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JUL 10 2014

Chandler • Arizona
Where Values Make The Difference

MEMORANDUM **MUNICIPAL UTILITIES - MEMO NO. MUA14-080**

DATE: July 10, 2014

TO: MAYOR AND COUNCIL

THRU: RICH DLUGAS, CITY MANAGER RD
MARSHA REED, ASSISTANT CITY MANAGER MR
DAVE SIEGEL, MUNICIPAL UTILITIES DIRECTOR DS

FROM: GREGG CAPPS, WATER RESOURCE MANAGER GWC

SUBJECT: RESOLUTION NO. 4777 APPROVING THE RECLAIMED WATER CONVERSION PROGRAM FOR HOMEOWNERS' ASSOCIATIONS

RECOMMENDATION:
Staff recommends City Council adopt Resolution No. 4777 approving the City of Chandler Reclaimed Water Conversion Program for Homeowners' Associations; accepting the terms and conditions of the Program documents; and authorizing the Municipal Utilities Director to execute the Program documents on behalf of the City of Chandler.

BACKGROUND:
The City of Chandler has constructed a reclaimed water distribution system as a means to re-use its water resources. Reclaimed water is used to irrigate landscaped areas and is a vital component of the City's water conservation efforts. The distribution system provides reclaimed water to the majority of areas south of Pecos Road and east of Old Price Road, within the City limits.

There are subdivisions within this area that were built before the reclaimed water distribution system was completed and are currently using potable water to irrigate their common areas. Several of these subdivisions were also required to install infrastructure for the delivery of reclaimed water within their community. However, the turnout structure required to connect to the City could not be built until the reclaimed water distribution system was in place. A number of Homeowner Associations (HOA's) have expressed interest in undertaking these conversions, but the initial cost of the turnout structure and related work has been a concern to them. Converting common areas from potable to

reclaimed irrigation would save the City future water costs and aid in HOA's experiencing lower water bills, as reclaimed water rates are significantly less than potable.

The Chandler Reclaimed Water Conversion Program for HOA's will assist HOA's with funding the cost of the turnout structure construction and related costs required for the conversion. This program would provide a loan for up to $50,000, per HOA, for a term of no more than five years. Funding will be made available through the Municipal Utilities Department's FY 2014-15 Capital Improvement Program (CIP). Funding for the first year is $250,000, and applications will be accepted until funds are exhausted. The program will continue so long as the funds are available. HOA's will be required to provide a design with a cost estimate detailing the conversion project and sign a loan agreement, a Secured Promissory Note, and a Deed of Trust, to be eligible for the program.

Staff briefed the Municipal Utilities Council Subcommittee on the framework of the proposed financing plan on September 26, 2013. The primary difference in the final proposal is that in addition to the loan agreement, there will be a Secured Promissory Note and a Deed of Trust.

FINANCIAL IMPLICATIONS:

The City will obtain a financial benefit by replacing the use of potable water with the use of reclaimed water as potable water is more expensive to acquire. It is estimated once the conversion is complete, the HOA would realize a savings ranging between $1.19 to $2.84, per one thousand gallons. This savings would vary depending on usage and summer verse winter rates.

Cost:	$250,000
Savings:	N/A
Fund Source:	N/A

Acct. No.:	Fund Name:	Program Name:	CIP Funded:	Amount:
615.3910.6817.6WW671	Wastewater Operating	Reclaimed Water Conversions	Yes	$250,000

PROPOSED MOTION:

Move City Council adopt Resolution No. 4777 approving the City of Chandler Reclaimed Water Conversion Program for Homeowners' Associations; accepting the terms and conditions of the Program documents; and authorizing the Municipal Utilities Director to execute the Program documents on behalf of the City of Chandler.

Attachments:
Resolution No. 4777
Exhibit A: City of Chandler Reclaimed Water Conversion Program for Homeowners' Associations
Exhibit B: Loan Agreement
Exhibit B-1: Secured Promissory Note
Exhibit B-2: Deed of Trust

RESOLUTION NO. 4777

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, APPROVING THE CITY OF CHANDLER RECLAIMED WATER CONVERSION PROGRAM FOR HOMEOWNERS' ASSOCIATIONS.

