



Council Communication

TO: Honorable Mayor and Councilmembers

FROM: Eric Braun, Water Resources Manager, 503-6892

MEETING DATE: June 21, 2018

SUBJECT: Consider approval of:

- a) A Resolution Approving The 100 Year Central Arizona Project Water Lease Among The United States Of America, The San Carlos Apache Tribe, And The Town of Gilbert, Arizona, Contract #2018-4108-0327 and authorize the Mayor to execute the required documents; and
- b) A resolution approving an internal loan from the water replacement fund for the San Carlos Apache Tribe Central Arizona Project Lease, declaring an emergency, and authorize the Mayor to execute the required documents; and
- c) approval of the accompanying contingency request.

STRATEGIC INITIATIVE: Infrastructure

The lease acquisition of 5,925 acre feet per year for 100 years of Central Arizona Project water from the San Carlos Apache Tribe will be added to Gilbert's water portfolio and will allow for sustained development within Gilbert.

RECOMMENDED MOTION

A motion to adopt:

- a) A Resolution Approving The 100 Year Central Arizona Project Water Lease Among The United States Of America, The San Carlos Apache Tribe, And The Town of Gilbert, Arizona, Contract #2018-4108-0327 and authorize the Mayor to execute the required documents; and
- b) A resolution approving an internal loan from the Water Replacement fund for the San Carlos Apache Tribe Central Arizona Project Lease, declaring an emergency;

c) Authorization of a CIP Contingency Transfer, using Water Resources SDF as the designated revenue source, in the amount of \$20,210,000, and authorize the Mayor to execute the required documents.

BACKGROUND/DISCUSSION

In 1999, the San Carlos Apache Tribe (Tribe) secured certain water rights through its Water Rights Settlement Agreement, including 46,535 acre feet of Central Arizona Project (CAP) water annually. The Settlement Agreement was approved by the United States Congress and the Gila River General Adjudication Court, and the Tribe is permitted to lease the CAP water to entities, including Gilbert. The attached CAP water lease is for 5,925 acre feet for a 100 year term. The 100 year term is important for Gilbert, as this lease will now be incorporated into Gilbert's Assured Water Supply portfolio to meet the requirements of the Arizona Groundwater Management Act and will afford Gilbert the ability to continue development under the Act.

In July of 2010, both Gilbert and the Tribe approved the lease of 5,925 acre feet of the Tribe's water. However, the Bureau of Reclamation (BOR), as trustee for the Tribe had objections and the lease has been held in limbo until recent breakthroughs with the BOR. Gilbert's lease water will be subordinate in times of shortage to two existing leases and the use of water on the Tribe's homelands. Additionally, Gilbert is prohibited from using the lease water on golf courses or for mining purposes.

Because of the passage of time, Gilbert and the Tribe have reviewed the payment terms and adjusted the amount and schedule to bring the costs to current value. The full amount due to the Tribe is \$31,208,238, which is due on or before the effective date of the lease. Gilbert will be able to take delivery of the water for the 2019 calendar year if the lease is executed before October 1, 2018. The source of funding will be an internal loan from the Water Repair and Replacement Fund, paid back by System Development Fees as described in the Financial Impact section of this Council Communication.

The attached draft lease contains all the provisions as described above. The final lease may have incidental language changes to comport with BOR requirements. This request is to approve of the lease if it significantly conforms to the draft presented here. The San Carlos Apache Tribe's Council approved the lease terms on June 19th, 2018.

The contract and resolution was reviewed for form by Attorney Chris Payne.

The contract was reviewed by Doug Boyer, Purchasing Manager.

FINANCIAL IMPACT

This project is included in the FY 2019-2028 CIP as WA098 with \$11,000,000 of budget. Approval of this lease requires additional budget authorization of a CIP Contingency transfer, using Water Resources System Development Fees (SDF) as the designated revenue source, in the amount of \$20,210,000.

Water Resources System Development Fees do not have sufficient fund balance to cover the \$31,208,238 and therefore an internal loan from the Water Replacement Fund is being requested. Interest will be calculated and charged to the Water Resources SDF fees for the duration of the loan in proportion to the amount of interest the Replacement Fund would have otherwise earned on the money.

The financial impact was reviewed by Cris Parisot, Management and Budget Analyst.

STAFF RECOMMENDATION

Staff recommends adoption of the two resolutions which approve the Central Arizona Project water lease among the United States of America, the San Carlos Apache Tribe, and the Town of Gilbert, Arizona and the internal loan to fund the lease.

Respectfully submitted,

Eric Braun
Water Resources Manager