

ORIGINAL

NEW APPLICATION



0000081880

ELLIS & BAKER, P.C.  
ATTORNEYS AT LAW

731

PHOENIX, ARIZONA 85020  
(602) 956-8878 EXT 206  
FAX (602) 224-9663  
wdb@ellisbaker.com

March 11, 2008

Arizona Corporation Commission  
**DOCKETED**

**MAR 11 2008**

Docket Control  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

DOCKETED BY	
KK	

*Re: Community Water Company of Green Valley  
Docket No. W-02304  
Application for Extension of Certificate of Convenience and Necessity*

To Whom It May Concern: **W-02304A-08-0149**

Enclosed is the original and 13 copies of an Application for an Extension of Certificate of Convenience and Necessity filed on behalf of Community Water Company of Green Valley. The purpose of this Application is to expand its Certificate of Convenience and Necessity so that it can serve the administrative offices of FreePort McMoran through facilities to be constructed by the mine.

The public notification will be sent to you at the conclusion of its publication.

Sincerely yours,

William D. Baker  
For the Firm

**RECEIVED**  
2008 MAR 11 P 4: 29  
AZ CORP COMMISSION  
DOCKET CONTROL

WDB:nrr  
Enclosures

cc: Pierre Hanhart/enclosure

# ARIZONA CORPORATION COMMISSION

## APPLICATION FOR AN EXTENSION OF CERTIFICATE OF CONVENIENCE AND NECESSITY

### WATER AND/OR SEWER

A. The name, address and telephone number of the Applicant is:

Community Water Company of Green Valley, an Arizona non-profit corporation  
Tel. 520-625-0476 1501 S. La Canada Drive, Green Valley, AZ 85614

B. The name, address and telephone number of management contact is:

Arturo Gabaldón 1501 S. La Canada Drive, Green Valley, AZ 85614 Tel. 520-625-0476, Ext.  
115

C. List the name, address and telephone number of the operator certified by the Arizona  
Department of Environmental Quality:

Norris L. West 1501 S. La Canada Drive, Green Valley, AZ 85614 Tel. 520-625-0476, Ext. 116

D. List the name, address and telephone number of the attorney for the Applicant:

William D. Baker, Ellis & Baker 7301 North 16th Street, Phoenix, AZ 85020 Telephone: 602-  
956-8878

E. Attach the following documents that apply to you:

1. 1. Certificate of Good Standing (if corporation): SEE EXHIBIT (A)
2. 2. Corporate Resolution Authorizing this application (if required by the corporation's  
Articles of Incorporation) SEE EXHIBIT (B)

F. Attach a legal description of the area requested by either **CADASTRAL** (quarter  
section description) or **Metes and Bounds** survey. References to parcels and docket numbers will  
not be accepted. SEE EXHIBIT (C)

G. Attach a detailed map using the form provided as attachment B. Shade and outline the  
area requested. Also indicate the present certificated area by using different colors. SEE  
EXHIBIT (D)

H. Attach a current balance sheet and profit and loss statement. SEE ATTACHED (E)

I. Provide the following information:

1. Indicate the estimated number of customers, by class, to be served in the new area in each of the next five years:

**Residential:**

First Year 0 Second Year 0 Third Year 0 Fourth Year 0  
Fifth Year 0

**Commercial:**

First Year 0 Second Year 0 Third Year 0 Fourth Year 0  
Fifth Year 0

**Industrial:**

First Year 1 Second Year 1 Third Year 1 Fourth Year 1  
Fifth Year 1

**Irrigation:**

First Year 0 Second Year 0 Third Year 0 Fourth Year 0  
Fifth Year 0 Other: (specify)

---

**Other: (specify)**

First Year 0 Second Year 0 Third Year 0 Fourth Year 0  
Fifth Year 0

2. (WATER ONLY) Indicate the projected annual water consumption, in gallons, for each of the customer classes in the new area for each of the next five years:

**Residential:**

First Year: 0 Second Year: 0 Third Year: 0  
Fourth Year: 0 Fifth Year: 0

**Commercial:**

First Year: 0      Second Year: 0      Third Year: 49,000,000  
Fourth Year: 0      Fifth Year: 0

**Industrial:**

First Year: 37,000,000    Second Year: 49,000,000    Third Year: 49,000,000  
Fourth Year: 49,000,000    Fifth Year: 49,000,000

**Irrigation:**

First Year: 0    Second Year: 0      Third Year: 0  
Fourth Year: 0      Fifth Year: 0

3. Indicate the total estimated annual operating revenue from the new area for each of the next five years:

First Year \$77,349    Second Year \$91,462    Third Year \$91,462

Fourth Year \$91,462    Fifth Year \$91,462

Complete Attachment "D" (Water Use Data Sheet) for the past 13 months SEE EXHIBIT (F)

4. Indicate the total estimated annual operating expenses attributable to the new area for each of the next five years:

First Year: 52,000 Second Year: \$62,000 Third Year: \$62,000

Fourth Year: \$62,000 Fifth Year: \$62,000

J. Total estimated cost to construct utility facilities to serve customers in the requested area:

\$274,500 (See Exhibit G (was also attached to Contract No. 222) .

K. Explain method of financing utility facilities (see paragraph 8 of instructions)

Paid for by FreePort Mc MoRan

L. Estimated starting and completion date of construction of utility facilities:

Starting date: March 2008 Completion date April 2008

.M. Attach the following permits:

1. 1. Franchise from either the City or County for the area requested. (see Exhibit H)
2. 2. Arizona Department of Environmental Quality or designee's approval to construct facilities (see Exhibit I)
3. 3. Arizona State Land Department approval. (If you are including any State land in your requested area this approval is needed.) N/A
4. 4. U.S. Forest Service approval. (If you are including any U.S. Forest Service land in your requested area this approval is needed.) N/A

. 5. (WATER ONLY) If the area requested is within an Active Management Area, attach a copy of, either the utility's Designation of an Assured Water Supply, or the developer's Certificate of 100 Year Assured Water Supply issued by the Arizona Department of Water Resources.

If the area requested is outside an Active Management Area, attach the developer's

Adequacy Statement issued by the Arizona Department of Water Resources if applied for by the developer. N/A

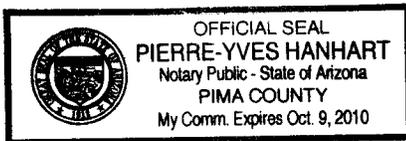
If the area requested is outside an Active Management Area and the developer does not obtain an Adequacy Statement, provide sufficient detailed information to prove that adequate water exists to provide water to the area requested.

