

INTERGOVERNMENTAL AGREEMENT
for
Cost-Sharing of Levee Ready Columbia Expenses Not Covered by IFA Loans

This Intergovernmental Agreement (this “Agreement”) is authorized by ORS 190.010 and is made and entered into as of _____ (the “Effective Date”) by and among Multnomah County (the “County”), a home rule county of the State of Oregon, the City of Portland (“Portland”), an Oregon municipal corporation; the City of Gresham (“Gresham”), an Oregon municipal corporation; the City of Fairview (“Fairview”), an Oregon municipal corporation; the City of Troutdale (“Troutdale”), an Oregon municipal corporation; the Port of Portland (the “Port”), a port district of the state of Oregon; Multnomah County Drainage District No. 1 (“MCDD”), a special purpose local government organized under ORS Chapter 547; Peninsula Drainage District No. 1 (“PEN 1”) a special purpose local government organized under ORS Chapter 547; Peninsula Drainage District No. 2 (“PEN 2”) a special purpose local government organized under ORS Chapter 547; Sandy Drainage Improvement Company (“SDIC”), a nonprofit drainage improvement corporation organized under ORS Chapter 554, and the Sauvie Island Drainage Improvement Company (“SIDIC”), a nonprofit drainage improvement corporation organized under ORS Chapter 554 (collectively, the “Parties,” and each individually a “Party”).

RECITALS

- A. MCDD, PEN 1, PEN 2, SDIC, and SIDIC (collectively, the “Districts”) operate and maintain levees and drainage facilities along and in the vicinity of the Columbia River that lie within their respective jurisdictional boundaries, among other duties. The levees were originally constructed starting around 1916 and have been periodically upgraded by the U.S. Army Corps of Engineers (the “Corps”) since then. Through intergovernmental agreements (“District IGAs”), MCDD has general management authority of over all of the Districts except SIDIC. All references to MCDD in this Agreement will mean MCDD acting on its behalf and on behalf of PEN 1, PEN 2, and SDIC pursuant to the District IGAs.
- B. The Districts, except SIDIC, have formed an intergovernmental entity, the Columbia Corridor Drainage Districts Joint Contracting Authority (“CCDDJCA” or “JCA”), that has been delegated contracting authority and financial management for the four non-SIDIC districts for this and other multi-district projects. The JCA will assume MCDD's duties and responsibilities under this Agreement upon notice to the Parties once the JCA is set up and functioning.
- C. The Federal Emergency Management Agency (“FEMA”) provides federal assistance in the form of flood insurance to property owners located within areas at risk of flooding, provided the communities in which those properties are located participate in the National Flood Insurance Program (the “NFIP”). FEMA recognizes levees as providing flood protection to a particular area only if they are “certified” by a qualified private engineer or an eligible federal agency (including the Corps), and then “accredited” by FEMA.

- D. The Corps has evaluated and certified the levees in the Districts, which run along the Columbia Corridor (the “Columbia Corridor” encompasses 12,000 acres on the south shore of the Columbia River in the Portland, Oregon Metropolitan area) and Sauvie Island, which are now subject to recertification under differing timelines. Expiration of the certifications could lead to de-accreditation by FEMA. The certifications must be renewed to remain accredited by FEMA.
- E. There are severe economic consequences if FEMA accreditation of a levee system is not maintained. Properties located within a flood zone that is protected by a non-accredited levee system lose access to the lower flood insurance rates offered through FEMA’s NFIP. Without adequate flood insurance, those properties cannot access loans issued by federal agencies (e.g., Federal Housing Administration and Small Business Administration) and loans backed by the federal government (e.g., Veterans Administration, Fannie Mae, and Freddie Mac). In addition, properties within a flood zone that is protected by a non-accredited levee system also face floodplain development ordinances by jurisdictions that could severely restrict development in such areas.
- F. Lands protected by the levees along the Columbia Corridor and Sauvie Island are within the jurisdictional boundaries of one or more of the Parties. In addition, one or more of the Parties own lands, public facilities, or both, within the territory protected by the levees. Each Party would therefore be negatively affected by losing the federal assistance offered by the NFIP. Consequently, the Parties, in conjunction with the Oregon Solutions Program of the State of Oregon (“Oregon Solutions”), have formed a partnership entitled "Levee Ready Columbia" to work together collaboratively to obtain the necessary certifications and accreditations to ensure that the territories protected by the levees continue to qualify for the NFIP and are protected from flooding (the "Project").
- G. Business Oregon’s Infrastructure Finance Authority (the “IFA”) has approved three loans, one administered by the City and two administered by the County that will pay for the majority of the costs of conducting the necessary analyses to maintain certification. The Parties are parties to one or more of three intergovernmental agreements that provide for payment of the IFA loans.
- H. Pursuant to a separate agreement with the State of Oregon’s Business Oregon, the County will receive \$300,000 to be used to support the Project (the “Regional Solutions Support”). The Parties understand that \$200,000 of the Regional Solutions Support will be used to reduce the amount of the Project that will be financed with the IFA loans.
- I. The remaining \$100,000 of the Regional Solutions Support will be used to pay for certain Project costs that are not fundable through the IFA loans, and the purpose of this Agreement is to provide for payment of the remaining amount of such project costs that are not fundable through the IFA loans.

