

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE	)	RESOLUTION NO. 18-4947
CHIEF OPERATING OFFICER TO ENTER INTO	)	
AN INTERGOVERNMENTAL AGREEMENT TO	)	Introduced by Chief Operating Officer Martha
ESTABLISH INTERIM GOVERNANCE AND	)	Bennett in concurrence with Council
FUNDING FOR THE IMPLEMENTATION OF	)	President Tom Hughes
LEVEE READY COLUMBIA	)	
RECOMMENDATIONS	)	

WHEREAS, by Resolution No. 15-4606, the Metro Council authorized participation in the Columbia River levee assessment process through execution of a Declaration of Cooperation; and

WHEREAS, it is in Metro’s interest to participate to ensure the levee system continues to protect from flooding the area extending from the railroad embankment near the Expo Center east to the Sandy River; and

WHEREAS, de-certification of the levee system by the US Army Corps of Engineers and de-accreditation by the Federal Emergency Management Agency would have negative economic repercussions including loss of flood insurance, imposition of more stringent flood plain development regulations and access to commercial financing for levee protected properties; and

WHEREAS, Metro is a significant property owner within the levee protected area in the form of the Expo Center, Blue Lake Park and other properties; and

WHEREAS, by Resolution No. 14-4525, the Metro Council provided a funding commitment in an amount of \$300,000 (plus interest) for Phase 1 of the levee analysis process for the Peninsula Drainage Districts 1 and 2; and

WHEREAS, by Resolution No. 15-4641, the Metro Council authorized \$300,000 (plus interest) toward Phase 2 of the Columbia River levee assessment process encompassing the Multnomah County Drainage District and the Sandy River Drainage Company; and

WHEREAS, in the spirit of cooperation with Metro’s partners in the region, Metro desires to contribute to the cost of implementing the governance and funding recommendations resulting from the Levee Ready Columbia assessment; and

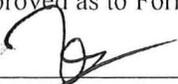
WHEREAS, Metro Code Section 2.04.020 requires the Metro Council approval of contracts that obligate Metro to contribute funding not previously appropriated through the Metro budget process; now therefore

BE IT RESOLVED that the Metro Council authorizes Metro’s Chief Operating Officer to enter into an Intergovernmental Agreement, in the form approved by the Metro Attorney, that obligates Metro to contribute \$50,000 per year (plus escalation) over a potential five-year term for implementation of the permanent governance and funding structure for the repair, reaccreditation and continued operation of the flood control system, so long as the agreement is clear that Metro is voluntarily contributing these funds and its contribution does not imply any obligation for future repair or reconstruction of the levee system.

ADOPTED by the Metro Council this 13th day of December, 2018.

  
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 Tom Hughes, Council President

Approved as to Form:

  
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 Nathan A. S. Sykes, Acting Metro Attorney

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 18-4947 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT TO ESTABLISH INTERIM GOVERNANCE AND FUNDING FOR THE IMPLEMENTATION OF LEVEE READY COLUMBIA RECOMMENDATIONS

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Date: December 13, 2018

Prepared by: Andrew Cotugno  
503-334-5286

## BACKGROUND

In 2013, the Governor asked Multnomah County and Portland to convene an Oregon Solutions Team to address the potential de-certification (by the US Army Corps of Engineers [USACE]) and de-accreditation (by FEMA) of the Columbia River levee system from the railroad embankment near Expo to the Sandy River.