WHEREAS, through its adoption of Ordinance No. 3173 on August 10, 2000, the Chandler City Council established a policy and orderly program to provide reclaimed water service for landscape irrigation purposes to areas South of Pecos Road and East of Old Price Road served by the City and within the City limits (the "Service Area"); and

WHEREAS, for some time after this Ordinance No. 3173 was approved the City's reclaimed water could not be delivered to this entire designated service area because the required City distribution lines for reclaimed water were not yet constructed; and

WHEREAS, developers of several residential developments within this service area constructed their private infrastructure to accept the City's delivery of reclaimed water within these developments for use on common areas when reclaimed water became available; and

WHEREAS, the City's reclaimed water distribution lines have been constructed and can now deliver reclaimed water to these developments; and

WHEREAS, the homeowner controlled homeowners' associations (HOAs) of several subdivisions in this Service Area are interested in obtaining City's reclaimed water for irrigation of the common areas in their subdivisions, which have been irrigated with City's potable water until this time; and

WHEREAS, these HOAs will construct the additional facilities required to connect the subdivisions' infrastructure with the City's reclaimed water distribution systems ("Necessary Construction") and these HOAs are concerned about how to pay for the Necessary Construction and;

WHEREAS, the City will obtain financial and public benefits by delivering reclaimed water to these subdivisions thereby allowing the City to use its potable water supplies, which are much more expensive than the reclaimed water, for those purposes that require potable water; and

WHEREAS, the HOAs will recognize a savings in paying for City reclaimed water, rather than potable water, for irrigation of their common areas;

WHEREAS, it is in the best interests of the City to undertake a reclaimed water conversion program to assist homeowners' associations by offering loans for qualified HOAs to reimburse the City for the Necessary Construction who undertake such conversions.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler, Arizona, as follows:

a) that the Reclaimed Water Conversion Program for Homeowners' Associations (the "Program") as set forth in the City of Chandler Reclaimed Water Conversion Program for Homeowners' Associations attached hereto as Exhibit A and incorporated herein by this reference is hereby approved for HOAs which: (i) have existing reclaimed water delivery infrastructure that was installed during construction of their common areas or that want to convert potable irrigation systems to reclaimed water systems; (ii) have means to repay the total costs of the Necessary Construction within five (5) years after the commencement of the reclaimed water delivery; and (iii) where the City has extended its reclaimed water distribution infrastructure to the point of delivery for the HOAs' reclaimed water delivery system; and

b) that the approved terms and conditions necessary to administer the Program, are set forth in Exhibit A, City of Chandler Reclaimed Water Conversion Program for Homeowners Associations, Exhibit B, the Loan Agreement, Exhibit B-1, the Form of Secured Promissory Note, and Exhibit B-2, the Form of Deed of Trust ("Program Documents:"), attached hereto and incorporated herein by this reference; and

c) that the Municipal Utilities Director is authorized to execute the Program Documents as approved by the City Attorney on behalf of the City of Chandler as needed to complete the reclaimed water conversions.

PASSED AND ADOPTED by City Council of the City of Chandler, Arizona, this ___ day of _____, 2014.

ATTEST:

_____ _____
CITY CLERK MAYOR

APPROVED AS TO FORM:

_____
CITY ATTORNEY

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4777 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on ____ day of _____, 2014 and that a quorum was present thereat.

_____
CITY CLERK

EXHIBIT "A"

City of Chandler Reclaimed Water Conversion Program for Homeowners' Associations

1. Program Summary.

The City of Chandler established a policy and program to provide reclaimed water service for the areas South of Pecos Road and East of Old Price Road served by the City and within the City limits. In some of these areas residential subdivisions were built before the reclaimed water distribution system was completed. The City allowed these developments to use potable water for irrigation of their common areas with the understanding that these subdivisions would convert to the use of reclaimed water when the City had its reclaimed water distribution system in place. Infrastructure for the delivery of the reclaimed water within the subdivision was installed at that time but the required turnout structure for connection of the City's reclaimed water distribution system to the subdivision's reclaimed water system could not be built until the City's reclaimed water delivery system was in place.

Converting common areas from potable to reclaimed irrigation would conserve existing potable water supplies and save the City future water costs. As a result, the City of Chandler has proposed a program to assist homeowners' associations which could benefit from such conversions with the costs of the turnout structure construction and related costs required for the conversion. This program will provide a loan for up to $50,000, for a term of no more than five years, to reimburse the City for the necessary construction costs required to convert HOA common areas from potable to reclaimed irrigation. The program will continue so long as the funds are made available.

2. Eligibility for Program Participation.

Homeowner's associations for subdivisions that are within the areas served by the City's reclaimed water distribution system that were not in place when the subdivisions were built, and that paid for and used City's potable water for irrigation of their common areas but now wish to use City's reclaimed water, are eligible for this program. Reclaimed water distribution systems, with the exception of the required turnout structure for the reclaimed water, must have already been installed and must meet City's specifications.

