

RECYCLED WATER USER AGREEMENT

This Recycled Water User Agreement is made as of the date signed below, between Agent and User as identified below.

RECITALS

- A. The State of Arizona's renewable water sources are limited and therefore water conservation is a primary concern.
- B. User desires to utilize Recycled Water supplied by Agent for the land owned and maintained by User in order to conserve potable water.
- C. Agent encourages usage of Recycled Water as appropriate and where feasible so as to preserve the State of Arizona's water supply.
- D. The parties desire to enter into an Agreement to supply Recycled Water to User under the terms and conditions hereinafter set forth.

AGREEMENTS

NOW, THEREFORE, for and in consideration of the mutual promises herein contained, the Parties agree as follows:

1. **Definitions.** Capitalized terms used in this Agreement shall have the meanings defined in Schedule 1, attached hereto and incorporated herein.
2. **Area of Use.** User shall use Recycled Water on the Site(s) described in Schedule 2, attached hereto and incorporated herein.
3. **Limitations of Use; Type of Use.** This Agreement contemplates the delivery and use of Recycled Water only; accordingly, no water rights, including potable water rights, are conveyed by this Agreement. User shall use Recycled Water in accordance with this Agreement and only for the type(s) of use specified in Schedule 2 and described in Schedule 3, attached hereto and incorporated herein.
4. **Compliance with Laws, Regulations, and Standards.** User agrees to obey all Laws, Regulations, and Standards that apply to User's use of Recycled Water during the term of this Agreement. Examples of such Laws, Regulations, and Standards are described in Schedule 4, attached hereto and incorporated herein. User understands and agrees that Agent may unilaterally change Agent's Standards for Planning, Design, and Construction and/or Agent's Codes of Practice. Effective as of the date of notice by Agent to User, which shall be given at least sixty (60) days in advance of such change taking effect, such changes shall become part of and be incorporated into the Agreement

as part of the Laws, Regulations, and Standards. Where there is a conflict between any of the Laws, Regulations, and Standards, the more stringent provision, as determined by Agent, shall apply.

5. Monitoring and Reporting. Agent may conduct periodic monitoring for the purpose of assisting User in compliance with Laws, Regulations, and Standards. Agent may provide monitoring reports to User specifying required repairs or improvements necessary to comply with Laws, Regulations, and Standards and include deadlines for User to complete such repairs or improvements. User shall perform the repairs or improvements by the deadlines specified.

6. Delivery of Recycled Water; Disruption of Service.

A. Agent shall deliver Recycled Water from a meter or meters owned and maintained by Agent to the Site(s). Agent does not guarantee to deliver Recycled Water to User at any specific operating pressure.

B. Agent's Recycled Water distribution system terminates after the meter. User is solely responsible for construction and maintenance of User's delivery system after the meter, including valve stations necessary for automated control of storage facilities by Agent.

C. If by reason of Force Majeure, Agent is unable wholly or in part to carry out its obligations under this Agreement, Agent shall not be required to deliver Recycled Water and Agent's failure to deliver the Recycled Water in accordance with the terms and conditions of this Agreement shall not be considered a breach of this Agreement.

D. User agrees to accept such conditions of water pressure or service as may exist from time to time and to hold Agent harmless on account of damage, if any, caused by low or high pressure, fluctuations of pressure or interruptions or curtailment of service.

E. User accepts the possibility of a disruption of Recycled Water service to User's Site(s) caused by emergency conditions, peak demands, or planned system maintenance. Agent shall not be responsible for any damage that may be caused to User's water delivery system or other User-owned facilities by disruptions of service.

F. In the event of an emergency relating to Agent's Recycled Water delivery system, Agent may terminate delivery of Recycled Water without notice. When notice is given by Agent to User, User shall reduce or cease usage of Recycled Water as provided in the notice.

G. In periods of peak demand or planned maintenance of Agent's Recycled Water system, Agent may supply an alternate source of water (ground or surface).