This Resolution is the fourth in a series of actions taken by the Metro Council in support of the process:

- In May, 2014 the Metro Council adopted Resolution No. 14-4525 authorizing the Chief Operating Officer to execute an intergovernmental agreement providing a \$300,000 Metro funding commitment toward the \$1.4 million engineering assessment of the Peninsula Drainage Districts No. 1 and No. 2 (PEN 1 & 2). Of the four drainage districts along the Columbia River, it was most urgent to initiate work on PEN 1 & 2 because the effective date for the USACE certification had already lapsed. Further, stakeholders impacted by PEN 1 & 2 were already organized and Metro has a significant interest in ensuring the work advanced since Metro is the property owner for The Expo Center.
- In June, 2015 the Metro Council adopted Resolution No. 15-4606 authorizing the Chief Operating Officer to execute a Declaration of Cooperation establishing the overall process and governance for the full effort encompassing the four drainage districts within Metro (PEN 1 and 2, the Multnomah County Drainage District No. 1 [MCDD] and the Sandy Drainage Improvement Company [SDIC]) plus the Sauvie Island Drainage Improvement Company (SIDIC).
- In September, 2015 the Metro Council approved Resolution No. 15-4641 authorizing the Chief Operating Officer to execute an intergovernmental agreement (see Attachment 1 to Resolution No. 15-4641) providing a \$300,000 Metro funding commitment (plus interest) toward the \$3.99 million engineering assessment of the MCDD and SDIC levee system. Multnomah County will be the recipient of an Infrastructure Finance Authority loan through Business Oregon with intergovernmental agreements providing distribution of the cost responsibility between Metro, the drainage districts, Multnomah County and the Cities of Portland, Gresham, Fairview and Troutdale.

Note: there was a separate work scope, budget and distribution of cost responsibility for the Sauvie Island Drainage Improvement Company engineering assessment. That budget includes a pro-rata share of costs for convening the Oregon Solutions process and managing outreach and

stakeholder communications plus the direct cost of their engineering assessment and interface with the USACE and FEMA. Sauvie Island is not within the Metro Boundary and, therefore, Metro is not a signator to that funding agreement.

- This Resolution No. 18-4947 proposes to authorize the Chief Operating Officer to execute an intergovernmental agreement (see Attachment 1 to Resolution No. 18-4947) providing \$50,000 per year (plus escalation) for a potential five-year term for implementation of the permanent governance and funding structure for the repair, reaccreditation and continued operation of the flood control system.

As with the previous funding agreements, this funding agreement is intended to strictly establish the distribution of costs for the implementation efforts and associated Oregon Solutions convening process and is done in the spirit of cooperation and the agreed upon need to conclude the reaccreditation process. This Intergovernmental Agreement does not in any way imply any similar responsibility to fund or share in the funding of the repair or capital improvement costs expected for the actual levee rehabilitation.

## **ANALYSIS/INFORMATION**

1. **Known Opposition:** None Known.
2. **Legal Antecedents:** Metro Code Section 2.04.020 (Requiring the Metro Council approval of contracts that obligate Metro for payment of funds not previously appropriated by the Metro Council. This proposed IGA establishes a Metro funding commitment which will impact the FY 2017-18 Metro budget).
3. **Anticipated Effects:** Adoption of this resolution will authorize the Metro Chief Operating Officer to enter into an Intergovernmental Agreement for the implementation of the Levee Ready Columbia recommendations. This will include seeking legislative and voter support to form a new consolidated flood management district and funding mechanisms for capital improvements and continued operations and maintenance. It will also include participation in the US Army Corps of Engineers “New Start” study process in order to qualify for federal assistance in implementing needed repairs.
4. **Budget Impacts:** The maximum potential cost of the project to Metro is \$50,000 per year (plus escalation) for five years. However, the IGA would be terminated upon implementation of the recommended governance and funding structures which could be in less than five years.

