

ARIZONA CORPORATION COMMISSION  
**ORIGINAL FORMAL COMPLAINT FORM**  
**FORMAL COMPLAINT**



0000147306

COMPLAINT	COMPLAINT NUMBER
PATTON PLACE, LLC PEAKVIEW RANCH, LLC	10365
ADDRESS	PHONE (HOME)
23623 N. Scottsdale Rd D3-285, Scottsdale AZ 85255	480-580-2018
NAME OF RESPONSIBLE PARTY	PHONE (WORK)
GORDON PEKROL	480-580-2018
NAME OF UTILITY	ACCOUNT NUMBER
BEARDSLEY WATER	

GROUNDS FOR COMPLAINT: (COMPLETE STATEMENT OF THE GROUNDS FOR COMPLAINT. INDICATING DATE(S) OF COMMISSION/OMISSION OR ACTS OR THINGS COMPLAINED OF.) (USE ADDITIONAL PAGE IF NECESSARY.)

SEE ATTACHED COMPLAINT

W-02074A-13-0274

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ARIZONA CORPORATION COMMISSION  
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Arizona Corporation Commission  
**DOCKETED**

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NATURE OF RELIEF SOUGHT: (USE ADDITIONAL PAGE IF NECESSARY.)

THE CORPORATION COMMISSION TO DETERMINE THAT BEARDSLEY WATER HAD NO LEGITIMATE REASON TO WITHHOLD REFUND PAYMENTS AND ORDER BEARDSLEY WATER TO ABIDE BY THE FOUR AGREEMENTS IN PLACE, AND COMPLETE A PROPER ACCOUNTING PER EACH AGREEMENT, AND PAY PAST DUE REFUND AMOUNTS PLUS PAY ANY INTEREST AND, OR DAMAGES THE CORPORATION COMMISSION DEEMS PROPER.

SIGNATURE OF COMPLAINANT OR ATTORNEY

*[Signature]* MANAGER

## ATTACHED COMPLAINT

This is prepared by Gordon Pekrul, I am the current manager of the claimant Patton Place, LLC and Peakview Ranch, LLC, regarding line extension agreements with Beardsley Water. Within this complaint there are four (4) separate line extension agreements in place.

Agreement #1 is with Beardsley Water and Patton Place, LLC, units 1 & 2, signed on or about March 15, 2002. See Exhibit 'A'.

Agreement #2 is with Beardsley Water and Patton Place, LLC, unit 3, signed on or about December 10, 2003. See Exhibit 'B'.

Agreement # 3 is with Beardsley Water and Patton Place, LLC, unit 4, signed on or about November 4, 2003. See Exhibit 'C'.

Agreement # 4 is with Beardsley Water and Peakview Ranch, LLC, signed on or about February 18, 2005. See Exhibit 'D'.

According to the agreements and per Corp. Comm. R14-2-406-D, Beardsley is to make refund payments of 10% of the water sales to bona fide customers during the fiscal year of July 1, to June 30. These payments are to be made by August 31 of the fiscal year to the entity they have the agreement with. Beardsley Water has made the following payments per the agreements See exhibit 'E'.(their accounting)

Agreement #1 is with Beardsley Water and Patton Place Estates units 1&2.

Payment due August 31 2003. -0-

Payment made August 31, 2004. \$1,835.68.(6 months)

Payment made August 31, 2005. An unknown amount

Payment made August 31, 2006. An unknown amount

Payment made August 31, 2007. An unknown amount

Agreement #2 is with Beardsley Water and Patton Place Estates unit 3.

Payment made August 31, 2005. An unknown amount

Payment made August 31, 2006. An unknown amount

Payment made August 31, 2007. An unknown amount

Agreement #3 is with Beardsley Water and Patton Place Estates unit 4.

Payment made August 31, 2006. An unknown amount

Payment made August 31, 2007. An unknown amount

Agreement #4 is with Beardsley Water and Peakview Ranch unit 1.

Payment made August 31, 2006. \$3,605.25

Payment made August 31, 2007. \$5,055.49

The above statement of "an unknown amount" is due to the fact that, according to Beardsley, agreements 1, 2 and 3 have been combined into one agreement. This is not allowed, each agreement is separate and has a different start and finishes date, and must stand on its own. It cannot be combined with others. Payments have been made but not separated out into the three (3) agreements

Beardsley has not made any refund payments to any of the above entities since the 2007 payment. There is no provision in the agreement for Beardsley to withhold payments for any reason. Beardsley did not send any type of correspondence stating that they were not going to make the 2008 payments and give any reason for not doing so. There was no correspondence from them of any kind.

I wrote to Beardsley in November of 2008 asking why the 2008 payments were not made. I received a letter dated Dec. 5 2008, See Exhibit 'F', from Stan Lutz an

attorney with the firm of Bryan Cave, representing Beardsley Water. He stated in his letter that he suspects that there may be other competing parties claiming an interest in the agreement. There were no specifics with this statement, certainly nothing that would allow Beardsley to just stop making the refund payments. There were other comments regarding issues that were resolved years ago, or had nothing to do with the agreements.

On Dec. 29, 2008, See Exhibit 'G', I responded to Mr. Lutz that I believed that the refund payments had been "sold and transferred to 223 Wittmann, LLC", and they could make the payments directly to Patton Place, LLC and Peakview Ranch, LLC, per the agreement. It appears that the alleged assignments were either never executed, and if they were, they were not sent to Beardsley, as they claim they do not have an assignment. Due to the real estate crash and many physical moves this assignment cannot be located. Mr. Lutz has never responded to this letter.

It became clear that Beardsley had no intentions of abiding by the agreement and make the refund payments. Therefore, sometime in 2010, I went to the corporation commission for help. I met with Trish Meeter upon my first visit and explained the situation to her. She said she would look into it and get back to me. After many attempts by Ms. Meeter to communicate with Beardsley, and apparently receiving very little response, Ms. Meeter filed an informal complaint in May of 2012. As I was out of state most of 2012, nothing happened on my part to resolve this.

I returned to Arizona in February of 2013 and contacted Ms Meeter. She then made contact with Mr. Lutz. Mr. Lutz expressed to Ms. Meeter that he would like to contact me and try to resolve this. Mr. Lutz had some medical problems and was hospitalized, things did not move forward the way I hoped they would. After Mr. Lutz got back to work he decided he would let the corporation commission decide who to pay and filed an "application for determination regarding disbursement of certain refundable payments." This application is dated April 19, 2013. See exhibit 'H'.

On or about the first of May, 2013, Beardsley Water finally agreed to attend a mediation meeting, this was held on May 9, 2013. At this meeting were, Judy Lopez, from Beardsley Water, their attorney, Steve Hirsch, substituting for Mr. Lutz, myself, Ms. Meeter and about five other people from the commission. At the conclusion of the meeting we agreed that Beardsley needed to pay who they have an agreement with and they needed to do a proper accounting. We thought this would take about a week.

Because of Mr. Lutz's filing of the application, See Exhibit 'I', the commission had scheduled a hearing for May 22, 2013. At this hearing Mr. Lutz asked for, and received 45 days to finalize the agreement we had worked out in the mediation meeting.

On or about June 17, 2013, I received what Mr. Lutz said was an accounting. This document did not have four, (4) separate accounting statements, as there are four agreements, they only produced two. It did not have any type of supporting documents or statements of any kind. I contacted a CPA and showed this "statement of accounting" to him, he couldn't believe that anyone would submit this as it did not contain the minimal requirements for compiling a proper statement, also Beardsley now claims in their statement, that most of the payments they did make were not correct and that they had overpaid. I again, expressed to Mr. Lutz that this was not an acceptable form of an accounting; his only comment was that he would review it and make any adjustments and that as far as the overpayments; they were apparently refund payments of construction water, which does not qualify to get refund payments. I received no further comment

from Mr. Lutz about the accounting.

On July 3, 2013, a few days before Mr. Lutz's 45 days were up, I received a set of documents e-mailed to me, it included an affidavit from Gordon Pehrul, a settlement agreement and release, and an opinion and order for the corporation commission to execute. See Exhibit Group 'J'.

After reviewing these documents, it was clear to me that there were corrections that needed to be made, mostly due to the fact that Beardsley refused to separate the accounting into the four separate agreements that are in place.

The first problem is in the affidavit, it says that I am the sole and controlling member of these entities, in fact I am not, nor do I find where it matters who is a member. A member is not part of this agreement. In paragraph 10 Mr. Lutz, again, eludes to other claims that there may be other competing interests in any refund amounts, there are no specifics therefore I think I can assume that Mr. Lutz does not have any, just speculation. I cannot find anywhere in the agreement that allows for withholding payments due for this reason, short of a court order or some other legal claim. I am not aware of any competing interests or a Bk Trustee that has any interest in the refund payments. Apparently there was an involuntary bankruptcy filed by subcontractors regarding unpaid work that was done by them in Patton Place Estates unit 6, there is no agreement with Beardsley Water and Patton Place Estates unit 6. It seems the lender quit funding the infrastructure loan because of the market turndown. Apparently they were able to settle this as the bankruptcy was closed in May, 2010. In any case, the existing line extension agreements would not be affected by the bankruptcy filing.

The next problem is the settlement agreement and release. In paragraph E, again Beardsley claims that they cannot ascertain who the proper payee under the main extension agreement is. This is utter nonsense; the agreement is clear, it says what it says. In paragraph F, again it says that I am the sole and controlling shareholder, I am not.

In the agreement at paragraph 5 it refers to the accounting which is totally flawed, but it is offered as a take it or leave proposal.

In the "opinion and order", again it refers to me as the sole and controlling member of Patton Place, LLC and Peakview Ranch, LLC. I am not. Under "findings of fact" at paragraph 6 it says "Beardsley was informed that Patton Place and Peakview Ranch had experienced financial difficulties and had assigned their interests in the developments to an unknown third party or parties". This is obviously speculation and I can find nowhere in the agreement that allows for such speculation that allows them to not make payments. In paragraph 8 it states that after my letter of Dec. 29, 2008 they requested additional information. I have no correspondence from Mr. Lutz requesting additional information. I instructed them to make payments to Patton Place and Peakview.

All this jibber jabber, misinformation and outright lies are an attempt to keep your eye off the ball. The simple fact is Beardsley did not make the 2008 payments before any of their new speculation started; this speculation is done in a clumsy attempt to justify their actions. There are simply too many problems in the proposed documents to be taken seriously.

On July 6, 2013, I corrected the mistakes and incorrect information in Mr. Lutz's documents and again asked for proper accounting. I sent my corrected documents to Mr. Lutz. See Exhibit 'K'. He said he would forward them to Beardsley but didn't think they

would agree with my changes, I did not receive a response or a proposed counter offer. It appears to be the end of what was agreed to at the mediation meeting.

On August 1, 2013 another hearing was held for an update to the settlement, at this hearing Mr. Lutz could not be here and Mr. Hirsch was in his place. Mr. Hirsch asked that this matter be moved to the Arizona Superior Court, for unknown reasons. I objected to this but to no avail. The proper jurisdiction is with the corporation commission as they have approved the agreements with Beardsley Water and the claimants and Beardsley Water should abide by the line extension agreements.

Beardsley Water has been allowed to use the claimants money for six (6) years now, it seems that this would demand a quick and lethal condemnation of Beardsley Water. They have been in violation of the agreement for all these years and Beardsley's attorneys have not acted in good faith as they assured me and the commission they would.

EXHIBIT 'A'

M A I N   E X T E N S I O N   A G R E E M E N T

W A T E R   F A C I L I T I E S

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This Agreement is entered into at ZOOMIX, Arizona on this 10<sup>th</sup> day of February, 2002, by and between PTB, LLC, hereinafter referred to as Applicant and Beardsley Water Company, an Arizona Corporation, hereinafter referred to as Utility.

- 1) Applicant is the owner of Patton Place Estates as set forth in Exhibit A, a copy of which is attached hereto and made a part hereof and hereinafter referred to as Property.
- 2) Applicant intends to develop said Property as set forth in Exhibit A and will require domestic water service.
- 3) Applicant and Utility agree that said property lies within the Certificate of Convenience and Necessity of Utility and therefore Utility is obligated to provide said domestic water service in accordance with the rules and regulations of the Arizona Corporation Commission (ACC)

A G R E E M E N T

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NOW THEREFORE, in consideration of the terms and conditions set forth below, the parties hereto agree:

- 1) Applicant shall cause the proposed domestic water system to be designed, constructed and installed as necessary to provide an adequate supply of domestic water to Applicant's Property as described in Exhibit A. Said water system shall include all necessary water facilities including but not limited to mains, fittings, fire hydrants, service lines, meter assemblies, meters, storage, wells, pumping facilities and required water testing.
- 2) Applicant shall be responsible for all costs associated with the construction of the domestic water system including engineering, inspection, permits, easements, labor, materials, equipment, transportation, insurance and bonds if applicable.
- 3) Applicants cost, as set forth in Exhibit B, a copy of which is attached hereto and made a part hereof, shall be subject to refund in accordance with the rules and regulations of the ACC and further described in Section 16 of this Agreement.

4) Applicant shall cause the domestic water system to be designed and constructed with sufficient capacity to serve the water needs of the Property, including fire protection.

5) Applicant may be required by Utility to provide "oversizing" in Applicants design and construction to benefit the needs of Utility. If oversizing is required by Utility, the Utility shall be obligated to pay those costs applicable to the oversized facilities. Said payment shall be based on material costs only and shall not include any costs for labor, equipment, transportation engineering, permits, disinfection, testing or any other costs not applicable in the sole discretion of Utility. Oversizing costs are set forth in Exhibit C, a copy of which is attached hereto and made a part hereof.

