



**Chandler · Arizona**  
*Where Values Make The Difference*

#13

JUL 09 2015

**MEMORANDUM**

**MUNICIPAL UTILITIES - MEMO NO. MUA16-003**

**DATE:** JULY 9, 2015

**TO:** MAYOR AND COUNCIL

**THRU:** MARSHA REED, ACTING CITY MANAGER <sup>MR</sup>  
NACHIE MARQUEZ, ASSISTANT CITY MANAGER <sup>MM</sup>  
DAVE SIEGEL, MUNICIPAL UTILITIES DIRECTOR <sup>DS</sup>

**FROM:** JOHN KNUDSON, UTILITIES ENGINEERING MANAGER

**SUBJECT:** RESOLUTION NO. 4883 AUTHORIZING AMENDMENT NO. 1 TO AN INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF GILBERT FOR THE CONSTRUCTION AND OPERATION OF A JOINTLY-OWNED SURFACE WATER TREATMENT PLANT

**RECOMMENDATION:** Staff recommends City Council adopt Resolution No. 4883 authorizing Amendment No. 1 to an Intergovernmental Agreement with the Town of Gilbert for the construction and operation of the Santan Vista Water Treatment Plant.

**BACKGROUND AND DISCUSSION:** The Santan Vista Water Treatment Plant is jointly-owned by the City of Chandler and the Town of Gilbert. The first phase of this facility was completed in 2009 and provides 12 million gallons per day (MGD) to each community. Amendment No. 1 incorporates the Phase II Improvements into the Intergovernmental Agreement. The Phase II Improvements will supply an additional 12 MGD to the City, for a total of 24 MGD by early 2018. This partnership allows Chandler and Gilbert to bolster water delivery and treatment capabilities for greater system redundancy and reliability, while realizing significant capital and operating savings.

Under the Agreement, the real property, plant infrastructure, and raw water pipelines are jointly-owned with each party entitled to 50% of the plant capacity and paying 50% of the construction costs. The Town of Gilbert acts as the Lead Agent, overseeing construction activities, and operations at the plant.

**FINANCIAL IMPLICATIONS:**

Costs:	Phase 2 Treatment Plant Design:	\$3,901,578
	Phase 2 Construction:	<u>\$37,755,059</u>
	Total Costs:	<u>\$41,656,637</u>

Fund Source:

<u>Account No.</u>	<u>Fund Name:</u>	<u>Program Name:</u>	<u>CIP Funded:</u>	<u>Amount:</u>
603.3820.5219.6WA334	Water SDF	Joint Water Treatment Plant	FY 2014/15	\$3,901,578
603.3820.6210.6WA334	Water SDF	Joint Water Treatment Plant	FY 2015/16	<u>\$37,755,059</u>
			Total:	<u>\$41,656,637</u>

**PROPOSED MOTION:** Staff recommends City Council adopt Resolution No. 4883 authorizing Amendment No. 1 to an Intergovernmental Agreement with the Town of Gilbert for the construction and operation of the Santan Vista Water Treatment Plant.

Attachments: Resolution No. 4883  
Amendment No. 1

RESOLUTION NO. 4883

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING AND APPROVING AMENDMENT NO. 1 TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF CHANDLER AND THE TOWN OF GILBERT FOR THE CONSTRUCTION AND OPERATION OF A JOINTLY OWNED SURFACE WATER TREATMENT PLANT

WHEREAS, on June 7, 2006, the Town of Gilbert and City of Chandler entered into an Intergovernmental Agreement (“Agreement”) related to the design, construction and operation of a Joint CAP Water Treatment Plant (“Project”), now known as the Santan Vista Water Treatment Plant; and

WHEREAS, Phase I of the Project has been completed and is in operation; the Parties are planning for the design, construction and operation of Phase II of the Project; and

WHEREAS, the Parties desire to amend the Agreement to identify the responsibilities and roles of Chandler and Gilbert during the design, construction, and operation of the expanded facility. The amended agreement further defines the cost share of Chandler and Gilbert during the respective phases as well.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler, Maricopa County, Arizona, as follows:

Section 1. That Amendment No. 1 to the intergovernmental agreement between the City of Chandler and the Town of Gilbert for the construction and operation of Phase II of the jointly owned surface water treatment plant, in substantially the form as presented to Council with this Resolution, and as approved as to form by the Chandler City Attorney, is hereby authorized and approved.