## **RECOMMENDED ACTION**

Recommend adoption of Resolution No. 18-4947

**INTERGOVERNMENTAL AGREEMENT  
LEVEE READY COLUMBIA  
INTERIM GOVERNANCE**

This Intergovernmental Agreement (this "Agreement") is made and entered into in accordance with ORS 190.010 by and among 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"), an Oregon port district organized under ORS Chapter 778; Multnomah County (the "County"), a political subdivision of the State of Oregon; Metro, a metropolitan service district of the State of Oregon operating under its charter; Multnomah County Drainage District No. 1 ("MCDD"), a drainage district of the State of Oregon organized under ORS Chapter 547; Peninsula 1 Drainage District ("PEN 1"), a drainage district of the State of Oregon organized under ORS Chapter 547; Peninsula 2 Drainage District ("PEN 2"), a drainage district of the State of Oregon organized under ORS Chapter 547; Sandy Drainage Improvement Company ("SDIC"), a nonprofit drainage improvement company of the State of Oregon organized under ORS Chapter 554; and the Columbia Levee System Joint Contracting Authority (the "JCA"), an intergovernmental entity created by MCDD, PEN 1, PEN 2, and SDIC to obtain, contract for, and expend funds for the benefit of the Districts (collectively, the "Parties").

**RECITALS**

A. MCDD, PEN 1, PEN 2, and SDIC (each individually a "District," and collectively, the "Districts") operate and maintain an approximately 27-mile levee system and drainage facilities along and in the vicinity of the Columbia River that lie within their respective jurisdictional boundaries ("Levee System"). The Levee System was originally constructed around 1916 and has been periodically upgraded by the U.S. Army Corps of Engineers (the "Corps") since then. Through intergovernmental agreements, MCDD has general management authority over the Districts. All references to MCDD in this Agreement will mean MCDD acting on its behalf and on behalf of the Districts.

B. 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 such as the Corps, and then "accredited" by FEMA.

C. The Corps evaluated and certified the levees in 2007, which led to their accreditation by FEMA. Expiration of the certification could lead to de-accreditation by FEMA. Certifications must be renewed to remain accredited by FEMA. In 2012, the Corps substantially revised its Rehabilitation and Inspection Program ("RIP") for levee certification as a result of the 2005 failure of the levee systems protecting the City of New Orleans caused by Hurricane Katrina. In order to obtain certification, the RIP requires that levees be inspected, tested, studied,

and potentially repaired to ensure that they will perform well against a 1-percent-annual-chance flood.

D. There are severe economic consequences if FEMA accreditation of a levee system is not maintained. Properties located within a flood zone that are protected by a nonaccredited levee system lose access to the lower 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, local ordinances could severely restrict development in those areas.

E. Lands protected by the Levee System have regional and statewide economic significance. These lands currently contain approximately 50 percent of the Portland metropolitan region's manufacturing and warehouse jobs and 10 percent of all jobs in Multnomah County. These lands also include much of the region's undeveloped industrial land base, providing employment lands for future growth and thereby protecting forest and farm lands outside the metropolitan urban growth boundary from encroachment. These lands also include Portland International Airport, which is critically important to the economy of Oregon as a whole. The current assessed value of the lands protected by the Levee System is over \$6 billion.

F. In light of the significance of the lands protect by the Levee System and concerns about the Districts' structural and financial ability to do the work necessary to maintain levee certification and accreditation under the post-Katrina regulatory scheme, a group of stakeholders came together in 2013 under the auspices of the Oregon Solutions program and formed Levee Ready Columbia. Stakeholders included the Parties, other effected governmental organizations, such as the State of Oregon and the Corps, and affected neighborhood, community, environmental, and business groups.

G. Levee Ready Columbia government partners worked to obtain funding from Business Oregon's Infrastructure Finance Authority ("IFA") to obtain and pay for two loans to help fund the engineering analysis of the levee system's flood-control capacity in order to obtain certification. The Levee Ready Columbia government partners also entered into an intergovernmental agreement to fund non-IFA-loan-eligible Levee Ready Columbia projects.

H. Levee Ready Columbia also examined the governance structure of the Districts and concluded that some form of revision to governance was necessary to ensure that both short-term capital needs can be addressed to ensure long-term robust governance and maintenance. Deciding on and implementing a long-term governance solution is likely to take years.

I. When the Oregon Solutions project expires on June 30, 2019, the investigation, planning, and outreach phase will be completed and the implementation phase will begin. The Parties are those governmental entities with financial interest in or jurisdictional responsibility to implement certification and accreditation of the Levee System and to establish a long-term governance and funding structure sufficient to build, improve, operate, maintain, and fund the flood-control system for the long term. The Parties desire to enter into this Agreement in order to continue the work begun under the Oregon Solutions program by developing a capital

improvement plan, identifying funding options, and establishing the roles and responsibilities among the Parties.

