

RESOLUTION NO. 1565

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A COOPERATIVE AGREEMENT FOR DEVELOPING A WATER RIGHT STRATEGY FOR ACCESS TO WATER AMONG MEDFORD WATER COMMISSION, AND THE CITIES OF ASHLAND, CENTRAL POINT, EAGLE POINT, JACKSONVILLE, PHOENIX AND TALENT

Recitals:

- A. Medford Water Commission (MWC) and the cities of Central Point, Ashland, Eagle Point, Jacksonville, Phoenix and Talent (collectively the "Cities") recognize the importance of providing a reliable source of water to their respective customers and constituents;
- B. MWC and the Cities desire to work together to document the current understanding of water rights between the parties and to coordinate a Water Rights Strategy (WRS) to improve current and long-term reliability of individual and collective water supplies;
- C. The parties desire to enter into a cooperative agreement to lay out options for all parties to move forward with securing and allocating water supplies that may be in the best interest of the region as a whole, but will not bind the parties to any particular action;
- D. In the event the parties successfully develop a WRS, they would then negotiate a second IGA to guide the adoption, implementation, and management of the WRS moving forward.
- E. The City Council finds it is in the best interest of the City to work with the region in developing a WRS, and to pay the City's proportionate share of such costs as provided in said cooperative agreement.

The City of Central Point resolves as follows:

Section 1. The City Manager is authorized to to execute the Cooperative Agreement for Developing a Water Right Strategy attached hereto as Exhibit "A" and to execute such further documents as necessary to effectuate this agreement.

Passed by the Council and signed by me in authentication of its passage this 24<sup>th</sup> day of January, 2019.

  
Mayor Hank Williams

ATTEST:

  
City Recorder

**COOPERATIVE AGREEMENT FOR DEVELOPING A WATER RIGHT STRATEGY FOR ACCESS TO WATER AMONG  
MEDFORD WATER COMMISSION, CITY OF ASHLAND, CITY OF CENTRAL POINT, CITY OF EAGLE POINT, CITY OF  
JACKSONVILLE, CITY OF PHOENIX, AND CITY OF TALENT**

This cooperative agreement (hereinafter "Agreement") is by and among Medford Water Commission and the Cities of Ashland, Central Point, Eagle Point, Jacksonville, Phoenix, and Talent, hereinafter PARTNERS when referred to collectively and MWC, ASHLAND, CENTRAL POINT, EAGLE POINT, JACKSONVILLE, PHOENIX, and TALENT when referred to individually.

**RECITALS**

- A. The PARTNERS all own and operate water systems that supply water to their respective customers;
- B. The PARTNERS recognize the vital importance of providing a reliable source of water to all their respective customers for public health, safety, and welfare and for sustaining economic development;
- C. The PARTNERS value the important role each utility plays in meeting the water supply needs of the Rogue Valley Region (RVR);
- D. The PARTNERS enter this agreement in a spirit of good will and mutual cooperation, with the understanding that coordinating a Water Right Strategy (WRS) will improve the current and long-term reliability of individual and collective water supplies and is in the highest public interest;
- E. The PARTNERS understand that the WRS will document the current understanding of the water rights held by the jurisdictions in the RVR, and provide options to the PARTNERS on how to move forward with securing and allocating water supplies for the RVR that may be in the best interests of the Region as a whole, but it will not bind PARTNERS to any particular direction or action; and
- F. The PARTNERS recognize that developing a WRS is the first step and that a second step of adopting a WRS would require a second IGA that would then guide the adoption, implementation, and management of the WRS moving forward. It is understood that a second step may not be possible if there is not agreement on how to move forward with the WRS.
- G. The PARTNERS are willing to fund development of a WRS.

**AGREEMENT**

The PARTNERS agree to the following:

**I. RECITALS/PURPOSE**

The above recitals are true and correct and are specifically adopted and incorporated herein as the purpose of this Agreement.

**II. DEFINITIONS**

- A. ASHLAND means City of Ashland.
- B. CENTRAL POINT means City of Central Point.
- C. EAGLE POINT means City of Eagle Point.
- D. JACKSONVILLE means City of Jacksonville.
- E. MWC means Medford Water Commission.

- F. OWRD means the Oregon Water Resources Department.
- G. PARTNERS means collectively the Medford Water Commission and the Cities of Ashland, Central Point, Eagle Point, Jacksonville, Phoenix, and Talent.
- H. PHOENIX means City of Phoenix.
- I. RVR is an abbreviation for Rogue Valley Region.
- J. STEERING COMMITTEE means a group comprised of at least a single voting representative from each of the PARTNERS. The Steering Committee function will be to oversee the implementation of this Agreement, to facilitate changes to it necessary to ensure its continued effectiveness in meeting the needs of the PARTNERS and to settle differences in interpretation of its provisions and execution.
- K. TALENT means City of Talent.
- L. WRS is an abbreviation for Water Right Strategy.

### III. RESPONSIBILITIES

#### A. The PARTNERS:

1. Agree to form a STEERING COMMITTEE.
2. Agree not to move forward with any actions to certificate water rights at the MWC Duff Water Treatment Plant intake, except as provided in III.C, until a WRS is completed, or the term of this Agreement ends.
3. Agree to pay the identified, pro-rata costs of the development of a WRS as provided in Section IV (B) of this Agreement.

#### B. MWC:

1. Agrees to award and administer a contract with GSI Water Solutions to develop a WRS as described in Section IV (A) of this Agreement.
2. Agrees to pay monthly invoices to GSI Water Solutions on behalf of the PARTNERS.