6) Applicant shall obtain all applicable permits, including zoning and other necessary permits which may be required prior to construction of the Domestic water system. All domestic water system facilities shall be constructed in accordance with the plans and specifications as prepared by Applicants engineer and reviewed by Utility's engineer and approved by Utility in writing. All domestic water system facilities shall be constructed in accordance with acceptable utility construction practices and in accordance with the rules and regulations of the ACC and the Arizona Department of Environmental Quality and the requirements of all other municipal and governmental agencies having jurisdiction.

7) Applicant shall comply with Utility's requirements for inspection and testing of the domestic water facilities constructed under this Agreement. Applicant shall provide Utility adequate notice when facilities under construction are ready for inspection and/or testing. Utility shall provide said inspection within five working days of being so noticed.

8) Utility shall provide Applicant written notice of any deficiencies discovered during said inspection within 10 working days of said inspection. Utility reserves the right to withhold acceptance of the facilities unless said facilities have been constructed in accordance with the requirements set forth herein.

9 Applicant herewith agrees to diligently pursue and promptly correct all deficiencies in construction, materials and workmanship as noted in Utilities written notice of deficiencies.

10) Applicant agrees to promptly correct all defects and deficiencies in construction, materials, and workmanship upon request by Utility and for one year following Utility's acceptance of the facilities at Applicants sole cost. It is understood that inspection and / or acceptance by Utility in no way relieves or limits Applicant of any responsibility and liability for construction and installation of the facilities in accordance with the terms of this Agreement.

11) The domestic water system facilities and all parts thereof, upon acceptance by Utility as provided herein, shall become and remain the sole property of utility without the requirements of any written document of transfer to Utility. However, Applicant shall furnish such documents pertaining to ownership and title as Utility may reasonably request to evidence or confirm transfer of possession and title to Utility free and clear of liens, or containing provision for satisfaction of lien claims by Applicant, acceptable to Utility. Applicant shall repair or cause to be repaired promptly, at no cost to Utility, all damage to the facilities caused by construction operations until all construction within the property is complete whether caused by Applicant or not.

12) Applicant shall convey or cause to be conveyed to Utility by Warranty Deed free and clear title to the land upon which any well and/or storage facility pertinent to the provision of domestic water is required. Any other lands applicable to and necessary for the provision of domestic water service as set forth on Applicants plans andü specifications shall also be conveyed to Utility. Said lands are described on Exhibit D, a copy of which is attached hereto and made a part hereof.

13) Applicant shall, at no cost to Utility, grant or cause to be granted to Utility, perpetual right-of-ways and easements in a form acceptable to Utility for the facilities and future attachments to the facilities including, but not limited to water mains and access to the production and storage sites. If any rights-of-way or easements are required by Utility for attachments to developments other than Applicant's development, Utility and Applicant shall mutually agree on an acceptable location for such easements or rights-of-way.

14) Applicant shall, within 120 days following acceptance by Utility of facilities, furnish Utility with the following described original documents.

a) Copies of all invoices and billings and other statements of expenses incurred by Applicant for the construction of the domestic water system.

b) Releases and waivers from contractors, sub-contractors and vendors for materials, equipment, supplies, labor and other costs of construction of said facilities.

15) Utility will provide domestic water service to the Property in accordance with the rates, charges and conditions set forth in the tariffs of Utility as filed with the ACC and in effect from time to time. It is agreed that water service to each and every dwelling unit within the Property will be metered accordingly. Applicant acknowledges and agrees that Utility has the right to and may in the future, connect the domestic water facilities to Utility's existing and/or future domestic water system.

16) The cost of construction and installation of facilities as evidenced by invoices furnished to Utility pursuant to Section 14 shall be advances in aid of construction subject to refund by Utility to Applicant. Utility shall make refunds annually to Applicant on or before August 31 for the preceding July 1 through June 30 period. The amount to be refunded annually shall be ten percent (10%) of the revenues (excluding sales taxes and all District, Municipal, County State or Federally imposed regulatory assessments) derived from the provision of metered domestic water service to the Property. Refunds shall be payable for a period of ten (10) years from the date metered domestic water service is initiated to the Property. In no event shall the refunds paid to Applicant exceed the amount of the advanced in aid of construction. Any balance remaining at the end of the ten (10) year period shall become non-refundable. No interest shall be paid on any amount(s) advanced.

17) Applicant will furnish Utility with appropriate certificates of insurance, each containing a thirty (30) day notice of cancellation clause, stating collectively that Applicant or its contractors and subcontractors has the following insurance coverage during the period of construction hereunder.

- a) Workman's Compensation Insurance in the amounts required by the laws of the state of Arizona.
- b) Comprehensive General Liability Insurance including Products/Completed operations, with limits of not less than Two Million Dollars (2,000,000.00) combined single limit for bodily injury (including death) and property damage.

18) Applicant hereby assumes the full and entire responsibility and liability for any and all incidents of injury or death of any person, or loss or damage to any property contributed to or caused by the active or passive negligence of Applicant, its agents, servants, employees, contractors or subcontractors, arising out of or in connection with the construction of the domestic water facilities prior to Utility's acceptance as set forth herein. Accordingly, Applicant will indemnify and hold harmless Utility, its officers, directors, agents and employees from and against claims or expensed, including penalties and assessments, and attorneys' fees to which they or any of them may be subjected by reason of such injury, death, loss, claim, penalty assessment of damage, and in case any suit or other proceeding shall be brought on account thereof, Applicant will assume the defense at Applicants own expense and will pay all judgements rendered therein.

19) Applicant shall furnish Utility within sixty (60) days after completion of construction "As-Built" drawings certified as to correctness by an engineer registered in the State of Arizona showing the locations and respective sizes of all supply, transmission, production, storage, pumping facilities, and distribution facilities up to the curb valve of service connections to all dwelling units and/or structures served by the domestic water system.

20) Applicant shall cause any Department of Real Estate Subdivision reports issued regarding the Property, clearly to state that water services are to be provided by Utility and that Utility shall own all facilities utilized in providing said services, other than the service connections from the curb line into the dwelling unit premises.

21) The failure of either party hereto to enforce any of the provisions of this Agreement or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on its part of any such provision but the same shall, nevertheless, be and remain in full force and effect.

22) Communications hereunder shall be sent to the respective parties, addressed as follows:

APPLICANT: Patton Place L.L.C.  
7119 E. Shea Boulevard  
PMB 237  
Scottsdale, AZ 85254

UTILITY: Beardsley Water Company  
P.O. Box 1020  
Apache Junction, AZ 85217

or to other such address as the parties may advise each other in writing.

23) It is agreed that Utility is not an agent of Applicant and shall not incur any costs or expenses on behalf of Applicant and that Applicant is not an agent of Utility and shall not incur any cost or expenses on behalf of Utility.

24) This Agreement shall be governed by the laws of the State of Arizona and shall be subject to the approval of the ACC and such other regulatory agencies as may be required under the laws of said State.

25) This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective legal representatives, successors and assigns. However, neither Applicant nor Utility shall assign its rights, obligations and interest in this Agreement without the prior written consent of the other and such consent shall not be unreasonably withheld or delayed by either Applicant or Utility. Any attempted assignment without such consent shall be void and of no effect.

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

APPLICANT *Patten Plastics*

UTILITY  
Beardsley Water Company

By: *P. D. Goodwill*

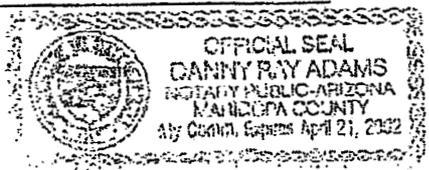
By: *Fred T. Wilkinson*  
Fred T. Wilkinson, Agent

STATE OF ARIZONA     )  
                                  ) SS  
County of Maricopa    )

The foregoing instrument was acknowledged before me this 15 day of January, 2002, by Philip D. Goodwill known to me to be the MANAGER of PATTEN PLASTICS, LLC, and authorized by said corporation to make this acknowledgement on its behalf.

By *[Signature]*  
Notary Public

My Commission Expires



STATE OF ARIZONA     )  
                                  ) SS  
County of Maricopa    )

The foregoing instrument was acknowledged before me this  
15th day of March, 2002, by Fred T. Wilkinson  
known to me to be the Agent of Beardsley  
Water Company, and authorized by said corporation to  
make this acknowledgement on its behalf.

By Judy A. Lopez  
Notary Public

My Commission Expires  
June 28, 2002

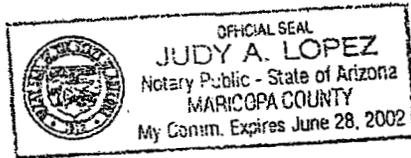


EXHIBIT 'B'

M A I N   E X T E N S I O N   A G R E E M E N T

W A T E R   F A C I L I T I E S

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This Agreement is entered into at Apache Junction, Arizona on this 30 day of October, 2003, by and between Patton Place Estates Unit 3, hereinafter referred to as Applicant and Beardsley Water Company, an Arizona Corporation, hereinafter referred to as Utility.

- 1) Applicant is the owner of Patton Place Estates Unit 3 as set forth in Exhibit A, a copy of which is attached hereto and made a part hereof and hereinafter referred to as Property.
- 2) Applicant intends to develop said Property as set forth in Exhibit A and will require domestic water service.
- 3) Applicant and Utility agree that said property lies within the Certificate of Convenience and Necessity of Utility and therefore Utility is obligated to provide said domestic water service in accordance with the rules and regulations of the Arizona Corporation Commission (ACC)

A G R E E M E N T

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NOW THEREFORE, in consideration of the terms and conditions set forth below, the parties hereto agree:

- 1) Applicant shall cause the proposed domestic water system to be designed, constructed and installed as necessary to provide an adequate supply of domestic water to Applicant's Property as described in Exhibit A. Said water system shall include all necessary water facilities including but not limited to mains, fittings, fire hydrants, service lines, meter assemblies, meters, storage, wells, pumping facilities and required water testing.
- 2) Applicant shall be responsible for all costs associated with the construction of the domestic water system including engineering, inspection, permits, easements, labor, materials, equipment, transportation, insurance and bonds if applicable.
- 3) Applicants cost, as set forth in Exhibit B, a copy of which is attached hereto and made a part hereof, shall be subject to refund in accordance with the rules and regulations of the ACC and further described in Section 16 of this Agreement.

ORIGINAL

4) Applicant shall cause the domestic water system to be designed and constructed with ~~sufficient capacity to serve~~ the water needs of the Property, including fire protection.

5) Applicant may be required by Utility to provide "oversizing" in Applicants design and construction to benefit the needs of Utility. If oversizing is required by Utility, the Utility shall be obligated to pay those costs applicable to the oversized facilities. Said payment shall be based on material costs only and shall not include any costs for labor, equipment, transportation engineering, permits, disinfection, testing or any other costs not applicable in the sole discretion of Utility. Oversizing costs are set forth in Exhibit C, a copy of which is attached hereto and made a part hereof.

6) Applicant shall obtain all applicable permits, including zoning and other necessary permits which may be required prior to construction of the Domestic water system. All domestic water system facilities shall be constructed in accordance with the plans and specifications as prepared by Applicants engineer and reviewed by Utility's engineer and approved by Utility in writing. All domestic water system facilities shall be constructed in accordance with acceptable utility construction practices and in accordance with the rules and regulations of the ACC and the Arizona Department of Environmental Quality and the requirements of all other municipal and governmental agencies having jurisdiction.

7) Applicant shall comply with Utility's requirements for inspection and testing of the domestic water facilities constructed under this Agreement. Applicant shall provide Utility adequate notice when facilities under construction are ready for inspection and/or testing. Utility shall provide said inspection within five working days of being so noticed.

8) Utility shall provide Applicant written notice of any deficiencies discovered during said inspection within 10 working days of said inspection. Utility reserves the right to withhold acceptance of the facilities unless said facilities have been constructed in accordance with the requirements set forth herein.

9 Applicant herewith agrees to diligently pursue and promptly correct all deficiencies in construction, materials and workmanship as noted in Utilities written notice of deficiencies.

ORIGINAL

10) Applicant agrees to promptly correct all defects and deficiencies in construction, materials, and workmanship upon request by Utility and for one year following Utility's acceptance of the facilities at Applicants sole cost. It is understood that inspection and/or acceptance by Utility in no way relieves or limits Applicant of any responsibility and liability for construction and installation of the facilities in accordance with the terms of this Agreement.

11) The domestic water system facilities and all parts thereof, upon acceptance by Utility as provided herein, shall become and remain the sole property of utility without the requirements of any written document of transfer to Utility. However, Applicant shall furnish such documents pertaining to ownership and title as Utility may reasonably request to evidence or confirm transfer of possession and title to Utility free and clear of liens, or containing provision for satisfaction of lien claims by Applicant, acceptable to Utility. Applicant shall repair or cause to be repaired promptly, at no cost to Utility, all damage to the facilities caused by construction operations until all construction within the property is complete whether caused by Applicant or not.

12) Applicant shall convey or cause to be conveyed to Utility by Warranty Deed free and clear title to the land upon which any well and/or storage facility pertinent to the provision of domestic water is required. Any other lands applicable to and necessary for the provision of domestic water service as set forth on Applicants plans and specifications shall also be conveyed to Utility. Said lands are described on Exhibit D, a copy of which is attached hereto and made a part hereof.

