

ORDINANCE No.

Authorize an Intergovernmental Agreement with Burlington Water District for fire prevention, suppression and emergency response services effective July 1, 2020 through June 30, 2030 (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. On June 9, 1988 City Ordinances 132356, 160840, 160883, authorize Portland Fire & Rescue (PF&R) to enter into contracts under the provisions of the State Rural Fire Protection District Act to provide fire prevention and suppression services.
2. Portland City Code 3.22.110, directs fees for fire suppression and fire prevention services to be computed by the formula outlined in Exhibit A.
3. Burlington Water District requests that Portland Fire & Rescue provide fire prevention, suppression and emergency response services for in-district property.
4. The City, through Portland Fire and Rescue is willing to provide these services to Burlington Water District.
5. An Intergovernmental Agreement for fire prevention, suppression and emergency response services with Burlington Water District outlines the roles and responsibilities and payment schedule beginning July 1, 2020, terminating June 30, 2030.

NOW, THEREFORE, the Council directs:

- a. The Commissioner in Charge and the City Auditor are authorized to execute an Agreement for fire prevention, suppression and emergency response services with Burlington water District, substantially similar to Exhibit B: Intergovernmental Agreement Burlington Water District.
- b. The Portland Fire and Rescue Chief is authorized to execute annual amendments updating fees for fire suppression and fire prevention services as computed by formula outlined in Exhibit A.

Passed by the Council:

Commissioner Jo Ann Hardesty

Prepared by: Trisha Schultz

Date Prepared: July 21, 2020

Mary Hull Caballero

Auditor of the City of Portland

By

Deputy

Agenda No.
ORDINANCE NO.
 Title

Authorize an Intergovernmental Agreement with Burlington Water District for fire prevention, suppression and emergency response services effective July 1, 2020 through June 30, 2030 (Ordinance)

<p style="text-align: center;">INTRODUCED BY Commissioner/Auditor: Jo Ann Hardesty</p>	<p>CLERK USE: DATE FILED <u>September 1, 2020</u></p>
<p style="text-align: center;">COMMISSIONER APPROVAL</p>	<p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u><i>Keelan McClymont</i></u> Deputy</p> <p>ACTION TAKEN: September 9, 2020 Passed to Second Reading September 16, 2020 at 9:30 a.m.</p>
<p>Mayor—Finance & Administration - Wheeler</p>	
<p>Position 1/Utilities - Fritz</p>	
<p>Position 2/Works - Vacant</p>	
<p>Position 3/Affairs - Hardesty <i>JL Hardesty</i></p>	
<p>Position 4/Safety - Eudaly</p>	
<p style="text-align: center;">BUREAU APPROVAL</p>	
<p>Bureau: Fire and Rescue Bureau Head: Sara Boone <small>Digitally signed by Sara Boone Date: 2020.08.18 08:25:57 -07'00'</small></p>	
<p>Prepared by: Trisha Schultz Date Prepared: 7/21/20</p>	
<p>Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p>City Auditor Office Approval: required for Code Ordinances</p>	
<p>City Attorney Approval: Tony Garcia <small>Digitally signed by Tony Garcia Date: 2020.08.17 15:07:27 -07'00'</small> required for contract, code, easement, franchise, comp plan, charter</p>	
<p>Council Meeting Date 9/9/20</p>	

AGENDA
<p>TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)</p>
<p>CONSENT <input checked="" type="checkbox"/></p>
<p>REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz		
2. Vacant	2. Vacant		
3. Hardesty	3. Hardesty		
4. Eudaly	4. Eudaly		
Wheeler	Wheeler		

Exhibit A

City of Portland Code 3.22.110

Fire Prevention and Suppression Contracts.