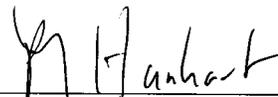
  
(Signature of Authorized Representative)

ARTURO GABALDON  
(Print or Type Name Here)

PRESIDENT  
(Title)

SUBSCRIBED AND SWORN to before me this 4<sup>th</sup> day of March, 2008



  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires 10-9-2010

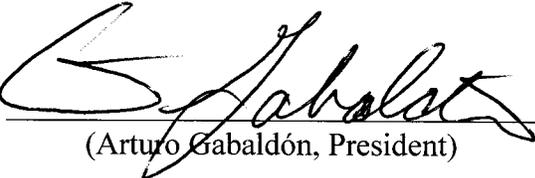
ATTACHMENT "A"

Community Water Company of Green Valley  
1501 S. La Canada Dr.  
Green Valley, AZ 85614

March 4, 2008

Docket Control  
Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, Arizona

Attached is an application by Community Water Company of Green Valley to extending the Company's CC&N to serve the administration offices of FreePort McMoRan.



(Arturo Gabaldón, President)

**ATTACHMENT "C"**

**PUBLIC NOTICE OF AN APPLICATION FOR AN EXTENSION OF ITS  
CERTIFICATE OF CONVENIENCE AND NECESSIT**

**BY COMMUNITY WATER COMPANY OF GREEN VALLEY  
ATTACHMENT "D"**

**WATER USE DATA SHEET**

NAME OF COMPANY: _____	→ Community Water Company of Green Valley
ADEQ Public Water System No. _____	→ 04-10004

MONTH/YEAR (Last 13 Months)	NUMBER OF CUSTOMERS		GALLONS SOLD (Thousands)
January 2007	11,611		61,442.4
February 2007	11,618		65,671.0
March 2007	11,685		69,179.3
April 2007	11,707		73,687.7
May 2007	11,735		71,669.5
June 2007	11,794		78,240.0
July 2007	11,793		81,097.6
August 2007	11,803		67,229.9
September 2007	11,802		66,763.5
October 2007	11,808		66,415.6
November 2007	11,841		68,808.3
December 2007	11,854		61,694.6
January 2008	11,869		58,096.0
STORAGE TANK CAPACITY (Gallons)	NUMBER OF EACH	ARIZONA DEPT. OF WATER RESOURCES WELL I.D. NUMBER	WELL PRODUCTION (Gallons per Minute)
1 million	3	55-627485 (#6)	1000
2 million	1	55-627486 (#7)	1000 (Out of Service)
300,000	1	55-543600 (#8)	1750 (Out of Service)
300,000	1	55-588121 (#9)	1200
		55-207982 (#10)	2400
		55-608518 (#11)	2400

Other Water Sources in Gallons per Minute _____	→ 0 GPM
Fire Hydrants on System _____	→ (Yes) No
Total Water Pumped Last 13 Months (Gallons in Thousands) _____	→ 982,975.80

ATTACHMENT "B"

COUNTY SECTION TOWNSHIP RANGE			

	6						5						4						3						2						1				
	7						8						9						1 0						1 1						1 2				
	1 8						1 7						1 6						1 5						1 4						1 3				
	1 9						2 0						2 1						2 2						2 3						2 4				
	3 0						2 9						2 8						2 7						2 6						2 5				
	3 1						3 2						3 3						3 4						3 5						3 6				

**Type or Print Description Here:**

# STATE OF ARIZONA



Office of the  
**CORPORATION COMMISSION**  
CERTIFICATE OF GOOD STANDING

To all to whom these presents shall come, greeting:

I, Brian C. McNeil, Executive Director of the Arizona Corporation Commission, do hereby certify that

**\*\*\*COMMUNITY WATER COMPANY OF GREEN VALLEY\*\*\***

a domestic nonprofit corporation organized under the laws of the State of Arizona, did incorporate on October 15, 1975.

I further certify that according to the records of the Arizona Corporation Commission, as of the date set forth hereunder, the said corporation is not administratively dissolved for failure to comply with the provisions of the Arizona Nonprofit Corporation Act; and that its most recent Annual Report, subject to the provisions of A.R.S. sections 10-3122, 10-3123, 10-3125, & 10-11622, has been delivered to the Arizona Corporation Commission for filing; and that the said corporation has not filed Articles of Dissolution as of the date of this certificate.

This certificate relates only to the legal existence of the above named entity as of the date issued. This certificate is not to be construed as an endorsement, recommendation, or notice of approval of the entity's condition or business activities and practices.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission. Done at Phoenix, the Capital, this 4th Day of March, 2008, A. D.



  
Executive Director

Order Number: 214739

Exhibit (A)



1501 South La Cañada Drive • Green Valley, Arizona 85614-1600

Phone: (520) 625-8409 • Fax: (520) 625-1951

[www.communitywater.com](http://www.communitywater.com)

CORPORATE CERTIFICATION

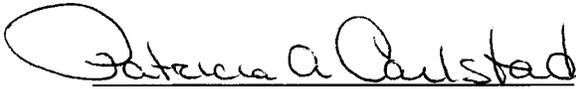
I, Virgil W. Davis, hereby certify that I am the duly elected and acting Secretary of Community Water Company of Green Valley, an Arizona non-profit corporation. The Board of Directors of said corporation consists of nine members, that five of said directors constitute a quorum thereof, as provided in the by-laws of said corporation; that at a special meeting of the directors held on October 24, 2007, duly called for the purpose of action as hereinafter recited, there were seven directors present, constituting a quorum; that on motion duly made and seconded, the following Resolution was adopted by an affirmative vote of seven directors:

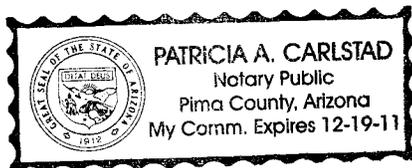
The letter is to confirm that the attached is a certified copy of the resolution dated October 24, 2007, approving the extension of Community Water Company of Green Valley CC&N to serve Freeport McMoRan pumping facilities.

Thank you,  
Community Water Company of Green Valley

  
\_\_\_\_\_  
Virgil W. Davis, Secretary

Subscribed and sworn before me, a notary public in and for the county of Pima this 4th day of March, 2008.