These homeowners' associations must be controlled by their homeowners (and not the developer) as defined in their Bylaws and Articles of Incorporation. The homeowners' association must have paid its City water bills on time for the last two years and have the means to repay the total cost of the necessary construction within five years from the earlier of the first full month City utility billing following: (1) the date the City signs the City of Chandler Reclaimed Water Users Agreement for service, or (2) eighteen months after the loan agreement and deed

of trust have been signed. The homeowners' association must be duly approved by its association to apply for this program, and undertake all the actions required by the program.

3. Application Procedures and Selection Criteria

The Municipal Utilities Department ("MUD") will provide outreach to homeowners' associations which may qualify for this program. The homeowners' association must be duly authorized to apply for and participate in this program. MUD will provide specific direction to the potential applicant homeowners' associations. In general, they will be required to:

a. Retain a qualified engineering firm to develop a preliminary plan for the reclaimed water connection and all related equipment and a cost estimate for the work and equipment required;
b. Execute the City's required agreements to participate in the program;
c. Contract with the Contractor for the construction work, and comply with the City's procedures for payment of the contractor as the construction progresses; and
d. Comply with City's required procedure to certify completion and initiate reclaimed water deliveries.

Qualified applicants will be approved on a first-come, first served basis. Priority will be based on applicants' application date.

4. Funding Limits.

The City will provide loans for up to $50,000 per qualified homeowners' association. The amount of the loan shall be the lesser of: 1) the estimated project cost agreed upon by the City and the Homeowners' Association; or 2) the actual cost of the project. If the cost of a project exceeds the loan amount, the City will not increase the loan amount and the homeowners' association will pay any costs in excess of the loan amount. Total funding available for the first year is $250,000; loans and applications will be accepted until funding is exhausted.

5. Project Budget.

Applicants need to establish project budgets from estimates provided by an engineer or licensed contractors. The City will use the estimates to determine the dollar amount of the loan to be provided by the City through this program.

The homeowners' association is encouraged to select the contractor who is best qualified to perform the scope of work. All cost estimates shall be listed on letterhead from the contractor and contain contact information for the contractor. The homeowners' association is responsible to ensure that the selected contractor has the necessary licenses to perform the requested work.

6. Commencement and Deadlines for Work.

Any construction included in the Scope of Work, whether funded by City funds or the HOMEOWNERS' ASSOCIATIONS itself, must not commence prior to the date the City informs the applicant that all program documents are signed and finalized (see contractual requirements below).

After the program documents are filed, the project must commence within three months. The applicant must complete the project within eighteen months from the date the program documents are signed.

7. Contractual Requirements.

Once an applicant to the program is approved, the property owner is required to execute the following documents with the City:

A. City of Chandler Reclaimed Water Conversion Program for Homeowners' Association Loan Agreement. This agreement includes the loan provisions, legal description of the homeowners' association property, secured promissory note and deed of trust.

B. Title Report. The City of Chandler will secure a current title report prior to executing the program agreement to identify any interest that may affect the City's enforcement of the loan agreement.

C. Insurance Certificate. The homeowners' association must provide a certificate of liability insurance that certifies the subject real property is insured for an amount acceptable to the City. Prior to any disbursement of funds, City must be named as loss payee on the insurance policy.

8. Disbursement of funds.

Applicants must submit bills totaling work completed to the Municipal Utilities Department to receive payment. City staff will inspect and approve all work prior to reimbursement. All work requiring a permit must also be inspected by the City's Transportation and Development Department. The City determines whether a project is complete and meets the City guidelines for the City of Chandler Reclaimed Water Conversion Program for Homeowners' Associations. The City is not obligated to pay the homeowners' association if the project has not been

completed in accordance with the homeowners' association's application or within the City's guidelines.

An applicant may request disbursement of funds once the project is completed or an agreed upon component of the project is completed as set forth in the Loan Agreement.

EXHIBIT "B"

CITY OF CHANDLER
RECLAIMED WATER CONVERSION PROGRAM
FOR HOMEOWNERS' ASSOCIATION

LOAN AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 20__, by and between _____("Borrower"), and the CITY OF CHANDLER, an Arizona municipal corporation ("Grantor").

Recitals

A. City has set aside Homeowners' Association Reclaimed Water Conversion funding for use in assisting residential developments which have homeowners associations ("HOAs") that are controlled by homeowners such as Borrower, and that have infrastructure in place to deliver reclaimed water to common areas and parks but which have served these areas with potable water because City's reclaimed water was not initially available, to construct and finance turnout structures to enable the use of City reclaimed water which is now available for irrigation purposes.

