

PERSONAL SERVICES AGREEMENT

This PERSONAL SERVICES AGREEMENT (this "Agreement") is made and entered into by and between the **City of St. Helens** (the "City"), an Oregon municipal corporation, and **E2C Corp.** ("Contractor").

RECITALS

A. The City is in need of consulting services to produce and manage events, and Contractor is qualified and prepared to provide such services.

B. The purpose of this Agreement is to establish the services to be provided by Contractor and the compensation and terms for such services.

AGREEMENT

1. Engagement. The City hereby engages Contractor to provide services ("Services") related to Special Events Management, and Contractor accepts such engagement. The principal contact for Contractor shall be Tina Curry, phone (360) 241- 6456.

2. Scope of Work. The duties and responsibilities of Contractor, including a schedule of performance, shall be as described in Attachment A attached hereto and incorporated herein by reference.

3. Term. Subject to the termination provisions of Section 11 of this Agreement, this Agreement shall be retroactive to January 1, 2019 and renew automatically in one year increments unless terminated. Such extensions shall be in writing with terms acceptable to both parties.

4. Compensation. The terms of compensation for the initial term shall be as provided in Attachment C.

5. Payment.

5.1 The City agrees to pay Contractor for and in consideration of the faithful performance of the Services, and Contractor agrees to accept from the City as and for compensation for the faithful performance of the Services, the fees outlined in Attachment C, the fee shall include all local travel, telephone and computer expense, and routine document copying. Reimbursable expenses shall be approved by the City and shall be billed at cost without markup and shall include travel and related expenses in compliance with the City's travel and expense policy. Contractor's cost for approved sub-consultants may be marked up a maximum of five percent (5%) by Contractor for management and handling expenses.

5.2 Contractor shall make and keep reasonable records of work performed pursuant to this Agreement and shall provide monthly billings to the City. Following approval by the City Administrator, billings shall be paid in full within seven (7) days of receipt thereof. The City shall notify Contractor of any disputed amount given from receipt of the invoice, give reasons for the objection, and promptly pay the undisputed amount. Disputed amounts may be withheld without penalty or interest pending resolution of the dispute.

5.3 The City may suspend or withhold payments if Contractor fails to comply with requirements of this Agreement.

5.4 Contractor is engaged by the City as an independent contractor in accordance with the standards prescribed in ORS 670.600. Contractor shall not be entitled to any benefits that are provided by the City to City employees.

5.5 Any provision of this Agreement that is held by a court to create an obligation that violates the debt limitation provision of Article XI, Section 9 of the Oregon Constitution shall be void. The City's obligation to make payments under this Agreement is conditioned upon appropriation of funds pursuant to ORS 294.305 through 294.565.

6. Document Ownership. Upon acceptance of the Services and payment for such Services by the City, all work products, including, but not limited to, documents, drawings, papers, computer programs and photographs, performed or produced by Contractor for the benefit of the City under this Agreement shall become the property of the City. Any reuse or alteration of any work produced under this Agreement, except as contemplated herein, shall be at the City's sole risk.

7. Notices. All notices, bills and payments shall be made in writing and may be given by personal delivery or by mail or by email or other electronic means. Notices, bills and payments sent by mail should be addressed as follows:

CITY: City of St. Helens
Attn: City Administrator
PO Box 278
St. Helens OR 97051

CONTRACTOR: **E2C Corporation**
Attn: Tina Curry
2316 NE Minnehaha Street
Vancouver WA 98665

When so addressed, such notices, bills and payments shall be deemed given upon deposit in the United States mail, postage-prepaid, or received electronically.

8. Standard of Care. Contractor shall comply with applicable standards of professional care in the performance of the Services. Contractor shall prepare materials and deliverables in accordance with generally accepted standards of professional practice for the intended use of the project.

9. Consequential Damages. Neither party shall be liable to the other for consequential damages, including, without limitation, loss of use or loss of profits incurred by one another or their subsidiaries or successors, regardless of whether such damages are caused by either party's breach of contract, willful misconduct, negligent act or omission, or other wrongful act.

