



This meeting will be held in person, but you may attend virtually; see the instructions on page 2.

AGENDA

12:00 a.m. LUNCH (Prescott Room, NO STUDY SESSION)

12:15 p.m. BOARD MEETING

1. Roll Call

2. Pledge of Allegiance

3. Comments from the Audience

Comments will be limited to 4 minutes per individual, group, or organization; please state your name and organization (if applicable) when prompted.

4. Consent Calendar

4.1 Approval or Correction of the Minutes of the Last Regular Meeting of June 21, 2023

4.2 Authorize the General Manager to Sign Intergovernmental Agreement with the City of Ashland to Provide Assistance for Water Conservation Services

4.3 Resolution No. 1890, A RESOLUTION Authorizing the General Manager to Execute an Amendment to the Agreement between the Board of Water Commissioners and the City of Phoenix

5. Items Removed from Consent Calendar

None.

6. Resolution No. 1891, A RESOLUTION Authorizing the General Manager to Execute a payment to the City of Phoenix (Phoenix) and the City of Medford, By and Through its Board of Water Commissioners

7. Leadership Team Reports

Leadership Team staff will be present and may provide information: Engineering Manager Brian Runyen, Water Operations Manager Dan Perkins, Finance Manager Anna Roeder, Information Technology Manager Kris Stitt, Human Resources Manager Tanya Haakinson, Water Resources & Customer Service Manager Julie Smitherman, and General Manager Brad Taylor.

8. Propositions and Remarks from the Commissioners

9. Adjourn

DATES TO REMEMBER*

DATE	DAY	TYPE OF MEETING	STUDY SESSION TIME & TOPIC	REGULAR MEETING	LOCATION
07/19/23	Wed	Board Meeting	Time TBD – Annual Goals	12:15 p.m.	City Hall Medford Room - Rm 330

*Meeting dates, times, and locations are subject to change.

INSTRUCTIONS FOR ATTENDING THIS MEETING VIRTUALLY



To join by computer, click the following link:

https://us02web.zoom.us/webinar/register/WN_7h8nqLKET9GBQIXxUN8G_Q

Meeting passcode: 562202



To join by phone, call:

(669) 900-6833

Meeting ID Number: 873 0274 8786 Meeting passcode: 562202



Memorandum

TO: Commissioners Michael Smith, John Dailey, Jason Anderson, Bob Strosser, and David Wright
FROM: Julie Smitherman, Water Resources & Customer Service Manager
DATE: Wednesday, July 5, 2023
SUBJECT: Item 4.2 - Intergovernmental Agreement (IGA) with City of Ashland-Providing Assistance for Water Conservation Services
OBJECTIVE: Board Authorization

Issue

The City of Ashland (COA) requested continued assistance from Medford Water (MW) in helping support their Water Conservation Program, while they work to hire and develop plans to manage it moving forward.

Discussion

Medford Water will provide resources to support the transition of the COA Conservation Program. The agreement is through June 30, 2025, and can be terminated earlier. 90-day written notice by either party may be used to terminate the agreement. We have been serving in this capacity since April 2021.

The attached IGA (Exhibit A) establishes the scope of services to support the COA Water Conservation Program. MW will be invoicing COA for services.

MW and COA legal resources have reviewed the IGA.

Financial Impact

MW will be compensated for time and materials to support water conservation efforts.

Requested Board Action

Staff recommends the Board authorize the General Manager to sign the IGA on behalf of Medford Water.

**INTERGOVERNMENTAL AGREEMENT
FOR
WATER CONSERVATION AND EFFICIENCY SERVICES
BETWEEN THE CITY OF ASHLAND AND THE MEDFORD WATER COMMISSION**

This Intergovernmental Agreement (hereinafter “Agreement”) is entered into by and between the City of Ashland, an Oregon municipal corporation (hereinafter “Ashland”), and the City of Medford, an Oregon municipal corporation, by and through the Medford Water Commission (hereinafter “MWC”), collectively referred to hereinafter as the “PARTNERS.”

RECITALS

- A. The PARTNERS each own and operate separate water systems that supply water to their respective customers; and
- B. The PARTNERS recognize the vital importance of providing a reliable source of water to all of their respective customers for public health, safety, and welfare and for sustaining economic development; and
- C. The PARTNERS value the important role each utility plays in meeting the water needs of their respective communities; and
- D. The PARTNERS agree that sharing equipment, materials and services promotes the cost effective and efficient use of public resources; and
- E. The PARTNERS desire to enter into an agreement to establish the procedures for sharing equipment, materials, and services and to define their legal relationships and responsibilities; and
- F. The PARTNERS enter this Agreement in a spirit of good will and mutual cooperation, with the understanding that shared resources will improve the current and long-term reliability of individual and collective water systems and is in the highest public interest; and
- G. This Agreement is authorized under ORS 190.010 *et seq.*

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the PARTNERS hereby agree as follows:

- A. **RECITALS/PURPOSE:** The above recitals are true and correct and are specifically adopted and incorporated herein as the purpose of this Agreement.
- B. **DEFINITIONS:** As used herein, Water Conservation & Efficiency Services means the policies, strategies and activities to sustainably manage the natural resource of water.

C. TERM, TERMINATION, AND AMENDMENTS:

1. This Agreement shall be effective from the date of execution by all PARTNERS as set forth below (the “Effective Date”). If the PARTNERS sign on separate dates, the latter date shall be the Effective Date. This Agreement shall terminate on June 30, 2025, unless sooner terminated as provided in Subsection C.2.
2. This Agreement may be terminated at any time upon the mutual written consent of the PARTNERS. This Agreement may be terminated by either party, upon not less than ninety (90) calendar days written notice to the other party.
3. This Agreement may be amended only by written instrument executed with the same formalities as this Agreement.

