4 P 2 53

RECEIVED

Re: Arizona-American Water Rate Case

Dear Mr. Brown:

Thank you for your e-mail expressing your view on the Arizona-American Water rate case.

Arizona-American filed its Application seeking a rate increase in November 2002. The evidentiary record is still being developed. This is a lengthy process which will take about a year to conclude. In the meantime, Arizona-American's current rates will remain in effect.

To develop the record, Arizona-American, the Commission staff and any Intervenors will submit written testimony regarding their positions on the requested rate increase. Then, an administrative law judge will preside over a hearing which is much like a trial. This hearing is scheduled for December 4, 2003, at 10:00 a.m. at the Commission's offices. This hearing is open to the public. You may also call the Commission's "Listen Line" to listen to the hearing. That phone number is (602) 542-0222 or 1-800-222-7000. After the hearing, the judge will write a proposed Order making a recommendation to the Commission as to Arizona-American's rates. Finally, after reviewing the entire record, the Commissioners will vote to accept, modify or deny the judge's proposed Order at an Open Meeting.

To answer your question whether Sun City receives any credits when using treated wastewater, I have enclosed a copy of Sun City Sewer Company's Agreement with Tolleson to treat Sun City's wastewater.

Your correspondence has been placed on file with Docket Control and will become part of the record. Arizona is well served when its residents take an interest in a matter and voice their opinions. I will take your comments into consideration as I review the matter.

Sincerely,

Mike Gleason
Commissioner

Enclosure

Arizona Corporation Commission

DOCKETED

DEC -4 2003

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WHEREAS, Peoria has transferred to Glendale sewage treatment rights for up to 3.1 mgd; and

WHEREAS, the Council of the City of Tolleson passed Resolution No. 457, dated December 11, 1984 or as subsequently ratified, authorizing construction of sewage treatment capacity for SCSC and establishing the City of Tolleson Municipal Finance Corporation (hereinafter referred to as "Finance Corporation") to obtain tax-exempt financing for the construction of said sewage treatment capacity;

NOW, THEREFORE, for and in consideration of the foregoing and of the mutual covenants and agreements herein contained, the parties hereby agree as follows:

ARTICLE I

DEFINITIONS

The following terms will be utilized in this Agreement and have the following meanings within this Agreement:

1. Annual User Fee. The annual cost for the fixed charges associated with Tolleson providing, upon SCSC's demand, sewage transportation and treatment services to SCSC during the first 20 years that said services are provided pursuant to this Agreement. The Annual User Fee as presently estimated is set forth on Exhibit A, attached hereto and incorporated herein by reference for all purposes. Upon issuance of the bonds, Exhibit A will be revised to reflect the actual principal amount, interest rates and redemption dates of the bonds.

2. Tolleson Wastewater Treatment Plant (WWTP). The wastewater treatment facilities owned and operated by Tolleson that are existing and operating at the wastewater treatment plant site as of the date of this Agreement.

3. Plant Expansion. The additional plant that will be added to the WWTP, including the SCSC Service Facilities of 5.2 mgd, the SCSC Service Tie-Line and the Peoria Service Facilities of at least 2.0 mgd.

4. SCSC Service Facilities. The portion of the Plant Expansion which is necessary to provide Sewage Treatment Services for SCSC of 5.2 mgd average dry weather flow on a maximum monthly flow basis. The wet weather peak flow shall be 10.4 mgd on a peak hourly basis and dry weather peak flow shall be 8.0 mgd on a peak hourly basis. SCSC Service Facilities also include the SCSC Service Tie-Line. All such facilities are to be financed by bonds issued by Finance Corporation.

5. Peoria Service Facilities. The portion of the Plant Expansion which is necessary to provide Sewage Treatment Services of at least 2.0 mgd for Peoria, with hydraulic peaking services to at least 4.0 mgd on a peak hourly basis, and which are to be financed by separate agreement between Tolleson and Peoria. Such facilities may include additional total sewage treatment and transportation services, as acknowledged in Article II, Section 5, Paragraph 4.

6. Expanded Facilities. The entire 15.5 mgd capacity wastewater treatment plant, including the SCSC Service Facilities

of 5.2 mgd, the SCSC Service Tie-Line, the Peoria Service Facilities of 2.0 mgd and the existing WWTP of 8.3 mgd. It is agreed by the parties that the final determination as to the management and operation of these facilities shall remain with Tolleson.

7. 99th Avenue Interceptor. The 36-inch, 42-inch, 54-inch, 60-inch and 66-inch diameter sewage transmission facilities, along 99th Avenue, including all appurtenant structures, running from approximately the intersection of Olive Avenue and 99th Avenue to the southern terminus of the 42-inch pipe immediately south of the diversion structure located at approximately 99th Avenue and Van Buren Street.

8. Sewage Treatment Services. Sewage treatment services referred to herein, unless otherwise noted, refer to treatment of the maximum monthly average daily flow.

9. SCSC Service Tie-Line. The facilities to be constructed under this Agreement connecting the 99th Avenue Interceptor to the Tolleson Wastewater Treatment Plant. Such facilities will interconnect at either Point 18 or Point A as set forth in Exhibit B attached hereto and by reference incorporated herein for the purpose of identifying said Points. Said facilities may include a gravity main or a force main and lift station, subject to engineering review of SCSC and Tolleson, and may include additional transportation capacity for Peoria or other users which are acceptable to Tolleson for use of the Expanded Facilities.

ARTICLE II

SCOPE OF AGREEMENT

Section 1 - SCSC Treatment and Transportation Service Requirements

1. Subject to the terms and conditions hereinafter set forth, Tolleson shall provide sewage treatment and transportation services to SCSC to accommodate the residential, commercial, industrial and corporate sewage treatment service requirements within SCSC's service areas in Maricopa County, Arizona, shown on Exhibit C attached hereto and incorporated herein for all purposes, and in any additional areas which may be served by SCSC in the future.

2. SCSC shall provide notice by certified mail to the Tolleson City Manager and the Director of the Tolleson Wastewater Treatment Plant of any of the following: (a) a change in the certificated area of SCSC, (b) any additions to the service area, or (c) any changes to the area described in Exhibit C. Such notice shall include estimated increases in flows by customer classification as a result of the additional territory.