Section 2. That the Mayor of the City of Chandler is authorized to execute said amendment to the intergovernmental agreement.

Section 3. That the various City officers and employees be, and they hereby are, authorized and directed to perform all acts necessary to give effect to this Resolution.

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona, this \_\_\_\_ day of \_\_\_\_\_, 2015.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4883 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2015, and that a quorum was present thereat.

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney (*KSM*)

AMENDMENT NO. 1  
TO  
INTERGOVERNMENTAL AGREEMENT CONCERNING THE DESIGN,  
CONSTRUCTION AND OPERATION OF A JOINT CAP WATER TREATMENT PLANT  
BETWEEN THE TOWN OF GILBERT AND THE CITY OF CHANDLER

This Amendment to the Intergovernmental Agreement Concerning the Design, Construction and Operation of a Joint CAP Water Treatment Plant between the Town of Gilbert, Arizona and the City of Chandler, Arizona is entered into this \_\_\_ day of \_\_\_\_\_, 2015, by and between the Town of Gilbert, an Arizona municipal corporation ("Gilbert") and the City of Chandler, an Arizona municipal corporation ("Chandler") to amend the Intergovernmental Agreement dated \_\_\_\_\_ ("Agreement").

RECITALS:

1. Gilbert and Chandler entered into the Agreement related to the design, construction and operation of a Joint CAP Water Treatment Plant, now known as the San Tan Vista Water Treatment Plant ("Project").
2. Phase I of the Project has been completed and is in operation; the Parties are planning for the design, construction and operation of Phase II of the Project.
3. Gilbert and Chandler desire to amend the Agreement as hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing premises and mutual promises and agreements of the parties, Gilbert and Chandler agree to amend the Agreement as follows (deleted language in ~~strikeout~~; added language CAPITALIZED):

1. The List of Exhibits is amended to read as follows:

**LIST OF EXHIBITS**

~~Exhibit A-Base Staff Level~~  
~~Exhibit BA-Fixed Cost Items~~  
~~Exhibit CB- Operating Fee~~  
~~Exhibit DC-Legal Description~~  
~~Exhibit ED-Non-Revocable Permit: Chandler Finished Water Line~~  
EXHIBIT E ALLOCATION OF COSTS

2. Article I Definitions is amended to amend the definition of "Base Staff Level" to read as follows:

*"Base Staff Level"* shall mean staffing the Joint Plant at the levels set forth in ~~Exhibit A~~ **AS DETERMINED BY THE COMMITTEE**. ~~Any change to the Base Staff Level shall first be approved by the SWTP Committee, unless such change is necessary to comply with either a Change of Law or a change in the design of~~

~~the Joint Plant. Any dispute as to whether a change to the Base Staff Level is necessary to comply with either a Change of Law or a change in design of the Joint Plant shall be subject to the dispute resolution provisions set forth in Article XV of this Agreement. Except as expressly set forth to the contrary elsewhere in this Agreement, the positions identified in Exhibit A comprising Base Staff Level shall be employed to provide services exclusively and directly relating to the operation and maintenance of the Joint Plant.~~

3. Article I Definitions is amended to amend the definition of “Capital Improvement” to read as follows:

*“Capital Improvement”* shall mean the acquisition, repair, and/or replacement of, or improvement to, equipment or structures that are part of the Joint Plant after completion of Phase I or, as applicable, Phase II, whose unit costs (as to any single item or function) is greater than Five FIFTY Thousand Dollars (\$5,000.00-50,000.00), as adjusted each Adjustment Date by the Capital Adjustment or as periodically adjusted by the SWTP Committee.

4. Article I Definitions is amended to amend the definition of “Chandler Pumping Cost” to read as follows:

*“Chandler Pumping Cost”* shall mean the pumping cost associated with the operation of the Chandler Finished Water Line Pumps. THESE COSTS HAVE BEEN SEPARATED AND ARE INVOICED BASED ON THE RESPECTIVE METER COSTS AS WELL AS EACH PARTY’S SHARE OF THE JOINT COSTS.