D. SCOPE OF SERVICES

1. MWC will provide water conservation and efficiency services to Ashland including, but not limited to:
 - I. Efficiency Rebate Program review and approval for:
 - i. Toilets, washers.
 - a. MWC will assist with training on processing toilet and washing machine rebates.
 - b. MWC will also assist with training on how to track the number of rebates and estimated savings for each rebate.
 - c. After initial training is complete, Ashland staff will process incoming rebate requests on their own.
 - d. MWC will assist with technical questions via electronic communication.
 - ii. Smart controllers, lawn replacement.
 - a. These two rebates are more intensive and typically require onsite visits and irrigation evaluations in order for the customer to be eligible for a rebate.
 - b. Rebates are issued based on customers’ ability to achieve water savings.
 - c. MWC will also assist with training on how to track the number of rebates and estimated savings for each rebate.
 - d. MWC staff will assist in training Ashland staff in the processing of these rebates. Once training is complete, Ashland staff will process these rebates on their own with technical assistance as needed from MWC.

II. Indoor water audits:

- i. MWC will train Ashland staff and perform indoor water audits as necessary.
 - a. Such audits include checking toilets, washing machines, water heaters, and dishwashers and assisting the customer with changing out showerheads and faucet aerators.
 - b. Audits will always include assistance with ordering giveaways, such as showerheads and faucet aerators.
 - c. MWC will also assist with training Ashland staff on how to track estimated savings as a result of the installation of new showerheads, faucet aerators, etc.

III. Irrigation audits:

- i. MWC will train Ashland staff and perform irrigation audits and write an associated follow-up report as necessary.
 - a. Such audit work will include filling out data worksheets in the field, education on the operation of sprinkler systems and their components (drip, spray, rotors and their application rates), programming controllers, determining evapotranspiration (ET) to assist in developing a watering schedule, conducting a catch can test, and determining plant water needs.
 - b. Ashland will be the primary point of contact for customers and will schedule appointments on a selected day or days (e.g., Tuesday and Thursdays) when MWC staff are available to assist. Appointments will likely be scheduled two to three weeks in advance.
 - c. Customers requiring immediate assistance will need to be helped by Ashland staff. MWC staff could assist by phone or via Zoom if available.
 - d. MWC will also assist with training on how to track the number of rebates and estimated savings for each rebate.

IV. Program education and outreach:

- i. Newsletters, brochures, and handouts are available to Ashland staff. (There are several examples of articles that have been written in the past for the City Source Newsletter.)
- ii. MWC will help Ashland develop new outreach and education materials, as necessary.

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- iii. MWC will help with newsletter articles on a quarterly basis.
 - iv. MWC will assist Ashland staff and community volunteer groups to create booth displays and will provide other guidance as necessary.

V. Private Development landscape plan review:

- i. MWC will review landscape and irrigation plans as necessary to assist the Ashland Planning Department.
- ii. MWC will assist Ashland employees in reviewing landscape and irrigation plans when necessary.
- iii. MWC requests two weeks to review new landscape and irrigation plans.

VI. Waterwise landscape website management:

- i. MWC will assist Ashland staff with website materials related to water conservation and efficiency and will provide updates to information as needed. MWC will assist with technical questions related to websites as needed.

VII. City of Ashland newsletter utility billing insert conservation and efficiency articles:

- i. MWV will assist Ashland staff on conservation and efficiency articles as set forth in Subsection D.1.IV., Program education and outreach.

VIII. Community Presentations:

- i. Community presentation will be scheduled as necessary by Ashland staff.
- ii. MWC will provide direction on presentations based upon the intended audience and/or topic.

IX. Training of Ashland staff on water conservation and efficiency program details:

- i. MWC will provide assistance to staff assigned to the conservation and efficiency program.
- ii. MWC requests that each program component be assigned to one person. For example, one person shall be responsible for coordinating irrigation audits. One person shall be responsible for sending any newsletter articles to the appropriate contact for the City Source newsletter. Individual assignments help keep

programs running smoothly by having one point of contact for each component of the program in the short-term.

- iii. MWC will provide long-term training for any newly hired Ashland employee assigned to be the main point of contact for any water conservation and efficiency programs and customer interactions.
- iv. MWC will assist Ashland by being part of any interview panel responsible for selecting a long-term conservation employee for Ashland.

- 2. Ashland will provide MWC with relevant data as requested to support water conservation and efficiency services for the Ashland's benefit. Ashland will provide network access as required for education, outreach and website improvements that best serve the community and program.
 - 3. Ashland will provide office and meeting space as requested by MWC to support the water conservation and efficiency program. Requests for space will be made a minimum 72 hours prior to the actual need in order to ensure availability.
 - 4. MWC will provide a vehicle for its staff when working in Ashland.
 - 5. MWC shall comply with all federal, state, and local laws, regulations, executive orders, and ordinances applicable to the work under this Agreement.
- E. REIMBURSEMENT TO MEDFORD WATER COMMISSION: MWC shall submit invoices to Ashland monthly for actual costs incurred for work performed under this Agreement. Ashland shall reimburse MWC for equipment and services based on MWC rates for its internal financial management of personnel and equipment adopted and in existence at the time of the work being performed. Payments shall be made within forty-five (45) calendar days from receipt by Ashland of the invoice. Invoices shall be submitted to: Scott Fleury, Public Works Director, 20 East Main Street, Ashland, Oregon 97520, 541-552-2412, scott.fleury@ashland.or.us.
- F. EXPENDITURE AUTHORIZATION: Ashland certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance the costs of this Agreement within Ashland's current appropriation or limitation of the current biennial budget.
- G. INDEPENDENT CONTRACTORS: For the purposes of this Agreement, each PARTNER and is an independent contractor. Nothing herein shall alter the employment status of any worker or employee providing services under this Agreement. Such workers shall at all times continue to be subject to all standards of performance, disciplinary rules, and other terms and conditions of their employer.