3. Tolleson shall provide 5.2 mgd of Sewage Treatment Services and related transportation services to SCSC at all times following completion of SCSC Service Facilities.

4. It shall be the responsibility of Tolleson to notify SCSC when SCSC's maximum monthly average daily flow has exceeded 80% of the contracted service capacity of 5.2 mgd for three consecutive months. When additional flows noticed pursuant to Article II, Section 1, Paragraph 2 will cause SCSC's flows to exceed 95%.

of the contracted service capacity, SCSC shall not add additional customers without the written consent of Tolleson. Such consent will not be unreasonably withheld. Furthermore, it shall be the responsibility of SCSC to advise Tolleson, within 120 days after receipt of the 80% notification, what SCSC plans to do so as not to exceed its existing contracted service rights. The parties agree to abide by existing United States Environmental Protection Agency (hereinafter referred to as USEPA) rules and regulations, and to establish a time schedule of events necessary to comply with providing additional capacity, if such capacity is needed.

Section 2 - Term and Renewal of Agreement

1. Tolleson shall employ its best efforts to provide sewage treatment and related transportation services pursuant to this Agreement on or before July 1, 1988. This Agreement shall continue in full force and effect until June 30, 2028.

2. Not later than June 30, 2026, both Tolleson and SCSC shall commence negotiations for continuation, extension or renewal of this Agreement.

Section 3 - Alternative Sewage Treatment

Nothing in this Agreement shall be construed to prohibit SCSC or Tolleson from entering into any sewage treatment agreement with any other person, corporation, firm, municipality, or utility, so long as SCSC remains liable to fulfill its minimum financial obligations under this Agreement, and so long as Tolleson remains liable for providing the transportation and treatment services

to be provided under this Agreement and the other agreements do not increase costs to SCSC.

Section 4 - Sewage Delivery

1. SCSC proposes to contract with Glendale to extend the terms of the April 10, 1979 Agreement to include sewage transportation and treatment services until the date Sewage Treatment Services are made available to SCSC by Tolleson.

2. SCSC will deliver sewage to the Expanded Facilities via the 99th Avenue Interceptor.

3. SCSC proposes to contract with Glendale to increase SCSC's capability in the 99th Avenue Interceptor between Point 1 and the SCSC Service Tie-line from 7.06 mgd peak hourly interceptor flow to 10.4 mgd peak hourly interceptor flow.

Section 5 - Additional Sewage Treatment Facilities

1. Tolleson shall finance, engineer, construct and install or cause to be financed, engineered, constructed and installed all sewage treatment and transportation facilities, defined as the SCSC Service Facilities which, when combined with the usufructuary interest in the Tolleson Wastewater Treatment Plant (WWTP) are necessary for and capable of treating and transporting wastewater flows of 5.2 mgd and a peak hourly flow of 10.4 mgd for SCSC. It is understood by and between the parties hereto that the legal title of the WWTP and the Plant Expansion under this Agreement shall remain in Tolleson, and that the relationship between the parties hereto is that of independent contractors, and not that of partners or joint venturers. Such facilities shall meet the Arizona Department of Health Services standard

design criteria and meet all National Pollutant Discharge Elimination System Permit requirements.

2. Tolleson shall contract with Brown and Caldwell for engineering design and construction inspection services necessary for the 7.2 mgd expansion of the existing 8.3 mgd wastewater treatment plant and the SCSC Service Tie-Line. Said engineering services agreement shall be reviewed and approved by SCSC prior to the execution of that agreement by Tolleson. The agreement shall be provided to SCSC by certified mail. SCSC shall submit its comments and changes within 7 working days of receipt of the agreement or the agreement shall be deemed approved. SCSC shall be notified of the design review meetings at the 10%, 50%, 75% and 95% design stages, and shall have an opportunity to be in attendance for review and comment at those meetings. The final design of said Plant Expansion shall be reviewed and approved by SCSC prior to construction of said Plant Expansion, which approval shall not be unreasonably withheld. Tolleson, at its option, may request that Peoria participate in the various stages of engineering and construction as set forth in this Paragraph 2.

3. Tolleson shall proceed with (a) financing and (b) engineering upon execution of this Agreement. If, subsequent to said execution the conditions precedent contained in Article V, Section 1 hereof shall not have been fulfilled, SCSC shall be liable to Tolleson only for Tolleson's actual out-of-pocket costs incurred for (a) financing, as agreed upon between SCSC

and bond counsel and bond consultant and (b) for engineering, in an amount not to exceed \$45,000.

4. Tolleson and SCSC acknowledge that the Plant Expansion will also accommodate an additional flow of at least 2.0 mgd for Peoria, and may include additional transportation capacity in the SCSC Service Tie-Line for Peoria or other users of the Expanded Facilities acceptable to Tolleson. Peoria, SCSC and those other users shall share in the benefits of the resulting economies of scale by having the costs, including but not limited to engineering, bidding, start-up, and final acceptance costs, allocated in direct proportion to the respective Sewage Treatment Services contracted for by Peoria and SCSC for the Plant Expansion and allocated in direct proportion to the respective peak hourly flows contracted for by Peoria, SCSC and other users of the SCSC Service Tie-Line.

5. Tolleson and SCSC acknowledge that Peoria may desire 4.0 mgd of capacity in the Plant Expansion. Such capacity shall increase the total capacity of the Plant Expansion, but shall not alter the methodology of cost allocation contained in Article II, Section 5, Paragraph 4.

6. The parties acknowledge that Tolleson proposes to enter into a new agreement or additional amendment to its existing Agreement with Peoria. That contract will modify the terms and conditions set forth in the Tolleson/Peoria Waste Water Agreement dated April 6, 1978; Addendum Nos. 1, 2, 3, and 4 which collectively provided the following: (a) Sewage Treatment Services

of 2.3 mgd for Peoria and for an additional flow of 3.1 mgd, the rights to said 3.1 mgd Peoria transferred to Glendale pursuant to the Glendale-Peoria Agreement for Wastewater Treatment, dated November 14, 1980; (b) Engineering, construction and installation of facilities for an additional 2.0 mgd of Sewage Treatment Services at the Tolleson Wastewater Treatment Plant, thereby increasing the total available sewage treatment capacity from 8.3 mgd to 10.3 mgd.