(Amended by Ordinance Nos. 132356, 160840, and 160883, effective June 9, 1988.) The Commissioner In Charge of Portland Fire & Rescue and the City Auditor hereby are authorized to enter into contracts under the provisions of the State Rural Fire Protection District Act. Contracts authorized by this Section are subject to the following conditions:

- A. The City shall provide both fire prevention and fire suppression services and will not provide fire suppression services only.
- B. Payment for services by individuals and private organizations, having no tax levying authority under State law, shall be in advance, excepting those contracts in excess of \$25,000, which may be paid on a quarterly basis in advance. The Auditor shall execute such contracts only upon receipt of such payment;
- C. Contracts with political subdivisions of the State shall be entered into only upon certification to the Auditor by the governing body of such political subdivision that there will be assessed upon the taxpayers of such political subdivision an amount not less than:
 - 1. The contract price.
 - 2. Unpaid balances, if any, owing the City on previous fire prevention and suppression contracts.
 - 3. An estimated amount sufficient to compensate for the delinquencies, based upon previous experience.

The Auditor shall execute such contracts only upon receipt of such certification, unless specially authorized by ordinance. Payment upon such contracts shall be due in equal semi-annual installments on or before January 1 and June 1 of the year in which the contract is in effect;

D. As used in this Section:

- 1. **“Effective year”** means the fiscal year in which the contract is operative,
- 2. **“Previous year”** means the fiscal year first preceding the effective year.
- 3. **“Property owner’s assessed value”** means the assessed value in the previous year of land, improvements and personal property of the individual, organization or political subdivision contracting for City fire prevention and suppression, provided, however, that for political subdivisions, the City Auditor shall decrease such assessed value to adjust for changes in boundaries which become effective during the previous year as the result of annexations to the City. If property or a portion thereof, which is included in the determination of property owner’s assessed valuation, be outside Multnomah County, the assessed value shall be adjusted so as to

bear the same ratio to true cash value as the ratio of assessed value to true cash value in Multnomah County, as determined by the State Tax Commission.

4. “Assessed value of City property” means the assessed value, in the previous year, of land, improvements and personal property in the City. The assessed value of those portions of the City lying outside Multnomah County shall be adjusted so as to bear the same ratio to true cash value as the ratio of assessed value to true cash value in Multnomah County, as determined by the State Tax Commission.

5. “Cost to City taxpayers” means the sum, to the nearest dollar, of:

a. Portland Fire & Rescue General Fund budget of the previous year,

b. A portion of the budget for Fire and Police Disability and Retirement Fund based upon the ratio of the number of firemen to the number of policemen employed on January 1 of the previous year, and;

c. Ten percent of the total of a. and b. to allow for payroll taxes and other expenditures outside the Portland Fire & Rescue General Fund budget;

E. The charge for City fire suppression and fire prevention services by contract authorized under this Section shall be computed by the following formula:

(Cost To City Taxpayers)

Multiplied by

(Property Owner’s Assessed Value)

Divided by

(Assessed Value of City Property)

F. Each application for a fire suppression and/or fire prevention contract under this Section, and for renewal of a previous contract under this Section, shall be forwarded to the Chief of Portland Fire & Rescue. The Chief shall attach thereto his report upon the accessibility, water supply, distance from the City fire equipment, and other conditions pertaining to the area to be protected. The Chief shall then submit the application to the Commissioner In Charge of Portland Fire & Rescue for approval or disapproval before a contract is entered into.

EXHIBIT B

CITY OF PORTLAND

INTERGOVERNMENTAL AGREEMENT FOR SERVICES
for
FIRE PREVENTION, SUPPRESSION AND EMERGENCY RESPONSE TO
BURLINGTON WATER DISTRICT

City of Portland Agreement Number: [REDACTED]

Burlington Water District Agreement Number: [REDACTED]

As authorized by City Ordinance [REDACTED], this Agreement is made effective on July 1, 2020 (“Effective Date”) by and between the City of Portland (“City”), a municipal corporation of the State of Oregon, and Burlington Water District (“Burlington”), a corporation organized under ORS Chapter 264 PO Box 270, St Helens OR 97051, pursuant to ORS 190.010, by and through their duly authorized representatives. This Agreement may refer to the City and Burlington individually as a “Party” or jointly as the “Parties.”

