



City Council Report

Date: October 20, 2025
To: City Council
Through: Marc Heirshberg, Assistant City Manager
From: Chris Hassert, Water Resources Department Director
Subject: Authorizing a Third Amendment to Intergovernmental Agreement related to joint legal representation in the Gila River General Stream Adjudication (Citywide)

Purpose and Recommendation

Council is requested to approve and authorize the City Manager to enter into a Third Amendment to Intergovernmental Agreement (“Amendment”) among the cities of Avondale, Glendale, Mesa, Scottsdale, and Tempe related to joint legal representation with Engelman Berger, P.C. in the Gila River General Stream Adjudication, whereby the Town of Gilbert will be added as a party.

Background/Discussion

Engelman Berger, P.C. has represented the cities of Avondale, Glendale, Mesa, Scottsdale, and Tempe (the “Cities”) for many years in the Gila River General Stream Adjudication (the “Adjudication”). The Adjudication is a complex lawsuit that has been pending for over 40 years and ultimately will determine rights to use water from the Gila River and its tributaries, including the Salt and Verde River’s which provide much of the supply delivered and used by residents of the City. Mesa, along with thousands of other parties, is a claimant in the Gila Adjudication. The Cities most recently entered an Intergovernmental Agreement (“IGA”) dated July 1, 2019 regarding the joint representation.

This Third Amendment will add the Town of Gilbert, which will formally elect on October 28, 2025 to enter the IGA. Over the course of the many years during which the Adjudication has been pending, various Cities and Towns have joined and withdrawn from the joint legal representation. The Mesa City Attorney’s Office and Water Resources Department believes that the joint representation remains beneficial to the City, and the Third Amendment will authorize Mesa’s continued participation with the other named Cities with the addition of Gilbert, which will also share evenly in the payment of attorney’s fees and expert witness fees incurred in the Adjudication. The IGA will remain in effect until a decree is entered unless terminated sooner by the Parties.

Under the IGA, a contract for legal services between Mesa and Engelman Berger, P.C. will be renewed annually at the discretion of the City Attorney in consultation with the City Manager

and designee, the Water Resources Department Director. The City Attorney's Office also continuously monitors the Adjudication and the effort of legal counsel retained in accordance with the IGA. In some cases, an attorney from the City Attorney's Office also appears jointly with outside counsel.

Alternatives

Council may choose not to authorize the Amendment to the IGA. In this case, the City would lose the economic and other benefits of joint legal representation.

Fiscal Impact

The contract amount for legal fees under the IGA for fiscal year 2025-26 is a maximum of \$40,000 to Mesa. Mesa may also pay up to \$4,000 monthly as shared expert witness fees in the event that an expert is retained. The amount for legal fees is anticipated to increase in future years but will continue to be split six ways upon Gilbert Council approval to join the IGA.

Coordinated With

The development of IGA was coordinated with the City Attorney's Office.