13) Applicant shall, at no cost to Utility, grant or cause to be granted to Utility, perpetual right-of-ways and easements in a form acceptable to Utility for the facilities and future attachments to the facilities including, but not limited to water mains and access to the production and storage sites. If any rights-of-way or easements are required by Utility for attachments to developments other than Applicant's development, Utility and Applicant shall mutually agree on an acceptable location for such easements or rights-of-way.

14) Applicant shall, within 120 days following acceptance by Utility of facilities, furnish Utility with the following described original documents.

a) Copies of all invoices and billings and other statements of expenses incurred by Applicant for the construction of the domestic water system.

ORIGINAL

b) Releases and waivers from contractors, sub-contractors and vendors for materials, equipment, supplies, labor and other costs of construction of said facilities.

15) Utility will provide domestic water service to the Property in accordance with the rates, charges and conditions set forth in the tariffs of Utility as filed with the ACC and in effect from time to time. It is agreed that water service to each and every dwelling unit within the Property will be metered accordingly. Applicant acknowledges and agrees that Utility has the right to and may in the future, connect the domestic water facilities to Utility's existing and/or future domestic water system.

16) The cost of construction and installation of facilities as evidenced by invoices furnished to Utility pursuant to Section 14 shall be advances in aid of construction subject to refund by Utility to Applicant. Utility shall make refunds annually to Applicant on or before August 31 for the preceding July 1 through June 30 period. The amount to be refunded annually shall be ten percent (10%) of the revenues (excluding sales taxes and all District, Municipal, County State or Federally imposed regulatory assessments) derived from the provision of metered domestic water service to the Property. Refunds shall be payable for a period of ten (10) years from the date metered domestic water service is initiated to the Property. In no event shall the refunds paid to Applicant exceed the amount of the advanced in aid of construction. Any balance remaining at the end of the ten (10) year period shall become non-refundable. No interest shall be paid on any amount(s) advanced.

17) Applicant will furnish Utility with appropriate certificates of insurance, each containing a thirty (30) day notice of cancellation clause, stating collectively that Applicant or its contractors and subcontractors has the following insurance coverage during the period of construction hereunder.

- a) Workman's Compensation Insurance in the amounts required by the laws of the state of Arizona.
- b) Comprehensive General Liability Insurance including Products/Completed operations, with limits of not less than Two Million Dollars (2,000,000.00) combined single limit for bodily injury (including death) and property damage.

ORIGINAL

18) Applicant hereby assumes the full and entire responsibility and liability for any and all incidents of injury or death of any person, or loss or damage to any property contributed to or caused by the active or passive negligence of Applicant, its agents, servants, employees, contractors or subcontractors, arising out of or in connection with the construction of the domestic water facilities prior to Utility's acceptance as set forth herein. Accordingly, Applicant will indemnify and hold harmless Utility, its officers, directors, agents and employees from and against claims or expensed, including penalties and assessments, and attorneys' fees to which they or any of them may be subjected by reason of such injury, death, loss, claim, penalty assessment of damage, and in case any suit or other proceeding shall be brought on account thereof, Applicant will assume the defense at Applicants own expense and will pay all judgements rendered therein.

19) Applicant shall furnish Utility within sixty (60) days after completion of construction "As-Built" drawings certified as to correctness by an engineer registered in the State of Arizona showing the locations and respective sizes of all supply, transmission, production, storage, pumping facilities, and distribution facilities up to the curb valve of service connections to all dwelling units and/or structures served by the domestic water system.

20) Applicant shall cause any Department of Real Estate Subdivision reports issued regarding the Property, clearly to state that water services are to be provided by Utility and that Utility shall own all facilities utilized in providing said services, other than the service connections from the curb line into the dwelling unit premises.

21) The failure of either party hereto to enforce any of the provisions of this Agreement or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on its part of any such provision but the same shall, nevertheless, be and remain in full force and effect.

22) Communications hereunder shall be sent to the respective parties, addressed as follows:

APPLICANT: Patton Place Estates Unit 3  
7119 E. Shea Boulevard  
PMB 237  
Scottsdale, Arizona 85254

UTILITY: Beardsley Water Company  
P.O. Box 1020  
Apache Junction, AZ 85217

or to other such address as the parties may advise each other in writing.

ORIGINAL

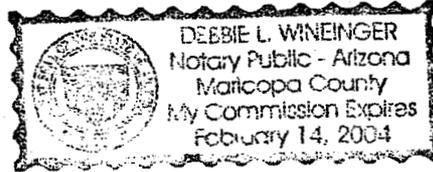


STATE OF ARIZONA     )  
                                  ) SS  
County of Maricopa    )

The foregoing instrument was acknowledged before me this  
10<sup>th</sup> day of December, 2003, by Phillip Goodwill  
known to me to be the \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_, and authorized by said corporation to  
make this acknowledgement on its behalf.

By Debbie R. Wineinger  
Notary Public

My Commission Expires  
February 14, 2004



ORIGINAL

W. DALE

LANE

AVENUE

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MARK

LANE

245th

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1

DESERT

VISTA

TRAIL

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PATTON

ROAD

Date: October 28, 2003  
Applicant: Patton Place Estates Unit 3

EXHIBIT B

APPLICANTS COST

The estimated Applicants cost is set forth below:

<u>UNITS</u>	<u>DESCRIPTION</u>	<u>UNIT COST</u>	<u>EXTENSION</u>
3,052 1/f	8" PVC C-900	\$20.00/Ft	\$61,040.00
7 Each	8" Valve Including valve box & Cover	\$750.00	\$5,250.00
4 Each	6" Fire Hydrant with valve & fittings	\$1,850.00	\$7,400.00
4 Each	8"x 8" Tee	\$350.00	\$1,400.00
4 Each	45 Bend	\$350.00	\$1,400.00
1 Only	90 Bend	\$270.00	\$270.00
30 Each	3/4" Water Service	\$400.00	\$12,000.00
1 Only	Blowoff Assembly	\$450.00	\$450.00
	Total Estimated Cost		<u>\$89,210.00</u>

ORIGINAL

Dated: October 28, 2003  
Applicant: Patton Place Estates Unit3

EXHIBIT C

OVERSIZING COSTS

No oversizing costs are required under this agreement.

ORIGINAL

EXHIBIT C

M A I N   E X T E N S I O N   A G R E E M E N T

W A T E R   F A C I L I T I E S

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This Agreement is entered into at Apache Junction, Arizona on this 30 day of October, 2003, by and between Patton Place Estates Unit 4, hereinafter referred to as Applicant and Beardsley Water Company, an Arizona Corporation, hereinafter referred to as Utility.

- 1) Applicant is the owner of Patton Place Estates Unit 4 as set forth in Exhibit A, a copy of which is attached hereto and made a part hereof and hereinafter referred to as Property.
- 2) Applicant intends to develop said Property as set forth in Exhibit A and will require domestic water service.
- 3) Applicant and Utility agree that said property lies within the Certificate of Convenience and Necessity of Utility and therefore Utility is obligated to provide said domestic water service in accordance with the rules and regulations of the Arizona Corporation Commission (ACC)

A G R E E M E N T

---

NOW THEREFORE, in consideration of the terms and conditions set forth below, the parties hereto agree:

- 1) Applicant shall cause the proposed domestic water system to be designed, constructed and installed as necessary to provide an adequate supply of domestic water to Applicant's Property as described in Exhibit A. Said water system shall include all necessary water facilities including but not limited to mains, fittings, fire hydrants, service lines, meter assemblies, meters, storage, wells, pumping facilities and required water testing.
- 2) Applicant shall be responsible for all costs associated with the construction of the domestic water system including engineering, inspection, permits, easements, labor, materials, equipment, transportation, insurance and bonds if applicable.
- 3) Applicants cost, as set forth in Exhibit B, a copy of which is attached hereto and made a part hereof, shall be subject to refund in accordance with the rules and regulations of the ACC and further described in Section 16 of this Agreement.

ORIGINAL

4) Applicant shall cause the domestic water system to be designed and constructed with sufficient capacity to serve the water needs of the Property, including fire protection.

5) Applicant may be required by Utility to provide "oversizing" in Applicants design and construction to benefit the needs of Utility. If oversizing is required by Utility, the Utility shall be obligated to pay those costs applicable to the oversized facilities. Said payment shall be based on material costs only and shall not include any costs for labor, equipment, transportation engineering, permits, disinfection, testing or any other costs not applicable in the sole discretion of Utility. Oversizing costs are set forth in Exhibit C, a copy of which is attached hereto and made a part hereof.

6) Applicant shall obtain all applicable permits, including zoning and other necessary permits which may be required prior to construction of the Domestic water system. All domestic water system facilities shall be constructed in accordance with the plans and specifications as prepared by Applicants engineer and reviewed by Utility's engineer and approved by Utility in writing. All domestic water system facilities shall be constructed in accordance with acceptable utility construction practices and in accordance with the rules and regulations of the ACC and the Arizona Department of Environmental Quality and the requirements of all other municipal and governmental agencies having jurisdiction.

7) Applicant shall comply with Utility's requirements for inspection and testing of the domestic water facilities constructed under this Agreement. Applicant shall provide Utility adequate notice when facilities under construction are ready for inspection and/or testing. Utility shall provide said inspection within five working days of being so noticed.

8) Utility shall provide Applicant written notice of any deficiencies discovered during said inspection within 10 working days of said inspection. Utility reserves the right to withhold acceptance of the facilities unless said facilities have been constructed in accordance with the requirements set forth herein.

9 Applicant herewith agrees to diligently pursue and promptly correct all deficiencies in construction, materials and workmanship as noted in Utilities written notice of deficiencies.

ORIGINAL

10) Applicant agrees to promptly correct all defects and deficiencies in construction, materials, and workmanship upon request by Utility and for one year following Utility's acceptance of the facilities at Applicants sole cost. It is understood that inspection and/or acceptance by Utility in no way relieves or limits Applicant of any responsibility and liability for construction and installation of the facilities in accordance with the terms of this Agreement.

11) The domestic water system facilities and all parts thereof, upon acceptance by Utility as provided herein, shall become and remain the sole property of utility without the requirements of any written document of transfer to Utility. However, Applicant shall furnish such documents pertaining to ownership and title as Utility may reasonably request to evidence or confirm transfer of possession and title to Utility free and clear of liens, or containing provision for satisfaction of lien claims by Applicant, acceptable to Utility. Applicant shall repair or cause to be repaired promptly, at no cost to Utility, all damage to the facilities caused by construction operations until all construction within the property is complete whether caused by Applicant or not.

12) Applicant shall convey or cause to be conveyed to Utility by Warranty Deed free and clear title to the land upon which any well and/or storage facility pertinent to the provision of domestic water is required. Any other lands applicable to and necessary for the provision of domestic water service as set forth on Applicants plans and specifications shall also be conveyed to Utility. Said lands are described on Exhibit D, a copy of which is attached hereto and made a part hereof.

13) Applicant shall, at no cost to Utility, grant or cause to be granted to Utility, perpetual right-of-ways and easements in a form acceptable to Utility for the facilities and future attachments to the facilities including, but not limited to water mains and access to the production and storage sites. If any rights-of-way or easements are required by Utility for attachments to developments other than Applicant's development, Utility and Applicant shall mutually agree on an acceptable location for such easements or rights-of-way.

14) Applicant shall, within 120 days following acceptance by Utility of facilities, furnish Utility with the following described original documents.

a) Copies of all invoices and billings and other statements of expenses incurred by Applicant for the construction of the domestic water system.

ORIGINAL

b) Releases and waivers from contractors, sub-contractors and vendors for materials, equipment, supplies, labor and other costs of construction of said facilities.

15) Utility will provide domestic water service to the Property in accordance with the rates, charges and conditions set forth in the tariffs of Utility as filed with the ACC and in effect from time to time. It is agreed that water service to each and every dwelling unit within the Property will be metered accordingly. Applicant acknowledges and agrees that Utility has the right to and may in the future, connect the domestic water facilities to Utility's existing and/or future domestic water system.

16) The cost of construction and installation of facilities as evidenced by invoices furnished to Utility pursuant to Section 14 shall be advances in aid of construction subject to refund by Utility to Applicant. Utility shall make refunds annually to Applicant on or before August 31 for the preceding July 1 through June 30 period. The amount to be refunded annually shall be ten percent (10%) of the revenues (excluding sales taxes and all District, Municipal, County State or Federally imposed regulatory assessments) derived from the provision of metered domestic water service to the Property. Refunds shall be payable for a period of ten (10) years from the date metered domestic water service is initiated to the Property. In no event shall the refunds paid to Applicant exceed the amount of the advanced in aid of construction. Any balance remaining at the end of the ten (10) year period shall become non-refundable. No interest shall be paid on any amount(s) advanced.

17) Applicant will furnish Utility with appropriate certificates of insurance, each containing a thirty (30) day notice of cancellation clause, stating collectively that Applicant or its contractors and subcontractors has the following insurance coverage during the period of construction hereunder.

- a) Workman's Compensation Insurance in the amounts required by the laws of the state of Arizona.
- b) Comprehensive General Liability Insurance including Products/Completed operations, with limits of not less than Two Million Dollars (2,000,000.00) combined single limit for bodily injury (including death) and property damage.