7. The parties acknowledge that Tolleson proposes to execute a separate contract with Glendale for its existing Sewage Treatment Services of 3.1 mgd.

8. Tolleson agrees that any agreement with a municipality or modification of an existing municipal agreement, regarding the provision of sewage treatment services entered into after the execution of this Agreement shall not contain any term or condition that results in any rates, charges, duties, responsibilities, or assumption of liability regarding the capital allocation or operation and maintenance expense allocation more favorable to the other party than the terms and conditions provided for in this Agreement. SCSC acknowledges that Tolleson may have existing agreements which provide terms and conditions more favorable than the terms of this Agreement to which this provision shall not apply. No future agreement voluntarily entered into between Tolleson and any other person or corporation shall operate to increase the sums payable by SCSC hereunder.

9. SCSC specifically retains the right to approve the following:

a. Any reference to SCSC or Citizens Utilities Company, hereinafter referred to as the Guarantor, in any official statement, offering memorandum, or any other financing documents or publications distributed in connection with the financing under Article II, Section 7, Paragraph 1.

b. The bid documents to be circulated soliciting bids on the construction of the SCSC Service Facilities.

c. The bid process and selection of a contractor.

d. The form of the construction contract including the schedule of construction draws and the method of requesting and approving change orders.

The above shall be provided to SCSC by certified mail. SCSC shall submit its comments and changes within 7 working days of receipt of the documents, or the documents shall be deemed approved.

10. It is agreed by the parties that the construction contract shall include a provision that requires the SCSC Service Facilities to be completed so as to provide treatment of SCSC flows on or before July 1, 1988, and that failure to so complete construction will result in liquidated damages payable by the contractor to SCSC in the amount of SCSC's obligation under Rate Component One of this Agreement for each month until the SCSC Service Facilities are providing said services to SCSC. Said

performance and liquidated damages shall be bonded to the satisfaction of SCSC. The prime responsibility for enforcing this provision against the contractor or its bond shall be with SCSC. Tolleson shall provide its full cooperation to SCSC in enforcing this provision.

11. Tolleson agrees that it will provide, and will require any contractor utilized in the engineering, construction or installation of SCSC Service Facilities to provide, all records of work performed and the cost thereof, and that it will provide for a final project audit by SCSC internal auditors and/or by an independent certified public accounting firm acceptable to Tolleson and SCSC. Any cost involved in the project audit shall be borne by SCSC and to the extent possible shall be paid from the proceeds of the financing under Article II, Section 7.

Section 6 - Prohibited Discharges

1. Subject to Paragraph 2 of this Section 6., SCSC shall not discharge or permit to be discharged into any service line or into the sewage to be treated under this Agreement any of the substances in excess of the limits set forth in City of Tolleson Ordinance No. 223 N.S. dated April 12, 1983, and as such ordinance is required to be amended by USEPA mandate.

2. Tolleson shall notify SCSC of any proposed amendments, modifications or promulgation of USEPA requirements or any other USEPA guidelines as a condition to SCSC's obligation regarding any requirement under the amended or modified ordinance. SCSC

shall have 60 days from receipt of the notice of the effective date of such amended or modified ordinance within which to comply with the amended or modified ordinance. In the event the USEPA compliance date is less than 60 days, SCSC shall comply with the USEPA mandated effective date.

3. Tolleson shall provide immediate telephone notice to SCSC, followed by written notice within seven days, of receipt of notice to Tolleson of the USEPA mandate. SCSC shall have the right to contest any USEPA proposed amendment or modification of existing USEPA rule, regulation or guideline. Such contest shall be at SCSC's expense. Tolleson will cooperate with SCSC's contest of the USEPA action or proposed action. Any penalty resulting from the challenge shall be borne by SCSC.

4. Tolleson shall have the right to enter onto and inspect any SCSC property or facility, or SCSC customer property or facility to the extent SCSC has such right, for the purpose of monitoring compliance with this Prohibited Discharges requirement.

Section 7 - Financing

1. Tolleson, through the Finance Corporation, shall cause tax-exempt industrial development bonds to be issued in amount of \$13,935,000 to pay costs associated with construction and installation of the SCSC Service Facilities, including, but not limited to, financing, engineering and the fee for the usufructuary interest for service rights to the existing Tolleson Wastewater Treatment Plant facilities necessary to provide the services under this Agreement. The amount to be financed will be net of,

any allowable interest earnings on those funds during the construction period. The usufructuary interest amount of \$500,000 for service rights to existing Tolleson Wastewater Treatment Plant facilities shall be paid to Tolleson subsequent to issuance of said bonds and satisfaction of all conditions precedent contained in Article V, Section 1.

2. Tolleson shall retain for the purpose of this bond issuance, Rauscher Pierce Refsnes, Inc. as a bond consultant and Gust, Rosenfeld, Divelbess & Henderson as bond counsel.

3. At SCSC's election, Tolleson shall use its best efforts to cause the bonds to be refunded and new bonds to be issued in an amount sufficient to satisfy all principal, interest and other costs associated with the bonds referred to in Article II, Section 7, Paragraph 1, provided (a) that SCSC shall reimburse Tolleson and the Finance Corporation for the cost and expense of the refunding and (b) that Tolleson shall have no obligation to cause any such refunding if nationally recognized bond counsel satisfactory to Tolleson and SCSC cannot opine that interest on the refunding bonds (other than bonds held by substantial users and related persons) would be exempt under Section 103 of the Internal Revenue Code, as amended. In the event that refunding bonds shall be issued, Rate Component One shall be adjusted accordingly.

4. SCSC shall have the right to review and approve the entire scope of work and fees of the bond consultant and bond

counsel, and Tolleson shall not execute any agreement with said consultants pertaining to the bond issue prior to such written approval. Such approval shall not be unreasonably withheld. It is agreed by the parties hereto that the bonds to be issued under this Agreement shall not be issued until the Conditions Precedent in Article V, Section 1 have been fulfilled.