B. Borrower is the owner in fee simple of certain real property situated at _____, Chandler, Arizona, and more particularly described in attached Exhibit "A", referred to herein as "the Borrower's Common Areas."

C. Borrower has provided a project design with a detailed cost estimate and has applied for funds to assist in financing construction of turnouts and related facilities required to enable Borrower to use City's reclaimed water, rather than potable water, to irrigate Borrower's Common Areas and City desires that Borrower use reclaimed water, rather than potable water, for this irrigation.

NOW, THEREFORE, in consideration of the above-stated Recitals, and the mutual covenants and conditions set forth below, it is agreed as follows:

1. Agreement to Make Loan. Borrower agrees to borrow from City, and City agrees to lend to Borrower, up to (maximum $50,000.00) _____ ($_____) (the "loan") subject to all of the covenants, terms and conditions stated in this Agreement.

2. Description of Construction of Turnouts and Related Facilities Work. Borrower shall use all funds loaned by City pursuant to this Agreement for the purpose of furnishing all labor, materials, services, supervision, tools, equipment, licenses and permits necessary to complete the construction of turnouts and related facilities to convert Borrower's Common Areas to be irrigated by City's reclaimed water rather than by City's potable water (the "Work").

3. Security and Terms of the Loan.

3.1. Note and Deed of Trust. The loan shall be evidenced by a promissory note substantially in the form shown in attached Exhibit "B-1" (the "note"), and which is secured by a deed of trust substantially in the form shown in attached Exhibit "B-2" (the "deed of trust").

3.2. Term of Note. The note secured by the deed of trust shall be an interest bearing note in an original principal amount of _____Dollars ($0.00) and an annual interest rate of one (1)%. The note shall extend for a period of five (5) calendar years from the earlier of the first full month City of Chandler utility billing following: 1) the date City signs the City of Chandler Reclaimed Water Users Agreement for service to the Borrower, or 2) eighteen months after the promissory note and deed of trust have been signed, regardless of whether the project has been completed. City will bill Borrower for the monthly installments of its loan repayment (including interest) as a separately identified amount with its monthly City of Chandler water bill. Should Borrower submit a payment that is less than the total of its water utility bill and the loan repayment, City shall credit the water utility bill account first and the loan will be considered in default. In the event of any sale, conveyance, transfer or other divestment of Borrower's title in the Borrower's Common Areas, whether partial or whole, and whether voluntary or involuntary, or in the event of any default in the terms of the note, the unpaid balance shall be come immediately due and payable in accordance with the terms of the note.

4. Disbursement of Loan Proceeds. After Borrower has complied with all conditions precedent to initial disbursement of the loan as specified in paragraph 5 below, the loan proceeds to compensate for the Work actually performed shall be disbursed by City to Contractor in three (3) progress payments of thirty percent (30%), fifty percent (50%) and ten percent (10%) of the program cost, of the portion of the Work satisfactorily completed at the time of each payment as set forth in Section 5. Ten percent (10%) of the total cost of the Work shall be retained for a period of thirty-five (35) days and will be dispersed after final approval and certification of completion of the Work or until all call-back items have been corrected. All reclaimed water distribution systems are required to be designed and constructed in accordance with the City of Chandler's Water & Wastewater System Technical Design Manuals 1 & 2 Chapter 4.

5. Conditions Precedent to Initial Disbursement of the Loan.

5.1 There shall have been furnished to City a commitment for title insurance for a current form ALTA construction loan policy (title commitment) issued by a title insurance company acceptable to City (the "title company") in form satisfactory to City establishing that the title company is prepared to issue its construction loan policy in the amount of the loan insuring that City shall be the holder of a lien on the Borrower's Common Areas, free of encumbrances and other exceptions to title other than those approved in advance by City, and not subordinated to any interests other an existing first lien on the Building.

5.2. The note shall have been fully executed by Borrower and received by City and the deed of trust shall have been fully executed by Borrower and recorded by City.

5.3. City shall be in receipt of a fully executed copy of this Agreement.

5.4. City shall be in receipt of a written, itemized listing of the scope of the Work for which funding is being provided pursuant to this Agreement, which list shall be provided by Borrower and utilized by City in determining the date or time for disbursement of loan proceeds.

5.5. Administration of the Loan. The disbursement of loan proceeds and all other administration of the loan and this Loan Agreement shall be through City's Municipal Utilities Department.

5.6. Prior to initial disbursement of loan funds, each of the following conditions precedent shall first have been satisfied:

5. 6.1 Borrower submits a project design that identifies all components and associated work items needed to connect HOA's irrigation infrastructure to Chandler's reclaimed water distribution system along with a detailed cost estimate to complete the project;

5.6.2 Borrower obtains Maricopa County Approval to Construct;

5.6.3 Borrower submits as-built drawings of the private reclaimed distribution system to City;

5.6.4 Borrower submits site map sealed by an engineer registered in the State of Arizona;

5.6.5 Borrower signs and submits to City of Chandler "Application for the Use of Reclaimed Water";

5.6.6 Borrower submits encroachment permit from City, if necessary;

5.6.7 Borrower applies for and receives ADEQ Type 2 Reclaimed Water General Permit;

5.6.8 Borrower submits to City a Cross Connection Test plan; and

5.6.9 Borrower applies, pays for, and receives appropriate permits.

5.7 Prior to the second disbursement of loan funds, each of the following conditions precedent shall first have been satisfied:

5.7.1 Reclaimed water meter must be set and locked by the City;

5.7.2 Potable water meter must be abandoned by the City; and

5.7.3 All components and associated work items identified in the approved project design must be completed, and approved by City staff.

5.8 Prior to the third disbursement of loan funds, each of the following conditions precedent shall first have been satisfied:

5.8.1 Successful completion of cross connection test by Contractor and approved by City staff;

5.8.2 Borrower obtains Maricopa County's Approval of Construction; and

5.8.3 Borrower and City sign the City of Chandler's Reclaimed Water Users Agreement.

7. Borrower's Covenants Borrower covenants and agrees that:

7.1. Borrower shall refrain from commencing the Work until a written order to proceed has been issued by City; shall begin the Work within three months following receipt of such order; and shall complete the Work within eighteen months thereafter, unless an additional extension of time is authorized by City.

7.1.1. Borrower agrees that for each and every calendar day that the Work remains incomplete after the time specified for completion, the sum of Two Hundred Fifty and No/100 Dollars ($250.00) per day may be deducted from monies otherwise due to Borrower.

7.2. Borrower shall perform the Work in compliance with applicable codes, ordinances and regulation of the City of Chandler, the state or the federal government, and in compliance with any applicable plans and specifications prepared or approved by City.

7.3. Borrower shall perform the Work in a workmanlike manner.

7.4. Borrower shall permit periodic inspections by City's staff on any portion of the Work in progress. All work and materials shall be inspected prior to concealment.

7.5. Borrower shall require compliance by each subcontractor with the applicable provisions of this Agreement; Borrower shall be fully responsible to City for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them, as Borrower is for the acts and omissions of persons directly employed by Borrower.

7.6. Borrower has full power and authority to enter into this Agreement and all related documents and instruments.

7.7. The individual executing this Agreement on behalf of Borrower is authorized to do so and, upon such individual executing this Agreement, this Agreement shall be binding and enforceable upon Borrower in accordance with its terms.

8. City's Covenants. City covenants and agrees that:

8.1. City shall cooperate with Borrower to facilitate the performance of the Work.

8.2. City shall issue a written "Order to Proceed" within thirty (30) days of the execution of this Agreement, provided that all conditions precedent stated in paragraph 5 above have been met.

8.3. City has full power and authority to enter into this Agreement and all related documents and instruments.

8.4. The individual executing this Agreement on behalf of City is authorized to do so and, upon such individual executing this Agreement, this Agreement shall be binding and enforceable upon City in accordance with its terms.

9. No Assignment. This Agreement and any proceeds, or right to proceeds, from the loan contemplated by this Agreement, are not assignable by Borrower without the prior written approval of City.

10. Entire Agreement. This Agreement contains the entire agreement of the parties hereto with respect to the matters covered hereby, and supersedes all prior agreements, arrangements and understandings between the parties, and no other agreement, statement or promise made by either party hereto that is not contained herein shall be binding or valid.

11. No Conflict. Both parties acknowledge that no member of the governing body of the City of Chandler nor any employee of the City of Chandler who exercises any functions or responsibilities in connection with the carrying out of the Work to which this contract pertains, has any personal interest, direct or indirect, in this Agreement.

12. Exhibits. The Exhibits referred to herein and attached hereto (the "Exhibits") are incorporated herein by reference.

13. Governing Law. This Agreement shall be construed and interpreted under, and governed and enforced according to, the laws of the State of Arizona.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first set forth above.

BORROWER: _____

By: _____

Its: _____

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this ___ day of _____, 20___, before me, the undersigned Notary Public, personally appeared _____, as _____ of _____ a _____ company, and such authorized representative acknowledged that this document was executed on behalf of the _____for the purposes therein contained.