ORIGINAL

18) Applicant hereby assumes the full and entire responsibility and liability for any and all incidents of injury or death of any person, or loss or damage to any property contributed to or caused by the active or passive negligence of Applicant, its agents, servants, employees, contractors or subcontractors, arising out of or in connection with the construction of the domestic water facilities prior to Utility's acceptance as set forth herein. Accordingly, Applicant will indemnify and hold harmless Utility, its officers, directors, agents and employees from and against claims or expensed, including penalties and assessments, and attorneys' fees to which they or any of them may be subjected by reason of such injury, death, loss, claim, penalty assessment of damage, and in case any suit or other proceeding shall be brought on account thereof, Applicant will assume the defense at Applicants own expense and will pay all judgements rendered therein.

19) Applicant shall furnish Utility within sixty (60) days after completion of construction "As-Built" drawings certified as to correctness by an engineer registered in the State of Arizona showing the locations and respective sizes of all supply, transmission, production, storage, pumping facilities, and distribution facilities up to the curb valve of service connections to all dwelling units and/or structures served by the domestic water system.

20) Applicant shall cause any Department of Real Estate Subdivision reports issued regarding the Property, clearly to state that water services are to be provided by Utility and that Utility shall own all facilities utilized in providing said services, other than the service connections from the curb line into the dwelling unit premises.

21) The failure of either party hereto to enforce any of the provisions of this Agreement or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on its part of any such provision but the same shall, nevertheless, be and remain in full force and effect.

22) Communications hereunder shall be sent to the respective parties, addressed as follows:

APPLICANT: Patton Place Estates Unit 4  
7119 E. Shea Boulevard  
PMB 237  
Scottsdale, Arizona 85254

UTILITY: Beardsley Water Company  
P.O. Box 1020  
Apache Junction, AZ 85217

or to other such address as the parties may advise each other in writing.

ORIGINAL

23) It is agreed that Utility is not an agent of Applicant and shall not incur any costs or expenses on behalf of Applicant and that Applicant is not an agent of Utility and shall not incur any cost or expenses on behalf of Utility.

24) This Agreement shall be governed by the laws of the State of Arizona and shall be subject to the approval of the ACC and such other regulatory agencies as may be required under the laws of said State.

25) This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective legal representatives, successors and assigns. However, neither Applicant nor Utility shall assign its rights, obligations and interest in this Agreement without the prior written consent of the other and such consent shall not be unreasonably withheld or delayed by either Applicant or Utility. Any attempted assignment without such consent shall be void and of no effect.

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

APPLICANT

UTILITY

Patton Place Estates Unit 4

Beardsley Water Company

By: Philip D. Goodwill

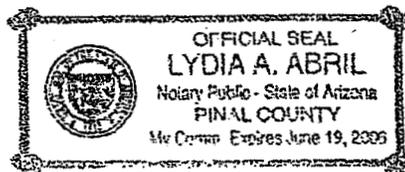
By: Fred T. Wilkinson  
Fred T. Wilkinson, Agent

STATE OF ARIZONA        )  
                                  ) SS  
                                  ) *PINAL*  
County of ~~Mazisopa~~        )

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of October, 2003, by Fred T. Wilkinson known to me to be the Agent of Beardsley Water Company, and authorized by said corporation to make this acknowledgement on its behalf,

By Lydia A. Abril  
Notary Public

My Commission Expires  
June 19, 2006



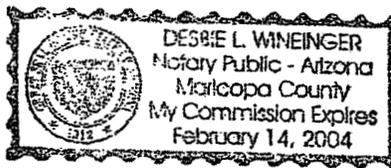
ORIGINAL

STATE OF ARIZONA     )  
                                  ) SS  
County of Maricopa    )

The foregoing instrument was acknowledged before me this  
4<sup>th</sup> day of November, 2003, by \_\_\_\_\_  
known to me to be the \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_, and authorized by said corporation to  
make this acknowledgement on its behalf.

By Debbie L. Wineinger  
Notary Public

My Commission Expires  
February 14, 2004



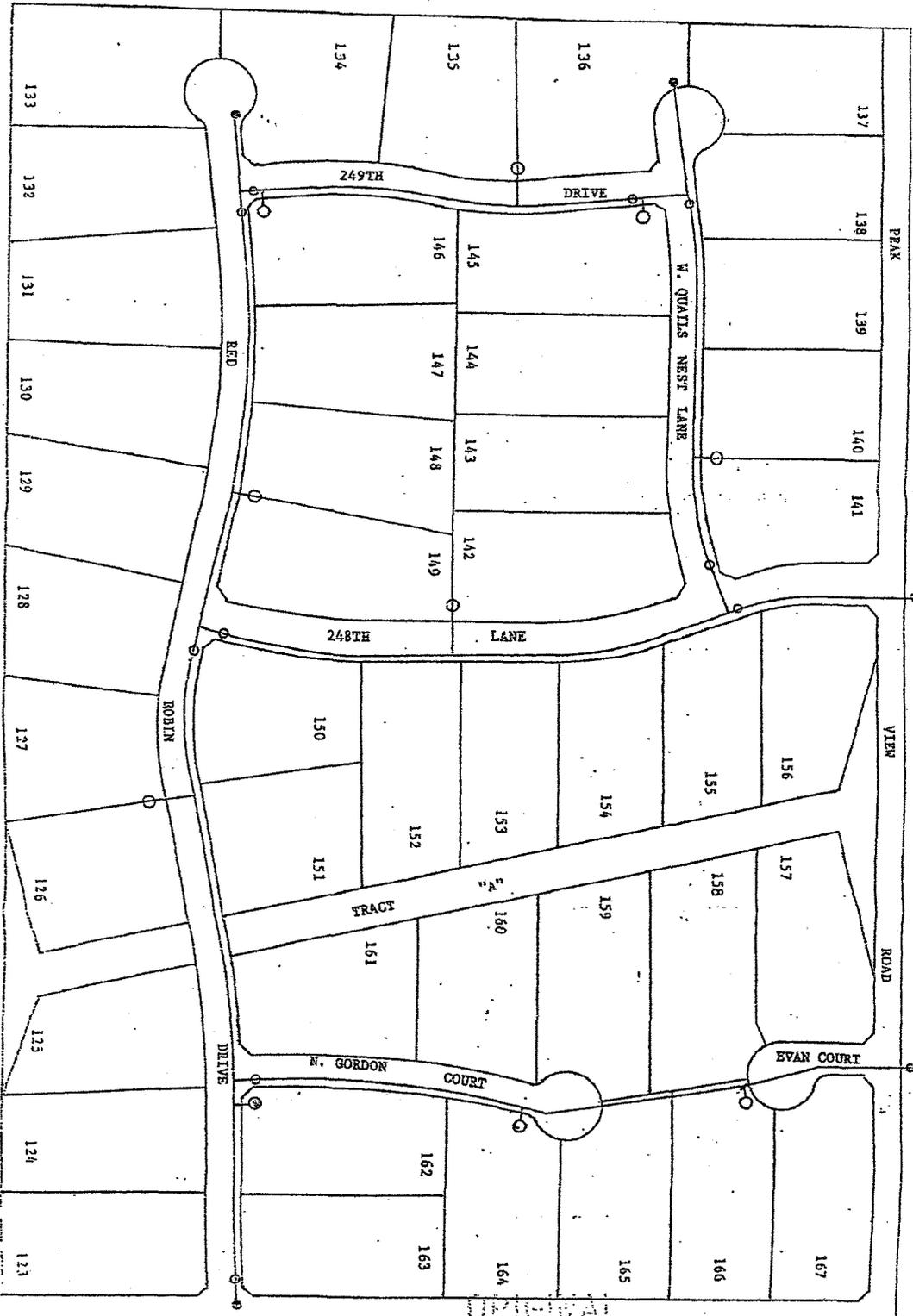
ORIGINAL

LEGEND:

- 5" PVC (GOD) WATER LINE
- FIRE HYDRANT
- 8" VALVE
- 8" x 2" BHM OPV ASSEMBLY



SCALE: 1" = 150'



DALTON PLACE ESTATES UNIT 4

EXHIBIT "A"

Date: October 28, 2003  
Applicant: Patton Place Estates Unit 4

EXHIBIT B  
APPLICANTS COST

The estimated Applicants cost is set forth below:

<u>UNITS</u>	<u>DESCRIPTION</u>	<u>UNIT COST</u>	<u>EXTENSION</u>
5,255 l/f	8" PVC C-900	\$20.00/Ft	\$105,100.00
10 Each	8" Valve Including valve box & Cover	\$750.00	\$7,500.00
10 Each	6" Fire Hydrant with valve & fittings	\$1,850.00	\$18,500.00
5 Each	8"x 8" Tee	\$350.00	\$1,750.00
4 Each	45 Bend	\$350.00	\$1,400.00
45 Each	3/4" Water Service	\$400.00	\$18,000.00
4 Each	Blowoff Assembly	\$450.00	1,800.00
1 Only	15,000 gallon ground storage tank	\$18,000.00	\$18,000.00
	Total Estimated Cost		<u>\$172,050.00</u>

ORIGINAL

EXHIBIT 'D'

**MAIN EXTENSION AGREEMENT**  
**WATER FACILITIES**

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This Agreement is entered into in Apache Junction, Arizona on this 25th day of March, 2005 by and between Peak View Ranch, LLC, Unit 1, hereinafter referred to as Applicant and Beardsley Water Company, an Arizona Corporation, hereinafter referred to as Utility.

- 1) Applicant is the owner of said subdivision as set forth in Exhibit A, a copy of which is attached hereto and made a part hereof and hereinafter referred to as Property.
- 2) Applicant intends to develop said Property as set forth in Exhibit A and will require domestic water.
- 3) Applicant and Utility agree that said Property lies within the Certificate of Convenience and Necessity of Utility and therefore Utility is obligated to provide said domestic water service in accordance with the rules and regulations of the Arizona Corporation Commission (ACC).

**AGREEMENT**

NOW THEREFORE, In consideration of the terms and conditions set forth below, the parties hereto agree:

- 1) Applicant shall cause the proposed domestic water system to be designed, constructed, and installed as necessary to provide an adequate supply of domestic water to Applicants property as described in Exhibit A. Said water system shall include all necessary water facilities including but not limited to mains, fittings, fire hydrants, service lines, meter assemblies, meters, storage, wells, pumping facilities and required water testing.
- 2) Applicant shall be responsible for all costs associated with the construction of the domestic water system including engineering, inspection, administration, permits, easements, labor, material, equipment, transportation, insurance and bonds if applicable.
- 3) Applicants cost, as set forth in Exhibit B, a copy of which is attached hereto and made a part hereof, shall be subject to refund in accordance with the rules and regulations of the ACC and further described in Section 16 of this Agreement.
- 4) Applicant shall cause the domestic water system to be designed and constructed with sufficient capacity to serve the needs of the Property, including fire protection.
- 5) Applicant may be required by Utility to provide "oversizing" in Applicants design and construction to benefit the needs of Utility. If oversizing is required by Utility, the Utility shall be obligated to pay those costs applicable to the oversized facilities. Said payment shall be based on materials costs only and shall not include any costs for labor, equipment, transportation, engineering, permits, disinfection, testing or any other costs not applicable in the sole discretion of Utility. Over sizing costs are set forth in Exhibit C, a copy of which is attached hereto and made a part hereof.

COPY  
~~ORIGINAL~~

6) Applicant shall obtain all applicable permits, including zoning and other necessary permits which may be required prior to construction of the domestic water system. All domestic water system facilities shall be constructed in accordance with the plans and specifications as prepared by Applicants engineer and reviewed by Utilities engineer and approved by Utility in writing. All domestic water system facilities shall be constructed in accordance with the rules and regulations of the ACC and the Arizona Department of Environmental Quality and the requirements of all other municipal and governmental agencies having jurisdiction.

7) Applicant shall comply with Utilities requirements for inspection and testing of the domestic water facilities constructed under this Agreement. Applicant shall provide Utility adequate notice when facilities under construction are ready for inspection and/or testing. Utility shall provide said inspection within five working days of being so noticed.

8) Utility shall provide Applicant written notice of any deficiencies discovered during said inspection within ten working days of said inspection. Utility reserves the right to withhold acceptance of the facilities unless said facilities have been constructed in accordance with the requirements set forth herein.

9) Applicant herewith agrees to diligently pursue and promptly correct all deficiencies in construction, materials and workmanship as noted in Utilities written notice of deficiencies.

10) Applicant agrees to promptly correct all defects and deficiencies in construction, materials and workmanship upon request by Utility and for one year following Utility's acceptance of the facilities at Applicants sole cost. It is understood that inspection and/or acceptance by Utility in no way relieves or limits Applicant of any responsibility and liability for construction and installation of the facilities in accordance with the terms of this Agreement.

11) The domestic water system facilities and all parts thereof, upon acceptance by Utility as provided herein, shall become and remain the sole property of Utility without the requirements of any written document of transfer to Utility. However, Applicant shall furnish such documents pertaining to ownership and title as Utility may reasonably request to evidence or confirm transfer of possession and title to Utility free and clear of liens, or containing provision for satisfaction of lien claims by Applicant, acceptable to Utility. Applicant shall repair or cause to be repaired promptly, at no cost to Utility, all damages to the facilities caused by construction operations until all construction within the Property is complete whether caused by Applicant or not.

12) Applicant shall convey or cause to be conveyed to Utility by Warranty Deed free and clear title to the land upon which any well and/or storage facility pertinent to the provision of domestic water service is required. Any other lands applicable to and

necessary for the provision of domestic water service as set forth on Applicants plans and specifications shall also be conveyed to Utility. Said lands are described on Exhibit D, a copy of which is attached hereto and made a part hereof.

