

Memorandum

REPORT TO: City Commission

FROM: Brian Heaston, Senior Water Resources Engineer
Shawn Kohtz, Director of Utilities

SUBJECT: Authorize the City Manager to Sign a Memorandum of Understanding with the Middle Creek Water Users Association Providing for Various One Time Only and Ongoing Annual Payments from the City to the Association to Offset the Negative Financial Effects to the Association's Remaining Agricultural Water Users Caused by the Prior Transfers of 500 Total Acre-Feet of Agricultural Water Contracts to the City's Municipal Water Contract

MEETING DATE: May 20, 2025

AGENDA ITEM TYPE: Agreement - Agency/Non-profit

RECOMMENDATION: Authorize the City Manager to Sign a Memorandum of Understanding with the Middle Creek Water Users Association Providing for Various One Time Only and Ongoing Annual Payments from the City to the Association to Offset the Negative Financial Effects to the Association's Remaining Agricultural Water Users Caused by the Prior Transfers of 500 Total Acre-Feet of Agricultural Water Contracts to the City's Municipal Water Contract.

STRATEGIC PLAN: 1.3 Public Agencies Collaboration: Foster successful collaboration with other public agencies and build on these successes.

BACKGROUND: The Middle Creek Water Users' Association (MCWUA), through a water marketing contract with the MT DNRC, is responsible for: 1) annual operations and maintenance of the Hyalite Dam and Reservoir; 2) marketing corporate shares and water purchase contracts to water users that can beneficially use reservoir water; and 3) collection of annual revenues necessary to service any outstanding debt obligations of MCWUA. The MT DNRC owns Hyalite Dam and Reservoir and the water rights that fill the reservoir itself.

Rehabilitation improvements to Hyalite Dam were completed in 1994. These improvements consisted of raising the dam height to store additional water, replacement of the dam's principal spillway, and construction of an emergency spillway. The rehabilitation improvements were funded by a combination of state grants and a federal loan. The 40-year term of the federal loan will reach maturity in 2033.

Since the completion of rehabilitation improvements, the City has purchased – from willing agricultural contract holders – 500 total acre-feet of reservoir

water. These purchases have occurred incrementally over time with the first occurring in 2004 and the last in 2021. Contracts for stored water are limited to two specific purposes: 1) Agricultural; and 2) Municipal. Each purpose has a specific repayment rate, set forth in water purchase contracts, to service the federal loan annual repayment obligations. Upon the City's purchase of an Agricultural contract, the MCWUA and MT DNRC will issue the City a new Municipal water purchase contract to reflect the additional volume acquired. The MCWUA maintains separate loan repayment reserve accounts for Agricultural contracts and the City's Municipal contract.

The City's acquisition of 500 acre-feet of Agricultural contracts has naturally reduced the basis upon which MCWUA collects annual revenues from Agricultural contract holders to service the remaining Agricultural debt obligations. MCWUA projects a deficit will reach the Agricultural reserve account prior to federal loan maturity unless additional revenue is received to cover the Agricultural debt obligations. The City's reserve account is projected by MCWUA to reach loan maturity with an excess balance. Pursuant to the Municipal water purchase contract, any remaining excess balance at loan maturity must be returned to the City.

The attached memorandum of understanding (MOU) between the City and Middle Creek Water Users' Association (MCWUA) has been negotiated in good faith. The purpose of the MOU is to offset the financial effects to the remaining Agricultural contract holders realized by the shift of 500 acre-feet from Agricultural contracts to Municipal.

UNRESOLVED ISSUES: None.

ALTERNATIVES: As suggested by the City Commission.

FISCAL EFFECTS: The MOU imparts a one-time-only (OTO) cash transfer from the Municipal loan repayment reserve account to the Agricultural loan repayment reserve account in the total amount of \$33,055. The MOU also requires the City, on a go forward basis through federal loan maturity, to provide annual repayment obligation to MCWUA for the 500 acre-feet of acquired Agricultural contracts as if those contracts were still held by agricultural users.

The OTO cash transfer moves money already paid by the City to MCWUA so there is no fiscal effect imparted upon the City's current or proposed budgets. There will be a go forward annual payment increase of \$3,500 to MCWUA until loan maturity. This marginal increase is readily accommodated by the Water Fund.

Attachments:

[2025-04-16 COB-MCWUA Memorandum of Understanding \(final\).pdf](#)

Report compiled on: May 8, 2025