H. INDEMNIFICATION:

1. INDEMNIFICATION. To the extent allowed by the Oregon Constitution and the Oregon Tort Claims Act, each party agrees to indemnify, save, hold harmless, and defend the other party from and against any claims, liabilities, damages, and costs, including reasonable attorney fees, arising out of or related to any error, omission or negligent act on the part of the indemnifying party, or its officers, agents, and employees in the performance of this Agreement.

2. STATUS. In providing the services specified in this Agreement, the PARTNERS are public bodies and shall maintain their public body status as specified in ORS 30.260. The PARTNERS understand and acknowledge that each retains all immunities and privileges granted to them by the Oregon Tort Claims Act and all other statutory rights granted as a result of their status as local public bodies.

I. INSURANCE: Each party shall be insured or self-insured and be independently responsible for the risk of its own liability for claims or actions within the scope of the Oregon Tort Claims Act (ORS 30.260 through ORS 30.300).

J. NONDISCRIMINATION: The parties agree to comply with all applicable requirements of federal, state, and local civil rights and rehabilitation laws, rules, and regulations in the performance of this Agreement.

K. GOVERNING LAW: This Agreement shall be governed by the laws of the State of Oregon without regard to conflict of laws principles. Exclusive venue for litigation of any action arising under this Agreement shall be in the Circuit Court of the State of Oregon for Jackson County unless exclusive jurisdiction is in federal court, in which case exclusive venue shall be in the federal district court for the district of Oregon. Each party expressly waives any and all rights to maintain an action under this Agreement in any other venue, and expressly consents that, upon motion of the other party, any case may be dismissed or its venue transferred, as appropriate, so as to effectuate this choice of venue.

L. MERGER: This Agreement embodies the full and complete understanding of the parties respecting the subject matter hereof. It supersedes all prior agreements, negotiations, and representations between the parties, whether written or oral.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their proper officers as of the dates set forth below.

**THE CITY OF ASHLAND:
COMMISSION:**

MEDFORD WATER

By: _____
Joe Lessard
City Manager

By: _____
Brad Taylor
General Manager

Dated

Dated



Memorandum

TO: Commissioners Michael Smith, John Dailey, Jason Anderson, Bob Strosser and David Wright

FROM: Brad Taylor, General Manager

DATE: Thursday, June 29, 2023

SUBJECT: Item 4.3 - Resolution 1890, Authorizing the General Manager to Execute an Amendment to Agreement between the Board of Water Commissioners and the City of Phoenix (Phoenix) for Wholesale Water

OBJECTIVE: Board Approval

Issue

Charlotte Anne Water District (CAWD) formally dissolved effective July 1, 2023. As a result of dissolution some CAWD customers become direct customers of Phoenix and 16 customers become direct Customers of Medford Water. CAWD customers that become direct customers of Phoenix are outside the city limits of Phoenix. The existing wholesale agreement between Medford Water and Phoenix limit the sale of water to the city limits. This restriction needs to be modified to allow provision of water sale to customers of the dissolved CAWD by Phoenix.

Discussion

The Wholesale Water Service Agreement between Medford Water and Phoenix was extended through October 1, 2026, in October of 2021.

To facilitate the CAWD Dissolution Agreement and the recent vote for dissolution by CAWD Customers on the May 2023 voter ballot, the following amendment to Article 5 of this Agreement is being made:

- Add a new Paragraph at the end of ARTICLE 5. URBANIZATION POLICY.
 - MWC authorizes Phoenix to supply wholesale water to the area within the boundary of the dissolved Charlotte Anne Water District (CAWD), except for areas of the CAWD that are within the Urban Growth Boundary of the City of Medford as of July 1, 2023.

Language was review by Medford Water legal counsel.

Financial Impact

There are no direct financial impacts because of this action.

Requested Board Action

Staff recommends approval of Resolution 1890, which authorizes the General Manager to execute an Amendment to the Wholesale Water Service Agreement between the Board of Water Commissioners and the City of Phoenix.

Attachment 1-2016 Wholesale Water Service Agreement
Attachment 2-2021 Extension of Agreement to October 2026
Attachment 3-Letter to Mayor of Phoenix

WHOLESALE WATER SERVICE AGREEMENT

THIS WATER SERVICE AGREEMENT (Agreement), made and entered in duplicate to commence on the first day of October, **2016**, between the City of Phoenix, a municipal corporation of the State of Oregon, acting as purchaser (Phoenix), and the City of Medford, a municipal corporation of the State of Oregon, acting by and through its Board of Water Commissioners, acting as vendor (MWC), together referred to as the Parties.

