



RESOLUTION 2011-023

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH CLEAN WATER SERVICES (CWS) FOR THE STELLA OLSEN STAGE VIEW CORRIDOR

WHEREAS, ORS 190.003-190.110 encourages intergovernmental cooperation and authorizes local government agencies to delegate to each other authority to perform their respective functions as necessary; and

WHEREAS, Sherwood has requested that CWS help to establish a view corridor to the stage in Stella Olsen Park; and

WHEREAS, CWS requests permission to conduct enhancement activities on City properties within Stella Olsen Park along Cedar Creek; and

WHEREAS, CWS and Sherwood collaborate on projects that enhance riparian and flood plain ecological functions and values in an effort to improve water quality in the Tualatin Basin.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. The City Manager is authorized to enter into and sign the Intergovernmental Agreement for a Stella Olsen Park Stage View Corridor, attached as Exhibit A.

Section 2. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 15th day of March 2011.


Keith S. Mays, Mayor

Attest:


Sylvia Murphy, CMC, City Recorder

**INTERGOVERNMENTAL AGREEMENT
STELLA OLSEN PARK STAGE VIEW CORRIDOR**

**CLEAN WATER SERVICES AND
THE CITY OF SHERWOOD**

This Agreement, dated _____, 2011, is between **CLEAN WATER SERVICES** (District) and **THE CITY OF SHERWOOD**, (City).

A. RECITALS

ORS 190.003 - 190.110 encourages intergovernmental cooperation and authorizes local governments to delegate to each other authority to perform their respective functions as necessary; and

District and City collaborate on projects that enhance riparian and floodplain ecological functions and values, in an effort to improve water quality in the Tualatin Basin; and

District has requested permission to conduct enhancement activities on City properties within Stella Olsen Park along Cedar Creek in Sherwood, Oregon (Project); and

City has requested that District help to establish a view corridor to the stage in Stella Olsen park,

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

B. PROJECT DESCRIPTION

The Project will be a collaboration between City and District to replace tall trees that were planted in the view corridor identified in Exhibit C attached hereto and incorporated herein (View Corridor) with smaller shrubs selected by the parties from the list contained in Exhibit B attached hereto and incorporated herein.

District's Project Manager is Randy Lawrence and the City's Project Manager is John Schwer.

C. DISTRICT OBLIGATIONS

District will manage the Project by coordinating the following activities:

1. Secure all permits associated with enhancement activities.
2. Hire contractors to conduct planting and maintenance through June 31, 2015.
3. Plant native plant communities in the View Corridor area, described in Exhibit C.
4. Fund enhancement activities as necessary to promote a successful Project.
5. Monitor site conditions for plant survival and maintenance needs through June 31, 2015.

D. CITY OBLIGATIONS

City will assist District with the Project by coordinating the following activities:

1. Coordinate Project activities with District's Project Manager.
2. Prune and remove trees pursuant to Exhibit A.
3. Coordinate pruning activities with District per the schedule contained in Exhibit A.
4. Use approved methods to remove trees including stump treatment with herbicide when necessary.
5. Prune shrubs in the View Corridor to no less than eight feet tall from ground level.

E. COMPENSATION

There shall be no exchange of funds between City and District for this Project. District has an approved budget for the implementation of the Project through 2015.

F. GENERAL TERMS

1. Laws and Regulations. City and District agree to abide by all applicable laws and regulations.
2. Term of this Agreement. This Agreement is effective from the date of execution by both parties and shall remain in effect until the Project is complete and the parties obligations have been fully performed.
3. Indemnification. Within the limits of the Oregon Tort Claims Act, codified at ORS 30.260 through 30.300, each of the parties shall indemnify and defend the other and their officers, employees, agents, and representatives from and against all claims, demands, penalties, and causes of action of any kind or character relating to or arising from this Agreement (including the cost of defense thereof, including attorney fees) in favor of any person on account of personal injury, death, damage to property, or violation of law, which arises out of, or results from, the negligent or other legally culpable acts or omissions of the indemnitor, its employees, agents, contractors or representatives.
4. Integration. This document constitutes the entire agreement between the parties on the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings, representations or communications of every kind on the subject. No course of dealing between the parties and no usage of trade shall be relevant to supplement any term used in this Agreement. Acceptance or acquiescence in a course of performance rendered under this Agreement shall not be relevant to determine the meaning of this Agreement and no waiver by a party

of any right under this Agreement shall prejudice the waiving party's exercise of the right in the future.

