



FOSTER PEPPER

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May 26, 2015

**BY EMAIL AND U.S. MAIL**

Mr. Christopher Horne  
Chief Civil Deputy Prosecuting Attorney  
Clark County Prosecuting Attorney's Office  
1013 Franklin  
P. O. Box 5000  
Vancouver, WA 98666-5000

Re: Conflict Waiver - Solid Waste Interlocal Agreement

Dear Mr. Horne:

The City of Washougal ("City") has engaged Foster Pepper PLLC ("FP") to assist the City regarding the above-referenced matter. We also represent Clark County ("County") from time-to-time. Because of this potential conflict, it is necessary to confirm the waiver of conflict or potential conflict of interest that may arise from the City representation.

The requested waiver relates to our representation of the City. As you are aware, the Washington Rules of Professional Conduct prohibit an attorney, and all members of that attorney's firm, from representing a client in a matter which is adverse to the interests of another client of the firm. The conflict of interest arises because a lawyer has a duty of loyalty to every client, even if the lawyer is not representing the client in a particular matter. Since the City and the County are and have been clients of FP for a variety of legal services, the ongoing FP representation of both parties could present a conflict of interest.

The Rules of Professional Conduct allow clients to waive conflicts of interest when: (a) the lawyer reasonably believes the representation of the one client will not adversely affect the relationship with the other client, and (b) all clients consent in writing after consultation and full disclosure of the material facts. We have considered the conflict here and believe that the City may consider it appropriate to waive any potential conflicts arising out of our current representation of the County, and our relationship with the City.

The primary risk associated with waivers of conflicts of interest in circumstances like this is the risk of confidential information of one client being disclosed to the other client, to the disadvantage of the first client. We believe that risk will not be present for the County in these matters. The Office of Prosecuting Attorney represents the County with respect to most matters. There may be occasion that we would learn confidential County information that we may not disclose to the City. The County (and the City) will understand and agree that such a condition is not unusual in representation of governments and will not give rise to a conflict of interest. Or, if it does constitute a conflict, the parties waive such conflict.

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A second risk associated with a waiver of conflict of interest is the risk that lawyers will not zealously represent their client out of the fear of offending their other clients. The County is aware of our long-standing relationship with the County. We have responded when the County has requested assistance, as has been continuously demonstrated. We will continue to aggressively represent the County and to serve its interests fully and to the best of our abilities. We do not currently represent the County's solid waste utility, although we have done so in the past.

By signing this conflict waiver letter, the County agrees to waive any actual or potential conflict of interest that may be present now or in the future as a result of our ongoing representation of the City, and our ongoing relationship and representation of County. While there is no belief or expectation that disputes or litigation may arise from our representation of City, the County understands and agrees that FP may continue to represent the City, even should the City be adverse in any such dispute or litigation.

If the County wishes to waive the conflict of interest and recognize FP's representation of the City, as well as the representation of County, please execute a duplicate original of this letter and return to these offices. A duplicate original is enclosed for County files.

Very truly yours,

FOSTER PEPPER PLLC



P. Stephen DiJulio

Enclosures

CLARK COUNTY

By \_\_\_\_\_  
Its \_\_\_\_\_  
Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2015.