

Staff Summary Report



Council Meeting Date: 02/19/09

Agenda Item Number: _____

SUBJECT: Request approval of a resolution authorizing the Mayor to sign the White Mountain Apache Water Rights Quantification Agreement and related agreements on behalf of the City of Tempe.

DOCUMENT NAME: 20090219cacc02 **WATER RIGHTS (0811-11) RESOLUTION NO. 2009.14**

SUPPORTING DOCS: Yes

COMMENTS: The White Mountain Apache Tribe Water Rights Quantification Agreement resolves the Tribe's claims to the Salt River and tributaries, provides for a domestic water supply system on the Reservation, and authorizes the Tribe to lease its CAP water to cities including the City of Tempe.

PREPARED BY: Charlotte Benson, Senior Assistant City Attorney (350-2813)

REVIEWED BY: Don Hawkes, Water Utilities Manager (350-2660)
Eric Kamienski, Water Resources Administrator (350-2608)

LEGAL REVIEW BY: Andrew Ching, City Attorney (350-8575)

FISCAL NOTE: Payment for the lease of CAP water will be made over five years from the Water Enterprise Fund. Payments will commence after the Enforceability Date when the Secretary of the Interior determines that the conditions necessary to implement the settlement have been met.

RECOMMENDATION: Adopt Resolution No. 2009.14.

ADDITIONAL INFO: The White Mountain Apache Tribe Water Rights Quantification Agreement and the Exhibits thereto have been filed in the City Clerk's Office. The documents are available for review upon request.

RESOLUTION NO. 2009.14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO SIGN THE WHITE MOUNTAIN APACHE TRIBE WATER RIGHTS QUANTIFICATION AGREEMENT; THE LEASE AGREEMENT FOR CAP WATER AMONG THE CITY OF TEMPE, THE WHITE MOUNTAIN APACHE TRIBE, AND THE UNITED STATES; AND THE WAIVER AND RELEASE OF CLAIMS.

WHEREAS, the Salt River Project (SRP), the City of Tempe, and other cities that use Salt River water have entered into a Quantification Agreement with the White Mountain Apache Tribe and the United States to resolve the Tribe's claims to the Salt River and tributaries; and

WHEREAS, The White Mountain Apache Tribe Water Rights Quantification Act, attached to the Agreement as Exhibit 2.2 and introduced in Congress as S. 313, confirms the Quantification Agreement and authorizes the Tribe to lease the CAP water the Tribe receives pursuant to the Agreement and the Act; and

WHEREAS, as partial consideration for entering into the Quantification Agreement, the White Mountain Apache Tribe and the City of Tempe are entering into a Lease Agreement, attached to the Agreement as Exhibit 10.1.1H, by which the Tribe will lease to the City a portion of the Tribe's Central Arizona Project (CAP) water; and

WHEREAS, pursuant to the Quantification Agreement Subparagraph 12.1, the City of Tempe is executing a waiver and release of claims resulting from the use of water by the White Mountain Apache Tribe and the United States as trustee for the Tribe.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AS FOLLOWS:

That Resolution No. 2009.14 is approved and the Mayor is authorized to sign the White Mountain Apache Tribe Water Rights Quantification Agreement; the Lease Agreement for CAP Water Among the City of Tempe, the White Mountain Apache Tribe, and the United States; the Waiver and Release of Claims; and any necessary non-substantive revisions thereto.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA this ____ day of _____, 2009.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney