



Water Quality Protection  
Surface Water Management  
Wastewater Collection & Treatment

J. Michael Read  
Interim Director

October 22, 2014

Ken Worcester  
Parks and Recreation Director  
City of West Linn  
22500 Salamo Road  
West Linn OR 97068

RE: Willamette River Trail – Property Owner Authorization

Dear Ken:

Enclosed is the Tri-City Service District's authorization for the City of West Linn to submit an application for Class II Parks Design Review and Flood Management approval for the proposed Willamette River Trail.

Sincerely,

  
Kathy Frasier, Project Manager  
Water Environment Services

Enclosure

As an authorized representative of the owner of Clackamas County assessors map 3 1E 2, tax lot 100, I hereby authorize the City of West Linn Parks and Recreation Department to submit an application for Class II Parks Design Review and Flood Management Area approval to the City of West Linn Planning Department as it relates to our affected property.

My authorization is given with the understanding that the proposal is consistent with the Plan presented and that consent to participate in the process in no way conveys consent or agreement by the Board of Clackamas County Commissioners or the Tri-City Service District to convey any interest or right in any real property.

  
\_\_\_\_\_  
Signature

J. Michael Read, Interim Director

Print name please

Tri-City Service District

For (ownership entity)

10/21/2014

Date signed

AMENDMENT OF LEASE

THIS AMENDMENT OF LEASE is entered into effective as of the 31<sup>st</sup> day of December, 2004, by and between *PORTLAND GENERAL ELECTRIC COMPANY*, an Oregon Corporation ("Lessor") and the *CITY OF WEST LINN*, a municipal corporation of the State of Oregon ("Lessee").

RECITALS

- A. Lessor and Lessee entered into a Lease dated April, 1980 (the "Lease"), consisting of certain property described therein located in Clackamas County, Oregon.
- B. Lessor and Lessee have agreed to amend the terms of the Lease to extend the Term of the Lease and to include additional property under the Lease, upon the terms and conditions set forth herein.
- C. Capitalized terms not defined herein shall have the same meaning as set forth in the Lease. References herein to the Lease shall include this Amendment and all prior amendments to the Lease, except where the context otherwise requires.

NOW, THEREFORE, for valuable consideration, the current receipt, reasonable equivalence, and sufficiency of which are hereby acknowledged by each of the parties, the parties each agree as follows:

1. **Recitals.** The Recitals are true and correct and incorporated herein by this reference.
2. **Term.** The Term of the Lease is extended through the 31<sup>st</sup> day of December, 2030, subject to and conditioned upon the terms and conditions of Lessor's License with the Federal Energy Regulatory Commission issued in 2005 ("Lessee's License"). Notwithstanding the foregoing, the Lease shall terminate, at Lessor's option and upon not less than one hundred eighty (180) days prior written notice to Lessee in the event Lessee's License is terminated. Lessor shall have no Lessee improvement obligations in connection with the extension of the Term and/or this Amendment.
3. **Premises.** The description of the property subject to the Lease as set forth in the Lease is hereby deleted in its entirety and replaced with the property described in Exhibit "A" hereto (the "Premises"). Nothing contained in the Lease or this Amendment shall grant any right to any property owned by third parties (e.g., Blue Heron Paper, West Linn Paper, or the like). Lessee accepts the Premises "AS IS" in its present state and condition and further understands and agrees that such third party land ownership may limit the ability to use certain portions of the Premises. Any use of the Premises by Lessee shall be in such a manner as to protect sensitive resources and the public.
4. **Rental.** Lessee shall pay Lessor the sum of 0 Dollars (\$0.00) for the term commencing January 1, 2005, and extending through and including December 31, 2030. Said sum shall be paid to Lessor in advance on or before the 30th day of September, 2005. In the event the Lease is terminated earlier in accordance with the terms of Section 2 above for reasons other than the default of Lessee, Lessee shall receive a pro rata refund of the rent for the remaining stated Term of the Lease. Lessee represents, covenants, and warrants that except as provided herein, this Lease remains unmodified and in full force and effect; that Lessor has not breached any duty or obligation to Lessee to date; that Lessee does not dispute any sum owed or paid to Lessor; and Lessee further acknowledges and agrees that said sums are and were justly due Lessor without defense or setoff in accordance with the terms of this Lease and that Lessee is unconditionally liable therefore.
5. **ODFW.** Lessee represents, covenants, and warrants that Lessee's obligations pursuant to that certain Public Access Agreement by and between Lessee and the State of Oregon, by and through its Department of Fish and Wildlife ("ODFW") dated August 22, 1980, have been satisfied in accordance with the terms of that agreement and that Lessee does not have any remaining obligations to ODFW or any third party with respect to the Premises.

