

ORIGINAL



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FENNEMORE CRAIG, P.C.  
RECEIVED  
3003 North Central Avenue, Suite 2600  
Phoenix, Arizona 85012-2913  
(602) 916-5000

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2006 JUL 25 P 4: 35

Jay L. Shapiro  
Direct Phone: (602) 916-5366  
Direct Fax: (602) 916-5566  
jshapiro@fclaw.com

AZ CORP COMMISSION  
DOCUMENT CONTROL

Law Offices  
Phoenix (602) 916-5000  
Tucson (520) 879-6800  
Nogales (520) 761-4215

July 25, 2006

VIA HAND DELIVERY

Arizona Corporation Commission  
DOCKETED

JUL 25 2006

Mr. Brian Bozzo  
Manager, Compliance and Enforcement  
Utilities Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

DOCKETED BY	<i>nc</i>
-------------	-----------

Re: Balterra Sewer Corporation; Docket No. SW-20403A-05-0586  
Notice of Compliance Filing

Dear Brian:

We understand that an applicant, when granted a CC&N, is typically required to file its County franchise agreement for the extension area. This requirement was not set forth in Decision No. 68742 (June 5, 2006). Nevertheless, in keeping with the standard, Balterra Sewer Corporation hereby submits its new County franchise, along with the June 21, 2006 meeting minutes of the Board of Supervisors.

Should you have any questions, please do not hesitate to contact me.

Very Truly Yours,

Jay L. Shapiro

JLS/wb  
Enclosure

cc: Docket Control (w/ encl.)  
Mr. Joel Farkas (w/ encl., via U.S. mail)

**COUNTY OF MARICOPA**

*State of Arizona*

**Office of the Clerk**

Board of Supervisors

*State of Arizona* ) ss.  
*County of Maricopa* )

*I, Lori Pacini, Deputy Clerk of the Board of Supervisors, do hereby certify that the attached is a true and correct excerpt from the minutes of the meeting of the Board of Supervisors held on June 21, 2006. These minutes are currently pending approval by the Board:*

**BALTERRA SEWER CORP. PUBLIC SERVICE FRANCHISE, APPROVED**

*(Attached)*



cc: *Balterra Sewer Corp.*  
*Civil Division*  
*File (F23205)*

*IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the County of Maricopa. Done at Phoenix, the County Seat, on July 10, 2006.*

*Lori Pacini*

*Deputy Clerk of the Board of Supervisors*

**PUBLIC HEARING – FRANCHISE – BALTERRA SEWER CORPORATION**

Chairman Stapley called for a public hearing to solicit comments on the application filed by Balterra Sewer Corporation for a public utility franchise to construct, maintain and operate a sewage system consisting of lines, connections, manholes and all necessary equipment, for a period of 25 years or for a period of one year after the franchised area or a portion thereof is annexed by a municipality, whichever is shorter, for the transmission and delivery of domestic sewage system for use along, upon, under and across public highways, roads, alleys and thoroughfares (excepting State highways) within that portion of Maricopa County, Arizona, known and described as follows, to-wit:

The description for that portion of the property described below, lying within section 23, township 2 north, range 7 west, Gila and Salt River base and meridian, Maricopa County, Arizona, is based on an alta/acsm land title survey by Morrison Maierle, Incorporated, dated September 22, 2004.

That portion of section 19, township 2 north, range 6 west, and section 24, township 2 north, range 7 west, Gila and Salt River base and meridian, Maricopa County, Arizona, more particularly described as follows:

Beginning at an Arizona Department of Transportation brass cap at the southeast corner of said section 19;

thence north 89°28'08" west, along the south line of the southeast quarter of said section 19, a distance of 2,640.04 feet to a brass cap at the south quarter corner of said section 19;

thence north 89°28'43" west, along the south line of the southwest quarter of said section 19, a distance of 1,687.12 feet to a half inch rebar and yellow cap marked "dea 40622" at the southeast corner of that certain tract of land condemned for highway as recorded under docket no. 7553, page 749, records of Maricopa County, Arizona;

thence north 00°31'17" east, along the east line of that certain tract of land condemned for highway as recorded under docket no. 7553, page 749, records of Maricopa County, Arizona, a distance of 65.22 feet to an Arizona Department of Transportation brass cap;

thence north 85°42'56" west, along the north line of that certain tract of land condemned for highway as recorded under docket no. 7553, page 749, records of Maricopa County, Arizona, a distance of 629.08 feet to an Arizona Department of Transportation brass cap;

thence north 74°33'19" west, along the north line of that certain tract of land condemned for highway as recorded under docket no. 7553, page 749, records of Maricopa County, Arizona, a distance of 308.20 feet to a half inch rebar and yellow cap marked "dea 40622" at a point on the west line of said section 19, also being the northeast corner of that certain tract of land deeded for highway as recorded under docket no. 6412, page 55, records of Maricopa County, Arizona;

thence north 74°32'33" west, along the north line of that certain tract of land deeded for highway as recorded under docket no. 6412, page 55, records of Maricopa County, Arizona, a distance of 1,142.11 feet to an Arizona Department of Transportation brass cap;

thence north 74°32'55" west, along the north line of that certain tract of land deeded for highway as recorded under docket no. 6412, page 55, records of Maricopa County,

Arizona, a distance of 1,300.16 feet to an Arizona Department of Transportation brass cap;

thence north  $74^{\circ}32'56''$  west, along the north line of that certain tract of land deeded for highway as recorded under docket no. 6412, page 55, records of Maricopa County, Arizona, a distance of 294.08 feet to a one half inch rebar on the west line of the southeast quarter of said section 24;

thence north  $00^{\circ}32'56''$  east, along the west line of the southeast quarter of said section 24, a distance of 1751.55 feet to a one inch rebar at the center of said section 24;

thence north  $89^{\circ}27'44''$  west, along the south line of the northwest quarter of said section 24, a distance of 1321.24 feet to a five eighths inch rebar at the southwest corner of the southeast quarter of the northwest quarter of said section 24;

thence north  $00^{\circ}33'08''$  east, along the west line of the southeast quarter of the northwest quarter of said section 24, a distance of 132.00 feet to a half inch rebar on the north line of the south 132.00 feet of the southwest quarter of the northwest quarter of said section 24;

thence north  $89^{\circ}27'44''$  west, along the north line of the south 132.00 feet of the southwest quarter of the northwest quarter of said section 24, a distance of 660.61 feet to a half inch rebar marked "don miller, ls 15335" at the west line of the east half of the southwest quarter of the northwest quarter of said section 24;

thence north  $00^{\circ}33'16''$  east, along the west line of the east half of the southwest quarter of the northwest quarter of said section 24, a distance of 528.12 feet to a half inch rebar marked "don miller, ls 15335" at the southeast corner of the northwest quarter of the southwest quarter of the northwest quarter of said section 24;

thence north  $89^{\circ}27'40''$  west, along the south line of the northwest quarter of the southwest quarter of the northwest quarter of said section 24, a distance of 660.59 feet to a half inch rebar and yellow cap marked "dea 40622" at the southwest corner of the northwest quarter of the southwest quarter of the northwest quarter of said section 24;

thence north  $00^{\circ}33'24''$  east, along the west line of the northwest quarter of said section 24, a distance of 660.13 feet to a half inch rebar at the northwest corner of the southwest quarter of the northwest quarter of said section 24;

thence south  $89^{\circ}27'36''$  east, along the north line of the south half of the northwest quarter of said section 24, a distance of 2642.28 feet to a five eighths inch rebar at the southeast corner of the northeast quarter of the northwest quarter of said section 24;

thence north  $00^{\circ}32'53''$  east, along the east line of the northeast quarter of the northwest quarter of said section 24, a distance of 1320.15 feet to a half inch rebar at the north quarter corner of said section 24;

thence south  $89^{\circ}31'19''$  east, along the north line of the northeast quarter of said section 24, a distance of 2645.96 feet to a glo brass cap at the northeast corner of said section 24;

