

**COUNCIL AGENDA MEMO – September 19, 2012  
1:30 PM Special Meeting**

**DEPARTMENT:** City Manager

**AGENDA ITEM:** Adoption of Resolution No. 4146-1306 authorizing the City of Prescott to enter into Comprehensive Agreement No. 1 with the Town of Prescott Valley, Salt River Valley Water Users' Association, and the Salt River Project Agricultural Improvement and Power District, for monitoring and modeling of surface and ground waters in the Big Chino Sub-basin and Upper Verde River

**Approved By:**

**Date:**

**Finance Director:** Mark Woodfill

**City Manager:** Craig McConnell

**Item Summary**

On February 11, 2010, the City of Prescott, Town of Prescott Valley, Salt River Valley Water Users' Association, and the Salt River Project Agricultural Improvement and Power District ("the parties") entered into "An Agreement in Principle" ("AIP") pertaining to withdrawal and use of water from the Big Chino Sub-basin and the protection of stream flow in the Upper Verde River. The AIP is a conceptual framework which set forth principles guiding the parties and forming the basis for more detailed future agreements addressing the specific items enumerated therein, including the "3Ms"-- groundwater modeling, groundwater and surface water monitoring, and mitigation (if necessary), associated with future pumping from the City's Big Chino Water Ranch (BCWR) and importation of water into the Prescott Active Management Area.

Since approval of the AIP, through extensive dialogue the parties have crafted Comprehensive Agreement No. 1 (attached), addressing the first two of the aforementioned "3Ms", modeling and monitoring, with the addition of mutual recognition of certain water rights arising from the Prescott Active Management Area. In summary, the progression of agreements pertaining to the Big Chino Sub-basin is presently contemplated to consist of the following:

Agreement in Principle  
(Approved 2/11/10)

Established framework for additional, more detailed future agreements

Comprehensive Agreement No. 1  
(This item)

- Implementation of an enhanced groundwater and surface water monitoring system generating data for a more refined ("nested") groundwater model to be developed
- Development and maintenance of the nested groundwater model
- Mutual recognition of certain water rights of the parties

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Future Agreement

Mitigation plan for preserving flow within the Upper Verde River (if necessary following development of the nested groundwater model)

Future Agreement

Water management within the Big Chino Sub-basin (if feasible)

The Salt River Valley Water Users' Association, and the Salt River Project Agricultural Improvement and Power District, approved Comprehensive Agreement No. 1 at their meetings of September 10, 2012.

### **Key Provisions of Comprehensive Agreement No. 1**

- This Agreement is among Prescott, Prescott Valley, and Salt River Project (SRP).
- The Agreement will continue in force unless terminated as provided in Paragraph 3. If the Agreement is terminated upon a determination not to construct the Big Chino Water Ranch Project, in the event that construction is subsequently reactivated the objectives and understandings, including monitoring, set forth in the AIP shall be readdressed.
- The total capital cost forward of the enhanced monitoring system and modeling is estimated at \$4.32 million. Credits will be recognized for certain costs already expended by the parties: \$270,500 to Prescott and \$229,500 to Prescott Valley for prior construction of four (4) BCWR monitoring wells; and \$148,450 to SRP for automating their Gipe well and constructing a surface gage at Campbell Ranch. After application of the total of these credits (\$648,450), the net estimated capital cost forward for Prescott is \$1.43 million.
- The estimated total operation and maintenance cost of the enhanced monitoring system, when it is up and running, is estimated at \$317,880 per year, with Prescott's share of this amount \$114,700 per year.
- Capital and operating costs will be shared on the basis of 2/3 Prescott and Prescott Valley, and 1/3 SRP. Prescott and Prescott Valley will further divide their two-thirds portion 54.1% / 45.9% respectively as provided in their 2004 intergovernmental agreement ("IGA").
- Within 180 days of the effective date of the Agreement, a Monitoring Committee consisting of representatives of the parties will develop detailed guidelines for implementation of the Monitoring Plan (Exhibit 4 to the Agreement).
- An annual written report of monitoring data collected, and analysis of it, will be prepared. The data will be used to update the nested groundwater model to be developed subsequently.