RECITALS:

- 1) MWC is an entity established under the Home Rule Charter (Charter) adopted by the citizens of the City of Medford, comprised of five citizens appointed by the Mayor and confirmed by the City Council, to manage the Water Fund for the purpose of supplying inhabitants of the City of Medford with water; and
- 2) Under Section 19 of the Charter, the MWC is authorized to sell water and/or supply facilities outside the legal boundaries of the City of Medford, only if said water and/or supply facilities are surplus to the needs of the inhabitants of the City of Medford, and meet certain conditions of MWC Resolution No. 1058; and
- 3) Under the Charter, the MWC is authorized to set rates for City of Medford inhabitants, and to make all necessary rules and regulations for the sale, disposition and use of water and water service from the City of Medford water system, and the MWC has adopted such rules and regulations; and
- 4) Per the MWC's projections, reports and plans, the MWC finds it has surplus water and supply facilities capacity available in its system to serve Phoenix; and
- 5) Phoenix desires to purchase surplus treated and transported water from MWC from October through April, and purchase surplus supply facilities treatment and transport services for Phoenix's own water appropriated under Phoenix's own state-issued water rights from May through September;

NOW, THEREFORE, for and in consideration of the foregoing and of the mutual promises herein, the Parties mutually agree as follows:

AGREEMENT:

ARTICLE 1. SCOPE OF SURPLUS WATER SUPPLY AND SERVICE

Subject to Article 3 of this Agreement, MWC agrees to supply surplus water up to a combined (from all connections) maximum of **440** gallons per minute (GPM) for the months of October through April, and surplus facilities capacity to treat and transport water up to a combined (from all connections) maximum of **1190** GPM for the months of May through September. Phoenix agrees to provide sufficient water storage as part of its water system to assure that the maximum rate of withdrawal in GPM by Phoenix is not exceeded.

During the 5 year term of this agreement the following conditions will be complied with: The above flow rates will not be exceeded between the hours of 5 am and 11 am. During all other hours the maximum flow rate will not exceed 1600 gallons per minute (GPM) in the summer and 1300 gallons per minute (GPM) in the winter. Measurement of total flow rates for the three TAP entities (Talent, Ashland, and Phoenix) will be based on the accumulative summation of the reading of the joint TAP meter at the TAP pump station on Samike Drive and the reading of the 2nd Phoenix meter at Garfield and Kings Highway Medford, Oregon. Notwithstanding the foregoing, in the event this agreement is renewed in October 2021, the maximum flow rates specified in this article may be recalculated by MWC based on future total source supply and future 2020 maximum month demand percentages, and such flow rates will be required over an entire 24 hour period.

Upon written request by Phoenix, this Agreement may be amended to provide supplemental supply and service to Phoenix if MWC determines that it has surplus capacity for Phoenix's use, and Phoenix agrees to reimburse MWC the reasonable cost of providing such supplemental supply and service.

ARTICLE 2. PHOENIX DISTRIBUTION SYSTEM EMERGENCY

Upon notice to MWC by Phoenix of a distribution system emergency, MWC will use its best efforts to provide supplemental water supply or services during the emergency.

For purpose of this agreement, "distribution system emergency" means: Any human or natural caused event that disables or impairs the distribution system such that its use constitutes an immediate threat to human life or health.

ARTICLE 3. MWC CONNECTIONS

MWC owns and is responsible for the construction, extension, maintenance, and operation of the MWC system up to the point of and including the master Phoenix meter(s). Phoenix shall

pay all costs of connections to the MWC system including initial metering, initial and ongoing backflow protection, and annual testing of the backflow device, all in accordance with MWC standards. MWC shall monthly read and annually test the master meter and provide readings and test results to Phoenix.

Phoenix's water supply is provided by the following master meter(s) with backflow connections to MWC:

- 10" Rosemount Spool Mag Meter at the Talent-Ashland-Phoenix (TAP) Pump Station on Samike Drive, Medford, Oregon
- 6" Turbine Meter at the intersection of Kings Highway and Garfield Street, Medford, Oregon

Temporary emergency connections to MWC with prior approval can be provided at the following location(s):

N/A

The following special conditions concerning connections to MWC apply:

- MWC acknowledges Phoenix's right to exchange and transfer water between the cities of Ashland, Talent, and Phoenix, Oregon within the total cumulative contracted GPM of all three noted cities served through TAP and their individual wholesale customer agreements with MWC.

ARTICLE 4. MWC REGULATIONS

Water service under this Agreement shall be in accordance with Section 30 SURPLUS WATER and Section 31 PROVISIONS RELATING TO UTILITY AND MUNICIPAL CUSTOMERS of the MWC Regulations Governing Water Service (Regulations), as now in effect or as may be amended. If there is any inconsistency between this Agreement and the Regulations, the Regulations control. Notwithstanding the foregoing, nothing herein is intended to relieve MWC of its obligation to supply surplus water in accordance with the terms of this Agreement, except as dictated by Federal/State regulations outside the control of MWC. The Parties acknowledge that implementation of this Agreement and the Regulations are subject to federal or state directives.

MWC shall promptly provide Phoenix a copy of any amendments to the Regulations.

ARTICLE 5. URBANIZATION POLICY

Phoenix agrees to provide water and services to customers within Phoenix city limits, or as otherwise approved by MWC in MWC Resolution No. 1058, as may be amended. Phoenix may provide water and services outside of city limits, but within its urban growth boundary, provided that the property requesting service has signed an irrevocable consent to annex to Phoenix, or as otherwise approved in writing by MWC. The current general water service map covering city limits and urban growth boundaries for Phoenix is attached to this Agreement as Exhibit A. Phoenix shall promptly notify MWC and provide a revised map as city limits and urban growth boundaries are modified.