My Commission Expires: 12-19-11   
NOTARY PUBLIC





1501 South La Cañada Drive • Green Valley, Arizona 85614-1600

Phone: (520) 625-8409 • Fax: (520) 625-1951

www.communitywater.com

CERTIFICATE OF RESOLUTION

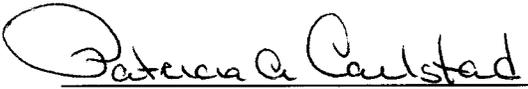
I, Virgil W. Davis, hereby certify that I am the duly elected and acting Secretary of Community Water Company of Green Valley, an Arizona non-profit corporation. The Board of Directors of said corporation consists of nine members, that five of said directors constitute a quorum thereof, as provided in the by-laws of said corporation; that at a special meeting of the directors held on October 24, 2007, duly called for the purpose of action as hereinafter recited, there were seven directors present, constituting a quorum; that on motion duly made and seconded, the following Resolution was adopted by an affirmative vote of seven directors:

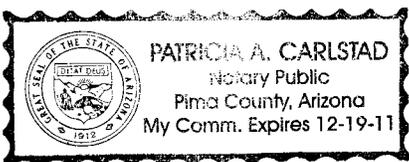
*RESOLVED, upon motion duly made, with a quorum of the directors being present continuously throughout the meeting, seconded and discussed, the directors unanimously moved to approve extension of Community Water Company of Green Valley's CC&N to serve the Freeport McMoRan pumping facilities located immediately adjacent to Community Water Company of Green Valley reservoir #2 located at 2051 West Continental Road.*

Dated March 4, 2008

  
\_\_\_\_\_  
Virgil W. Davis, Secretary

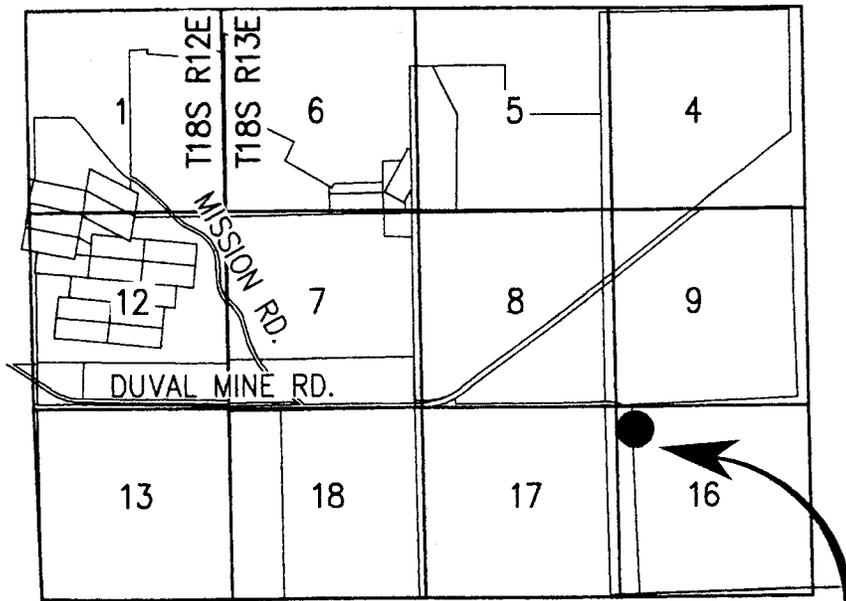
Subscribed and sworn before me, a notary public in and for the county of Pima this 4<sup>th</sup> day of March, 2008.

My Commission Expires: 12-19-11   
NOTARY PUBLIC





SCALE: 1" = 1 MILE



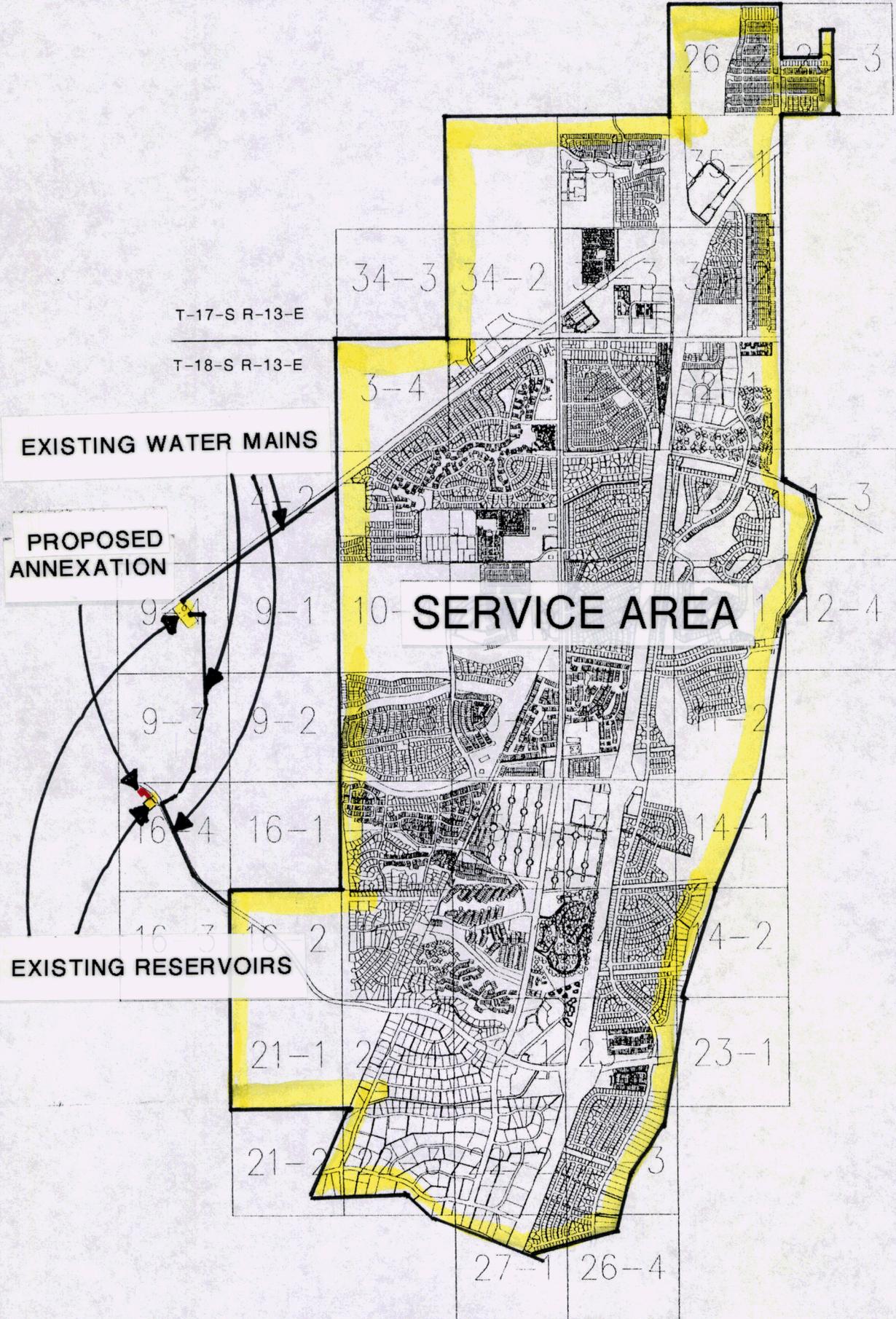
**LOCATION MAP**  
 A PORTION OF SECTION 16  
 T-18-S R-13-E, G&SRM  
 PIMA COUNTY, ARIZONA