thence south  $00^{\circ}33'36''$  west, along the east line of the northeast quarter of said section 24, a distance of 1320.00 feet to a half inch rebar at the south line of the north 1320.00 feet of the northwest quarter of said section 19;

thence south  $89^{\circ}29'19''$  east, along the south line of the north 1320.00 feet of the northwest quarter of said section 19, a distance of 1320.00 feet to a half inch rebar at the southeast corner of the west 1320.00 feet of the north 1320.00 feet of the northwest quarter of said section 19;

thence north  $00^{\circ}33'36''$  east, along the east line of the west 1320.00 feet of the northwest quarter of said section 19, a distance of 1320.00 feet to a half inch rebar on the north line

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of the northwest quarter of said section 19, also being the northeast corner of the west 1320.00 feet of the north 1320.00 feet of the northwest quarter of said section 19;  
thence south 89°29'19" east, along the north line of the of the northwest quarter of said section 19, a distance of 1286.27 feet to a glo brass cap at the north quarter corner of said section 19;  
thence south 89°29'54" east, along the north line of the of the northeast quarter of said section 19, a distance of 2643.72 feet to a rebar with aluminum cap marked "Is 36563, 2004" at the northeast corner of said section 19;  
thence south 00°32'10" west, along the east line of the of the northeast quarter of said section 19, a distance of 2643.21 feet to a rebar with aluminum cap marked "Is 36563, 2004" at the east quarter corner of said section 19;  
thence south 00°32'12" west, along the east line of the of the southeast quarter of said section 19, a distance of 2643.45 feet to an Arizona Department of Transportation brass cap at the southeast corner of said section 19 and the point of beginning;  
together with the northeast quarter of section 23, township 2 north, range 7 west, Gila and Salt River base and meridian, Maricopa County, Arizona,  
being also described as follows:  
beginning at a half-inch rebar at the northeast corner of section 23, township 2 north, range 7 west, Gila and Salt River base and meridian, Maricopa County, Arizona;  
thence south 00°33'24" west, along the east line of the northeast quarter of said section 23, a distance of 2640.55 feet to a glo brass cap at the east quarter corner of said section 23;  
thence north 89°26'32" west, along the south line of the northeast quarter of said section 23, a distance of 2636.57 feet to a half inch rebar with tag marked "I.s. 12218" at the center of said section 23;  
thence north 00°35'09" east, along the west line of the northeast quarter of said section 23, a distance of 2641.17 feet to a glo brass cap at the north quarter corner of said section 23;  
thence south 89°25'44" east, along the north line of the northeast quarter of said section 23, a distance of 2635.23 feet to a glo brass cap at the northeast corner of said section 23 and the point of beginning.

Except that portion of the southwest quarter of said section 19 described as follows:  
commencing at a brass cap found at the south quarter corner of said section 19, from which an Arizona Department of Transportation brass cap at the southeast corner of said section 19 bears south 89°28'08" east, a distance of 2640.04 feet; thence north 89°28'43" west, along the south line of the southwest quarter of said section 19, a distance of 1482.82 feet; thence north 00°31'17" east, a distance of 40.00 feet to a half in rebar at a point on a line lying 40.00 feet north of and parallel to the south line of the southwest quarter of said section 19 and the true point of beginning;  
thence continuing north 00°31'17" east, a distance of 200.00 feet to a half in rebar at a point on a line lying 240.00 feet north of and parallel to the south line of the southwest quarter of said section 19;  
thence south 89°28'43" east, along said line lying 240.00 feet north of and parallel to the south line of the southwest quarter of said section 19, a distance of 200.00 feet to a half in rebar;

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thence south 00°31'17" west, a distance of 200.00 feet to a half in rebar at a point on said line lying 40.00 feet north of and parallel to the south line of the southwest quarter of said section 19;

thence north 89°28'43" west, along said line lying 40.00 feet north of and parallel to the south line of the southwest quarter of said section 19, a distance of 200.00 feet to a half in rebar at the point of beginning; situate in the County of Maricopa, State of Arizona.