5. SCSC specifically retains the right to approve the following:

A. The amount of the financing necessary to fund the engineering, construction, installation and interest during construction of SCSC Service Facilities, the financing costs associated with the issuance of the bonds, the form of Indenture to be issued by Finance Corporation and any Agreement between Tolleson and Finance Corporation regarding the SCSC Service Facilities. The Indenture and Agreement to be approved under this Paragraph 5A shall not be amended without the prior written consent of SCSC.

B. The selection of the trustee to be utilized during the term of the bonds to be issued by Finance Corporation. It is agreed by the parties that the trustee will be a national or state bank domiciled in Arizona.

6. Tolleson shall cause bond counsel to issue a reliance letter to SCSC at the bond closing permitting SCSC to rely upon bond counsel's opinion that the bonds have been legally and validly issued, and that under laws, regulations, rulings and decisions existing on the date of issuance of the bonds interest on the bonds is not subject to federal income tax under Section

103 of the Internal Revenue Code of 1954, as amended except with respect to interest on any bond for any period during which any such bond is held by a person who is a substantial user of the project or any related person within the meaning of Section 103(b) of the Internal Revenue Code of 1954, as amended.

7. Tolleson covenants to SCSC that it will covenant with Finance Corporation to provide the following:

A. Finance Corporation will not amend the Indenture without Tolleson's consent.

B. Finance Corporation shall enforce the terms of the Indenture and not waive such terms without Tolleson's consent.

8. Tolleson covenants to SCSC:

A. That it will hold Finance Corporation to the covenants set forth in Paragraph 7 above, and enforce those against Finance Corporation.

B. That it will not consent to any waiver of Paragraph 7 above, without SCSC's consent.

C. That it will not amend the Tolleson/Finance Corporation agreement and will enforce that agreement against Finance Corporation in accordance with its terms.

9. It is specifically agreed by the parties that SCSC shall have no direct liability to the holders of the bonds issued by Finance Corporation or to the Trustee for the payment of principal and interest. SCSC does not in any way guarantee any of Finance Corporation's obligations to said bond holders, but is

responsible only for performance in accordance with the terms and conditions of this Agreement. SCSC acknowledges that the payments of Rate Component One under this Agreement will be assigned and pledged to Finance Corporation and in turn assigned and pledged to the Trustee under the Indenture to secure payment of principal and interest on the bonds issued by Finance Corporation.

10. Tolleson shall not, and shall not permit Finance Corporation to, exercise any optional redemption of the bonds without the prior written consent of SCSC.

11. SCSC shall have no liability to Tolleson or any other person as a result of the rights of approval granted to SCSC hereunder.

Section 8 - Billing and Payments

1. Rate Component One shall be due and payable on the first of each month commencing September 1, 1988. In the event such payment is not timely received by the trustee, the trustee shall give written notice to SCSC, whereupon SCSC shall wire said funds to the trustee within two business days. In the event a failure by SCSC to pay any installment of Rate Component One on a timely basis results in the acceleration of payments of principal and interest on the bonds issued by Finance Corporation, all remaining payments of Rate Component One as set forth in Article IV, Section 2, Paragraph 1A, shall become immediately due and payable, to the extent necessary to pay the accelerated

payments of principal and accrued interest on such bonds, and costs payable by Finance Corporation under the bond indenture.

2. Invoices rendered pursuant to the Rates and Charges set forth in Article IV shall be submitted monthly to SCSC by the fifth of the month and shall contain statements of the meter readings at the beginning and at the end of the monthly billing period, itemized charges for services rendered and such other pertinent invoice data as may be required by SCSC. SCSC shall pay each invoice so rendered within twenty-five (25) days of the receipt thereof.

3. Should SCSC dispute any portion of the monthly billing, other than Rate Component One which shall not be disputed, the following procedure shall be utilized.

- A. Payment shall not be withheld, but may be contested pursuant to Paragraphs B through D hereinbelow.
- B. SCSC shall provide written notice to Tolleson within 30 days of the receipt of the monthly invoice setting forth the basis for the dispute and indicating the contested dollar amount.
- C. The disputed matter, if not otherwise resolved, shall be submitted to arbitration within 30 days of the notice provided under Article II, Section 8, Paragraph 3.B. Arbitration shall be conducted in accordance with the Arizona Uniform Rules of Procedure for Arbitration.

D. The arbiter's decision shall also award the prevailing party simple interest on the amount awarded, computed daily at a simple annual interest rate equal to two percentage points above the prime interest rate of the trustee as established on the first day of the month in which the decision is rendered, plus reasonable attorneys' fees and actual costs incurred.

4. In the event SCSC does not make timely payment of Tolleson invoices for Rate Component Two or Rate Component Three, there shall be assessed a late penalty from the due date to the date paid, computed daily on a simple interest basis at an annual interest rate of two percentage points above the prime interest rate of the trustee as established on the first day of the month in which the payment was due, plus reasonable attorneys' fees associated with collection of the payments.

5. Performance of the Rate Component One portion of this Sewage Treatment Services Agreement by SCSC shall be guaranteed by SCSC's parent corporation, Citizens Utilities Company.

ARTICLE III

TECHNICAL PROVISIONS

Section 1 - Measurement of Sewage Quantities

All sewage delivered by SCSC to Tolleson shall be measured by the existing metering equipment owned by SCSC and located in SCSC's metering structure located approximately 1000 feet north of the intersection of Olive Avenue and 99th Avenue. Such metering

equipment includes an 18-inch Parshall flume, Fisher Porter Model No. 10F 1940, with indicating electronic recorder/totalizer, Fisher Porter Model No. 51-1102 and electronic transmitter, Fisher Porter Model No. 50 US 1111A1. All flow is measured in thousands of gallons and flow data is transmitted to the Tolleson Wastewater Treatment Plant through telephone lines leased by SCSC.

Section 2 - Meter Tests

1. In the event that the meter installed for measuring the quantity of sewage delivered to Tolleson fails to register, Tolleson and SCSC shall establish the duration during which the meter failed to register and the estimated quantity of sewage delivered through such meter during such period and, upon agreement, an appropriate adjustment based on the procedure set forth in Paragraph 3 hereinbelow shall be made in the amount billed to SCSC.

