



# Contract Review Sheet

**CS-5364-24**

Grant Agreement #: CS-5364-24 Amendment #: \_\_\_\_\_

Contact: Ashley Gresley Department: Community Services Department

Phone #: (503) 584-7722 Date Sent: Monday, February 12, 2024

Title: Econ - Oregon Garden 2023-24

Contractor's Name: Oregon Garden Foundation

Term - Date From: Execution Expires: 2 years from execution

Original Contract Amount: \$ 150,000.00 Previous Amendments Amount: \$ -

Current Amendment: \$ - New Contract Total: \$ 150,000.00 Amd% 0%

Incoming Funds  Federal Funds  Reinstatement  Retroactive  Amendment greater than 25%

Source Selection Method: 50-0010 General Exemptions (IGAs and QRFs)

**Description of Services or Grant Award**

This grant will fund capital improvement projects and operational expenses for the Oregon Gardens Foundation. Marion County agreed to provide support to help stabilize the Oregon Gardens Foundation.

Desired BOC Session Date: 3/6/2024 Files submitted in CMS for Approval: 2/14/2024

Agenda Planning Date: 2/22/2024 Printed packets due in Finance: 2/20/2024

Management Update: 2/20/2024 BOC upload / Board Session email: 2/21/2024

BOC Session Presenter(s) Kelli Weese


**FOR FINANCE USE**


Date Finance Received: \_\_\_\_\_ Date Legal Received: \_\_\_\_\_

Comments: Y

**REQUIRED APPROVALS**

DocuSigned by:  
  
 \_\_\_\_\_  
D1ECCAACCDB14CB  
 Finance - Contracts Date 2/20/2024

DocuSigned by:  
  
 \_\_\_\_\_  
E74EAB09C8814A9  
 Contract Specialist Date 2/20/2024

DocuSigned by:  
  
 \_\_\_\_\_  
60C98A6F708248D...  
 Legal Counsel Date 2/20/2024

DocuSigned by:  
  
 \_\_\_\_\_  
1E904934585E459...  
 Chief Administrative Officer Date 2/20/2024



MARION COUNTY BOARD OF COMMISSIONERS

**Board Session Agenda Review Form**

Meeting date: March 6th, 2024

Department: Community Services

Title: Oregon Garden Foundation Grant Agreement

Management Update/Work Session Date: February 20, 2024 Audio/Visual aids

Time Required: 5 minutes Contact: Kelli Weese Phone: 503-589-3277

**Requested Action:**  
Consider approval of the Oregon Foundation Grant CS-5364-24 to fund capital improvement projects and operational expenses for the Oregon Garden Foundation.

**Issue, Description & Background:**  
The proposed grant agreement was reviewed by the Board of Commissioners at the February 20, 2024 Board Session. This grant will fund operational expenses for the Oregon Garden Foundation. Marion County agreed to provide support to help stabilize the Oregon Garden Foundation.

**Financial Impacts:**  
The Economic Development Grant would provide \$150,000.00 to the Oregon Garden Foundation, a 501(c)3 non-profit.

**Impacts to Department & External Agencies:** Activities within the Economic Development Program span a variety of goals and objectives impacting the County including other Marion County departments and external economic development organizations charged with implementing efforts that align with the plan.

**List of attachments:**  
Marion County Economic Development Grant Agreement;

**Presenter:**  
Kelli Weese, Economic Development Program Manager

**Department Head Signature:**

**MARION COUNTY  
ECONOMIC DEVELOPMENT GRANT AGREEMENT  
CS-5364-24**

This Agreement is entered into by and between Marion County, a political subdivision of the State of Oregon, hereinafter referred to as "County", and Oregon Garden Foundation, a domestic non-profit corporation, hereinafter referred to as "Recipient".