contains 1,110.083 acres more or less. (gross)

contains 1,082.750 acres more or less. (net)

and

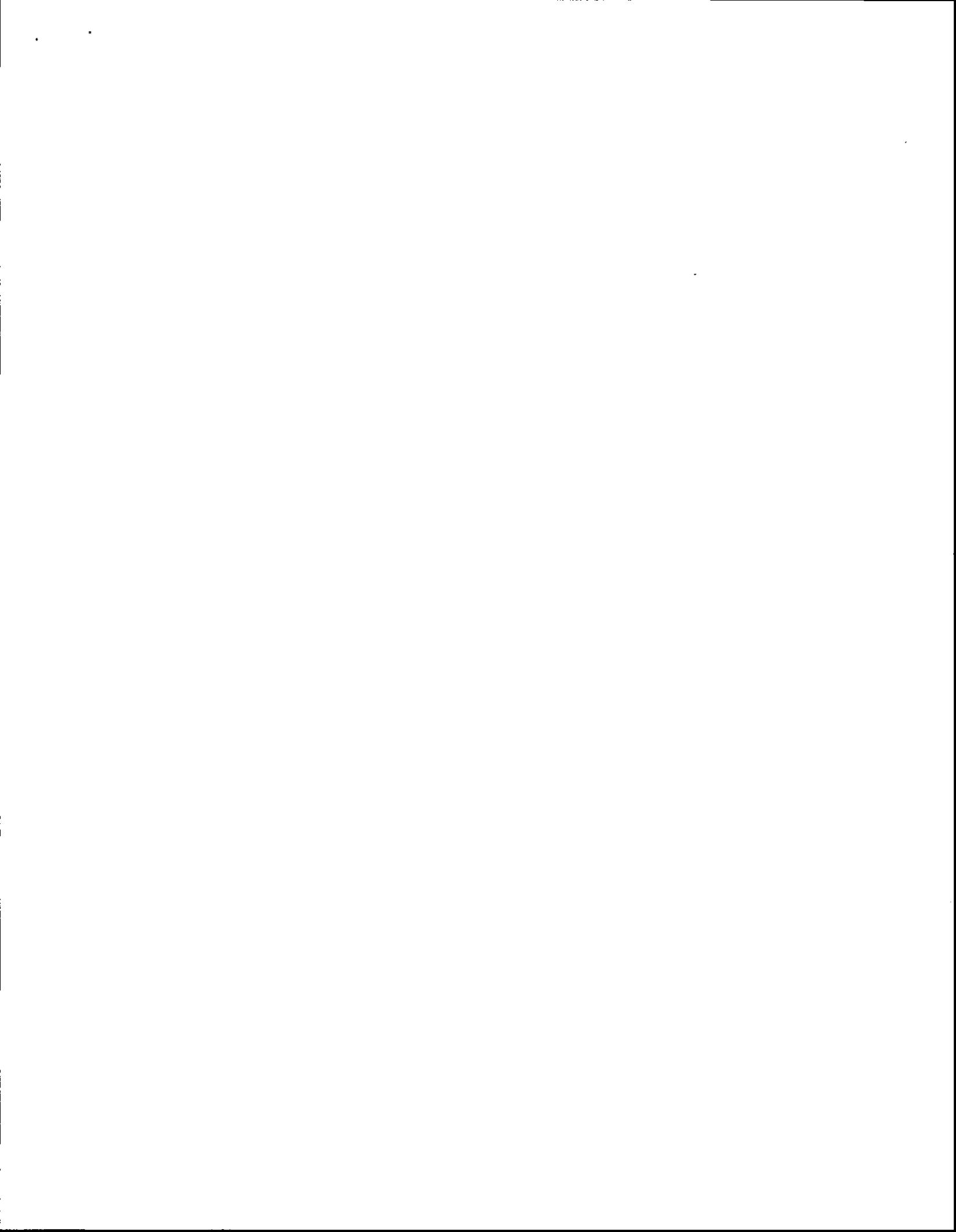
the northwest quarter of the northeast quarter and the west half of the northeast quarter of the northeast quarter of section 28, township 2 north, range 5 west of the Gila and Salt River base and meridian, Maricopa County, Arizona;

except any portion lying within the dedicated right of way for Indian School Road per road declaration recorded in docket 3124, pages 573-575, records of Maricopa County, Arizona;

also except any portion lying within that property described in document recorded under recording no. 870106857 records of Maricopa County, Arizona.

contains 57.6 acres more or less.

