



City Council Report

AGENDA 5f
ITEM _____
DATE 2-17-09

Date: February 17, 2009
To: City Council
Through: Jack Friedline, Deputy City Manager
From: Kathryn Sorensen
Subject: Resolution of White Mountain Apache Tribe Water Rights
Citywide

Purpose and Recommendation

This report documents the need to re-approve the proposed White Mountain Apache Tribe Water Rights Quantification Agreement.

It is recommended that the Council re-approve the settlement and re-authorize the City Manager to sign the Quantification Agreement documents.

Background

Council was asked to approve the White Mountain Apache Tribe Water Rights Quantification Agreement on January 12, 2009. The Council did so, and authorized the City Manager to sign the documents. Unfortunately, there was a significant error in the staff Council report describing the amount of lower-priority water that Mesa expected to receive through the settlement.

Discussion

The staff report presented at the time stated that the City would receive 2,706 acre-feet per year of lower priority CAP water. This was an error, as the amount negotiated is actually 2,291 acre-feet per year. The City will receive 2,291 acre-feet per year, not 2,706 acre-feet, and will pay \$4,753,825 in 2008 dollars for the water, not \$5,614,950 as originally reported. The 2,291 acre-feet amount is the amount originally negotiated. The error in the report occurred when staff inadvertently pulled the wrong number from a spreadsheet.

Again, the full Quantification Agreement including all of the exhibits is available in the office of Kathryn Sorensen at extension 2947 and at the offices of the City Attorney.

Alternatives

The City of Mesa has already approved the settlement agreement and has authorized the City Manager to sign it. The City could refuse to re-approve the settlement. In this case, the City Manager could move forward with signing the agreement under the original authorization. However, this might put the City's participation in the settlement at risk were a challenge to be raised in the future

based on the error in the Council report.

Fiscal Impact

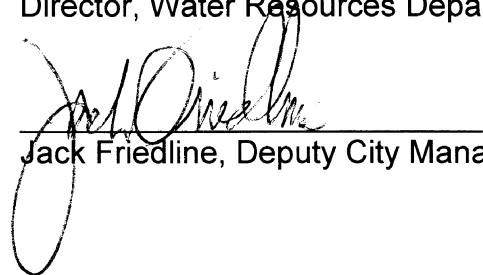
There is no cost to Mesa to re-approve the settlement per se. The City can expect to pay \$4,753,825 in 2008 dollars for the lower priority CAP water, not \$5,614,950 as was originally reported.

Coordinated With

The City Attorney's Office participated extensively in the negotiations and drafting of the Quantification Agreement, and has reviewed it as to form and as to the City's authority to participate in the settlement.



Kathryn Sorensen
Director, Water Resources Department



Jack Friedline, Deputy City Manager

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE WHITE MOUNTAIN APACHE TRIBE WATER RIGHTS QUANTIFICATION AGREEMENT AND EXHIBITS THERETO.

WHEREAS, the City of Mesa ("City") is a claimant of water rights in the General Stream Adjudication of All Rights to Use Water in the Gila River and Source in Maricopa County Superior Court ("Adjudication") wherein the United States has asserted claims on behalf of the White Mountain Apache Tribe ("Tribe") to substantial water rights; and

WHEREAS, recognizing that final resolution of these and other pending proceedings may take many years, entail great expense, prolong uncertainty concerning the availability of water supplies, and impair the long term economic well-being of the parties, the Tribe, the City and the other named parties have agreed to permanently settle the claims of the Tribe as provided in the White Mountain Apache Tribe Water Rights Quantification Agreement; and

WHEREAS, the best interests of the City will be served by entering in the approving and entering into the White Mountain Apache Tribe Water Rights Quantification Agreement;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Mesa, Maricopa County Arizona, as follows:

Section 1: The City Council hereby approves the White Mountain Apache Tribe Water Rights Quantification Agreement Among the United States of America; the State of Arizona; the White Mountain Apache Tribe; the Salt River Project Agricultural Improvement and Power District; the Salt River Valley Water Users' Association; the Roosevelt Irrigation District; the Roosevelt Water Conservation District; Arizona Water Company; the Arizona Cities of Phoenix, Mesa, Tempe, Chandler, Glendale, Scottsdale, Avondale, Peoria and Show Low, the Arizona town of Gilbert; Buckeye Irrigation Company; Buckeye Water Conservation and Drainage District; and the Central Arizona Water Conservation District. The White Mountain Apache Tribe Water Rights Quantification Agreement and the Exhibits thereto is on file at the City Attorney's Office or at such location as is directed by the City Attorney's Office.

Section 2: That the City Manager or his designated representative is hereby authorized on behalf of the City to execute the White Mountain Apache Tribe Water Rights Quantification Agreement and the Exhibits thereto, including but not limited to, the Lease Agreement for CAP Water Among the City of Mesa, the White Mountain Apache Tribe, and the United States, and the Waiver and Release of Claims for Injury to Water Rights by Parties other than WMAT and the United States.

Section 3: The City Manager or his designated representative is authorized to approve and execute the documents with such minor revisions or non-substantive amendments as are necessary and appropriate and approved as to form by the City Attorney or her designated representative. Execution by the City Manager or his designated representative shall constitute conclusive evidence of this City Council's approval thereof, and the City Clerk is authorized and directed to attest to the signature of the City Manager or his designee thereon.

Section 4: That the various City officers and employees be and hereby are authorized and directed to perform all acts necessary to give effect to this Resolution, the White Mountain Apache Tribe Water Rights Quantification Agreement and Exhibits thereto.

PASSED AND ADOPTED by the City Council of the City of Mesa, Arizona, this _____ day of _____, 2009.

APPROVED:

MAYOR

ATTEST:

CITY CLERK