_____
Notary Public

My Commission Expires:

_____

CITY OF CHANDLER, an Arizona municipal corporation

By: _____

Its: _____

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this ___ day of _____, 20___, before me, the undersigned Notary Public, personally appeared _____, as _____ of the City of Chandler, an Arizona municipal corporation, and such authorized representative acknowledged that this document was executed on behalf of the _____ for the purposes therein contained.

My Commission Expires:

_____
Notary Public

_____

APPROVED AS TO FORM:

_____
City Attorney

EXHIBIT "B-1"

CITY OF CHANDLER

RECLAIMED WATER CONVERSION PROGRAM
FOR HOMEOWNERS' ASSOCIATIONS
SECURED PROMISSORY NOTE
5 YEAR LOAN

DATE:_____

MAKER(S): _____

PROJECT ADDRESS: _____

PROJECT NO.:_____

For value received, the undersigned Maker(s) do/does promise(s) to pay to the City of Chandler, an Arizona municipal corporation, or its successor (hereinafter, the "City"), at 175 South Arizona Place, Second Floor, Chandler, Arizona 85225, or at such other place as the City may from time-to-time designate, in lawful money of the United States of America, the principal sum of (maximum $50,000.00) _____ AND NO/100 DOLLARS ($_____) and interest as set forth below or so much thereof as may be disbursed to Maker, under the above-referenced loan program for reclaimed water turnouts and associated facilities located upon the above-referenced real property. This Note accrues one percent (1%) interest compounded and is to be paid monthly on or before the same day when the Company's reclaimed water payment is due to City. The Maker(s) may prepay the principal sum of this Note, in whole or in part, at any time without penalty or premium. Any prepayment shall be applied against the principal sum of this Note.

The term of this Note shall be for a period of years commencing on the date of this Note as stated above and terminating at the end of the fifth (5th) calendar year from the earlier of the first full month City utility billing following: (1) the date the City signs the City of Chandler Reclaimed Water Users Agreement for service to the Maker, or (2) eighteen months after the loan agreement and deed of trust evidencing and securing this indebtedness have been signed, regardless of whether the Project has been completed for the water turnouts project at the above-referenced real property and for which the City disbursed funds to Maker under the above-referenced loan program.

The Maker(s) and all persons who may become liable for payment of this Note hereby agree that: (a) they shall pay all costs and expenses of collection of this Note, including reasonable attorneys' fees; and (b) at the City's option, the entire unpaid balance of this Note, together with any and all other obligations of the Maker(s) and all other persons liable under this Note, shall become immediately due and payable, without notice or demand, with interest thereon after the date of the exercise of such option at the rate of

one percent (1%) until paid: (i) if default be made in the performance or observance of any of the covenants, promises or provisions of this Note; (ii) in the event garnishment, attachment, levy, execution, or assessment of deficiency is issued against any of the property or assets of the Maker(s); (iii) in the event of an assignment of the Maker(s) for benefit of creditors, application for appointment of trustee or receiver, or the filing of a voluntary or involuntary petition in bankruptcy (except if any involuntary petition in bankruptcy is dismissed within thirty (30) days); (iv) in the event that the City in good faith believes that the prospect of payment by the Maker(s), or any person liable hereunder, is impaired; or (v) in the event of Maker's failure to make monthly payments to City for any portion of its reclaimed water charges or installment payments as set forth in this Promissory Note after a grace period of fifteen (15) days.

At the City's option, the unpaid balance of this Note shall further become immediately due and payable, without notice or demand, together with any interest as stated in the immediately preceding paragraph: (a) upon any sale, conveyance, transfer or other divestment of the title or other interest of the Maker(s) in and to the above-stated real property, whether voluntary or involuntary, including by operation of law.

The Maker(s) and all persons who are or may become liable for the payment hereof further agree: (a) to be jointly and severally bound hereby; (b) to severally waive demand, diligence, presentment for payment, protest and demand, notice of extension, dishonor, protest, demand and non-payment of this Note; (c) to severally waive any homestead or exemption right against said debt; and (d) that the acceptance by the City of any performance or failure of performance which does not comply strictly with terms of this Note shall not be deemed a waiver of any right of the City.

All remedies of the City hereunder are cumulative and shall be in addition to any and all other rights or remedies available to the City at law or in equity. This Note is and shall be secured by a Deed of Trust placed on the real property identified above.

If any provision of this Note, or the application thereof to any person or circumstance, shall, to any extent, be invalid or unenforceable, the remaining provisions hereof shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law. This Note shall be governed and construed according to the laws of the State of Arizona.

IN WITNESS WHEREOF, this Note and the Deed of Trust securing the Note have been duly executed by the undersigned as of the date written above.