6. **Revisions to the Lease.** The following provisions are hereby added to the Lease:

6.1 **"Homeland Security.** Notwithstanding anything to the contrary contained herein, Lessor reserves at all times the right to enter upon the Premises at any time upon the request of the Oregon Office of Safety and Security/Homeland Security or the US Department of Homeland Security and/or any other State or Federal security agency to allow access to representatives of such agencies at all times. Lessor shall not be liable to Lessee or to any third party for any action taken by any governmental authority, public safety personnel, or any third party, nor shall Lessor be liable for any act or omission of Lessor that Lessor deems reasonable or appropriate to protect life or property under such circumstances."

6.2 **"Limitation on Remedies/Damages.** In no event shall Lessor be liable to Lessee for any lost or prospective profits or any other special, punitive, exemplary, consequential, incidental or indirect losses or damages (in tort, contract or otherwise) under or in respect of this Lease or for any failure or performance related hereto howsoever caused, whether or not arising from Lessor's sole, joint or concurrent negligence. The obligations of Lessor under this Lease shall not be personally binding on, nor shall any resort be had to the private properties of, any of its trustees or board of directors and officers, as the case may be, the general partners thereof, or any beneficiaries, stockholders, employees, or agents of Lessor, or its property managers. It is expressly understood and agreed that any money judgment against Lessor resulting from any default of other claim arising under this Lease shall be satisfied only out of the real property upon which the Premises are located. No other real, personal or mixed property of Lessor, wherever situated, shall be subject to levy on any such judgment obtained against Lessor. If such income is insufficient for the payment of such judgment, Lessee shall not institute any further action, suit, claim, or demand, in law or in equity, against Lessor for or on account of such deficiency."

6.3 **"Compliance with Laws.** At all times, Lessee shall promptly comply with all laws, orders, rules, and regulations of all State, Federal, municipal and local governments, departments, commissions, boards, or similar body (including without limitation the Federal Energy Regulatory Commission) which shall impose any requirement, order or duty upon Lessor or Lessee with respect to the Premises, including without limitation, those relating to adverse effects on the environment, arising out of or in any way related to Lessee's use or manner of use or occupancy thereof, and shall indemnify and hold Lessor harmless therefrom. The parties recognize and agree that the Lease and the relationship of the parties is subject to all applicable state or federal laws, including without limitation, *The Money Laundering Control Act*, and *The USA Patriot Act and Bank Secrecy Act*, as any of same may be amended from time to time, and/or by any rules and regulations promulgated thereunder or under any other comparable federal or state statute (individually and cumulatively "Laws"). The term "Laws" is used in this Agreement in its very broadest sense. Lessee represents, covenants and warrants to Lessor that (1) Lessee is not listed on the US Treasury's Office of Foreign Assets Control ("OFAC") Specially Designated Nationals and Blocked Persons ("SDN") List; (2) Lessee is not an entity that Lessor is prohibited from conducting business with under any Laws; (3) Lessee will not violate any Laws at any time during the Term of the Lease. In the event of the breach of the all or any portion of the foregoing representations, covenants and/or warranties, and/or the violation of any Laws, Lessee shall immediately report the same to Lessor in writing and supply Lessor with all information and reports with respect to the same. All information described herein shall be provided to Lessor regardless of any claim by Lessee that it is confidential or privileged. Within three (3) business days of request by Lessor, Lessee shall provide Lessor with certification or other evidence, in a form and substance reasonable acceptable to Lessor, confirming Lessee's compliance with the foregoing. In addition to the indemnity obligations contained in the Lease, Lessee shall indemnify, defend and hold harmless Lessor and the property upon which the Premises are located to the fullest extent allowed by law, but subject to Article XI Section 7 of the Oregon Constitution and ORS 30.260 through ORS. 30.300 (the Oregon Tort Claims Act), from and against all claims, losses, damages, monitoring costs, response costs, liabilities, and other costs and expenses arising during or after the Term caused by, out of, or in connection with, the breach of the all or any portion of the foregoing representations, covenants, and/or warranties, and/or the violation of any Laws. This indemnity shall survive the expiration or earlier termination of the term of the Lease or the termination of Lessee's right of possession and shall remain fully enforceable thereafter."