5. Article I Definitions is amended to amend the definition of “Excluded Costs” to read as follows:

*“Excluded Costs”* shall mean the following, WHICH ARE EXCLUDED FROM ADMINISTRATIVE/OVERHEAD COSTS, BUT INCLUDED IN DIRECT COSTS: [Balance of the definition unchanged.]

6. Article I Definitions is amended to add the definition of “Joint Finished Water Reservoir” to read as follows:

*“JOINT FINISHED WATER RESERVOIR”* SHALL MEAN THE RESERVOIRS CONSTRUCTED FOR THE PURPOSE OF STORING FINISHED WATER FOR GILBERT AND CHANDLER.

7. Article I Definitions is amended to amend the definition of “Phase I” to read as follows:

*“Phase I”* shall mean the first phase of ~~an intended~~ THE two-phase construction of the Joint Plant resulting in an initial Joint Plant Treatment Capacity of 24 MGD. ~~The component elements of Phase I will be specifically~~

~~set forth in the scope of design to be agreed on by the SWTP Committee.~~  
CONSTRUCTION OF PHASE I IS NOW COMPLETE.

8. Article II General Agreement Provisions, Section 2.3 is amended to read as follows:

2.3 AUTHORIZED REPRESENTATIVES. Within thirty (30) calendar days of the Effective Date, the City Manager for Chandler and the Town Manager for Gilbert shall each appoint an Authorized Representative and an alternate Authorized Representative to administer the provisions of this Agreement for which the Authorized Representatives have responsibility, and notify each other of those appointments IN WRITING. The alternate Authorized Representative shall act only when the Authorized Representative is absent or otherwise unable to perform his or her duties under this Agreement. Any decision or agreement required to be made or entered into by a Party's Authorized Representative shall be binding on a Party only if it is in writing and signed by the Party's Authorized Representative. Each Party shall immediately notify the other Party of any change in the identity of its Authorized Representative or alternative Authorized Representative. The Authorized Representatives shall also provide to each other a point of contact that can be reached in case of emergency or during times outside of normal business hours. The Parties shall notify each other of any change in emergency contact person information IN WRITING.

9. Article IV Design and Construction of Initial Joint Plant Components is amended to add new Section 4.4 to read as follows:

4.4 JOINT FINISHED WATER RESERVOIR. IN CONSIDERATION OF THE COSTS PAID BY CHANDLER FOR THE JOINT FINISHED WATER RESERVOIR, CHANDLER SHALL HAVE A RIGHT TO 3,000,000 GALLONS OF CAPACITY FOR STORAGE OF FINISHED WATER IN THE JOINT FINISHED WATER RESERVOIR.

Renumber existing Section 4.4 to be Section 4.5.

10. Article VI Design and Construction of Phase II, Section 6.1 is amended to read as follows:

PAYMENT FOR DESIGN AND CONSTRUCTION. Subject to Section 4.4, 6.6 and 6.7, and Section 7.3 of this Agreement, each Party shall have an equal percentage of Treatment Capacity in Phase II and all Capital Costs incurred in the design and construction of Phase II shall be shared SHALL BE SHARED IN ACCORDANCE WITH THE PERCENTAGES SET FORTH IN EXHIBIT E. Gilbert shall invoice Chandler for Chandler's portion of such costs as they are incurred, and Chandler shall pay the invoice amount within thirty (30) days of invoice, while noting any disputed item.

11. Article VI Design and Construction of Phase II, Section 6.2 is amended to read as follows:

6.2 BUDGETED COST. The Budgeted Cost for the design and construction of Phase II is ~~Sixty Two~~ EIGHTY-THREE Million Two Hundred Thousand Dollars (\$~~62,200,000~~ 83,000,000).

12. Article VI Design and Construction of Phase II, Section 6.5.1 is amended to read as follows:

6.5.1 DATE TO COMMIT. Unless an alternative date is adopted by the SWTP Committee, the Parties shall either HAVE approveD the design and construction of Phase II at the Budgeted Cost for Phase II, or such other amount separately approved by each Party's Council, or indicate that they will either not participate in Phase II or only participate in Phase II in a limited manner, by April, 2011 AND HAVE BY THIS AMENDMENT NO. 1 APPROVED THEIR RESPECTIVE PARTICIPATION AS SET FORTH IN THIS AMENDMENT.