[COMPANY NAME]

By: _____

Its: _____

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this ___ day of _____, 20___, before me, the undersigned Notary Public, personally appeared _____, as _____ of _____ and such authorized representative acknowledged that this document was executed on behalf of the limited liability company for the purposes therein contained.

_____
Notary Public

My Commission Expires:

_____

EXHIBIT "B-2"

CITY OF CHANDLER
RECLAIMED WATER CONVERSION FOR HOMEOWNERS' ASSOCIATIONS PROGRAM
DEED OF TRUST

DATE:

FILE NO.:

PROPERTY ADDRESS:

TRUSTOR:

TRUSTOR'S MAILING ADDRESS:

BENEFICIARY: CITY OF CHANDLER (RECLAIMED WATER CONVERSION PROGRAM FOR HOMEOWNERS' ASSOCIATIONS)

BENEFICIARY'S ADDRESS: Mail Stop 602, P.O. Box 4008, Chandler, AZ 85244-4008

TRUSTEE: Kay Bigelow, Chandler City Attorney and a member of the State Bar of Arizona, Mail Stop 602, P.O. Box 4008, Chandler, AZ 85244-4008, physical location of City of Chandler, 175 S. Arizona Avenue, Chandler, AZ 85225.

Property in Maricopa County, State of Arizona, legally described as: «legal»

This Deed of Trust made between the Trustor, the Trustee and the Beneficiary above named,

WITNESSETH: That Trustor irrevocably grants, conveys, transfers and assigns to Trustee in Trust, with Power of Sale, the above-described real property and all buildings, improvements and fixtures located thereon or hereinafter erected thereon, together with the leases, rents, issues profits or income thereof, (all of which are hereinafter called "property income"); SUBJECT, HOWEVER, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such property income; AND SUBJECT TO existing taxes, assessments, liens, encumbrances, covenants, conditions, restrictions, rights of way and easements of record.

FOR THE PURPOSE OF SECURING:

A. Performance of each agreement of Trustor herein contained.

B. Payment of the indebtedness evidenced by promissory note or notes of even date herewith, and any extension or renewal whereof, in principal sum of _____

_____($_____)
executed by Trustor in favor of Beneficiary or order.

C. Payment of additional sums and interest thereon which may hereafter be loaned to Trustor, or his successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust.

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES:

1. To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete and restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon, and to pay when due all claims for labor performed and materials furnished therefore; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; and, do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

2. To provide, maintain and deliver to Beneficiary fire insurance policies satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured thereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of Trustee's sale hereunder or invalidate any act done pursuant to such notice.

3. To appear in and defend any action or proceeding purporting to affect the security thereof or the rights or powers of Beneficiary or Trustee, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear or be named, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

4. To pay: before delinquent, all taxes and assessments affecting said property; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust, including, without limiting the generality of the foregoing, the fees of Trustee for issuance of any Deed of Partial Release and Partial Reconveyance or Deed of Release and Full Reconveyance, and all lawful charges, costs and expenses in the event of reinstatement of, following default in, this Deed of Trust or the obligations secured hereby.

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation to do so and without notice or demand upon Trustor and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the

security thereof, Beneficiary or trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees.

5. To pay immediately and without demand all sums expended by Beneficiary or Trustee pursuant to the provisions hereof, together with interest from date of expenditure at the same rate as is provided for in the note(s) secured by this Deed of Trust or at the highest legal rate, whichever be the greater rate. Any amounts so paid by Beneficiary or Trustee shall become part of the debt secured by this Deed of Trust and a lien on said premises or shall become immediately due and payable at option of Beneficiary or Trustee.

IT IS MUTUALLY AGREED:

6. That any award of damages in connection with condemnation or any such taking, or for injury to the property by reason of public use, or for damages for private trespass or injury thereto, is assigned and shall be paid to Beneficiary as further security for all obligations secured hereby (reserving unto the Trustor; however, the right to sue therefore and ownership thereof subject to this Deed of Trust), and upon receipt of such monies Beneficiary may hold the same as such further security, or apply or release the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

7. That time is of the essence of this Deed of Trust, and by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

8. That at any time or from time-to-time, and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and said note(s) for endorsement and without liability therefore, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, and without affecting the security hereof for the full amount secured hereby on all property remaining subject hereto, and without the necessity that any sum representing the value or any portion thereof of the property affected by the Trustee's action be credited on the indebtedness, the Trustee may: (a) release and reconvey all or part of said property; (b) consent to the making and recording, or either, of any map or plat of the property or any part thereof; (c) join in granting any easement thereon; (d) join in or consent to any extension agreement subordinating the lien, encumbrance or charge thereof.

9. That upon written request of Beneficiary stating that all sums secured hereby have been paid and upon surrender of this Deed of Trust and said note(s) to Trustee for cancellation, and upon payment of its fees, Trustee shall by Deed of Release and Full Reconveyance release and reconvey, without covenant or warranty, express or implied,

the property then held hereunder. The recitals in such Deed of Release and Full Reconveyance of any matters shall be conclusive proof of the truthfulness thereof. The grantee in such Deed of Release and Full Reconveyance may be described as " The Person or Persons Legally Entitled Thereto."

10. That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of this Trust, to collect the property income, reserving to Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such property income as it becomes due and payable. Upon any such default Beneficiary may at any time without notice, either in person, by agent or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such property income, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such property income and the application thereof as aforesaid, shall not cure or waive any default or notice of Trustee's sale hereunder or invalidate any act done pursuant to such notice.

11. That upon default by Trustor in the payment of any indebtedness hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written notice thereof, setting forth the nature thereof and of election to cause to be sold said property under this Deed of Trust. Beneficiary also shall deposit with Trustee this Deed of Trust, said note(s) and all documents evidencing expenditures secured hereby.

Trustee shall record and give notice of Trustee's sale in manner required by law, and after the lapse of such time as may then be required by law, Trustee shall sell, in the manner required by law, said property at public auction at the time and place affixed by it in said notice of Trustee's sale to the highest bidder for cash in lawful money of the United States of America, payable at time of sale. Trustee may postpone or continue the sale by giving notice of postponement or continuance by public declaration at the time and place last appointed for the sale. Trustee shall deliver to such purchaser its Deed conveying the property so sold, but without any covenant or warranty, expressed or implied. Any persons, including Trustor, Trustee or Beneficiary, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale and reasonable attorney's fees, Trustee shall apply the proceeds of the sale to payment of all sums then secured hereby and all other sums due, under the terms hereof, with accrued interest, and, the remainder, if any, to the person or persons legally entitled thereto, or as provided in A.R.S. Sec.33-812. To the extent permitted by law, an action may be maintained by Beneficiary to recover a deficiency judgment for any balance due hereunder.

The purchaser at the Trustee's sale shall be entitled to immediate possession of the property against Trustor and shall have a right to the summary proceedings to obtain possession provided in Title 12, Chapter 8, Article 4, Arizona Revised Statutes, together with costs and reasonable attorney's fees. In lieu of sale pursuant to the power of sale conferred hereby, this Deed of Trust may be foreclosed in the same manner provided by law for the foreclosure of mortgages on real property. Beneficiary shall also have all other rights and remedies available to it hereunder and at law or in equity. All rights and remedies shall be cumulative.

12. That Beneficiary may appoint a successor Trustee in the manner prescribed by law. A successor Trustee here shall, without conveyance from the predecessor Trustee, succeed to all the predecessor's title, estate, rights, powers and duties. Trustee may resign by mailing or delivering notice thereof to Beneficiary and Trustor.

13. That this Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder of the note(s) secured hereby, whether or not named as Beneficiary herein. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural.

14. That Trustee accepts this Trust when this Deed of Trust duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee. In the event Trustee is made a party in any legal or court proceeding as a result of litigation between Trustor and Beneficiary or between a third party and either or both of Trustor and/or Beneficiary, the attorney's fees and costs of Trustee shall be paid by either Trustor or Beneficiary, whichever is the non-prevailing party.

15. Time is of the essence of this Deed of Trust and each and every provision hereof.

16. Trustor requests that a copy of any notice of Trustee's sale hereunder be mailed to Trustor at Trustor's mailing address hereinbefore set forth. All notices required hereby shall be sent to the addresses indicated above unless such party shall have recorded a Request for Notice pursuant to A.R.S. Sec. 33-809.A in the county recorder's office of the county where the property encumbered hereby is located, indicating a different address.

17. In the event that Trustor shall sell, convey, or alienate or otherwise transfer the subject property, or any part thereof, or any interest therein, or shall be divested of title or any interest therein in any manner or way, whether voluntarily or involuntarily, without the written consent of Beneficiary being first obtained, said Beneficiary, to the fullest extent provided by law, shall have the right at its option to declare any indebtedness or obligation secured by this Deed of trust, irrespective of the maturity date specified in the Note evidencing the same, immediately due and payable.

DATED: _____

TRUSTOR

_____

TRUSTOR

STATE OF ARIZONA)
) ss.
County of Maricopa)

This instrument was acknowledged before me this _____ day of _____, 20_____, by _____

_____

My commission will expire:
_____

_____

NOTARY PUBLIC