

City of St. Helens
INDEPENDENT CONTRACTOR AGREEMENT

This INDEPENDENT CONTRACTOR AGREEMENT (this "Agreement") is made and entered into by and between the **City of St. Helens**, an Oregon municipal corporation (the "City"), and **Treadway Events & Entertainment LLC.**, an Oregon limited liability company ("Contractor"), collectively the "Parties" and each a "Party".

RECITALS

- A. The City is in need of services to produce and manage the events listed in Attachment A attached hereto and incorporated herein by reference (each an "Event" and collectively, the "Events").
- B. The City has determined Contractor to be qualified and capable of performing the services sought by the City.

NOW, THEREFORE, the Parties agree as follows:

AGREEMENT

- 1. Engagement.** The City hereby engages Contractor to provide services related to special events management, and Contractor accepts such engagement on the terms and conditions set forth herein.
- 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 (the "Services").
- 3. Term.** This Agreement shall become effective upon the full execution by the Parties (the "Effective Date") and shall terminate on December 31, 2025, unless sooner terminated or extended in accordance with the terms stated herein (the "Term"). The Term may be extended annually for up to three (3) years through December 31, 2028 by mutual written agreement of the Parties. Notice of intent to extend shall be provided by the City to Contractor in writing no later than 60 days prior to December 31st of each year. If an extension is not agreed to by the Parties in writing by January 31st, the City may solicit the Services in accordance with the City's public contracting code and the Oregon Public Contracting Code, or manage the Services internally.
- 4. Compensation.** The terms of compensation for the Contractor shall be as provided in Attachment C attached hereto and incorporated herein by reference.
- 5. Budgeting/Purchases on Behalf of City.** Contractor shall submit budget proposals for the Events by January 31st of each year. The City shall promptly review and request revisions or approve the budget proposals by March 1st of each year. Contractor shall perform

and complete the services set forth in Attachment A within the final budget agreed to by the Parties in writing ("Approved Budget").

5.1. Purchases on behalf of City equal to \$20,000, but less than \$50,000.

Any expense related to the purchase of any assets or equipment on behalf of the City in an amount equal to or greater than \$20,000 (Twenty thousand dollars), but less than \$50,000 (Fifty thousand dollars) shall require pre-approval from the City Administrator. Any expenditures made under this category without pre-approval will be the sole responsibility of Contractor.

5.2. Purchases equal to or greater than \$50,000. Any expense related to the purchase of any assets or equipment on behalf of the City in an amount equal to or greater than \$50,000 (Fifty thousand dollars) shall require pre-approval from the City Council, in accordance with the City's public contracting code. The Finance Director shall also be informed of the asset purchase price and description for auditing purposes. Any expenditures made under this category without pre-approval will be the sole responsibility of Contractor.

5.3. Process and Method. All expenditures in connection with the Events shall be made by Contractor using a credit/debit card issued to Contractor by the City or check issued by the City Finance Department from the Events Account (as defined below). No purchases or exchanges of services shall be made as a method or form of payment between parties. Contractor shall be responsible for assuring that all payables and disbursements actually incurred or paid by Contractor in connection with Contractor's rendering of Services are within the Approved Budget, which shall include, without limitation, payments to vendors and groups that assist tourism activities for payment, and all lease payments, utilities, and taxes relating to use of the Masonic Building ("Masonic Building Costs"), as well as all expenses relating to garbage and temporary facilities. Credit/debit card receipts shall be provided to the City Finance Department by the 5th day of the month for expenditures incurred during the prior month and Contractor shall include documentation indicating event / purpose of expenditure.

5.3.1 Masonic Building Costs. The Parties acknowledge that the owner of the Masonic Building requires the Masonic Building Costs be paid by the City (and not by Contractor) and that the City shall use Events Funds in the Events Account to pay such Masonic Building Costs. The City shall provide Contractor with estimates of Masonic Building Costs for Contractor's annual budgeting purposes and City shall provide Contractor with written itemized documentation of City's payments of Masonic Building Costs to the owner of the Masonic Building, within a reasonable amount of time after each such payment (or upon Contractor's written request for such documentation).

5.4. Contractor's Discretion. Provided Contractor receives approval as set forth in Sections 5.1 and 5.2 above, Contractor shall have discretion and control to utilize any assets or

equipment as Contractor deems appropriate or necessary to perform the Services. This Section 5 is not intended to interfere with Contractor's ability to purchase any assets or equipment on Contractor's own behalf for Contractor's business as Contractor deems appropriate or necessary to perform the Services.

