

AMENDMENT NUMBER 4
TO
FEASIBILITY COST SHARING AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA
AND
THE CITY OF PORTLAND
FOR THE
LOWER WILLAMETTE ECOSYSTEM RESTORATION FEASIBILITY STUDY

THIS AMENDMENT No. 4 to the *Feasibility Cost Sharing Agreement between the United States of America and the City of Portland for the Lower Willamette Ecosystem Restoration Feasibility Study* ("Amendment No. 4") is entered into this ____ day of ____, 2014, by and between the DEPARTMENT OF THE ARMY (hereinafter referred to as "the Government"), represented by the U.S. Army Engineer for the Portland District (hereinafter the "District Engineer") and the CITY OF PORTLAND, OREGON (hereinafter the "City"), represented by its Commissioner of Environmental Services.

WITNESSETH THAT:

WHEREAS, the *Feasibility Cost Share Agreement between the United States of America and the City of Portland for the Lower Willamette Ecosystem Restoration Feasibility Study* ("FCSA") was executed on September 22, 2003 when the Government – as further described in the FCSA – determined that a study in the nature of a "Feasibility Phase Study" (hereinafter the "Study") was required to fulfill the intent of the Congressionally authorized study authority and to assess the extent of the Federal interest in participating in solutions to the identified problems;

WHEREAS, *Amendment Number 1 to the Feasibility Cost Sharing Agreement between the United States of America and the City of Portland for the Lower Willamette Ecosystem Restoration Feasibility Study* ("Amendment No. 1") was executed on 1 April 2008 in order to increase total study cost from "\$1,021,140" to "\$3,985,640" at Article III.A.

WHEREAS, *Amendment Number 2 to the Feasibility Cost Sharing Agreement between the United States of America and the City of Portland for the Lower Willamette Ecosystem Restoration Feasibility Study* ("Amendment No. 2") was executed on 5 October 2010 to add the Port of Portland as a project Study Sponsor.

WHEREAS, *Amendment Number 3 to the Feasibility Cost Sharing Agreement between the United States of America and the City of Portland and the Port of Portland for the Lower Willamette Ecosystem Restoration Feasibility Study* ("Amendment No. 3") was executed on 18 June 2012 in order to increase total study cost from "\$3,985,640" to "\$4,645,640" at Article III.A.

WHEREAS, in accordance with and as described in documentation coordinated with the City, increased costs are expected to be incurred in connection with completion of the Study's Phase 2 activities, thus requiring an amendment of the FCSA's stated Study costs estimate; and

WHEREAS, in a letter from the Port of Portland dated September 20, 2013 they have terminated their participation as a co-sponsor cost sharing partner on this project.

WHEREAS, The Government and the City agree that the proposed estimated Study cost increase is justified and so support this Amendment No. 4 to the Study's FCSA.

NOW, THEREFORE, the FCSA, as amended by Amendments 1, 2 and 3, is hereby amended in the following particulars and no others, by replacing "\$4,645,640" with "\$4,779,640" at Article III.A.

THE DEPARTMENT OF THE ARMY

CITY OF PORTLAND, OREGON

BY _____
Jose L. Aguilar
Colonel, Corps of Engineers
District Engineer
Portland District

BY _____
Nick Fish
Commissioner of Public Works
City of Portland

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making Of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CITY OF PORTLAND

BY _____

DATE: _____

Nick Fish
Commissioner of Public Works
City of Portland

CERTIFICATE OF AUTHORITY

I, _____, do hereby certify that I am the principal legal officer of the City of Portland, Oregon, that the City of Portland is a legally constituted public body with full authority and legal capability to perform the terms of Amendment No. 3 to the Agreement between the Department of the Army, the City of Portland, and the Port of Portland in connection with the Lower Willamette Ecosystem Restoration Feasibility Study, and to pay damages in accordance with the terms of that Agreement, if necessary, in the event of the failure to perform, and that the persons who have executed this Amendment No. 3 on behalf of the City has acted within his/her statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this
_____ day of _____ 20____.

Attorney for City Portland, Oregon

CERTIFICATE OF LEGAL REVIEW

The draft Amendment No. 4 to the *Feasibility Cost Sharing Agreement between the United States of American and the City of Portland for the Lower Willamette Ecosystem Feasibility Study* has been fully reviewed by Office of Counsel, USAED, Portland and is approved as legally sufficient.

Date:

Douglas C. Craner, District Counsel