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191660

Emergency Ordinance

*Authorize amended and restated Intergovernmental Agreement with Peninsula Drainage District #1 for flood risk reduction and drainage services to support consolidation into the Urban Flood Safety and Water Quality District (amend Contract 30008558)

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. Peninsula Drainage District #1 ("PEN 1") provides flood risk reduction and drainage services for lands within its jurisdiction by operating and maintaining levees and drainage works as authorized under ORS Chapter 547.
2. The City of Portland ("City") owns 77% of the land in PEN 1.
3. PEN 1's primary source of revenue is through property assessments and PEN 1 is unable to assess enough revenue to support the basic operations of the district or meet its financial obligations to the City under the intergovernmental agreement described in paragraph 7 below.
4. The City has a strong interest in ensuring PEN 1 remains solvent and is consolidated into the new Urban Flood Safety and Water Quality District ("UFSWQD"), which will have a sustainable governance and funding structure.
5. The Council authorized the transfer of up to \$410,000 in funds to PEN 1 for FY 2023-24 to be used for covering the ongoing operating deficit and helping maintain the financial sustainability of PEN 1 (Ordinance No. 191394, adopted Aug. 2, 2023, and the intergovernmental agreement authorized thereunder ("the IGA")).
6. The Council had previously authorized payments for the same purposes for Fiscal Year 2022-23 via Ordinance No. 191241, adopted April 19, 2023.
7. As further detailed in the recitals of Exhibit A, PEN 1 has not been able to meet its financial obligations to the City under a 2014 cost-sharing intergovernmental agreement authorized by Ordinance No. 186599 (adopted May 28, 2014) ("the Cost-Sharing IGA"). The Cost-Sharing IGA provided funding for engineering evaluations of the conditions of infrastructure in PEN 1 and Peninsula Drainage No. 2, and all PEN 1 financial obligations under that agreement are now past due.

Introduced by

[Mayor Ted Wheeler](#)

Bureau

[Management and Finance](#)

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Requested Agenda Type

Consent

Date and Time Information

Requested Council Date

March 20, 2024

8. PEN 1's total outstanding financial obligation to the City under the Cost-Sharing IGA is \$77,771.79.
9. As further explained in the recitals of Exhibit A, continuing to carry this debt would present challenges for PEN 1's desired consolidation into the UFSWQD.
10. For this reason, PEN 1 recently requested an additional \$77,771.79 in operating support for FY 23-24 beyond what the Council authorized under Ordinance No. 191394 for that fiscal year. PEN 1 wishes to use these requested funds to fully repay its obligations to the City under the Cost-Sharing IGA prior to an UFSWQD board vote on consolidation of PEN 1 and other legacy districts into the UFSWQD, scheduled for June 2024.
11. General Fund special appropriations were used to make the funding transfers in FY23-24 that were previously authorized under Ordinance No. 191394. Specifically, in June of 2023, and subsequently in October of 2023, the Council allocated funding for several identified projects in support of Levee Ready Columbia and the new UFSWQD (Ordinance No. 191334, adopted June 21, 2023, and Ordinance No. 191482, adopted October 11, 2023). PEN1 operating support, including local sponsorship for Army Corps of Engineers partnership, was one of the approved identified uses for those funds.
12. There are available funds in the City's Special Projects Debt Service Fund that the City's Debt Management Division has identified as being available and appropriate for the purpose described in paragraph 10 above in FY23-24.
13. The City now desires to use those funds to transfer up to an additional \$77,772 to PEN 1, to be used as described in the IGA to fully pay down PEN 1's financial obligations to the City under the Cost-Sharing IGA by the end of FY23-24.
14. To accomplish this transfer for this purpose, the City now desires to amend and re-state in its entirety the IGA in substantial conformance with Exhibit A.
15. The amended and re-stated IGA will authorize City payments in support of covering the ongoing operating deficit of PEN 1 and helping maintain the financial solvency of PEN 1 in an amount not to exceed \$487,772, rather than the original amount of \$410,000, for Fiscal Year 2023-24.


NOW, THEREFORE, the Council directs:


- A. The City's Chief Administrative Officer to execute an amended and re-stated intergovernmental agreement with PEN 1 in substantial conformance with Exhibit A, provided it has been approved as to form by the City Attorney's Office.
- B. The City's Chief Administrative Officer or their designee is authorized to execute amendments to the scope of services or the terms and conditions of the amended and re-stated intergovernmental agreement, provided the changes will not increase the City's financial risk.