6. Specific Event Planning. With the exception of a written plan and summary of the Spirit of Halloweentown Event, Contractor shall submit to the City Administrator, City Public Works Director, and City Police Chief a written plan and summary of each Event at least 60 days in advance of the start date for each such Event for their review. The Contractor shall submit to the City Administrator, City Public Works Director, and City Police Chief the written plan and summary of the Spirit of Halloweentown Event no later than 90 days in advance of the start date of the Spirit of Halloweentown Event (except with respect to the 2024 Spirit of Halloweentown Event, for which in which Contractor shall submit to the City Administrator, City Public Works Director, and City Police Chief the written plan and summary of the Spirit of Halloweentown Event as soon as possible after the Effective Date). The City has the right to request changes to the Event plan to ensure fiscal responsibility, safety and security, and assurances of proper set-up of equipment and staff time is allocated to create a successful event. The City may request additional information or additional resources be allocated to ensure the safety and security of an Event, which may include additional costs at the burden of the Events Account and overall program expenditures and the Approved Budget in connection with such Event shall automatically increase by an amount equal to such additional costs. City Administrator, City Public Works Director, and/or City Police Chief or their respective departments requesting changes or additional resources shall make their request in writing to the City Administrator and Contractor no less than 45 days prior to the start date of the applicable Event.

7. End of Event and End of Year Reporting Standards. The Contractor is required to produce a written report after each Event and submit the report to the City Administrator no later than 45 days after each Event. This report will be made available to the City Council at their request. The report shall include: (a) a summary of revenues and expenditures for the Event; (b) a summary of feedback from local business owners and community members; and (c) a summary of recommended improvements for the following year.

8. Revenue/Banking Services. City shall establish an account at a local bank branch (the "Events Account") to hold all monies generated by the Events ("Events Funds"). City shall take such necessary steps to provide Contractor with authorization to deposit Events Funds into the Events Account, as well as login-access such that Contractor can connect its accounting management software. Contractor shall initiate a deposit of all Events Funds generated and received by Contractor in connection with the Events, including but not limited to all cash payments, funds generated through the City's tourism websites and electronic transactions in any form, into the Events Account within three (3) business days of receipt of such Events Funds by Contractor. The Parties shall have joint access to the Events Account and receive

monthly account statements. The monthly account statements shall be reconciled by the City to ensure proper accounting. For purposes of this Agreement, Events Funds are defined as any and all gross revenue generated by any Events set forth in Attachment A, or any other Events for which Contractor is managing as mutually agreed upon by the Parties in writing. The City agrees to deposit all existing revenues from previous Events into the Events Account promptly after execution of the Agreement and establishment of the Events Account.

8.1. Electronic payments. Contractor shall use commercially reasonable good faith efforts to set up all electronic payments received in connection with the Events to be deposited directly into the Events Account. Contractor shall further use commercially reasonable good faith efforts to provide the City Administrator and City Finance Director with access to all electronic processing sites to confirm payments and processing reports. City acknowledges that Contractor shall engage a ticket sales service provider in connection with Event ticket sales.

9. Compliance. The City, at its discretion, may suspend or withhold payments in the event Contractor fails to materially comply with requirements in this Agreement after Contractor has been notified in writing of such non-compliance and has been given a reasonable opportunity to cure. 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. The City represents and warrants that: (a) to the best of its knowledge, in the exercise of reasonable prudence and due inquiry, no provision of this Agreement creates an obligation that violates the debt limitation provision of Article XI, Section 9 of the Oregon Constitution; and (b) funds to pay Contractor's compensation hereunder in connection with services rendered in current fiscal year have been appropriated in compliance with applicable law and City shall use good faith efforts to appropriate Contractor's compensation in compliance with applicable law for the remainder of the Term. City shall notify Contractor in writing immediately upon City's discovery or conclusion or likely conclusion that the City is unable to timely pay Contractor its compensation due to the debt limitation provision of Article XI, Section 9 of the Oregon Constitution or the City's the funds not being appropriated in accordance with applicable law.