The initial Term of this Agreement shall be from the Effective Date until June 30, 2030. The initial total not-to-exceed amount under this Agreement for the initial Term shall be \$135,700.00. The amount to be re-calculated annually.

Party contacts and Burlington and City’s Project Manager for this Agreement are:

For City of Portland:	For Burlington Water District
Name: AJ Jackson	Name: Dan Zimmerman
Title: Portland Fire & Rescue Fire Marshal	Title: Bookkeeper
Address: 55 SW Ash Street	Address: PO Box 270
City, State: Portland OR 97204	St Helens, OR 97051
e-mail: aj.jackson@portlandoregon.gov	e-mail: dzimmerm4085@yahoo.com

Scope and Consideration

- (a) City shall perform the Services and provide the Deliverables set forth in the Statement of Work in the Agreement.
- 1. (b) Burlington agrees to pay for fire suppression and fire prevention services as identified by Portland City Code 3.22.110. Fees to be computed by formula outlined in Exhibit A.
- (c) Payments shall be made to City according to the semi-annual invoices submitted to Burlington by the City.

Recitals:

WHEREAS, Burlington has requested that the City provide it Fire Prevention, suppression and emergency medical response Services set forth below and the City is willing to provide such Services on the terms set forth below.

THE PARTIES HEREBY AGREE AS FOLLOWS:

DEFINITIONS (10/19)

General Definitions. (11/18) These definitions apply to the entire Agreement, subsequent Amendments, and any Change Orders or Task Orders, unless modified in an Amendment. If any definition contains a substantive provision conferring rights and/or obligations upon a Party, then effect shall be given to the substantive provision.

“Amendment” (12/18) means a written document required to be signed by both Parties when in any way altering the Master Terms and Conditions of the Agreement, Agreement amount, or substantially altering a Statement of Work.

“Agreement” (11/18) means the Master Terms and Conditions including all exhibits, attachments and schedules and their constituent parts listed in the Order of Precedence or incorporated by reference.

“Agreement Price” (10/19) means the not-to-exceed price agreed upon by the Parties for all Services.
“Consultation” means the action of formally consulting or discussing.

“Burlington Property” means properties within the service area of the Burlington Water District boundaries, to be updated July 1st of each year.

“Fire Prevention” means measures and practices directed toward the prevention and suppression of destructive fires.

“Fire Regulations” means the statutes and administrative rules adopted by the State of Oregon and Portland City Code adopted by Council and the policies adopted under the authority granted to the Portland Fire Marshal which are for the purpose of safeguarding life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials, and devices, and from conditions hazardous to life and property in the use or occupancy of buildings or premises. (Title 31.)

“Inspection Services” includes periodic inspections performed by a member of the Fire Bureau to determine compliance with the requirements of fire regulations. (abbreviated from Title 31).

“Master Terms and Conditions” (11/18) means the body of text from the preamble through the signature page of this Agreement.

“Material Breach” (11/18) means any breach of this Agreement that causes, caused, or may cause substantial harm to the non-breaching Party or substantially deprives the non-breaching Party of the benefit it reasonably expected under this Agreement.

“Personally Identifiable Information (PII)” (11/18) means information that can be used on its own or with other information to identify, contact, or locate a single person, or to identify an individual in context, as described in the Oregon Consumer Identity Theft Protection Act.

“Services” (10/19) means fire prevention, suppression and emergency responses performed by City under this Agreement.

“Specifications” (10/19) means the most current cumulative statement of capabilities, functionality, and performance requirements for the System and its components as set out in the Acceptance Criteria, Change Orders, the Statement of Work, Documentation, Burlington’s representations, Burlington’s Proposal and Proposal Clarifications.

“Statement of Work” (SOW) (10/19) means the written detailed specifications of the Services(s) to be delivered to the City by Burlington, including any Change Orders or Task Orders subject to the terms and conditions of this Agreement.