2. The meter installed for measuring the quantity of sewage delivered to Tolleson shall be tested for accuracy every six months. The parties hereto shall also have the right, upon written notice to the other, to demand and have a test made of the accuracy of the meter installed for measuring the quantity of sewage delivered to Tolleson. The expense of the semi-annual test shall be borne by SCSC and the expense of any additional requested meter test shall be borne by the party requesting the test. Tests shall be performed by a mutually agreed upon agency or corporation and the results of such tests shall be furnished to both Tolleson and SCSC. If any such test shows any meter to

be registering within two percent, plus or minus, of the correct quantity, it shall be considered accurate. In the event a meter is determined to be inaccurate, an adjustment for the flows above or below the stated range shall be made to the recorded flows for one-half of the period since the last meter test.

3. In the event the meter fails to record any flow, the average daily flow determination for any unmetered period shall be calculated using the fourteen (14) day period just prior to and the fourteen (14) day period subsequent to any unmetered period as the average daily flow for the period not metered due to equipment failure.

ARTICLE IV

RATES AND CHARGES

Section 1 - Commencement of Payments

1. Commencing September 1, 1988, SCSC shall pay Rate Component One as set forth in Article IV, Section 2, Paragraph 1A. During its applicable term, this rate component shall be unconditionally paid by SCSC, irrespective of whether SCSC has received an invoice therefor.

2. Commencing the first month after the date on which the Maricopa County Health Department issues its operating permit for the Plant Expansion and after which sewage is first treated in the Plant Expansion, SCSC shall make monthly payments to Tolleson for Rate Components Two and Three. Monthly invoices received by SCSC from Tolleson for Rate Components Two and Three shall be subject to audit at SCSC's expense.

Section 2 - Determination of Payments

1. Said monthly invoices shall consist of the sum of the following Rate Components:

- A. Rate Component One - User Fees For SCSC Service Facilities. Rate Component One shall be one-twelfth of the Annual User Fees on the twenty-year tax-exempt bonds, the proceeds of which were used to finance, engineer, construct and install the SCSC Service Facilities and pay the usufructuary fee for Sewage Treatment Service rights to existing Tolleson Wastewater Treatment Plant facilities (usufructuary interest), as set forth in Article II, Section 7, all necessary to provide Sewage Treatment Services of 5.2 mgd and the related transportation services pursuant to this Agreement, plus reasonable monthly fees of the trustee. Any amounts collected for bond reserve or bond interest coverage shall be applied against principal and interest payments due at the end of the bond issue so that no credit balance remains after the bonds are fully retired. Any Excess Construction Funds as defined in the bond indenture shall be applied against principal payments as they first become due and payable. The User Fees shall be adjusted to reflect those lesser principal requirements.

This User Fee shall cease upon retirement or redemption of the bond issue, whichever occurs first and shall be adjusted to the actual principal and interest cost in the event there is a partial redemption of the bonds. Tolleson shall or shall cause Finance Corporation to direct the trustee to deposit all monthly User Fee payments in an interest bearing escrow account held by the bond trustee, which account shall be used by Tolleson to make bond principal and interest payments. Interest earned on any funds, including but not limited to bond reserves or interest coverage reserves, held by Tolleson, the Finance Corporation, or the trustee, shall be applied to reduce Rate Component One. All investment earnings, net of payments required to be made to the United States government or other parties, resulting from said deposits shall be applied annually to reduce SCSC's Rate Component One obligation under this Agreement.

- B. Rate Component Two - Operation and Maintenance Charge For Sewage Treatment Services. Rate Component Two shall be the charge for the pro rata portion (on an actual flow basis) of the operation and maintenance expense, as defined herein, for treatment of the sewage delivered to Tolleson by SCSC. Rate Component Two shall be computed

as follows: the difference in monthly meter readings, multiplied by the operation and maintenance expense per thousand gallons of sewage treated at the Expanded Facilities, applicable to SCSC, Peoria and Tolleson, and adjusted for the operation and maintenance expenses assigned to Tolleson and Sunland Beef Company (Sunland) under the terms of an agreement between Tolleson and Sunland dated March 29, 1983. Said operation and maintenance expense per thousand gallons shall be established each July 1 fiscal year and shall be the average expense per thousand gallons actually incurred by Tolleson during the twelve months immediately preceding the revision of this Rate Component Two. The first year charge shall be based upon the design engineer's estimate for first year operation and maintenance expenses and shall be mutually agreed upon. The operation and maintenance expense categories to be utilized in this Rate Component Two, and the estimate of first year expenses to be used for the July 1 fiscal year 1988 are listed in Exhibit D, attached hereto and incorporated herein for all purposes. In subsequent years the operation and maintenance expenses shall be computed as the prior years actual operation and maintenance expense, adjusted by the average of the prior three

years CPI-U Phoenix factor not to exceed ten percent. At the end of each July 1 fiscal year, a reconciliation of the actual operation and maintenance expense per thousand gallons versus the estimated operation and maintenance expenses per thousand gallons shall be conducted. The deviation per thousand gallons times the quantity of sewage actually treated during that July 1 fiscal year shall be credited/charged to the appropriate party, or parties so as to permit the recovery of actual costs. This reconciliation of actual costs shall also include interest for a stipulated six-month period at the prime interest rate of the trustee as established on the first day of the month in which the payment is due. This true-up of operation and maintenance expenses shall be made on the August monthly billing.

