

0150-09763-0002

**TRANSMITTAL**

TO The Council	DATE 11/05/21	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT	

**Proposed Memorandum of Agreement with Council for Watershed Health**

Approved and transmitted for processing.  
See the City Administrative Officer report attached.



MAYOR

MWS:JPQ:10210153t

(Rich Llewellyn for)

REPORT FROM

## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

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Date: October 12, 2021

CAO File No. 0150-09763-0002

Council File No.

Council District: ALL

To: The Mayor

From:   
Matthew W. Szabo, City Administrative Officer

Reference: Report from the Board of Public Works dated January 29, 2021

Subject: **MEMORANDUM OF AGREEMENT WITH COUNCIL FOR WATERSHED HEALTH**

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### RECOMMENDATION

That the Council, subject to the approval of the Mayor, authorize the President or two members of the Board of Public Works and the Director of the Bureau of Sanitation, to execute a Memorandum of Agreement with Council for Watershed Health for a term of three years with an option to renew for an additional three years and a cost not to exceed \$600,000.

### SUMMARY

In accordance with Executive Directive No. 3 (Villaraigosa series), the Board of Public Works, on behalf of the Bureau of Sanitation (Bureau), requests authority to execute a Memorandum of Agreement (MOA) with Council for Watershed Health (CWH) and become an agency member. The term is three years with an option to renew for an additional three years and a cost not to exceed \$600,000.

The CWH is a 501(c)(3) nonprofit organization founded in 1996. Its purpose is to bring together different stakeholders within the Los Angeles region to advance the health and sustainability of the region's watersheds through education, research, and community engagement. The CWH's program goals include improving and expanding local water supply, reducing water demand, and understanding trends in watershed health indicators. This is accomplished through community engagement, research and facilitating demonstration projects that include green streets, green alleys, school and park-based low income development, and best management practices.

The City is one of the founding members and is a voting member of the CWH Board of Directors. The CWH receives base funding from the City, the Los Angeles Department of Water and Power, and the Metropolitan Water District of Southern California. In addition to base funding, additional funding is provided by grants, donations, and other eligible State and Federal funding sources. Funding is used to host project symposiums, perform research, and facilitate projects where CWH provides technical expertise. An example of benefits that have resulted from being a member of

the CWH is the collaborative work being done to monitor the Los Angeles River at a watershed level and address the impact of per- and polyfluroalkyl substances (PFAS) compounds which can be found in many common household items.

As an voting member of the CWH, the City will be able to participate in the development of the strategic plan, annual work plan, and annual budget. The City will also be able to contract separately with the CWH for specialized projects. The CWH will provide a scope of work to all agency members no later than July 1 each year. The scope of work will detail mutually agreed upon tasks and how the CWH will address each task. In addition, the CWH will provide an annual progress report and financial statements for tasks involving the Bureau.

In accordance with the Los Angeles Administrative Code 10.5(a), Council approval is required as the term is longer than three years.

### **FISCAL IMPACT STATEMENT**

There is no General Fund impact. Funding will be provided by the Sewer Operations and Maintenance Fund. The MOA contains a Financial Liability Clause which limits the City's annual financial obligation to the amount approved in the corresponding year's budget.

### **FINANCIAL POLICIES STATEMENT**

The recommendation in this report complies with the City Financial Policies, to the extent that special fund expenditures are limited to the mandates of the funding source.

*MWS:JPQ:10210153*

Attachment

**MEMORANDUM OF AGREEMENT BETWEEN CITY OF LOS ANGELES AND  
THE  
COUNCIL FOR WATERSHED HEALTH**

This Memorandum of Agreement (MOA), made and entered into by and between the City of Los Angeles, LA Sanitation and Environment, hereinafter referred to as "LASAN," and the Council for Watershed Health (CWH), is set forth as follows:

**WITNESSETH**

WHEREAS, CWH is a 501 (c)(3) nonprofit organization, founded in 1996, which brings together representatives from water and public works agencies, land conservancies, citizen groups and businesses with interests in using a watershed approach to achieve multiple benefits. CWH has served the Los Angeles region for 20 years by advancing the health and sustainability of the region's watersheds through science-based research, education and inclusive stakeholder engagement; and,

WHEREAS, LA Sanitation and Environment (LASAN) was one of the original founding members of CWH and continues to be a voting member of the CWH Board of Directors, and as such, continues to provide leadership and benefit from the collaboration made possible through this public-private partnership, including participating in the development of the organization's strategic plan, annual work plan and annual budget, and benefiting from the activities of CWH; and,