10. Insurance.

10.1 At all times during the term of this Agreement, Contractor shall carry, maintain and keep in full force and effect a policy or policies of insurance as specified in Attachment B attached hereto and incorporated herein by reference.

10.2 All insurance policies shall provide that the insurance coverage shall not be canceled or reduced by the insurance carrier without thirty (30) days' prior written notice to the City. Contractor agrees that it will not cancel or reduce said insurance coverage.

10.3 Contractor agrees that if it does not keep the aforesaid insurance in full force and effect, the City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, the City may take out the necessary insurance and pay, at Contractor's expense, the premium thereon. If the City procures such insurance, the City shall retain any cost incurred for same from moneys due Contractor hereunder.

10.4 At all times during the term of this Agreement, Contractor shall maintain on file with the City a Certificate of Insurance or a copy of actual policies acceptable to the City showing that the aforesaid policies are in effect in the required amounts. The policies shall contain an endorsement naming the City, its officers, employees and agents, as additional insureds (except for the professional liability and workers' compensation insurance).

10.5 The insurance provided by Contractor shall be primary to any coverage available to the City. The insurance policies (other than workers' compensation) shall include provisions for waiver of subrogation. Contractor shall be responsible for any deductible amounts outlined in such policies.

11. Termination. Either party may terminate this Agreement upon ninety (90) day written notice if one of the following occurs: (a) the contractor fails to substantially perform in accordance with the terms of this Agreement; City shall not pay contractor beyond date of termination, or (b) the City, in its sole discretion, decides to abandon the project.

12. No Third-Party Rights. This Agreement shall not create any rights in or inure to the benefit of any parties other than the City and Contractor.

13. Modification. Any modification of the provisions of this Agreement shall be set forth in writing and signed by the parties.

14. Waiver. A waiver by a party of any breach by the other shall not be deemed to be a waiver of any subsequent breach.

15. Indemnification. Contractor and the officers, employees, agents and subcontractors of Contractor are not agents of the City, as those terms are used in ORS 30.265. Contractor shall defend, indemnify and hold harmless the City and its officers, employees, elected officials, volunteers and agents from any and all claims for injury to any person or damage to property caused by the negligence or other wrongful acts, omissions, or willful misconduct of Contractor or officers, employees, agents, or subcontractors of Contractor. Contractor shall not be responsible for claims caused by the negligence or other wrongful acts or omissions of the City or the City's officers, employees, or agents.

16. Governing Laws. This Agreement shall be governed by the laws of the State of Oregon. Venue shall be in the Circuit Court for Columbia County, Oregon.

17. Compliance with Law.

17.1 Contractor shall comply with all applicable federal, state and local statutes, ordinances, administrative rules, regulations and other legal requirements in performance of this Agreement.

17.2 Contractor shall comply with applicable provisions of ORS 279B.020, 279B.220, 279B.225, 279B.230 and 279B.235. Pursuant to ORS 279B.235, any person employed by Contractor who performs Services shall be paid at least time and a half pay for all overtime in excess of forty (40) hours in any one (1) week, except for persons who are excluded or exempt from overtime pay under ORS 653.010 through 653.261 or under 29 USC Sections 201 through 209.

17.3 Contractor is a "subject employer," as defined in ORS 656.005, and shall comply with ORS 656.017.

17.4 Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, national origin, physical or mental disability, or disabled veteran or veteran status in violation of state or federal laws.

17.5 Contractor certifies that it currently has a City business license or will obtain one prior to delivering services under this Agreement. [Business License No. 04062]

18. Confidentiality. Contractor shall maintain the confidentiality, both external and internal, of that confidential information to which it is exposed by reason of this Agreement. Contractor warrants that its employees assigned to this Agreement shall maintain necessary confidentiality.

19. Publicity. Contractor shall not use any data, pictures, or other representations of the City in its external advertising, marketing programs, or other promotional efforts except with prior specific written authorization from the City.