13) Applicant shall, at no cost to Utility, grant or cause to be granted to Utility, perpetual right-of-ways and easements in a form acceptable to Utility for the facilities and future attachments to the facilities including but not limited to water mains and access to the production and storage sites. If any rights-of-way or easements are required by Utility for attachments to developments other than Applicant's development, Utility and Applicant shall mutually agree on an acceptable location for such easement or rights-of-way.

14) Applicant shall, within 30 days following acceptance by Utility of facilities, furnish Utility with the following described original documents:

- a) Copies of all invoices and billings and other statements of expenses incurred by Applicant for the construction of the domestic water system.
- b) Releases and waivers from contractors, sub-contractors and vendors for materials, equipment, supplies, labor and other costs of construction of said facilities.

15) Utility will provide domestic water service to the Property in accordance with the rates, charges and conditions set forth in the tariffs of Utility as filed with the ACC and in effect from time to time. It is agreed that domestic water service to each and every dwelling unit within the Property will be metered accordingly. Applicant acknowledges and agrees that Utility has the right to and may in the future; connect the domestic water facilities to Utility's existing and/or future domestic water system.

16) The cost of construction and installation of facilities as evidenced by invoices furnished to Utility pursuant to Section 14 shall be advances in aid of construction subject to refund by Utility to Applicant. Utility shall make refunds annually to Applicant on or before August 31 for the preceding July 1 through June 30 period. The amount to be refunded annually shall be ten percent (10%) of the revenues (excluding sales taxes and all District, Municipal, County, State or federally imposed regulatory assessments) derived from the provision of metered domestic water service to the Property. Refunds shall be payable for a period of ten (10) years from the date metered domestic water service is initiated to the Property. In no event shall the refunds paid to Applicant exceed the amount of the advance in aid of construction. Any balance remaining at the end of the ten (10) year period shall become non-refundable. No interest shall be paid on any amount(s) advanced.

17) Applicant will furnish Utility with appropriate certificates of insurance; each containing a thirty (30) day cancellation clause, stating collectively that Applicant or its

contractors and subcontractors has the following insurance coverage during the period of construction hereunder.

- a) Workman's Compensation Insurance in the amounts required by the laws of the state of Arizona.
- b) Comprehensive General Liability Insurance including Products/Completed operations, with limits not less than Two Million Dollars (\$2,000,000.00) combined single limit for bodily injury (including death) and property damage.

18) Applicant hereby assumes the full and entire responsibility and liability for any and all incidents of injury or death of any person, or loss or damage to any property contributed to or caused by the active or passive negligence of Applicant, its agents, servants, employees, contractors or subcontractors arising out of or in connection with the construction of the domestic water facilities prior to Utility's acceptance as set forth herein. Accordingly, Applicant will indemnify and hold harmless Utility, its officers, directors, agents and employees from and against claims or expenses, including penalties and assessments, and attorneys' fees to which they or any of them may be subjected by reason of such injury, death, loss, claim, penalty assessment of damage, and in case of any suit or other proceeding shall be brought on account thereof, Applicant will assume the defense at Applicants own expense and will pay all judgements rendered therein.

19) Applicant shall furnish Utility within sixty (60) days after completion of construction "As-Built" drawings certified as to correctness by an engineer registered in the State of Arizona showing the location and respective sizes of all supply, transmission, production, storage, pumping facilities, and distribution facilities up to the curb valve of service connections to all dwelling units and/or structures served by the domestic water system. Said "As-Built" drawings shall be on 4 mil mylar.

20) Applicant shall cause any Department of Real Estate Subdivision reports issued regarding the Property, clearly to state that water services are to be provided by Utility and that Utility shall own all facilities utilized in providing said services, other than the service connections from the meter to the dwelling unit premises.

21) The failure of either party hereto to enforce any of the provisions of this Agreement or the waiver thereof any instance shall not be construed as a general waiver or relinquishment on its part of any such provision but the same shall, nevertheless, be and remain in full force and effect.

22) Communications hereunder shall be sent to the respective parties, addressed as follows:

APPLICANT: Peak View Ranch, LLC, Unit 1  
7119 E. Shea Boulevard  
Suite 109 PMB 237  
Scottsdale, AZ 85254

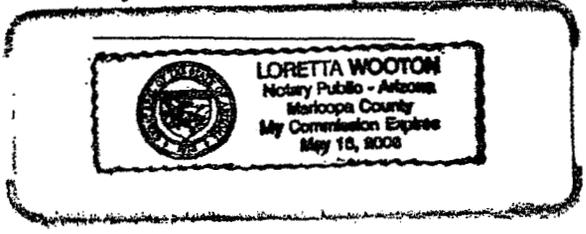


STATE OF ARIZONA       )  
                                          ) SS  
County of Maricopa       )

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of May  
2008, by Donald Sears known to me to be the \_\_\_\_\_ of \_\_\_\_\_  
and authorized by said corporation to make this  
acknowledgement on its behalf.

By: Loretta Wootton  
Notary Public

My Commission Expires



Date: March 25, 2005  
 Applicant: Peak View Ranch, LLC, Unit 1

EXHIBIT B

APPLICANTS COST

The estimated Applicants cost is set forth below:

UNITS	DESCRIPTION	UNIT COST	EXTENSION
13,004 feet	8" PVC - C900 Waterline	\$15.00/ft	\$195,060.00 ✓
21 Each	8" Valve complete	\$750.00	\$15,750.00
26 Each	6" Fire Hydrant complete	\$2,000.00	\$52,000.00
93 Each	3/4" Water Service	\$400.00	\$37,200.00
7 Each	2" Blow Off Assy	\$150.00	\$1,050.00
10 Each	8" x 8" Tee	\$25.00	\$250.00
2 Each	90 Bend	\$20.00	\$40.00
1 Only	8" Well per Specs.	\$35.00/FT	\$28,000.00 ✓ (12" ATC)
1 Only	60,000 Gallon Storage Tank	\$39,000.00	\$39,000.00 ✓
1 Only	4,000 Gallon Pressure Tank	\$4,000.00	\$4,000.00 ✓
1 Only	20 H.P. Submersible Pump	\$5,500.00	\$5,500.00
1 Only	4 Pump Booster Station Complete	\$35,900.00	\$35,900.00 ? (7 1/2 HP ATC)
As Req'd	Piping, Valving & Appurtenances	\$12,000.00	\$12,000.00
Sub-Total			\$425,750.00
Plan Review, Inspection & Administration			\$6,200.00
Total Estimated Cost			\$431,950.00

DATED: March 25, 2005

APPLICANT: Peak View Ranch, LLC, Unit 1

EXHIBIT D

LANDS CONVEYED BY APPLICANT TO UTILITY UNDER THIS AGREEMENT

---

Tract A of the Peak View Ranch Unit 1 located on the south east corner of Peak View Road and North 231<sup>st</sup> Avenue shall be conveyed to Utility at such time as the facilities are acceptable for continuous operation and maintenance.

EXHIBIT 'E'

Patton Place units 1-4

	YEAR	Refund Amount	Amount Paid	Balance
1	12/03-06/04	1,835.68	1,835.68	0.00
2	07/04-06/05	5,954.28	7,558.62	-1,604.34
3	07/05-06/06	9,254.24	9,319.82	-65.58
4	07/06-06/07	11,129.88	13,403.52	-2,273.64
5	07/07-06-08	12,262.02	0.00	12,262.02
6	07/08-06-09	11,636.87	0.00	11,636.87
7	07/09-06/10	12,370.47	0.00	12,370.47
8	07/10-06/11	11,431.27	0.00	11,431.27
9	07/11-06/12	11,264.46	0.00	11,264.46
10	07/12-06/13			0.00
				55,021.53

Peakview

	YEAR	Amount Billed	Amount Paid	Balance
1	08/05-06-06	1,726.37	3,605.25	-1,878.88
2	07/06-06-07	3,766.39	5,055.49	-1,289.10
3	07/07-06-08	4,956.15	0.00	4,956.15
4	07/08-06-09	4,475.90	0.00	4,475.90
5	07/09-06/10	5,509.56	0.00	5,509.56
6	07/10-06/11	5,626.16	0.00	5,626.16
7	07/11-06/12	5,587.06	0.00	5,587.06
8	07/12-06/13		0.00	0.00
9	07/13-09-14		0.00	0.00
10	07/14-09/15		0.00	0.00
				22,986.85

Preliminary - for Review Purposes Only  
 Subject to Change Upon Review

EXHIBIT 'F'

**BRYAN CAVE**

Stanley B. Lutz  
Direct: 602 364 7003  
sblutz@bryancave.com

December 5, 2008

Gordon Pekrul  
Manager  
Patton Place, L.L.C.  
7127 E. Shea Boulevard  
Suite 109-226  
Scottsdale, AZ 85254

Re: Patton Place Estates and Peak View Ranch Main Extension Agreements

Dear Mr. Pekrul:

We represent Beardsley Water Company. We have been asked to respond to your letter dated November 13, 2008. We understand that there may be one or more competing parties claiming an interest in the Main Extension Agreements related to Patton Place Estates and/or Peak View Ranch. As a result, we are concerned that Patton Place, L.L.C.'s interest in those agreements has been assigned or transferred by foreclosure or bankruptcy to lenders or a successor entity. Prior to releasing funds, Beardsley will require legal assurances, in the form of an indemnification agreement and/or guarantee, that your company has not assigned or otherwise transferred its interest in the relevant Main Extension Agreements to a third-party.

In addition, we understand that there are numerous deficiencies related to your company's performance under the Main Extension Agreements that need to be addressed prior to any release of funds. With respect to Patton Place, we understand that your company has not provided as-built drawings for Units One, Two and Four of the development as required by Section 19 of the agreement. Similarly, no copies of paid invoices, as required by Section 14 of the agreement, have been received with respect to Units Three and Four. With respect to Peak View Ranch, we understand that no as-built drawings or copies of paid invoices have been provided with respect to Unit One.

Finally, we note that any payment to Patton Place, L.L.C. must be offset to reflect the outstanding bills for water service to the model homes in Peak View Ranch and Patton Place Estates in the amount of \$811.47 and the costs of installing meters at Patton Place Units Three and Four and Peak View Ranch. Those costs are still being calculated, but we estimate they will be between four and five thousand dollars.

**Bryan Cave LLP**  
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Two North Central Avenue  
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Phoenix, AZ 85004-4406  
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Irvine  
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St. Louis

Gordon Pekrul  
December 5, 2008  
Page 2

Bryan Cave LLP

If you have any questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to be 'SBL', written over the printed name 'Stanley B. Lutz'.

Stanley B. Lutz

SBL:if

cc: Ted Wilkinson

EXHIBIT 'G'

Beardsley

December 29, 2008

Bryan Cave LLP  
2 North Central Avenue  
Suite 2200  
Phoenix, AZ 85004-4408

Dear Mr. Lutz,

I am responding to your letter dated December 5, 2008.

Your claim that there may be competing parties to the claim of an interest in the Main Extension Agreement is true. The Main Extension Agreements were sold and transferred to 223 Wittman, LLC in November of 2006. Funds may go directly to them, or we will accept payment and transfer funds to them.

Your claim of Beardsley Water not receiving As Built Drawings and copies of paid invoices is totally without merit. They have received these items more than once. Apparently they cannot keep track of them. It is ridiculous to bring this up years later. Beardsley Water has been sending yearly checks in the past and they would have not done so if they didn't have these items. There are people who will sign affidavits that they personally delivered these documents more than once to both parties involved.

Your claim of Patton Place LLC and Peak View Ranch LLC owing monies for model homes is totally confusing. Neither Patton Place LLC nor Peak View Ranch LLC has ever owned the model homes spoken of. The model homes have nothing to do with the Main Extension Agreements. It is not the responsibility of Patton Place LLC or Peak View Ranch LLC to pay for Model Home bills that belong to someone else.

Your last claim of Patton Place LLC owing for water meters is the same as your last claim. Patton Place LLC did not own those lots nor did it order and agree to pay for those meters. That was owed by the builder of those homes.

I expect an accounting by Beardsley Water and a check in our hands immediately.

Regards,



Gordon Pekrut

EXHIBIT 'H'

TWO NORTH CENTRAL AVENUE, SUITE 2200  
PHOENIX, ARIZONA 85004-4406  
(602) 364-7000

1 COMMISSIONERS

- 2 BOB STUMP
- 3     Chairman
- 4 GARY PIERCE
- 5     Commissioner
- 6 BRENDA BURNS
- 7     Commissioner
- 8 BOB BURNS
- 9     Commissioner
- 10 SUSAN BITTER SMITH
- 11     Commissioner

10                   **BEFORE THE ARIZONA CORPORATION COMMISSION**

12 IN THE MATTER OF THE APPLICATION  
13 OF BEARDSLEY WATER COMPANY,  
14 INC. FOR COMMISSION DIRECTION  
15 REGARDING DISBURSEMENT OF  
16 CERTAIN REFUNDABLE PAYMENTS.

DOCKET NO. W- \_\_\_\_\_  
**APPLICATION FOR  
DETERMINATION REGARDING  
DISBURSEMENT OF CERTAIN  
REFUNDABLE PAYMENTS**

18           Applicant Beardsley Water Company, Inc. (“Beardsley” or the “Company”) hereby  
19 requests that the Arizona Corporation Commission (“Commission”) determine the proper  
20 payee for certain mainline extension monies currently held by Beardsley.

