

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATIONS**

CC: 14R
Amend No. _____

Date Prepared: April 10, 2008

Council Meeting Date: April 15, 2008

TO: Honorable Mayor and Council

FROM: Steve Kemp, City Attorney

PREPARED BY: Ellen Van Riper, Assistant City Attorney

SUBJECT: Ratification of Response and Counter-Claim filed in Tolleson Wastewater Treatment Plant Agreement Arbitration

RECOMMENDATION:

The City Attorney recommends that the City Council ratify the inclusion of a Counter-Claim in the Response to the City of Tolleson's First Amended Demand for Arbitration filed by the City Attorney's Office on April 10, 2008. Ratification is necessary because the City Attorney's Office was not able to present the Counter-Claim to the City Council for approval before the filing deadline for the City's Response (April 11, 2008).

SUMMARY:

The City has been involved in an ongoing arbitration matter initiated by the City of Tolleson regarding the City's plan to terminate the Tolleson Wastewater Treatment Plant Agreement by diverting this wastewater flow to the new Butler Drive Water Reclamation Plant when that facility becomes fully operational sometime in July or August. On March 26, 2008, the City of Tolleson filed its First Amended Demand for Arbitration, which necessitated a responsive filing by the City by April 11, 2008.

The City Attorney's Office prepared the City's Response and Counter-Claim and filed it on April 10, 2008. The Counter-Claim has been asserted in defense of the claim made by the City of Tolleson and as such would not normally require City Council approval. However, because the Counter-Claim includes a Count for breach of contract by the City of Tolleson and seeks money damages, the City Attorney's Office recommends that the Counter-Claim be ratified by the City Council to eliminate any questions about whether the Counter-Claim was properly filed.

ATTACHMENT: None.

CITY CLERK USE ONLY:

- Consent Agenda
- Carry Over to Date: _____
- Approved
- Unfinished Business (Date heard previous: _____)
- New Business
- Public Hearing: No Action Taken

ORD. # _____ RES. # _____
LCON# _____ LIC. # _____
Action Date: _____