10. Independent Contractor. 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 to City employees. Contractor is not an officer, employee, or agent of the State or Department as those terms are used in ORS 30.265 of the Oregon Tort Claims Act, and Contractor is not to be considered an officer, employee, or agent of the City for any purpose. Contractor certifies that it currently has a City business license or will obtain one prior to rendering Services under this Agreement.

All persons employed or engaged by Contractor and that may participate in the Contractor's performance of the Services ("Contractor Personnel") shall be considered Contractor's employees, subcontractors, agents, or principals and not principals, agents, or employees of the City. Contractor covenants and agrees not to hold itself out as an employee of the City and Contractor acknowledges that its employees have no right or entitlement in or to any right, privilege or benefit which would accrue to an employee of the City for any purposes, including, but not limited to, the application of the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Revenue and Taxation Code related to income tax withholding at the source of income, the Workers' Compensation Insurance Code, 401(k), and other benefit payments.

11. Location, Resources and Equipment. As an independent contractor providing Services to the City hereunder, Contractor will provide any resources it determines are needed to provide the Services. Contractor shall be responsible, at its own cost and expense, to furnish the necessary personnel, incidental services, equipment and facilities to perform the Services at its own office location, including without limitation its own computer, internet access, facsimile machines, photocopy machines, computers, printers and other equipment and facilities necessary to perform his responsibilities hereunder. Nothing in this Agreement shall be deemed a requirement that Contractor incur a cost or expense except as it chooses in its sole discretion. Notwithstanding the above, Contractor shall be permitted access to use of City facilities and equipment when at the City location as requested and approved by City, and only to the extent necessary to perform the Services.

Contractor shall be provided use of specific areas of City Hall during specified events and provide access to adequate storage facilities that contain City assets and tourism related materials. No official place of City business, desk, or office shall be used by Contractor during normal business hours. Contractor may use shared common space within City Hall (except at the front of City Hall) to conduct business during regular City hours of operation but shall not intentionally deter employees from needed meeting spaces. Contractor shall use commercially reasonable good faith efforts to ensure that citizens and patrons do not get the impression that Contractor Personnel are employees of the City and Contractor shall not assist customers of City Hall during normal City Hall hours of operation.

12. Hiring Employees. Contractor may select and hire individuals to assist Contractor in providing the Services as employees or independent contractors. Contractor shall comply with applicable federal, state, regional and local laws and regulations in performing the services and in any of its dealings with its employees, including, but not limited to, laws and regulations regarding workplace safety, immigration, payment of wages, child labor, discrimination, harassment, retaliation and protected leaves.

12.1. Contractor Personnel and Event volunteers will wear clothing that states "Event Staff" during all Events.

12.2. In the event Contractor utilizes City employees to perform work, Contractor agrees that Contractor shall reimburse City from the Events Account for the actual and verifiable use of such employees at rates agreed to in writing and in advance by the Parties. The City will provide a work force to place any assets that physically connect to a City or County structure. All work provided during normal business hours by City employees shall be tracked and billed monthly to Contractor for accounting purposes and to ensure transfer of funds. Contractor will pay for such bill with the funds in the Events Account. City employees may volunteer at Events (subject to Contractor's approval and policies, which may include requiring such volunteers to sign a release and assumption of risk agreement) after normal working hours and shall not be billed to or by the City for their time.

13. Ownership and Work Made for Hire. City currently owns several websites and social media accounts ("City Website and Social Media Channels") that Contractor may be given access to convey appropriate marketing for Events. Any ads or materials created by Contractor for public use shall become the property of the City and deemed "Event Materials" as defined below. Any reuse or alteration of Event Materials by the City shall be at City's sole risk. During the Term, the City hereby grants Contractor the right to use the name, intellectual property, signage, trade names, trademarks, trade dress, service marks, copyrights, slogans, verbiage and logos of City and/or the Events in and in connection with the Event and the marketing, advertising, promotion, and/or publicity thereof ("City Marks").