ARTICLE 6. MEETING FUTURE WATER DEMANDS

Water and water services provided by MWC under this Agreement are pursuant to water rights held by the MWC and Phoenix. Nothing in this Agreement shall be construed to confer upon either party a legal or beneficial interest in each other's water rights, or to prevent either party from seeking additions or alterations to their water rights as deemed necessary.

Phoenix shall acquire and maintain such water rights as needed to meet the demand within its service area during the months of May through September. Phoenix may use the MWC intake facility, located at the intersection of Table Rock Road and the Rogue River in White City, as the designated point of diversion for Phoenix water rights. MWC shall cooperate in the perfection of any Phoenix water rights. Phoenix currently holds water rights with a diversion point on the Rogue River at the MWC Intake Facility site at the rate of 8.1 cubic feet per second and/or volume of **1000** acre feet. Delivery of such Phoenix water through MWC facilities shall be subject to the same terms and conditions as delivery of surplus MWC water. MWC shall measure and record at its Robert A. Duff Water Treatment Plant the amount of water withdrawn from the Rogue River by MWC and its municipal water service customers under each of their respective water rights. In its monthly water service invoice, MWC shall provide water use data for Phoenix. Phoenix shall provide MWC updated demand projections.

ARTICLE 7. SYSTEM DEVELOPMENT CHARGES

Pursuant to Resolution No. 774, MWC has established Water System Development Charges (SDCs) and supporting methodology to finance future MWC transmission and treatment facilities expansions. SDCs apply to all new customers, including customers of municipal wholesale customers served by MWC. Phoenix shall collect SDCs set by MWC from new Phoenix customers. MWC reviews the SDCs annually and reserves the right, in its sole

discretion, to modify or replace the SDCs with a different financing mechanism for system improvements.

All SDCs collected by Phoenix will be held in a separate account and forwarded to MWC along with an accounting of the number and sizes of the services installed. Phoenix shall provide MWC with a copy of the section within the annual Phoenix audit that shows accounting of MWC SDCs collected during the audited year. MWC shall, in turn, provide Phoenix an annual accounting of all SDCs collected.

MWC utilizes a utility basis for determining the water usage rate it charges Phoenix. Under this rate analysis, Phoenix is required to pay a return on investment for its share of the facilities paid for by MWC. Facilities funded by SDCs shall not be included in the return on investment portion of the rate analysis.

MWC shall render technical assistance to Phoenix in determining SDCs. MWC shall defend Phoenix against any legal action or appeals which may arise over the development, methodology, or implementation of the SDCs. Phoenix shall cooperate and support MWC in the defense, but shall not be obligated to incur any monetary obligation in such defense.

Upon termination of this Agreement, the following refund policy shall apply:

- (a) MWC shall return to Phoenix its prorated share of the unexpended balance of the SDCs fund. This prorated share shall be based upon the actual unexpended SDCs collected by Phoenix for the specific facilities funded by the SDCs, plus the interest earned.
- (b) MWC shall return to Phoenix a prorated share of the depreciated plant value of the specific MWC facilities funded by the SDCs and already installed. The prorated share shall be a percentage based upon the total amount of SDCs paid by Phoenix divided by the total SDCs collected and used to fund the facility, not including interest earned during the years in which the SDCs were collected.
- (c) In order to avoid a financial hardship, MWC shall develop a reasonable schedule of up to five (5) years for repayment of the depreciated value of the specific MWC facilities funded by the SDCs.
- (d) At the request of Phoenix, the MWC shall provide an accounting of the refunds made pursuant to this section.

ARTICLE 8. PAYMENTS TO MWC

Phoenix shall pay monthly for all water and services provided by MWC at MWC's scheduled wholesale rates then in place. Payment shall be made within ten (10) days after the meeting of the Phoenix's Council following receipt by Phoenix of a statement of charges from MWC.

MWC reserves the right, in its sole discretion, to change (with prior written notification of a rate study review) said rate at any time upon sixty (60) days written notice to Phoenix, following rate procedures and protocols in the MWC Regulations.

ARTICLE 9. TERM OF AGREEMENT

This term of this Agreement shall be five (5) years from its commencement. Phoenix may, at its option, extend the term for three additional five-year periods, which periods would run through October of **2026**, **2031**, and **2036** respectively. Extensions shall be subject to the same terms and conditions as this Agreement. Written notice of the election to exercise a five-year extension of this Agreement must be given to MWC not later than January 1st of the year in which the Agreement would otherwise expire. If Phoenix fails to provide MWC such notice, this Agreement shall be deemed canceled at the end of the term then in effect. MWC shall continue service for a reasonable period, determined in MWC's sole discretion, to allow Phoenix to secure other sources of water. Provided, however, Section 19 of the Charter of the City of Medford limits the term of water service contracts to 20 years and, therefore, the obligations of MWC under this Agreement, including renewal periods, shall not exceed that period of time.

ARTICLE 10. ASSIGNMENTS

Phoenix shall make no assignment of this Agreement without written permission from MWC. Any approved assignee or successor shall agree to be bound by the terms and conditions of this Agreement.

ARTICLE 11. WATER CURTAILMENT PLAN

During periods of drought or emergency, Phoenix shall be subject to the MWC Water Curtailment Plan, per MWC Resolution No. 1345, unless Phoenix has in effect a state-approved and adopted Water Curtailment Plan at least as stringent as that of MWC. In the event of a conflict between the Phoenix plan and the MWC plan, the MWC plan shall control. The MWC shall give Phoenix as much advance warning as possible prior to curtailment of water supplies.