7. **Quality of Recycled Water.** Recycled Water delivered by Agent shall be of Class A+ as defined in the Reclaimed Water Rules. User understands and agrees that the quality of Recycled Water is different from that of User's normal potable water supply.

USER UNDERSTANDS AND AGREES THAT AGENT MAKES NO WARRANTIES AS TO THE QUALITY OF THE RECYCLED WATER BEYOND THOSE CONTAINED IN THIS SECTION. ALL OTHER WARRANTIES WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTY FOR FITNESS FOR A PARTICULAR PURPOSE OR THE IMPLIED WARRANTY OF MERCHANTABILITY ARE HEREBY EXCLUDED.

8. **Recycled Water Rates.** User will purchase Recycled Water according to the current rate schedule established by Agent. Nothing herein shall excuse User from payment of service or other charges as are applicable to the time, place or manner of User's Recycled Water service and delivery.

9. **Responsibilities of User.**

A. User shall immediately report any off-site discharges of Recycled Water to Agent and ADEQ.

B. User shall comply with the GW-SCWC Cross-Connection or Backflow Tariff, attached hereto and incorporated herein as Schedule 5.

C. User shall provide education and training on a continuous basis to User's maintenance personnel regarding Recycled Water, and the fact that Recycled Water is **not** approved for drinking purposes.

D. User shall monitor and maintain User's Recycled Water delivery system to minimize equipment and material failure. Broken sprinkler heads, leaks, unreliable valves, etc. shall be repaired/replaced as soon as they become apparent.

E. User shall secure hose bibs on any component of the private Recycled Water delivery system to prevent any unauthorized use.

F. User shall prevent Recycled Water from coming into contact with drinking fountains, water coolers or eating areas.

G. User shall install and maintain any thermal expansion control as may be required by Laws, Regulations and Standards. Where the static water pressure at the meter exceeds 80 pounds per square inch, User shall, at User's expense, install a pressure regulator, strainer and relief valve, to be set for pressure as desired by User.

H. User shall be responsible for posting signage to inform the public that Recycled Water is used on User's Site(s) as required by Laws, Regulations and Standards. User shall post such signs at all entrances to the Site(s) where Recycled Water

is used. User shall be responsible for the maintenance and replacement of Recycled Water signage.

I. User acknowledges that Recycled Water may be used for toilet flushing. User also acknowledges that variations in User's Recycled Water delivery system's pressure may affect the operation of toilets. User also acknowledges that Recycled Water may not be odorless and may discolor fixtures.

J. User shall submit a proposal for any changes to User's Recycled Water delivery system for approval prior to construction, unless required on an emergency basis.

K. User agrees that any public agency with authority may verify compliance with Laws, Regulations, and Standards by inspecting User's Site(s). User further acknowledges its' responsibility to inform, notify and request inspection and approvals from various agencies including Agent and GW-SCWC for certain activities relating to the construction, maintenance and operation of User's Recycled Water delivery system. The foregoing includes, but may not be limited to, materials, construction, testing, violations and emergency situations. User hereby grants to Agent and regulatory agencies, acting through their duly authorized employees, agents, or contractors, access at all reasonable times to enter the Site(s) for the purpose of observing construction or modification of Recycled Water facilities, for maintaining and repairing Agent-installed facilities, for meter reading, and for observing and verifying that User is properly operating its Recycled Water facilities in accordance with the terms and conditions of this Agreement and Laws, Regulations, and Standards. When entering upon User's premises, Agent or the regulatory agencies shall not unreasonably interfere with User's operations and User's use of the premises.

L. User agrees to maintain a copy of the conceptual plans of User's Recycled Water delivery system at City Hall. The plans shall show locations of the property lines, all structures on the Site(s), Recycled Water lines and turn off valves for User's Recycled Water delivery system.

M. User acknowledges and agrees that if User leases the Site(s); such lease shall be in writing and must be made expressly subject to this Agreement. User shall provide to the lessee full details regarding the use of Recycled Water and a copy of this Agreement. Notwithstanding the foregoing, User shall remain responsible for the operation and maintenance of User's Recycled Water delivery system and all of User's obligations under the Agreement unless and until such obligations are formally transferred to the lessee by the lessee executing a Recycled Water Use Agreement with Agent for the Site(s).

