

**MEMORANDUM OF AGREEMENT
BETWEEN SEATTLE PUBLIC UTILITIES AND DEPT. OF NEIGHBORHOODS
REGARDING
CITY OF SEATTLE P-PATCH COMMUNITY GARDENS USES ON SPU PROPERTY
October 2012**

This **MEMORANDUM OF AGREEMENT (MOA)** is entered into between Seattle Public Utilities (SPU) and the City of Seattle Department of Neighborhoods (DON) and establishes the general terms and conditions for SPU's acceptance of City sponsored P-Patch community garden uses on its property.

Whereas, SPU is a rate based utility of the City of Seattle and owns underutilized property that can accommodate P-Patch uses so long as they can be compatible with SPU's primary uses and its duties and obligations to its rate-payers;

Whereas, DON manages the City of Seattle's P-Patch Community Gardening Program (P-Patch), in conjunction with P-Patch Trust, a nonprofit organization, overseeing numerous P-Patches throughout the city;

Whereas, Council Resolution 31019 directs DON to identify additional locations and infrastructure for community gardens and food bank gardens in the City to maximize accessibility for all neighborhoods and communities, especially low-income and minority residents, and provide gardens to underserved neighborhoods and food banks;

Whereas, DON and SPU have been directed by the City Council to work together to identify SPU properties that may be appropriate for urban agricultural uses;

Whereas, DON accepts that any approved use of SPU property for P-Patch purposes shall be incidental to SPU's primary uses and does not change underlying jurisdiction, boundaries or property rights;

Whereas, this agreement consists of two parts: 1) a signed master agreement setting forth general terms and conditions for approving P-Patch uses on SPU property; and 2) individually signed addenda outlining agreements for specific P-Patches on specific properties;

Now, therefore, the parties mutually agree to the following terms and conditions for allowing SPU's acceptance of DON's P-Patch uses on SPU properties where appropriate:

1. Site Specific Approval Required – Each P-Patch use proposed on SPU property must be approved separately by SPU. All P-Patch uses on SPU property must adhere to the general conditions set forth in this umbrella agreement. Additionally, specific sites approved and additional conditions specific to each site will be included as a signed addendum to this master agreement and, at a minimum, include: a site map; legal description of the portion of the property being utilized; and an inventory of any and all approved improvements.
2. Limitations on Use and Changes to Approved Uses – DON's use of SPU property shall be limited to what has been approved by SPU and may not be transferrable to another party or agency. Any and all changes to approved uses must be approved by SPU and included within the signed addenda to this master agreement.