- C. Rate Component Three - Replacement and Contingencies Reserve. Rate Component Three shall be a charge credited to the Replacement and Contingencies Reserve, which Reserve shall be interest bearing. Each month the sum of \$1,500 shall be charged until SCSC's proportionate share of such Reserve, including the interest thereon, aggregates the sum of \$90,000. The SCSC proportionate share of this Reserve is subject to adjustment to reflect the

SCSC proportionate share of the reserve necessary for "Replacement" as defined by the USEPA regulation (Federal Register, September 27, 1978; Appendix B to Title 40, Chapter 1, Part 35, Subpart E, and as may be amended from time to time) and as approved by the USEPA. Thereafter, this Rate Component Three shall not be charged and the interest accrued thereon shall be used to reduce Rate Component Two, except that when any money is paid out of such Reserve for the purposes authorized below, billing of Rate Component Three shall be resumed at the aforesaid monthly sum. Interest shall accrue to the reserve and such payments and accruals shall be made until such Reserve has been restored to the aggregate amount of \$90,000. Moneys credited to said Replacement and Contingencies Reserve shall be used only for the payment of SCSC's pro rata share (on a capacity basis) of the cost of extraordinary maintenance, necessary repairs and routine replacements, the payment for which no other funds are available, in order that the Expanded Facilities may at all times be able to treat the sewage delivered under this Agreement. All earned interest attributable to SCSC and monies remaining in said Replacement and Contingencies Reserve at the expiration of this Agreement or any extension of this

Agreement shall be paid to SCSC by Tolleson within 60 days of said expiration or extension.

2. Should capital expenditures for completion of or additions to the Expanded Facilities be required for the benefit of SCSC, which additions and expenditures shall be approved by SCSC in advance of construction, Tolleson shall use its best efforts to arrange for funding such additions at the lowest possible cost available to municipalities. SCSC agrees to pay an additional monthly charge equivalent to the principal and interest and all other reasonable expenses applicable to its proportionate share of such additions.

3. Calculation of Rate Component Two and Three payments to Tolleson during the first year of operation shall be provided by Tolleson to SCSC at least ninety (90) days prior to the date sewage is to be first delivered hereunder. Should the annual Tolleson audit of financial data differ from the unaudited financial data, the appropriate adjustment shall be made on the subsequent anniversary date for revision of the rate components.

4. No other rate components or charges other than those listed in Article IV herein shall be applicable to services provided to SCSC by Tolleson pursuant to this Agreement. It is acknowledged by the parties that certain operation and maintenance expense categories covered by Article IV, Section 2, Paragraph 1.B, and as set forth in Exhibit D may be unknown at the time of execution of this Agreement. Those additional operating and

maintenance expenses and fees that are required to meet subsequent legal and regulatory requirements to operate the plant, but not such costs as set forth in Article V, Section 3, Paragraph 4, shall be allowed in Rate Component Two. In the event such charges are imposed by any governmental entity, SCSC may instruct Tolleson not to pay such charges or to pay them under protest. SCSC shall hold Tolleson harmless in that event and SCSC may defend against those charges at its own expense. Such protest by SCSC shall not be considered a default under this Agreement.

5. SCSC's obligation to make Rate Component Two and Rate Component Three Payments are subject to the provisions of Article V.

Section 3 - Excess Flow Consideration

1. So as to protect Tolleson from the receipt of flows from SCSC in excess of those average daily flows for the maximum month contained in Article I, Paragraph 4, the SCSC Service Facilities to be constructed under this Agreement shall provide the necessary facilities to limit wastewater flows into the Tolleson Wastewater Treatment Plant. Such flow-limiting devices shall require Tolleson's prior written approval. Such approval shall not be unreasonably withheld.

2. In the event SCSC elects to share utilization of the services under this Agreement with other users, SCSC will provide contractually with the other user or users for a fail-safe flow-limiting procedure to preclude the possibility of SCSC

exceeding its average daily or peak flow limits. This flow-limiting procedure must have Tolleson's prior written approval.

3. If SCSC is unable or unwilling to limit their flows to those referenced in Article IV, Section 3, Paragraph 1, it is agreed that SCSC shall pay to Tolleson the following consideration for Tolleson treating sewage in excess of the average daily flows for the maximum month flows under Article I, Paragraph 4:

- A. If flows exceed the allowable average gallon per day rate for the maximum month under this Agreement, the payment to Tolleson shall be the sum equal to 25% of the total Rate Component Two paid by SCSC for the 30-day period in which the violation occurred.
- B. If flows exceed 105% of the allowable average gallon per day rate for the maximum month under this Agreement, the payment to Tolleson shall be a sum equal to 50% of the total Rate Component Two paid by SCSC for the 30-day period in which the violation occurred.
- C. If flows exceed 110% of the allowable average gallon per day rate for the maximum month under this Agreement, the payment to Tolleson shall be the sum equal to 75% of the total Rate Component Two paid by SCSC for the 30-day period in which the violation occurred.

D. If flows exceed 115% of the allowable average gallon per day rate for the maximum month under this Agreement, the payment to Tolleson shall be the sum equal to 100% of the total Rate Component Two paid by SCSC for the 30-day period in which the violation occurred.

4. The payments under Article IV, Section 3, Paragraph 3 shall not be cumulative and shall be the exclusive remedy of Tolleson for excess flows, subject to the provisions of Article II, Section 1, Paragraph 4.

ARTICLE V

GENERAL PROVISIONS

Section 1 - Conditions Precedent

1. This Agreement is expressly subject to and conditioned upon the following events, which may be waived by SCSC providing written notice to Tolleson:

A. The Federal Energy Regulatory Commission's approval of the guarantee by Citizens Utilities Company, or a disclaimer of jurisdiction by the Federal Energy Regulatory Commission.

B. The approval of this Agreement by the Arizona Corporation Commission.

C. The approval by the Arizona Corporation Commission of a surcharge for recovery of all costs under this Agreement which, in SCSC's sole judgement, will, in fact, enable SCSC to recover all of the costs to SCSC resulting from this Agreement.

D. The execution of the sewage transportation services agreement with Glendale provided for in Article II, Section 4, Paragraph 3.

E. The issuance of the bonds contemplated by this Agreement on or before August 30, 1985 or as extended by SCSC.

F. The execution of the contract between Tolleson and Peoria for the construction of the Peoria Service Facilities provided for in Article II, Section 5, Paragraph 6. Said contract shall provide for the operation and maintenance expense per thousand gallons to be equal to that charged SCSC.