The level of curtailment shall be determined by MWC based on the severity of the anticipated shortage. Phoenix shall be responsible for enforcing the MWC curtailment plan or the above mentioned Phoenix plan in its service area.

MWC will require and apply emergency curtailment of water use in an equitable, fair, and consistent manner consistent with Resolution 1345. Continued service during periods of emergency shall neither be construed as a waiver nor limitation of any kind on any water rights held by MWC, or a waiver or curtailment of any water rights held by Phoenix, nor as affecting any other terms in this Agreement.

ARTICLE 12. ANNUAL WATER QUALITY REPORTING

MWC will gather annual water quality data and prepare informational reports as required under state Consumer Confidence Reporting (CCR) rules. These CCR reports will include water quality information for MWC and all participating municipal water customers. Annual costs involved will be proportionally shared among participating municipal water customers and billed separately to each.

Statistical data necessary to create the CCR report for the prior year must be provided by Phoenix to MWC no later than April 1st of each year. If bulk mailing is the primary distribution method utilized, Phoenix shall also provide MWC with postal routes covering their respective service areas by April 1st of the delivery year. MWC reserves the right to utilize other approved delivery methods (e.g.; electronic), which may impact responsibilities for Phoenix.

In the event that Phoenix receives water into its system that is supplied by an entity other than MWC, the composite MWC report for that year will not include data for Phoenix. Phoenix shall be responsible for preparation of its own annual CCR, and MWC will provide MWC data by April 1st of the delivery year.

MWC maintains water quality test points throughout the MWC system and one specifically at the master meter location(s) of Phoenix. These test points are used to collect water samples for meeting required state water quality parameters on a weekly, monthly, and annual basis. All information collected is of public record and is accessible through state or MWC databases. Responsibility for water quality is transferred to Phoenix at the point of the master meter location(s), except where water quality problems are attributable to MWC.

ARTICLE 13. MUTUAL INDEMNITY

To the extent allowed by law, Phoenix and MWC shall each defend, indemnify and hold the other, and their officers, employees, and agents harmless from any and all claims, suits, actions, or losses arising solely out of the acts and omissions of the Party's own officers, employees, or agents while acting under this agreement.

ARTICLE 14. PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in force and effect, and shall in no way be affected, impaired, or invalidated thereby.

ARTICLE 15. INTEGRATION

This Agreement represents the entire understanding of MWC and Phoenix as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This Agreement may not be modified or altered except in writing signed by both parties.

ARTICLE 16. DEFAULT

For purposes of this Agreement "default" means failure to comply with any of the terms of this Agreement. If either party determines that a default has occurred, it shall provide the other party written notice of the default, which such party shall have thirty days in which (a) to cure the default, (b) show that the default is of such a nature that it cannot be reasonably cured within thirty days, or (c) show that no default occurred.

MWC and Phoenix will work in good faith to amicably resolve the default. If after thirty days of the notice of default, MWC determines, in its sole discretion, that Phoenix is unable or unwilling to cure the default within a reasonable time, MWC may impose escalating penalties as follows: (a) ten percent surcharge for a period of thirty days; (b) twenty percent surcharge for the next thirty days; and (c) termination of this Agreement. Such penalties are in addition to any other remedies at law or equity that may be available to MWC. Failure to issue notice of default or to enforce its remedies under this Article 16 shall not preclude MWC from taking such action for future defaults.

If after thirty days, Phoenix determines, in its sole discretion, that MWC is unable or unwilling to cure the default within a reasonable time, Phoenix may terminate this Agreement and pursue any other remedies at law or in equity that may be available to Phoenix.

ARTICLE 17. FORCE MAJEURE

Neither party hereto shall be liable for delays in performance under this Agreement by reason of fires, floods, earthquakes, acts of God, wars, strikes, embargoes, necessary plant repairs or replacement of equipment, of any other cause whatsoever beyond the control of such party, whether similar or dissimilar to the causes herein enumerated. This clause does not include causes related to water supply and demand planning or failure to engage in such planning.

ARTICLE 18. DISPUTE RESOLUTION

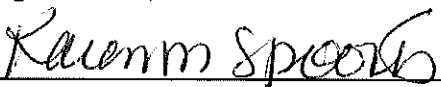
If a dispute arises out of or relates to this contract, and if the dispute cannot be settled through negotiation, the parties agree first to try to settle the dispute by non-binding mediation before resorting to litigation or other process. The parties agree to share equally the costs of mediation.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their proper officers on the dates noted below.

