



**Location:** City Hall – Council Chambers  
**Date:** March 28, 2023  
**Time:** 6:00 PM

## City Council Meeting Agenda

Mayor Jason Beebe, Council Members Steve Uffelman, Janet Hutchison,  
Shane Howard, Gail Merritt, Scott Smith, Raymond Law and City Manager Steve Forrester

**ATTEND TELEPHONICALLY BY CALLING 346-248-7799 Meeting ID: 947 5839 2608 Passcode: 123456**

### Call to Order

### Flag Salute

### Additions to Agenda

### Consent Agenda

- [1.](#) Regular Meeting Brief 3-14-2023
- [2.](#) PD Property Conversion

### Visitors, Appearances and Requests

3. Introduction of New Parks & Recreation Director, Steve Waring

### Council Presentations

### Council Business

- [4.](#) Intent to Award EV Charging Station Project - Josh Smith
- [5.](#) Intent to Award Street Striping Project - Justin Severance

### Staff Reports and Requests

- [6.](#) City Manager's Report - Steve Forrester
7. Drought Declaration Update - Mike Kasberger

### Committee Reports

### Ordinances

- [8.](#) Ordinance No. 1283 - Updating Chapter 52 (Waster) of the Prineville Code (**FIRST PRESENTATION**) - Josh Smith

### Resolutions

- [9.](#) Resolution No. 1551 - Authorizing the City to Enter Into an Intergovernmental Agreement with the State of Oregon Through Its Department of Forestry - Kelly Coffelt / Steve Forrester

### Visitors, Appearances and Requests

### Adjourn

*Agenda items maybe added or removed as necessary after publication deadline*



**CITY OF PRINEVILLE**  
**Regular Meeting Brief**  
387 NE Third Street – Prineville, OR 97754  
541.447.5627 ph 541-447-5628 fax

---

---

Full Meeting Recordings Available at:  
<http://cityofprineville.com/meetings/>

**City Council Meeting Brief**  
**March 14, 2023**

**Council Members Present:**

Scott Smith  
Gail Merritt  
Shane Howard  
Janet Hutchison  
Jason Beebe  
Ray Law  
Steve Uffelman

**Council Members Absent**

None.

**Additions to the Agenda**

Prineville Downtown Business Association (Item 2) is postponed until April 11<sup>th</sup>.

**Consent Agenda**

1. Regular Meeting Brief 2-28-2023

**Councilor Merritt made a motion to approve consent agenda as presented. Motion seconded. No discussion on motion. All in favor, motion carried.**

**Visitors, Appearances and Requests**

No one from the public came forward.

**Council Presentations**

2. **Prineville Downtown Business Association** – Bryan Iverson

Postponed until April 11<sup>th</sup>.

### 3. EDCO Enterprise Zone Presentation – Kelsey Lucas

Kelsey Lucas, Prineville/Crook County EDCO Director went through a power point presentation that highlighted an overview of the existing programs in the county and re-designation criteria.

Discussions continued regarding if all businesses participating were in the city limits, and properties outside the city limits and providing services to those areas for development.

Mayor Beebe explained that he is a supporter of the enterprise zone and would like to see them expanded on the state side. It has changed a lot of people's lives in the community and wanted to emphasize that there a lot of small businesses that have benefited from this as well.

Council agreed to move forward with the letter to other taxing districts.

### Council Business

#### 4. Intent to Award Barnes Butte Trail Paving Project – Justin Severance

Justin Severance, Street Supervisor presented the staff report explaining that there were six bids with Owens Asphalt being the low bid and scope of work.

Councilor Smith asked how many tons of asphalt is in the project. Mr. Severance responded that there is 284 tons which work out to be about \$91.10 per ton laid, so prices are coming down.

There were no further questions.

**Councilor Uffelman made a motion for intent to award the Barnes Butte Trail Paving project to Owens Asphalt LLC in the amount of \$199,190.00. Motion seconded. No discussion on motion. All in favor, motion carried.**

### Staff Reports and Requests:

#### 5. City Manager's Report– Steve Forrester

Mr. Forrester went through his report highlighting each department.

Mike Kasberger, Assistant City Engineer provided a snow level update reporting that the cfs went from approximately 70 cfs to over 500 cfs right now above the reservoir. The moisture content in snow is about 29% and we are hoping for 40% which can happen with some warm days and nights to move that snow and reach the Prineville Reservoir. Ochoco Reservoir is still struggling.

Councilor Uffelman asked about the Meadow Lakes parking lot rehabilitation project.

Zach Lampert, PGA Facility Manager explained that Casey Kaiser, PW Director and Josh Smith, Planning Director came up with some engineered designs and he intends to put that into the upcoming budget and will go out for bids if approved.

### **Committee Reports**

Councilor Smith attended a chamber board meeting with Mr. Kaiser. He provided an overview of the upcoming events such as the cattle drive and that the footprint of this event keeps growing every year. Republic Disposal has taken over the fireworks funding from Prineville Disposal. They are looking at increasing the fireworks budget to \$20,000 which will be a pretty big fireworks show.

Councilor Smith also attended Les Stiles memorial service with Chief Larry Seymour and team along with Steve Forrester and Darla Rhoden. The impacts Les made in his lifetime were far beyond law enforcement.

Councilor Uffelman provided a Community Renewable Energy Association (CREA) update explaining that a lot of what they are doing right now is legislative and trying to push renewable energy for the state. The next CREA meeting will be held in Prineville.

There were no other reports.

### **Ordinances:**

None.

### **Resolutions**

#### **6. Resolution No. 1550 – Annexing Certain Property into the City of Prineville– Josh Smith**

Mr. Smith presented the staff report stating that this is a straight forward resolution for annexations. He did receive some questions from Councilor Uffelman regarding when the city could annex properties into the city if they become an island.

Jered Reid, City Attorney explained that the city could annex property in the city limits when it becomes surrounded by city limits properties.

There were no further questions.

**Councilor Howard made a motion to approve Resolution No. 1550. Motion seconded. No discussion on motion. All in favor, motion carried.**

### **Visitors, Appearances and Requests:**

No one came forward.

**Adjourn**

**Councilor Smith made a motion to adjourn the meeting. Motion seconded. No discussion on motion. All in favor, motion carried.**

Meeting adjourned at 7:15 P.M.

**Motions and Outcomes:**

Motion:	Outcome	Beebe	Howard	Hutchison	Law	Merritt	Smith	Uffelman
Consent Agenda	PASSED	Y	Y	Y	Y	Y	Y	-
Motion for intent to award the Barnes Butte Trail Paving project to Owens Asphalt LLC in the amount of \$199,190.00.	PASSED	Y	Y	Y	Y	Y	Y	Y
Resolution No. 1550 – Annexing Certain Property into the City of Prineville	PASSED	Y	Y	Y	Y	Y	Y	Y
Adjourn Meeting	PASSED	Y	Y	Y	Y	Y	Y	Y

Public Records Disclosure

Under the Oregon public records law, all meeting information, agenda packets, ordinances, resolutions, audio and meeting briefs are available at the following URL:

<https://www.cityofprineville.com/meetings> .

## Public Notice

The Prineville Police Department has in its possession the unclaimed personal property described below. If you have any ownership interest in any of the unclaimed property, you must file a claim with the Prineville Police Department within 30 days from the date of publication of this notice, or you will lose your interest in that property. Contact information for the Prineville Police Department Evidence Technician is 541-447-4168 or [avandonk@prinevillepd.org](mailto:avandonk@prinevillepd.org). All items will be posted for 30 days and then either sent to auction with Propetyroom.com or donated to local charities.

Apple Air pods

Key ring with 2 keys and key fobs

Apple iPhone

Painted men's mountain bike

Motorola Smart Phone

Blue Mountain bike

Spectra Grade Laser Case

Luggage containing clothes

Backpack

Wallet and notebook -Sheree Rudd

Makita tools

Dynacraft child bike

Magna BMX Bike

BMX bike

Drill

Road style bike

A Toyota key

Black foldable Razor type scooter



# Prineville Police Department

1251 NE ELM STREET ♦ PRINEVILLE, OREGON 97754

Amy Van Donk, Evidence

Phone: (541)447-4168

FAX: (541) 447-8619

[avandonk@prinevillepd.org](mailto:avandonk@prinevillepd.org) Web Site: [www.cityofprineville.com](http://www.cityofprineville.com)

March 6, 2023

City Council,

The Prineville Police Department has the following firearms secured in its possession. I have itemized the firearms that were forfeited per court order and unclaimed found property.

I am requesting City Council approve the transfer of these firearms to Bullseye Firearms for store credit for Prineville Police Department utilization by Sergeant Gray, Rangemaster.

## Case #

- 18000642** 12-gauge Winchester Shotgun  
Item #17 Serial/ 292472  
Forfeit per Court Order
- 19001331** 410 Revelation 330A Shotgun  
Serial/311C  
Sent certified letter to owner. No response
- 19001759** \$90.16 in cash  
Item #4 Left next of kin 2 voicemails with information. No return call.
- 20001343** 9mm Springfield XD Pistol  
Item #1 Serial/MG985948  
Firearm held in safekeeping for over 2 years. Owner never returned.
- 20001367** \$2.00 is U.S. currency  
Item #8 Sent letter to owner and no response.
- 20001500** 22 Heritage Rough Rider Revolver  
Item #2 Serial/487132  
Forfeit per Court Order
- 22000357** 7mm Remington 783 rifle  
Item #1 Serial/RA33047A  
Held for safekeeping, 1 year. Certified letter delivered, no response.