TERMS

The Parties agree as follows:

1. Cash Expenses. The IFA loans will fund the engineering analyses necessary to ascertain the levees' flood-control capacity. The Parties have determined that successful implementation of the Project requires funding outreach, public involvement, and coordination activities and expenditures that are not eligible for funding under the IFA loan (the "Cash Expenses"). The Cash Expenses generally fall within the following categories:
 - a. Communications / Stakeholder Engagement. In light of the magnitude of the work being performed as well as the breadth of stakeholders that are impacted, meaningful engagement with a large representation of diverse community members is required in order for the project to be a success. The stakeholder outreach and engagement budget will be used to fund the work required to increase community involvement, ensure jurisdictional stakeholders remain engaged in the process, and maximize the effectiveness of highly technical advisory committees. These activities will include, without limitation:
 - Developing a “brand” or identity for the project and building a website to keep community members and stakeholders updated on progress and opportunities for engagement;
 - Designing and printing signage, brochures, banners, and other materials to be used at meetings and events;
 - Implementing an earned media strategy through the hosting of events;
 - Development and implementation of online or print survey or similar instrument(s) to measure public involvement and effectiveness of outreach campaigns;
 - Advertising events;
 - Utilization of respected conveners, facilitators, and necessary staff support to ensure continued participation by the Districts, impacted jurisdictions, regional partners and other stakeholders; and
 - Utilization of a technical expert to manage and facilitate meetings of technical experts and engineers representing the full range of stakeholders in the project.

- b. Project Management. MCDD will provide overall project management and communications / outreach staffing and will solicit and manage any necessary communications or facilitation consultant contracts and other consultant contracts necessary to implement the Cash Expenses.
2. The total Cash Expenses for fiscal year 2015/2016 amount to \$441,050 ("Reimbursement Expenses"), and the County will pay the first \$100,000 of the Reimbursement Expenses using the Regional Solutions Support received by the County. Each Party's proportionate share of the remaining \$341,050 Reimbursement Expenses are set forth in the following Allocation Schedule. A detailed description of the calculation used to generate the Allocation Schedule is attached as Exhibit A.

	Cash Expenses Responsibility
Fairview	\$7,098
Gresham	\$2,748
MCDD	\$64,322
PEN 1	\$15,151
PEN 2	\$16,385
Port	\$100,000
Portland	\$87,435
SDIC	\$16,044
SIDIC	\$8,623
Troutdale	\$13,426
County	\$9,818
Total	\$341,050

3. The work described in Section 1 will be conducted by consultants and staff hired by MCDD. After MCDD has invoiced the County for \$100,000, to be paid with the Regional Solutions Support received by the County, each party shall pay their portion of the Cash Expenses ("Cash Expenses Responsibility") to MCDD not later than 30 days following the date of invoice by MCDD to each Party for its Cash Expenses Responsibility under this Agreement. MCDD shall keep an accounting of expenses paid from the Cash Expenses Responsibility and shall report on such expenses quarterly to the Parties.
4. IGA Entity. MCDD, PEN 1, PEN 2, and SDIC have entered into an intergovernmental agreement pursuant to ORS 190.085 to create an intergovernmental entity to act as a joint contracting agency for the purposes of receipt and expenditure of funds and contracting for goods, services, and construction services for the Project. The entity is entitled the "Columbia Corridor Drainage Districts Joint Contracting Authority" ("CCDDJCA" or "JCA"). Upon 30 days' written notice to the Parties that the JCA has been created and is ready to conduct business, the JCA will assume the duties and responsibilities of MCDD with regard to receipt and distribution of funding and entering into and administering

contracts under this Agreement. MCDD, PEN 1, PEN 2 and SDIC remain jointly responsible for ensuring that they and JCA make payments and carry out their obligations under this IGA.