13.1. All materials produced for the City by Contractor or Contractor Personnel performing services covered by this Agreement ("Event Materials") shall be deemed "work made for hire" within the meaning of the U.S. Copyright Act, as amended. If any portion of the Event Materials is determined not to be a work made for hire, Contractor hereby sells, assigns, and transfers to the City all present and future right, title, and interest, including all copyrights and trademarks, so that all copyrights for the Event Materials will immediately and automatically be the sole and absolute property of the City. Contractor shall, at the expense of City, execute any instruments (after Contractor has a reasonable opportunity to review and comment thereon) and do all other acts reasonably requested by City that are consistent herewith (both during and after the Term) to vest more fully in City all ownership rights in the Event Materials. Notwithstanding the foregoing or anything to the contrary contained in this Agreement, Contractor will retain ownership and possession of, and will not be required to deliver, license or grant any rights to City, in or to any of Contractor-owned mechanical or electronic devices, source or object code or application software (including, without limitation, computer code, data or files), computer graphic models, processes, know how, methods, procedures, research and development, technologies or proprietary materials and generic or stock elements not provided by City, which are used as tools to create the Event Materials and/or are tools developed in connection with Contractor's services hereunder (collectively, "Contractor Material"). Contractor owns the Contractor Material, as well as all intellectual property rights related to the Contractor Material (and any subsequent modification thereto or enhancement thereof), including but not limited to, any copyrights, trademarks, trade secrets

or patents in connection therewith and the same are expressly excluded from, and will not be deemed to be, the Event Materials. Contractor hereby grants to City a perpetual, irrevocable and non-exclusive license to use the Contractor Material solely as incorporated in the Event Materials solely for City's promotion of Events and for the City's internal and reporting purposes. Except to the extent required to exercise its rights in and to the Event Materials in accordance with this Agreement, City shall not permit any other person or entity to access or use the Contractor Material licensed hereunder.

13.2. By January 31st of each year, Contractor shall submit to the City Administrator a summary of all Events produced during the prior year. Such summary shall include all relevant documentation, paperwork, and backup materials for the previous years' Events to ensure a continuity of tourism operations should the current contractor not be selected to provide services in the new year.

14. Notices. All notices or other communications required or permitted hereunder shall be in writing, and shall be considered as properly given if (a) mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, (b) by delivering same in person to the intended addressee, (c) by delivery to an independent third party commercial delivery service for same day or next day delivery and providing for evidence of receipt at the office of the intended addressee, or (d) by electronic mail at the electronic mail address commonly used by the recipient in the conduct of communications between the Parties. Notice sent pursuant to clause (a) shall be effective three (3) business days after its deposit with the United States Postal Service; notice sent pursuant to clause (b) shall be effective upon receipt by the intended recipient; notice sent pursuant to clause (c) shall be effective upon the date delivered by such a commercial delivery service; and notice given by email delivery pursuant to clause (d) shall be effective upon being sent by the sender. Notices sent by mail or email shall be addressed as follows:

City: City of St. Helens
Attention: City Administrator
265 Strand Street
St. Helens, OR 97051
[Email: jwalsh@sthelensoregon.gov](mailto:jwalsh@sthelensoregon.gov)

Contractor: Treadway Events & Entertainment LLC.
Attention: Brandon Treadway
465 NE 181st. Avenue, #58
Portland, Oregon 97230
[Email: brandon@treadwayevents.com](mailto:brandon@treadwayevents.com)

Any Party may designate a different address by giving notice to the other Party delivered in accordance with the provisions of this paragraph.

15. Standard of Care. Contractor shall perform the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality.

16. Consequential Damages. Neither Party shall be liable to the other for consequential, indirect, special or punitive 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.

17. Insurance. 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.

17.1. There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew coverage without thirty (30) days' prior written notice to the City.

17.2. 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.

17.3. 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). Renewal certificates shall be sent to the City at least ten (10) days prior to coverage expiration.

17.4. 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.

18. Workers' Compensation. Contractor shall carry workers' compensation insurance as and to the extent required by law and shall provide the City with appropriate proof of such insurance reflecting the required coverage prior to commencement of any Services. Contractor assumes full responsibility for any liability and exposure under law relating to workers' compensation because of Contractor's performance of Services under this Agreement and will hold the City harmless for and from any industrial accident or liability that is attributable to

Contractor, except to the extent caused by the negligence or willful misconduct of the City or the City's officers, employees, elected or appointed officials, third party contractors, volunteers, or agents ("City Personnel").

19. Termination. At any time and without cause, the City or Contractor shall have the right in their sole discretion to terminate this Agreement by giving 90 days written notice to the other Party. If City terminates this Agreement pursuant to this section, the City shall pay Contractor compensation and applicable Net Revenue (as defined in Attachment C) earned and accrued for services rendered to the date of termination, including Contractor's and subcontractors' reasonable costs actually incurred in closing out the Agreement. In no instance shall Contractor be entitled to overhead or profit on work not performed.