2. This Agreement is further subject to and conditioned upon SCSC furnishing to Tolleson either a written waiver of conditions A through E of Article V, Section 1, Paragraph 1, or if these conditions are not waived and have been satisfied then SCSC shall furnish Tolleson with a copy of the governmental approvals and agreements set forth in said sub-paragraphs A through E, together with a letter from SCSC acknowledging satisfaction of such conditions precedent to this Agreement. Tolleson shall furnish SCSC with a copy of the executed Tolleson/Peoria Agreement referred to in sub-Paragraph F.

3. Notwithstanding the provision of Section 1 of this Article V, should the conditions precedent not be satisfied, or waived, SCSC shall nonetheless remain liable for the financing and engineering charges set forth in Article II, Section 5, Paragraph 3 of this Agreement.

Section 2 - Access to Facilities

Authorized representatives of Tolleson will be allowed access to SCSC's metering station and representatives of SCSC will be allowed access to the Expanded Facilities at all reasonable times.

Section 3 - Risk; Liability; Insurance; Penalties

1. Tolleson shall perform all construction and all sewage treatment and related transportation services under this Agreement solely at its own risk and in case of accident, damage or destruction of the Plant Expansion or Expanded Facilities necessary to perform the treatment services under this Agreement, Tolleson will replace or repair forthwith whatever is damaged or destroyed to the satisfaction of SCSC and at Tolleson's own expense.

2. Tolleson hereby assumes full responsibility and liability for the injury or death of any person, or persons, or loss or damage to any property, or to SCSC, contributed to or caused by Tolleson's failure to perform its obligations under this Agreement or by the active or passive negligence of Tolleson, its agents, servants, employees, or subcontractors in the execution of the construction or services to be performed under this Agreement. The approvals of SCSC under this Agreement shall not create any responsibility or liability for SCSC. All responsibility and liability shall remain with Tolleson as owner and operator of the SCSC Service Facilities and as the responsible party for the financing of the facilities. Tolleson will indemnify

and hold harmless SCSC, its officers, directors, agents and employees from and against claims or expenses, including penalties and assessments, to which they or any of them may be subjected by reason of such failure to perform, negligence, injury, death, loss, claim, penalty, assessment or damage, and in case any suit or other proceeding shall be brought on account thereof, Tolleson will assume the defense at Tolleson's own expense and will pay all judgments rendered therein.

3. Tolleson agrees to procure and maintain all insurance on the Plant Expansion and Expanded Facilities construction, operation, and comprehensive general liability, under Article V, Section 3, Paragraphs 1 and 2, including insurance, if available at a reasonable premium approved by SCSC, which shall be adequate to reimburse SCSC for the User Fees in the event and for the period of time that services under this Agreement can not be performed for a period exceeding thirty (30) days. SCSC's entitlement to the benefit of such insurance shall be in addition to any other rights and remedies SCSC may have at law and in equity. Such coverages shall be in content and amounts adequate to cover the risk commensurate with the construction of facilities and provision of sewage treatment services to be performed under this Agreement. Cost of such insurance shall be included as an operating and maintenance expense category of Rate Component Two as shown on Exhibit D, except User Fee reimbursement insurance, the premium for which shall be borne by SCSC.

4. Any penalty, fine, assessment, legal expenses, or civil damages assessed against Tolleson for any willful or negligent omission or commission associated with the construction, operation (including but not limited to prohibited discharge penalties) or maintenance of the Expanded Facilities not in accordance with any federal, state or local statute, rule, regulation or procedure, shall be borne solely by Tolleson and shall not be included in the Rate Component Two under Article IV, Section 2, Paragraph 1.B or in any other rate or charge to SCSC, unless it is established that such fine or penalty was the result of some action or inaction of SCSC. The parties agree that all administrative and legal expenses, including costs associated with any lawsuit regarding the Tolleson Wastewater Treatment Plant filed as of the date of this Agreement, and any damages or obligations resulting from an adverse ruling or appeal thereof, are specifically excluded from computation of Rate Component Two.

5. Tolleson agrees to indemnify and hold harmless SCSC and its Guarantor against any damage, liability, loss, cost or expense including attorneys fees incurred by them or either of them and arising directly or indirectly from (i) any misrepresentation other than by SCSC in any agreement pertaining to this Agreement or the design, construction or financing of the SCSC Service Facilities and (ii) any omission of material fact or misstatement of material fact made other than by SCSC in any of the documents associated with the financing referred to in Article

II, Section 7, including without limitation the official statement in respect of the bonds.

6. SCSC hereby agrees to indemnify and hold harmless Tolleson against any damage, liability, loss, cost or expense including attorneys' fees incurred by Tolleson and arising directly or indirectly from (i) any misrepresentation by SCSC in this Agreement and (ii) any omission of material fact or misstatement of material fact by SCSC or its Guarantor in any of the documents associated with the financing referred to in Article II, Section 7, including without limitation the official statement in respect of the bonds.

Section 4 - Effluent Credits

Tolleson hereby agrees that SCSC or its designee shall receive its proportionate share of all applicable credits for return flows, exchanges or groundwater recharged under water user provisions of any Central Arizona Project related contract or Arizona Groundwater Code requirement, or any management plan established thereunder, or any subsequent court decision affecting Tolleson's effluent disposition. Such credits, exchange or recharge recognition shall fully reflect SCSC's proportionate share of influent flow in gallons as measured at the metering structure as set forth in Article III, Section 1, herein. This credit shall not include the economic benefits related to effluent sales by Tolleson to third parties.

Section 5 - Notices

All notices or communications hereunder shall be sent to Tolleson, addressed as follows:

City of Tolleson
Attn: City Manager
9555 West Van Buren
Tolleson, Arizona 85353

with copies to:

City of Tolleson
Attn: Director,
Wastewater Treatment Plant
9555 West Van Buren
Tolleson, Arizona 85353

and

City of Tolleson
Attn: City Attorney
9555 West Van Buren
Tolleson, Arizona 85353

or to such other addresses as Tolleson may advise SCSC in writing, and to SCSC at:

Sun City Sewer Company
Attn: William J. Raymo, Manager
(15626 North Del Webb Boulevard)
P.O. Box 1687
Sun City, Arizona 85372

with copy to:

Sun City Sewer Company
Attn: David E. Chardavoyne
Assistant Vice President
High Ridge Park
Stamford, CT 06905

or to such other addresses as SCSC may advise Tolleson in writing.