WHEREAS, LASAN is working to improve the safety and reliability of state and local water infrastructure and supplies, including stormwater capture, recycled water and enhanced water conservation, improved water quality and addressing the impacts of climate change, while promoting other compatible watershed enhancements; and,

WHEREAS, LASAN was created for the purpose of protecting public health and the environment; and,

WHEREAS, CWH is comprised of a broad range of stakeholders with the same long-term goals through its mission to advance the health and sustainability of the region's watersheds, in both the urban and natural environments, through education, research, and inclusive stakeholder engagement; and,

WHEREAS, CWH has accomplished this mission by supporting agency, community and private sector collaboration in the areas of improving water quality and supply, fostering a watershed approach to landscaping and landscape design, facilitating integrated planning and management, and, among other things, creating a repository for and disseminating watershed information to the public, building partnerships and beneficial solutions for watershed issues, developing comprehensive public education/outreach

forums and professional training, providing scientific and technical research information on watershed management principles to develop public policy, and seeking funds to accomplish the goals and objectives of numerous restoration projects; and,

WHEREAS, CWH has traditionally received a base level of funding from contributions and in-kind services from government agencies including the City of Los Angeles Department of Water and Power (LADWP), Metropolitan Water District of Southern California (MWD), and supplemented by, in-kind services, grants and contributions from businesses, foundations, individuals, and other local agencies and nonprofit organizations including CA State Water Resources Control Board, CA Department of Water Resources Proposition 1 Fund, the California Coastal Conservancy, Water Foundation, and Southern California Edison, among others; and,

WHEREAS, CWH possesses unique assets, including expert knowledge and experience in stakeholder education and engagement while working with government agencies, business partners, and academia. CWH's work assesses and evaluates the effect of landscape-level effects on the watershed and seeks to incorporate multiple benefits in projects, including improvements in water quality, water supply, recreation, and habitat; and,

WHEREAS, CWH's research and monitoring programs center on the goals of improving and expanding local water supplies, reducing per capita water demand in the greater Los Angeles region, and improving understanding of trends related to the health of watersheds and communities through tracking and assessment of indicators of watershed health; and,

WHEREAS, CWH has unique expertise and has collaborated with member agencies to complete key demonstration projects, including green streets and alleys, and school and park-based low-impact development, as well as independent best management practices (BMP) monitoring programs; and,

WHEREAS, CWH has expertise in providing technical assistance to community-based organizations to build the capacity of non-profits throughout the City of Los Angeles in maintaining healthy watersheds and ensuring clean water and habitat for people and wildlife, a healthy environment, and a strong economy; and,

WHEREAS, CWH has played a lead role in the development of effective outreach and education strategies on water-related issues, including in underserved communities and schools, in collaboration with its member agencies; and,

WHEREAS, CWH, its water agency partners and Board Members desire to bring a new perspective to urban infrastructure that generates ideas, techniques, projects for implementation, and other opportunities that incorporate natural urban systems and community engagement into water agency capital projects; and the AGENCY PARTNERS recognize that CWH requires funding to continue this valuable work. AGENCY PARTNERS include LADWP, MWD, and LASAN; and,

WHEREAS, pursuant to Los Angeles City Charter sections 371 and 372, the work of CWH to be performed consistent with this MOA is of a professional, scientific, expert, technical, or other special services of a temporary and occasional character for which neither competitive bidding or proposal is practicable, advantageous, or compatible with the City's interests; and

WHEREAS, LASAN has agreed to contribute toward the cost of the work of CWH at an overall amount not to exceed three hundred thousand dollars (\$300,000) over a period of three (3) years. It is anticipated that other agency partners will execute similar Membership agreements; and,

WHEREAS, CWH will manage the completion of mutually agreed upon tasks and provide the LASAN with annual invoices and reports that indicate the work completed and include detailed status reports on the progress of its performance of tasks;

NOW, THEREFORE in consideration of the covenants and conditions contained herein and the performance thereof, the parties hereto mutually agree as follows:

#### Section 1. PURPOSE OF THIS AGREEMENT

The purpose of this MOA is to build and maintain a working public-private partnership with CWH in support of mutual goals and objectives by becoming an agency partner of CWH.