**THIS  
 PROJECT**

**LEGEND**

△ CPT	CONTROL POINT	□ SM	SURVEY MONUMENT
⊖ DG	DOWN GUY	⊘ TLOC	TELEPHONE LOCATOR
⊘ EM	ELECTRIC METER	⊘ TMH	TELEPHONE MH
⊘ EPD	ELECTRIC PEDESTAL	⊘ TPD	TELEPHONE PEDESTAL
⊘ FH	FIRE HYDRANT	⊘ TRAN	TRANSFORMER
⊘ GLOC	GAS LOCATOR	⊘ TVPD	CATV PEDESTAL
⊘ HB	HOSE BIB	⊘ UP	UTILITY POLE

643.6  
 (c)



**Statements of Revenues and Expenses  
For the years ended December 31, 2006 and 2005**

	<u>2006</u>	<u>2005</u>
<b>Operating revenues</b>	<u>\$2,572,452</u>	<u>\$2,473,739</u>
<b>Operating expenses:</b>		
Operations	1,572,962	1,462,556
Maintenance	198,208	207,915
Depreciation and amortization	482,772	440,200
Taxes - other	<u>308,814</u>	<u>296,329</u>
Total operating expenses	<u>2,562,756</u>	<u>2,407,000</u>
Excess of operating revenues over operating expenses	<u>9,696</u>	<u>66,739</u>
<b>Other revenues (expenses):</b>		
Interest expense	(126,039)	(63,573)
Interest income	70,136	35,207
Other income, net	<u>12,670</u>	<u>6,891</u>
Total other (expenses) revenues	<u>(43,233)</u>	<u>(21,475)</u>
<b>Excess of (expenses over revenues) revenues over expenses</b>	<u>\$ (33,537)</u>	<u>\$ 45,264</u>

*The accompanying notes are an integral part of the financial statements.*

**Statements of Membership Interest  
For the years ended December 31, 2006 and 2005**

	<u>Comprehensive Income</u>	<u>Accumulated Surplus</u>	<u>Accumulated Other Comprehensive Income</u>	<u>Memberships and Contributions</u>	<u>Total Membership Interest</u>
December 31, 2004 Membership Interest		\$7,511,369	\$171	\$48,010	\$7,559,550
Excess of revenues over expenses	\$45,264	45,264			45,264
Net adjustments to unrealized holding losses on securities available-for-sale	(35)		(35)		(35)
December 31, 2005 Comprehensive Income	\$45,229				
December 31, 2005 Membership Interest		7,556,633	136	48,010	7,604,779
Excess of expenses over revenues	(\$33,537)	(\$33,537)			(\$33,537)
Net adjustments to unrealized holding gains on securities available-for-sale	418		418		418
December 31, 2006 Comprehensive Income	(\$33,119)				
December 31, 2006 Membership Interest		\$7,523,096	\$554	\$48,010	\$7,571,660

*The accompanying notes are an integral part of the financial statements.*

ATTACHMENT "C"

PUBLIC NOTICE OF AN APPLICATION FOR AN EXTENSION OF ITS  
CERTIFICATE OF CONVENIENCE AND NECESSIT

**BY COMMUNITY WATER COMPANY OF GREEN VALLEY  
ATTACHMENT "D"**

**WATER USE DATA SHEET**

NAME OF COMPANY: _____	→ Community Water Company of Green Valley
ADEQ Public Water System No. _____	→ 04-10004

MONTH/YEAR (Last 13 Months)	NUMBER OF CUSTOMERS		GALLONS SOLD (Thousands)
January 2007	11,611		61,442.4
February 2007	11,618		65,671.0
March 2007	11,685		69,179.3
April 2007	11,707		73,687.7
May 2007	11,735		71,669.5
June 2007	11,794		78,240.0
July 2007	11,793		81,097.6
August 2007	11,803		67,229.9
September 2007	11,802		66,763.5
October 2007	11,808		66,415.6
November 2007	11,841		68,808.3
December 2007	11,854		61,694.6
January 2008	11,869		58,096.0

STORAGE TANK CAPACITY (Gallons)	NUMBER OF EACH	ARIZONA DEPT. OF WATER RESOURCES WELL I.D. NUMBER	WELL PRODUCTION (Gallons per Minute)
1 million	3	55-627485 (#6)	1000
2 million	1	55-627486 (#7)	1000 (Out of Service)
300,000	1	55-543600 (#8)	1750 (Out of Service)
300,000	1	55-588121 (#9)	1200
		55-207982 (#10)	2400
		55-608518 (#11)	2400

Other Water Sources in Gallons per Minute _____	→ 0 GPM
Fire Hydrants on System _____	→ Yes No
Total Water Pumped Last 13 Months (Gallons in Thousands) _____	→ 982,975.80

Exh. 3.7 (F)

EXHIBIT C  
PROJECT COST ESTIMATE

Installation of approximately 322' of 12" DIP, Valves and Fittings, including materials and labor.	\$42,000.00
Installation of 2-10 HP Gould Vertical Turbine Pumps and all associated above-ground pipe and fittings, including materials and labor.	\$88,000.00
Install all Electrical, and Communication Equipment for the above Vertical Turbine Pumps, including materials and labor.	\$115,000.00
Community Water Engineering	\$4,500.00
Community Water Overhead and Oversight (10%)	\$25,000.00
TOTAL PRICE	\$274,500.00

PIMA COUNTY DEPARTMENT OF ENVIRONMENTAL QUALITY  
ENGINEERING REVIEW UNIT  
150 West Congress, 1<sup>st</sup> Floor, Tucson, Arizona 85701-1317  
Telephone: 740-3340

