



Legislation Text

File #: 16-374, **Version:** 1

RESOLUTION 5143: AUTHORIZATION TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT FOR JOINT LEGAL REPRESENTATION IN THE WHITE MOUNTAIN APACHE TRIBE WATER SETTLEMENT

Staff Contact: Michael D. Bailey, City Attorney

Purpose and Recommended Action

This is a request for Council to waive reading beyond the title and adopt a resolution authorizing the City Manager to enter into an intergovernmental agreement and contract for legal services with the cities of Avondale, Chandler and Scottsdale for joint legal representation regarding the settlement of water rights claims by the Water Mountain Apache Tribe (WMAT).

Background

On February 12, 2013, the City Council approved the Amended and Restated White Mountain Apache Tribe Water Rights Quantification Agreement, including a Lease Agreement for the Tribe's Central Arizona Project (CAP) water.

The agreements are the culmination of settlements talks with the WMAT and others dating back to 2004. For 12 years, Glendale has been actively involved in negotiations with the United States Bureau of Reclamation, the State of Arizona, the Salt River Project Agriculture Improvement and Power District, the Salt River Valley Water Users' Association, the Roosevelt Water Conservation District, the cities and towns of Avondale, Gilbert, Mesa, Peoria, Phoenix, Scottsdale, Show Low, Tempe and Gilbert, the Buckeye Irrigation Company and the Buckeye Water Conservation District to resolve long-standing water rights claims to the Salt River by the WMAT.

Since 2008, the cities of Avondale, Chandler, Glendale and Scottsdale, have jointly retained the services of Engelman Berger, P.C. to negotiate and resolve the WMAT's Salt River watershed claims.

Analysis

Staff recommends approval of this request. While the Amended and Restated White Mountain Apache Tribe Water Rights Quantification Agreement and Lease Agreement has been signed and executed by all parties, additional legal work is required before the Agreements become enforceable.

The cities have benefitted from this joint representation by outside counsel. Over the past few years, Engelman Berger, P.C. has been successful in meeting with other parties in order to present a uniform settlement approach and draft settlement documents consistent with the cities' respective interests. As the settlement moves forward through the Superior Court approval process, continued joint representation by Engelman Berger, P.C. will be critical to successful conclusion of all actions required

for the Settlement.

Previous Related Council Action

On September 22, 2015, Council adopted Resolution No. 5017 New Series, approving and authorizing the entering into of an intergovernmental agreement and contract for legal services relating to the settlement of the White Mountain Apache Tribe water rights claims.

On December 10, 2013, Council adopted Resolution No. 4752 New Series, approving and authorizing the entering into an intergovernmental agreement and contract for legal services relating to the settlement of the White Mountain Apache Tribe water rights claims.

On February 26, 2013, Council adopted Resolution No. 4647 New Series, approving and authorizing a renewal and extension of an intergovernmental agreement and contract for legal services relating to the settlement of the White Mountain Apache Tribe water rights claims.

On February 12, 2013, Council adopted Resolution No. 4642 New Series, approving and authorizing the amended and Restated White Mountain Apache Tribe Water Rights Quantification Agreement and all associated exhibits, including the 100-year lease of CAP water by Glendale.

At the February 5, 2013 Workshop, Council reviewed a presentation regarding minor revisions made to the WMAT agreements to conform them with federal legislation settling the Tribe's water rights claim.

On February 24, 2009, Council adopted Resolution No. 4235 New Series, approving and authorizing the White Mountain Apache Tribe Water Rights Quantification Agreement and all associated exhibits, including the 100-year lease of CAP water be Glendale.

Budget and Financial Impacts

The cost of representation in the WMAT water rights issues is equally shared by the four cities. Glendale is responsible for twenty-five percent (25%), an amount not to exceed \$20,000 per year for the services rendered under the proposed contract.

| Cost | Fund-Department-Account |
|-----------------|--|
| \$20,000 | 2360-17110-518200, Utilities Administration |

Capital Expense? No

Budgeted? Yes

Requesting Budget or Appropriation Transfer? No

If yes, where will the transfer be taken from?