Thank you,

Amy Van Donk  
Evidence Tech





# STAFF REPORT

---

---

**MEETING DATE:** 3/28/2023      **PREPARED BY:** Joshua Smith

**SECTION:** Council Business      **DEPARTMENT:** Community Development

**CITY GOAL:** Fiscal Responsibility, Provide Quality Municipal Service & Programs

**SUBJECT:** Intent to Award Installation of Electric Vehicle Charging Station

---

---

## REASON FOR CONSIDERATION:

With the rapidly evolving EV market and the lack of public charging available in Crook County, staff was directed to apply for the PP&L grant. The demand for such a facility is not yet clear. City staff predicts that most usage will occur during the summer travelling season. The concept is not without risk; however, it will offer the City an opportunity to establish a system that can be monitored for effectiveness and essentially learn from the experience.

## BACKGROUND:

The City of Prineville was awarded a \$200,000 grant from Pacific Power to install a minimum of two 50kW DC fast chargers. Several sites were considered, with the selected location being at the end of Court St. behind the Fire Department and near the splash pad. This site was chosen for ease of construction, proximity to the downtown and because it doesn't utilize existing downtown business parking.

## FISCAL IMPACT:

The City received 7 bids in response to our RFP. These bids were scored based on the best proposal not the lowest bid. City staff is hopeful to keep the total cost within the \$200,000 grant, including 5 years of network fees and warranty. Our estimate is that it could cost \$30,000 to \$50,000 over the grant amount. Is Council willing to spend more than the grant amount for this project and if so how much? If not, the City will negotiate with the selected bidder to determine ways to reduce the cost without violating the grant agreement or will need to withdraw from the grant.

## RECOMMENDATION:

City staff recommends awarding the bid to "Kuenzi Electric Inc."



# STAFF REPORT

---

---

**MEETING DATE:** 3/28/2023

**PREPARED BY:** Justin Severance

**SECTION:** Council Business

**DEPARTMENT:** Public Works

**CITY GOAL:** Fiscal Responsibility, Provide Quality Municipal Service & Programs

**SUBJECT:** Intent to Award 2023 Street Striping Project

---

---

**REASON FOR CONSIDERATION:**

Striping City Streets

**BACKGROUND:**

The Street Department hires a street striping company to re-stripe city streets yearly.

**FISCAL IMPACT:**

We received one bid for the project, it is the same company we have had do the striping for the past four years.

Specialized Pavement Markings	\$53,598.00
-------------------------------	-------------

**RECOMMENDATION:**

Staff recommends Council approve the Intent to award the **2023 Street Striping Project to Specialized Pavement Markings**, in the amount of **\$53,598.00**

## **City Manager Update to Council**

**March 28, 2023**

### **Public Safety / Dispatch**

We have received the four new police department vehicles and are expected to have additional equipment installed in July.

Karen Miller graduated the academy last week and now at it here for the city. Please congratulate Karen if you get an opportunity.

There are a couple of potential grant opportunities in the works. One is for the COPS grant and the other potential grant would be for an electric truck that could possibly become an SRO truck or Community Officer.

In Dispatch backgrounds came in for a candidate and are under review.

### **Public Works**

Public Works is now working on the final chapters of our Water Master Plan and Wastewater Facility Master Plan which is expected to come to Council in June for adoption. The Traffic Demand Model with ODOT is wrapping up for the Transportation System Plan (TSP).

In Streets they continue working on blading and rolling alleys, getting caught up on street sweeping and paving is scheduled for the first of May.

At Barnes Butte Recreation Area (BBRA) seeds were planted along the new paths.

For Wastewater over 2,000 feet of wastewater lines have been cleared of tree roots. The monthly testing was completed on time with no issues. Staff will be meeting with DEQ to discuss current testing requirements as well as what to expect for the future.

### **Rail Road**

Asphalt cars are starting to cycle through to gear up for spring and summer projects. We are expecting to get a permit to do the O'Neil Highway crossing. The railroad just completed a much-needed upgrade on the sewer system out there. Forest products movement doesn't exist right now and are reporting historical inventory.

### **Meadow Lakes Golf**

The sunny weather has led to an increase in golf play. Zach has been busy with the high school golf team.

### **Airport**

Kelly received official word that a historical wagon trail does not exist on airport land and is waiting on the written confirmation. Erickson has 3 helicopters at the airport now and has been running two of them, keeping activity hopping up there. Re-surveying is underway at the airport to make room for more hangars.

## **Planning**

The Planning Department is busy with industrial development. Three applications came in for industrial businesses on the grade. Wilco will be opening on April 4<sup>th</sup>. Planning & Public Works is engaged in step one of the community assessment that Meta provided the city match for this program. Kelsey reported on this to Council several months ago. At the end of this program the city will have an assessment of community assets and what could be beneficial in the future and identify ways to fill the gaps.

**Human Resources** – Nothing to report.

## **Information Technology**

IT has been working hard on resolving issues with google platforms rejecting city emails as spam.

## **Finance**

Budget, Budget, Budget and more Budget....., this will not change for the next several city manager reports.

## **City Recorder/Risk Management**

The Safety-Wellness Committee has developed a Safety-Wellness Incentive Policy that encourages city-wide participation in safety and wellness activities. This will be rolling out very soon with quarterly fitness and wellness challenges for departments to compete in at their own pace and way.

**City Legal** – No Update

## **EDCO**

EDCO has been busy responding to business inquiries and submitted a couple of packages last week. The Enterprise Zone letters went out last week and Council can expect this to be on the agenda for April 25<sup>th</sup> with a resolution to consider on May 9<sup>th</sup>. Kelsey has a lot of meetings scheduled with new business interests as well as existing businesses looking to expand.

**Public Relations** - No Update

## **Mayor/Council**

Efforts to schedule a Priorities Strategy workshop with 100% participation is still in the works. Keep an eye out for another Doodle poll with another set of possible dates.

## **Other**

HB 3142 – to provide grants to counties and soil and water conservation districts for removal of the western juniper passed out of the House Committee on Agriculture, Land Use, Natural Resources and Water last week with a recommendation for passing. The bill has now moved on to the Ways & Means Committee.



# STAFF REPORT

---

---

**MEETING DATE:** 3/28/2023

**PREPARED BY:** Planning/Finance

**SECTION:** Ordinances

**DEPARTMENT:** Water

**CITY GOAL:** Fiscal Responsibility, Provide Quality Municipal Service & Programs

**SUBJECT:** Chapter 52 Water

---

---

**REASON FOR CONSIDERATION:**

The City Council recently updated our sewer Ordinances, Chapters 51, 53 & 54 as part of the industrial pre-treatment program. During those updates Chapter 52 for water was also reviewed and determined to need and update.

**BACKGROUND:**

Chapter 52 is how the City manages its water services alongside its sewer service. The original Chapter 52 was adopted in 1991 and last updated in 2008. With new technologies and updates to software systems, Chapter 52 needs revisions to be effective. Attached is a track-change version of Chapter 52 and a clean version attached to the Ordinance.

**FISCAL IMPACT:**

No significant fiscal impact is anticipated.

**RECOMMENDATION:**

City Staff recommends City Council adopt Ordinance 1283 updating Chapters 52.

## CHAPTER 52: WATER

### Section

- 52.001 Rules and regulations
- 52.002 Definitions and general terms
- 52.003 Service area
- 52.004 Description of service
- 52.005 Application for water service
- 52.006 ~~Main extensions~~ [System Expansion](#)
- 52.007 Service
- 52.008 Meters
- 52.009 Water rates
- 52.010 Notices
- 52.011 Billing and payment
- 52.012 Meter error
- 52.013 Suspension of service
- 52.014 Restoration of service
- 52.015 Unusual demands
- 52.016 Access to property
- 52.017 Responsibility for equipment
- 52.018 Fire hydrants
- 52.019 Backflow prevention requirements
- 52.020 Irrigation
- 52.021 Suspension of rules
- 52.022 Easement
- [52.023 Connection to Public Water Required](#)
- 52.045 Critically affected area
- 52.999 Penalties

### 52.001 RULES AND REGULATIONS.

~~(A) Short title.~~ This chapter shall be known as "Rates, Rules and Regulations for the operation of the Water ~~Department~~[system](#) of the City of Prineville, Crook County," and may be so cited and pleaded.

~~(B) Scope.~~ The ~~Water Department~~[City](#) and all customers receiving water service from the ~~Water Department~~[City](#), whether inside or outside the city limits, are bound by this chapter.

~~(91 Code, § 3-3.1) (Ord. 1153, passed 6-10-08)~~

### 52.002 DEFINITIONS AND GENERAL TERMS.

~~APPLICANT. Whenever the word "applicant" is used, it shall mean t~~The person or persons, firm or corporation making application for water service from the ~~Water Department~~[City](#) under the terms of this chapter.

~~CITY. Whenever the word "city" is used, it shall mean t~~The legally constituted municipal government of the City of Prineville, Crook County, Oregon.

~~CITY COUNCIL. Whenever the words "City Council" are used, they shall mean t~~The legally elected group of members composing the City Council, including the Mayor of the City of Prineville, Oregon.

~~CROSS CONNECTION. A "cross connection" is defined as any physical connection between the e~~City's water system and another source.

**CUSTOMER or USER.** ~~Whenever the words "customer" or "user" are used, it shall mean a~~ An applicant who has been accepted under the terms of these regulations and who receives sd or received water service from the ~~Water Department~~ City.

**CUSTOMER SERVICE LINE.** ~~The "customer service line" is that~~ The part of the water system, primarily piping on the customer's property that is owned and maintained by the customer and connects the service connection to the customer's water distribution system.

**"DISCONNECT".** Removal of a water meter from the service connection part of the city's water distribution system serving a customer.

**IRRIGATION.** ~~"Irrigation" shall be~~ Defined as watering trees, lawns, soil, bushes, flowers, plants or other vegetation by any means, including but not limited to sprinklers, handheld hoses or ditches.