**Recitals**

- A. This Agreement is made pursuant to Marion County's Economic Development Lottery Fund as defined in ORS 461.540 and is made possible through funding proceeds received from the Oregon Economic Development Video Lottery Grant Program.
- B. County has received an allocation from the Oregon State Treasury's Administrative Services Economic Development Fund, pursuant to the authority of ORS 461.500 et seq. The program established pursuant to ORS 461.500 et seq. and referenced in this Agreement is known as the "Economic Development Grant Program" or "EDGP."
- C. The allocation of funds under this Agreement (the "Allocation") is subject to ORS 461.500 et seq., including any special conditions. Each of these regulations and the Funding Approval constitute part of this Allocation of Funds Agreement and are incorporated herein by reference.
- D. The Allocation is also subject to Marion County's EDGP Funding Criteria; regulatory changes; and guidelines and other official notices or clarification that may become available from time to time.
- E. County has determined that the Recipient's activities, as hereinafter defined, are feasible and merit funding.

**Agreement**

NOW THEREFORE, for good and sufficient consideration, including the terms and conditions herein, it is agreed by and between the parties hereto as follows:

**1. Incorporation of Recitals, Agreement Purpose**

a. **Incorporation of Recitals**

The foregoing Recitals are incorporated herein by reference but are subject to the express terms of this Agreement.

b. **Agreement Purpose**

The purpose of the EDGP is to fund economic development programs or projects (as defined in ORS 461.540) that have countywide significance and/or strong support within a Marion County community. Recipient projects and use of funds awarded through this agreement must support the following ORS 461.540 requirements:

- 1) Create jobs in Marion County which includes but is not limited to: (a) Supporting the creation of new jobs in Oregon; (b) Helping prevent the loss of existing jobs in Oregon; (c) Assisting with work transition to new jobs in Oregon; or (d) Training or retraining workers.
- 2) Further economic development in Marion County which includes, but is not limited to, providing: (a) Services or financial assistance to for-profit and nonprofit businesses located or to be located in Oregon; (b) Services or financial assistance to business or industry associations to promote, expand, or prevent the decline of their business or industry; or (c) Services or financial assistance for facilities, physical environments or development projects.

Grant funds are derived from lottery sources and are subject to the conditions restricting their use as set forth above, and as provided in this Agreement.

## **2. Term of Agreement**

Unless terminated or extended, this Agreement is effective on the date it has been signed by all parties and all required County approvals have been obtained and expires two years from the effective date.

## **3. Work to be Performed**

Recipient shall perform the activities described in Exhibit A in accordance with the terms and conditions of this Agreement and other applicable laws whether or not described in this Agreement. Recipient shall perform its obligations hereunder efficiently, effectively and within applicable EDGP timelines, all to the satisfaction of County.

Any changes to the activities by the Recipient shall require the prior written approval of County. Requests for and justification of any change must be submitted in writing to the County and be approved in writing by the County prior to commencement of the requested change.

## **4. Allocation of Funding**

- a. The County has agreed to make an award of funds to the Recipient in the not-to-exceed amount of \$150,000.00 (the "Allocation"). Disbursements are considered an advance of funds to Recipient, which Recipient may retain only if properly expended in accordance with the terms and conditions of this Agreement, and prior to the termination of the Agreement.
- b. Allocation distributions will be made by County to Recipient as described in Exhibit A.
- c. If Recipient fails to complete the activities described in Exhibit A, Recipient shall return allocated funds to County by making repayment of total amount of disbursed Allocation. If Recipient completes the activities described in Exhibit A but fails to meet reporting requirements described in Exhibit A, County may in its discretion determine that disbursed funds be returned to County through repayment, and Recipient shall comply with County's determination. Recipient shall make repayment within 30 days of expiration of this Agreement.

## **5. Reporting Requirements**

- a. Recipient shall request grant funds in such form and manner as is satisfactory to or required by the County in Exhibit A. The foregoing requirements apply to all Grant funds requested under this Agreement.
- b. Grant distributions will be made by the County:
  - Quarterly with receipt of an invoice and reports as described in Exhibit A. The invoice and supporting documentation shall be sent to CSReporting@co.marion.or.us and kweese@co.marion.or.us.
  - One-time distribution to the Recipient upon execution of this Agreement and receipt of Invoice per the provisions of Exhibit A, that includes supporting documentation and attestation by Recipient's authorized signer. Invoices shall be sent to CSReporting@co.marion.or.us.