3. Coordination with other Incidental Uses/Users – Where SPU’s property has incidental uses in addition to DON’s proposed P-Patch use, DON shall be responsible for working with the other user(s) (e.g. Seattle Department of Parks and Recreation) and SPU to ensure that the proposed P-Patch use will be compatible with existing and future uses.
4. Use of SPU’s Property – In consideration of DON’s use of SPU’s property for approved P-Patch uses DON shall provide SPU maintenance, management and general liability for the utilized portion of SPU’s property.
5. Revocable Use – DON accepts that approved P-Patch uses on SPU property are incidental to SPU’s primary uses of its property and are revocable at will. SPU may revoke DON uses at any time subject to sixty (60) days written notice. SPU may revoke P-Patch uses at will for reasons including, but not limited to, SPU’s need to utilize its property, lack of P-Patch site upkeep and related enforcement, etc. SPU shall also retain the rights to (1) immediately suspend any DON related activities that it deems to be detrimental to SPU property interests and uses; (2) physically remove uses in the event of an SPU emergency; and/or (3) take immediate repossession of any property. To the extent SPU allows any replacement or restoration of DON uses, such replacement or restoration will be at DON’s expense.
6. P-Patch Siting – Where SPU has agreed to consider P-Patch uses, DON shall site them in a manner that avoids risk of digging, heavy loading, conflict or contamination to SPU infrastructure, steep and saturated slopes, wetlands, etc. DON uses shall not at any time interfere with SPU’s property access and security needs. This includes, but is not limited to, the siting and selection of appropriate vegetation and maintenance of required setbacks from fences.
7. P-Patch Design, Construction and Funding – DON shall be responsible for funding, design and construction of all SPU approved P-Patch improvements and any related improvements (e.g. storage shed, rainwater harvesting) on SPU property. This responsibility shall include but not be limited to: all required and relevant review and permitting processes (e.g. Parks ProView, DPD, SKCDPH, WDOH, and even DOE for work on reservoir sites); SEPA; public involvement processes; any approved modifications to SPU fencing or facilities; and installation of utility services (including water, power, irrigation), and any required on site supervision of DON’s construction activities by SPU or others especially when necessary to ensure protection of SPU property and security of the water system. DON may use Seattle Conservation Corps (SCC) or a formal contractor to perform construction consistent with City policies and requirements. Any P-Patch structures, buildings or facilities (e.g. storage sheds, gathering areas) shall be designed for maximum portability/flexibility to allow for easy relocation and reassembly in the event that SPU needs to utilize its property in the future. P-Patch uses on SPU property must require users to “pack out all garbage” and shall not include port-a-potties or toilets (temporarily or permanently) unless specifically within site-specific agreements. DON will coordinate with SPU on any changes that may occur thru these processes and ensure that SPU has final approval. DON may not utilize funding from outside grant sources that would place restrictions on SPU property use. Any and all proposed outside funding sources intended for use on SPU property must be reviewed with SPU prior to application and acceptance.

8. Long Term Management and Oversight of P-Patch Uses – DON shall be responsible for P-Patch program oversight and ensuring the daily and long-term management, monitoring and upkeep of approved P-Patch uses on SPU property. These responsibilities shall include, but not be limited to, enforcement of the P-Patch Code of Conduct agreement for individual plot users as outlined in DON Directors Rule #1-2010 and other applicable program related rules, guidelines and agreements. DON shall notify SPU of any on-going enforcement activities and issues associated with P-Patch uses on any of SPU's properties and shall also report on overall uses for each SPU property location at least annually using Attachment A. DON may recoup its management and maintenance costs by charging a small annual fee to P-Patch users. DON shall also be responsible for paying all utility services related to P-Patch uses and for furnishing other p-patch related supplies and services as needed.
9. Pesticides, Hazardous Materials and Unauthorized Use of Fertilizers – DON shall ensure that P-Patch uses are for organic gardening only. The use of chemical pesticides and fertilizer are strictly prohibited. Use of any animal based fertilizers (composted steer, chicken, sheep, fish meal, etc) shall be strictly limited to commercially produced packages and supplements. These materials shall not be stockpiled or stored overnight with the exception of: a) incidental quantities (bag or bucket) that have been locked in a secure shed at the end of the day; or b) quantities delivered in the morning and exhausted by day's end commensurate with a site "dig in" party. DON will be required to strictly enforce this provision. DON shall also prohibit storage, dumping, burying or transfer of any hazardous substances on SPU's property. Vehicle or motorized equipment storage, refueling and/or fuel storage within 50 feet of the reservoir or within any area up-slope of the reservoir shall be prohibited. Spill response procedures and kits must be in place for any storage outside of this area. Fuel storage at any one time shall not exceed 5 gallons.
10. On-site Composting of Plant Materials – On-site composting will be allowed in typical three bin systems sufficient for a maximum capacity of three cubic yards of compost. The three-bin systems must be constructed to be rodent/animal resistant with no openings larger than ½ inch square. Composting bins must be situated in locations approved by SPU and appropriate to the overall p-patch acreage (approx 1 compost area for every 5,000 sf of garden space). Feedstock for compost bins is limited to: on-site plant materials only (no animal products or home food scraps). Compost bins must be actively managed for: odors, temperature and vectors. Failure to provide for active management of designated and approved bins and locations and/or associated issues with vector control will cause SPU to require DON's immediate removal of any previously approved bins and composting areas.
11. Materials Delivery and On-Site Storage Areas - Materials delivery and on-site storage of materials including compost and arborist chips shall be strictly limited to site-specific designated locations, configurations and materials lists which will be reviewed and approved by SPU during the garden design process. Any designated delivery and storage area must have in place all required and appropriate DPD and SPU best management practices for erosion and/or stormwater control (including storage areas must be contained via fencing or walls approved by SPU; materials piles must be covered by tarps; and nearby storm drains may need to be protected with wattles). Materials delivery shall not impede SPU access to its property. Long-term on-site storage of finished compost and arborist chips will be limited to a standing pile of no more than 12 cubic yards each. Larger amounts of up to 20 cubic yards will be allowed on an occasional