No protests having been received and no speakers coming forth at the Chairman's call, motion was made by Supervisor Wilson, seconded by Supervisor Brock, and unanimously carried (4-0-1) to grant the said franchise as applied for and to impose such restrictions and limitations upon said applicant as to the use of such public highways, roads, alleys and thoroughfares as may be deemed best for the public safety and welfare and to include in such franchise the statutory provisions set forth in Title 40, Chapter 2, Article 4, A.R.S., 1956, requiring the grantee of said franchise to pay such expenses, damages and compensations, if any, as may result from the use and operation of said franchise and as in said statute specified. (F23205)





thence north 74°33'19" west, along the north line of that certain tract of land condemned for highway as recorded under docket no. 7553, page 749, records of Maricopa County, Arizona, a distance of 308.20 feet to a half inch rebar and yellow cap marked "dea 40622" at a point on the west line of said section 19, also being the northeast corner of that certain tract of land deeded for highway as recorded under docket no. 6412, page 55, records of Maricopa County, Arizona;

thence north 74°32'33" west, along the north line of that certain tract of land deeded for highway as recorded under docket no. 6412, page 55, records of Maricopa County, Arizona, a distance of 1,142.11 feet to an Arizona Department of Transportation brass cap;

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thence north 00°32'56" east, along the west line of the southeast quarter of said section 24, a distance of 1751.55 feet to a one inch rebar at the center of said section 24;

thence north 89°27'44" west, along the south line of the northwest quarter of said section 24, a distance of 1321.24 feet to a five eighths inch rebar at the southwest corner of the southeast quarter of the northwest quarter of said section 24;

thence north 00°33'08" east, along the west line of the southeast quarter of the northwest quarter of said section 24, a distance of 132.00 feet to a half inch rebar on the north line of the south 132.00 feet of the southwest quarter of the northwest quarter of said section 24;

thence north 89°27'44" west, along the north line of the south 132.00 feet of the southwest quarter of the northwest quarter of said section 24, a distance of 660.61 feet to a half inch rebar marked "don miller, Is 15335" at the west line of the east half of the southwest quarter of the northwest quarter of said section 24;

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thence south 00°33'36" west, along the east line of the northeast quarter of said section 24, a distance of 1320.00 feet to a half inch rebar at the south line of the north 1320.00 feet of the northwest quarter of said section 19;

thence south 89°29'19" east, along the south line of the north 1320.00 feet of the northwest quarter of said section 19, a distance of 1320.00 feet to a half inch rebar at the southeast corner of the west 1320.00 feet of the north 1320.00 feet of the northwest quarter of said section 19;

thence north 00°33'36" east, along the east line of the west 1320.00 feet of the northwest quarter of said section 19, a distance of 1320.00 feet to a half inch rebar on the north line of the northwest quarter of said section 19, also being the northeast corner of the west 1320.00 feet of the north 1320.00 feet of the northwest quarter of said section 19;

thence south 89°29'19" east, along the north line of the of the northwest quarter of said section 19, a distance of 1286.27 feet to a glo brass cap at the north quarter corner of said section 19;

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thence south 00°32'12" west, along the east line of the of the southeast quarter of said section 19, a distance of 2643.45 feet to an Arizona Department of Transportation brass cap at the southeast corner of said section 19 and the point of beginning;

together with the northeast quarter of section 23, township 2 north, range 7 west, Gila and Salt River base and meridian, Maricopa County, Arizona, being also described as follows:

beginning at a half-inch rebar at the northeast corner of section 23, township 2 north, range 7 west, Gila and Salt River base and meridian, Maricopa County, Arizona;