## **ARTICLE 1 ORGANIZATION**

1.1 Name. The name of this operation shall continue to be "Levee Ready Columbia," a joint organization of the Parties ("LRC").

1.2 Public Purposes. LRC will further the following public purposes:

(a) To further the collaborative work on flood-risk reduction that the LRC partners have undertaken since LRC was organized in 2013 and to implement the solutions identified during this process.

(b) To assist the Parties in obtaining, managing, ensuring, and maintaining certification and accreditation of the Levee System.

(c) To work toward a final long-term governance and funding structure that will ensure that the Levee System can be operated, maintained, and improved for the foreseeable future by an entity or entities that have the legal and financial ability to do.

(d) To assist the Parties in raising, developing, implementing, and allocating the funding for capital projects that have been identified through the engineering analysis as being necessary to obtain certification and accreditation of the Levee System no later than June 30, 2024.

(e) To assist the Parties in addressing capital costs and responsibilities associated with deferred capital maintenance in order to ensure a fair distribution of costs under the existing or a new governance structure.

(f) Consistent with the original Levee Ready Columbia Declaration of Cooperation, to assist the Parties in balancing the varied community goals, including flood protection, ecosystem values, recreation, equity, and economic stability, and to take into consideration impacts from variables such as climate change and the Columbia River Treaty.

(g) To assist the Parties in achieving the goals set forth in Article 3 of this Agreement.

(h) To engage in all other activities necessary or beneficial to accomplishing the purposes of this Agreement.

1.3 Establishment. LRC is an intergovernmental organization by and among the Parties in accordance with ORS 190.010 and effective as of the date of the final signature on this Agreement. It is not an intergovernmental entity under ORS 190.085.

**ARTICLE 2**  
**COMMITMENTS OF THE PARTIES**

2.1 Participation. Each Party will appoint a representative to the LRC Board of Directors (the "Board") as set forth in Article 4.

2.2 Additional Parties. No additional parties will be added to LRC unless all the Parties approve and authorize LRC to add an additional party, and that party accepts all the terms and conditions in this Agreement.

2.3 Administrative Costs. Current administrative costs of operating LRC not directly related to the levee analysis are covered by an intergovernmental agreement among the Parties and several additional entities titled "Intergovernmental Agreement for Cost-Sharing Levee Ready Columbia Expenses Not Covered by IFA Loans" (the "Cost-Sharing IGA"), dated January 13, 2016. (The costs related to the levee analysis are provided for in intergovernmental agreements dated June 1, 2014, and January 13, 2016, plus amendments.) The Cost-Sharing IGA and the first amendment to the Cost-Sharing IGA cover LRC expenses for 2018-2019. The Parties agree to continue to share the administrative costs of LRC from termination of the Cost-Sharing IGA through termination of this Agreement on June 30, 2024, as set forth below. The Parties agree as follows:

(a) Allowable Expenses. The allowable expenses of LRC include outreach, public involvement, and coordination costs as detailed below ("Administrative Expenses"). Administrative Expenses do not include costs for managing capital improvement projects, such as those listed in Section 3.2(b). Public improvement expenses will be allocated and paid for as part of the project costs. Allowable Administrative Expenses include:

(i) Projects and Project Planning.

- (1) Rehabilitation and inspection program.
- (2) Risk-based decision-making consulting services.
- (3) Facilitation.

(ii) Capital Outlay. Levee improvement program engineering investigations and FEMA certification preparation and submittal.

(iii) Professional Services.

- (1) Audit fees and consultation.
- (2) Communications consulting.
- (3) General consulting.
- (4) Governance and government-relations consulting services.

(5) Legal advice relating to governance.

(6) Consultant services relating to the investigation and implementation of funding strategies.