5. Termination. This Agreement may be terminated immediately by mutual written agreement of both parties, or by either of the parties notifying the other in writing, with the termination being effective in 30 days.
6. Resolution of Disputes. If any dispute out of this Agreement cannot be resolved by the project managers from each party, the City Manager and District's General Manager will attempt to resolve the issue. If the City Manager and District's General Manager are not able to resolve the dispute, the parties will submit the matter to mediation, each party paying its own costs and sharing equally in common costs. In the event the dispute is not resolved in mediation, the parties will submit the matter to arbitration. The decision of the arbitrator shall be final, binding and conclusive upon the parties and subject to appeal only as otherwise provided in Oregon law.
7. Interpretation of Agreement.
 - A. This Agreement shall not be construed for or against any party by reason of the authorship or alleged authorship of any provision.
 - B. The paragraph headings contained in this Agreement are for ease of reference only and shall not be used in constructing or interpreting this Agreement.
8. Severability/Survival. If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired. All provisions concerning the limitation of liability, indemnity and conflicts of interest shall survive the termination of this Agreement for any cause.
9. Approval Required. This Agreement and all amendments, modifications or waivers of any portion thereof shall not be effective until approved by 1) District's General Manager or the General Manager's designee and, when required by applicable District rules, District's Board of Directors and 2) City.
10. Choice of Law/Venue. This Agreement and all rights, obligations and disputes arising out of the Agreement shall be governed by Oregon law. All disputes and litigation arising out of this Agreement shall be decided by the state courts in Oregon. Venue for all disputes and litigation shall be in Washington County, Oregon.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the day and year first written above.

CLEAN WATER SERVICES

CITY OF SHERWOOD

By: _____
General Manager or Designee

By: _____
City Manager

APPROVED AS TO FORM


District Counsel

Exhibit A
Stella Olsen View Corridor Maintenance Schedule

1. Summer – Fall 2010
 - a. City will prune certain trees (*Fraxinus latifolia*, *Salix scouleriana*, *Salix lassinadra*, and *Cornus serecia*) (collectively, Problem Trees) and/or shrubs located in the View Corridor that block the view of the stage to no less than eight feet tall. City shall only trim Problem Trees in the View Corridor as shown in Exhibit C.
 - b. City and District will agree on a planting plan.
2. Winter 2010/2011
 - a. City will engage in additional pruning to open up areas to plant. The District representative will work with City to define the proper opening size.
 - b. District will under-plant the area with shrubs including but not limited to the following:
 - i. *Spirea douglasii*
 - ii. *Physocarpus capitatus*
 - iii. *Lonicera involuncrata*
 - iv. *Symphoricarpos albus*
 - v. *Rosa pisocarpa*
 - vi. *Rubus spectabilis*
 - vii. *Philadelphus lewisii*

The plants are further described in Exhibit B attached hereto and incorporated herein.
3. Spring-Summer-Fall 2011
 - a. District will engage in normal Project maintenance including mowing and herbicide ring and broadleaf spraying.
 - b. City will continue to keep the Problem Trees pruned to acceptable heights.
4. Winter 2011/2012
 - a. City and District will consult about opening up more planting area.
 - b. District will interplant open spots with shrubs identified in section 2b.
5. Spring-Summer 2012
 - a. District will engage in normal maintenance activities.
6. Fall 2012
 - a. City will begin removal of the Problem Trees. City and District will consult on removal. City will remove no more than one-half of the Problem Trees present at this time.
7. Winter 2012/2013
 - a. District will interplant open areas with shrubs identified in section 2b.
8. Spring-Summer-Fall 2013
 - a. District will engage in normal maintenance activities.
 - b. City will remove one-half of remaining Problem Trees with the rest to be removed the following year.

9. Winter 2013 - Ongoing

- a. District will continue with planting, maintenance, and monitoring as determined to be required by District.**
- b. City will finish removing the Problem Trees in fall 2014.**
- c. City will prune all vegetation in the View Corridor as necessary to maintain a height of no less than eight feet.**

Exhibit B

Plant Specifications (OSU Department of Horticulture)

Physocarpus capitatus Rosaceae

Western Ninebark, Pacific Ninebark

- Deciduous shrub, to 5-20 ft (1.5-6 m) tall, less width, open, straggly, angled branches, bark exfoliating in long irregular strips. Leaves alternate, simple, 3-10 cm long, palmately 3-5 lobed and veined, lobes pointed, margins doubly serrated, glabrous and somewhat shiny above, stellate-pubescent below; petioles 2-4 cm long. Flowers in late spring, small, 5 white petals, about 30 stamens, 3-5 pistils, in dense, hemispherical clusters (corymbs). Fruit small, inflated follicle, reddish to brown, about 6 mm long.
- Sun to shade, best in acid soil, requires some watering. Propagates easily from cuttings.
- Hardy to USDA Zone 5 Native to from British Columbia south to central California and east to western Montana. Common along stream banks, lake margins, swampy areas and in moist woods.

