



**City of Missoula, Montana**  
**Item to be Referred to City Council Committee**

**Committee:** Committee of the Whole

**Item:** Global Settlement Agreement and Release with Carlyle Group, et al

**Date:** February 10, 2022

**Sponsor(s):** John Engen

**Prepared by:** Dale Bickell

**Ward(s) Affected:**

<input type="checkbox"/> Ward 1	<input type="checkbox"/> Ward 4
<input type="checkbox"/> Ward 2	<input type="checkbox"/> Ward 5
<input type="checkbox"/> Ward 3	<input type="checkbox"/> Ward 6
<input type="checkbox"/> All Wards	<input checked="" type="checkbox"/> N/A

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**Action Required:**

Approve and authorize the mayor to sign Global Settlement Agreement and Release with the Carlyle Group and related parties to resolve all outstanding matters and issues in the water utility condemnation action and the related bad faith litigation.

**Recommended Motion(s):**

I move the City Council: Approve and authorize the Mayor to sign the Global Settlement Agreement and Release with Carlyle Group, et al. and adopt a resolution relating to the financing of water system improvements and legal settlement; establishing compliance with reimbursement bond regulations under the Internal Revenue Code.

**Timeline:**

Referral to committee:	February 14, 2022
Committee discussion:	February 23, 2022
Council action (or sets hearing):	February 28, 2022
Public Hearing (if required):	<a href="#">Click or tap here to enter text.</a>
Deadline:	February 28, 2022

**Background and Alternatives Explored:**

The City of Missoula gained ownership of Missoula's water utility in June 2017 after a years-long process of negotiations followed by condemnation proceedings in district court. However, numerous proceedings continue, including the condemnation action, condemnation appeals, related district court actions, and arbitration that are still currently outstanding.

On December 1, 2021, the arbitration panel issued an interim award in the arbitration matter dismissing the City's claims and ordering the parties to schedule briefing on Carlyle's entitlement to attorneys' and expenses.

In order to avoid the costs and uncertainty of further and additional arbitration and litigation, the parties have agreed to settle all the disputes and controversies between or among them related to the condemnation action, condemnation appeals, district court actions, and arbitration; and

In order to preserve the City's ability to issue tax exempt debt on this matter, IRS regulations require that a municipality must adopt a statement of official intent to reimburse an original expenditure with tax exempt debt. This reimbursement resolution enables the City to issue tax exempt debt in the future should it be deemed economically advantageous to do so.

The reimbursement resolution enables the City to issue tax-exempt debt in the future. This reimbursement resolution covers certain capital improvements to the Water Utility identified and approved within the FY2022 budget and FY2022-FY2026 Community Investment Program as well as the final legal settlement agreement pertaining to assuming the utility.

**Financial Implications:**

The total cost of the settlement is \$4,130,000 to be paid from the water utility. Bonding this amount will require annual debt service payments of approximately \$318,000. It is anticipated that this amount can be paid from existing rate revenues. No property tax dollars will be allocated to the settlement.

The City reasonably expects to reimburse some or all of the expenditures made for costs of the Projects out of proceeds of bonds in an estimated maximum aggregate principal amount of approximately \$6,700,000 (the "Bonds") after the date of payment of all or a portion of the costs of the Projects.

**Links to external websites:**

N/A