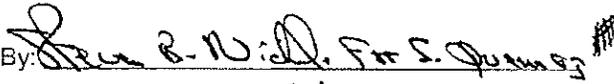
7. **Brokers.** Lessor shall not have any obligation to Lessee or to any third party with respect to any real estate broker in connection with the extension of the Term and/or this Amendment.

8. **Controlling Agreement.** In the event of any conflict between any other part of the Lease and this Amendment, the terms and conditions of this Amendment shall control. To the extent that this Amendment may have been executed following any effective dates set forth herein, said effective dates are hereby ratified, confirmed, and approved. This Amendment may be executed in counterparts, and such counterparts together shall constitute but one original of the Amendment. Each counterpart shall be equally admissible in evidence, and each original shall fully bind each party who has executed it.

9. **Entire Agreement.** This instrument, along with any exhibits and attachments or other documents affixed hereto or referred to herein, constitute the entire and exclusive agreement between Lessor and Lessee relative to the Premises, and the Lease, and the Lease may be altered and/or revoked only by an instrument in writing signed by both Lessor and Lessee. Lessor and Lessee hereby agree that all prior written and oral agreements, understandings and/or practices relative to the leasing of the Premises are superseded by this instrument. Except as set forth in this Amendment of Lease, the terms and conditions of the Lease shall remain unmodified and in full force and effect.

The parties have executed this Amendment effective as of the 31<sup>st</sup> day of December, 2004. This Amendment shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns. Lessee shall not record this Amendment.