N. Should User sell a Site or otherwise transfer the financial responsibility for Recycled Water bills, Agent shall not be obligated to provide Recycled Water to the transferee unless the transferee enters into a new Recycled Water User Agreement with Agent and meets all other conditions of Recycled Water use; at which time User will

close its account with Agent and pay any fees or charges incurred by User before Agent is obligated to provide Recycled Water services to the transferee.

O. User's agreements with a third party for the management of the Site(s) shall not, in any way, relieve User of compliance with the terms of the Agreement.

10. **Indemnity.** User agrees to indemnify, defend and hold harmless Agent, Agent's officers, agents, servants, employees from all suits, actions, losses, damages, claims, or liability, penalties and expenses of any character, type or description, including, without limitation, any fines, penalties and costs or damages whatsoever growing out of any action taken by any governmental entity or regulatory authority, department or agency of any governmental entity or any other person, including citizen suits, against Agent for alleged noncompliance with Laws, Regulations and Standards, whether relating to the environment or otherwise and including, without limiting the generality of the foregoing, all expenses of litigation, court costs, attorneys fees, damages for injury, death or property damage sustained by any person or persons arising out of or occasioned by the acts of User, its officers, agents, employees or representatives or User's breach of the terms and conditions of this Agreement. This promise to indemnify and hold harmless shall exclude such injuries, death, or property damage caused by the sole negligence of Agent, its officers, agents or employees. In case any action or proceeding may be brought against Agent for any matter for which Agent is indemnified under this section, User covenants to assume in full the defense of such action or proceeding at User's expense upon written notice from Agent. Agent shall have the right to employ separate counsel in any such action and participate in the defense thereof.

Agent agrees to indemnify, defend and hold harmless User, User's officers, agents, servants, employees from all suits, actions, losses, damages, claims, or liability, penalties and expenses of any character, type or description, including, without limitation, any fines, penalties and costs or damages whatsoever growing out of any action taken by any governmental entity or regulatory authority, department or agency of any governmental entity or any other person, including citizen suits, against User for alleged noncompliance with Laws, Regulations and Standards, whether relating to the environment or otherwise and including, without limiting the generality of the foregoing, all expenses of litigation, court costs, attorneys fees, damages for injury, death or property damage sustained by any person or persons arising out of or occasioned by the acts of Agent, its officers, agents, employees or representatives or Agent's breach of the terms and conditions of this Agreement. This promise to indemnify and hold harmless shall exclude such injuries, death, or property damage caused by the sole negligence of User, its officers, agents or employees. In case any action or proceeding may be brought against User for any matter for which User is indemnified under this section, Agent covenants to assume in full the defense of such action or proceeding at Agent's expense upon written notice from User. User shall have the right to employ separate counsel in any such action and participate in the defense thereof

11. Term and Termination.

A. This Agreement shall continue until terminated in accordance with any other provision of this Agreement.

B. Agent may terminate this Agreement if Agent, at its sole determination, is or will be unable to deliver Recycled Water to User for any reason whatsoever for a period greater than thirty (30) days or if Agent, at its sole determination, determines that User is unable to adequately control the use of Recycled Water in accordance with this Agreement.

C. User may terminate this Agreement for any reason upon thirty (30) days written notice to Agent.

12. General Conditions.

A. This Agreement shall be construed and interpreted in accordance with the laws of the State of Arizona, and venue of any litigation hereunder shall be in a court of competent jurisdiction sitting in Pinal County, Arizona.

B. This Agreement and the schedules and attachments thereto contain all the agreements of the parties with regard to this Agreement and cannot be enlarged, modified or changed in any respect except by written agreement between the parties.

C. The unenforceability, invalidity or illegality of any provisions of this Agreement shall not render the other provisions unenforceable, invalid or illegal, but the parties shall negotiate as to the effect of said unenforceability, invalidity or illegality on the rights and obligations of the parties.