**CERTIFICATE OF APPROVAL TO CONSTRUCT**  
**Water Facilities**

System Name: COMMUNITY WATER COMPANY OF GREEN VALLEY System No.: 10-004

Project Owner: COMMUNITY WATER COMPANY OF GREEN VALLEY

Address: 1501 S. LA CANADA DRIVE, GREEN VALLEY, AZ 85622-1078

Project Location: T-18-S, R-13-E, SECTION 16 County: PIMA

Description: NEW 12" WATER MAIN AND NEW BOOSTER PUMPS (2-10 HP) TO SERVE PHELPS  
DODGE POTABLE WATER SYSTEM

Approval to construct the above, described facilities as represented in the approved plan on file with the Pima County Department of Environmental Quality is hereby given subject to the following provisions:

**AFTER COMPLETION OF CONSTRUCTION, A PROFESSIONAL ENGINEER, REGISTERED IN THE STATE OF ARIZONA SHALL COMPLETE A FINAL INSPECTION AND SUBMIT AN ENGINEER'S CERTIFICATE OF COMPLETION, ACCURATE "AS BUILT" PLANS, PRESSURE TEST RESULTS, CHLORINATION RESULTS AND MICROBIOLOGICAL TESTING RESULTS TO PIMA COUNTY DEPARTMENT OF ENVIRONMENTAL QUALITY IN ORDER TO OBTAIN AN APPROVAL OF CONSTRUCTION. THOSE PLANS MUST BE CLEAR BLUELINE PRINTS SUITABLE FOR MICROFILMING AND SHALL CLEARLY AND ADEQUATELY REPRESENT THE FACILITIES AS THEY ARE CONSTRUCTED.**

If this project includes trenching, land stripping, earthmoving or road construction, an air quality activity permit may be required pursuant to P. C. C. Title 17.12.470. For inquires, regarding air quality activity permits, please call 740-3957.

The State law, A.R.S. 49-353, requires that construction of the project must be in accordance with the rules and regulations of the Arizona Department of Environmental Quality.

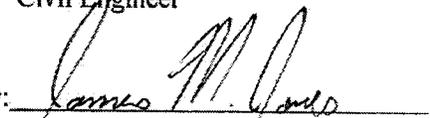
If construction has not started within one year of the date of this issue, this certificate will be void and a written extension of time shall be required within 90 days of the expiration of this approval.

**Date Approved: September 11, 2007**

URSULA KRAMER, P.E.  
DIRECTOR

Cc: P-File No. PO55907  
P-ADEQ, SRO  
Community Water Co. of Green Valley  
Engineer: Westland Resources

By:   
David Amash, P.E.  
Civil Engineer

By:   
James M. Jones  
Civil Engineering Assistant



CWC  
998  
Control #

REAL PROPERTY SERVICES  
201 N. Stone Avenue, Sixth Floor, Tucson, Arizona 85701-1215  
(520) 740-6313 FAX (520) 740-6763

March 2, 2007

Dear Utility Company:

On February 13, 2007, the Pima County Board of Supervisors approved a new Pima County Public Utility License Agreement (the "Agreement"). This Agreement is for all utilities which construct, install, maintain and operate facilities in the County's public rights-of-way. The Agreement will supersede and replace any existing Franchise Agreement(s) you presently have with the County and will standardize the terms under which the County and the utilities operate.

A.R.S. § 40-283 gives utilities the statutory authority to occupy the public rights-of-way and obligates the utilities to enter into a License (or Franchise) Agreement with the County. The attached Agreement provides the terms and conditions under which this right will operate. The County's driving concern for creating this Agreement is to protect the public's safety and welfare.

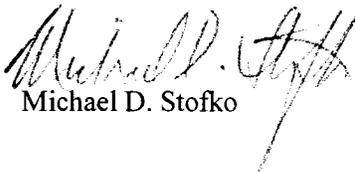
The Board had directed Staff to execute the Agreement with all affected utilities within 90 days of the above referenced date. To meet the deadline set by the Board, please return the items listed below by **April 13, 2007**, to allow for statutory advertising and Board approvals. For your convenience, we have enclosed a self-addressed return envelope.

Completed Application  
Two original signed Agreements  
Copy of your Corporate Resolution

If the above items are not returned by May 13, 2007, the County will assume you do not want to occupy public rights-of-way, and the appropriate County departments will be directed to withhold any further permits.

I look forward to finalizing this Agreement with you. If you want to discuss this further, or if you have any questions, please email me at [mike.stofko@pw.pima.gov](mailto:mike.stofko@pw.pima.gov) or call me at (520) 740-6667.

Thank you,

  
Michael D. Stofko

Enclosures

Exhibit (I)

(5)

## PIMA COUNTY PUBLIC UTILITY LICENSE AGREEMENT

WHEREAS, this License Agreement is entered into between Pima County, a political subdivision of the State of Arizona (hereinafter "County"), and Community Water Company of Green Valley (hereinafter "Licensee"); and

WHEREAS, Licensee has applied and petitioned to the Board of Supervisors of the County for the right and privilege to construct, install, maintain, and operate Licensee's facilities within the public rights-of-way within Pima County and outside the confines of any incorporated city or town as required by A.R.S. § 40-283; and

WHEREAS, notice of the County's intent to enter into this agreement has been duly given as required by law; and

WHEREAS, said application came before the Board of Supervisors of the County of Pima, State of Arizona, and no petition to the Board of Supervisors to deny such privilege was filed or presented to the Board; and

WHEREAS, it being determined by the Board of Supervisors that the granting of this License is authorized by law and in the best interests of Pima County and the inhabitants thereof;

THEREFORE, the County and Licensee agree to the following:

**Section 1. Grant of License.** Licensee is hereby authorized and empowered, on a non-exclusive basis, to use all County public rights-of-way now existing or hereafter established and lying within the unincorporated areas of Pima County, under the terms and conditions set forth herein, for the purpose of installing, repairing, replacing, and maintaining its facilities.

**Section 2. Term.** This License is granted for a term of fifteen (15) years from the date this License is approved by the Board of Supervisors and extinguishes, supersedes and replaces all preceding franchises or licenses granted to Licensee by County.

**Section 3. Regulation of County Rights-of-Way.** All rights hereunder are granted under the express condition that County shall have the power at any time to impose restrictions and limitations, and to make regulations as to Licensee's use of the County's rights-of-way as may be deemed best for the public interests, safety or welfare.

**Section 4. Superior Rights.** The rights of County in and to the use of all public rights-of-way located within the unincorporated areas of Pima County are and forever shall be paramount and superior to the rights of Licensee.