“Suitable Connections” means hydrant valve and port connections which are standard and able to be used by Portland Fire & Rescue without specialized adapters.

“Term” (11/18) means the period of time that this Agreement is in effect as stated on page one.

SECTION 1 ORDER OF PRECEDENCE

1.1 Order of Precedence. (09/17) In the event there is a conflict or ambiguity between the terms and conditions of one portion of this Agreement with another portion of this Agreement, the conflict or ambiguity will be resolved in accordance with the order of precedence below. This order of precedence designates which portion of the Agreement takes precedence over the other for purposes of interpretation. Burlington’s hyperlinks contained herein will not supersede or alter the Master Terms and Conditions. For the avoidance of doubt, no other terms and conditions will override the Parties’ obligations in the Confidentiality, Indemnification, or Choice of Law provisions in these Master Terms and Conditions. In this Agreement the order of precedence shall be:

1. Amendments
2. Master Terms and Conditions
3. Exhibit A, Statement of Work
4. Exhibit B, Burlington’s Customer List and map

SECTION 2 GENERAL AND ADMINISTRATIVE PROVISIONS

- 2.1 Term. (09/17) This Agreement shall begin on the Effective Date and expire on June 30, 2030.
- 2.2 Point of Contact. (09/17) Burlington Water District shall appoint a Board Member/Bookkeeper to be the sole point of contact for the City with regard to this Agreement and the System.
- 2.2.1 Written Notifications. (10/18) All notices to, and other written communication between the Parties shall be deemed received five (5) Business Days after being sent by first class mail, or upon receipt when sent by courier services, or by e-mail. All notices and written communications shall be sent to the Parties set forth on page 1 of the Agreement, or to such other places as they may designate by like notice from time to time. Each Party shall provide written notice of any changes to the Party's contacts within thirty (30) Calendar Days.
- 2.3 Changes to Agreement.
- 2.3.1 Amendment of the Agreement. (06/19) Any changes to the provisions of this Agreement shall be in the form of an Amendment. No provision of this Agreement may be amended unless such Amendment is approved and executed in writing by authorized representatives of the Parties.
- 2.5 Payment. (09/17) Payment(s) shall be in accordance with the payment schedule set forth in Attachment 1: City Code 3.22.110.
- 2.5.1 Payment shall be issued by Burlington thirty (30) Calendar Days from receipt of an acceptable invoice from City. City invoices must contain Burlington's name and address; invoice number; date of invoice; Agreement number and date; detailed breakdown as described in Attachment 1 #E., and total amount.
- 2.6 Records and Audits (06/19)
- 2.6.1 Records Retention. (06/19) Burlington shall maintain current financial records in accordance with Generally Accepted Accounting Principles (GAAP). Burlington agrees to maintain and retain and retain all financial records, supporting documents, statistical records and all other records pertinent to this Agreement during the term of this Agreement and for a minimum of six (6) years after the expiration or termination date of this Agreement or until the resolution of all audit questions or claims, whichever is longer.
- 2.6.2 Access to Records. (06/19) The City may examine, audit and copy Burlington's books, documents, papers, and records relating to this Agreement at any time during the records retention period listed above upon reasonable notice. Copies of applicable records shall be made available upon request.