20. Succession. This Agreement shall inure to the benefit of and shall be binding upon each of the parties hereto and such parties' partners, successors, executors, administrators and assigns.

21. Assignment. This Agreement shall not be assigned by Contractor without the express written consent of the City. Contractor shall not assign Contractor's interest in this Agreement or enter into subcontracts for any part of the Services without the prior written consent of the City.

22. Default.

22.1 A party will be in default under this Agreement if that party fails to comply with any provision of this Agreement within ten (10) days after the other party gives written notice specifying the breach. If the breach specified in the notice cannot be completely cured within the ten (10)-day period, a default will not occur if the party receiving the notice

diligently begins curative action within the ten (10)-day period and proceeds to cure the breach as soon as practicable.

22.2 Notwithstanding Subsection 22.1, the City may declare a default immediately by written notice to Contractor if Contractor intentionally or repeatedly breaches material provisions of this Agreement or if Contractor's breach of contract creates unreasonable risk of injury to any person or damage to property.

22.3 Should a dispute arise between the parties to this Agreement, it is agreed that such dispute will be submitted to a mediator prior to any litigation. The parties shall exercise good-faith efforts to select a mediator who shall be compensated equally by both parties. Mediation shall be conducted in St. Helens, Oregon, unless both parties agree in writing otherwise. Both parties agree to exercise good-faith efforts to resolve disputes covered by this section through the mediation process. If a party requests mediation and the other party fails to respond within ten (10) days, a mediator shall be appointed by the presiding judge of the Circuit Court of the State of Oregon for Columbia County upon request of either party. The parties shall have any rights at law or in equity with respect to any dispute not covered by this section. Nothing in this section shall preclude a party from seeking equitable relief to enjoin a violation of this Agreement.

22.4 If a default occurs, the party injured by the default may terminate this Agreement and enforce any remedies available under Oregon law. Litigation shall be conducted in the Circuit Court of the State of Oregon for Columbia County. Litigation initiated by the City must be authorized by the St. Helens City Council.

23. Attorney Fees. If legal action is commenced in connection with this Agreement, the prevailing party in such action shall be entitled to recover its reasonable attorney fees and costs incurred herein at trial and on appeal.

24. Inspection and Audit by the City.

24.1 Services provided by Contractor and Contractor's performance data, financial records, and other similar documents and records of Contractor that pertain, or may pertain, to the Services under this Agreement shall be open for inspection by the City or its agents at any reasonable time during business hours. Upon request, copies of records or documents shall be provided to the City free of charge.

24.2 The City shall have the right to inspect and audit Contractor's financial records pertaining to the Services under this Agreement at any time during the term of this Agreement or within two (2) years following the termination of this Agreement.

24.3 This Section 24 is not intended to limit the right of the City to make inspections or audits as provided by law or administrative rule.

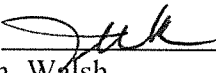
25. Entire Agreement. This Agreement contains the entire agreement between the parties and supersedes all prior written or oral discussions or agreements regarding the Services described herein.

26. Severance. If any provision of this Agreement is held to be invalid, it will not affect the validity of any other provision. This Agreement will be construed as if the invalid provision had never been included.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed in duplicate originals by its duly authorized undersigned agents, and Contractor has executed this Agreement on the date written below.


CITY:

CITY OF ST. HELENS
Council Meeting Date: March 6, 2019

Signature: 
Print: John Walsh
Title: City Administrator
Date: 3/7/2019

CONTRACTOR:

EdC Productions

Signature: 
Print: Tina Cannard
Title: Director
Date: March 12, 2019

APPROVED AS TO FORM:

By: 
City Attorney

ATTACHMENT A
Scope of Work

CITY OF ST. HELENS, OREGON

Special Event Coordination & Management

PROGRAM OBJECTIVE

The primary objective of the City's Tourism program is to draw people to the St. Helens Community for a positive visitor experience. The strategy proposed for achieving this goal is to continue producing meaningful events and activities that draw visitors, fill hotel rooms, support local merchants and improve community identity and livability. In order to ensure sustainability, the program costs are expected to be fully recovered through event revenues, sponsorships and the transient lodging fees collected. The Contractor shall work with the City to develop a sustainable program budget where anticipated revenues and expenses are considered for the forthcoming fiscal year.