basis 2 to 3 times per year and must be used within 14 days (2 weekends of "dig in" work parties) of delivery. Finished compost in the designated storage area must come only from a permitted facility in compliance with WAC 173-350-220. Additional organic plant based soil amendments that have been specifically reviewed and approved by SPU Drinking Water Quality Staff and may also be allowed in incidental and temporary quantities (if gone within 14 days). See Attachment B for approved amendments. Animal based fertilizers shall be restricted per section 9 of this agreement. DON shall be responsible for ensuring enforcement of these requirements. Failure to provide for appropriate management of this area may cause SPU to require DON's immediate removal of all materials from the storage area.

During P-Patch construction, commercial based plant compost and/or arborist chip volumes may be temporarily exceeded for a period limited to 3 months. DON shall be responsible for ensuring proper covering, erosion control and dispersment of materials within that time frame.

12. No Sale of Produce – No personal or individual monetary gain may be realized by any P-Patch program participants on SPU property. No sale of produce is allowed EXCEPT occasional public events that may sell plant materials or produce with ALL proceeds benefiting DON's P-Patch program. SPU encourages excess foods to be distributed to food banks and meal programs benefiting the homeless or other charity programs.
13. Regulatory Compliance and Liability – DON agrees to observe all Federal, State, and local laws and regulations relative to its uses. DON shall also assume all liability for any damage caused to SPU's facilities or property arising out of or resulting from P-Patch uses. DON shall protect SPU from all claims, actions or damages of every kind in connection with its approved uses.
14. This signed agreement shall supercede the April 2011 Master MOA Agreement.

Department of Neighborhoods



Bernie Matsuno, Director




Date

Seattle Public Utilities



Ray Hoffman, Director



Date

ATTACHMENT A
Annual Reporting P-Patch Uses
SPU's _____ Reservoir Property
Year ____

1. Year-end inventory of number users at this site = ____.

2. Year-end inventory of any applied grants or donations applied to this property.

Granting Agency	Grantee	\$ Value	Purpose	Any restrictions and requirements

3. Year-end identification of any major and/or on-going: 1) site enforcement issues; 2) maintenance, safety, operation, use concerns; and/or 3) inconsistencies with DON/SPU Agreements and proposed steps to address.

4. Description/detail of any new site improvements not approved by SPU.

ATTACHMENT B
SPU Approved Organic, Plant Based Soil Amendments

SPU has approved and made allowance for the following soil amendments so long as they are stored in incidental, temporary quantities on p-patch sites on SPU property:

Green Compost

Grass Clippings
Garden Weeds (no noxious ones)
Coffee Grounds
Seaweed
Potato Tops
Corn Stalks-green
Leguminous Plants
Garden Debris
Alfalfa Hay
Leaves
Leaf mold
Mushrooms
Cottonseed Meal
Soybean Meal

Brown Compost

Brown leaves
Oak leaves
Pine Needles
Coffee Chaff
Corn Stalks-brown
Coconut Coir
Straw
Burlap
Newsprint
Cardboard
Sawdust
Rotted Sawdust
Hardwood Bark
Softwood Bark
Hardwood Chips/Shavings
Softwood Chips/Shavings
Worm Castings

Boosts

Granite Dust
Ground Oyster Shell
Wood Ashes
Bone Meal