- 2.7 Overpayment. (09/17) If a City or Burlington audit discloses that payments to City were in excess of the amount to which City was entitled, then City shall repay the amount of the excess to Burlington. Under no circumstances will the payment of previous invoices constitute an acceptance of the charges associated with those invoices.
- 2.8 Material Breach. (09/17) Either Party may terminate this Agreement in the event of a Material Breach of this Agreement by the other. Prior to such termination, however, the Party seeking the termination shall give to the other Party written notice to cure the Material Breach and of the Party's intent to terminate. If the Party has not entirely cured the Material Breach within thirty (30) Calendar Days of the notice, then the Party giving the notice shall have the option to: (a) terminate this Agreement by giving a written notice of termination, (b) seek any remedies in this Agreement, in law, or at equity, to the extent not otherwise limited by the terms of this Agreement, or (c) any combination thereof.
- 2.9 Force Majeure. (09/17) Either Party may terminate this Agreement due to a Force Majeure event as set forth in Section 5.12, Force Majeure.
- 2.10 Bankruptcy. (09/17) The City may terminate this Agreement if Burlington: (a) becomes insolvent, makes a general assignment for the benefit of creditors; (b) suffers or permits the appointment of a receiver for its business or assets; (c) becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, and such proceeding has not been dismissed within a sixty (60) Calendar Day period; or (d) has wound up or liquidated, voluntarily or otherwise.
- 2.11 Void Assignment. (09/17) In the event that Burlington assigns its obligations under this Agreement to a third party in a manner other than as set forth in Section 5.7, Assignment, the City shall have the option to terminate this Agreement without any notice or cure period or further obligation to Burlington or the assignee, and promptly receive a refund for fees paid for Products delivered and/or Services performed by the third party.
- 2.12 Waiver. (09/17) No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach of this Agreement. The failure of either Party to insist upon any of its rights under this Agreement upon one or more occasions, or to exercise any of its rights, shall not be deemed a waiver of such rights on any subsequent occasions.
- 2.13 Severability. (09/17) Any section of this Agreement which is held or declared void, invalid, illegal or otherwise not fully enforceable shall not affect any other provision of this Agreement and the remainder of this Agreement shall continue to be binding and of full force and effect. This Agreement shall be binding upon and inure to the benefit of the City and its successors and assigns.
- 2.14 Rule of Construction/Agreement Elements/Headings. (09/17) This Agreement has been drafted by the City in the general format by the City as a convenience to the Parties only and shall not, by

reason of such action, be construed against the City. Section headings are for ease of reference and convenience only and shall not affect or enter into the interpretation of any portion of this Agreement.

- 2.15 Survival. (09/17) All obligations relating to Confidential Information; indemnification; publicity; representations and warranties; remedies; proprietary rights; limitation of liability; and obligations to make payments of amounts that become due under this Agreement prior to termination or expiration shall survive the termination or expiration of this Agreement and shall, to the extent applicable, remain binding and in full force and effect for the purposes of the ongoing business relationship by and between Burlington and the City.

SECTION 3 STATUTORY REQUIREMENTS, PUBLIC RECORDS AND CONFIDENTIALITY

- 3.1 Governing Law and Jurisdiction. (09/17) This Agreement shall be construed according to the laws of the State of Oregon without reference to the conflict of laws' provisions. Any litigation between the City and Burlington arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Multnomah County Circuit Court, and if in the federal courts, in the United States District Court for the District of Oregon.
- 3.2 Public Records Request. (09/17) Burlington acknowledges that the City of Portland is subject to the Oregon Public Records Act. Third persons may claim that the Confidential Information Burlington submitted to the City hereunder may be, by virtue of its possession by the City, a public record and subject to disclosure pursuant to the Oregon Public Records Act. The City's commitments to maintain certain information confidential under this Agreement are all subject to the constraints of Oregon and federal laws. All information submitted by Burlington is public record and subject to disclosure pursuant to the Oregon Public Records Act, except such portions for which Burlington requests and meets an exemption from disclosure consistent with federal or Oregon law. Within the limits and discretion allowed by those laws, the City will maintain the confidentiality of information.
- 3.3 Public Records. (09/17) The City will retain one (1) copy of any public records for the express purposes of complying with State of Oregon and Portland City Code public records and archiving laws.

SECTION 4 BURLINGTON PERFORMANCE AND WARRANTIES

- 4.1 General Warranties. (09/17) Burlington makes the following warranties:
- 4.1.1 Capacity. (09/17) Burlington warrants it has the legal authority and capacity to enter into and perform this Agreement.