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### **Relationship to the U.S. Geological Survey (USGS) Framework Model**

As summarized above, Comprehensive Agreement No. 1 encompasses creation of a "nested" groundwater model, much more refined than, and to be incorporated within, the framework model released by the USGS which is the present subject of technical review and evaluation by the Yavapai County Water Advisory Committee. Exhibit 3 to the Agreement, "Proposal to Test Conceptual Models using Numerical Models and to Develop an Improved Hydrogeologic Framework and Numerical Model of the Big Chino Sub-basin, Central Arizona, July 7, 2010," is a scoping document formulated several years ago contemplating the modeling work now incorporated within Comprehensive Agreement No. 1. Exhibit 3 is presented to both underscore the scientific and practical interests in better understanding the relationship between the Big Chino Sub-basin and Upper Verde River, and demonstrate that the longstanding approach for achieving that knowledge, including predicting ground and surface water levels under various population growth scenarios, is through not one but both levels of modeling, framework and nested. The USGS Proposal of Exhibit 3, by its very existence, makes and reinforces this distinction as follows:

*A variety of hydrogeologic assessments have been conducted and published for the area; much of that work has been synthesized in the Northern Arizona Regional Groundwater-Flow Model (NARGM; Pool, in review). This model, although regional in scope is a useful starting point to develop more detailed tools to address concerns about the effect of groundwater withdrawals in the Big Chino sub-basin on base flow in the Verde River (underline added for emphasis).*

### **Proposition 401**

The Taxpayer Protection Initiative, Proposition 401, was passed by Prescott voters in November 2009, and thereafter incorporated in Article VI, Section 16, of the City Charter. Subsequently, on May 3, 2011, a Council workshop presentation consisting of an external, independent review of this initiative and associated issues was made in public session by an attorney associated with the Gust-Rosenfeld law firm.

Proposition 401 includes the following provision:

*Approval by the voters shall not be required for initial funding of feasibility studies or conceptual designs, or other expenses in aggregate less than Five Million Dollars (\$5 million). Design plans and specifications or construction of any kind shall not be included in this exception. This amount shall be adjusted annually by the same percentage rate as the threshold is adjusted in Section B.1.*

Notwithstanding the fact that at present the legal questions raised in the May 3, 2011, workshop, which are numerous and significant, have not be definitively answered, even if Proposition 401 did apply to the Project, and in this case more specifically

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Comprehensive Agreement No. 1, there are strong arguments supporting a conclusion that at this juncture they are moot because:

- The monitoring and modeling to be accomplished via this agreement are explicitly related to demonstration of *feasibility*, well within the exception recited above. The *feasibility* to be investigated is whether pumping from the Project will cause adverse groundwater and surface water conditions in the Big Chino Sub-basin and Upper Verde River which would require extensive, costly mitigation to the extent of rendering the project *unfeasible*.
- Proposition 401 only addresses expenses of Prescott. The City's total estimated capital cost forward associated with Comprehensive Agreement No. 1 is \$1.66 million, well under the \$5 million exception cap for feasibility studies.

A fundamental question further exists as to whether the monitoring and modeling fall within the Proposition 401 definition of "Project". Since the monitoring and modeling will involve jointly owned wells, instrumentation, and equipment, and other (modeling) work to produce scientific data of benefit extending beyond the Big Chino Water Ranch Project to the general public of the region and state, the answer is not clear.

## **Budget**

Project expenditures to date total approximately \$36 million, apportioned 54.1% / 45.9% respectively between Prescott (\$19.5 million) and Prescott Valley (\$16.5 million).

The current estimate (2009) of costs forward for implementation of the Project, primarily construction, not including the monitoring and modeling included in Comprehensive Agreement No. 1, totals \$132.6 million. As previously mentioned, Prescott's shares (54.1% x 2/3) for monitoring and modeling are estimated at \$1.43 million total spread over six years for capital, and \$114,700 annually for operation and maintenance.

The sum of \$1,356,420 is included in the current (Fiscal Year 2013) budget for the Project (see attached FY 2013 Capital Improvements Budget/FY13-18 Project Detail sheet). Of this amount, \$641,530 is the sole responsibility of Prescott for debt service associated with financing of the Big Chino Water Ranch property purchase. The balance is for various project expenditures including professional services and property management, reimbursable by the Town at 45.9%.

**Attachments** - Resolution No. 4146-1306  
- Comprehensive Agreement No. 1 (this is Exhibit "A" to the above resolution)  
- FY 2013 Capital Improvements Budget/FY 13-18 Project Detail sheet

**Recommended Action:** **MOVE** to adopt Resolution No. 4146-1306.