

CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATIONS

CC: QC
Amend No. _____

Date prepared: March 2, 2009

Council Meeting Date: April 7, 2009

TO: Carl Swenson, City Manager

FROM: Stephen L. Bontrager, Utilities Director *[Signature]*

THROUGH: Brian Biesemeyer, Utilities Deputy Director *[Signature]*

PREPARED BY: Robin E. Bain, Water Resources Manager *[Signature]*

SUBJECT: White Mountain Apache Tribe Water Rights Agreement

RECOMMENDATION:

That Mayor and Council authorize the City to execute the enclosed White Mountain Apache Tribe ("Tribe") Water Rights Quantification Agreement ("Quantification Agreement") including the lease among the City, the Tribe, and the United States.

SUMMARY:

On September 16, 2008, Utilities staff made a presentation at the City Council Study Session regarding the pending White Mountain Apache Tribe ("Tribe") Water Rights settlement. As discussed, since 2007, various parties have been negotiating with the White Mountain Apache Tribe to quantify and settle surface water rights on the Salt River.

The Tribe has an excellent claim to the Salt River surface water in the water rights adjudication process because the Tribe's lands sit at the headwaters of the Salt River, and their claimed priority date goes back to 1871. Their original statement of claim was over 120,000 acre-feet annually. The negotiations have succeeded in capping the depletion amount of flows in the Salt River at approximately 27,000 acre-feet annually. This final resolution of the Tribe's water rights, in the form of a comprehensive settlement known as the Quantification Agreement, will avoid years of prolonged uncertainty concerning the availability of water supplies and the related expense of litigation.

As a result, the Tribe is offering to lease, for a 100-year period, a substantial portion of its Central Arizona Project ("CAP") water to the central Arizona cities, including Peoria. The Quantification Agreement, which is considered permanent, will become enforceable upon the occurrence of several events specified in the authorizing White Mountain Apache Tribe Water

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ORD. # _____ RES. # _____
 LCON# 01209 LIC. # _____
 Action Date: _____

Rights Quantification Act. The Act was introduced in Congress on September 11, 2008, and is expected to become enforceable by October 31, 2013.

The enclosed Quantification Agreement will eliminate the risk to Peoria's access to this water supply and achieves three objectives from Peoria's perspective: (1) places a ceiling on White Mountain Apache Tribe's depletions from the Salt River watershed; (2) provides certainty to Peoria's water supplies available through Salt River Project and Modified Roosevelt Dam; and (3) provides the option to lease Central Arizona Project water from the Tribe that can be added to the City's Designation of Assured Water Supply.

This Quantification Agreement also embodies a Lease Agreement between the City of Peoria, United States, and the White Mountain Apache Tribe. The amount of Central Arizona Project water available from the Tribe for a lease term of 100- years by Peoria is projected to be 354 acre feet per year of Indian/Municipal & Industrial priority Central Arizona Project supply, and 935 acre feet per year of Non-Indian Agricultural priority Central Arizona Project supply. The dollar amounts represent negotiated market value for the water, and are in current dollars. The actual cost will be adjusted by the Consumer Price Index- all items, and will depend upon the final settlement enforceability date.

The negotiated market value for each acre foot of Indian/Municipal & Industrial priority Central Arizona Project supply is \$2,550. The negotiated market value for each acre foot of Non-Indian Agricultural priority Central Arizona Project supply is \$2,074. The effective date for the lease is expected to occur in fiscal year 2014, which also coincides with the first anticipated expenditure.

FISCAL NOTE:

The cost of the acquisition is estimated to be \$2.9 million, and it is included in the proposed FY10 – FY19 Capital Improvement Plan. If Council decides to proceed with the acquisition, appropriation will be required in the future.

ATTACHMENTS:

Attachment A: WMAT Quantification Agreement for Approval and Execution
Attachment B: Lease Agreement for Approval and Execution

SUPPORTING DOCUMENTATION
PERTAINING TO THIS
AGENDA ITEM IS ON FILE IN THE
OFFICE OF THE CITY CLERK