



CITY OF  
GEARHART

**Staff Report**

For City Council Meeting - 8/2/2023

***Subject - New Business - Warrenton Water Mutual Organization Understanding (MOU)***

**Synopsis:** The City of Gearhart has water purchase agreements with both the City's of Warrenton and Seaside. They both expired in 2022 and much of 2023 so far has been spent renegotiating the terms of extended agreements. The agreement with Seaside is still in negotiations. After multiple drafts and discussions between Warrenton and Gearhart administration, the City of Warrenton approved the attached Mutual Organization Understanding (MOU) last month. In order for the City of Gearhart to proceed with the agreement, Council must make a motion.

**Recommendation:** City staff recommends Council motion to approve entering into the attached water MOU with the City of Warrenton.

**Legal Analysis:** City Attorney Peter Watts reviewed previous MOU drafts and approved of the final edits presented during Warrenton's July Commission meeting.

**Financial Analysis:** The City budget was approved based on terms proposed in the agreement and will need approval yearly.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to be the name 'Chad', written in a cursive style.

Chad

## Mutual Organization Understanding

### Providing Water Service Between the Cities of Warrenton and Gearhart

July 2023-July 2026

#### Recitals

**Whereas**, the City of Warrenton has provided water service to the City of Gearhart since 1948 beginning with a surplus water agreement.

**Whereas**, in 1984 a twenty-year agreement for domestic water was approved by the two cities. That agreement expired in 2004.

**Whereas**, in 2012 the parties entered into a memorandum of understanding (2012 MOU) with the belief that Gearhart would be able to provide its own water in full at some point in time after 2012 upon building a new water treatment plant.

**Whereas**, the capacity for Gearhart's water treatment plant is not to the level to be self-sustaining, and the parties have continued to operate under the terms of the 2012 MOU and Warrenton continues to deliver water up to present day.

**Whereas**, the intent of the current agreement is not to reduce capacity for the citizens of Warrenton, but to provide "surplus" water for residents of Gearhart, as long as the City of Warrenton is able to do so. Gearhart continues to strive to increase their own water sources.

#### Agreement

1. **Recitals.** The recitals set forth above are hereby incorporated by reference as if fully set forth herein.
2. **Party Obligations.**
  - a. Warrenton will continue to provide water to Gearhart through July 1, 2024, at the same rate Special Government Rate - In town.
  - b. After July 1, 2024, Warrenton will provide water to Gearhart at the Out-of-Town Rate until this MOU expires on July 11, 2026, or is earlier terminated as set forth herein.
  - c. Any new building water hook-ups after the effective date of this MOU beyond one dwelling unit in Gearhart or any new water connections outside Gearhart City limits, will require written notification to the City of Warrenton since additional multiple buildings projects in Gearhart will add more water usage and additional impacts to the services provided under this MOU.
  - d. Gearhart acknowledges that Warrenton has restrictions on new water system connections outside City limits and agrees to consider similar restrictions for the City of Gearhart.

- e. Because of the limited capacity for water services, Warrenton will not provide more than 45 million gallons of water total for June-August each year to the City of Gearhart.
- f. Gearhart must replace the existing 6" meter on or before July 1, 2024.
- g. Separate and apart from the MOU, the two cities anticipate negotiating an intergovernmental agreement providing emergency water for both communities on a long-term basis.
- h. Either Party may terminate this MOU upon providing 90 days written notice to the other Party.

### **3. General Terms**

- a. Each Party shall indemnify and hold harmless the other Party and its officers, employees, and agents, from and against all claims, demands and causes of actions and suits of any kind or nature for personal injury, death, or damage to property on account of or arising out of services performed, the omission of services or in any way resulting from the negligent or wrongful acts or omissions or unlawful policies or laws of the indemnifying party and its officers, employees and agents under this MOU. In addition, each Party shall be solely responsible for any contract claims, delay damages, or similar items arising from or caused by the action or inaction of the Party under the MOU.
- b. A Party receiving notice of any third-party claim or cause of action, suit, or proceeding against a Party that relates to the MOU shall promptly notify the other Party in writing of the third-party claim or cause of action and provide the other Party a copy of the notice, claim, process, and all legal pleadings with respect to the third-party claim.
- c. Each Party shall comply with all applicable federal, state, and local laws, including those related to discrimination in employment because of race, color, ancestry, national origin, religion, sex, sexual orientation, marital status, age, medical condition, disability or other protected class.
- d. This MOU does not create any employment, agency, or fiduciary relationship between the Parties, their employers, agents, or successors.
- e. The benefits, responsibilities, and obligations contained herein inure only to the Parties, and shall not be assigned or transferred to a third party without written agreement of the Parties.
- f. No waiver, consent, modification, or change of terms of this MOU shall be binding unless in writing and signed by the Parties.
- g. This MOU may be signed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

### **4. Effective Date and Term of Agreement:**

- a. This MOU shall be effective upon the date of the last signature by the Parties and shall expire on July 11, 2026, unless further extended or terminated earlier.



Henry Balensifer, Mayor of Warrenton



Date

Kerry Smith, Mayor of Gearhart

Date