(iv) General Administration.

(1) Advertising/notices.

(2) Dues and subscriptions.

(3) General liability insurance.

(4) Bank fees.

(5) Office supplies and printing.

(v) Staffing.

(1) Project management (program manager, .8 FTE; project manager, .8 FTE).

(2) Administration staff (.25 FTE).

(3) Public affairs and communications manager (.8 FTE).

(b) Project Management. The work described in Section 2.3(a) will be conducted by consultants and staff hired by the JCA or provided by MCDD, PEN 1, PEN 2, or SDIC, or provided as in-kind services by other Parties.

(c) Determination of Annual Administrative Expenses Budget.

(i) Budget Approval Process. MCDD will prepare an annual budget for Administrative Expenses for each fiscal year during the term of this Agreement and present the budget to the Board no later than March 1 prior to the fiscal year for which the budget is prepared. The Board will review the proposed budget and may approve, modify, or request more information regarding the budget. The Board will adopt an Administrative Expenses Budget no later than May 1, and will refer the Administrative Expenses Budget to each Party for approval and payment.

(ii) Annual Budget Increase of More Than 5 Percent to Be Presented As Separate Budget Request. If MCDD proposes an annual budget for Administrative Expenses that is more than 5 percent higher than the annual budget for the preceding fiscal year, MCDD will explain the basis for the increase and include the increase over 5 percent in a separate budget request ("Separate Budget Request"). MCDD will present an annual budget and a Separate Budget Request to the Board as provided in Section 2.3(c)(i) for separate vote. If the

Board does not unanimously approve the Separate Budget Request, it will not be referred to the Parties for approval. If the Parties do not unanimously approve the Separate Budget Request, no Party shall be required to fund the Separate Budget Request.

(d) Allocation of Annual Administrative Expenses Budget. The Parties agree to contribute amounts annually sufficient to pay for the Administrative Expenses Budget over the life of this Agreement.

(i) Each Party's share of Administrative Expenses is based on the following methodology first derived in the Cost-Sharing IGA.

(1) Regional Partner Contributions. The three regional partners—Metro, Multnomah County, and the Port—will each contribute \$50,000 annually to pay the annual Administrative Expenses Budget. Nothing in this section precludes one or more regional partners from deciding to contribute an amount greater than \$50,000.

(2) Drainage District Contributions. The four Districts will pay 50 percent of the remainder of the Administrative Expenses Budget after deducting regional partner contributions. This amount will be allocated among the Districts based on the percentage of Levee System miles in each District, as follows:

- (A) PEN 1: 9 percent
- (B) PEN 2: 11 percent
- (C) MCDD: 22.5 percent
- (D) SDIC: 7.5 percent

(3) City Contributions. The four cities will pay the remaining 50 percent of the Administrative Expenses Budget after deducting the regional partner contributions. This amount will be allocated among the cities based on the percentage of acreage behind the Levee System in each city, as follows:

- (A) Fairview: 3.5 percent
- (B) Gresham: 1.5 percent
- (C) Portland: 40 percent
- (D) Troutdale: 5 percent

(e) Fiscal Year Budget Exhibit; Updates. The fiscal year ("FY") 2019-2020 Administrative Expenses Budget and each Party's allocated payment under Section 2.3(d)

is set forth in Exhibit A. Upon approval by all the Parties, the Administrative Expenses Budget and Party allocations for succeeding fiscal years during the term of this Agreement will be attached as an exhibit to this Agreement (e.g., FY 2020-2021 budget and allocations will be attached as Exhibit B, FY 2021-2022 as Exhibit C, and so on).

(f) Payment of Administrative Expenses. The JCA will invoice the parties for Administrative Expenses on or after July 1 of each fiscal year during the term of this Agreement. The Parties agree to pay within 60 days of the date of the invoice. Parties may make arrangements with the JCA to pre-pay before July 1. If this Agreement is terminated any time before July 1, 2024, the obligation to pay Administrative Expenses will terminate for all fiscal years following the date of termination. At the date of such termination, the JCA will refund any unexpended Administrative Expenses to the Parties in accordance with the distribution formula set forth in Section 2.3(d) of this Agreement.