#### Section 2. RESPONSIBILITIES OF CWH

1. CWH shall serve as a neutral convener to address critical water issues and build strategic partnerships. This would include hosting symposiums agreed to by the Board or facilitating special projects, like the Water Augmentation Study, issues with regional impact.
2. CWH shall assist the City in capacity building through technical assistance. As discussed, the Council team is one of the only water-focused nonprofits with technical and project management experience and is uniquely qualified to help support organizations throughout the City building their capacity to advance green infrastructure projects. The technical assistance we provide, in collaboration with agencies, has proven a successful model in securing State funding for a variety of green infrastructure projects.
3. CWH shall provide watershed education and communication. The Council will continue to serve as a trusted source of information and education on critical water issues. We are experienced in the consensus building role and are appreciated by others in our ability to communicate water issues in a way that resonates with a

broader audience, serving as a "bridge" between water agencies and the community.

4. CWH shall work with LASAN to understand the presence of Per- and polyfluoroalkyl substances (PFAS) compounds in the LA River by adding PFAS to the monitoring efforts (e.g. water column, sediment, fish) of the LA River and developing public educational materials related to monitoring results, which will be made available on the Los Angeles River Watershed Monitoring Program (LARWMP) website. CWH shall introduce the PFAS research project at a near-term symposium, and will include the findings in the Annual Reports and the State of the Watershed Symposium.
5. CWH shall provide an Annual Scope of Work to the AGENCY PARTNERS, specifying how CWH plans to address mutually agreed upon tasks.
6. CWH shall submit the Annual Scope of Work no later than July 1st of each fiscal year, which shall be approved by LASAN in writing.
7. The Annual Scope of Work will identify specific subtasks to be completed by CWH, fitting under objectives and products in the CWH annual Work Plan, which will directly benefit the AGENCY PARTNERS.
8. CWH shall provide an Annual Progress Report to LASAN concerning mutually agreed upon tasks. CWH shall provide the Annual Progress Report to LASAN by December 1<sup>st</sup> of each year beginning December 1, 2021, as long as this Agreement is in force, and will be expected to substantially follow the approved Annual Scope of Work for that particular fiscal year. A copy of CWH's audited financial statements shall also be submitted with the Annual Progress Report.

### Section 3. RESPONSIBILITIES OF CITY

LASAN shall submit annual payments of one hundred thousand dollars (\$100,000) to CWH, within thirty (30) calendar days upon receipt of invoice.

### Section 4. AUTHORITY

LASAN shall authorize CWH to use its name only in connection with the solicitation of support and/or grant funding for projects or programs mutually agreed upon and approved work.

Prior to the solicitation of grant funding pertaining to this MOA, CWH must obtain the written approval of LASAN's General Manager or his designees to ensure that LASAN approves of that individual solicitation of support and/or grant. CWH shall authorize LASAN to use its name only in connection with the solicitation of support and/or grant funding for mutually agreed upon projects or programs.

## Section 5. CONFIDENTIALITY

All documents, records, and information provided by AGENCY PARTNERS to CWH, or accessed or reviewed by CWH, during performance of this MOA shall remain the property of each agency. All documents, records and information provided by LASAN to CWH or accessed or reviewed by CWH during performance of this MOA, are deemed confidential, unless specifically designated as "public records" by LASAN. CWH agrees not to provide these documents and records, nor disclose their content or any information contained in them, either orally or in writing, to any other person or entity.

CWH agrees that all documents, records, or other information used or reviewed in connection with CWH's work with LASAN shall be used only for the purpose of carrying out the work under this MOA and cannot be used for any other purpose. CWH shall be responsible for protecting the confidentiality and maintaining the security of LASAN documents, records, and information in its possession. The provisions of this Section shall survive termination and expiration of this MOA.

## Section 6. LIABILITY

Neither Party shall incur any liability for participating in or arising out of this MOA. Each Party shall bear their own defense, investigation, funding and legal representation in the result of any claim being instituted in contract, tort, or any other theory of liability.

## Section 7. TERM

The term of this agreement shall be for three (3) years with a three (3) year renewal option, to be exercised at LASAN's discretion with authorization from the President or two members of the Board of Public Works, for the services outlined within this MOA, from the date of execution by the City of Los Angeles, unless terminated as provided under Article 8 or extended by amendment or change order to this MOA and signed by the parties.

## Section 8. TERMINATION

Either party shall have the right to terminate this MOA, in whole or in part, by giving the other party thirty (30) days written notice thereof.

## Section 9. INVOICING AND PAYMENT

1. CWH shall submit to LASAN an original and three (3) copies of an invoice in a format acceptable to LASAN, on or before July of each fiscal year. LASAN shall review CWH's invoice and notify CWH of exceptions or disputed items and their dollar amount. The total invoice amount, less any exceptions or disputed items,



shall be considered approved by LASAN. LASAN shall make a good faith effort to pay CWH all amounts approved for payment within thirty (30) calendar days after LASAN's Project Manager receives CWH's invoice.