21 **I.     UNDERLYING FACTS.**

22           On or about May 9, 2012, Mr. Gordon Pekrul filed a complaint, No. 2012 103651,  
23 against Beardsley. In that complaint, Mr. Pekrul alleged that Beardsley had not properly  
24 refunded certain mainline extension refunds to Patton Place, L.L.C. and Peak View Ranch,  
25 L.L.C., entities in which Mr. Pekrul had some interest. Because Mr. Pekrul previously  
26 informed Beardsley that Patton Place, L.L.C.’s and Peak View Ranch, L.L.C.’s interests in  
27 the mainline extension agreements had been transferred to a third-party, and because  
28 Beardsley had also been informed that one or more of Mr. Pekrul’s entities had been

1 forced into bankruptcy, Beardsley has not provided those funds to Mr. Pekarul (or his  
2 companies), but has instead held them and requested additional information that would  
3 allow it to determine which entity should receive the refunds in question. Because Mr.  
4 Pekarul has never provided that information, Beardsley now asks the Commission to  
5 determine to whom the outstanding refund amounts (less any applicable offsets) as well as  
6 future mainline extension refunds should be properly paid.

7 Mr. Pekarul was a principal, investor or manager of several entities, including R.J.  
8 Springer Construction, L.L.C., Patton Place, L.L.C. and Peak View Ranch, L.L.C. Patton  
9 Place Estates and Peak View Ranch are subdivisions located within the geographic  
10 boundaries of Beardsley's existing Certificate of Convenience & Necessity that were  
11 developed by R.J. Springer Construction. Beginning in late 2002 and continuing through  
12 2005, Mr. Pekarul's companies requested that Beardsley provide water service to new  
13 homes that were to be constructed in the subdivisions. Beardsley entered into multiple  
14 mainline extension agreements with the respective corporate entities developing each  
15 phase of the Patton Place Estates and Peak View Ranch subdivisions. A copy of the  
16 relevant mainline extension agreements, which were approved by the Commission, are  
17 attached as Exhibits A (Patton Place Estates Units 1-5) and B (Peak View Ranch Unit 1).

18 In or about 2003, Beardsley began providing water service to Patton Place Estates  
19 Units 1 and 2. Later, Beardsley began providing water service to the remaining units.  
20 Pursuant to the attached mainline extension agreements, the developers were to construct  
21 the water systems for the subdivisions and then provide certain documentation to  
22 Beardsley, including as-built drawings and invoices supporting actual construction costs.  
23 The developers failed to provide much of this material. In addition, the developers failed  
24 to obtain necessary approvals from the Maricopa County Department of Environmental  
25 Quality, resulting in Beardsley being forced to resolve numerous issues with the County  
26 prior to and shortly after assuming operation of the systems. For example, Beardsley was  
27 forced to disinfect portions of the Patton Place Estates Unit 5 system and obtain the  
28 necessary permits from the County at a cost of \$7,172.00.

1 The developer of that unit also failed to pay several contractors that had provided  
2 labor or material for work on the infrastructure. As a condition of accepting Patton Place  
3 Estates Unit 5, Beardsley required the developer to correct the most glaring of these issues.  
4 A copy of the letter with R.J. Springer Construction memorializing that agreement is  
5 attached as Exhibit C. Unfortunately, R.J. Springer Construction failed to meet its  
6 obligations and has not paid its contractors and Beardsley \$39,166.99 for work required  
7 under that agreement. In addition, the developers asked Beardsley to install several meters  
8 to supply water to model homes in the subdivisions. Under the agreements in place, the  
9 developers were required to pay Beardsley for the cost of meter installation and for water  
10 supplied to those model homes. The developers still have not paid those costs of  
11 \$2,194.14.

12 In accordance with the various mainline extension agreements, Beardsley began to  
13 refund 10% of its sales to the developers of the various phases. After that refund process  
14 began, however, Beardsley was informed by customers that the developers had  
15 experienced severe financial difficulties and had assigned their interests in the  
16 developments (and agreements) to an unknown third-party. In December 2008, Mr. Pekrul  
17 wrote Beardsley to inquire as to the status of the annual refund payment. Beardsley  
18 questioned whether the refunds should be sent to Mr. Pekrul or his companies. A copy of  
19 counsel's letter to Mr. Pekrul is attached as Exhibit D. Mr. Pekrul confirmed that the  
20 mainline extension agreements in question had been sold and assigned by the developers to  
21 a third-party, 223 Wittman, LLC. A copy of Mr. Pekrul's letter concerning this  
22 assignment is attached as Exhibit E. From its corporate filings, Mr. Pekrul appears to have  
23 no interest in 223 Wittman, LLC.

24 Following receipt of Mr. Pekrul's December 29, 2008 letter, Beardsley requested  
25 additional information concerning the purported assignment. That information was never  
26 provided. While Mr. Pekrul offered to accept the payments on behalf of 223 Wittman,  
27 LLC, Beardsley could not make payment to Mr. Pekrul without assurances that 223  
28 Wittman, LLC was the proper entity to receive the payments, and that Mr. Pekrul would

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PHOENIX, ARIZONA 85004-4406  
(602) 364-7000

1 actually provide the payments to 223 Wittman, LLC. Because Mr. Pekrul had confirmed  
2 that his companies had no remaining interest in the mainline extension agreements in  
3 question, Beardsley could not make payments to Mr. Pekrul. Beardsley subsequently  
4 learned that Mr. Pekrul's companies had been administratively dissolved or forced into an  
5 involuntary bankruptcy. Beardsley never received notice of that bankruptcy, and was  
6 unable to locate the case on the bankruptcy docket. Rather than pay the wrong entity and  
7 risk claims by a bankruptcy trustee or another entity, Beardsley has tracked and maintained  
8 the amounts due under the mainline extension agreements in question and is prepared to  
9 distribute those amounts (less any offset for the amounts that should have been paid by  
10 Mr. Pekrul's companies) to the entity the Commission deems proper, upon receipt of  
11 adequate assurances that it will not face a competing claim or action by the bankruptcy  
12 trustee.

13 **II. CONCLUSION.**

14 Accordingly, Beardsley requests that the Commission:

- 15 (1) require Beardsley to provide notice to all parties that may have interest in the  
16 mainline extension refunds in question; and  
17 (2) conduct a hearing to determine which entity (or individual) should receive the  
18 funds in question; and  
19 (3) order Beardsley to pay those funds, less any offsets demonstrated at the hearing,  
20 to the entity or individual deemed appropriate by the Commission.

21 RESPECTFULLY SUBMITTED this 19th day of April, 2013.

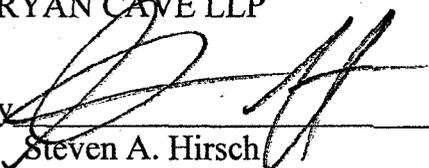
22 BRYAN CAVE LLP  
23  
24 By   
25 Steven A. Hirsch  
26 Stanley B. Lutz  
27 Two N. Central Avenue, Suite 2200  
28 Phoenix, AZ 85004-4406  
Attorneys for Beardsley Water Company, Inc.

EXHIBIT 'I'

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

BOB STUMP - Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

IN THE MATTER OF THE APPLICATION OF  
BEARDSLEY WATER COMPANY, INC. FOR  
COMMISSION DIRECTION REGARDING  
DISBURSEMENT OF CERTAIN REFUNDABLE  
PAYMENTS.

DOCKET NO. W-02074A-13-0110

PROCEDURAL ORDER

**BY THE COMMISSION:**

On April 19, 2013, Beardsley Water Company, Inc. ("BWCI") filed with the Arizona Corporation Commission ("Commission") an application requesting that the Commission determine the proper payee for certain mainline extension monies currently held by BWCI. BWCI request, among other things, that the Commission conduct a hearing to determine which entity should receive the funds in question.

A procedural conference should be held to determine the appropriate procedural schedule for this matter. Further, the Commission's Utilities Division ("Staff") should be directed to participate in the procedural conference.

IT IS THEREFORE ORDERED that a procedural conference, to determine the appropriate procedural schedule for this matter, shall be held on May 22, at 10:00 a.m., or as soon thereafter as is practicable, at the Commission's offices, 1200 West Washington Street., Hearing Room No. 2, Phoenix, Arizona.

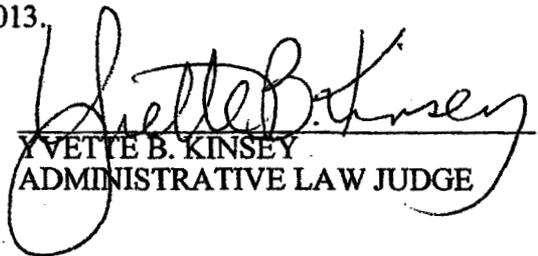
IT IS FURTHER ORDERED that Staff is hereby directed to appear for the procedural conference.

IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules 31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

1 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
2 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona  
3 Supreme Court Rule 42). Representation before the Commission includes the obligation to appear at  
4 all hearings, procedural conferences, and Open Meetings for which the matter is scheduled for  
5 discussion, unless counsel has previously been granted permission to withdraw by the Administrative  
6 Law Judge or Commission.

7 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,  
8 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
9 hearing.

10 DATED this 6<sup>th</sup> day of May, 2013.

  
YVETTE B. KINSEY  
ADMINISTRATIVE LAW JUDGE

11  
12  
13  
14 Copies of the foregoing mailed/delivered  
This 6<sup>th</sup> day of May, 2013 to:

15 Steve A. Hirsch  
16 Stanley B. Lutz  
17 BRYAN CAVE LLP  
18 Two N. Central Ave., Suite 2200  
19 Phoenix, AZ 85004-4406  
20 Attorneys for Beardsley Water Co., Inc.

21 Janice Alward, Chief Counsel  
22 Legal Division  
23 ARIZONA CORPORATION COMMISSION  
24 1200 West Washington Street  
25 Phoenix, AZ 85007

26 Steven M. Olea, Director  
27 Utilities Division  
28 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007

ARIZONA REPORTING SERVICE, INC.  
2200 N. Central Ave., Suite 502  
Phoenix, AZ 85004-1481

26 By:   
27 Tammy Velarde  
28 Assistant to Yvette B. Kinsey

EXHIBIT  
GROUP 'J'

1 **COMMISSIONERS**

2 **BOB STUMP**

3 Chairman

4 **GARY PIERCE**

5 Commissioner

6 **BRENDA BURNS**

7 Commissioner

8 **BOB BURNS**

9 Commissioner

10 **SUSAN BITTER SMITH**

11 Commissioner

12 **BEFORE THE ARIZONA CORPORATION COMMISSION**

13 **IN THE MATTER OF THE APPLICATION**  
14 **OF BEARDSLEY WATER COMPANY,**  
15 **INC. FOR COMMISSION DIRECTION**  
16 **REGARDIING DISBURSEMENT OF**  
17 **CERTAIN REFUNDABLE PAYMENTS.**

DOCKET NO. W-02074A-13-0110

**AFFIDAVIT OF GORDON**  
**PEKRUL**

18 **STATE OF ARIZONA )**

) ss

19 **COUNTY OF MARICOPA )**

20 Gordon Pekrul, being duly sworn, deposes and states as follows:

21 1. I represent to the Arizona Corporation Commission ("Commission") and  
22 Beardsley Water Company ("Beardsley") that I am the duly authorized manager and sole  
23 and controlling member of Peak View Ranch, L.L.C. and Patton Place, L.L.C. As such, I  
24 have personal knowledge of the facts contained in this affidavit and the authority to enter  
25 into binding agreements on behalf of both entities.

26 2. Patton Place, L.L.C. is an Arizona limited liability company in good standing  
27 with the Arizona Corporation Commission.

28 3. Peak View Ranch, L.L.C. is an Arizona limited liability company in good  
standing with the Arizona Corporation Commission.

4. On or about February 7, 2002, Patton Place, L.L.C. entered into a main  
extension agreement with Beardsley relating to the construction of the water infrastructure

1 necessary to serve Patton Place Estates Units 1 and 2. A true and correct copy of that  
2 agreement is attached as Exhibit A.

3 5. On or about October 30, 2003, Patton Place, L.L.C. entered into a main  
4 extension agreement with Beardsley relating to the construction of the water infrastructure  
5 necessary to serve Patton Place Estates Unit 3. That agreement, however, was erroneously  
6 executed in the name of Patton Place Unit 3. That agreement should be amended to reflect  
7 Patton Place, L.L.C. as the signatory to the agreement. A true and correct copy of that  
8 agreement is attached as Exhibit B.

9 6. On or about November 4, 2003, Patton Place, L.L.C. entered into a main  
10 extension agreement with Beardsley relating to the construction of the water infrastructure  
11 necessary to serve Patton Place Estates Unit 4. That agreement, however, was erroneously  
12 executed in the name of Patton Place Unit 4. That agreement should be amended to reflect  
13 Patton Place, L.L.C. as the signatory to the agreement. A true and correct copy of that  
14 agreement is attached as Exhibit C.

15 7. While Patton Place Estates Unit 5, L.L.C. purportedly signed a main  
16 extension agreement with Beardsley relating to Patton Place Estates Unit 5, neither Patton  
17 Place, L.L.C. nor any other entity that I control, manage or am a member or shareholder of  
18 has any interest in that main extension agreement.

19 8. On or about March 25, 2005, Peak View Ranch, L.L.C. entered into a main  
20 extension agreement with Beardsley relating to the construction of the water infrastructure  
21 necessary to serve the Peak View Ranch development. A true and correct copy of that  
22 agreement is attached as Exhibit D.