**PROPERTY OWNER OF RECORD.** The person(s) or legal entity as shown on the last available complete Crook County tax assessment rolls or deed records. "Property owner" or "owner" shall be equivalent terms for "Owner of Record". ~~"Property owner of record" shall mean the person or legal entity owning property according to the most recent application for water service filed with the city for that property.~~

**PUBLIC WORKS DIRECTOR.** The Public Works Director of the city, or authorized deputy, agent, or representative.

**SERVICE CONNECTION.** ~~The "service connection" is that~~ The part of the water distribution system which connects the service line to the customer service line and shall normally consist of a corporation (corp) stop, service pipe, curb stop and box, meter, meter yoke and meter box.

**SERVICE LINE.** ~~The "service line" is that~~ The part of the water distribution system owned and maintain by the City that connects the service connection to the water main and shall normally consist of a saddle, connection stop, and water line.

**STANDARDS and SPECIFICATIONS.** A City document adopted by resolution of the City Council and any amendments thereof, which sets forth the minimum standards for Public Works improvements within the Urban Growth Boundary of the City.

**SUPERINTENDENT.** ~~Whenever the word "Superintendent" is used, it shall mean the person appointed to superintend the affairs of the Water Department.~~

**SUSPENSION.** ~~"Suspension" shall mean~~ tThe stoppage by the city of water service to a customer who is receiving water service from the city.

**WATER DEPARTMENT.** ~~Whenever the words "Water Department" are used, they shall mean the Water Department of the City of Prineville, Oregon.~~

**WATER SYSTEM.** All facilities, functions and components that make up the City's water system.

~~(91 Code, § 3-3.2) (Ord. 1153, passed 6-10-08)~~

**52.003 SERVICE AREA.**

The area served by the ~~Water Department~~City shall be all that area included within the corporate limits of the City of Prineville and such other contiguous and neighboring territory as the City Council shall from time to time deem necessary to serve.

~~(‘91 Code, § 3-3.3) (Ord. 1153, passed 6-10-08)~~

**52.004 DESCRIPTION OF SERVICE.**

(A) *Supply.* The ~~Water Department~~City will exercise reasonable diligence and care to deliver a continuous and sufficient supply of water to the customer at a reasonable pressure and to avoid so far as reasonably possible any shortage or interruption in delivery. The ~~Water Department~~City shall not be liable for damage resulting from the interruption in service or from the lack of service. Temporary suspension of service by the ~~Water Department~~City for improvements and repairs will be necessary ~~occasionally~~. Whenever possible, and when time permits, all customers affected will be notified prior to shutdowns.

(B) *Quality.* The ~~Water Department~~City will exercise reasonable diligence to supply safe and potable water at all times.

(C) *Ownership of system.* All water mains, service connections, service lines, valves, fittings, hydrants and other ~~appurtenances~~components, except customer service lines, shall be the property of the ~~Water Department~~City.

(D) *Special contracts.* When the applicant’s requirements for water are unusual or large, such as an independent water district, or necessitate considerable special or reserve equipment or capacity, the ~~Water Department~~City, by authorization of the City Council, reserves the right to enter into a special contract with the applicant, the provisions of which may be different than the provisions set out in this chapter. This special contract shall be in writing, signed by the applicant and approved by the City Council and City Attorney and signed by the Mayor and City Recorder of the City of Prineville.

(E) *Resale of water.* Resale of water shall be permitted only under special contract, in writing, between the City Council and the persons, parties or corporation selling the water.

(F) *Service preference.* In case of shortage of supply, the ~~Water Department~~City reserves the right to give preference in the furnishing of water service to customers and interests of the ~~Water Department~~City from the standing of public convenience or necessity. Water service to users outside the city limits shall at all times be subject to the prior and superior rights of the customers within the city limits.

~~(‘91 Code, § 3-3.4) (Ord. 1153, passed 6-10-08)~~

**52.005 APPLICATION FOR WATER SERVICE.**

(A) *Application form.* Each ~~applicant~~customer for water service shall ~~sign an~~make application for water service ~~as prescribed on a form provided~~ by the ~~Water Department~~City giving such information as the date of the application, location of property to be served, the date applicant desires service to begin, purpose for which service is to be used, the address for mailing of the billings, the class and the size of the meter service and such other information as the ~~Water Department~~City may reasonably require. ~~In signing the~~ By making a connection application and/or using the water system, the owner or customer agrees to abide by the rules and regulations of the ~~Water Department~~City. The application is merely a ~~written~~ request for service and does not bind the ~~Water Department~~City to serve the property.



(B) *Deposits and establishment of credit.* At the time application for ~~credit~~ water service is made, the applicant shall establish ~~his~~ their credit with the ~~Water Department~~ City.

(1) *Establishment of credit.* The credit of the applicant shall be deemed established:

(a) If the applicant is the owner of record and has no prior history of delinquency.

(~~ab~~) If the applicant makes a deposit with the ~~Water Department~~ City to secure the payment of bills for water service. The deposit amount shall be set in accordance with the City's fee schedule, adopted by resolution of the City Council. ~~by city resolution.~~

(~~bc~~) Should the applicant have a history of delinquency in payment of ~~his~~ their water and/or sewer bills, as determined by the city, and be requesting a new water account, service may be denied until all delinquent water and/or sewer bills and fees are paid in full.

(2) *Deposits.* At the time the deposit is given to the ~~Water Department~~ City, the applicant will be given a receipt for the same. The deposit is not to be considered as a payment on account. In the event the service is discontinued, the deposit will be applied to the closing bill and any amount in excess of the closing bill will be refunded to the service account holder. Following 12 consecutive non-delinquent payments for water service, ~~a customer may request and receive a refund of his deposit.~~ the deposit will be refunded as a credit to the customer's account.

(3) If an account becomes delinquent and the water service is suspended to a property, all outstanding balances including fees associated with the suspension of service shall be paid prior to the water service to the property being reinstated. Insufficient deposit amounts will be increased in compliance with current fee schedule adopted by resolution of the City Council.

(C) *Application of amendments.* Customers desiring a material change in the size, character or extent of equipment or operation which would result in material change in the amount of water used shall give the ~~Water Department~~ City written notice of such change prior to the change and the application for service shall be amended. Customers desiring a change in the size, location or number of services shall fill out an amended application.

~~(91 Code, § 3-3.5) (Ord. 1153, passed 6-10-08)~~

## **52.006 MAIN EXTENSIONS SYSTEM EXPANSION.**

(A) ~~*Within the city limits*~~ Standards and costs. ~~All costs and expenses incident to the associated expansion of the water system, and the ultimate installation and connection to the system shall be borne by the property owner, and shall be in accordance with City standards and specifications. If the City is requested to make the connection to the water system, the costs shall include engineering, construction management, excavation, installation, materials, backfill, street repair and related overheads. Before construction commences the applicant shall place on deposit with the City the necessary funds, or security acceptable to the City, as estimated by the City, for the completion of the project. Within 30 days after completion of the project the property owner will pay or the City will return to the property owner any difference in the actual cost of the project and the estimated cost for which the deposit was made.~~ Water main extensions to areas within the city limits not presently served with water shall be installed under procedures to be established by the City Council. Owners of subdivided or partitioned properties will assume all costs for water main extensions to such properties.

(B) ~~*Outside the city limits.*~~ Water mains outside the city limits shall be extended only at the expense of the customers served. The water main extensions shall become the property of the Water Department one year from the date of final acceptance by the city. The City Engineer shall determine the size of the main extensions and all extensions shall be constructed in compliance with the city's standards and specifications.

~~(B)~~ *Location-of extensions.* The ~~Water Department~~ City will allow water ~~system expansions~~ main extensions only on-within rights-of-way, easements or publicly owned property. Easements ~~or permits~~ secured for main extensions shall be obtained in the name of the City of Prineville along with all rights and title to the main at the time the service is provided to the customers paying for the extension.

~~(91 Code, § 3-3.6) (Ord. 1153, passed 6-10-08)~~

## 52.007 SERVICE.

(A) *Ownership and maintenance.*

~~(1)~~ The ~~Water Department~~ City shall own and maintain all service lines and service connections.

~~(2)~~ Each property owner of record shall own and maintain the customer service line servicing their ~~such property owner's~~ property.

~~(B)~~ *Installation.* ~~The Water Department shall install all service lines and service connections except as follows:~~

~~(1) The applicant shall install at applicant's cost all service lines over two inches in diameter. Applicant shall be responsible for the purchase and installation of such service line and service connection. The water meter and the service connection must be approved by the Water Department.~~

~~(2) The applicant shall purchase and install any service line that exceeds five feet in length. The Water Department will install the service connection for such service line so long as the service line is not greater than two inches in diameter.~~

~~(B)~~ *Service connection charge.* At the time the applicant ~~files~~ applies for a service where there is currently no service, or ~~files~~ applies for a change in meter size, service line size or location, the applicant shall submit with ~~his or her~~ their application ~~the~~ any applicable service connection charge and system development charge. The ~~service connection~~ charges shall be set in accordance with the City's fee schedule, adopted by city resolution of the City Council.

~~(D)~~ *Size of and placement of service line.* ~~The Water Department will furnish and install a service line at such locations as the applicant requests, provided such requests are reasonable. The size of the service line shall be in compliance with the Uniform Plumbing Code as determined by the Crook County Building Department, but not less than one inch. If the Water Department does not have the size of service line as required by the Uniform Plumbing Code, the next larger size of service line used by the Water Department shall be installed.~~

~~(E)~~ *Change in service line size.* ~~Permanent changes in the size of the service line requested by the customer shall be paid by the customer on the basis of actual cost to the Water Department for making the change.~~

~~(C)~~ *The s* Service connection. ~~will~~ Shall be placed at the right-of-way line near the property corner of nearest the property to be served and where the service line is perpendicular to the main line. Notwithstanding, upon written request a service connection may be placed elsewhere pursuant to City approval. Service connections shall not be located in driveways or other locations where damage to the meter or its related parts may occur.