**Section 5. Alteration of Public Rights-of-Way.** Nothing in this License shall be construed to prevent County from, altering, improving, adjusting, repairing, or maintaining its facilities and public rights-of-way and for that purpose to require Licensee to adjust, remove, replace or relocate Licensee's facilities to accommodate or facilitate the County's use of its facilities or rights-of-way. Facilities of Licensee shall mean any physical object or improvement owned, possessed, made, installed, constructed or maintained by Licensee or made, installed or constructed by County or others at the request of Licensee. Facilities of County shall mean any physical object or improvement owned, possessed, made, installed, maintained or constructed by County or others at the request of County, including all paving, highway, transportation, flood control and wastewater facilities located within County rights-of-way.

**Section 6. Non-Exclusive Use.** Nothing in this agreement shall be construed to grant Licensee an exclusive right to use the public rights-of-way. Licensee's facilities shall be erected, adjusted, installed, replaced, removed, relocated and maintained in a manner that will not interfere with the reasonable use of the public rights-of-way by the public, the County, or any other franchisee or licensee. The location of Licensee's facilities in the public rights-of-way shall not create or establish a vested interest in the rights-of-way and its facilities shall be removed or relocated by Licensee whenever County determines that Licensee's facilities impact, restrict, obstruct or hinder the County or the public's existing or future use of the rights-of-way or the County's operation or location of County facilities.

**Section 7. Relocation.** Licensee shall be solely responsible for the design, adjustment, removal or relocation, temporarily or permanently, of all Licensee's facilities that impact, conflict or interfere with the County's use of its rights-of-way or the County's improvement, relocation or adjustment of any facilities located in County rights-of-way. The cost of designing, adjusting, removing, relocating or replacing Licensee's facilities shall be Licensee's sole responsibility, unless Licensee has established prior rights with the County for the facilities to be affected. Prior to beginning any activity in the County rights-of-way, Licensee shall obtain all required permits from the County and any other applicable jurisdiction for the activity. The Licensee's facilities shall be adjusted, removed, replaced or relocated by Licensee in accordance with an activity schedule determined by County and provided to Licensee within a reasonable period of time prior to the scheduled activity start date. If the schedule is unacceptable to the Licensee or Licensee finds it necessary to plead financial hardship regarding the cost of relocating its facilities, the Licensee may appeal to the Board of Supervisors. If Licensee's facilities are not adjusted, removed, replaced or relocated within the time period allotted by the County's activity schedule, County may, at its discretion, adjust or relocate Licensee's facilities. Licensee hereby agrees to be liable for all costs incurred by County for the adjustment or relocation of Licensee's facilities necessitated by County's activities, including overhead and maintenance costs and an administrative surcharge in the amount of fifteen (15) percent of the total cost attributed to the adjustment or relocation of Licensee's facilities. In the event County incurs such costs, County shall submit a bill to Licensee for the incurred costs, and Licensee shall pay County the invoiced amount within ninety (90) calendar days of receipt of the invoice. If the invoice is not timely

paid by Licensee, all rights granted to Licensee under this agreement shall be suspended and no permits will be issued to Licensee for any work within the County rights-of-way until the invoiced costs are paid in full to County.

**Section 8. Undergrounding.** The parties acknowledge that County has the authority to require Licensee to underground its above ground facilities in County rights-of-way when the County determines that undergrounding of Licensee's facilities is necessary to conform to existing County Ordinances or is in the public interest. The County may require Licensee to conduct a study of the cost of undergrounding any portion or segment of Licensee's facilities located in the County rights-of-way. The study shall set forth an estimate of the costs of undergrounding Licensee's facilities including a breakdown of the cost allocated to labor, material, design and construction for converting above ground facilities to underground facilities. The Licensee shall submit a cost study for any specified segment of Licensee's facilities within ninety (90) calendar days after receiving written notice from County requesting the cost study. The cost of preparing and providing any cost study requested by County shall be borne by the Licensee.

**Section 9. Scenic Routes.** The installation of Licensee's facilities within any public rights-of-way designated by the Board of Supervisors as a scenic route must be constructed in accordance with the County's Scenic Routes Ordinance.

**Section 10. Performance of Work.** The work required by Licensee to design, construct, reconstruct, pothole for design, adjust, relocate, replace or repair Licensee's facilities shall be Licensee's sole responsibility. The cost of any delays to County projects caused by Licensee's failure to complete its work in accordance with the County's activity schedule shall be the Licensee's sole responsibility. In the event County incurs such costs, County shall submit a bill to Licensee for the incurred costs and Licensee shall pay County the invoiced amount within ninety (90) calendar days of receipt of the invoice. If the invoice is not timely paid by Licensee, all rights granted to Licensee under this agreement shall be suspended and no permits will be issued to Licensee for any work within the County rights-of-way until the invoiced costs are paid in full to County.

**Section 11. Location of Facilities.** As a condition of this License, Licensee hereby agrees to have and maintain precise, up-to-date maps of Licensee's facilities located in County rights-of-way and to make this information available to County within fifteen (15) calendar days of receiving a written request from the County. Beginning on the effective date of this Agreement, Licensee shall maintain precise and verifiable horizontal and vertical location information tied to an accepted County datum and provide such information to the County within fifteen (15) calendar days of receiving written notice from County. As a condition of the issuance of this License, Licensee agrees to provide surface location marking of Licensee's undergrounded facilities located within the public rights-of-way within two working days of a request from the County. In the event the Licensee is unable to provide the location information to County within the allotted time frame, County may, at its discretion, locate Licensee's facilities and Licensee shall be liable for the cost incurred in locating Licensee's facilities.

**Section 12. Work in Rights-of-Way.**

12.1. *Damage to other facilities.* In the construction, adjustment, removal, relocation, repair, operation and maintenance of its facilities, Licensee shall avoid causing or permitting any damage, disturbance or unnecessary modification or alteration to County facilities including pavement, or the facilities of others, located in the County rights-of-way. If Licensee causes or permits any such damage, disturbance or unnecessary alteration or modification, Licensee, at its sole expense and in a manner approved by the County Engineer, shall restore the damaged, disturbed, altered, or modified facilities to the condition in which they existed before being damaged, disturbed, modified, or altered. Licensee shall also be liable to owners of said facilities for any other losses or expenses which may accrue because of said damage, disturbance, modification or alteration. The restoration of facilities shall be initiated promptly and completed expeditiously by Licensee, who shall give priority to the restoration, repair or replacement of such facilities over all non-emergency activities of Licensee.