(g) Nonappropriation. The Parties recognize all amounts payable, including in-kind contributions, in future fiscal years are subject to appropriation by their respective governing bodies, but agree to make good-faith efforts to ensure that the Administrative Expenses are included in each of their annual budgets.

### **ARTICLE 3 GOALS OF THE PARTIES**

3.1 Permanent Governance Structure. The Parties agree to pursue creation of a new governance structure that has the financial and regulatory ability to provide capital construction and maintenance of the Levee System. The Parties' goal is to achieve this new structure no later than June 30, 2020. The Parties recognize that achieving this goal will require the support of the Parties and could require legislative or elective action.

#### 3.2 Achieving Certification and Accreditation.

(a) Application for Certification and Accreditation. The Parties will work in collaboration to achieve certification and accreditation for the Levee System.

(i) Joint Application. The preferred alternative is joint application by the designated map holders under FEMA regulations with support of the other Parties. The application process will be coordinated and funded by LRC.

(ii) Individual Applications. A District and the applicable map holder(s) may decide to submit a certification package to FEMA for accreditation for only that portion of the Levee System prior to other Districts' completing their certification requirements if the Levee System within the District can be shown to be hydrologically independent of the adjacent Districts. If a District and map holder(s) decide to file an individual application, the District and map holder(s) shall:

(1) Consult and coordinate with the other Parties to ensure that the individual application does not cause a FEMA-initiated study and

update of Flood Insurance Rate Map panels that would affect the other Parties.

(2) Be solely responsible for the cost of the individual application. Notwithstanding the foregoing, any District and map holder that decides to proceed with an individual application may utilize the work and documentation developed by LRC under the Oregon Solutions process and under this Agreement without charge or reimbursement.

(b) Capital Projects Required for Certification and Accreditation. The Parties agree that the engineering analyses identified the following capital projects (each individually a "Project," and collectively, the "Projects") that need to be completed to achieve accreditation/certification:

(i) Remediation of the railroad embankment in PEN 1.

(ii) Remediation of the portion of the Levee System with insufficient freeboard located in the northeast corner of PEN 1.

(iii) Remediation of the portion of the Levee System with insufficient freeboard located in the northeast corner of PEN 2, at the former site of the Columbia Edgewater Clubhouse.

(iv) Remediation on the PEN 2/MCDD cross-levee along the Peninsula Drainage Canal.

(v) Remediation of the portion of the Levee System on the south side of the Columbia Slough in MCDD.

(vi) Remediation of the Levee System in MCDD located in the City of Fairview, south of the Salmon Creek confluence with the Columbia River.

(vii) Remediation of the flow-control gate tower structure on the MCDD/SDIC cross-levee. This structure includes two pipes that pass through the Levee System and a control valve that is no longer operable.

(c) Prioritization and Planning of Projects.

(i) The Parties will prioritize the Projects supported by a risk framework based on cost-effective risk reduction, policy direction, results of engineering and technical studies, and consideration of the Corps feasibility study.

(ii) By June 30, 2020, the Parties agree to develop short- and long-term capital improvement plans ("CIPs") to complete the Projects. These CIPs will:

(1) Identify all the Projects, which may include projects in addition to those listed in Section 3.2(b) as new information becomes

available, as additional or modified projects are identified through the Corps feasibility study, as new regulations are enacted, or as provided in Section 3.2(e).

(2) Estimate the cost of each identified project.

(3) Determine the method of, and responsibility for, the funding of each identified project.

(4) Include a projected timeline for completion of the projects.

(iii) Nothing in this section is intended to preclude a Party or Parties from deciding to independently fund and construct a Project listed in the short- or long-term CIP out of sequence or before the timeline indicated in the CIP if the Party determines that it is in its best interests to do so.

