

INTERLOCAL AGREEMENT

Steigerwald Levee Modification Project

This Agreement made and entered into this ____ day of **May 2018**, by the City of Washougal, a municipal corporation, under the laws of the State of Washington, hereinafter referred to as “Washougal,” the City of Camas, a municipal corporation, under the laws of the State of Washington, hereinafter referred to as “Camas,” and the Port of Camas Washougal, a municipal corporation, under the laws of the State of Washington, hereinafter referred to as “Port”.

WHEREAS, the Steigerwald Levee Modification Project proposes to modify the existing levee configuration located in proximity to the Steigerwald wellfield owned by Washougal and jointly operated by Washougal and Camas (see Exhibit A), such that said wellfield will no longer be protected from Columbia River flooding by the existing levee system (“Project”); and

WHEREAS, the Project is expressly conditioned upon anticipated funding for 100% of Project costs from the Bonneville Power Administration,

WHEREAS, the ____ also plans to participate in the role of Project permit point of contact

WHEREAS, many details of the Project are still under development, but Parties wish to memorialize each entities’ roles as described herein,

WHEREAS, the Port is responsible for the operation and maintenance of the existing levee system and plans to continue its management role over the proposed modified levee system; and

WHEREAS, Washougal's water wells are located within the area of the Project and has granted an easement to the Port for the construction, operation and maintenance of the modified levee system, subject to various provisions; and

WHEREAS, Camas, although a partner with Washougal in the water well operation, is not a party to said easement agreement; and

WHEREAS, the Port, Camas and Washougal desire to mutually memorialize the mutual understandings and commitments related to the Steigerwald Levee Modification Project.

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. **Mutual Agreements Attached**. The current status of various Project sub-agreements and understandings of the parties are set forth on Exhibit B, attached hereto and by this reference fully incorporated herein.
2. **Term & Duration**: This Agreement shall be in effect upon signature by the Parties, and will continue in perpetuity, unless modified by mutual Agreement of the parties.
3. **Amendments**: This Agreement may be amended at any time in writing only if approved in the same manner as the original ILA
4. **Indemnification**: PORT shall indemnify Washougal and provide insurance as provided in the Easement between the parties, a copy of which is attached hereto as Exhibit C and by this reference fully incorporated herein. PORT shall include CAMAS as an additional insured on any such policy.

In any situation where the damage, loss or injury is caused by the concurrent negligence of one or more parties or their agents and employees and another party's agents and

employees, then the each party expressly and specifically agrees to hold the other parties harmless to the extent of that party's or its agents' and employees' concurrent negligence.

All parties both specifically waive their immunity under RCW 51 (Industrial Insurance Statute), and acknowledges that this waiver of immunity was mutually and expressly negotiated by the parties, and expressly agree that this promise to indemnify and hold harmless applies to all claims filed by and/or injuries to each party's employees against the other. This provision is not intended to benefit any third parties.

If a Subcontractor is used, then the parties shall ensure that all Subcontracts also provide that the Subcontractor will waive its immunity under RCW 51.

The provisions of this Section shall survive the expiration or termination of this Agreement with respect to acts and omissions occurring during the term hereof.

5. **Termination/Cancellation:** This Agreement may be terminated or cancelled for any reason upon mutual written agreement of the Parties. The parties shall cooperate to address any reasonable concerns regarding this Agreement.

6. **Conformance and Severability:** The provisions of this Agreement are severable. If any provision of this Agreement violates a Federal or Washington State statute or rule of law, or if this Agreement is deemed to be in conflict with the authorized use or authority, that provision shall be modified to conform to such statute or rule of law, or authority. If any court holds any provision of this Agreement (including any document incorporated by reference) invalid, that invalidity shall not affect the other provisions of this Agreement. In the event of a conflict between the terms of this agreement and the Utilities Cooperation Agreement entered into between the Cities of Camas and Washougal, the latter shall control.

7. **Notices:**

All notices which are given or required to be given pursuant to this Agreement shall be

hand delivered or mailed, postage paid, as follows:

Washougal:

City of Washougal

1701 "C" Street

Washougal, WA 98671

Camas:

City of Camas

Address

Camas, WA 986

Port:

Port of Camas Washougal

Address

Washougal, WA 98671

8. Ratification:

Acts taken pursuant to this Agreement but prior to its effective date are hereby ratified and confirmed.

9. Governing Law/Venue:

This Agreement shall be deemed to have been executed and delivered within the State of Washington and the rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of Washington without regard to the principles of conflict of laws. The signature shall have legal authority to enter into this Agreement and be at least 18 years of age. Any action or suit brought in connection with this Agreement shall be brought in the Superior Court of Clark County, Washington.

10. Interlocal Act Representations

This is an Interlocal Agreement under RCW Ch. 39.34. Pursuant thereto, the parties state as follows:

- A. Duration. The duration shall be as set forth in paragraph 2 above, or as otherwise agreed to by the parties pursuant to this Agreement.
- B. Organization. No new entity will be created to administer this agreement.
- C. Purpose. The purpose is to assign the roles and responsibilities of the parties to facilitate the relocation of the PORT's levee for fish and wildlife enhancement.
- D. Manner of Financing. The parties intends to finance this agreement through grant funding, allocations between General Fund revenue and enterprise funds as determined by the parties' finance departments.
- E. Termination of Agreement. The parties shall have the right to terminate this agreement only by mutual agreement as provided in paragraph 5, above.
- F. Other. All terms are covered by this Agreement. No additional terms are contemplated.
- G. Selection of Administrator. The Executive Director of the Port of Camas Washougal shall be the Administrator for this Interlocal Agreement.
- H. Manner of Acquiring Property. This Agreement will result in the PORT's acquisition of a perpetual easement across WASHOUGAL's property according to the terms and conditions set forth on the Easement attached hereto.

11. Integration and Amendment

This Agreement constitutes the complete and final agreement of the Parties, replaces and supersedes all oral and/or written proposals and agreements heretofore made by the Parties on the subject matter, and may be modified only by a writing signed by the Parties hereto.

12. No Third-Party Beneficiaries.

This Agreement is executed for the sole and exclusive benefit of the signatory Parties. Nothing in this ILA, whether expressed or implied, is intended to confer any right, remedy or other entitlement upon any person other than the Parties hereto, nor is anything in this

ILA intended to relieve or discharge the obligation or liability of any third party, nor shall any provision herein give any third party any right of action against any Party hereto.

13. Obligations.

This Agreement shall not relieve any Party of any obligation or responsibility imposed upon it by law. Each Party hereto is responsible for the costs it incurs in carrying out the obligations stated herein

14. Recording.

A copy of this Agreement shall be recorded in the Office of the Clark County Auditor as provided by law, or shall be posted to each Parties' web site.

[Signatures appear on next page]

DATED this _____ day of May, 2018

CITY OF CAMAS, a Municipal Corporation

BY: _____
Mayor

ATTEST:

Approved as to Form:

Finance Director

City Attorney

CITY OF WASHOUGAL, a Municipal Corporation

BY: _____
Mayor

ATTEST:

Approved as to Form:

Finance Director

City Attorney

PORT OF CAMAS WASHOUGAL, a Municipal Corporation

BY:

Executive Director

ATTEST:

Approved as to Form:

Finance Director

Port Attorney