D. Agent and User will each use their best efforts to fully cooperate with one another as may be necessary to diligently obtain and maintain in effect any required permits and all other approvals and records required by Laws, Regulations, and Standards that may be necessary for Agent and User to perform under, or take advantage of, the terms and conditions of this Agreement.

E. The captions, titles and headings in this Agreement are merely for the convenience of the parties and shall neither limit nor amplify the provisions of the Agreement itself.

F. Notices to be given by either party to the other relative to this Agreement shall be in writing. Both parties agree that any such notice shall be effective when personally delivered or deposited, postage paid, in the U.S. Mail addressed by certified mail, return receipt request, to the address stated below the party's signature of this Agreement.

G. This Agreement is for the sole and exclusive benefit of the parties hereto and shall not be construed to confer any rights upon any third party. Nothing herein shall be construed to confer standing upon any third party who did not otherwise have such standing.

H. The provisions of A.R.S. §38-511 relating to cancellation of contracts due to conflicts of interest shall apply to this Agreement.

J. In signing this Agreement, Agent certifies pursuant to ARS §35-391 that they do not have scrutinized business operations in the Sudan and pursuant to ARS §35-393 that they do not have scrutinized business operations in Iran.

K. Agent warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the User has an interest, financially or otherwise, in the Agent's firm. For breach or violation of this warranty, the User shall have the right to annul this Agreement without liability, or at its discretion to deduct from the compensation to be paid Agent hereunder, the full amount of such commission, percentage, brokerage or contingent fee.

**Remainder of this page intentionally left blank.
Signatures on following page.**

In Witness Whereof, Agent and User have executed this Agreement as of the last date and year indicated below.

AGENT

**GLOBAL WATER - PALO VERDE
UTILITIES COMPANY**

By: _____
Cindy Liles, Secretary

Date: _____

USER – CITY OF MARICOPA

By: _____
Anthony Smith, Mayor

Date: _____

SCHEDULE 1

DEFINITIONS

As used in the Agreement, the following terms shall have the following definitions:

1. "ADEQ" means the Arizona Department of Environmental Quality.
2. "Agent" means Global Water – Palo Verde Utilities Company.
3. Agent's Standards for Planning, Design, and Construction and/or Agent's Codes of Practice means documents and standards approved by Agent that may apply to User's use of Recycled Water during the term of this Agreement and including Agent's Tariffs.
4. "Agreement" means this Recycled Water User Agreement by and between the Agent and the User.
5. "GW-SCWC" means the Global Water – Santa Cruz Water Company.
6. "Force Majeure" shall mean acts of God, strikes, lock-outs, or other industrial disturbances, acts of the public enemy, orders of any kind of the federal or state government, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, droughts, power failures, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, the partial or entire failure of Agent's Recycled Water delivery system, unsuitable Recycled Water quality; or other causes. Nothing herein shall be construed to enlarge the duty or liability of Agent beyond that imposed by law.
7. "Reclaimed Water Rules" means Title 18, Chapter 11 of the Arizona Administrative Code, as it may be amended from time to time.
8. "Reduced Pressure Backflow Device" ("RP") means a device used to protect the potable water supply from a reverse flow condition. An RP valve consists of an automatic pressure relief valve in between two check valves. The pressure relief valve opens to the atmosphere in the event of a reduction in the pressure between the two check valves.
9. "Residential/Commercial Irrigation Use" means use of Recycled Water for irrigation of residential areas and delivered via a pressurized Recycled Water main.
10. "Residential/Commercial Non-Potable Use" means use of Recycled Water for non-potable uses other than irrigation (such as for toilet flushing, laundry, etc) and delivered via a pressurized Recycled Water main.
11. "Large-Scale Irrigation Use" means use of Recycled Water via a User-supplied irrigation system for irrigation of common areas via a RWRS.