~~(DG)~~ *Joint service lines.* The ~~Water Department~~City may, at its option, serve two or more ~~premises~~ properties with one service line, provided they are metered separately. ~~connection. On new service line connections, the inside diameter of such service lines shall be~~ The service line shall have sufficient to ~~provide a~~ carrying capacity equal to or greater than ~~of not less than~~ the combined capacity of individual service lines necessary for the use. ~~of the same size as the meters installed. Service extensions from an existing service to other occupancies or ownerships than that for which the existing service line was intended shall not be permitted nor shall separate residences be permitted to receive water service through one meter except under special circumstances approved by the Water Department.~~

~~(EH)~~ *Number of service line connections on a premises.* The owner of a single parcel of property may apply for and receive as many water services as ~~he or his~~ they or their tenants may require, provided ~~his or her~~ their application or applications meet the requirements of all governmental laws, policies, rules and regulations.

~~(F)~~ *Standby fire protection service connection.*

(1) *Purpose.* The City's provides a fire protection system through a network of fire hydrants within public rights-of-way as part of the City's base water service. Some developments require additional fire protection service through on-site hydrants and/or sprinkler systems. These hydrants and sprinkler systems require additional maintenance and additional water storage on "standby" to ensure proper operation when needed.

(2) *Connection.* Standby fire protection service connections ~~of two-inch size and larger will~~ shall be installed to City standards and only if adequate provisions are made to prevent the use of water from such services for purposes other than ~~fire~~ extinguishing fires. Sealed fire sprinkler systems with water-operated alarms shall be considered as having such provisions. The ~~Water Department~~City may require that a suitable detector check meter be installed in the standby fire protections service connections, to which hose lines or hydrants are connected. All piping on the customer's premises shall be installed in accordance with the Plumbing Code of the State of Oregon. Public hydrants installed on the customers property shall be within City approved easements for maintenance and repair. Access to such easements through the customers property is assumed and shall not be denied.

~~(32)~~ *Charges for service.* Charges for standby fire protection service will be set in accordance with the City's fee schedule, adopted by resolution of the City Council. ~~stated in the published water rate schedule.~~ No charge will be made for water used in the standby fire protection services to extinguish accidental fires or for routine testing of the fire protection system. The customers shall be solely responsible for the installation of the fire line, fire suppression equipment, detector checks, backflow prevention devices, vaults, and any other necessary equipment. ~~pay the full cost of the standby fire protection service connection, any required detector check meters, and any required special water meter installed for the service to the standby connection.~~

~~(34)~~ *Violations of regulations.* If water is used from a standby ~~pipe~~ fire connection service in violation of these regulations, an estimate of the amount used will be computed by the ~~Water Department~~City. The customer shall pay for the water used at the regular rates, including ~~the~~ a minimum charge based on the size of the service connection and subsequent bills rendered on the basis of regular water rates.

~~(G)~~ *Fire service connections other than standby.* A service having fire protection facilities on the premises and water for other purposes flowing through the same service connection shall be considered as an ordinary service and metered as such. All water used through that service, regardless of its use, will be charged at the regular rate.

~~(HK)~~ *Temporary service connections.* ~~For water service of a temporary nature, All temporary services shall be metered. The City may charge a fee for applicants shall be required to pay in advance the estimated cost of~~ installation and removal of metering equipment and materials, plus a reasonable depreciation charge for the use of equipment and materials ~~used by the Water Department. The applicant shall also pay his water bill in advance and based upon an estimate of the quantity to be used, or he shall otherwise establish satisfactory credit.~~

(1) *Time limit.* Temporary service connections shall be disconnected and terminated within six ~~(6)~~ months after installation unless an extension of time is granted in writing by the ~~Water Department~~ City. In the case of a development the time limit may extend to the conclusion of the project.

(2) *Charge for water served.* Charges for water furnished through a temporary service connection shall be the same as any other metered service set in accordance with the City's fee schedule, adopted by resolution of the City Council. ~~at the established rates set forth in the current water rate schedule.~~

~~(3) Installation charges and deposits.~~ The applicant for temporary service will be required:

~~(a) To pay Water Department, in advance, the estimated cost of installing and removing all facilities necessary to furnish each service.~~

~~(b) To deposit an amount sufficient to cover bills for water during the entire period such temporary service may be used or to otherwise establish credit by the Water Department.~~

~~(c) To deposit with the city an amount equal to the value of any equipment loaned by the Water Department to such applicant under the terms of subsection (K)(4) of this section.~~

~~(34) Responsibility for meters and installation.~~ The customer shall use all possible care to prevent damage to the meter or to any other loaned facilities of the ~~Water Department~~ City. If the meter or other facilities are damaged, the customer shall pay the cost of replacement and that cost shall be charged to the account. ~~cost of making repairs shall be deducted from the deposit refund. If the loaned materials are returned in satisfactory condition and all bills paid, the full amount of the equipment deposit will be returned to the temporary customer at the termination of the service.~~

~~(L)~~ *Customer's plumbing.*

(1) *Plumbing code.* The customer's plumbing, which shall include the customer's service line and all plumbing, piping, fixtures and other appurtenances carrying or intended to carry water, sewer or drainage, shall comply with the Plumbing Code of the State of Oregon.

(2) *Control valves.* Customers shall install a suitable control valve in the customer service line as close to the meter as possible, the operation of which will control the entire water supply to the property served. In the event a customer's service is discontinued for any reason, a control valve must be installed, if none exists, as provided by this section. It shall be a violation of this chapter for the customer to operate, cause or permit unauthorized operation of the meter stop or any appurtenances on the service connection.

~~(91 Code, § 3-3.7) (Ord. 1153, passed 6-10-08)~~

**52.008 METERS.**

(A) *Ownership.* The ~~Water Department~~City will own and maintain all water meters. The ~~Water Department~~City will not pay rent or any other charge for a meter or other water facility, including housing and connections on a customer's property.

(B) *Installation.* Installation of water meters shall be performed only by authorized employees of the ~~Water Department~~City. All meters shall be sealed by the ~~Water Department~~City at the time of installation, and no seal shall be altered or broken except by one of its authorized employees.

(C) *The size and type of meter.* Applicant ~~shall~~may request and ~~receive pay for~~ any size meter regularly stocked or furnished by the ~~Water Department~~City. Meters not regularly stocked shall be provided by the applicant at their cost. Meter size is provided the request is reasonable and further provided that the meter is not greatly oversized or undersized, as determined by the Plumbing code of the State of Oregon the Water Superintendent. The ~~Water Department~~City reserves the right to determine the type and size of meter to be installed to adequately serve the property and use.

(D) *Location of meters.* Meters shall normally be placed at the right-of-way line near the property corner of the property to be served, at the end of the service line extending perpendicular from the main line. An existing service line shall not be altered to accommodate a different meter location unless approved by the City. If a different location is desired a new service line may be needed. ~~curb or property lines; the meter will be installed wherever the applicant desires within reason, but the location must be approved by the Water Department. The meters will not be located in driveways or other locations where damage to the meter or its related parts may occur.~~

(E) *Joint use of meters.* The joining of several customers or properties to a single service to take advantage of the single minimum charges and large quantity rates shall be prohibited, except as otherwise approved by the City under special contract, in writing, with the Water Department.

(F) *Changes in size and location.* If, for any reason, a change in the size of meter and service is required, the installation will be accomplished on the basis of a new connection, and the customer's application shall be so amended. Meters or services moved for the convenience of the customer will be relocated only at the customer's expense.

~~(91 Code, § 3-3.8) (Ord. 1153, passed 6-10-08)~~

**52.009 WATER RATES.**

Water charges for all property whether occupied or not shall begin the day following the water meter installation date. The water rates to be charged for each class of service, ~~including minimum charges, charges for water used over the minimum and service connection charges,~~ shall be set in accordance with the City's fee schedule, adopted by resolution of the City Council. ~~set by city resolution. These water rates may be revised at any time.~~

~~(91 Code, § 3-3.9) (Ord. 1153, passed 6-10-08)~~

**52.010 NOTICES.**

(A) *Notices to customers.* Notices from the ~~Water Department~~City to the customer ~~will normally~~shall be given in writing and either mailed to or delivered to the customer at their last known address. Where conditions warrant and in emergencies, the ~~Water Department~~City may notify the customer either by ~~telephone,~~ text or email ~~or by messenger.~~

(B) *Notices from customers.* Notices from customers to the ~~Water Department~~City may ~~shall~~ be given by the customer, their legal representative, or their authorized representative ~~orally or~~ in writing, delivered to the City at the office of the Water Department in City Hall or to an agent of the Water Department.

~~(91 Code, § 3-3.10) (Ord. 1153, passed 6-10-08)~~

## 52.011 BILLING AND PAYMENT.

(A) *Meter readings.* Meters will be read and customers billed on the basis of the meter readings to the nearest 100 cubic feet. The ~~Water Department~~City will keep an accurate account ~~on its books~~ of all meter readings of meters and such accounts so kept; shall be offered at all times, places and courts as prima facie evidence of the use of water service by the customer.

(B) *Rendering of bills.*

(1) *Billing period.* All meters shall be read and bills rendered no more frequently than on a ~~therefor~~ monthly basis.

(2) *Bills for other than normal billing period.* Opening or closing bills or bills that for any other reason are less than the billing period~~cover a period containing 10% more days or 10% fewer days than in the normal billing period~~ shall be prorated.