Philadelphus lewisii Hydrangeaceae (Philadelphaceae)

Wild Mockorange, Lewis Mockorange

- Deciduous shrub, 5-10 ft (1.5-3 m), many stemmed, broadly arching. Leaves opposite, simple, broadly ovate to broadly elliptic, 2-9 cm long, entire to serrate-dentate (i.e., spreading, pointed teeth). Flowers white, 4(5)-petals, yellow anthers, 4 cm across, 3-11 per cluster, fragrant. Fruit a 4-cell capsule.
- Sun to part shade, understory plant, thrives in almost any garden soil, prune after flowering.
- Hardy to USDA Zone 4 Native range from British Columbia to northern California, to Montana and central Idaho, to 7,000 ft elevation in the Cascades. It was introduced into Britain by David Douglas in 1825.
- The State Flower of Idaho.
- There are several available selections of *P. lewisii*. One named 'Blizzard' (Blizzard Mockorange) was selected from a seedling population in Beaverlodge, Alberta, Canada, and introduced by the Morden Research Station, Morden, Manitoba in 1994. The name 'Blizzard' emphasizes the greater hardiness of the plant (hardy to USDA Zone 2B or 3) and the profuse production of larger flowers compared to the species. The flowers are fragrant and single with 4 petals, but may occasionally produce 5 or 6 petals.

Rubus spectabilis Rosaceae

Salmonberry

- Deciduous shrub, erect, 3-10 ft (0.6-3 m) tall, may form large, dense thickets, sparingly branched, shreddy bark, and few prickles, although young stems may be very prickly. Biennial stems, the first year only leaves and axillary buds are produced, buds in the second year develop into lateral shoots which bear the flowers/fruit. Leaves alternate, compound, 2.5-7.5 cm long, usually 3 leaflets (rarely 5) which are more or less lobed and irregularly toothed, shiny dark green and smooth to wrinkled above, paler and pubescent along the veins below, petiole and midvein often with prickles. Flowers red or rose colored, usually borne singly but may be in clusters of 2-4, may appear before or with unfolding and expanding leaves. Fruit an aggregate of drupelets, 1.5- 2 cm long, salmon colored to red or reddish purple. Some say the fruit taste is insipid whereas other find it excellent, the opinions may well be caused by genetic differences in the plants sampled (but also in the samplers?), most agree the berries are somewhat mushy.
- Sun or shade. A wet-site shrub, often found along streams and wet logged areas.
- Hardy to USDA Zone 5 Native range is from Alaska along the Pacific Coast and southward mostly west of the Cascades in Washington and Oregon to northwestern California, and extends as far east as Idaho. A "double flowered" sport reportedly found in Sooke, British Columbia is now available from Fraser's Thimble Farms Nursery on Salt Spring Island, B.C., and possibly from other nurseries in the Pacific Northwest.

***Symphoricarpos albus* Caprifoliaceae**

Common Snowberry

- Deciduous shrub, 1.5-7 ft (0.5-2 m), broad, rounded, suckers. Leaves, simple, opposite, undulated-lobed margin. Small pink-white flowers, pea-sized, but variable; white fruit (turns to a brown mush late), persists into winter.
- Sun to part shade. Prune to ground in early spring and fertilize to produce luxuriant growth and large masses of berries. "Not a first-rank shrub, but useful in its tolerance of poor soil, urban air. Withstands neglect (Sunset)."
- Hardy to USDA Zone 3 Widely distributed across North America.

***Spiraea douglasii* Rosaceae**

Douglas Spirea, Western Spirea, Hardhack

- Deciduous shrub, erect, 3-7 ft (1-2 m), compact, freely suckering, branches slender and brown. Leaves alternate, simple, oblong, 4-10 x 1-2.5 cm, base entire, irregular serrate or toothed above the middle, dark green glabrous above, whitish beneath. Flowers deep pink, crowded in fragrant clusters (panicles) 5-30 cm long, pyramidal to oblong, appearing powdery from the minute projecting stamens.
- Sun. Does well in wet areas. Retains brown seed heads.

- Hardy to USDA Zone 5 Native range from Oregon to Alaska, found in marsh borders, stream banks, and wet meadows, sometimes found in drier situations.

Lonicera involucrata

Caprifoliaceae

Twinberry, Black Twinberry, Inkberry

- Broadleaf deciduous shrub, 18 inches to 13 ft (0.5-4 m) tall, spreading, erect. Leaves simple, opposite, 3-14 cm long, oblong, ovate or rarely obovate, often asymmetrical at base or tapering to the petioles, generally pubescent below and ciliate on the margins. Flowers yellow and tinged with red, about 13 mm long, in pairs, sessile, between broad, pubescent bracts which eventually become reddish. Fruit paired, dark purple or black berries, about 5 mm wide.
- Sun to partial shade. Does well in wet or moist situations, but adapts to drier sites.
- Hardy to USDA Zone 4 Native range from Alaska to the southwest, eastward to the Lake States and Quebec. Hitchcock and Cronquist (1973) recognize two forms in the Pacific Northwest, with *L. i. var. involucrata* in the mountains and *L. i. var. ledebourii* coastal.

***Rosa pisocarpa* (King County Native Plant Guide)**

Deciduous Shrub

Height: 6 ft.

Availability: Low

Growing ease: High

Moisture req.: moist - wet

Exposure req.: sun - shade

Plant description:

Although called swamp rose, this rose can live in moist non-wetland areas as well. It has red attractive fruits that persist in the winter. The flowers and fruit tend to be clustered. Pink blooms and this rose can form thickets.

Exhibit C

