



October 18, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval for the renewal of the lease agreement HSCG89-18-1-0034 with the United States Coast Guard for a portion of property on Hog Island for Willamette River Light 14

Purpose/Outcomes	This agreement will allow Willamette River Light 14 to continue to provide Aid to Navigation (ATON) per Congressional appropriations.
Dollar Amount and Fiscal Impact	This is a no cost renewal agreement in support of the U.S. Coast Guard.
Funding Source	No General Fund resources are currently allocated to this program.
Duration	October 1, 2018 to September 30, 2019 with nine (9) consecutive renewals and a final expiration date of September 30, 2028.
Previous Board Action	November 20, 2008: Board of County Commissioners approved and signed a ten year lease with the U.S. Coast Guard to continue the use of a section of land on Hog Island for Willamette River Light 14 ATON. This prior lease agreement is expiring.
Strategic Plan Alignment	1. Management of Tax Foreclosed properties 2. Build public trust through good government.
Contact Person	Rick Gruen, Business & Community Services, Property Disposition Division Manager, 503-742-4345

BACKGROUND: Clackamas County's Department of Assessment and Taxation annually forecloses on tax-delinquent properties. The foreclosure process is a six year process – taxes must be delinquent for three years, then a two year judgment is filed and in the sixth year foreclosure occurs and the property is deeded to the county in lieu of uncollected taxes. Following the recording of the deed in the county's name, the management and disposition is then transferred to the Business & Community Services (BCS) Property Disposition Division. The BCS Property Disposition Division manages, administers, and disperses these tax foreclosed real property assets in a cost effective manner that will provide a county public benefit.

Hog Island is one of the tax foreclosed real property assets currently being managed the BCS Property Disposition Division. Approving the updated lease for the Willamette River Light 14 ATON at Hog Island will continue to offer a public benefit for navigation purposes along this section of the Willamette River.

County Counsel has reviewed and approved the attached updated lease agreement.

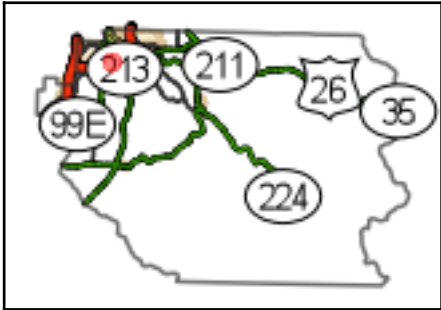
RECOMMENDATION: Staff respectfully recommends board approval for the renewal of lease agreement HSCG89-18-1-0034 between BCS - Property Disposition and the U. S. Coast Guard for the continued use of a portion of land on Hog Island for Willamette River Light 14 ATON.