12. “Laws, Regulations, and Standards” means all Federal, State, and local laws, regulations, standards and conditions; Agent’s Standards for Planning, Design, and Construction; Agent’s Codes of Practice, and Agent’s Tariffs that may apply to User’s use of Recycled Water during the term of this Agreement, including but not limited to those identified in Schedule 4.

13. “Reclaimed Water” *see* “Recycled Water.”

14. “Recycled Water” means water that is produced from the Agent’s water reclamation facility which has been treated to Class A+ standards as defined in the Reclaimed Water Rules. Recycled Water is also known as “Reclaimed Water.”

15. “RWRS” means Recycled Water Retention Structure(s) or lined storage impoundment(s) designed to hold Recycled Water.

16. “Site(s)” means the land(s) described in Schedule 2.

17. “Stormwater” means any surface flow, runoff, and drainage consisting entirely or partly of water from any form of natural precipitation, and resulting from such precipitation and flows through the storm water collection system.

18. “User” means person or entity executing this Agreement as User, utilizing Recycled Water for agricultural, domestic, commercial or industrial purposes but does not originally treat the domestic wastewater; and the responsible party for the RWRS and/or the purchaser of Recycled Water subject to all conditions of the Agreement.

Any other words or phrases relating to the use of Recycled Water or Reclaimed Water under the Agreement shall have the same definitions as those given under the Reclaimed Water Rules.

SCHEDULE 2

SITE(S)

Under the terms of Agreement, Agent will deliver Recycled Water to the Site(s) listed below and as depicted on the attached map(s).

<u>Street Address and/or Description of Site</u>	<u>GPS Coordinates</u>
1. Allen Stevens Parkway and North Porter Road	33°03'13.26" N 112°00'55.61" W
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

<u>Type of Use:</u>	<u>GPS Coordinates</u>
1. Schedule 3.1/Large Scale-Irrigation Use	33°03'13.26" N 112°00'55.61" W
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

SCHEDULE 3.0

TYPE OF USE CONDITIONS AND SPECIFICATIONS OF USE

User is authorized to use Recycled Water for the type(s) of use specified in Schedule 2 and as defined in this Schedule 3 and its Subsections 3.1 through 3.4.

SCHEDULE 3.1
TYPE OF USE
CONDITIONS AND SPECIFICATIONS OF USE
(LARGE-SCALE IRRIGATION USE)

Type of Use

User is authorized to use Recycled Water for landscape irrigation only. User agrees to the conditions and specifications described below when using Recycled Water.

Conditions and Specifications of Use – Large-Scale Irrigation Use

1. Agent will deliver Recycled Water to User via a non-pressurized Recycled Water main and a Recycled Water meter in accordance with the open access reuse standards established in Agent's ADEQ Type 3 Reuse Permit.
2. Agent maintains Codes of Practice for the design of RWRS(s) which is based on industry best management practice and experience.
3. User accepts sole responsibility for the design, construction and operation and maintenance of the RWRS(s) in compliance with Laws, Regulations, and Standards.
4. User will maintain the RWRS(s) to ensure a two (2) foot normal operating zone and an available six (6) days of storage.
5. Agent will maintain the right to fill a RWRS(s) to the maximum height of the two foot normal operational zone.
6. User will maintain the liner of the RWRS(s) to ensure a permeability of less than 1×10^{-7} cm/sec.
7. Agent will maintain the right to fill a RWRS during periods of low Recycled Water demand to an elevation that represents six (6) days of Recycled Water storage.
8. User agrees, after fourteen (14) days notice, Agent has the right but not the obligation to enter onto User's property to maintain RWRS(s) or other portions of the User's Recycled Water delivery system in order to maintain operating volumes or to address undesirable conditions such as overflows, odors, and/or poorly maintained facilities. User shall be responsible for the cost of such maintenance, which will be billed directly to the User and is payable upon receipt.