23 9. While I informed Beardsley on or about December 29, 2008 that Patton  
24 Place, L.L.C.'s and Peak View Ranch, L.L.C.'s respective interests in the attached main  
25 extension agreements had been assigned to 223 Wittman, L.L.C., no such assignment  
26 actually occurred. I represent to the Commission and Beardsley that 223 Wittman, L.L.C.  
27 has no interest in any of the refund amounts due under the attached main extension  
28 agreements.

10 10. Since execution of the attached main extension agreements, neither Patton  
11 Place, L.L.C. nor Peak View Ranch, L.L.C. has sought bankruptcy protection or been  
12 placed into an involuntary bankruptcy proceeding. No bankruptcy trustee has been  
13 appointed with respect to either Patton Place, L.L.C. or Peak View Ranch, L.L.C., and no  
14 bankruptcy trustee has any interest in any of the refund amounts due under the respective  
15 main extension agreements. No other creditor of Patton Place, L.L.C. or Peak View  
16 Ranch, L.L.C. or any other entity that I control, manage or am a member or shareholder of  
17 has any interest in any of the refund amounts due under the respective main extension  
18 agreements.

19 11. I represent and affirm that Patton Place, L.L.C. and Peak View Ranch,  
20 L.L.C. are the sole and proper recipients of all refund amounts due under their respective

1 main extension agreements with Beardsley. No other entity or individual has any interest  
2 in such sums. Payment of amounts due under the main extension agreements attached as  
3 Exhibits A, B, C and D may be duly delivered to me as manager and sole and controlling  
4 member of Patton Place, L.L.C. and Peak View Ranch, L.L.C, and such payment will  
5 satisfy Beardsley's obligations under such agreements.

6 EXECUTED this \_\_\_\_ day of June, 2013.

7 \_\_\_\_\_  
8 Gordon Pekrul

9 STATE OF ARIZONA )  
10 ) ss  
11 COUNTY OF MARICOPA )

12 On \_\_\_\_\_, 2013 before me, the undersigned, a Notary Public in and for  
13 said State, personally appeared Gordon Pekrul, personally known to me or proved to me on  
14 the basis of satisfactory evidence to be the person who executed the within instrument.

15 My Commission Expires:

16 \_\_\_\_\_  
17 Notary Public

Bryan Cave LLP  
Two North Central Avenue, Suite 2200  
Phoenix, Arizona 85004-4406  
(602) 364-7000

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”), dated July \_\_, 2013, is by and between Beardsley Water Company (“Beardsley”) and Patton Place, LLC and Peak View Ranch, LLC (“Patton Place” and “Peak View” respectively, collectively “Developers”).

### RECITALS

- A. On or about February 7, 2002, Patton Place entered into a main extension agreement with Beardsley relating to the construction of the water infrastructure necessary to serve Patton Place Estates Units 1 and 2. That agreement was subsequently approved by the Commission.
- B. On or about October 30, 2003, Patton Place entered into a main extension agreement with Beardsley relating to the construction of the water infrastructure necessary to serve Patton Place Estates Unit 3. That agreement, however, was erroneously executed in the name of “Patton Place Unit 3.” That agreement was subsequently approved by the Commission.
- C. On or about November 4, 2003, Patton Place entered into a main extension agreement with Beardsley relating to the construction of the water infrastructure necessary to serve Patton Place Estates Unit 4. That agreement, however, was erroneously executed in the name of “Patton Place Unit 4.” That agreement was subsequently approved by the Commission.
- D. On or about March 25, 2005, Peak View entered into a main extension agreement with Beardsley relating to the construction of the water infrastructure necessary to serve the Peak View Ranch development. That agreement was subsequently approved by the Commission.
- E. As noted in the application filed with the Arizona Corporation Commission (the “Commission”) on April 19, 2013 by Beardsley (Docket No. W-02074A-13-0110; the “Application”), Beardsley has been unable to ascertain the proper payee under the main extension agreements between Beardsley and Developers.
- F. On July \_\_, 2013, Mr. Gordon Pekrul, representing his capacity as manager and sole and controlling shareholder of Patton Place and Peak View, executed an affidavit addressing the issues raised in Beardsley’s Application. A copy of that affidavit is attached as Exhibit A.
- G. Beardsley has relied upon the averments and representations contained in Mr. Pekrul’s affidavit in entering into this Agreement.

- H. The parties desire to (1) amend the October 30, 2003 and November 4, 2003 main extension agreements to reflect the proper signatory, and (2) dispose of any controversies and disputes that may currently exist between them relating to or arising out of the main extension agreements between Beardsley and Developers.

### AGREEMENT

In consideration of mutual promises and agreements contained in this Agreement, including the recitals set forth above, the parties agree as follows:

1. The main extension agreement dated October 30, 2003, between Patton Place Estates Unit 3 and Beardsley ("October 30 Agreement"), is hereby amended to replace Patton Place Estates Unit 3 with Patton Place, L.L.C. as the signatory to that agreement. The October 30 Agreement and this paragraph 1 embody the entire agreement between the parties to the October 30 Agreement with regard to the subject matter of this amendment. Except as amended by paragraph 1 of this Agreement, the October 30 Agreement remains in full force and effect, subject only to Commission approval of such amended agreement.
2. The main extension agreement dated November 4, 2003, between Patton Place Estates Unit 4 and Beardsley ("November 4 Agreement"), is hereby amended to replace Patton Place Estates Unit 4 with Patton Place, L.L.C. as the signatory to that agreement. The November 4 Agreement and this paragraph 2 embody the entire agreement between the parties to the November 4 Agreement with regard to the subject matter of this amendment. Except as amended by paragraph 2 of this Agreement, the November 4 Agreement remains in full force and effect, subject only to Commission approval of such amended agreement.
3. In consideration of the agreements and conditions set forth herein, Developers agree to release and forever discharge Beardsley and its predecessors, successors, parents, subsidiaries, shareholders, employees, affiliates, heirs, beneficiaries, representatives, agents, attorneys, and assigns from any and all claims, demands or suits, known or unknown, fixed or contingent, liquidated or unliquidated, whether presently asserted or not arising out of or related to the main extension agreements set forth in the recitals to this Agreement, except in regard to the right of the parties to enforce this Agreement. Developers further agree to indemnify, defend and hold harmless, to the fullest extent permitted by law, Beardsley, and its predecessors, successors, parents, subsidiaries, shareholders, employees, affiliates, heirs, beneficiaries, representatives, agents, attorneys, and assigns from any against any and all claims, debts, demands, damages (including direct, liquidated, consequential, incidental or otherwise), judgments, awards, losses, liabilities, interest, attorneys' fees, costs and expenses of whatsoever kind or nature related to or arising out of the representations made by Mr. Pekrul in the affidavit attached as Exhibit A to this Agreement or related to any payments made by Beardsley to Patton Place or Peak View pursuant to this Agreement.

4. The parties shall submit a stipulated proposed opinion and order, in the form attached as Exhibit B (the "Order"), to the Commission that (1) approves the amended main extension agreements between Beardsley and Patton Place pursuant to A.A.C. R14-2-406(M), and (2) based on Mr. Pekrul's representations recognizes Patton Place and Peak View Ranch as the proper payees under their respective main extension agreements with Beardsley.
5. Upon entry of the Order by the Commission, and conditioned upon the truth of Mr. Pekrul's representations regarding the absence of any competing claims for such sums, Beardsley agrees to pay Patton Place the sum of Fifty-five Thousand Twenty-one Dollars and Fifty-Three Cents (\$55,021.53) and Peak View Ranch the sum of Twenty-Two Thousand, Nine Hundred and Eighty-six Dollars and Eighty-five Cents (\$22,986.85).
6. Each party shall bear its own costs and attorneys' fees relating to any and all claims released as part of this Agreement.
7. The parties agree that they will execute any additional instruments and perform any acts which may be necessary to effectuate and carry out the purposes of this Agreement.
8. Each party hereby warrants and represents that it has consulted with legal counsel, of its choice, regarding the implications and effect of the Agreement and on advice of such counsel believes it is in their best interests to enter into the Agreement. Further, each signatory hereto warrants that he/she has the authority to bind the parties for whom such person acts, and that all claims, rights, and interests asserted are rightfully owned by the party asserting the claim, right, or interest, and no such claim, right or interest has been assigned, transferred or sold, except as expressly noted herein.
9. This Agreement shall be construed in accordance with the laws of the State of Arizona.
10. Should legal action become necessary to enforce this Agreement or any terms thereof, the prevailing party shall be awarded its reasonable attorneys' fees and all costs of litigation.
11. This Agreement may be executed in counterparts, all of which shall constitute the agreement of the parties.
12. This Agreement constitutes the entire understanding of the parties, and may only be amended by signed written consent of all parties.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Beardsley Water Company

By \_\_\_\_\_

Its \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Patton Place, L.L.C.

By \_\_\_\_\_

Its \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Peak View Ranch, L.L.C.

By \_\_\_\_\_

Its \_\_\_\_\_

1 **COMMISSIONERS**

2 BOB STUMP

3 Chairman

4 GARY PIERCE

5 Commissioner

6 BRENDA BURNS

7 Commissioner

8 BOB BURNS

9 Commissioner

10 SUSAN BITTER SMITH

11 Commissioner

12 **BEFORE THE ARIZONA CORPORATION COMMISSION**

13 IN THE MATTER OF THE APPLICATION  
14 OF BEARDSLEY WATER COMPANY,  
15 INC. FOR COMMISSION DIRECTION  
16 REGARDIING DISBURSEMENT OF  
17 CERTAIN REFUNDABLE PAYMENTS.

DOCKET NO. W-02074A-13-0110

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER**

18 **BY THE COMMISSION**

19 **I. BACKGROUND.**

20 1. Beardsley Water Company ("Beardsley") is a public service corporation  
21 engaged in the business of providing water utility service to the public in Maricopa  
22 County, Arizona.

23 2. On or about May 9, 2012, Mr. Gordon Pekrul filed a complaint, No. 2012  
24 103651, against Beardsley. In that complaint, Mr. Pekrul alleged that Beardsley had not  
25 properly refunded monies due to Patton Place, L.L.C. ("Patton Place") and Peak View  
26 Ranch, L.L.C. ("Peak View") pursuant to certain main extension agreements between  
27 Beardsley and Patton Place and Peak View, respectively.

28 3. Mr. Pekrul is the sole and controlling manager and member of Patton Place  
and Peak View.

1 4. After failing to obtain information it deemed necessary to evaluate Mr.  
2 Pekar's complaint, on or about April 19, 2013, Beardsley filed an Application seeking  
3 direction from the Commission as to the proper payee under the main extension  
4 agreements between Beardsley and Patton Place and Peak View, respectively.

5 5. Beardsley, Staff and Mr. Pekar, on behalf of Patton Place and Peak View,  
6 subsequently entered into discussions aimed at resolving the issues raised by Beardsley's  
7 Application.

8 6. On or about July \_\_, 2013, Mr. Pekar, representing his capacity as manager  
9 and sole and controlling member of Patton Place and Peak View, executed an affidavit  
10 averring and representing that Patton Place and Peak View were the corporate entities  
11 entitled to receive payments under the main extension agreements between Beardsley,  
12 Patton Place and Peak View. Mr. Pekar further averred and represented that there are no  
13 other persons or entities that have any interest in the funds due under those main extension  
14 agreements.

15 7. On or about July \_\_, 2013, Beardsley, Patton Place and Peak View executed  
16 a settlement agreement disposing of the controversies that existed between them.

17 8. Having considered the entire record herein and being fully advised in the  
18 premises, the Commission finds, concludes and orders that:

19 **FINDINGS OF FACT**

20 1. Patton Place Estates and Peak View Ranch are subdivisions located within  
21 the geographic boundaries of Beardsley's existing Certificate of Convenience & Necessity.

22 2. Beardsley is a public service corporation engaged in the business of  
23 providing water utility service to the public in Maricopa County, Arizona

24 3. Beginning in late 2002 and continuing through 2005, Patton Place and Peak  
25 View requested that Beardsley provide water service to new homes that were to be  
26 constructed in the Patton Place Estates and Peak View Ranch subdivisions. Beardsley  
27 entered into multiple main extension agreements with the respective corporate entities  
28 developing each phase of the Patton Place Estates and Peak View Ranch subdivisions.

1           4.     Those main extension agreements were approved by the Commission.

2           5.     In or about 2003, Beardsley began providing water service to Patton Place  
3 Estates Units 1 and 2. Later, Beardsley began providing water service to Patton Place  
4 Estate Units 3 and 4 and Peak View Ranch.

5           6.     In accordance with the various main extension agreements, Beardsley began  
6 to refund 10% of its sales to the developers of the various phases. After that refund  
7 process began, Beardsley was informed that Patton Place and Peak View had experienced  
8 severe financial difficulties and had assigned their interests in the developments (and  
9 agreements) to an unknown third party or parties.

10          7.     On or about December 29, 2008, Mr. Pekar informed Beardsley that the  
11 main extension agreements in question had been sold and assigned to a third party, 223  
12 Wittman, LLC.

13          8.     Following receipt of Mr. Pekar's December 29, 2008 letter, Beardsley  
14 requested additional information concerning the purported assignment. That information  
15 was not provided. Beardsley properly refused to make payment to 223 Wittman, LLC  
16 without assurances that 223 Wittman, LLC was the proper entity to receive such payments.  
17 Because Mr. Pekar had confirmed that Patton Place and Peak View had no remaining  
18 interest in the main extension agreements in question, Beardsley properly did not make  
19 payments to Patton Place or Peak View.