- 4.1.2 Public Agreements. (09/17) Burlington shall observe all applicable state and local laws pertaining to public Agreements. ORS Chapters 279A and 279B require every public Agreement to contain certain provisions. To the extent applicable, ORS 279B.220, 279B.230 and 279B.235 are incorporated into this Agreement by reference.
- 4.1.3 Respectful Workplace Behavior. (09/17) The City is committed to a respectful work environment, free of harassment, discrimination and retaliation and other inappropriate conduct. Every individual has a right to work in a professional atmosphere where all individuals are treated with respect and dignity. The City's HR Rule 2.02 covers all employees of the City as well as contractors, vendors or consultants who provide services to the City of Portland. Burlington warrants its compliance with terms and conditions HR 2.02 as further described at: <https://www.portlandoregon.gov/citycode/27929>

4.2 Compliance.

- 4.2.1 ADA Compliance. (07/18) Burlington shall comply with the Americans With Disabilities Act (ADA), including any duty the ADA may impose on City or Burlington as a result of the Products, Services or activities requested to be provided for City under this Agreement.

- 4.3 Notice of Change in Financial Condition. (09/17) Burlington must maintain a financial condition commensurate with the requirements of this Agreement. If, during the term of this Agreement, Burlington experiences a change in its financial condition which may adversely affect its ability to perform the obligations of this Agreement, Burlington shall immediately notify the City in writing. Failure to notify the City of such a change in financial condition is sufficient grounds for terminating this Agreement.

4.4 Force Majeure. (01/19)

- 4.4.1 In the event that either Party is unable to perform any of its obligations under this Agreement due to a Force Majeure Event not the fault of the affected Party, the Party who has been so affected immediately shall give notice to the other Party and shall do everything possible to resume performance. Upon receipt of such notice, the performance obligations affected by the Force Majeure event shall immediately be suspended.
- 4.4.2 If the period of nonperformance exceeds fifteen (15) Calendar Days from the receipt of notice of the Force Majeure Event, the Party whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement or any Statement of Work.
- 4.4.3 If the period of nonperformance due to a Force Majeure Event does not exceed fifteen (15) Calendar Days, such nonperformance shall automatically extend the Project schedule for a period equal to the duration of such events. Any Warranty Period affected by a Force Majeure Event shall likewise be extended for a period equal to the duration of such event.

- 4.4.4 If the period of nonperformance due to Force Majeure Event is longer than fifteen (15) Calendar Days, the Parties shall negotiate options for mitigation of the Force Majeure Event.

SECTION 5 INDEMNIFICATION, INSURANCE, BONDING, LIQUIDATED DAMAGES

5.1 Hold Harmless and Indemnification. (12/19)

- 5.1.1 Subject to the conditions and limitations of the Oregon Constitution and Oregon Tort Claims Act, ORS 30.260 through 30.300, Burlington shall defend, indemnify and save harmless City, its directors, officers, agents and employees from and against all liability, loss, expenses and costs arising out of or resulting from this Agreement.

5.2 Dispute Resolution. (09/17) Burlington shall cooperate with the City to ensure that all claims and controversies which arise during this Agreement will be resolved as expeditiously as possible in accordance with the following resolution procedure:

- 5.2.1 Any dispute between the City and Burlington shall be resolved, if possible by PF&R Fire Marshal or their designee on behalf of the City and Board Member/Bookkeeper on behalf of Burlington.

- 5.2.2 If the PF&R Fire Marshal or designee and Burlington are unable to resolve any dispute within three (3) Business Days after notice of such dispute is given by either Party to the other, the matter shall be submitted to the Fire Chief or their designate on behalf of the City and Board Member/Bookkeeper on behalf of Burlington for resolution, if possible.