5. To the maximum extent permitted by law and subject to the limitations of the Oregon Tort Claims Act, ORS Chapter 30, and the Oregon Constitution, each Party will defend, indemnify, and hold harmless the other Parties and their officers, employees, and agents from and against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, fines, suits, and actions, whether arising in tort, contract, or by operation of any statute, including but not limited to attorneys' fees and expenses at trial and on appeal, relating to or resulting from the Party's performance of its responsibilities under this Agreement.
6. The laws of the State of Oregon will govern this Agreement and the Parties will submit to the jurisdiction of the courts of the State of Oregon.
7. This Agreement may be amended at any time with the written consent of all Parties.
8. Except as otherwise provided herein, the Parties may not assign any of their rights or responsibilities under this Agreement without prior written consent from MCDD.
9. All notices, communications, invoices, and payments required or permitted under this Agreement must be addressed as follows:

To County: Multnomah County
 Chief Financial Officer
 501 SE Hawthorne Blvd, Suite 531
 Portland, OR 97214

To Portland: City Debt Manager
 Office of Management and Finance
 1120 S.W. Fifth Avenue, Room 1250
 Portland, Oregon 97204-1988
 (503) 823-4222

To Gresham: The City of Gresham
 Environmental Services Director
 1333 N.W. Eastman Parkway
 Gresham, Oregon 97030
 (503) 618-3000

To Gresham for The City of Gresham
Invoices and City Debt Management Analyst
Payments: 1333 N.W. Eastman Parkway

Gresham, Oregon 97030
(503) 618-3000

To Fairview: The City of Fairview
City Manager
1300 NE Village Street
Fairview, OR 97024

To Troutdale: The City of Troutdale
City Manager
219 E. Historic Columbia River Hwy.
Troutdale, OR 97060

To the Port for notices and communications: The Port of Portland
P.O. Box 3529
Portland, Oregon 97208
Attention: Director, Environmental Operations and Policy
(503) 415-6331

To the Port for invoices and payments: The Port of Portland
P.O. Box 5095
Portland, Oregon 97208-5095
(503) 415-6000

To the Districts Except SIDIC: Multnomah County Drainage District No. 1
Levee Ready Columbia Program Manager
1880 N.E. Elrod Drive
Portland, Oregon 97211
(503) 281-5675

To SIDIC: Sauvie Island Drainage Improvement Company
Executive Director
29264 NW Sauvie Island Rd
Portland, OR 97231

10. If any covenant or provision of this Agreement is adjudged void, such adjudication will not affect the validity, obligation, or performance of any other covenant or provision which in itself is valid if such remainder would then continue to conform with the terms and requirements of applicable law and the intent of this Agreement.

11. This Agreement constitutes the entire agreement between the Parties and supersedes any prior oral or written agreements or representations relating to the matters discussed herein.

No waiver, consent, modification, or change of terms of this Agreement will bind the Parties unless in writing and signed by each Party.

- 12. This Agreement is not intended, and may not be construed as intending, to establish a precedent for any future cost-sharing agreements among any of the Parties pertaining to the Columbia Corridor and Sauvie Island levees. A Party's contribution under this Agreement creates no expectation that the Party is responsible for the maintenance or repair of the Columbia Corridor and Sauvie Island levees.
- 13. This Agreement may be executed in counterparts. Delivery of this executed Agreement by facsimile or e-mail will be sufficient to form a binding agreement.
- 14. This Agreement will terminate at such time as MCDD expends the last of the Reimbursement Expenses funds on the services described in Section 1 of this Agreement. At such time, MCDD will send notice of termination to the Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

MULTNOMAH COUNTY

Approved as to form:

By: _____

Title: _____

Date: _____

County Attorney

CITY OF PORTLAND

Approved as to form:

By: _____

Title: _____

Date: _____

Deputy City Attorney

CITY OF GRESHAM

Approved as to form:

By: _____

Title: _____

Date: _____

City Attorney

CITY OF FAIRVIEW

Approved as to form:

By: _____

Title: _____

Date: _____

City Attorney

CITY OF TROUTDALE

Approved as to form:

By: _____

Title: _____

Date: _____

City Attorney

PORT OF PORTLAND

Approved as to form:

By: _____

Title: _____

Date: _____

Assistant General Counsel

MULTNOMAH COUNTY DRAINAGE
DISTRICT NO. 1

By: _____

Title: _____

Date: _____

SANDY DRAINAGE IMPROVEMENT
COMPANY

By: _____

Title: _____

Date: _____

SAUVIE ISLAND DRAINAGE IMPROVEMENT
COMPANY

By: _____

Title: _____

Date: _____

Acknowledged by Metro as a party to two of the intergovernmental agreements that provide for payment of the IFA loans, as described in Recital G, above:

METRO

By: _____

Title: _____

Date: _____

Exhibit A Allocation Methodology

Exhibit A

ALLOCATION METHODOLOGY

The Allocation Methodology for the Phase II loan can be found as exhibit D in the Intergovernmental Agreement for Levee Analysis Cost-Sharing Phase II (MCDD and SDIC). The documentation below describes the allocation methodology for the Cash Expenses. The total Cash Expense totals \$441,051.

Step 1: Reduce total cash expenses by the Regional Partner contributions

Phase II cash expenses cover the costs of communications and stakeholder engagement, Oregon Solutions, project facilitation, and staffing. The State of Oregon Regional Solutions Office, via the Regional Solutions Support, and the Port of Portland each have agreed to contribute a fixed dollar amount of \$100,000 towards the cash expenses.

Cash Expenses	\$441,051
Regional Solutions Support	-\$100,000
Port of Portland	-\$100,000
Remaining Cash Expenses	\$241,051

Step 2: Determine the cash expense amounts for each drainage district by allocating the remaining costs as a percentage of the overall project size and cost. Project size was determined by the gross Infrastructure Finance Authority loan amount.

	PEN 1	PEN 2	MCDD	SDIC	SIDIC
Levee System Project Cost	\$672,617	\$727,383	\$2,855,451	\$712,261	\$382,800
% of Overall Project	13%	14%	53%	13%	7%
Levee System Amount	\$30,303	\$32,770	\$128,644	\$32,089	\$17,246

Step 3: Allocate obligation for each levee systems 50/50 between drainage districts (which assess owners of protected property) and “map-holder” jurisdictions

	PEN 1	PEN 2	MCDD	SDIC	SIDIC
Drainage Districts	\$15,151	\$16,385	\$64,322	\$16,044	\$8,623
Jurisdictions	\$15,151	\$16,385	\$64,322	\$16,044	\$8,623

Step 4: Allocate jurisdiction obligations using jurisdictional acreage protected by levee system

		Protected Acres (%)	Obligation
PEN 1			
Portland		986 (100%)	\$15,151
PEN 2			
Portland		1,612 (100%)	\$16,385
MCDD			
Portland		7,466 (86.9%)	\$55,899
Gresham		367 (4.3%)	\$2,748
Fairview		608 (7.1%)	\$4,552
Multnomah County		150 (1.7%)	\$1,123
		8,591 (100%)	\$64,322
SDIC			
Fairview		246 (15.9%)	\$2,546
Troutdale		1,297 (83.7%)	\$13,426
Multnomah County		7 (0.5%)	\$72
		1,550 (100%)	\$16,044
SIDIC			
Multnomah County		15,400 (100%)	\$8,623

Step 5: Aggregate jurisdiction obligations into list with drainage districts and Regional Partners*

Port of Portland	\$100,000
PEN 1	\$15,151
PEN 2	\$16,385
MCDD	\$64,322
SDIC	\$16,044
SIDIC	\$8,623
Portland (\$15,151 + \$16,385 + \$55,899)	\$87,435
Gresham	\$2,748
Fairview (\$4,552 + \$2,546)	\$7,098
Troutdale	\$13,426
Multnomah County (\$1,123 + \$72 + \$8,623)	\$9,818
	<u>\$341,050</u>

*There is a rounding error which results in a \$1.00 discrepancy.