20          9.     Rather than pay the wrong entity and risk claims by a bankruptcy trustee or  
21 another entity, Beardsley has accounted for the amounts due under the main extension  
22 agreements in question and is prepared to distribute those amounts in accordance with the  
23 terms of this Order and the terms of the settlement agreement between the parties.

24          10.    Under the terms of that agreement, (1) the main extension agreement dated  
25 October 30, 2003, between Patton Place Estates Unit 3 and Beardsley is amended to  
26 replace Patton Place Estates Unit 3 with Patton Place, L.L.C. as the proper signatory to that  
27 agreement, (2) the main extension agreement dated November 4, 2003, between Patton  
28 Place Estates Unit 4 and Beardsley is amended to replace Patton Place Estates Unit 4 with

1 Patton Place, L.L.C. as the proper signatory to that agreement, and (3) Beardsley will pay  
2 Patton Place the amounts accounted for under the main extension agreements following  
3 entry of this Order.

4 **CONCLUSIONS OF LAW**

5 1. Beardsley Water Company is a public service corporation within the  
6 meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-  
7 285.

8 2. The Commission has jurisdiction over Beardsley Water Company and the  
9 subject matter of the Application.

10 3. Patton Place is the proper signatory to the main extension agreements related  
11 to Patton Place Estates Units 3 and 4, and those agreements should be amended to reflect  
12 Patton Place as signatory.

13 4. Based on the averments and representations contained in Mr. Pekrul's  
14 affidavit of July \_\_, 2013, Patton Place and Peak View are the corporate entities entitled to  
15 receive payment under the main extension agreements between Beardsley and Patton Place  
16 and Peak View, respectively.

17 **ORDER**

18 IT IS THEREFORE ORDERED that the amended main extension agreements  
19 between Patton Place, L.L.C. and Beardsley Water with respect to Units 3 and 4 of Patton  
20 Place Estates are approved pursuant to A.A.C. R14-2-406(M).

21 IT IS FURTHER ORDERED that, based upon the averments and representations  
22 made by Mr. Pekrul, Patton Place, L.L.C. and Peak View Ranch, L.L.C. are the corporate  
23 entities entitled to receive the main extension funds in question.

24 IT IS FURTHER ORDERED that upon payment of the sums due by Beardsley  
25 Water Company, Complaint No. 2012 103651 shall be closed, and Beardsley Water  
26 Company shall be considered in full compliance with its obligations under the main  
27 extension agreements at issue.

1 IT IS FURTHER ORDERED that this Decision shall become effective  
2 immediately.

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4 **BY ORDER OF THE ARIZONA CORPORATION COMMISSION**

5 [insert appropriate signature blocks]  
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EXHIBIT 'K'

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”), dated July \_\_\_\_, 2013, is by and between Beardsley Water Company (“Beardsley”) and Patton Place, L.L.C. and Peak View Ranch, L.L.C. (“Patton Place” and “Peak View” respectively, collectively “Developers”).

### RECITALS

- A. On or about February 7, 2002, Patton Place entered into a main extension agreement with Beardsley relating to the construction of the water infrastructure necessary to serve Patton Place Estates Units 1 and 2. That agreement was subsequently approved by the Commission.
- B. On or about October 30, 2003, Patton Place entered into a main extension agreement with Beardsley relating to the construction of the water infrastructure necessary to serve Patton Place Estates Unit 3. That agreement, however, was erroneously executed in the name of “Patton Place Unit 3.” That agreement was subsequently approved by the Commission.
- C. On or about November 4, 2003, Patton Place entered into a main extension agreement with Beardsley relating to the construction of the water infrastructure necessary to serve Patton Place Estates, Unit 4. That agreement, however, was erroneously executed in the name of “Patton Place Unit 4”. That agreement was subsequently approved by the Commission.
- D. On or about March 25, 2005, Peak View entered into a main extension agreement with Beardsley relating to the construction of the water infrastructure necessary to serve the Peak View Ranch development. That agreement was subsequently approved by the Commission.
- E. After making refund payments for several years, the refund payout that was due on or before August 30, 2008 was not paid nor any reason given, no correspondence at all was received from Beardsley. Mr. Pekrul wrote to Beardsley some months later, and Beardsley, knowing they did not make the scheduled agreed to payment, decided they had better hire a lawyer.
- F. Beardsley’s attorney, Mr. Lutz, filed with the Arizona Corporation Commission on April 19, 2013, an Application (Docket No. W-02074A-13-0110), claiming Beardsley has been unable to ascertain the proper payee under the main extension agreement. This application is nothing but an attempt to justify their breach of contract. Beardsley has known all along whom the payment is due too, the contract speaks for itself.

- G. Beardsley has been in violation of the agreement since at least 2008, and according to hook-ups that have not been properly accounted for, also in violation since 2003.
- H. The controversy is simple. Beardsley has violated the agreement. Beardsley has been unable to specify, where in the contract, they may withhold payments due, or make additional demands to suit their needs, or create a controversy where none exists.

## AGREEMENT

In consideration of mutual promises and agreements contained in this Agreement, including the recitals set forth above, the parties agree as follows:

1. The main extension agreement dated October 30, 2003, between Patton Place Estates Unit 3 and Beardsley, is hereby amended to replace Patton Place Estates Unit 3 with Patton Place, L.L.C. as the signatory to the agreement; this is the only change to this agreement, the agreement stands as originally written.
2. The main extension agreement dated November 4, 2003, between Patton Place Estates Unit 4 and Beardsley, is hereby amended to replace Patton Place Estates Unit 4 with Patton Place, L.L.C. as the signatory to the agreement, this is the only change to this agreement, and everything else remains the same.
3. The parties shall submit a stipulated proposed order, in the form attached as Exhibit B, to the commission that approves the amended main extension agreements between Beardsley and Patton Place L.L.C.
4. Beardsley admits that it is violation of the agreement, as follows: (1) Beardsley has failed to make refund payment to Patton Place, L.L.C., starting in 2003, per the agreement. (2) Beardsley has failed to make refund payment to Peak View Ranch, L.L.C., starting in 2005, per the agreement. (3) Beardsley has failed to make refund payments to Patton Place, L.L.C. and Peak View Ranch, L.L.C. since 2008, per the agreement. (4) Beardsley has had the use of these funds for years and needs to make minimal interest payment of 6% per annum, for the use of these funds, as they have not been set aside, but have been in the hands of Beardsley, for their use.
5. Beardsley does not have a complete and accurate accounting to produce, therefore, as to Patton Place, L.L.C. for years 2004, 2005, 2006, 2007, the offered estimate of accounting is to be set aside until accurate accounting can be done. As for the years of 2008, 2009, 2010, 2011, a payment of \$58,965.09 is due immediately, plus interest. Beardsley shall complete the proper accounting starting in the year of the agreed first payment due in 2003. After an accurate accounting, any adjustments to payouts shall be made prior to the payment due in 2013, but no later than the scheduled payment due date of August 30, 2013.

6. Beardsley does not have a complete and accurate accounting to produce, therefore, as to Peak View Ranch, L.L.C. for the years 2006, and 2007, the offered estimate of accounting is to be set aside until accurate accounting can be done. As for the years of 2008, 2009, 2010, 2011, a payment of \$26,154.83 is due immediately, plus interest. Beardsley shall complete the proper accounting starting in the year of the agreed first payment due in 2005. After accurate accounting, any adjustments to payouts shall be made prior to the payment due in 2013, but no later than the scheduled payment date of August 30, 2013.
7. Beardsley agrees to follow the agreement, and any violations to the agreement will allow the applicant to receive triple damages, for any monies due under the agreement, if payments are not made either late or not at all, plus any costs needed to achieve payment's due.
8. Beardsley agrees to the conditions set forth in paragraph's 4, 5, and 6, and will comply immediately.
9. The parties agree that they will execute any additional instruments and perform any acts which may be necessary to effectuate and carry out the purpose of this agreement.
10. This agreement shall be construed in accordance with the laws of the State of Arizona.
11. This agreement will not in any way diminish the rights of Patton Place L.L.C. or Peak View Ranch L.L.C. that exist according to the main extension agreement that are in place now and after the amendments have been executed..

1 **COMMISSIONERS**

2 BOB STUMP

3 Chairman

4 GARY PIERCE

5 Commissioner

6 BRENDA BURNS

7 Commissioner

8 BOB BURNS

9 Commissioner

10 SUSAN BITTER SMITH

11 Commissioner

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

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IN THE MATTER OF THE APPLICATION  
OF BEARDSLEY WATER COMPANY,  
INC. FOR COMMISSION DIRECTION  
REGARDING DISBURSEMENT OF  
CERTAIN REFUNDABLE PAYMENTS.

DOCKET NO. W-02074A-13-0110

**AFFIDAVIT OF GORDON  
PEKRUL**

STATE OF ARIZONA )

) ss

COUNTY OF MARICOPA )

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Gordon Pekrul, being duly sworn, deposes and states as follows:

1. I represent to the Arizona Corporation Commission ("Commission") and Beardsley Water Company ("Beardsley") that I am the duly authorized manager and sole and controlling member of Peak View Ranch, L.L.C. and Patton Place, L.L.C. As such, I have personal knowledge of the facts contained in this affidavit and the authority to enter into binding agreements on behalf of both entities.

2. Patton Place, L.L.C. is an Arizona limited liability company in good standing with the Arizona Corporation Commission.

3. Peak View Ranch, L.L.C. is an Arizona limited liability company in good standing with the Arizona Corporation Commission.

4. On or about February 7, 2002, Patton Place, L.L.C. entered into a main extension agreement with Beardsley relating to the construction of the water infrastructure

1 necessary to serve Patton Place Estates Units 1 and 2. A true and correct copy of that  
2 agreement is attached as Exhibit A.

3 5. On or about October 30, 2003, Patton Place, L.L.C. entered into a main  
4 extension agreement with Beardsley relating to the construction of the water infrastructure  
5 necessary to serve Patton Place Estates Unit 3. That agreement, however, was erroneously  
6 executed in the name of Patton Place Unit 3. That agreement should be amended to reflect  
7 Patton Place, L.L.C. as the signatory to the agreement. A true and correct copy of that  
8 agreement is attached as Exhibit B.

9 6. On or about November 4, 2003, Patton Place, L.L.C. entered into a main  
10 extension agreement with Beardsley relating to the construction of the water infrastructure  
11 necessary to serve Patton Place Estates Unit 4. That agreement, however, was erroneously  
12 executed in the name of Patton Place Unit 4. That agreement should be amended to reflect  
13 Patton Place, L.L.C. as the signatory to the agreement. A true and correct copy of that  
14 agreement is attached as Exhibit C.

15 7. While Patton Place Estates Unit 5, L.L.C. purportedly signed a main  
16 extension agreement with Beardsley relating to Patton Place Estates Unit 5, neither Patton  
17 Place, L.L.C. nor any other entity that I control, manage or am a member or shareholder of  
18 has any interest in that main extension agreement.

19 8. On or about March 25, 2005, Peak View Ranch, L.L.C. entered into a main  
20 extension agreement with Beardsley relating to the construction of the water infrastructure  
21 necessary to serve the Peak View Ranch development. A true and correct copy of that  
22 agreement is attached as Exhibit D.

23 9. While I informed Beardsley on or about December 29, 2008 that Patton  
24 Place, L.L.C.'s and Peak View Ranch, L.L.C.'s respective interests in the attached main  
25 extension agreements had been assigned to 223 Wittman, L.L.C., no such assignment  
26 actually occurred. I represent to the Commission and Beardsley that 223 Wittman, L.L.C.  
27 has no interest in any of the refund amounts due under the attached main extension  
28 agreements.

10 10. Since execution of the attached main extension agreements, neither Patton  
11 Place, L.L.C. nor Peak View Ranch, L.L.C. has sought bankruptcy protection or been  
12 placed into an involuntary bankruptcy proceeding. No bankruptcy trustee has been  
13 appointed with respect to either Patton Place, L.L.C. or Peak View Ranch, L.L.C., and no  
14 bankruptcy trustee has any interest in any of the refund amounts due under the respective  
15 main extension agreements. No other creditor of Patton Place, L.L.C. or Peak View  
16 Ranch, L.L.C. or any other entity that I control, manage or am a member or shareholder of  
17 has any interest in any of the refund amounts due under the respective main extension  
18 agreements.

19 11. I represent and affirm that Patton Place, L.L.C. and Peak View Ranch,  
20 L.L.C. are the sole and proper recipients of all refund amounts due under their respective

1 main extension agreements with Beardsley. No other entity or individual has any interest  
2 in such sums. Payment of amounts due under the main extension agreements attached as  
3 Exhibits A, B, C and D may be duly delivered to me as manager and sole and controlling  
4 member of Patton Place, L.L.C. and Peak View Ranch, L.L.C, and such payment will  
5 satisfy Beardsley's obligations under such agreements.

6 EXECUTED this \_\_\_\_ day of June, 2013.

7 \_\_\_\_\_  
8 Gordon Pekrul

9 STATE OF ARIZONA )  
10 ) ss  
11 COUNTY OF MARICOPA )

12 On \_\_\_\_\_, 2013 before me, the undersigned, a Notary Public in and for  
13 said State, personally appeared Gordon Pekrul, personally known to me or proved to me on  
14 the basis of satisfactory evidence to be the person who executed the within instrument.

15 My Commission Expires:

16 \_\_\_\_\_  
17 Notary Public  
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Bryan Cave LLP  
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