Respectfully submitted,

Laura Zentner, Director
Business and Community Services

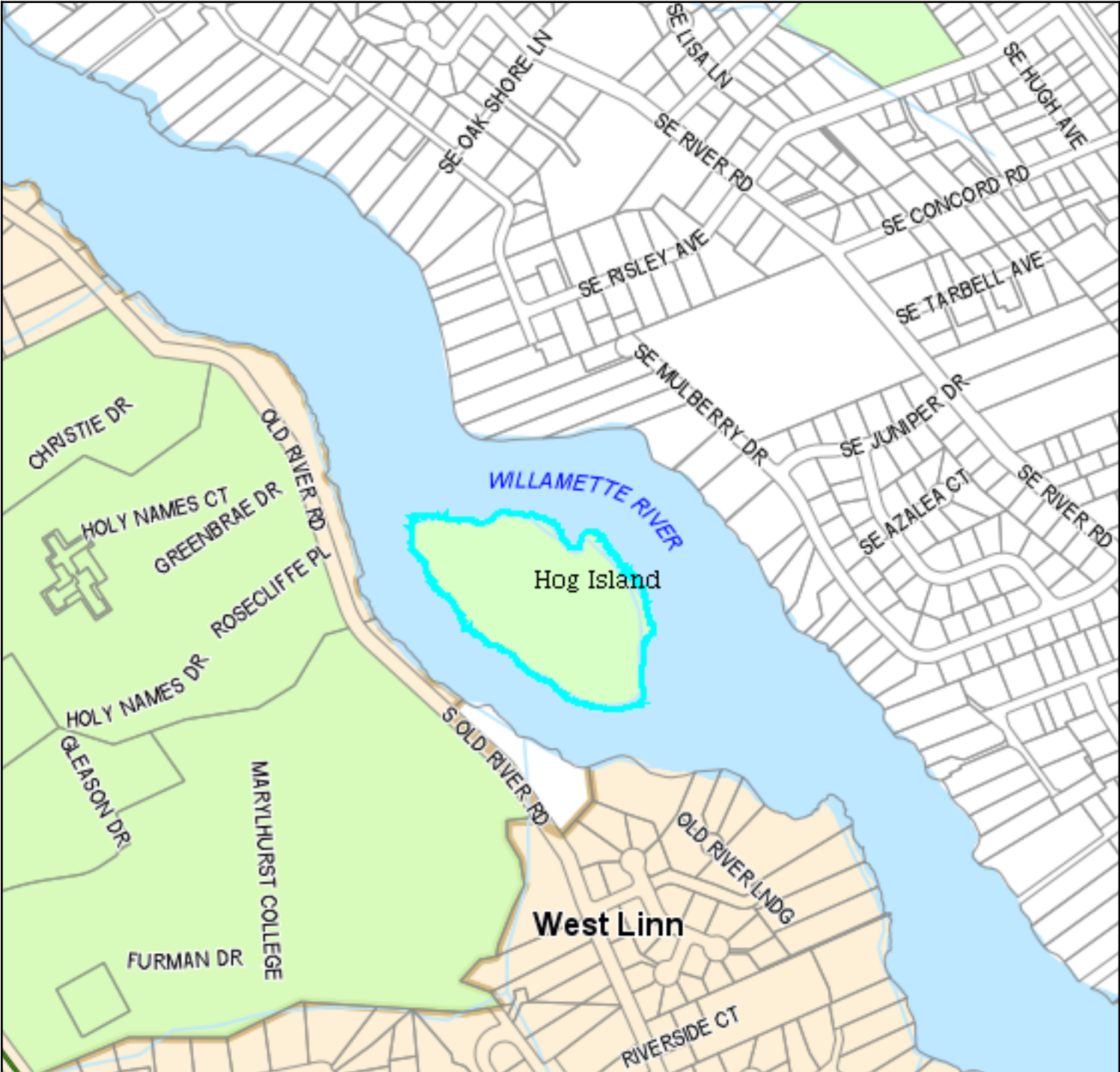
Clackamas County

Hog Island - USCG Lease



Geographic Information Systems
168 Warner Milne Road
Oregon City, OR 97045

This map and all other information have been compiled for preliminary and/or general purposes only. This information is not intended to be complete for purposes of determining land use restrictions, zoning, title, parcel size, or suitability of any property for a specific use. Users are cautioned to field verify all information before



U. S. GOVERNMENT LEASE FOR REAL PROPERTY

DATE OF LEASE 1 October 2018	LEASE NO. HSCG89-18-1-0034	RPUID 46933
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PURPOSE. Pursuant to specific Congressional appropriations and 14 U.S.C §92(f) , the statutory authority to acquire real property interests where required for the purpose of carrying out any project or purpose for which an appropriation has been made. The parties understand that the sole purpose of the Lease is to secure for the Coast Guard a site to operate an Aid to Navigation (ATON).

THEREFORE THIS LEASE, made and entered into this date by and between **Clackamas County**, whose address is **150 Beavercreek Road, Oregon City, Oregon 97045**, and whose interest in the property hereinafter described is that of owner (“Lessor”), and the **Commanding Officer, U.S. Coast Guard, Civil Engineering Unit – Oakland, Planning and Real Property Branch, 1301 Clay Street, Suite 700N, Oakland, California, 94612-5203**, on behalf of the **UNITED STATES OF AMERICA**, hereinafter called the (“Government”), pursuant to 14 U.S.C. §92(f), for the consideration hereinafter mentioned.