- 5.2.3 Mediation. (12/19) Should any dispute arise between the parties concerning this Agreement, which is not resolved by mutual agreement, it is agreed that it will be submitted to mediated negotiation prior to any Party commencing litigation. In such an event, the Parties to this Agreement agree to participate in good faith in a non-binding mediation process. The mediator shall be selected by mutual agreement of the Parties, but in the absence of such agreement each Party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. All costs of mediation shall be borne equally by both Parties.

- 5.2.4 Integration. (12/19) This Agreement contains the entire agreement between the Parties regarding the subject matter addressed herein and supersedes all prior written or oral discussions or agreements.

SIGNATURE PAGE
(08/19)

Burlington represents that Burlington has had the opportunity to consult with its own independently selected attorney in the review of this Agreement. Neither Party has relied upon any representations or statements made by the other Party that are not specifically set forth in this Agreement.

This Agreement constitutes the entire agreement between the City and Burlington and supersedes all prior and contemporaneous proposals and oral and written agreements, between the Parties on this subject, and any different or additional terms on a City purchase order or Burlington quotation or invoice.

The Parties agree that they may execute this Agreement and any Amendments to this Agreement, by electronic means, including the use of electronic signatures.

This Agreement may be signed in two (2) or more counterparts, each of which shall be deemed an original, and which, when taken together, shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties hereby cause this Agreement to be executed.

CITY OF PORTLAND OREGON

BURLINGTON WATER DISTRICT

By: _____
Commissioner Jo Ann Hardesty
Commissioner-in-Charge for Portland Fire &
Rescue
Ordinance No. _____

By: _____
Name

Title

Date: _____

Date: _____

Approved as to form

Exhibit A
Statement of Work

The City shall:

- A. Provide Fire Prevention, suppression and emergency response services (“Services”) at Burlington’s Property described in Exhibit B, attached and incorporated herein.
 - (1) Such Service shall be subject to the City's prior right to use all of its emergency response personnel and equipment to respond to emergencies within the City's corporate limits. Such Service shall also be subject to the reasonable availability of the City's emergency response and fire fighting personnel and equipment.
 - (2) The Services provided by the City under this Agreement shall include those of the Chief of Portland Fire & Rescue (PF&R), the Battalion Chief, or other commanding officer who shall answer the alarm of fire or other emergency on Burlington's Property.
 - (3) The commanding officer of PF&R or any unit thereof, shall, from information received as to the amount and type of equipment needed to suppress a fire or respond to an emergency at Burlington's Property, exercise judgement as to the amount and type of equipment which may be spared from use by PF&R and which may be dispatched to the call to Burlington's Property.
- B. Have appropriate members of PF&R visit Burlington's Property to familiarize themselves with the public streets in the district, the location of fire hydrants and to obtain other information necessary to enable the City to perform this Agreement.
- C. Provide Fire Prevention, Consultation and Inspection Services for Burlington's Property. Oregon Revised Statutes and the Fire Regulations of the Oregon State Fire Marshal shall be the criteria for Fire Prevention Services performed.

2. Burlington shall:

- A. For the Services to be provided by the City, pay the City in two equal installments, the first installment to be paid on or before January 1, of each year, and the final installment to be paid on or before June 1, of each year.
- B. Provide all water service, supply and pressure, and provide all fire hydrants equipped with Suitable Connections, for the use by the City in performing this Agreement.

Exhibit B
Burlington Property Customer List and map

Attachment 1
City of Portland Code 3.22.110
Fire Prevention and Suppression Contracts.

(Amended by Ordinance Nos. 132356, 160840, and 160883, effective June 9, 1988.) The Commissioner In Charge of Portland Fire & Rescue and the City Auditor hereby are authorized to enter into contracts under the provisions of the State Rural Fire Protection District Act. Contracts authorized by this Section are subject to the following conditions:

- A. The City shall provide both fire prevention and fire suppression services and will not provide fire suppression services only.
- B. Payment for services by individuals and private organizations, having no tax levying authority under State law, shall be in advance, excepting those contracts in excess of \$25,000, which may be paid on a quarterly basis in advance. The Auditor shall execute such contracts only upon receipt of such payment;
- C. Contracts with political subdivisions of the State shall be entered into only upon certification to the Auditor by the governing body of such political subdivision that there will be assessed upon the taxpayers of such political subdivision an amount not less than:
 - 1. The contract price.
 - 2. Unpaid balances, if any, owing the City on previous fire prevention and suppression contracts.
 - 3. An estimated amount sufficient to compensate for the delinquencies, based upon previous experience.