12.2. *Damage to vegetation.* In the construction, adjustment, removal, relocation, repair, operation and maintenance of its facilities, Licensee shall use all necessary care to avoid any damage to or disturbance of existing vegetation in the public rights-of-way. If Licensee causes or permits any such damage or disturbance, Licensee shall re-vegetate the rights-of-way at its sole expense and in accordance with all County regulations then in effect.

12.3. *Adjacent properties.* Licensee shall provide prior written notice to the owners or residents of adjoining properties of any activity of Licensee which may temporarily interfere with access to or use of said adjoining property. Licensee shall maintain access to adjoining properties during all construction activities or other operations, unless the requirement of access is waived in writing by the owners and residents of adjoining properties. If an emergency requires activity without written notice, Licensee shall use its best efforts to provide timely actual notice to the owners and residents of the adjoining properties.

**Section 13. Design and Location of Facilities.**

13.1. Licensee shall use reasonable care at all times to avoid damage or injury to persons and property during the construction, adjustment, removal, relocation, repair, operation and maintenance of Licensee's facilities.

13.2. The location and construction of Licensee's facilities in public rights-of-way shall conform to County standards and guidelines then in effect and as may be directed by County, in order not to interfere with a planned future use of the public rights-of-way by the County.

13.3. Licensee's facilities shall be located in a manner designed to cause the least amount of interference with the public's existing or future use of roads, streets, alleys and other public rights-of-way and in such a way as will minimize interference with the rights and convenience of adjacent property owners.

13.4. County may require Licensee to remove, relocate or underground, at Licensee's sole expense, any of Licensee's facilities that present a potential hazard to the public, that

interfere with the public's use of the public rights-of-way, or are determined by County to be aesthetically undesirable.

13.5. Licensee shall be responsible for notifying owners or residents of adjoining properties in writing about permanent or temporary above or below ground facilities to be constructed in the County rights-of-way. Licensee shall make every reasonable effort to resolve the concerns of property owners and residents regarding the construction of Licensee's facilities. Should the County determine that Licensee failed to reasonably evaluate all options available to alleviate residents concerns, County may require the Licensee to relocate its facilities at Licensee's sole expense.

13.6. Licensee shall be responsible for the cost to excavate in a "careful and prudent manner" Licensee's underground facilities pursuant to A.R.S. § 40-360.21 and § 40-360.22A on all County construction projects occurring within County rights-of-way.

**Section 14. Construction Safety.** Any opening or obstruction in the public rights-of-way caused by Licensee during the course of Licensee's activities in the rights-of-way shall be guarded and protected at all times by safety barriers erected by Licensee which shall be clearly designated by warning lights during periods of dusk and darkness. Any work performed by Licensee in or adjacent to a public roadway open for travel shall be properly signed and marked by Licensee with warning and directional devices in accordance with all applicable state and local traffic regulations and in accordance with the Arizona Department of Transportation's Traffic Control Manual for Highway Construction and Maintenance.

**Section 15. Drainage.** During construction or excavation in the public rights-of-way, Licensee shall provide proper drainage so that the public rights-of-way will be free from standing surface water and adequately drained so as not to cause flood or erosion damage to the facilities of the County or surrounding property. Licensee may be required, at the request of the County, to submit drainage engineering data and design plans to the County for review and approval prior to the issuance of any Right-of-Way Use Permit by County.

**Section 16. Issuance of Permit not County Approval.** County's review, approval or acceptance of plans or specifications or issuance of a permit for the installation, construction or location of a facility by Licensee shall not be construed to be an authorization for or approval of a violation of any federal, state or local law or regulation, or any industry standard, pertaining to the location or construction of a utility facility in public rights-of-way. No permit or approval presuming to give such authority shall be valid or otherwise relieve Licensee of its obligations under this License regarding the location and construction of facilities.

**Section 17. County Inspection.** County, if it deems necessary, has the right to inspect any work by Licensee in the public rights-of-way to insure proper performance of the terms of this License and conformance with any applicable federal, state and local laws, ordinances and regulations. County may require Licensee to pay a reasonable and uniform fee to cover the actual costs of inspections performed by County or its contractor under this provision. County may, at its discretion, pothole Licensee's facilities to verify conformance with *Section 11. Location of Facilities* of this License. Licensee shall be liable for the cost of potholing and an

administrative surcharge in the amount of fifteen (15) percent of the total cost of potholing should Licensee's facilities be out of conformance. Licensee shall be responsible for taking corrective action to bring as-builts into conformance with verified facilities.

**Section 18. Abandonment of Facilities.** Abandonment in place, of any of Licensee's facilities located within the County rights-of-way may only occur by acquiring written approval from the County.

**Section 19. Liability and Indemnity.** Licensee acknowledges its sole liability for its facilities installed in the public rights-of-way and for any activities it performs within the public rights-of-way. Licensee agrees to indemnify, hold harmless, and defend the County, its officials, agents, servants, and employees against all claims for injuries to persons or damage to property arising out of Licensee's work in the public rights-of-way or due to the existence of Licensee's facilities in the public rights-of-way, or in any way related to Licensee's exercise of its rights under this License. Neither the issuance of a County permit for installation or location of a facility, nor County approval of the activity, installation or location, nor the failure of the County to direct Licensee to take any precautions or make any changes or to refrain from doing anything shall excuse Licensee of its responsibilities hereunder to County or others in the case of any injury to persons or damage to property. If County is sued in any court by any person, firm, association or corporation to recover damages for injuries to person or property on account of the installation, repairing, operation and maintenance of facilities of Licensee, Licensee shall defend all such suits and pay any resulting judgments and shall, at the option of County, be made a party to any such court proceeding.

**Section 20. County Participation in Legal Actions.** The County shall have the right at all times to take part in any suit or action instituted by or against Licensee in which any judgment or decree can be rendered or foreclosing any lien on any of Licensee's property situated within public rights-of-way, or affecting the rights, powers or duties of Licensee to do or not to do anything which by this License it may be required to do or not to do, and also to take such steps as the County may deem essential to protect the interests of County or the public interest. County shall have the right to intervene in any suit, action, or proceeding by any person or persons, firm or corporation seeking to enjoin, restrain, or in any manner interfere with Licensee in the performance or observance by it of any of the terms or conditions of this License, or any regulation, notice or direction of County in such connection, or which involves or might involve the constitutionality, validity or enforcement of this License. County may also move for dissolution of any such injunction or restraining order or take any other appropriate step, in any such suit, action or proceeding which it may deem necessary or advisable to protect its interests.