WITNESSETH: The parties hereto for the considerations hereinafter mentioned, covenant and agree as follows:

1. Lessor hereby leases to the Government the following described Premises:

A plot of land 25 feet by 25 feet located on the northwest corner of Hog Island at Mile 22 of Willamette River; more specifically located in Tax Lot 100, Section 14, Township 2 South, Range 1 East, Willamette Meridian, Clackmas County, Oregon (Latitude 45.402133 Longitude -122.644050).

2. To be used for: **OR WILLAMETTE RIVER LIGHT 14**

3. **TO HAVE AND TO HOLD** the said Premises with their appurtenances for the term beginning on October 1, 2018 through September 30, 2019 subject to termination, extension, and renewal rights as may be hereinafter set forth.

4. The Government shall pay the Lessor annual rent of **\$0.00 (no dollars and no cents)**.

5. The Government may terminate this Lease, at any time without cause and without cost, by giving at least thirty (30) days written notification to the Lessor and no rental shall accrue after the effective date of termination. Said notice shall be computed commencing with the day after the date of mailing.

6. This Lease may be extended at the option of the Government for nine (9) successive one (1) year option periods with the same conditions and payment formula listed in paragraph 4 above provided adequate funds are appropriated annually by Congress, provided notice is given in writing to the Lessor at least thirty (30) days before the end of the original lease term or any extension term; all other terms and conditions of this Lease shall remain the same during any extension. Said notice shall be computed commencing with the day after the date of mailing.

7. The Lessor shall furnish to the Government as part of the rental consideration the following:

a. The right of ingress and egress over the adjacent property of the Lessor for the Government, its contractors or other duly authorized representatives, necessary or convenient for the maintenance, repair operation and replacement of Government equipment located on its Leased Premises.

b. The right to maintain the range lines of sight for navigation free from all obstructions, including but not limited to, trees, vegetation and debris.

c. The Lessor shall notify the Government, in writing, within thirty (30) days of any transfer of ownership of the described Premises.

8. The Area Map labeled Exhibit “A” is attached and made a part hereof:

9. **SUCCESSORS BOUND:** The Lease shall bind, and inure to the benefit of the parties and their respective heirs, executors, administrators, successors, and assigns.

10. **SUBLETTING/ASSIGNMENT:** Government may not sublet or assign Premises without the prior written consent of the Lessor, which consent shall not be unreasonably withheld.

11. **ENVIRONMENTAL PROTECTION:** The Government is limited by Federal Law as to the assumption of liability for its acts or omissions. Within its legal limitations and appropriations, the Government agrees to the following: Government may not unlawfully pollute the air, ground or water, nor create a public nuisance. Government shall, at no cost to the Lessor, promptly comply with all applicable Federal, state, and local laws, regulations, and directives regulating the quality of the environment. This does not affect the Government's right to contest the validity of such laws, regulations or directives or to try to enjoin their applicability. Government shall use all required means to protect the environment and natural resources from any damage arising from Government's use of the facility and activities incident to its use. If any damage results to the environment or natural resources, Government shall restore the environment or damaged resources. Government agrees to comply with all applicable federal, state and local environmental laws and regulations, including, but not limited to, those laws concerning any petroleum products, toxic substances, medical wastes and hazardous materials, substances or wastes.

12. **ANTI-DEFICIENCY ACT (31 U.S.C. §1341 as amended):** Nothing in this Lease shall constitute an obligation of funds of the United States in advance of appropriation thereof.

13. **INDEMNIFICATION:** The Government, in the manner and to the extent provided by the Federal Tort Claims Act (28 U.S.C. §2671-2680) shall be liable for claims for damages or cost and expenses, including but not limited to fire damage, loss of property, personal injury or death caused by the acts or omissions of the Government, its officers, invitees, employees and agents in the use of the property.