The Auditor shall execute such contracts only upon receipt of such certification, unless specially authorized by ordinance. Payment upon such contracts shall be due in equal semi-annual installments on or before January 1 and June 1 of the year in which the contract is in effect;

D. As used in this Section:

- 1. **“Effective year”** means the fiscal year in which the contract is operative,
- 2. **“Previous year”** means the fiscal year first preceding the effective year.
- 3. **“Property owner’s assessed value”** means the assessed value in the previous year of land, improvements and personal property of the individual, organization or political subdivision contracting for City fire prevention and suppression, provided, however, that for political subdivisions, the City Auditor shall decrease such assessed value to adjust for changes in boundaries which become effective during the previous year as the result of annexations to the City. If property or a portion thereof, which is included in the determination of property owner’s assessed valuation, be outside Multnomah County, the assessed value shall be adjusted so as to bear the same ratio to true cash value as the ratio of assessed value to true cash value in Multnomah County, as determined by the State Tax Commission.
- 4. **“Assessed value of City property”** means the assessed value, in the previous year, of land, improvements and personal property in the City. The assessed value of those portions of the City lying

outside Multnomah County shall be adjusted so as to bear the same ratio to true cash value as the ratio of assessed value to true cash value in Multnomah County, as determined by the State Tax Commission.

5. “Cost to City taxpayers” means the sum, to the nearest dollar, of:

- a.** Portland Fire & Rescue General Fund budget of the previous year,
- b.** A portion of the budget for Fire and Police Disability and Retirement Fund based upon the ratio of the number of firemen to the number of policemen employed on January 1 of the previous year, and;
- c.** Ten percent of the total of a. and b. to allow for payroll taxes and other expenditures outside the Portland Fire & Rescue General Fund budget;

E. The charge for City fire suppression and fire prevention services by contract authorized under this Section shall be computed by the following formula:

(Cost To City Taxpayers)

Multiplied by

(Property Owner’s Assessed Value)

Divided by

(Assessed Value of City Property)

F. Each application for a fire suppression and/or fire prevention contract under this Section, and for renewal of a previous contract under this Section, shall be forwarded to the Chief of Portland Fire & Rescue. The Chief shall attach thereto his report upon the accessibility, water supply, distance from the City fire equipment, and other conditions pertaining to the area to be protected. The Chief shall then submit the application to the Commissioner In Charge of Portland Fire & Rescue for approval or disapproval before a contract is entered into.

IMPACT STATEMENT

Legislation title: Authorize an Intergovernmental Agreement with Burlington Water District for fire prevention, suppression and emergency response services effective July 1, 2020 through June 30, 2030 (Ordinance)

Contact name: Trisha Schultz

Contact email: trisha.schultz@portlandoregon.gov

Presenter name: AJ Jackson, Portland Fire Marshal 503-209-8093
Don Kelly, Division Chief 503-313-8290

Purpose of proposed legislation and background information:

The purpose of this legislation is for City Council to authorize a ten year agreement with Burlington Water District for fire prevention, suppression, and emergency response services for FY July 1, 2020 through June 30 2030.

Financial and budgetary impacts:

There is not a financial or budgetary impact associated with this legislation since PF&R's ongoing budget includes revenue from Burlington Water District.

Community impacts and community involvement:

None; this contract is a continuation of services provided by PF&R to Burlington Water District.

Budgetary Impact Worksheet

Does this action change appropriations?

- YES:** Please complete the information below.
 NO: Skip this section