**Section 21. Compliance with License Conditions and Ordinances.** Licensee agrees to conform to, abide by, and perform all the conditions, provisions, requirements, and limitations in this License Agreement. Licensee shall be subject to all County ordinances now in force or hereafter adopted, including all ordinances relating to the use of public rights-of-way by utilities. Licensee agrees that it will not assert any claim against the County that the provisions of this License or any applicable County ordinance or regulation in force at the time of execution of this License are unreasonable, arbitrary or void.

**Section 22. Non-Exclusive License.** This License and the privileges granted herein shall not be exclusive. The Board of Supervisors expressly reserves the right to grant, at any time, similar franchises, licenses and privileges over the same highways, roads, streets, alleys, and thoroughfares, or any thereof, to any other persons, firms or corporations.

**Section 23. Assignment.** Licensee hereby agrees that neither this License nor any of Licensee's facilities in the County rights-of-way shall be sold, assigned, or transferred without the prior written approval of the Pima County Board of Supervisors. The decision to approve or deny the sale, assignment or transfer of this License shall be within the sole discretion of the Board of Supervisors and the Board may deny Licensee's request to sell, assign or transfer the License if such denial is in the best interests of the County.

**Section 24. County's Contact Information.** All notices or contact concerning this License shall be provided in writing to:

Pima County Real Property Services  
201 North Stone, 6<sup>th</sup> Floor  
Tucson, Arizona 85701  
(520) 740-6313

**Section 25. Licensee's Contact Information.** Any change in any of the Licensee's contact information below shall be made in writing to the County.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

LICENSEE: Community Water Company  
of Green Valley

By: \_\_\_\_\_

Title: \_\_\_\_\_

State of Arizona     )  
                              )  
County of Pima     )     ss

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2007,  
by \_\_\_\_\_, as \_\_\_\_\_  
of Community Water Company of Green Valley.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

PIMA COUNTY, ARIZONA

\_\_\_\_\_  
Chairman, Pima County Board of Supervisors

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Clerk, Pima County Board of Supervisors

Approved as to form:

\_\_\_\_\_  
Deputy County Attorney

**Section 22. Non-Exclusive License.** This License and the privileges granted herein shall not be exclusive. The Board of Supervisors expressly reserves the right to grant, at any time, similar franchises, licenses and privileges over the same highways, roads, streets, alleys, and thoroughfares, or any thereof, to any other persons, firms or corporations.

**Section 23. Assignment.** Licensee hereby agrees that neither this License nor any of Licensee's facilities in the County rights-of-way shall be sold, assigned, or transferred without the prior written approval of the Pima County Board of Supervisors. The decision to approve or deny the sale, assignment or transfer of this License shall be within the sole discretion of the Board of Supervisors and the Board may deny Licensee's request to sell, assign or transfer the License if such denial is in the best interests of the County.

**Section 24. County's Contact Information.** All notices or contact concerning this License shall be provided in writing to:

Pima County Real Property Services  
201 North Stone, 6<sup>th</sup> Floor  
Tucson, Arizona 85701  
(520) 740-6313

**Section 25. Licensee's Contact Information.** Any change in any of the Licensee's contact information below shall be made in writing to the County.

Name: ARTURO GABALDON

Title: PRESIDENT

Address: 1501 S. La Cañada Dr. Green Valley, AZ 85614

Phone: (520) 625-8409

LICENSEE: Community Water Company  
of Green Valley

By: *[Signature]*

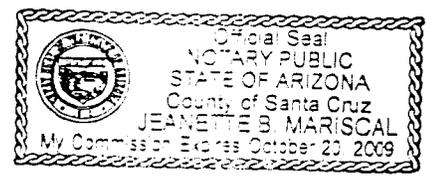
Title: President

State of Arizona     )  
                                  )     ss  
County of Pima     )

This instrument was acknowledged before me this 8<sup>th</sup> day of May, 2007,  
by *Arturo Gabaldon*, as President  
of Community Water Company of Green Valley.

*Jeanette B. Mariscal*  
Notary Public

My Commission Expires:  
October 20, 2009



PIMA COUNTY, ARIZONA

\_\_\_\_\_  
Chairman, Pima County Board of Supervisors

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Clerk, Pima County Board of Supervisors

Approved as to form:

\_\_\_\_\_  
Deputy County Attorney

# PUBLIC UTILITY LICENSE APPLICATION

## APPLICANT INFORMATION:

Name of Licensee: COMMUNITY WATER CO. OF GREEN VALLEY

Contact Person: Arturo Gabaldon

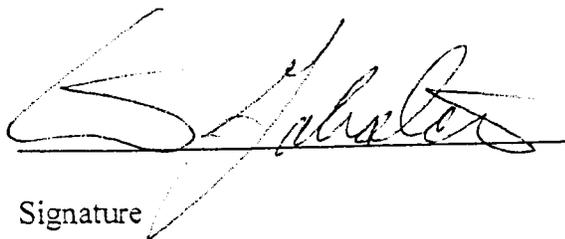
Title: President

Phone: 520)625-8409 Fax Number: 520) 625-1951

E-Mail Address: Arturo@communitywater.com

Address: 1501 S. La Cañada Dr

City/State/Zip: Green Valley, AZ 85614

  
Signature

5-8-7  
Date



1501 South La Cañada Drive • Green Valley, Arizona 85614-1600

Phone: (520) 625-8409 • Fax: (520) 625-1951

[www.communitywater.com](http://www.communitywater.com)

## RESOLUTION OF THE BOARD OF DIRECTORS OF COMMUNITY WATER COMPANY OF GREEN VALLEY

RESOLVED that the Board of Directors of Community Water Company of Green Valley, an Arizona non-profit corporation, has authorized the President to sign the Pima County Public Utility License agreement dated February 13, 2007.

### CERTIFICATION

The undersigned, being the duly elected Secretary of the Board of Directors of Community Water Company of Green Valley, an Arizona non-profit corporation, hereby certifies that the foregoing Resolution was duly adopted by the Board of Directors of the corporation at a duly called and held meeting of the Board of Directors of Community Water Company, which meeting was held at the Green Valley Recreation Center, 1111 S. Via Arcoiris, Green Valley, on the 24th day of April 2007, and the same has not since been rescinded or modified and is presently in full force and effect.

DATED this 24<sup>th</sup> day of April, 2007

COMMUNITY WATER COMPANY OF GREEN VALLEY

By: \_\_\_\_\_

*Virgil W. Davis*  
Virgil W. Davis, Secretary