


**CITY OF MARYSVILLE AGENDA BILL**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: September 23, 2019**

<b>AGENDA ITEM:</b>	
Landowner Agreement w/ Snohomish Conservation District for Stream Restoration at Jennings	
<b>PREPARED BY:</b>	<b>DIRECTOR APPROVAL:</b>
Jessie Balbiani, Surface Water Specialist	
<b>DEPARTMENT:</b>	
Public Works	
<b>ATTACHMENTS:</b>	
Two (2) original copies of the Landowner Agreement	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>
N/A	N/A
<b>SUMMARY:</b>	
<p>The attached Landowner Agreement with Snohomish Conservation District grants access to Jennings Park to continue restoration efforts along Allen Creek. The work performed by Snohomish Conservation District under this Agreement will include removing invasive species and planting approximately 5 acres of additional native riparian forest along 850 linear feet of Allen Creek. The objective of this work is to reduce stream water temperature, establish a natural buffer to pollutants, provide habitat for native fauna, and stabilize eroding stream banks.</p> <p>The Snohomish Conservation District has been working on the Allen Creek Stream Corridor Project since November of 2018. Phase I of the project was previously approved by Council and completed summer of 2019. The work outlined in this Agreement represents Phase II of the same project.</p> <p>The Jennings Park Allen Creek Stream Corridor Project represents an opportunity for restoration grant funding due to the open areas available for buffer plantings and the fact that these areas are owned by the City. This Landowner Agreement capitalizes on this opportunity and will allow the Snohomish Conservation District to perform approximately \$240,846 of Department of Ecology grant funded stream restoration work at Jennings Park at no cost to the City of Marysville. Snohomish Conservation District will be contributing \$80,282 of an in-kind match for this project consisting of plants, staff time, etc.</p>	

<b>RECOMMENDED ACTION:</b>
Staff recommends that Council authorize the Mayor to sign the attached Landowner Agreement with the Snohomish Conservation District.

# Landowner Agreement

## For Projects Funded by the Washington Department of Ecology, Water Quality Financial Assistance

This Agreement, dated and effective beginning the date of last signature, is made and entered into by and between the Landowner and Recipient identified herein. The parties intend that all terms of this Agreement shall remain in effect for a period of ten years from the date of project completion, and the agreement shall be binding on all successors in interest during this time. The date of project completion is the date of final payment to the project sponsor (here Recipient). It is the responsibility of the Recipient to inform the landowner of this date.

Landowner Name (Landowner): City of Marysville  
Street Address: 80 Columbia Ave  
City, State, Zip Code: Marysville, WA, 98270

Water Quality Combined Funding Program Project Sponsor (Recipient):

Recipient Name: Snohomish Conservation District  
Street Address: 528 91<sup>st</sup> Ave NE  
City, State, Zip Code: Lake Stevens, WA, 98258

### Purpose of Landowner Agreement

The purpose of this Agreement is to identify and confirm the terms, conditions and obligations agreed upon between the Recipient, who is undertaking a project (Project) funded by the Washington Department of Ecology (Ecology), and the Landowner, who owns the property on which the Project will take place.

The Recipient and Landowner mutually agree to participate in conducting the water quality improvement activities described below on lands owned by Landowner in Snohomish River Watershed (Water Resource Inventory Area), Snohomish County, State of Washington, Tax Parcel No. 30052800405700, 30052800406000, and 30052700303700. The activities also are described in, and in accordance with Ecology's Project Agreement No. WQC-2020-SnohCD-00153 into which this agreement, once signed by both parties, becomes incorporated herein.

This Landowner Agreement must be fully signed by Recipient and Landowner before implementation of the project begins, to be eligible for reimbursement by Ecology.

### **The Recipient Agrees to:**

1. Be responsible for the design and installation of the project, and the conduct and activities of its staff, agents, and representatives.
2. Provide the Landowner with a timeline of estimated dates of Project activities, including start and completion dates, and to keep the Landowner informed of progress.
3. Conduct the project-related activities described in the Project Description, as appended to this agreement.
4. Leave all remaining portions of the property in as near pre-project condition as reasonable, or as otherwise agreed upon in writing with Landowner.
5. Inform Landowner of project completion and the dates for this Agreement.
6. Hold harmless the landowner from any liability associated from injuries or damages occurring to workers implementing the project.
7. Identify the specific maintenance and/or monitoring activities that will be provided by Recipient in Attachment A (include frequency and duration).