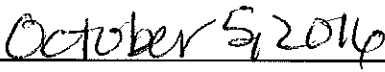
THE CITY OF MEDFORD
BY AND THROUGH ITS
BOARD OF WATER COMMISSIONERS



Leigh Johnson, Chair




Karen Spoonts, City Recorder

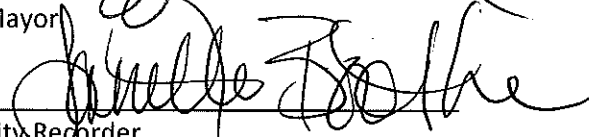


Date


THE CITY OF PHOENIX



Mayor

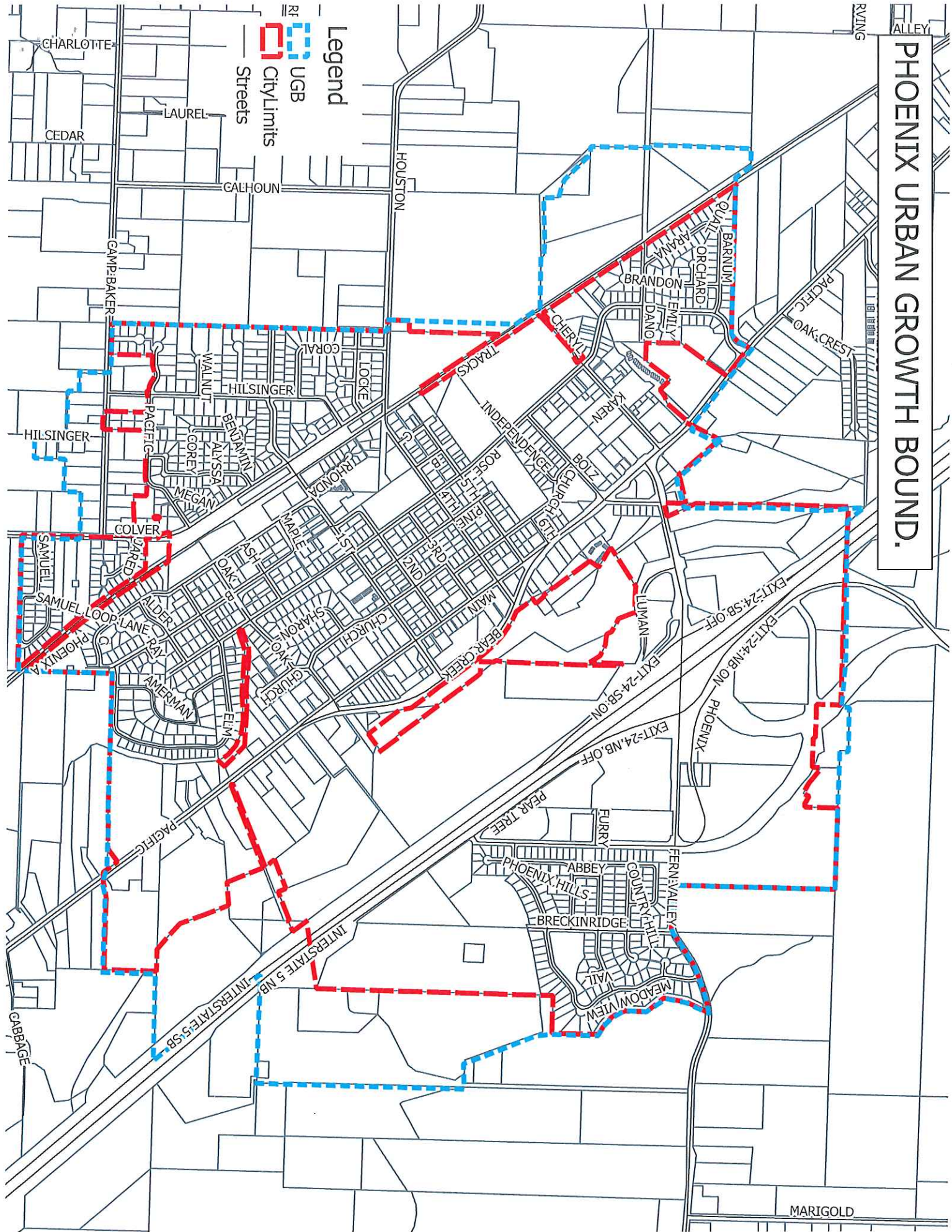


City Recorder



Date

PHOENIX URBAN GROWTH BOUND.





October 29, 2021

City of Phoenix
Attn: Terry Baker, Mayor
112 W 2nd Street
Phoenix, OR 97535

RE: Letter of Agreement to Extend "Wholesale Water Service Agreement"

Dear Mayor Baker:

The current "Wholesale Water Service Agreement" between Medford Water Commission and the City of Phoenix expired on October 1, 2021. If you would like to extend the Agreement another five years at current terms and conditions, please indicate your agreement by signing and dating below.

The extended Agreement would expire on October 1, 2026. If you have any questions or concerns, please contact me at (541) 774-2443.

Sincerely,

Brad Taylor
General Manager

Terry Baker, City of Phoenix

12-6-21
Date



July 5, 2023

City of Phoenix
Attn: Terry Baker, Mayor

RE: Amendment to Wholesale Service Agreement with Medford Water

Dear Mayor Baker:

The Wholesale Water Service Agreement (Agreement) between Medford Water Commission (Medford Water) and the City of Phoenix (Phoenix) was extended through October 1, 2026.

To facilitate the Charlotte Anne Water District (CAWD) Dissolution Agreement and the recent vote for dissolution by CAWD Customers on the May 2023 voter ballot, the following amendment to Article 5 of this Agreement is being made:

- Add a new Paragraph at the end of ARTICLE 5. URBANIZATION POLICY.
 - MWC authorizes Phoenix to supply wholesale water to the area within the boundary of the dissolved Charlotte Anne Water District (CAWD), except for areas of the CAWD that are within the Urban Growth Boundary of the City of Medford as of July 1, 2023.

If you are in agreement to this revision of the Agreement, please sign and return to Medford Water.