(C) *Disputed bills.* When a customer disputes the correctness of a bill, ~~he~~the customer shall deposit the amount of the disputed bill at the time the complaint is lodged, to preclude suspension of service pending final settlement of the bill or bills. Subsequent bills shall be paid or placed on deposit in a similar manner. Failure of the customer to make such a deposit shall warrant suspension of service as provided under subsection (F) of this section. A customer has six (6) months from the date of billing to notify the city of any disputed charge. The City shall not be obligated to issue a credit for billing disputes occurring more than six (6) months prior to the date of such notification.

(D) *Failure to read meters.* In the event that it shall be impossible or impractical to read a meter on the regular reading date, the water consumption shall be prorated on the basis of 30 days per month and the total water consumption for the billing purposes for that month shall be ~~estimated~~computed based upon the costumer's average prior use of up to the three (3) previous bills in the same month.

(E) *Owner of record and payment of bills.*

(1) The property owner of record shall be responsible for the payment of all water charges and fees prescribed in this chapter. The responsibility for payment to the city does not pass to the tenant or other occupants, notwithstanding the fact that tenants or other occupants may be required by the property owner of record to pay the charges and fees. A new customer shall not be allowed to open an account for city services on a property until all balances owed on that property are paid in full.

(2) Each water and sewer bill rendered shall have a due date. If the bill is not paid by that date, the account shall be considered delinquent.

(3) Payments for combined water and sewer bills shall be credited to the oldest bill. When bills have the same date, payments shall be applied first to the sewer account, then any penalties~~all amounts owing the city until paid in full~~ and ~~then~~ lastly to amounts owing on the water account.

(4) Unless water service has been disconnected pursuant to Section 52.013 (D). Base rates for water service and any penalties for delinquency will continue to accrue even when the meter has been turned off or removed due to delinquency or unauthorized turn-on.

(F) *Delinquent accounts.*

(1) *Delinquent notice and fees.* A ~~reminder notice~~ of account delinquency will be sent to each delinquent customer on the next month's bill to that customer. Delinquent accounts shall be charged a delinquent fee (late fee) set by resolution of the City Council in order to allow for the recovery of the City's administrative costs relative to the delinquent account.

(2) *Suspension notice.* On or about fourteen (14) days after an account becomes delinquent, a suspension notice will be sent to the customer. Such suspension notice shall give not less than ten (10) days' prior notice of ~~Water Department's~~ the City's intent to suspend water service unless the delinquent amount is paid in full by 5:00 PM on the day prior to the date of suspension. Once an account becomes eligible for suspension due to delinquency there shall be an added suspension fee as set by City resolution. If the property is rented the suspension notice will be sent to the customer and the property owner of record or designated property management company.

(3) *Suspension.* On the suspension date, ~~the meter reader or other agent of the e~~City shall deliver a written notice to the customer stating that the water service is being turned off until all current and delinquent amounts have been paid. The ~~meter reader or other agent~~City shall immediately ~~thereafter~~ turn off the water service. A delivery of this notice, ~~by the meter reader or agent,~~ to the premises, shall be considered a delivery of the notice to the customer. Base rate charges for water and sewer will continue to accrue even when the water service has been turned off for delinquency.

(4) *Restoration of service and service charge.* In all instances where water service has been suspended because of ~~delinquent accounts~~delinquency, full payment of all amounts owing for city water and sewer services must be paid in full, with verified funds, prior to restoration of ~~water~~ services including all fees related to suspension of service. Should an account become eligible for reconnection outside regular operating hours of the City's Public Works Department, there may be an after-hours service charge assessed as set by City resolution. a service charge for restoration of service. Should the customer have a history of delinquency in payment of his water and/or sewer bills as determined by the city, cash may be required to be paid prior to restoration of water service. Change in ownership or occupancy of premises shall not be cause for reducing or eliminating any charges or amounts owed to the City.

(G) *Collection of bills, ~~delinquent and penalty fees.~~*

(1) The City ~~of Prineville~~ may enforce the collection of rates, fees and charges for the use of the water and water facilities by any means that may be provided by the laws of the State of Oregon or permitted by the charter and ordinances of the City ~~of Prineville~~. All water service fees and charges shall be a lien against the premises served from and after the date of delinquency and entered in the city lien docket. The lien docket shall be made accessible for inspection by anyone interested in ascertaining the amount of charges against the property. When a bill for the water service remains unpaid 60 days after it is delinquent, the lien created thereby may be foreclosed in the manner provided for by ORS 223.610, or in any other manner provided by law or city ordinance.

~~(2) Delinquent fees. Should an account become delinquent, there shall be added a delinquent fee as set by city resolution.~~

~~(3) Penalty fees.~~ In the event that it becomes necessary to certify the liens hereby established because of the nonpayment thereof, there shall be added to such charges a penalty as set by city resolution.

(H) *Refusal of service.*

- (1) The city may refuse water service to any property upon which a lien has been attached until the amount owing on the lien has been paid to the city along with the service charge for the restoration of services.
- (2) The city may also refuse service to a customer with an outstanding delinquent balance until said account balance is paid in full.

~~(91 Code, § 3-3.11) (Ord. 1153, passed 6-10-08)~~

**52.012 METER ERROR.**

(A) *Meter accuracy.* All meters will be tested prior to installation. No meter will be placed in service or allowed to remain in service which is known to have an error in registration in excess of 2% under conditions of normal operation.

(B) *Meter test.*

(1) *Standard test.* Meter tests will be conducted in accordance with standards of practice established by the American Water Works Association.

(2) *On customer request.* A customer may, upon giving seven (7) days' notice, request the ~~Water Department~~ City to test the meter servicing ~~his~~ their premises. The ~~Water Department~~ City will require the customer to deposit a testing fee. The deposit will be returned to the customer if the test reveals that meter to over register more than 2% under the standard test conditions. The deposit shall be retained by the ~~Water Department~~ City if the meter tests within the 2% limitation. Customers may, at their option, witness any meter tests which they request.

(3) *On ~~Water Department~~ City request.* If, upon comparison of past water usage, it appears that a meter is not registering properly, the ~~Water Department~~ City may, at its option, test the meter and adjust the charges accordingly. No charge for meter testing will be made to the customer for the meter test under these conditions.

(C) *Adjustment of bills for meter error.* Should a meter be found to be out of the allowable tolerance for error, or found to be ~~not~~ registering, the bill will be computed based upon ~~an estimate~~ the average of consumption ~~based~~ either upon the customer's prior use ~~during the~~ of up to same-3 previous bills for the same month ~~season of the year~~ or upon a reasonable comparison with the use of other customers receiving the same class of service during the same month ~~season and~~ under similar circumstances and conditions.

~~(91 Code, § 3-3.12) (Ord. 1153, passed 6-10-08)~~

**52.013 TRANSFER & SUSPENSION OF SERVICE.**

(A) *On customer Transfer request.* Each customer about to vacate any premises supplied with City water service ~~by the Water Department~~ shall give the ~~Water Department~~ City ~~written~~ notice of ~~his~~ their intentions at least two (2) business days prior thereto, specifying the date service is to be ~~discontinued~~ transferred to a new customer; ~~otherwise, he~~ The owner will be is responsible for all water supplied to ~~such~~ the premises if no other customer makes application for service. ~~until the Water Department shall receive notice of such request.~~ At the time specified by the customer ~~that he expects to vacate the premises where service is supplied or that he desires to be discontinued,~~ the meter will be read and a bill rendered which is payable immediately. ~~In no case will the bill be less than the monthly minimum specified in the schedule applying to the class or classes of service furnished.~~



(B) *Nonpayment of bills.* A customer's water service may be suspended if the water bills are not paid in accordance with the terms of this Chapter 52. ~~the procedures listed in Section 52.011(F).~~ Base rate charges will continue to accrue even when the water service has been turned off for delinquency.

(1) In the event that payment by check or Automated Clearing House (ACH) is made, and later returned by the bank unpaid to the City due to insufficient funds or for any other reason, water service will be immediately suspended, and a "returned check" fee will be added to the account. Water service will not be reinstated until all balances owing on the account are paid in full by means of cash, money order, debit or credit card transaction.

(C) *Disconnection of Service.* In the event a structure being supplied City water and/or sewer service is condemned, removed or destroyed by fire or other calamity, the owner of record must notify the City to discontinue monthly billing charges. Once the City has verified the removal or condemnation of the structure being served and confirmed that City water service is no longer unavailable to the property, the monthly billing charges will be discontinued. If the property owner of record later wishes to re-establish water service to the property, the connection & meter fees will be waived unless there is an upgrade in the meter size or type of use that would normally require additional fees or charges to be collected.

~~(C) *Nonpayment of sewer service charges.* If said sewer service charges are not paid when due by such person, firm or corporation whose premises are served or who are subject to the charges herein provided, water service provided to that customer by the City Water Department may be suspended because of the default in the payment of the sewer service charges. As an additional alternative method, if such rates and charges are not paid when due by any such person, firm or corporation, the amounts so unpaid may be certified by the City Recorder to the County Assessor of Crook County, Oregon, and shall be by him assessed against the premises served as provided by law and shall be collected and paid over to the city in the same manner as other taxes are assessed, collected and paid over, with interest. Such unpaid charges may also be recovered in action at law in the name of the city, with interest as aforesaid.~~

(D) *Improper customer facilities.*

(1) *Unsafe facilities.* The ~~Water Department~~City may refuse to furnish water and may suspend service to any premises without prior notice where plumbing facilities, appliances or equipment using water are dangerous, unsafe or not in conformity with the Plumbing Code of the State of Oregon.

(2) *Cross connections.* The Oregon State Board of Health and the U.S. Public Health Service prohibit cross connections. The ~~Water Department~~City will not permit any cross connection and will suspend service to any persons or premises where a cross connection exists. Service will not be restored until the cross connection is eliminated.