SCHEDULE 3.2

TYPE OF USE CONDITIONS AND SPECIFICATIONS OF USE (EXEMPT/GRANDFATHERED USE)

Type of Use

User, either by previous agreement or circumstances, has not conformed to Agent's Standards for Planning, Design, and Construction and/or Agent's Codes of Practice. User understands and assumes all of the risks associated with the non-conformance. User agrees to the conditions and specifications described below when using Recycled Water.

Conditions and Specifications of Use – Exempt (Grandfathered) Use

1. Agent will deliver Recycled Water to User via a non-pressurized Recycled Water main and a Recycled Water meter in accordance with the open access reuse standards established in Agent's ADEQ Type 3 Reuse Permit.

2. User will maintain its private delivery system in its existing configuration as permitted by Laws, Regulations and Standards, exclusive of Agent's Standards for Planning, Design, and Construction and/or Agent's Codes of Practice. Notwithstanding the foregoing, if User repairs or replaces more than fifty percent (50%) of its private delivery system or constructs a new private delivery system User shall bring its private delivery system into compliance with Agent's Standards for Planning, Design, and Construction and Agent's Codes of Practice.

3. User accepts that any undesirable water quality issues or increased maintenance costs may be related to non-conformance with Agent's Standards for Planning, Design, and Construction and/or Agent's Codes of Practice. User releases Agent from any costs or claims incurred by User directly or indirectly resulting in whole or in part from non-conformance.

4. User understands and agrees that stormwater may adversely affect the ability of a RWRS to sustain aquatic life.

5. User understands and agrees that algae blooms and anaerobic conditions may be a result of storm water entering the RWRS or other non-conformance and is therefore not caused by Recycled Water delivered by Agent to the Site(s).

6. User accepts all liability for any costs associated with correcting undesirable water quality issues.

7. User agrees Agent is not liable for discharges from the RWRS in any capacity.

8. In the event Agent must respond to prevent damages to Agent's assets or systems in times of overflow or discharge, these costs shall be the responsibility of the User, regardless of who called for the response.

9. User agrees to maintain all oil and sand separators as necessary in order to prevent odors and release of undesirable materials into the RWRS.

SCHEDULE 3.3

TYPE OF USE CONDITIONS AND SPECIFICATIONS OF USE (RESIDENTIAL/COMMERCIAL IRRIGATION USE)

Type of Use

User is authorized to use Recycled Water for Residential/Commercial Irrigation Use only.

Conditions and Specifications of Use – Residential/Commercial Irrigation Use

1. Agent will deliver Recycled Water to User via a pressurized water main and a Recycled Water meter in accordance with the open access reuse standards established in Agent's ADEQ Type 3 Reuse Permit.

SCHEDULE 3.4

TYPE OF USE CONDITIONS AND SPECIFICATIONS OF USE (RESIDENTIAL NON-POTABLE USE)

Type of Use

User is authorized to use Recycled Water for landscape irrigation and/or use within a separate non-potable service line only.

Conditions and Specifications of Use – Residential Non-Potable Use

1. Agent will deliver Recycled Water to User via a pressurized water main and a Recycled Water meter in accordance with the open access reuse standards established in Agent's ADEQ Type 3 Reuse Permit.

SCHEDULE 4

LAWS, REGULATIONS, AND STANDARDS

User shall obey all Federal, State, and local laws, regulations and standards that may apply to User's use of Recycled Water including but not limited to the following requirements, terms and conditions:

1. Requirements and restrictions governing use of Recycled Water.
2. Control of access to Recycled Water, its delivery systems and the area of storage and use.
3. Requirements to prevent Recycled Water from pooling on open access areas during normal periods of use.
4. Requirements to identify certain components on the delivery system or to provide public notice that Recycled Water is used on the User's Site(s).
5. Requirements to ensure that all Recycled Water use is contained to the User's Site(s).
6. The Reclaimed Water Rules.
7. Agent's Standards for Planning, Design and Construction and/or Agent's Codes of Practice.
8. Agent's Tariffs.
9. The GW-SCWC Cross-Connection or Backflow Tariff.

SCHEDULE 5

GW-SCWC CROSS-CONNECTION OR BACKFLOW TARIFF