EVENT DESCRIPTIONS

Over the past several years the City has concentrated tourism investments into four major event programs. These events include 13 Nights on the River, Fourth of July, The Spirit of Halloweentown, and the annual Christmas Tree Lighting ceremony. Contractor will also have the option to produce additional City authorized events to improve the program and ensure fiscal sustainability. These events include the following:

- **13 Nights on the River**
This popular 13 Nights of the River concert series has been a Thursday night favorite in Columbia View Park June through Labor Day.
- **Fourth of July**
The Fourth of July has been a long-standing tradition on the St. Helens waterfront. It is the City's continued desire to partner with a community services organization or major sponsor to ensure the Fourth of July celebration continues. The Contractor should expect to collaborate with community organizations in a effort to ensure a quality event while minimizing the impact on City's financial resources.
- **Spirit of Halloweentown** – This event has grown into a media sensation attracting tens of thousands of visitors to experience the magical place where Disney's Halloweentown was filmed in the late 1990's. The event has expanded from a modest community celebration into a month long program where the City transforms and embraces the Spirit of Halloweentown. Past activities have included celebrity visitors, character actors, music

performances, meet and greet events, tractor rides, parking management, vendor management, Fairy Festival, haunted tours and more.

- **Christmas Tree Lighting**

The Christmas Tree Lighting ceremony occurs the evening the Portland Christmas Ships visit in December. This event oversees the decorating and take down of the Court House Plaza, tree and activities the night of the event. Traditionally, the City provides the ship captain's dinner, Santa and Mrs. Claus visit, amplified or live music, free hot chocolate, warming barrels and in 2018 there was a tribute fireworks program.

- **Other Events**

The event contractor may opt to produce additional events and activities throughout the year to ensure program sustainability. Such additional events will be authorized by the City and without additional compensation.

SCOPE OF SERVICES

Event Coordination & Management

E2C Corporation will be responsible for coordinating City events from inception to completion. Duties will include, but are not limited to:

- Developing, managing and executing master event logistical plan and timeline for each gathering;
- Advertising, promoting and marketing events, including management of social media and event accounts (Discover Columbia County, Spirit of Halloweentown Facebook and others);
- Creating, managing and reconciling event budgets, expenses and timelines;
- Soliciting sponsorship for events;
- Creating and/or coordinating informational brochures for visitors to events;
- Administering and managing the events;
- Coordinating all aspects of the events;
- Recruiting musical talent when appropriate;
- Coordinating with appropriately licensed vendors and Columbia River Fire & Rescue;
- Organizing and coordinating event clean-up before, during and after event with the City of St. Helens Department of Public Works;
- Coordinating with other City departments, as necessary;
- Utilizing community volunteers for events whenever possible;

- Providing expertise and consult on various community run events, helping with planning and implementation, attending related community meetings;
- Ensuring deliverables are on time, on budget and meet City expectations;
- Assigning a community liaison;
- Reporting regularly to the City Council and staff.

E2C Corp. will ensure adequate event staffing and management services to ensure successful events from inception to completion. Services to include but not limited to event planning, set up, coordination, addressing questions and issues along with managing the event. Contractor shall ensure the event site is secured (for multi-day events) and the event area is cleaned and garbage is picked up and placed in an appropriate location; daily for multi-day events, and at the conclusion of daily or evening events. Contractor is expected to work closely with City staff throughout the contract period, with outgoing media information to be reviewed by the City's Communications Officer before release, to assure consistency with City policies. Unless otherwise agreed, event insurances will be procured by the City. In some instances, E2C Corp. may act as independent and official event producer which includes event insurance procurement paid and directed for and by E2C Corp.