Section 2. The Council declares that an emergency exists because delay in providing financial support to PEN 1 would interrupt PEN 1's ability to maintain operations and achieve consolidation into the UFSWQD, which will

have a sustainable funding structure; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Documents and Exhibits

 [Exhibit A \(https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-a_amended-and-restated-iga-for-city-funding-support-of-pen-1-operations-in-fy23-24-1.pdf\)](https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-a_amended-and-restated-iga-for-city-funding-support-of-pen-1-operations-in-fy23-24-1.pdf) 968.81 KB

 [Supplemental Information \(https://www.portland.gov/sites/default/files/council-documents/2024/supplemental-information-for-amended-and-restated-iga-for-city-funding-support-of-pen-1-operations-in-fy23-24_iga-amendments-in-1.pdf\)](https://www.portland.gov/sites/default/files/council-documents/2024/supplemental-information-for-amended-and-restated-iga-for-city-funding-support-of-pen-1-operations-in-fy23-24_iga-amendments-in-1.pdf) 1.69 MB

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council
March 20, 2024

Auditor of the City of Portland
Simone Rede

Impact Statement

Purpose of Proposed Legislation and Background Information

The underlying intergovernmental agreement (IGA) that is now being amended is part of a long-term partnership between the City and PEN 1. PEN 1, a special district for flood control, is mostly City land and is in the area of the historic Vanport Flood of 1948. PEN 1 is funded by landowner assessments on assessed land value. The Open Space Zoning of City land, combined with the effects of tax compression, result in an inadequate funding situation for the district. For the past several years, the City has voluntarily provided additional funding to maintain PEN 1 operations and solvency. Without City funding, the district would become insolvent and dissolve and the City would be responsible for protecting public and private assets in the managed floodplain of PEN 1. This would likely include City responsibility for much more significant support of the local cost share of the Army Corps' Portland Metropolitan Levee System (PMLS) Project, a burden currently borne primarily by PEN 1 and its sister drainage districts, which serve as the nonfederal sponsor of the project that will help bring the levee system up to current federal levee safety standards.

This annual operational support IGA with PEN 1 will be needed until PEN 1 is consolidated into the new Urban Flood Safety and Water Quality District (UFSWQD), which will have a new and adequate funding stream for operations. The currently proposed amendments to this IGA are intended to provide support for a newly identified funding need for the current fiscal year, and the authorized funding transfers will facilitate consolidation of PEN 1 into the UFSWQD. Specifically, the proposed funding will help PEN 1 repay debt

owed to the City that could not be repaid without external support and that would present challenges for PEN 1's desired consolidation into the UFSWQD. For the reasons described above, the City has a strong interest in PEN 1 becoming part of the UFSWQD.

Financial and Budgetary Impacts

The City's Debt Management Division has identified funds in the City's Special Projects Debt Service Fund, in the amount of \$77,772, that may be appropriately used in FY23-24 for the specific purpose of facilitating PEN 1's full repayment of debt owed to the City in association with a 2014 cost-sharing IGA authorized by Ordinance No. 186599, adopted May 28, 2014 ("2014 Cost-Sharing IGA"), as described further in this Ordinance and associated exhibits. If the amended IGA is approved, the City would provide these funds to PEN 1 and receive repayment of amounts due under the 2014 Cost-Sharing IGA. Budget adjustments required to facilitate the provision and receipt of funds would be included as part of the Spring Supplemental Budget for Fiscal Year 2023-24.

The IGA proposed for amendment is, and will continue to be, an annual IGA, and it does not bind the City in future fiscal years. It only serves to fund known and quantified operational needs during the current fiscal year.

Community Impacts and Community Involvement

The amended and restated IGA will support the continued solvency of PEN 1 and its consolidation into the Urban Flood Safety and Water Quality District, which is in the City's interest. There are no anticipated adverse impacts to the community and no known community opposition to or concerns with the purposes of the proposed amended and restated IGA.

100% Renewable Goal

This action does not relate to the City's 100% renewable goal.

Budget Office Financial Impact Analysis

This ordinance will allow the Peninsula Drainage District #1 (PEN1) to repay its obligations to the City, to the amount of \$77,771.79, sourced from the City's Special Projects Debt Service Fund that the City's Debt Management Division has identified as being available and appropriate for this purpose. PEN1 has historically received additional resources from the City to maintain their financial solvency due to operating deficits at the district and this action will help prevent challenges to its eventual incorporation into the new Urban Flood Safety and Water Quality District with a new, adequate funding stream.

CBO will work with the respective bureaus to incorporate the required budget adjustments in the Spring Supplemental Budget if this ordinance is passed.

Agenda Items

241 Consent Agenda in [March 20, 2024 Council Agenda](https://www.portland.gov/council/agenda/2024/3/20)
(<https://www.portland.gov/council/agenda/2024/3/20>)

Passed

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Commissioner Rene Gonzalez Yea

Commissioner Mingus Mapps Yea

Mayor Ted Wheeler Yea