LESSOR: PORTLAND GENERAL ELECTRIC COMPANY

By:   
Title: VP, Generation

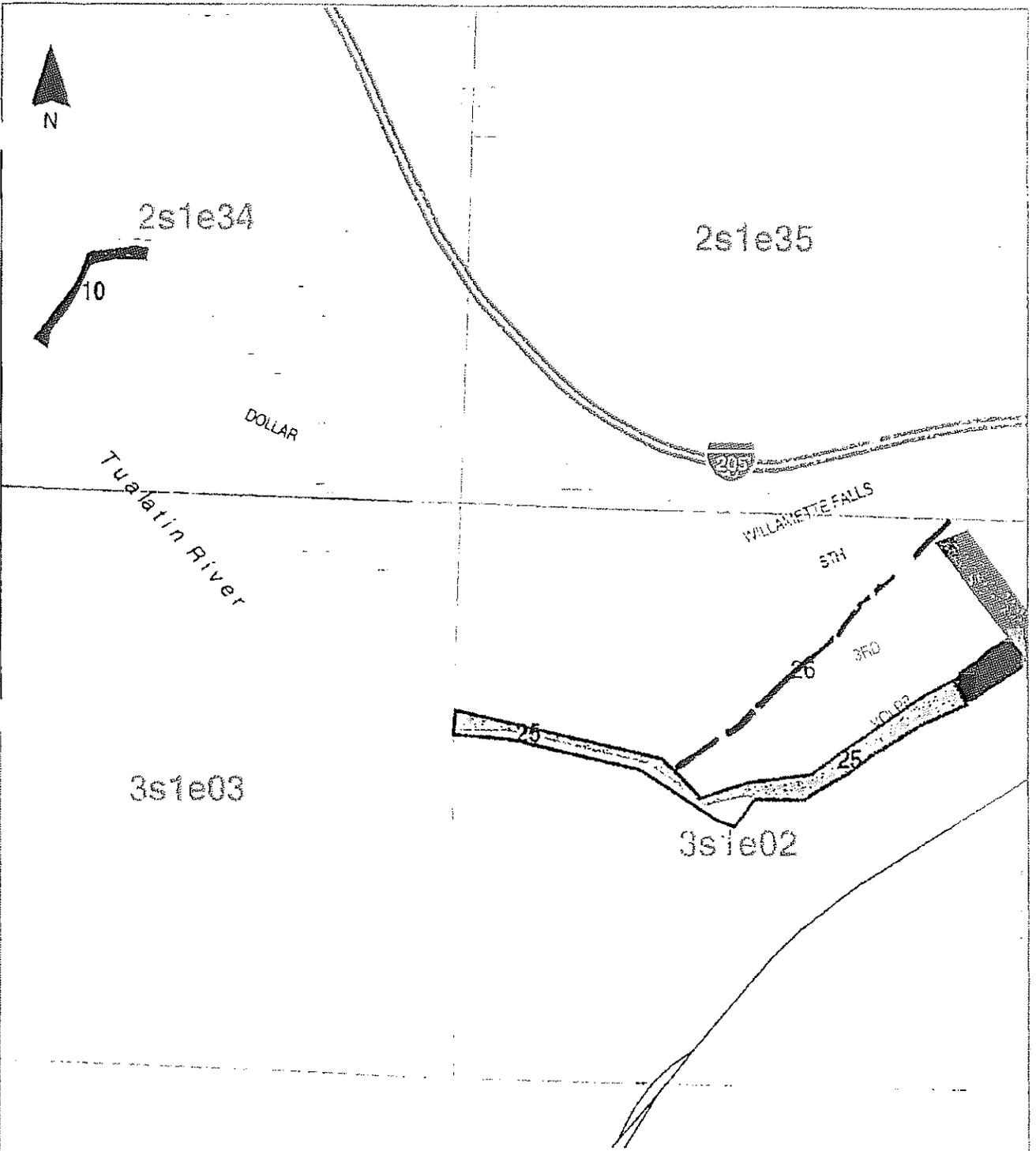
LESSEE: CITY OF WEST LINN

By:   
Title: City Manager

## EXHIBIT A

All that part of the Ambrose Fields and Ann Fields, his wife's Donation Land Claim No. 52 in Sections 2 and 3, Township 3 South, Range 1 East, of the Willamette Meridian, in the City of West Linn, County of Clackamas and State of Oregon, lying Easterly of the Easterly line of that property contained in Deed to Harvey and Mary Schroeder recorded September 22, 1977 as Fee No. 77-38490, and lying Westerly of the Westerly line of Parcel V of that property contained in Deed to West Linn Paper Properties Company, an Oregon Corporation recorded April 4, 1997 as Fee No. 97-024884, and lying between the Willamette and Tualatin Tracts as platted and on record in the office of the county recorder of Clackamas County, Oregon and the meander line of the North bank of the Willamette River and the center line of the Tualatin River. Said tract of land being more particularly described as follows:

Beginning at a point which is South 53° 45' West 306.9 feet distant from the Southeast corner of the said Ambrose Fields Donation Land Claim; thence North 39° West 200 feet to the Southeast corner of Tract No. 15 of the Willamette and Tualatin Tracts; thence along the Southeasterly side line and a continuation of said Southeasterly side line of Tract No. 15 South 54° 23' West 415 feet to a point; thence South 35° 7' East 203 feet to a point; thence South 53° 45' West 330 feet to a point; thence North 35° 7' West 208 feet to a point, said point being also the Southeast corner of Tract No. 16 of the Willamette and Tualatin Tracts; thence tracing the Southerly side line of Tracts 16, 19, 20 and 23 of the Willamette and Tualatin Tracts, South 54° 23' West a distance of 1576 feet to a point; thence tracing the Southerly side line of Tracts 23 and 24 of the Willamette and Tualatin Tracts, South 82° 21' West 587 feet to a point; thence South 72° 8' West across Twelfth Street and along the Southerly side line of Tract No. 35 of the Willamette and Tualatin Tracts, 459 feet to a point; thence North 45° 38' West along the Westerly side line of Tract No. 35 and across the right of way of the Portland General Electric Company's transmission line and along the Southwesterly side line of Tract No. 36 of the Willamette and Tualatin Tracts to a point in the county road, a distance of 459 feet; thence North 77° 25' West along the Southerly side line of Tracts 44, 45, 48, 50 and 51, all in the Willamette and Tualatin Tracts, a distance of the 2328 feet to a point; thence South 72° 35' West tracing the Southerly side line of Tracts 51 and 54 of the Willamette and Tualatin Tracts 315 feet to a point; thence North 51° 40' West tracing the Southeasterly side line of Tracts 54, 55 and 57 to a point in the Southwesterly side line of Tract No. 57 where the said Southwesterly side line of said tract intersects the line between the Jos. A. Fields and Ambrose Fields Donation Land Claims; thence West along the line between the Jos. A. Fields and Ambrose Fields Donation Land Claims to the center line of the Tualatin River; thence tracing the center line of the Tualatin River in a general Southeasterly direction to a point where the center line of the Tualatin River intersects the meander line of the North bank of the Willamette River; thence in a Northeasterly direction tracing the said meander line of the North bank of the Willamette River to the place of beginning.



PGE - City of West Linn  
 LEASED AREAS  
 Are Shown as  
 Section 25

Lease Amendment 2004

**Legend**

-  Map Section #
-  Project Boundary
-  100' Buffer Around PSE with 100' & E.P. Area
-  PSE Owned Parcels
-  Other Parcels with 100' E.P. Area