20. No Third-Party Rights. This Agreement shall not create any rights in or inure to the benefit of any parties, whether directly, indirectly, or otherwise, other than City and Contractor or their partners, successors, executors, administrators, and assigns as provided in Section 28 of the Agreement.

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

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

23. Representations and Warranties. City represents and warrants that: (a) City has the full right, power and authority to enter into this Agreement and to grant Contractor all rights provided by this Agreement; (b) the consent of no other person or entity is required to enable Contractor to use the City Marks or City Website and Social Media Channels as described in this Agreement or as otherwise permitted by City in writing; (c) Contractor's use of the City Marks or any other materials the City provides Contractor for use in connection with the Events will not defame, infringe upon or violate the rights of, any third parties; (d) the Event locations and any and all facilities the City makes available for the Events and/or Contractor's use in connection with the Services are maintained in compliance with all federal, state and local laws, rules, regulations, codes and ordinances, are free of latent defects or illegal conditions of which City is or should be aware except those of which City has notified Contractor; (e) City will maintain the Event locations and any and all facilities the City makes available for the Events and/or Contractor's use in connection with the Services in useable condition for all uses contemplated hereunder; (f) if the City is not the legal owner of any Event locations or facilities the City makes available for the Events and/or Contractor's use in connection with the Services, the City has secured from the legal owner the right and authority for Contractor to utilize such locations and facilities as provided hereunder; (g) the City has the right to grant Contractor the use of any equipment that the City makes available for Contractor's use in connection with the Events and the Services ("City Equipment") and such City Equipment is in good repair and

working order having passed all necessary inspection and licensing requirements and in full compliance with all applicable laws, rules and regulations as of the date of Contractor's use; (h) the City Equipment is free of latent defects or illegal conditions of which the City is or should be aware; (i) that the boat/watercraft/maritime vessel ("Vessel") used in connection with Events is in first-class operating and seaworthy condition and capable of performing the intended use(s) of transporting people and equipment; (j) the City shall, if necessary, disclose to any insurer the use of the Vessel in connection with Events; (k) if the City is not the legal owner of the Vessel, the City has secured from the legal owner the right and authority for Contractor to obtain and maintain insurance for use of the Vessel in connection with the Events as expressly set forth in this Agreement; (l) the Vessel has been maintained by City (or the Vessel's owner if the City is not the owner) in compliance with all applicable federal, state and local laws, rules regulations, codes and ordinances, including, without limitation, all Coast Guard, environmental, and health and safety laws, rules, regulations, codes and ordinances, as well as all manufacturers' specifications; and (m) the City shall timely render all required decisions and approvals so as not to frustrate Contractor's ability to render Services. Contractor shall not be held responsible or liable for any resulting delay in providing Services or otherwise due to City's breach of this Section 23.

24. Indemnification. Contractor shall defend, indemnify and hold harmless the City and City Personnel from any and all liability, causes of action (by third parties), third party claims, losses, damages, judgments or other costs or expenses including reasonable outside attorneys' fees ("Claims") that arise from the negligent or willful misconduct of Contractor or officers, employees, agents, or subcontractors of Contractor, except to the extent that the Claims arise out of the negligence or willful misconduct of the City or City Personnel. To the extent allowed by the Oregon Constitution and the Oregon Tort Claims Act, City shall defend, indemnify and hold harmless the Contractor and Contractor Personnel from and against any and all Claims that arise from the City's breach of this Agreement and/or the negligent or willful misconduct of City or City Personnel, except to the extent that the Claims are covered by Contractor's indemnification obligation hereinabove.

24. 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.

25. Compliance with Law.

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

25.2. 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.

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

25.4. Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations and shall also comply with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

25.5. Contractor certifies compliance with all applicable Oregon tax laws, in accordance with ORS 305.385, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318.

26. Confidentiality. Contractor understands the nature of the Services means the Contractor may be privy to information that is identified to Contractor as confidential or proprietary and shall not be disclosed to any third person or entity either during the term of this Agreement or after its termination, except as follows: (a) as authorized by City in writing, (b) as required by law or court order, or (c) to Contractor's representatives and advisors who require the information in order to advise Contractor in accordance with the Agreement.