(E) *Water waste.* Where water is wastefully or negligently used on a customer's premises, seriously affecting the general service, the ~~Water Department~~City may discontinue service if such conditions are not corrected after due notice by the ~~Water Department~~City.

(F) *Service detrimental to others.* The ~~Water Department~~City may refuse to furnish water and may discontinue service to any premises where excessive demands by one customer will result in inadequate service to others.

(G) *Fraud or abuse.* The ~~Water Department~~City, in its sole discretion -will refuse or suspend service to any premises where it is deemed necessary to protect the ~~Water Department~~City from fraud or abuse.

Discontinuance of service from one or both of these causes will be made immediately upon receipt of knowledge by the ~~Water Department~~City that the condition or conditions exist.

(H) *Unauthorized turn-on.* Where water service has been suspended for any reason and the water is turned on by the customer or other unauthorized person, the water meter may be locked or removed ~~then be shut off at the main or the meter removed. The charges for shutting off the water at the main or removing the meter shall be computed at actual cost to the Water Department plus 15% of such costs for overhead. These charges shall be billed to the offending customer and water shall not be furnished to the premises or customer until such charges are paid and the Water Department has reasonable assurance that the violation will not reoccur.~~ Base rate charges will continue to accrue even when the water has been turned off for nonpayment and/or the meter removed due to unauthorized turn-on.

(I) *Noncompliance with regulations.* The ~~Water Department~~City may, upon ~~five~~5 days' notice, suspend service to a customer's premises for failure to comply with any of the provisions of this chapter.

~~(91 Code, § 3-3.13) (Ord. 1153, passed 6-10-08)~~

### 52.014 RESTORATION OF SERVICE.

Restoration of service after suspension for nonpayment of bills shall be made after payment of current and past due charges plus a service charge and posting a deposit as hereinbefore provided.

Restoration of service after suspension of service for unsafe facilities, water waste, fraud, abuse or for noncompliance with any of the policies, rules or regulations will only be made after the irregularity has been corrected and the ~~Water Department~~City has been assured that the irregularity will not reoccur.

~~(91 Code, § 3-3.14) (Ord. 1153, passed 6-10-08)~~

### 52.015 UNUSUAL DEMANDS.

When an abnormally large quantity of water is desired for such things as filling a swimming pool, log pond, or other purposes, arrangements must be made with the city prior to taking such water. Permission to take water in unusual quantities will be given only if the ~~Water Department~~City facilities and other consumers are not inconvenienced.

~~(91 Code, § 3-3.15) (Ord. 1153, passed 6-10-08)~~

### 52.016 ACCESS TO PROPERTY.

All duly appointed employees of the ~~Water Department~~City, under the direction of the ~~Water Superintendent~~Public Works Director, shall have free access at all reasonable hours of the day to any and all parts of the water system owned and maintained by the City ~~structures and premises in which water is or may be delivered~~ for the purposes of inspecting connections, the conditions of conduits and fixtures, and the manner and extent in which the water is being used. ~~The Water Department does not, however, assume the duty of inspecting the customer's line, plumbing and equipment and shall not be responsible therefor.~~

~~(91 Code, § 3-3.16) (Ord. 1153, passed 6-10-08)~~

### 52.017 RESPONSIBILITY FOR EQUIPMENT.

(A) *Responsibility for customer equipment.* The ~~Water Department~~City shall not be liable for any loss or damage of any nature whatsoever caused by any defects in the customer's line, plumbing or equipment, nor shall the ~~Water Department~~City be liable for loss or damage due to interruption of service or temporary changes in pressure. The customer shall be responsible for valves on ~~his~~their premises being turned off when the water service is turned on.

(B) *Responsibility for ~~Water Department~~City equipment.* ~~Water Department~~City equipment on the customer's premises remains the property of the ~~Water Department~~City and may be repaired, replaced or removed by the ~~Water Department~~City employees at any time without the consent of the customer. No payment will be made to the property owner for the right to install, maintain, replace or remove ~~Water Department~~City equipment on ~~his~~ the customer's premises. The property owner must keep ~~vicious~~ dogs or other animals secured or confined to avoid interference with the ~~Water Department~~City operation and maintenance.

(C) *Damage to ~~Water Department~~City equipment.* The customer shall be liable for any damage to equipment owned by the ~~Water Department~~City which is caused by an act of the customer, ~~his~~ their tenants, agents, employees, contractors, licensees or permittees. Damage to equipment shall include but not be limited to breaking of seals and locks, tampering with meters, injury to meters, including but not limited to damages by hot water or steam, and damaged meter boxes, curb stops, meter stops and other appurtenances.

~~(91 Code, § 3-3.17) (Ord. 1153, passed 6-10-08)~~

## 52.018 FIRE HYDRANTS.

(A) *Operation.* No person other than those designated and authorized by the ~~Water Department~~City shall open any fire hydrant belonging to the ~~Water Department~~City; attempt to draw water from it or in any manner damage or tamper with it. Any violation of this regulation will be prosecuted according to law. No tool other than a special hydrant wrench shall be used to operate a hydrant valve. In case where a temporary service has been granted and received water through a fire hydrant, an auxiliary valve will be provided to control the flow of water.

(B) *Moving a fire hydrant.* When a fire hydrant has been installed in the locations specified by the proper authority, the ~~Water Department~~City has fulfilled its obligation. If a property owner or other party desires to change the size, type or location of the hydrant, ~~he~~ the customer shall bear all costs of such changes. Any changes in the location of a fire hydrant must be approved by the ~~Water Department~~City and the Fire Department.

~~(91 Code, § 3-3.18) (Ord. 1153, passed 6-10-08)~~

## 52.019 BACKFLOW PREVENTION REQUIREMENTS.

(A) A potable water supply system shall be designed, installed, and maintained in a manner that prevents contamination from the introduction of non-potable liquids, solids, or gases into the supply through cross connections or any other piping connections to the system.

(B) An appropriate backflow prevention assembly is required on all fire line and irrigation services and all domestic services larger than one inch in size. An approved double check valve assembly shall be the minimum backflow protection for all nonresidential water service lines. The backflow assembly shall be installed as close to the right-of-way as is practical. Backflow prevention assemblies are required on domestic services two inches and smaller if the building's highest point of water use is greater than 32 feet above the water main, or if a known hazard exists on the premises of the service connection. The type of backflow prevention assembly required will be determined by the Public Works Director or ~~his~~ their designee.

(C) Failure to comply with installation, inspection, testing and maintenance requirements for backflow prevention assembly may result in ~~terminating~~ suspension of the water service.

(D) Before any assembly for the prevention of backflow or back siphonage is installed, it shall be certified by a recognized testing laboratory acceptable to the Oregon State Health Division Director. Assemblies installed in a building potable water supply distribution system for protection against backflow shall be maintained in good working condition by the person or persons responsible for the maintenance of the

system. The Public Works ~~Superintendent~~ Director or ~~his~~ designee may inspect such assemblies and require the replacement of any that are found to be defective or inoperative.

(E) Building premises owners shall maintain all backflow prevention assemblies and vacuum breakers within the building or on the premises in good working order and make no piping or other arrangements for the purpose of bypassing backflow prevention assemblies.

(F) All approved backflow assemblies must be tested by a certified tester when installed, and prior to use when moved, when repaired and at least annually. All costs for testing and repair of backflow assemblies shall be the responsibility of the owner or agent.

~~(‘91 Code, § 3-4) (Ord. 1153, passed 6-10-08)~~

### **52.020 IRRIGATION.**

(A) Between April 15 and October 15 of each year, users of city water for irrigation shall comply with the following restrictions:

(1) Irrigation shall be ~~prohibited between the hours of~~ ~~permitted before~~ 10:00 a.m. and ~~after~~ 4:00 p.m. ~~but shall be prohibited in the hours between.~~

(2) Irrigation shall be permitted following an odd/even irrigation schedule. Even house numbers may water on even-numbered dates of the month and odd house numbers may water on odd-numbered dates of the month. No watering is allowed on the thirty-first (31) day of the month.

(B) The City Manager may restrict all use of city water for irrigation purposes upon any emergency situation.

~~(Ord. 1153, passed 6-10-08)~~

### **52.021 SUSPENSION OF RULES.**

No employee of the ~~Water Department~~ City is authorized to suspend or alter any of the policies, rules and regulations cited herein without specific approval or direction of the City Council, except in cases of emergency involving loss of life or property or which would place the water system operation in jeopardy.

~~(‘91 Code, § 3-3.20) (Ord. 1153, passed 6-10-08)~~

### **52.022 EASEMENT.**

Each applicant and user gives and grants the City of Prineville an easement and right-of-way on and across ~~his~~ their property for the installation of service lines and service connections ~~water mains~~ and the necessary valves and equipment in connection therewith.

~~(‘91 Code, § 3-3.21) (Ord. 1153, passed 6-10-08)~~

### **52.023 CONNECTION TO PUBLIC WATER REQUIRED.**

The owner of all property, buildings or dwelling units used for human occupancy, employment, recreation or any other purpose situated within the city that needs or requires water service by law, shall connect to the City’s water system in accordance with the provisions of this chapter, the City’s Standards and Specifications, the City’s Land use code and any other applicable City Ordinance. If the City’s water

system is not available within the abutting street, alley or through public easement, the water system may need to be extended at the owner's expense.

### **52.045 CRITICALLY AFFECTED AREA.**

(A) *Definitions.* For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning:

***CRITICALLY AFFECTED AREA.*** The geographic area bounded by Dunham Street on the east, Harwood Street on the west, West 1st Street on the south and West 5th Street on the north. This area is demonstrated on a map pursuant to Ordinance 1140, ~~which is attached hereto and by this reference is made a part hereof.~~

***PREMISES.*** The integral property or area, including improvements thereon, to which water service is or will be provided.