13. Article XI CAP Water, Section 11.1 is amended to read as follows:

~~11.1 QCID TURNOUT. The Parties hope to utilize the QCID Turnout to divert CAP Water to the Joint Water Transmission Line and agree to initiate negotiations with those entities that own and control the QCID Turnout to HAVE reached an agreement permitting the use of the QCID Turnout. that includes the following terms:~~

~~Grants authority to the Parties, through the Lead Agent, to directly order CAP Water delivery at the QCID Turnout in the manner set forth in this Article;~~

~~Does not require the Parties to order CAP Water delivery at the QCID Turnout on behalf of any other entity, including QCID;~~

~~Provides an equitable, fixed division of all future maintenance and repair costs needed for continued use of the QCID Turnout;~~

~~Provides a reasonable, fixed cost or fee for use of the QCID Turnout;~~

~~Sets forth the Parties responsibility for any improvements to the QCID Turnout necessary for use by the Parties; and~~

~~(f) Grants a non-revocable, perpetual right to use the QCID Turnout on the agreed upon terms at all times that the Parties, or either Party, owns and operates the Joint Plant or any replacement CAP Water treatment plant.~~

14. Article XI CAP Water, Section 11.2 is deleted.

15. Article XIII Insurance, Section 13.2 is amended to read as follows:

13.2 GILBERT LIABILITY INSURANCE REQUIREMENTS. Gilbert shall maintain Commercial General and Umbrella Liability ("CGL") insurance with a limit of not less than Twenty Million Dollars (\$20,000,000) per occurrence from the Effective Date. The CGL insurance shall be written on ISO occurrence form CG 00 01 12 04 (or substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, product-completed operations, personal injury, liability assumed under the indemnification provisions of this Agreement and liability assumed under an insured contract, including the tort liability of another assumed in a business contract. The general aggregate limit shall apply separately to this Agreement. ~~After the completion of Phase I, Gilbert shall maintain or make available, in addition to the Twenty Million Dollars (\$20,000,000) of existing CGL insurance, an additional Ten Million Dollars (\$10,000,000) of CGL coverage for a total of Thirty Million Dollars (\$30,000,000) of CGL coverage. All or a portion of the additional Ten Million Dollars (\$10,000,000) CGL coverage required after completion of Phase I may be satisfied by Gilbert through appropriate reserves provided that Chandler is not in any way charged a fee or assigned a portion of the costs associated with such reserve and Chandler is fully indemnified by Gilbert for any liability that would be normally covered by CGL insurance up to the Thirty Million Dollars (\$30,000,000) coverage required herein. Gilbert shall notify Chandler before utilizing a reserve for all or a portion of the additional Ten Million Dollars (\$10,000,000) CGL coverage requirement and provide documentation as to the adequacy of the reserve established.~~

16. Article XIII Insurance is amended to add new Section 13.10 to read as follows:

13.10. CONTRACTOR'S INSURANCE REQUIREMENTS. AT A MINIMUM, GILBERT SHALL REQUIRE THE CONTRACTOR FOR CONSTRUCTION OF PHASE II TO MAINTAIN COMMERCIAL GENERAL AND UMBRELLA LIABILITY INSURANCE WITH A LIMIT OF NOT LESS THAN TWENTY-FIVE MILLION DOLLARS (\$25,000,000) PER OCCURRENCE, TWENTY-FIVE MILLION DOLLARS (\$25,000,000) GENERAL AGGREGATE LIMIT ON A PER PROJECT BASIS, AND TWENTY-FIVE MILLION DOLLARS (\$25,000,000) PRODUCTS AND COMPLETED OPERATIONS ANNUAL AGGREGATE. IN ADDITION, GILBERT SHALL REQUIRE THE CONTRACTOR TO MAINTAIN A POLLUTION LEGAL LIABILITY POLICY WITH MINIMUM LIMITS OF FIVE MILLION DOLLARS (\$5,000,000) PER LOSS AND FIVE MILLION DOLLARS (\$5,000,000) PRODUCTS AND COMPLETED OPERATIONS ANNUAL AGGREGATE. ALL POLICIES SHALL BE EFFECTIVE FROM THE DATE OF NOTICE TO PROCEED WITH CONSTRUCTION.