27. 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 (which shall not be unreasonably withheld, conditioned or delayed).

28. 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.

29. Assignment. This Agreement shall not be assigned by either Party without the express written consent of the other Party. Contractor shall not assign Contractor's interest in this Agreement without the prior written consent of the City.

30. Dispute Resolution. 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.

31. Force Majeure. Neither City nor Contractor shall be considered in default because of any delays in completion and responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the Parties so disabled, including, but not restricted to, an act of God or of a public enemy, civil unrest, volcano, earthquake, fire, flood, epidemic, pandemic, quarantine restriction, area-wide strike, freight embargo, unusually severe weather, inability to secure sufficient power, essential commodities, necessary equipment, adequate transportation or transmission facilities, any applicable law, or insufficient funds due to no fault of Contractor, or delay of subcontractor or supplies due to such cause; provided that the Parties so disabled shall within ten (10) days from the beginning of such delay, notify the other Party in writing of the cause of delay and its probable extent. Such notification shall not be the basis for a claim of additional compensation. Each Party shall, however, make good faith reasonable efforts to remove or eliminate such a cause of delay and shall, upon cessation of the cause, diligently pursue performance of its obligation under this Agreement.

32. 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 outside attorney fees and costs incurred herein at trial and on appeal.

33. Inspection and Audit by the City. Services provided by Contractor and Contractor's performance data, financial records, and other similar documents and records of Contractor that 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 public documents shall be provided to the City free of charge that do not conflict with any third party or contractor that requires nondisclosures to obtain engagement. The Events Account is considered part of the financial records for purposes of this section.

33.1. The City shall have the right to inspect and audit financial records pertaining to the services under this agreement at any time during the term of this agreement or within three (3) years following the termination or expiration of this Agreement.

34. 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. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and which taken together shall constitute one and the same instrument. Scanned and electronic signatures provided hereto will be deemed original for all purposes hereunder.

35. Severability. 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.

36. Headings. The descriptive headings of the several sections of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

[Signature Page to Independent Contractor Agreement Follows]

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

City of St. Helens Council Meeting Date of Approval:

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Contractor:

Treadway Events & Entertainment LLC.

By: _____

Printed Name: Brandon Treadway

Title: Sole Member

Date: _____

[Signature Page to Independent Contractor Agreement]

ATTACHMENT A

City of St. Helens, Oregon Special Event Coordination and Management Services Scope of Work

TOURISM 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. To ensure sustainability, the program costs are expected to be fully recovered through event revenues and sponsorships. It is the expectation of the Contractor to generate all revenue to cover the event expenses including lease of the Masonic Building and utilities. Only the Compensation will be paid by the City to the Contractor utilizing funds appropriated and accounted for in the Events Account (i.e., funds the City deposits into the Events Account and/or Events Funds in the Events Account). It is the further expectation that the City will not withdrawal funds from the Events Account except to pay the Masonic Building Costs and to pay Contractor the Compensation and Incentive Compensation.

EVENT DESCRIPTIONS

1. 13 Nights on the River

This popular 13 Nights on the River concert series has been a Thursday night favorite in the Columbia View Park from June through Labor Day. The event entails live music and other entertainment along with food and other vendors to attract citizens and visitors to our community.

2. Fourth of July

The Independence Day celebration has been a long-standing tradition on the waterfront. Contractor should anticipate working collaboratively with community organizations to ensure a quality and cost-effective event.

3. Spirit of Halloweentown

This event has grown into an international event attracting tens of thousands of visitors to experience the magical place where Halloweentown was filmed in 1998. 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 visits, character actors, music, performances, meet and greet events, tractor rides, parking management, vendor management, city tours, haunted houses, a

gift shop, and much more. The event provides the opportunity for community organizations and nonprofits to generate revenue to support community programs throughout the year while supporting local business and covering the expenses of operating the event.

4. Christmas Tree Lighting

The Christmas Tree lighting ceremony occurs annually on the evening the Portland Christmas Ships visit in December. This event oversees the decorating and take down of the Court House Plaza decorations including the Christmas Tree lighting and activities the night of the event. Traditionally, the City Public Works employees will assist in the tree installation and decorations. The City provides the ship captains' dinner, Santa and Mrs. Claus visit, amplified or live holiday music, free hot chocolate, and warming barrels along the waterfront.