14. **INSURANCE:** Government is a sovereign entity and as such is not required to provide Lessor with any certificate of insurance or notice of renewal, termination, cancellation, expiration or alteration of insurance policy.

15. **OWNERSHIP OF IMPROVEMENTS:** It is understood and agreed that any improvements added by the Government belong to the Government.

16. **EQUIPMENT INSTALLATION AND OPERATION.** The Government shall have the right during the term of this Lease to install, operate, maintain, repair, and replace upon the Premises, including but not limited to any other improvement presently existing or to be constructed upon the Premises, or related or ancillary to, the operation, performance, and maintenance of the equipment and infrastructure. Upon termination of this Lease, the Lessor shall permit the Government all reasonable access to the Premises for the purpose of removing or otherwise disposing of the equipment or any part thereof, and the Government shall conduct its removal of the equipment or any part thereof in a reasonable and safe manner and within a reasonable period of time, in accordance with all Federal, state, and local law.

17. **IMPROVEMENTS AND ALTERATIONS.** The Government shall have the right during the term of this Lease, as long as the prior written consent of Lessor is received by the Government, which consent shall not be unreasonably withheld or delayed by Lessor, to make improvements and alterations, erect structures, and attach fixtures and signs upon the Premises. Government acknowledges that Lessor's consent to the installation of any such improvements may be conditioned upon a reasonable increase in the Rental Amount payable by Government to Lessor pursuant to condition 4 of this Lease. If Lessor consents to the installation of such improvements, Lessor shall deliver to Government an amendment to this Lease and any other documents required to evidence such a modification. The Government shall have the right to tie into or make any physical connection with any structure located on the property as is reasonably necessary for appropriate utilization of the Premises. Any improvements, structures, fixtures or signs attached to or otherwise erected upon the Premises shall remain the property of the Government and may be removed or otherwise disposed of by the Government. Such disposition by the Government may include abandoning the improvement, structure, fixture, or sign in place. The Government shall be under no obligation to restore the Premises, or any part thereof, upon termination of this Lease.

18. **OFFICIALS NOT TO BENEFIT:** No member or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Lease or any benefit to arise there from, but this provision shall not be construed to extend to this

Lease if made with a corporation whose membership includes a member or delegate to Congress or Resident Commissioner who indirectly receives a general benefit from this Lease.

19. AMENDMENT OR MODIFICATION: No amendment or modification shall be valid unless evidenced by an agreement in writing signed by both parties.

20. GOVERNING LAW: The parties shall construe the Lease to be in accordance with and governed by the laws of the State of Oregon, insofar as those laws are consistent with applicable federal laws and regulations.

21. SEVERABILITY: If any term or provision of this Lease is held invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each term and provision hereof shall be valid and enforced to the fullest extent permitted by law.

22. PAYMENTS OF TAXES AND ASSESSMENTS: The Government is not responsible for or liable for the payment of any real property taxes, personal taxes or assessments levied or assessed upon or against the Leased Premises.

23. ENTIRE AGREEMENT: This Lease, with attachment(s), constitutes the only agreement between Lessor and Government. Any prior understanding or representation of any kind, which proceeded the date of this Lease, are not binding on either party, except to the extent the understandings are incorporated into this Lease.

24. MUTUAL AUTHORITY: Lessor and Government represent and warrant to each other that they have full right, power and authority to enter into this Lease without the consent or approval of any other entity or person and make these representations knowing that the other party will rely thereon. Furthermore, the signatories on behalf of Lessor and Government further represent and warrant that they have full right, power and authority to act for and on behalf of Lessor and Government in entering into this Lease.