### **The Landowner Agrees to:**

1. Provide reasonable property access to the Recipient to plan, implement, and complete the project, and to conduct the long-term maintenance and monitoring activities, as described in the Project Description attached to this agreement.
2. Provide the Recipient and Ecology, or their employees, agents, representatives, contractors, or assignees, the right to enter the land, at reasonable times, and upon reasonable notice. Entry is solely for project implementation and management purposes, to inspect completed work, and to monitor long-term success of the completed project. Except in case of emergency, reasonable notice shall be given at least 48 hours before entry.
3. Not intentionally compromise the integrity of the project.
4. Inform Recipient of all known safety hazards on the property.
5. Identify the specific maintenance and/or monitoring activities that will be provided by Landowner in Attachment A (Include frequency and duration).

Landowner has no obligation to provide access to parties other than the Recipient or Ecology, or their employees, agents, representatives, contractors, or assignees. For the purposes of viewing the Project for information or educational purposes, Landowner and Recipient must mutually agree before such third-party access is offered.

## General Terms

The Landowner shall notify the Recipient of changes in ownership of the property on which the Project is located within thirty (30) days of transfer. In the event of such transfer of ownership, the Landowner shall provide a copy of this Agreement to the succeeding owner prior to such transfer. The Landowner's written notification to the Recipient will include the name of the new landowner. The sponsor then will contact the new landowner to determine whether or not the landowner agrees to continue the landowner's specific maintenance, monitoring, and reporting responsibilities as described in Attachment A (if applicable), and to not intentionally compromise the integrity of the project. If the new landowner agrees, please provide a copy of the new landowner-signed statement to continue the landowner's monitoring, maintenance, and reporting responsibilities as described in Attachment A.

To comply with Executive Order 05-05, Archaeological and Cultural Resources, Recipients may have to complete a cultural resources survey in response to any cultural resources concerns that might arise. Recipients will notify the landowner if a consultation is required. If required, consultations must be completed before construction begins.

This agreement may be terminated by the Recipient, if in its discretion, it determines that circumstances have rendered the Purpose of this agreement impractical to achieve. Termination also may be sought by either party by providing written notice to the other party. Such termination shall be effective only after authorized representatives of both parties have agreed in writing to such termination and Ecology has been provided a thirty (30) day advance written notice of such termination. If, in the event the project is intentionally removed, destroyed, or otherwise compromised in function, or if successor Landowners do not agree to the terms of this Agreement, Ecology reserves the right to seek remedy which requires the project sponsor to provide a new restoration site to serve as replacement.

This Agreement does not authorize the Recipient or Ecology to assume jurisdiction over, or any ownership interest in, the premises. The Landowner retains sole responsibility for taxes, assessments, damage claims, and controlling trespass. The Landowner also retains all benefits and enjoyment of the rights of ownership except as are specifically provided in this agreement.



## Attachment A: Project Description and Maintenance Responsibilities

1. Written description of the project-related activities that will occur on Landowner's Property (consistent with project cost elements) and the anticipated water quality benefits: (Include restoration/enhancement activities and any long-term maintenance needs and effectiveness monitoring activities that will occur in future years.)

Riparian Forest Buffer (NRCS Practice 391) – A minimum of 5 acres will be planted along 850 feet of Allen Creek. Buffers will be planted to a minimum of 100 feet in width. Plantings will consist of live cuttings, bare root, and container stock. Plantings will be completed using shovels and other hand tools, along with small power equipment (i.e. gas powered augers).

Riparian planting will achieve water quality improvements and restore habitat processes. Numerous studies have documented that riparian planting and riparian forest buffers reduce stream temperatures through shading, improved groundwater recharge and summer baseflows, improves channel migration and increases in-stream complexity. Cooler streams hold higher levels of dissolved oxygen. For fecal coliform and other pollutants, including contaminated sediment, riparian buffers act as a filter to adjacent land-use, slowing water, infiltrating it, breaking down pollutants, and adsorbing nutrients and contaminants to the soil so they don't contaminate surface waters. Excess nutrients in streams encourage algae growth and decomposition, which reduces dissolved oxygen in the water. Re-vegetation of riparian areas results in greater forest cover, which improves the hydrologic function of the landscape to reduce peak flow events and stormwater runoff, all of which then reduces the amount of pollutants and sediment that are transported to waterways during storm events.

2. Describe the maintenance and monitoring responsibilities of both the Landowner and Recipient for the term of this agreement. Include the activities, frequency, and duration of work to be performed.

The Snohomish Conservation District will use grant funds throughout the duration of the grant period to conduct maintenance on riparian buffer plantings. At the end of the grant funding period, the Snohomish Conservation District will determine if the project needs continued annual maintenance, or if the plantings have reached the free-to-grow stage where they are no longer threatened by the presence of invasive plants. If it's determined that the project requires further maintenance, then the Snohomish Conservation District, if funding allows, will continue the maintenance practices.

Habitat Specialists from the Snohomish Conservation District will conduct annual site checks to document the progress of the project for 10 years after installation. Determinations of maintenance needs will be made from these site checks.