(d) Project-Funding Responsibility. The Administrative Expenses distribution formula does not apply to the Projects. The Parties understand and agree that certain Projects may have greater or exclusive benefit to one or more of the Parties depending on the nature and location of the Project. The funding for and management of the individual Projects will be determined as part of the CIPs. The Board will determine the cost allocation for the Project, subject to approval of the Party or Parties determined to be responsible for the cost of construction of the Project.

(e) Addressing Long-Term Changes in Circumstance. The Parties recognize that renegotiation of the Columbia River Treaty by the United States and Canada and the ongoing impacts of climate change could warrant improvements or changes to the Levee System that differ or exceed those listed in Section 3.2(b) in order to maintain flood safety. In addition, the community could decide, for these reasons or others, to adopt a standard requiring a higher level of flood protection than required by the Corps or FEMA for accreditation and certification. The Parties commit to addressing these issues as more information becomes available or future decisions are made.

3.3 Ongoing Flood Management. The Parties will determine the actions needed to maintain continuing control of flood management and stormwater facilities, including:

(a) Acquiring and perfecting easements.

(b) Providing for the capital repair or replacement of the Portland International Raceway pump station and the Sandy pump station.

(c) Coordinating development-review procedures to ensure that new development does not damage or impair the integrity of the flood-management and stormwater systems.

3.4 MCDD, PEN 1, PEN 2, SDIC, and the JCA will continue to be responsible for activities associated with operation and maintenance of, and capital improvements to, the Levee

System and stormwater management systems in each of the Districts, pending implementation of the CIPs and/or a new governance structure.

#### **ARTICLE 4 BOARD OF DIRECTORS**

4.1 Duties. The Board shall manage the business coming before LRC. No decision, order, ruling, or any other determination of any kind by the Board is legally binding on any Party, except for Board decisions to expend resources previously allocated by the decision of the individual Parties.

4.2 Number. The Board will consist of 11 members (each, a "Director").

4.3 Appointment and Term. Each Party except the JCA will appoint one member of the Board. Each Board member will serve at the pleasure of his or her appointing Party and may be replaced by written notice of the appointing Party to the Board.

4.4 Vacancies and Absences. In the event of a vacancy, the appointing Party will appoint a successor. In the event that a Director will be absent from a meeting or meetings, the appointing Party may appoint an alternate, who shall exercise the powers and duties of the Director in the Director's absence. The appointing Party will inform the Board of the designated alternate.

4.5 Chair. At each annual meeting of the Board, the Directors will elect a Director to serve as the Chair of the Board (the "Chair").

4.6 Vice-Chair. At each annual meeting of the Board, the Directors will elect a Director to serve as Vice-Chair of the Board (the "Vice-Chair"). The Vice-Chair shall preside over meetings of the Board in which the Chair is unable to be present.

4.7 Regular Meetings. The Board will hold regular meetings, with the specific date, time, and place to be determined by the Chair.

4.8 Special Meetings. Special meetings of the Board may be called by the Chair or by a majority of the Board members.

4.9 Public Meetings Law; Executive Session. Board meetings will comply with the requirements of Oregon Public Meetings Law, ORS 192.610 to .690. The Board may consider matters in executive session as provided in the Public Meetings Law.

4.10 Quorum; Vote. A majority of the Directors in office at the time of a meeting of the Board will constitute a quorum for the transaction of business at any meeting of the Board. The act of a majority of the Directors then in office will be the act of the Board. A minority of the Directors in the absence of a quorum may adjourn and reconvene from time to time, but may not transact any business.

4.11 Meeting by Telephone or Videoconference. The Board may hold a meeting by telephone or videoconference or by means of similar equipment in compliance with the Public

Meetings Law, including without limitation, requirements relating to notice, agendas, materials, and access to the public. A Director may also attend any meeting of the Board by telephone or videoconference, if available. A Director participating by telephone or videoconference may engage in discussion or vote, and will count toward a quorum in the same manner as if the Director attended the meeting in person.