(B) *Connection required.* All existing commercial and residential establishments, homes, buildings, lots or premises concurrently located within the boundaries of the critically affected area, which utilize water for purposes other than agriculture or irrigation, shall connect to and utilize the city water system as city water becomes available to the property. All future development within the critically affected area shall be required to connect to the City water system, even if water service is not currently near the property.

(C) *Disconnection of private supply.* Property owners in the critically affected area shall disconnect, to the satisfaction of the city or its agent, all private water supply connections at their premises except those used exclusively for agriculture and/or irrigation. Property owners shall demonstrate disconnection of these private supplies prior to connecting to the eCity water system.

(D) *Use of city and private water.* As required by ~~§~~section 52.019, use of both city water supply and a supply of water other than that furnished by the city requires installation of approved backflow prevention devices on the service connection to the premises. Customers desiring to use both the city water supply and a supply of water other than that furnished by the city within the critically affected area shall under no circumstances allow a physical connection, direct or indirect, to exist or be made in manner, even temporarily, between water lines carrying city water and any non-city water source. Where such connection is found to exist, or where provision is made to connect the two systems, the city shall shut water off to the premises without notice. In case of such discontinuance, service shall not be re-established until satisfactory proof is furnished that the cross connection has been completely and permanently severed.

~~(E) *Penalties.* A violation of any provision of this section shall, upon conviction, be punishable by a fine of not more than \$500. A violation of this section shall be considered a separate offense for each day the violation continues.~~

~~(Ord. 1140, passed 12-12-06)~~

### **52.999 PENALTIES.**

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine not exceeding \$500. A violation of this section shall be considered a separate offense for each day the violation continues.

~~(91 Code, § 3-3.19) (Ord. 1153, passed 6-10-08)~~

**RESOLUTION NO. 1551  
CITY OF PRINEVILLE, OREGON**

**A RESOLUTION AUTHORIZING THE CITY OF PRINEVILLE TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF OREGON, ACTING BY AND THROUGH ITS DEPARTMENT OF FORESTRY**

**Whereas**, City of Prineville (“City”) is the manager of the Prineville/Crook County Airport (“Airport”); and

**Whereas**, State of Oregon, acting by and through its Department of Forestry (“ODF”) desires to locate two single engine air tankers, service trailer with truck, and office trailer (“Equipment”) and conduct air tanker operations at the Airport for the 2023 fire season; and

**Whereas**, the Parties have agreed on terms of ODF locating its Equipment and conducting air tanking operations; and

**Whereas**, ODF has prepared an Intergovernmental Agreement (“Agreement”) for City’s consideration; and

**Whereas**, Agreement is authorized by ORS 190.100; and

**Whereas**, City staff believes it is in the best interest of the City to approve and execute the Agreement;

**Now, Therefore**, the City of Prineville resolves that the Intergovernmental Agreement attached to this Resolution between the City and ODF is hereby approved and that the Mayor is authorized and instructed to sign such Agreement on behalf of the City.

Approved by the City Council this \_\_\_\_ day of March, 2023.

\_\_\_\_\_  
Rodney J. Beebe, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Morgan, City Recorder



PO#-##### (for agency use) Prineville Airport

## Oregon Department of Forestry INTERGOVERNMENTAL AGREEMENT

This agreement is between the **STATE of OREGON**, acting by and through its **DEPARTMENT OF FORESTRY**, hereafter called **Agency**, and the **City of Prineville**, hereafter called **City**.

### Administrators of this agreement are:

City		Agency	
Administrator:	Kelly Coffelt	Administrator:	Neal Laugle
Title:	Airport Manager	Title:	State Aviation Manager
Organization:	Prineville Airport	State of Oregon,	Oregon Department of Forestry
Address:	4585 SW Airport Road Prineville, OR 97754	Address:	2600 State Street Salem, OR 97310
Phone:	541-416-0805	Phone:	503-945-7508
Fax:	541-416-0809	Fax:	503-945-7430
Email:	kcoffelt@cityofprineville.com	Email:	Neal.d.laugle@oregon.gov
Federal ID #:			

### RECITALS

By the authority granted in Oregon Revised Statutes (ORS) 190.110 and 526.046, Agency may enter into cooperative agreements with counties, cities, and units of local government.

#### 1. AUTHORITY

This Agreement is authorized by ORS 190.110.

#### 2. PURPOSE

*The Prineville/Crook County Airport ("Airport") is owned by Crook County and managed by the City. ODF desires to locate two single engine air tankers, service trailer with truck, and office trailer (the "Equipment") and conduct air tanker operations at the Airport for the 2023 fire season. "Air Tanker Operations" include mixing Firelce (water enhancing gel), loading Firelce into the air tankers, maintaining the air tankers, and conducting administrative duties.*

*City shall allow ODF to use an area of the Airport upon which to locate the Equipment and to conduct air tanker operations.*

*The parties have agreed on the terms of ODF locating its Equipment and conducting its Air Tanker Operations at the Airport and desire to memorialize such agreement.*

*ODF will locate equipment on a 14,000 square foot area at the Airport designated by City ("Ramp Area"). ODF will conduct all its Air Tanker Operations using the Ramp Area and will be authorized to*

Commented [RS\*O1]: This will need to stay local government since it is what the statute says and cities are already included in the list. 😊

PO#-##### (for agency use) Prineville Airport

use other appropriate areas of the Airport for fueling, taxiing, take offs, and landing the Air Tankers. City shall also provide to the Ramp Area the following:

- Electricity for ODF's office trailer;
- Two porta-potties and wash station to be serviced on a regular schedule;
- Water for mixing BlazeTamer, washing aircraft, and washing the Ramp Area;
- Garbage service, including receptacle of a size needed and approved by ODF, together with regular removal of garbage; and
- The electricity and water shall be metered. At the end of this Agreement, City shall provide to ODF the beginning and ending readings for the electricity and water.

### 3. EFFECTIVE DATE AND DURATION

This Agreement is effective on May 15, 2023, ("Effective Date"), and terminates on September 30, 2023; or if the 2023 wildfire season extends past September 30, 2023, the date when ODF moves all the Equipment from the Airport, unless terminated earlier in accordance with Section 16.

### 4. AUTHORIZED REPRESENTATIVES

4.1 Agency's Authorized Representative is:

Neal Laugle  
2600 State Street, Salem, OR 97310  
503-945-7508  
503-945-7430  
[Neal.d.laugle@oregon.gov](mailto:Neal.d.laugle@oregon.gov)  
Billing/Invoice contact: [SeverityFinance@odf.oregon.gov](mailto:SeverityFinance@odf.oregon.gov)

4.2 City's Authorized Representative is:

Kelly Coffelt  
4585 SW Airport Road, Prineville, OR 97754  
541-416-0805  
[kcoffelt@cityofprineville.com](mailto:kcoffelt@cityofprineville.com)

4.3 A Party may designate a new Authorized Representative by written notice to the other Party.

### 5. RESPONSIBILITIES OF EACH PARTY

5.1 City shall perform the work set forth on Exhibit A, attached hereto and incorporated herein by this reference.

5.2 Agency shall pay City as described in Section 6.

### 6. COMPENSATION AND PAYMENT TERMS

*Agency shall pay the rate of \$1,400/month for usage and the final billing will include actual costs incurred by the City for water and electricity used by the Agency over the term of the Agreement used by ODF and their Vendors in this operation. City will also provide two porta-potties and a handwash station, to be serviced on a regular schedule. Also included is garbage service to include a receptacle of a size approved by ODF and regular removal of garbage.*



PO#-##### (for agency use) Prineville Airport

*This Agreement is effective on May 15, 2023 ("Effective Date"), and terminates on September 30, 2023; or if the 2023 wildfire season extends past September 30, 2023, the date when ODF moves all the Equipment from the Airport, unless terminated earlier in accordance with Section 16. If ODF is still present on site beyond September 30, 2023, the Agency will pay \$40 per day for each additional day ODF uses the Ramp Area After September 30, 2023.*

## **7. REPRESENTATIONS AND WARRANTIES**

City represents and warrants to Agency that:

- 7.1 City is an Airport duly organized and validly existing. City has the power and authority to enter into and perform this Agreement.
- 7.2 The making and performance by City of this Agreement (a) have been duly authorized by City, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of City's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which City is party or by which City may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by City of this Agreement, other than those that have already been obtained.
- 7.3 This Agreement has been duly executed and delivered by City and constitutes a legal, valid and binding obligation of City enforceable in accordance with its terms.
- 7.4 City has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and City will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade or profession; and
- 7.5 City shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement. The representations and warranties set forth in this section are in addition to, and not in lieu of, any other representations or warranties provided by City.

## **8. GOVERNING LAW, CONSENT TO JURISDICTION**

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between Agency or any other agency or department of the State of Oregon, or both, and City that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. CITY, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

PO#-##### (for agency use) Prineville Airport

**9. OWNERSHIP OF WORK PRODUCT**

- 9.1 As used in this Section 9 and elsewhere in this Agreement, the following terms have the meanings set forth below:
  - 9.1.1 "City Intellectual Property" means any intellectual property owned by City and developed independently from the work under this Agreement.
  - 9.1.2 "Third Party Intellectual Property" means any intellectual property owned by parties other than City or Agency.
  - 9.1.3 "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item that City is required to deliver to Agency under this Agreement, and all intellectual property rights therein.
- 9.2 All Work Product created by City under this Agreement, including derivative works and compilations, and whether or not such Work Product is considered a "work made for hire," shall be the exclusive property of Agency. Agency and City agree that all Work Product created by City under this Agreement is "work made for hire" of which Agency is the author within the meaning of the United States Copyright Act. If for any reason the Work Product created by City under this Agreement is not "work made for hire," City hereby irrevocably assigns to Agency any and all of its rights, title, and interest in all Work Product created by City under this Agreement, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Agency's reasonable request, City shall execute such further documents and instruments necessary to fully vest such rights in Agency. City forever waives any and all rights relating to Work Product created by City under this Agreement, including without limitation, any and all rights arising under 17 U.S.C. §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- 9.3 If Work Product is City Intellectual Property, a derivative work based on City Intellectual Property or a compilation that includes City Intellectual Property, City hereby grants to Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the City Intellectual Property and the pre-existing elements of the City Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.
- 9.4 If Work Product is Third Party Intellectual Property, a derivative work based on Third Party Intellectual Property or a compilation that includes Third Party Intellectual Property, City shall secure on Agency's behalf and in the name of Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property and the pre-existing elements of the Third Party Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.
- 9.5 If state or federal law requires that Agency or City grant to the United States a license to any intellectual property in the Work Product, or if state or federal law requires that Agency or the United States own the intellectual property in the Work Product, then City shall execute such further documents and instruments as Agency may reasonably request in order to make any such grant or to assign ownership in such intellectual property to the United States or Agency.