#### C. PHOENIX:

1. Agrees not to request expedited processing of its claim of beneficial use under OWRD's Reimbursement Authority Program for Permit S-47672 until a WRS is completed, or the term of this agreement ends, whichever occurs first.
2. Agrees to notify the PARTNERS within a reasonable period of time in the event that OWRD begins review of its pending claim of beneficial use for Permit S-47672.

### IV. WATER RIGHT STUDY SCOPE AND COST

- A. The draft outline of the scope of work to develop a WRS is included as Exhibit A. The PARTNERS intend to collaboratively develop and establish a final scope of work after this agreement is executed.

- B. The PARTNERS agree to share the cost of the WRS on a pro rata basis in proportion to their populations based on Portland State University's 2015 population data, as shown in Exhibit B. Exhibit B indicates preliminary costs. The total cost of the WRS is expected to be less than \$80,000. Final pro-rata cost share will be determined at the time the contract with the consultant is signed. Payments by PARTNERS will be due quarterly and must be remitted to MWC within 30 days of invoice.

V. DECISION MAKING PROCESS

- A. All decisions made under this Agreement, and during the course of the development of the WRS, shall be made through negotiations among the PARTNERS.
- B. The WRS does not bind any PARTNER(S) to any future action or direction proposed by the WRS.

VI. LIABILITY, INDEMNITY AND HOLD HARMLESS

- A. INDEMNIFICATION. To the extent allowed by the Oregon Constitution and the Oregon Revised Statutes, and not to exceed monetary limits of the Oregon Tort Claim Act, the PARTNERS agree to defend, indemnify, and hold harmless each other from claims, liability or damages, including attorney fees, arising out of error, omission or act of negligence on the part of the indemnifying party, its officers, agents, or employees in the performance of this Agreement.
- B. STATUS. In providing the services specified in this Agreement (and any associated services) the PARTNERS are public bodies and maintain their public body status as specified in ORS 30.260. The PARTNERS understand and acknowledge that each retains all immunities and privileges granted them by the Oregon Tort Claims Act and any and all other statutory rights granted as a result of their status as local public bodies.

VII. TERM AND TERMINATION

The term of the Agreement is twelve months from the last date of execution, unless the STEERING COMMITTEE members unanimously agree in writing to extend that date. Any PARTNER may agree to terminate its participation in the Agreement at any time with 15-day written notice to the other PARTNERS, provided, however, that once a contract with the selected consultant has been signed, the terminating PARTNER agrees to pay its full pro-rata share of the cost of the consultant contract to MWC.



**Exhibit A. Outline of Scope of Services for  
Development of a Water Rights Strategy  
For Partner Water Providers**

**1. Initial Meetings with City Councils**

- a. As an initial step for this project, GSI Water Solutions (Contractor) will attend a meeting to discuss the Water Rights Strategy project with members from the city councils of the Partner Water Providers and the Medford Board of Water Commissioners.
- b. As an optional additional task, Contractor would attend individual council meetings with the city councils for each of the Partner Water Providers and the Medford Board of Water Commissioners, as requested.

**2. Water Rights Review**

- a. Contractor will review the water rights held by each of the Partner Water Providers.
- b. Contractor will work with all the Partner Water Providers to ensure there is agreement and shared understanding of these water rights.

**3. Analysis of Demand Projections**

- a. Contractor will review information provided by each of the Partner Water Providers regarding their demand projections.
- b. Contractor will meet with each of the Partner Water Providers to discuss their demands.
- c. Contractor will evaluate the demands and make efforts to align these demands to identify a total demand of all the Partner Water Providers.
- d. Contractor will develop a memorandum that describes the individual demands of the Partner Water Providers and the total demand of all partners, and that compares those projected demands to anticipated water supply.

**4. Water Rights Strategy**

- a. Contractor will meet with each of the Partner Water Providers to understand their interests and priorities related to development of their water rights.
- b. Contractor will conduct up to 2 meetings with all of the Partner Water Providers to:
  - i. Describe water rights issues that could affect the water rights strategy for the Duff Water Treatment Plan water rights.
  - ii. Identify shared priorities for the Partner Water Providers.
  - iii. Reach consensus among the Partner Water Providers on the criteria that Contractor will use to prioritize water right certification.
  - iv. Identify, as needed, "new" sources of supply to meet future long-term demands.
- c. Contractor will develop a draft water rights strategy for review by the Partner Water Providers and will work with the partners to obtain their feedback, and to ensure all the Partner Water Providers concur on the ultimate water rights strategy.
- d. Contractor will develop a final report documenting the final water rights strategy and the process used to develop that strategy, as well as the steps necessary to implement the identified strategy. The report will include an executive summary for decision makers.

**Exhibit B-Proposed Cost Allocation based on 2015 Portland State University Population Research Center Data**

City	2015 Population Totals	% to Total Population Served	Estimate of Project Cost
Ashland*	5101	4%	\$ 2,998
Central Point	17485	13%	\$ 10,277
Eagle Point	8695	6%	\$ 5,110
Jacksonville	2880	2%	\$ 1,693
Medford (including White City, Water Districts, and Outside City Customers)	91100	67%	\$ 53,542
Phoenix	4585	3%	\$ 2,695
Talent	6270	5%	\$ 3,685
<b>TOTAL</b>	<b>136116</b>		

\*Service population for the City of Ashland was estimated at 25 percent of the city population based on MWC providing approximately 25 percent of Ashland's peak day water usage.