25. LEASE ADMINISTRATION AND PAYMENTS:

a. The following office shall administer this Lease:

Commanding Officer
Civil Engineering Office Oakland (rp)
1301 Clay Street, Suite 700N
Oakland, CA 94612-5203

b. The following office processes lease payments:

US Coast Guard Finance Center
1430 Kristina Way
Chesapeake, VA 23326-1728

26. TAX IDENTIFICATION: Government regulations require a Lessor tax identification number (TIN/SSN). Lessor hereby certifies that the following TIN/SSN and telephone number are correct:

TIN/SSN: _____

Telephone Number: _____

DUNS: _____

Registered in SAM: _____ Yes _____ No

Date

Signature

27. PAYMENT BY ELECTRONIC FUNDS TRANSFER- SYSTEM FOR AWARD MANAGMENT:

a. Method of Payment:

1) All payments by the Government under this contract shall be made by electronic fund transfer (EFT), except as provided in paragraph “a.2)” of this clause. As used in this clause, the term “EFT” refers to the funds transfer and may also include the payment information transfer.

2) In the event the Government is unable to release one or more payments by EFT, the Lessor agrees to either accept payment by check or some other mutually agreeable method of payment or request the Government extend the payment due date until such time as the Government can make payment by EFT (see paragraph “d.” of this clause).

b. Lessor EFT information. The Government shall make payment to the Lessor using the EFT information contained in the System for Award Management (SAM) database. In the event that the EFT information changes, the Lessor shall be responsible for providing the updated information to the SAM database.

c. Mechanisms for EFT payment. The Government may make payments by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

d. Suspension of payment. If the Lessor EFT information in the SAM database is incorrect, then the Government need not make payment to the Lessor under this contract until correct EFT information is entered into the SAM database; and any invoice or contract financing request shall be deemed not to be proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

e. Lessor EFT arrangements. If the Lessor has identified multiple payment receiving points (i.e., more than one remittance address and/or EFT information set) in the SAM database, and the Lessor has not notified the Government of the payment receiving point applicable to this contract, the Government shall make payment to the first payment receiving point (EFT information set or remittance address is applicable) listed in the SAM database.

f. Liability for incomplete or erroneous transfer:

1) If an incomplete or erroneous transfer occurs because the Government used the Lessor’s EFT information incorrectly, the Government remains responsible for making a correct payment, paying any prompt payment penalty due and recovering any erroneously directed funds.

2) If any incomplete or erroneous transfer occurs because the Lessor’s EFT information was incorrect, or was revised within thirty (30) days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and if funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Lessor is responsible for recovery of an erroneously directed funds or if the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph “d” of this clause shall apply.

g. EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

h. EFT and assignment claims. If the Lessor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Lessor shall require as a condition of any such assignment, that the assignee shall register separately in the SAM database and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Lessor. EFT information that shows the ultimate recipient of the transfer to be other than the Lessor, in the absence of proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph “d” of this clause.

i. Liability for change to EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information made by the Lessor’s financial agent.

j. Payment information. The payment or disbursing office shall forward to the Lessor available payment information that is suitable for transmission as of the date of release of EFT instruction to the Federal Reserve System. The Government may request the Lessor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph “a” of this clause, the Government shall mail the payment information to the remittance address contained in the SAM database.

28. CLAUSES INCORPORATED BY REFERENCE. This Lease incorporates one or more clauses by reference with the same force and effect as if they were given in full text. The full text may be found in GSA Form 3517B (Rev. 6/2016), and the following clauses are incorporated by reference:

GSA Form 3517B

<u>Clause Number</u>	<u>48 CFR Reference</u>	<u>Clause Title</u>
3	552.270-23	SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN
4	552.270-24	STATEMENT OF LEASE
5	552.270-25	SUBSTITUTION OF TENANT AGENCY
6	552.270-26	NO WAIVER
8	552.270-28	MUTUALITY OF OBLIGATION
9	--	DELIVERY AND CONDITION
10	--	DEFAULT BY LESSOR
17	52.204-7	SYSTEM FOR AWARD MANAGEMENT
18	52.204-13	SYSTEM FOR AWARD MANAGEMENT MAINTENANCE
19	552.270-31	PROMPT PAYMENT
20	552.232-23	ASSIGNMENT OF CLAIMS
21		PAYMENT
24	552.270-32	COVENANT AGAINST CONTINGENT FEES
28	552.270-30	PRICE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY
30	552.270-13	PROPOSALS FOR ADJUSTMENT
31	--	CHANGES
34	52.233-1	DISPUTES
35	52.222-26	EQUAL OPPORTUNITY
36	52.222-21	PROHIBITION OF SEGREGATED FACILITIES
38	52.222-35	EQUAL OPPORTUNITY FOR VETERANS
39	52.222-36	EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES
40	52.222-37	EMPLOYMENT REPORTS ON VETERANS