**10. CONTRIBUTION**

PO#-##### (for agency use) Prineville Airport

- 10.1 If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a "Third Party Claim") against a Party (the "Notified Party") with respect to which the other Party (the "Other Party") may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this Section and a meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's contribution obligation under this Section 10 with respect to the Third Party Claim.
- 10.2 With respect to a Third Party Claim for which Agency is jointly liable with City (or would be if joined in the Third Party Claim ), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by City in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of City on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of City on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.
- 10.3 With respect to a Third Party Claim for which City is jointly liable with Agency (or would be if joined in the Third Party Claim), City shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of City on the one hand and of Agency on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of City on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. City's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

## 11. CITY DEFAULT

City will be in default under this Agreement upon the occurrence of any of the following events:

- 11.1 City fails to perform, observe or discharge any of its covenants, agreements or obligations under this Agreement.
- 11.2 Any representation, warranty or statement made by City in this Agreement or in any documents or reports relied upon by Agency to measure the delivery of services, the expenditure of funds or the performance by City is untrue in any material respect when made.
- 11.3 City (a) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (b) admits in writing its inability,

PO#-##### (for agency use) Prineville Airport

or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) is adjudicated a bankrupt or insolvent, (e) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (f) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (g) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (h) takes any action for the purpose of effecting any of the foregoing; or

11.4 A proceeding or case is commenced, without the application or consent of City, in any court of competent jurisdiction, seeking (a) the liquidation, dissolution or winding-up, or the composition or readjustment of debts of City, (b) the appointment of a trustee, receiver, custodian, liquidator, or the like of City or of all or any substantial part of its assets, or (c) similar relief in respect to City under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against City is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

## 12. AGENCY DEFAULT

Agency will be in default under this Agreement if Agency fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement.

## 13. REMEDIES

13.1 In the event City is in default under Section 11, Agency may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under Section 16, (b) reducing or withholding payment for work or Work Product that City has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (c) requiring City to perform, at City's expense, additional work necessary to satisfy its performance obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (e) exercise of its right of recovery of overpayments under Section 14 of this Agreement or setoff, or both. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

13.2 In the event Agency is in default under Section 12 and whether or not City elects to exercise its right to terminate this Agreement under Section 16.3.3, or in the event Agency terminates this Agreement under Sections 16.2.1, 16.2.2, 16.2.3, or 16.2.5, City's sole monetary remedy will be (a) for work compensable at a stated rate, a claim for unpaid invoices for work completed and accepted by Agency, for work completed and accepted by Agency within any limits set forth in this Agreement but not yet invoiced, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less any claims Agency has against City, and (b) for deliverable-based work, a claim for the sum designated for completing the deliverable multiplied by the percentage of work completed on the deliverable and accepted by Agency, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less previous amounts paid for the deliverable and any claims that Agency has against City. In no event will Agency be liable to City for any expenses related to termination of this Agreement or for anticipated profits. If previous amounts paid to City

PO#-##### (for agency use) Prineville Airport

exceed the amount due to City under this Section 13.2, City shall promptly pay any excess to Agency.

**14. RECOVERY OF OVERPAYMENTS**

If payments to City under this Agreement, or any other agreement between Agency and City, exceed the amount to which City is entitled, Agency may, after notifying City in writing, withhold from payments due City under this Agreement, such amounts, over such periods of times, as are necessary to recover the amount of the overpayment.

**15. LIMITATION OF LIABILITY**

EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 10, NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

**16. TERMINATION**

16.1 This Agreement may be terminated at any time by mutual written consent of the Parties.

16.2 Agency may terminate this Agreement as follows:

16.2.1 Upon 30 days advance written notice to City;

16.2.2 Immediately upon written notice to City, if Agency fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Agency's reasonable administrative discretion, to perform its obligations under this Agreement;

16.2.3 Immediately upon written notice to City, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Agency's performance under this Agreement is prohibited or Agency is prohibited from paying for such performance from the planned funding source;

16.2.4 Immediately upon written notice to City, if City is in default under this Agreement and such default remains uncured 15 days after written notice thereof to City; or

16.2.5 As otherwise expressly provided in this Agreement.

16.3 City may terminate this Agreement as follows:

16.3.1 Immediately upon written notice to Agency, if City fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in City's reasonable administrative discretion, to perform its obligations under this Agreement;

16.3.2 Immediately upon written notice to Agency, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that City's performance

PO#-##### (for agency use) Prineville Airport

under this Agreement is prohibited or City is prohibited from paying for such performance from the planned funding source;

16.3.3 Immediately upon written notice to Agency, if Agency is in default under this Agreement and such default remains uncured 15 days after written notice thereof to Agency; or

16.3.4 As otherwise expressly provided in this Agreement.

16.4 Upon receiving a notice of termination of this Agreement, City will immediately cease all activities under this Agreement, unless Agency expressly directs otherwise in such notice. Upon termination, City will deliver to Agency all documents, information, works-in-progress, Work Product and other property that are or would be deliverables under the Agreement. And upon Agency's reasonable request, City will surrender all documents, research or objects or other tangible things needed to complete the work that was to have been performed by City under this Agreement.

## 17. INSURANCE

See Section 10 Contributions.

## 18. NONAPPROPRIATION

Agency's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon Agency receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of Agency.

## 19. AMENDMENTS

The terms of this Agreement may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties.

## 20. NOTICE

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by facsimile, email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section 20. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number.

## 21. SURVIVAL

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 8, 9, 10, 14, 15 and 21 hereof and those rights and obligations that by their express terms survive termination of this Agreement;

PO#-##### (for agency use) Prineville Airport

provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

**22. SEVERABILITY**

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

**23. COUNTERPARTS**

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

**24. COMPLIANCE WITH LAW**

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local law.

**25. INDEPENDENT CONTRACTORS**

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that City is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

**26. INTENDED BENEFICIARIES**

Agency and City are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

**27. FORCE MAJEURE**

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. Agency may terminate this Agreement upon written notice to City after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

**28. ASSIGNMENT AND SUCCESSORS IN INTEREST**

City may not assign or transfer its interest in this Agreement without the prior written consent of Agency and any attempt by City to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. Agency's consent to City's assignment or transfer of its interest in this Agreement will not relieve City of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

PO#-##### (for agency use) Prineville Airport

**29. SUBCONTRACTS**

City shall not, without Agency's prior written consent, enter into any subcontracts for any of the work required of City under this Agreement. Agency's consent to any subcontract will not relieve City of any of its duties or obligations under this Agreement.

**30. TIME IS OF THE ESSENCE**

Time is of the essence in City's performance of its obligations under this Agreement.

**31. MERGER, WAIVER**

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

**32. RECORDS MAINTENANCE AND ACCESS**

City shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, City shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of City, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document City's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of City, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." City acknowledges and agrees that Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. City shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Subject to foregoing minimum records retention requirement, City shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

**33. HEADINGS**

The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

**34. ADDITIONAL REQUIREMENTS**

There are no additional requirements that the City shall be required to comply with.

**35. AGREEMENT DOCUMENTS**

This Agreement consists of the following documents, which are listed in descending order of precedence: this Agreement less all exhibits, attached Exhibit A (the Statement of Work), Exhibit B (Insurance), and Exhibit C (Additional Requirements).



PO#-##### (for agency use) Prineville Airport

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

**STATE OF OREGON acting by and through its  
Oregon Department of Forestry**

**City of Prineville**

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

PO#-##### (for agency use) Prineville Airport

**EXHIBIT A  
STATEMENT OF WORK**

**Overview:** *This is a land-use agreement with City of Prineville for Ramp Space for two Single-Engine Air Tankers to conduct Air Tanker Operations for fire season 2023. This area includes space for a service trailer with truck and office trailer, as well as access for take-offs, landings, and taxiing.*

*Prineville Airport is owned by Crook County, Oregon and managed by the City of Prineville. The Airport is located at 4585 SW Airport Road, Prineville, Oregon. The agreed upon area is 14,000 square feet of ramp space.*

*This agreement is necessary to provide the above listed amenities and access for an aviation contract for Two Single-Engine Air Tankers to be located at or near Prineville, Oregon for wildfire response. Prineville, Oregon provides a central location for operations of these assets.*

*Included in the Land Use Agreement is access to metered electricity and water. ODF will pay the Airport for these amenities at the end of the agreement for the metered amount consumed. City will also provide two porta-potties and a handwash station, to be serviced on a regular schedule. Also included is garbage service to include a receptacle of a size approved by ODF and regular removal of garbage.*

**Scope of Work:** *This agreement is for the forementioned Ramp Space and access to Airport facilities, such as taxiways and runways for aerial firefighting equipment. The Airport will also provide access to metered water to support all aspects of the operation, as well as metered electricity for support of operations.*