

Intergovernmental Agreement

This Intergovernmental Agreement (the "Agreement") is made on July 15th 2021, by and between St Helens Bay Watershed Council, of 57420 Old Portland Rd Ste 2, Warren, Oregon 97053 (hereinafter referred to as "SBWC") and City of St Helens, 265 Strand St, St Helens OR 97051 (hereinafter referred to as "COSH") for the purpose of achieving the various aims and objectives relating to the maintenance and improvement of natural areas on City owned property (the "Project").

WHEREAS, both parties are authorized to enter into this Intergovernmental Agreement for cooperative endeavor of City of St Helens Natural Area Maintenance and Improvement (Project).

WHEREAS, COSH and SBWC will participate in the Project as partners striving to achieve an improvement of natural areas in COSH Parks and Natural areas for the benefit of St Helens residents.

WHEREAS SBWC and COSH desire to enter into an agreement in which SBWC and COSH will work together to complete the Project;

AND WHEREAS SBWC and COSH are desirous to enter into an IGA between them, setting out the working arrangements that each of the partners agree are necessary to complete the Project;

UNDERSTANDING It is mutually agreed upon and understood by and among the Partners of this Agreement that:

- a. Each Partner will work together in a coordinated fashion for the fulfillment of the Project.
- b. In no way does this agreement restrict involved Partners from participating in similar agreements with other public or private agencies, organizations, and individuals.
- c. To the extent possible, each Partner will participate in the development of the Project.
- d. This Agreement is not intended to and does not create any right, benefit, or trust responsibility.
- e. This Agreement will be effective upon the signature of both Partners.
- f. Any Partner may terminate its participation in this Agreement by providing written notice to other Partner.

1. DESCRIPTION OF SERVICES. SBWC ("Provider") will provide to COSH ("Recipient") the services described below (collectively, the "Services") to achieve the mutual goal of maintenance and improvement of natural areas on COSH owned property as identified by the Director of Public Works and Coordinator of SBWC.

The Activities and Services for the Project shall include, but not limited to:

Services to be rendered by the SBWC:

- a. Site assessment and 5-year management plan development for McCormick Park and Godfrey Park.
- b. Spray Treatment Program development for city (policy, forms, process)
- c. Treatment training program development for City Staff and volunteers (how to spray, mechanical treatments, timing, etc).

- d. Deliver 8 hours of field training with staff and volunteers.
- e. Organizing four volunteer work days in the parks to complete tasks identified in the management plan.
- f. Identifying partner programs and funding opportunities to complete management plan tasks.

Services to be rendered by COSH include:

- g. Minimum of six meetings between Park Manager, City staff and SBWC staff to provide input on policy, training program, and management plan
- h. Staff availability to attend trainings
- i. Providing access to properties as needed.
- j. Disposal of vegetation and trash as needed.
- k. Lending tools and equipment for volunteer/community projects as needed.

2. COMMUNICATION STRATEGY

Marketing of the vision and any media or other public relations contact should always be consistent with the aims of the Project and only undertaken with the express agreement of both parties. Where it does not breach any confidentiality protocols, a spirit of open and transparent communication should be adhered to. Coordinated communications should be made with external organizations to elicit their support and further the aims of the Project.

3. PAYMENT. Total charged costs shall not exceed **_\$5000_**.

COSH agrees to pay SBWC as follows:

SBWC will submit quarterly invoices for services completed to COSH. Payment by COSH is expected within 30 days of receipt of invoice.

COSH shall pay all costs of collection, including without limitation, reasonable attorney fees. In addition to any other right or remedy provided by law, if COSH fails to pay for the Services when due, SBWC has the option to treat such failure to pay as a material breach of this Agreement, and may cancel this Agreement and/or seek legal remedies.

4. TERM. This Agreement will terminate automatically on **June 30, 2022** unless mutually agreed upon in writing by both partners. Agreement may be renewed for additional terms by written agreement by both parties of scope of work and budget for subsequent terms.

5. INDEMNIFICATION. Provider agrees to indemnify and hold Recipient harmless from all claims, losses, expenses, fees including attorney fees, costs, and judgments that may be asserted against Recipient that result from the acts or omissions of Provider and/or Provider's employees, agents, or representatives.