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thence north 89°26'32" west, along the south line of the northeast quarter of said section 23, a distance of 2636.57 feet to a half inch rebar with tag marked "I.s. 12218" at the center of said section 23;

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thence continuing north 00°31'17" east, a distance of 200.00 feet to a half in rebar at a point on a line lying 240.00 feet north of and parallel to the south line of the southwest quarter of said section 19;

thence south 89°28'43" east, along said line lying 240.00 feet north of and parallel to the south line of the southwest quarter of said section 19, a distance of 200.00 feet to a half in rebar;

thence south 00°31'17" west, a distance of 200.00 feet to a half in rebar at a point on said line lying 40.00 feet north of and parallel to the south line of the southwest quarter of said section 19;

thence north 89°28'43" west, along said line lying 40.00 feet north of and parallel to the south line of the southwest quarter of said section 19, a distance of 200.00 feet to a half in rebar at the point of beginning; situate in the County of Maricopa, State of Arizona.

contains 1,110.083 acres more or less. (gross)

contains 1,082.750 acres more or less. (net)

and

the northwest quarter of the northeast quarter and the west half of the northeast quarter of the northeast quarter of section 28, township 2 north, range 5 west of the Gila and Salt River base and meridian, Maricopa County, Arizona;

except any portion lying within the dedicated right of way for Indian School Road per road declaration recorded in docket 3124, pages 573-575, records of Maricopa County, Arizona;

also except any portion lying within that property described in document recorded under recording no. 870106857 records of Maricopa County, Arizona.

contains 57.6 acres more or less.

and not within the confines of any incorporated city or town, and under such restrictions and limitations and upon such terms as the Board of Supervisors may provide, not inconsistent with the laws of the State of Arizona, or the orders and rules of the Corporation commission of the State of Arizona, and that the Board take such proceedings herein as is provided by laws of the State of Arizona; and

WHEREAS, upon filing said application, the said Board of Supervisors on the May 17, 2006 formal meeting ordered that public notice of the intention of said Board to make such grants be given by publishing a notice in the official newspaper of Maricopa County, published in the County of Maricopa, State of Arizona, and that 9:00 a.m., on the June 21, 2006 formal meeting, at the meeting room of said Board of Supervisors located at 205 West Jefferson Street, in the City of Phoenix, Arizona, be set as the time and place of hearing the said application; and

WHEREAS, the said application coming on regularly for hearing on said day and it appearing by the affidavit of the duly authorized agent of the said time and place set for the consideration of such application has been published for at least once a week for the three-week period prior to said date set forth herein, to-wit:

In the issues of the said newspaper on May 25, 2006, June 1, 2006 and June 8, 2006, and it appearing that no sufficient protest has been filed by the qualified electors of the said County petitioning said Board of Supervisors to deny such license and franchise, and it further appearing the best interests of Maricopa County will be served by the granting of said application and the franchise referred to therein;

NOW, THEREFORE, the Board of Supervisors of Maricopa County, State of Arizona, acting on behalf of said County does hereby grant unto Balterra Sewer Corp., doing business in Maricopa County, Arizona, subject to the terms, conditions and limitations hereinafter contained, the right, privilege, license and franchise to construct, maintain and operate a sewage system, for a period of not to exceed twenty-five (25) years or for a period of one (1) year after the franchised area is annexed by a municipality, whichever is shorter, for the supplying of this service along, upon, under and across the public highways, roads, alleys and thoroughfares (excepting State highways) within that portion of Maricopa County, Arizona, hereinabove described, under such restrictions and limitations and upon such terms as this Board at any time may provided, not inconsistent with the laws of the State of Arizona, or the orders and rules of the Corporation Commission of the State of Arizona, specifically providing, however, that:

- 1) All rights hereunder are granted under the express condition that the Board of Supervisors of said Maricopa County shall have the power at any time to impose such restrictions and limitations and to make such regulations on such highways, roads, and thoroughfares as may be deemed best for the public safety, health, welfare and convenience.
- 2) All rights hereby granted shall be exercised so as to not interfere or conflict with any easements or rights-of-way heretofore granted by said Board of Supervisors and now in force.
- 3) All rights hereby granted shall be exercised so as not to interfere or conflict with any easement, either public or private, of whatsoever nature, which has been acquired in or to the proper use of said highway, roads, and thoroughfares, or any portion thereof.
- 4) All rights hereby granted shall be exercised so as not to interfere or conflict with or endanger in any way the proper use by the public of said highways, roads, and thoroughfares, or any portion thereof.
- 5) That the said Grantee shall bear all expenses incurred including damages and compensation for the alteration of the course, direction, surface, grade or alignment of any of the said highways, roads and thoroughfares necessarily made by the said grantee for the purpose of this franchise; that said grantee will maintain his equipment from time to time as may be needed, without the necessity of notice from Maricopa County. In the event the said grantee shall fail to make any repairs within ten days from the time same becomes necessary, then Maricopa County may cause the same to be made, and said grantee agrees to pay Maricopa County the cost thereof.
- 6) That all property of the franchise be installed and operated by the said grantee and shall be placed, removed or relocated, initially and throughout the term of this franchise, along, in, over, under and across the said highway, roads and thoroughfares, in such a manner and location as the Board of Supervisors or its duly authorized agents may designate. Such placement, removal or relocation shall be done at the sole expense of the grantee upon a determination by the Board of Supervisors of Maricopa County that such placement, removal or relocation is necessary.

If the grantee fails or refuses to so remove or relocate, Maricopa County may so remove or relocate, at the sole expense of grantee, such expense to include any and all damages and compensation of whatsoever nature arising therefrom.

In this section the term "property" includes conduits, pipe, wires, poles, or other structures and appliances used to supply or deal in gas, electricity, lights, water, heat, refrigeration, power, telephones, telegraph, television and other public utilities.

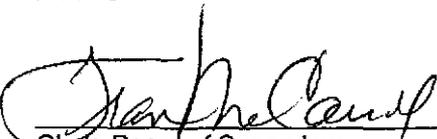
Any finding or determination made by the Board of Supervisors pursuant hereto shall be final and binding upon the grantee whether or not such findings or determinations relates to the requirements of public safety or welfare, the use of public roads or the need for proposed improvements, and whether or not the function to be served by such removal or relocation is of a governmental or proprietary nature.

- 7) That said grantee shall indemnify and save harmless, the said County of Maricopa from all costs, expense and liabilities in connection with the granting of this franchise and exercise of the same by them.
- 8) That the rights of any person claiming to be injured in any manner by the maintenance of said projects and equipment shall not be affected hereby.
- 9) That the terms and conditions of this franchise shall inure to the benefit of, and be binding upon, all the heirs and assigns of the said Grantee.
- 10) That the franchise and privilege herein granted shall not be deemed to be exclusive and the said Board of Supervisors hereby expressly reserves the right and power to grant from time to time similar franchises and privileges over the same territory and highways, roads and thoroughfares.
- 11) This franchise is granted upon the express condition that the Certificate of Convenience and Necessity be procured from the Corporation Commission of the State of Arizona and the Certificate of Assured Water Supply be procured from the Arizona Department of Water Resources and proof thereof submitted to the Board of Supervisors within six months from the date of granting of this franchise; and if such Certificates are not granted within six months from said date, then this franchise to be void, otherwise to be in full force and effect for the time herein specified.
- 12) This franchise extension is granted upon the express condition that all of the Property Tax obligations of the franchisee shall remain current and if such taxes are not current, then this franchise extension is deemed void.
- 13) All materials and construction methods used with the public right-of-way shall conform to the applicable standards, specifications and special provisions currently in effect in Maricopa County.
- 14) The Franchise holder shall obtain a construction permit from the Office of the County Engineer prior to construction of any facilities in the public right-of-way.

DATED this 21<sup>st</sup> day of June, 2006.

  
Chairman, Board of Supervisors

ATTEST:

  
Clerk, Board of Supervisors