Section 6 - Default

1. It is specifically agreed that (a) the default by Tolleson under its agreement with Finance Corporation, or (b)

the default of Finance Corporation under the bond indenture, including any acceleration of payments that may result from default (a) or (b) above, unless such default or acceleration is due to the non-payment of Rate Component One by SCSC, or (c) an adverse ruling by the Internal Revenue Service as to the tax-exempt status of the financing for the SCSC Service Facilities, shall not cause any additional liability or obligation for SCSC or its Guarantor to anyone, so long as SCSC otherwise performs its obligations under this Agreement.

2. The agreements between Tolleson and Finance Corporation and the financing documents of Financing Corporation shall specifically acknowledge the provisions of this Section 6.

Section 7 - Successors and Assigns; Right of First Refusal

1. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns, provided however that any assignment shall be approved by the other party, which approval shall not be unreasonably withheld.

2. Notwithstanding Paragraph 1 of this Section 7, Tolleson specifically reserves the right to assign and pledge its right to the payments under this Agreement to secure the financing of the SCSC Service Facilities.

3. During the term of this Agreement, Tolleson shall not sell, assign, mortgage, transfer or hypothecate all or any portion of its interest in SCSC Service Facilities without first obtaining the written consent of SCSC. SCSC will not unreasonably

withhold its consent. If such consent is given, Tolleson shall provide SCSC with an agreement satisfactory in form and substance to SCSC which shall assure SCSC that any successor in interest to Tolleson shall perform all of Tolleson's obligations under this Agreement in accordance with its terms. Any sale and sale-back or sale and lease-back shall not require SCSC consent, provided the operating control of the SCSC Facilities remains with Tolleson.

4. Prior to any disposition of the WWTP, except a disposition covered by the last sentence of paragraph 3, Tolleson shall afford SCSC with the option to purchase the WWTP at a price and on the same terms and conditions as are offered to Tolleson. In this connection, promptly upon receipt of an offer from a third party who is not in anyway affiliated to or with Tolleson such as Finance Corporation, or a similar entity controlled by Tolleson, to purchase the WWTP, Tolleson shall provide SCSC with a copy of such offer. SCSC shall have ten (10) business days from receipt of the offer to notify Tolleson of its desire to purchase or not to purchase the WWTP. If it elects to purchase the WWTP, SCSC, under the same terms and conditions as in the third party offer, shall have the same rights as provided by the third party offer. If SCSC elects not to purchase the WWTP under the same terms and conditions as the third party offer, Tolleson shall be free to dispose of the WWTP to the third party offeror. If the sale to the third party offeror does not close, this provision shall be

applicable to any subsequent proposed disposition of the WWTP. If SCSC does not advise Tolleson in writing of its acceptance of the third party offer to purchase the Tolleson WWTP within ten (10) business days of receipt of the notice of sale from Tolleson, Tolleson shall be free to proceed with the sale to the third party and such third party shall perform Tolleson's obligations under this Agreement.

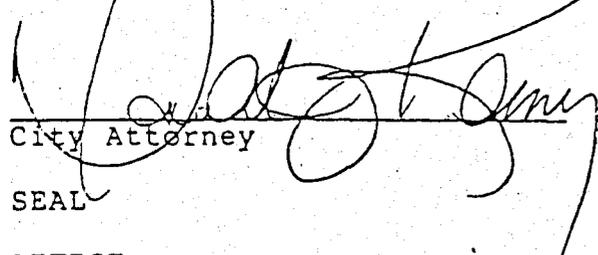
Section 8 - Miscellaneous

This Agreement may not be modified or amended except by a writing signed by both parties. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona. This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and expressly supersedes and revokes all other prior or contemporaneous promises, representations and assurances of any nature whatsoever with respect to the subject matter hereof. The remedies provided in this Agreement in favor of SCSC or Tolleson shall not be deemed their exclusive remedies but shall be in addition to all other remedies available at law or in equity. In the event any provision of this Agreement is for any reason adjudicated deficient, unenforceable, irregular and/or invalid, the parties hereto and each of them, will promptly, and to the extent reasonably possible, take such action or proceedings as may be necessary to correct such deficiency or otherwise validate that provision. If any provision of this Agreement is declared void or unenforceable, such provision shall be deemed

severed from this Agreement, which shall otherwise remain in full force and effect. No waiver by SCSC or Tolleson of any breach by the other party of any provision of this Agreement nor any failure by SCSC or Tolleson to insist on strict performance by the other party of any provision of this Agreement shall in any way be construed to be a waiver of any future or subsequent breach or bar the right to insist on strict performance of the provisions of this Agreement in the future.

IN WITNESS WHEREOF, the CITY OF TOLLESON and SUN CITY SEWER COMPANY have caused this Agreement to be signed by their respective Officers and attested by their respective City Clerk and Assistant Secretary and their seals affixed hereto, all as of the day and date first hereinabove set forth.

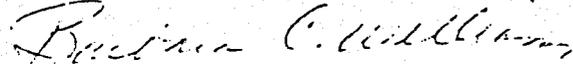
APPROVED AS TO FORM:



City Attorney

SEAL

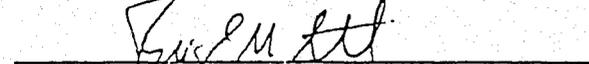
ATTEST:



City Clerk

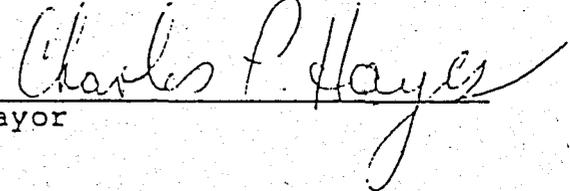
SEAL

ATTEST:



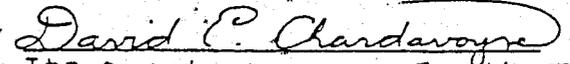
Assistant Secretary

CITY OF TOLLESON, a municipal corporation

By 

Mayor

SUN CITY SEWER COMPANY

By 

Its Assistant Vice President