6. WARRANTY. Provider shall provide its services and meet its obligations under this Agreement in a timely and workmanlike manner, using knowledge and recommendations for performing the services which meet generally acceptable standards in Provider's community and region, and will provide a standard of care equal to, or superior to, care used by service providers similar to Provider on similar projects.

7. DEFAULT. The occurrence of any of the following shall constitute a material default under this Agreement:

- a. The failure to make a required payment when due.
- b. The insolvency or bankruptcy of either party.
- c. The subjection of any of either party's property to any levy, seizure, general assignment for the benefit of creditors, application or sale for or by any creditor or government agency.
- d. The failure to make available or deliver the Services in the time and manner provided for in this Agreement.

8. REMEDIES. In addition to any and all other rights a party may have available according to law, if a party defaults by failing to substantially perform any provision, term or condition of this Agreement (including without limitation the failure to make a monetary payment when due), the other party may terminate the Agreement by providing written notice to the defaulting party. This notice shall describe with sufficient detail the nature of the default. The party receiving such notice shall have 30 days from the effective date of such notice to cure the default(s). Unless waived in writing by a party providing notice, the failure to cure the default(s) within such time period shall result in the automatic termination of this Agreement.

9. DISPUTE RESOLUTION. The parties will attempt to resolve any dispute arising out of or relating to this Agreement through friendly negotiations amongst the parties. If the matter is not resolved by negotiation within 30 days, the parties will resolve the dispute using the below Alternative Dispute Resolution (ADR) procedure.

Any controversies or disputes arising out of or relating to this Agreement will be resolved by binding arbitration under the rules of the American Arbitration Association. The arbitrator's award will be final, and judgment may be entered upon it by any court having proper jurisdiction.

10. ATTORNEY'S FEES TO PREVAILING PARTY. In any action arising hereunder or any separate action pertaining to the validity of this Agreement, the prevailing party shall be awarded reasonable attorney's fees, both in the trial court and on appeal.

11. CONSTRUCTION AND INTERPRETATION. The rule requiring construction or interpretation against the drafter is waived. The document shall be deemed as if it were drafted by both parties in a mutual effort.

12. FORCE MAJEURE. If performance of this Agreement or any obligation under this Agreement is prevented, restricted, or interfered with by causes beyond either party's reasonable control ("Force Majeure"), and if the party unable to carry out its obligations gives the other party prompt written notice of such event, then the obligations of the party invoking this provision shall be suspended to the extent necessary by such event. The term Force Majeure shall include, without limitation, acts of God, fire, explosion, vandalism, storm or other similar occurrence, orders or acts of military or civil authority, or by national emergencies, insurrections, riots, or wars, or strikes, lock-outs, work stoppages or other labor disputes, or supplier failures. The excused party shall use reasonable efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased. An act or omission shall be deemed within the reasonable control

of a party if committed, omitted, or caused by such party, or its employees, officers, agents, or affiliates.

12. LIABILITY No liability will arise or be assumed between the Partners as a result of this Agreement.

13. NOTICE Any notice or communication required or permitted under this Agreement shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such other address as one party may have furnished to the other in writing.

14. GOVERNING LAW This Agreement shall be construed in accordance with the laws of the State of Oregon.

15. ASSIGNMENT Neither party may assign or transfer the responsibilities or agreement made herein without the prior written consent of the non-assigning party, which approval shall not be unreasonably withheld.

16. AMENDMENT This Agreement may be amended or supplemented in writing, if the writing is signed by the party obligated under this Agreement.

17. SEVERABILITY If any provision of this Agreement is found to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

18. PRIOR AGREEMENT SUPERSEDED This Agreement constitutes the entire Agreement between the parties relating to this subject matter and supersedes all prior or simultaneous representations, discussions, negotiations, and Agreements, whether written or oral.

Signatories

This Agreement shall be signed on behalf of Scappoose Bay Watershed Council by Dana Pricher, Coordinator, and on behalf of City of St Helens by Mouhamad Zaher. This Agreement shall be effective as of the date first written above.



Scappoose Bay Watershed Council
By Dana Pricher, Coordinator

City of St Helens
By Mouhamad Zaher, Public Works Director