5. Other events

Contractor and City may opt to produce additional events and activities throughout the year to ensure program sustainability (which shall be agreed to in writing signed by the Parties). Such additional events must be authorized by the City Administrator and City Council. These additional events should be produced with no additional cost burden to the City. No additional compensation is provided to Contractor for additional events, however additional revenue and sponsorships may increase the revenue sharing portion of the contract at the end of the year that is paid to Contractor.

SCOPE OF SERVICES

Contractor will be responsible for all coordinating and managing City Events from inception to completion. Contractor's services may include the following:

- Advertising, promoting, and marketing Events.
- Manage the City's social media and event accounts.
- Create, manage, and reconcile event budgets, revenues, and expenditures.
- Solicit sponsorships for Events.
- Create and coordinate informal brochures for visitors.
- Provide adequate Event staffing and management services. For the sake of clarity, except for Contractor's on-site event staff manager(s)/coordinator(s), expenses for all other paid event staff (e.g., security, parking attendants, trash management, gift shop clerks, concierges, setup and strike labor, production labor, ticket sales personnel, etc.) shall be included in the applicable budget(s) for the Events.
- Recruit musical talent.
- Coordinator vendors.
- Ensure clean-up during and after each Event without burdening City staff.
- Coordinate with City and County departments to ensure good communication and event logistical support.

- Utilize, manage, and coordinate community volunteers.
- Ensure deliverables are on time, on budget and meet City expectations.
- Report/Update verbally and in writing, as requested, to the City Administrator on Events.
- Submit written final reports to the City Administrator timely and accurately as outlined in the Agreement.

ATTACHMENT B

City of St. Helens, Oregon Special Event Coordination and Management Services 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 towards, insurance provided by the Contractor. The policy or policies of insurance maintained by Contractor and its subcontractors shall provide at least the following limits and coverage:

- General Liability Insurance:
 - Each Occurrence: \$1,000,000
 - General Aggregate: \$2,000,000
- Automobile liability insurance:
 - Combined Single Limit: \$2,000,000
- Workers' Compensation insurance per Oregon state statutes.

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 the City Administrator. Contractor agrees to deposit with the City, promptly after both Parties sign the Agreement, 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 Agreement 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 Term. Such certificates and/or binders must be delivered prior to commencement of the Services. 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 to the extent caused by Contractor's and/or Contractor's employees', contractors', or agents' negligence or neglect connected with this Agreement.

ATTACHMENT C

City of St. Helens, Oregon Special Event Coordination and Management Services Terms of Compensation

City agrees to pay Contractor \$191,600 (One Hundred Ninety One Thousand Six Hundred Dollars) per year ("Compensation"), paid in equal monthly installments for and in consideration of the faithful performance of the Services. Any reimbursable approved expenses shall be billed to the City at cost without markup. The monthly installment shall be billed to the City through an invoice to the City's Finance Department for payment after approved signature from the City Administrator (which signature shall not be unreasonably withheld, conditioned, or delayed), but in any event within 30 days after the City's Finance Department receives the invoice. At the end of each calendar year, the City will review revenue and expenditures within the Events Account for all Events, and the City will determine the Net Revenue of the Events for the calendar year ("Event Year End Accounting"). This Event Year End Accounting shall be completed within 60 days after the end of the calendar year. Within 15 days after completion of the Event Year End Accounting, the City will provide Contractor with a full written report of the Event Year End Accounting and pay Contractor an amount equal to the Incentive Compensation (as defined below). To encourage growth and advancement of the tourism program in St. Helens, Contractor shall be entitled to an incentive payment in an amount equal to the aggregate of five percent (5%) of the Net Revenue of each Event in a calendar year ("Incentive Compensation"). For the purpose of this Agreement, "Net Revenue" shall be defined as the total amount of money received for an Event from ticket sales, sponsorship sales, museum admissions, boat ride ticket sales, parking fees, Event vendor sales (by way of example only, sales from vendors who sell artisan items, concessions, alcohol, carnival rides, etc.), photo-op purchases, tour sales, merchandise sales, and gift shop sales, less any refunded tickets sales, refunded sponsorship monies, all Event-related expenses paid by Contractor to third parties using funds in the Events Account, Masonic Building Costs, and the Compensation allocated for the Event in the Approved Budget for the Event. "Net Revenue" shall not include any monies deposited into the Events Account by the City.