17. Exhibit A shall be deleted in its entirety. References in the Agreement to Exhibits B, C and D shall be replaced with references to Exhibits A, B and C respectively. Exhibit A (Fixed Cost Items) and Exhibit B (Operating Fee) are hereby revised as set forth on attached Exhibits A and B. Exhibit E (Allocation of Costs) is hereby added to the Agreement.

All other provisions of the Agreement shall remain unchanged.

IN WITNESS WHEREOF, the Parties have executed this Amendment to the Agreement as of the day first above written.

TOWN OF GILBERT:

CITY OF CHANDLER:

By: 

\_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_

ATTEST:

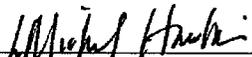
ATTEST:

  
Catherine Templeton, Town Clerk

\_\_\_\_\_, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

  
L. Michael Hamblin  
Town Attorney

\_\_\_\_\_  
Kay Bigelow  
City Attorney

**EXHIBIT A  
FIXED COST ITEMS**

**Town of Gilbert  
SanTan Vista WTP IGA  
Fixed Costs Analysis**

<u>Category</u>	<u>Amount in IGA</u>	<u>Revised Estimate</u>
	\$	\$
Supplies	52,630	46,020
Professional Services	31,990	14,510
Maintenance Services	149,680	102,890
Insurance	75,820	68,000
Utilities and Permits	22,800	88,120
Rentals	3,660	28,470
Employee Development	12,200	6,900
Purchased Services*	-	43,860
	\$	\$
<b>TOTAL FIXED COST ITEMS</b>	<b><u>348,780</u></b>	<b><u>398,770</u></b>

\* This was not included as a category in Exhibit B in the IGA and will replace Overhead costs.

## EXHIBIT B

### OPERATING FEE

I. PHASE I. *Phase I is complete. The adjusted Operating Fee is based on the average of the three most recent years in operation and will be comprised of the following:*

(a) A Fixed Cost Fee of \$199,385.00, as adjusted every ten (10) years by the Fixed Cost Fee Adjustment and, when applicable, the Insurance Cost Adjustment calculated annually.

II. PHASE II. After completion of Phase II, the Operating Fee shall be \$398,770, as adjusted each Year by the Operating Fee Adjustment, and be comprised of the following:

(a) A Fixed Cost Fee of \$399,770, as adjusted every ten (10) years by the Fixed Cost Fee Adjustment and, when applicable, the Insurance Cost Adjustment calculated annually.

III. MODIFICATIONS. The Operating Fee is based on the assumption that Chandler and Gilbert each have fifty percent (50%) of the Treatment Capacity. As such, the Operating Fee shall be proportionally adjusted, as necessary, if the Parties do not have equal Treatment Capacity so that each Party is responsible for its proportionate share of Fixed Costs.

**EXHIBIT E**

**ALLOCATION OF COSTS FOR PHASE 2**

<b>Description of Work</b>	<b>Financial Responsibilities</b>	
	<b>Chandler, %</b>	<b>Gilbert, %</b>
<b>Pre-Design, Design, and Construction Phase Engineering (B&amp;V)</b>	50	50
<b>Pre-Construction Services (Sundt)</b>	50	50
<b>Construction (Sundt)</b>		
• Site Work, Yard Piping,	50	50
• Raw Water Metering, Mixing and Control	50	50
• Sand Ballasted Flocculation Basins/Trains	50	50
• Ozone Contact Basins/ Trains	50	50
• Filters	50	50
• Finished Water Storage	0	100
• Gilbert Finished Water Pumping	0	100
• Chandler Finished Water Pumping, Surge, and Electrical	100	0
• Wash Water Recovery and Treatment	50	50
• Solids Handling Facilities	50	50
• Chemical Facilities	50	50
• SCADA/I&C	50	50
• Ozone Facilities	50	50
• Electrical	50	50
• All other Miscellaneous Work	50	50
<b>Gilbert Program Management Contract</b>	0	100