2. Any correspondence related to invoicing and/or approving/modifying deliverables shall be directed to:

City of Los Angeles  
Department of Public Works, LA Sanitation and Environment  
Attention: Mahesh Pujari  
12000 Vista Del Mar  
Playa Del Rey, CA 90293

3. Invoices shall be prepared in such form and supported by such copies of invoices and other documents of proof as may be reasonably required by LASAN to establish the amount of such invoices as allowable expenses. All invoices shall be subject to audit.
4. LASAN's liability under this MOA shall only be to the extent of the present appropriation to fund the MOA. No action, statement, or omission of any officer, agent, or employee of LASAN shall impose any obligation upon LASAN, such officer, agent, or employee, except to the extent LASAN has appropriated funds and otherwise in accordance with the terms of this MOA.
5. CWH and LASAN agree that no indebtedness for work performed that results in costs under this MOA shall arise against LASAN until and unless there is an appropriation of funds to pay for such work. However, if LASAN shall appropriate funds for any successive fiscal years, LASAN's liability shall be extended to the extent of such appropriation subject to the terms and conditions of this MOA.

#### Section 10. CONTACT PERSONS – PROPER ADDRESSES - NOTIFICATION

All notices shall be made in writing and may be given by personal delivery, regular mail, facsimile transmission or electronic mail. Notices sent by regular mail should be registered or certified and sent to the designated contact person for each party and addressed as follows:

To LASAN and Environment:

Enrique Zaldivar, Director and General Manager  
1149 S. Broadway Ave., 9th Floor  
Los Angeles, CA 90015  
Office: 213-485-2210

Designee

Mas Dojiri, Assistant General Manager  
1149 S. Broadway, 9th Floor  
Los Angeles, CA 90015  
Office: 213-485-2210

To Council for Watershed Health:  
Eileen Alduenda, Executive Director  
Council for Watershed Health  
700 North Alameda Street  
Los Angeles, California  
Office: 213-229-9959

#### Section 11. ENTIRE AGREEMENT

This MOA contains all of the agreements, representations, and understandings of the parties hereto and supersedes and/or incorporates any previous understandings, proposals, commitments, or agreements, whether oral or written, and may be modified or amended only as herein provided.

#### Section 12. AMENDMENTS, CHANGES, OR MODIFICATIONS

Amendments, changes or modifications in the terms of this MOA may be made at any time by mutual written Agreement between the parties hereto and shall be signed by the persons authorized to bind the parties thereto.

#### Section 13. SEVERABILITY

Should any portion of this MOA be determined to be void or unenforceable, such shall be severed from the whole and the MOA will continue as modified.

#### Section 14. DISPUTES

Should a dispute or controversy arise concerning provisions of this MOA or the performance of work hereunder, the parties may elect to submit such to a court of competent jurisdiction.

#### Section 15. WAIVER

A waiver of a default of any part, term or provision of this MOA shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

#### Section 16. BREACH

Except for Force Majeure, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

#### Section 17. INDEMNIFICATION

Except for the active negligence or willful misconduct of the City, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, CWH undertakes and agrees to defend, indemnify and hold harmless the City and any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the City, including but not limited to, costs of experts and consultants), damage or liability of any nature whatsoever, for death or injury to any person, including CWH's employees and agents or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason to the extent of the negligent acts, errors, omissions or willful misconduct incident to the performance of this MOA by CWH or its subcontractors of any tier. Rights and remedies available to the City under this provision are cumulative of those provided for elsewhere in this MOA and those allowed under the laws of the United States, the State of California, and the City. The provisions of this paragraph shall survive expiration or termination of this MOA.

IN WITNESS WHEREOF, the parties hereto have executed this MOA on the day and year written below.

**CITY OF LOS ANGELES**

**COUNCIL FOR WATERSHED HEALTH**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: Commissioner, Board of Public Works

EILEEN ALDUENDA

Date: \_\_\_\_\_

Title: Executive Director

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Title: Commissioner, Board of Public Works  
Date: \_\_\_\_\_

**APPROVED AS TO FORM  
MICHAEL N. FEUER, City Attorney**

By: \_\_\_\_\_  
ADENA HOPENSTAND  
Title: Deputy City Attorney  
Date: \_\_\_\_\_

**ATTEST:  
HOLLY L. WOLCOTT, City Clerk**

By: \_\_\_\_\_  
Title: Deputy City Clerk  
Date: \_\_\_\_\_