Sincerely,

Brad Taylor
General Manager

Terry Baker, City of Phoenix

DATE

RESOLUTION NO. 1890

A RESOLUTION Authorizing the General Manager to Execute an Amendment to the Agreement between the Board of Water Commissioners and the City of Phoenix

WHEREAS, Medford Water (MW) is an entity established under the Home Rule Charter (Charter) adopted by the citizens of the City of Medford, comprised of five citizens appointed by the Mayor and confirmed by the City Council, to manage the Water Fund for the purpose of supplying inhabitants of the City of Medford with water; and

WHEREAS, Under Section 19 of the Charter, MW is authorized to sell water and/or supply facilities outside the legal boundaries of the City of Medford, only if said water and/or supply facilities are surplus to the needs of the inhabitants of the City of Medford, and meet certain conditions of Medford Water's Resolution No. 1058; and

WHEREAS, Under the Charter, the Commission is authorized to set rates for City of Medford inhabitants, and to make all necessary rules and regulations for the sale, disposition and use of water and water service from the City of Medford water system, and MW has adopted such rules and regulations; and

WHEREAS, A Wholesale Water Service Agreement between the City of Medford, by and through its Board of Water Commissioners, and Phoenix is valid until October 2026.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF WATER COMMISSIONERS OF THE CITY OF MEDFORD, OREGON, AS FOLLOWS:

SECTION 1. That the Amendment to the Agreement between the Board of Water Commissioners of the City of Medford, and the City of Phoenix, shall apply as set forth herein.

SECTION 2. That the General Manager, acting by and on behalf of the Board of Water Commissioners, is authorized and directed to execute said Amendment to the Agreement, and that it shall be effective upon ratification by both parties, and shall remain in full force and in effect until October 2026 or as the Agreement is extended.

SECTION 3. That the Amendment to Agreement Between the Board of Water Commissioners of the City of Medford, and City of Phoenix, as set forth in Exhibit A, a copy of which is on file in the Water Commission office and by reference made a part hereof, is hereby approved.

PASSED at a regular meeting of the Board of Water Commissioners of the City of Medford, Oregon, and signed by me in authentication thereof this 5th day of July 2023.

ATTEST: _____
Amber Furu, Asst. Clerk of the Commission

Michael Smith, Chair



Memorandum

TO: Commissioners Michael Smith, John Dailey, Jason Anderson, Bob Strosser, and David Wright

FROM: Brad Taylor, General Manager

DATE: Wednesday July 5, 2023

SUBJECT: Item 6.0 - Resolution 1891 Authorizing the General Manager to Release Funds collected from Charlotte Anne Water District (CAWD) customers for Water Right Purchase to City of Phoenix (Phoenix) as part of Dissolution of CAWD.

OBJECTIVE: Board Approval

Issue

Charlotte Anne Water District (CAWD) formally dissolved effective July 1, 2023. Medford Water collected a surcharge from CAWD customers to purchase water rights from Lost Creek Reservoir to support existing and future water demands. Funds collected from the surcharge for customers of CAWD that are going to Phoenix as a result of dissolution need to be released to Phoenix.

Discussion

Medford Water collected a surcharge (charged at \$0.33 per 1,000 gallons) from CAWD customers from March of 2012 until February 2021 (during the summer months, May through September). Water Rights have not been secured at the time of dissolution; therefore, it will become the responsibility of the City of Phoenix to secure water supplies for the portion of CAWD that will be served by them. Phoenix has surplus water rights that they have purchased (400 Acre Feet in 1982 and 600 Acre Feet in 1991) and can use these water rights to support the water demands of CAWD customers (Estimated to be around 260 Acre Feet for May through September usage).

Financial Impact

The surcharges on CAWD customers collected \$647,311.50. Dissolution of CAWD results in many customers going to Phoenix, while 16 customers will now be served directly by Medford Water. The surcharge collected \$166,785.63 from these 16 customers, therefore the remaining amount, collected from CAWD customers that are not customers of Phoenix will be transferred to Phoenix.

Requested Board Action

Staff recommends approval of Resolution 1891, which authorizes the General Manager to release funds totaling \$480,525.87 to Phoenix to secure water rights to support CAWD customers that are now Phoenix customers as a result of Dissolution on July 1, 2023.

RESOLUTION NO. 1891

A RESOLUTION Authorizing the General Manager to Execute a payment to the City of Phoenix (Phoenix) from the City of Medford, By and Through its Board of Water Commissioners

WHEREAS, the Charlotte Anne Water District (CAWD) has dissolved; and

WHEREAS, prior to Dissolution, Medford Water collected a surcharge based on water use from CAWD customers to secure water rights to meet existing and future water demands; and

WHEREAS, Customers of the dissolved CAWD will be split between Medford Water and Phoenix and described in the three-party Dissolution Agreement signed in January of 2023; and

WHEREAS, The Phoenix proportion was determined based on the amount of money collected as a result of usage from customers being transferred to Phoenix as a result of Dissolution; and

WHEREAS, That the General Manager, acting by and on behalf of the Board of Water Commissioners, is authorized and directed to make payment to Phoenix in the amount of \$480,525.87;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF WATER COMMISSIONERS OF THE CITY OF MEDFORD, OREGON, AS FOLLOWS, THAT:

SECTION 1. That the General Manager is to release funds totaling \$480,525.87 to the City of Phoenix to secure water rights to support customers that are now Phoenix customers as a result of the CAWD dissolution on July 1, 2023, is hereby approved.

PASSED by the Board of Water Commissioners and signed by me in authentication of its passage this 5th day of July 2023.

ATTEST: _____
Amber Furu, Asst. Clerk of the Commission

Michael Smith, Chair