4.12 Subcommittees. The Board may appoint one or more subcommittees of LRC as it deems necessary or beneficial to serve its purposes.

4.13 Ex-Officio Members. The Board may appoint ex-officio members to the Board or subcommittees as it deems necessary or beneficial to serve its purposes. Ex-officio members may include without limitation a representative of the State of Oregon. Ex-officio members may participate in discussion but may not vote.

## **ARTICLE 5 POLICIES AND PROCEDURES**

The Board may adopt policies and procedures from time to time as it deems necessary or convenient.

## **ARTICLE 6 AMENDMENT**

The Parties may amend or repeal any or all provisions of this Agreement by written agreement executed by all the Parties.

## **ARTICLE 7 DURATION, TERMINATION, AND DISSOLUTION**

7.1 Term. This term of this Agreement (the "Term") is from the Effective Date, as defined below, until June 30, 2024, or upon creation of a successor governance structure and the successor's assumption of the duties herein, whichever occurs first.

7.2 Early Termination. LRC may be terminated before expiration of the Term by unanimous vote of the Board.

7.3 Extension. This Agreement may be extended by unanimous vote of the Board before expiration of the then-current Term. Upon approval by the Board, the Board members are hereby delegated the authority to execute a written addendum extending this Agreement for the period determined by the Board.

## **ARTICLE 8 MISCELLANEOUS**

8.1 No Cost-Sharing Precedent Established. This Agreement is not intended to establish a precedent for any future cost-sharing agreements among any of the Parties pertaining to the Levee System. Any such additional agreements will be subject to negotiation among the Parties at the time.

8.2 Books and Records. The Oregon Public Records Law shall apply to the books and records of LRC. MCDD or its successor agency will serve as the public-records custodian for LRC. MCDD will comply with the Public Records Law and the applicable rules of the Oregon Secretary of State in carrying out its duties as records custodian.

8.3 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be severed from this Agreement and shall not affect the validity of the remainder of this Agreement.

8.4 Headings. The headings of the sections of this Agreement are inserted for convenience of reference only and shall not in any manner affect the construction or meaning of anything contained herein.

8.5 Effective Date. This Agreement shall become effective on July 1, 2019 (the "Effective Date"), provided that all Parties have approved and executed this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement.

**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: \_\_\_\_\_

\_\_\_\_\_  
City Attorney

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**METRO**

Approved as to form:

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

\_\_\_\_\_  
Assistant Metro Attorney

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**PORT OF PORTLAND**

Approved as to Legal Sufficiency:

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

\_\_\_\_\_  
Assistant General Counsel

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**MULTNOMAH COUNTY**

Approved as to form:

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

\_\_\_\_\_  
County Attorney

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**MULTNOMAH COUNTY DRAINAGE  
DISTRICT NO. 1**

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**SANDY DRAINAGE IMPROVEMENT  
COMPANY**

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**PENINSULA DRAINAGE DISTRICT  
NO. 1**

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**PENINSULA DRAINAGE DISTRICT  
NO. 2**

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**COLUMBIA LEVEE SYSTEM JOINT  
CONTRACTING AUTHORITY**

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**

**FISCAL YEAR 2019-2020 ADMINISTRATIVE EXPENSES BUDGET  
AND PARTY ALLOCATION**

<b>Levee Ready Columbia Party</b>	<b>Percent Contribution</b>	<b>FY19-20 Contribution</b>
PEN 1	9.0%	\$ 52,558
PEN 2	11.0%	\$ 64,237
MCDD	22.5%	\$ 131,394
SDIC	7.5%	\$ 43,798
City of Portland	40%	\$ 233,590
City of Gresham	1.5%	\$ 8,759
City of Fairview	3.5%	\$ 20,439
City of Troutdale	5.0%	\$ 29,198.
Metro		\$ 50,000
Multnomah County		\$ 50,000
Port of Portland		\$ 50,000
<b>TOTAL</b>		<b>\$733,975</b>

See Agreement Section 2.3(d) for allocation methodology.