29. This Lease supersedes Lease No. DTCG89-99-L-S-24-018.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

LESSOR	
SIGNATURE	SIGNATURE
NAME OF SIGNER	NAME OF SIGNER
IN PRESENCE OF	
SIGNATURE	SIGNATURE
NAME OF SIGNER	NAME OF SIGNER

UNITED STATES OF AMERICA

SIGNATURE

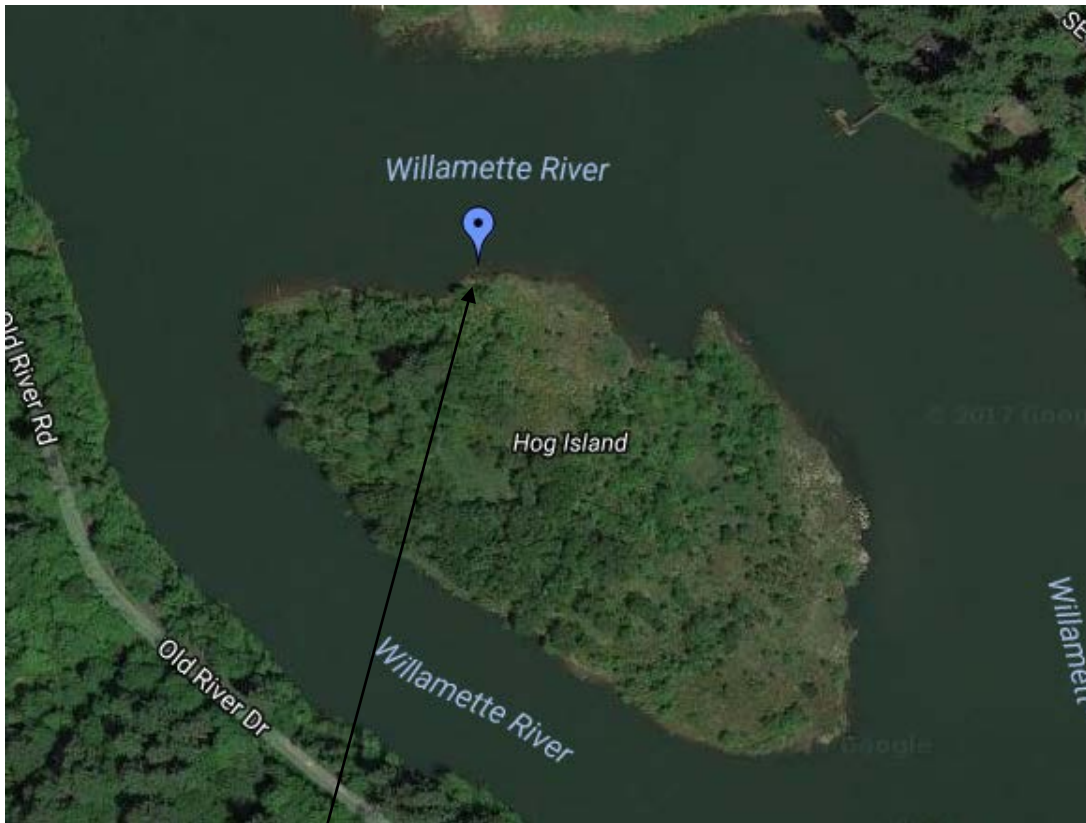
NAME OF SIGNER

David E. Brumley

OFFICIAL TITLE OF SIGNER

USCG Real Estate Contracting Officer
United States Coast Guard

EXHIBIT "A"



Willamette River Light 14