**ATTACHMENT B
INSURANCE REQUIREMENTS**

Contractor and its subcontractors shall maintain insurance acceptable to the City in full force and effect throughout the term of this Contract.

It is agreed that any insurance maintained by the City shall apply in excess of, and not contribute toward, insurance provided by Contractor. The policy or policies of insurance maintained by Contractor and its subcontractors shall provide at least the following limits and coverage:

TYPE OF INSURANCE	LIMITS OF LIABILITY		REQUIRED FOR THIS CONTRACT
General Liability	Each occurrence	\$1,000,000	YES
	General Aggregate	\$2,000,000	
	Products/Comp Ops Aggregate	\$2,000,000	
	Personal and Advertising Injury	\$1,000,000	
Please indicate if Claims Made or Occurrence			
Automobile Liability	Combined Single – covering any vehicle used on City business	\$2,000,000	YES
Workers' Compensation	Per Oregon State Statutes		YES
	If workers compensation is not applicable please initial here _____. State the reason it is not applicable: _____		
Professional Liability	Per occurrence	\$500,000	YES
		or per contract	
	Annual Aggregate	\$500,000	
		or per contract	

Contractor's general liability and automobile liability insurance must be evidenced by certificates from the insurers. The policies shall name the City, its officers, agents and employees, as additional insureds and shall provide the City with a thirty (30)-day notice of cancellation.

Workers' compensation insurance must be evidenced by a certificate from the insurer. The certificate need not name the City as an additional insured, but must list the City as a certificate holder and provide a thirty (30)-day notice of cancellation to the City.

Certificates of Insurance shall be forwarded to:

City Administrator
City of St. Helens
P.O. Box 278
St. Helens, OR 97051

Contractor agrees to deposit with the City, at the time the executed Contract is returned, Certificates of Insurance and Binders of Insurance if the policy is new or has expired, sufficient to satisfy the City that the insurance provisions of this Contract have been complied with and to keep such insurance in effect and the certificates and/or binders thereof on deposit with the City during the entire term of this Contract. Such certificates and/or binders must be delivered prior to commencement of the Work.

The procuring of such required insurance shall not be construed to limit Contractor's liability hereunder. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury or loss caused by negligence or neglect connected with this Contract.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/13/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Liberty Mutual Insurance PO Box 188065 Fairfield, OH 45018	CONTACT NAME:	
	PHONE (A/C, No, Ext): 800-962-7132	FAX (A/C, No): 800-845-3666
E-MAIL ADDRESS: BusinessService@LibertyMutual.com		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A : Ohio Security Insurance Company		24082
INSURER B : Ohio Casualty Insurance Company		24074
INSURER C :		
INSURER D :		
INSURER E :		
INSURER F :		

COVERAGES CERTIFICATE NUMBER: 47515221 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	<input checked="" type="checkbox"/>		BKS57222550	3/18/2019	3/18/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY			BAS57222550	3/18/2019	3/18/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			USO57222550	3/18/2019	3/18/2020	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/>	N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Misc Professional Liability			BKS57222550	3/18/2019	3/18/2020	Per Act, Error, Omission \$500,000 Aggregate Limit \$500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City Administrator, City of St. Helens, its officers, agents, and employees are Additional Insured if required by written contract or written agreement subject to General Liability Blanket Additional Insured Provision.
 30 Day Notice of Cancellation *10 Day Notice of Cancellation for Cancellation for Non-Payment of Premium.

CERTIFICATE HOLDER City Administrator City of St. Helens PO Box 278 St. Helens OR 97051	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Christine Smith <i>Christine Smith</i>

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ATTACHMENT C
Terms of Compensation

Contractor shall be compensated One hundred twenty thousand dollars (\$120,000.00) per year paid in twelve equal monthly installments. Event related expenses incurred by the Contractor will be reimbursed in accordance with the program budgets established by the City and as otherwise approved by the City Administrator.

As a condition of acceptance, Contractor agrees to retain a community liaison, (preferably local) to assist with event coordination and management.