## **6. Grant Monitoring**

### **a. County Authorized to Monitor Recipient**

County may monitor the activities of each Recipient and its sub-recipients as it deems necessary or appropriate to determine whether grant funds are used in accordance with this Agreement. Monitoring activities may include, but are not limited to the following: (1) review (including copying) of any and all Recipient and sub-recipient files, records and other information related to performance under this Agreement; (2) on-site and field visits and inspections; (3) demand that Recipient provide full itemization, financial records, receipts, and any other information for review of Recipient activities; and (4) any other investigatory activities necessary to determine Recipient compliance.

**b. Recipient Shall Fully Cooperate**

Recipient shall cooperate fully with all County monitoring activities and shall promptly respond to all requests. Failure by Recipient or any of its sub-recipients to fully cooperate or promptly respond will be considered a material breach of this Agreement.

**c. Records Maintenance**

Recipient shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Recipient shall maintain any other records pertinent to this Agreement in such a manner as to clearly document Recipient's use of funds, activities, and performance.

The Recipient shall establish and maintain records and statistics as follows:

Financial records, which indicate the number of hours of service provided under this contract and other appropriate records pertinent to this contract shall be retained for a minimum of three (3) years after the end of the contract period. If there are unresolved audit questions, or active litigation, at the end of the three-year period, the records must be maintained until the questions are resolved.

**d. Records Access**

The County, the State of Oregon, and the duly authorized representatives of such entities shall have free access to and the right to copy all or any part of the books, documents, papers, audits and records of Recipient and its sub-recipients which are related to this Agreement as they deem appropriate, including without limitation, for the purpose of making audit, examination, excerpts, and transcripts. These records are the property of County who may take possession of them at any time after three (3) business days' notice to Recipient or sub-recipient, as the case may be. Recipient or sub-recipient may retain copies of all records taken by County under this Section.

**e. Monitoring: Major Findings Resolution**

County may make findings and may require that Recipient take corrective actions to ensure proper performance under this Agreement. The Recipient shall resolve findings and take required corrective actions within the timeframes identified by County.

**7. Mis expenditures, Underexpenditures and Excess Payments**

- a. It is the responsibility of Recipient to monitor expenses and ensure funds are expended in compliance with this Agreement.
- b. An "underexpenditure" means money disbursed from County to Recipient under this Agreement remains unexpended at Agreement termination.
- c. A "misexpenditure" means money disbursed to Recipient from County under this Agreement that is expended in a manner other than that permitted by this Agreement, including without

limitation, any money expended by Recipient contrary to applicable statutes, rules or any other authority that governs permissible expenditure of such money.

- d. An “excess payment” means money disbursed to Recipient from County under this Agreement that is in excess of the not-to-exceed amount identified in Section 4 of this Agreement.
- e. Upon County’s identification of a misexpenditure or excess payment, County shall notify Recipient thereof. Upon Recipient’s identification of a misexpenditure or excess payment, Recipient shall notify County thereof.
- f. Within 30 days of identifying a misexpenditure or excess payment, Recipient shall make full payment to County. Within 30 days of receiving notice of a misexpenditure or excess payment, Recipient shall make full payment to County.
- g. Recipient shall return any underexpenditure to County within 30 days of Agreement termination.

The obligations set forth in this Section 7 survive termination.

## **8. Withholding and Redistribution of Grant Funds**

### **a. Withholding of Grant Funds from Request**

County may withhold any and all undisbursed Grant funds from Recipient, if the County, in its sole discretion, determines that Recipient has failed to timely satisfy any material obligation arising under this Agreement or otherwise. Recipient obligations include, but are not limited to providing complete, accurate and timely reports satisfactory to the County about its performance under this Agreement as well as timely satisfying all Agreement obligations relating to any awarded funds. The County may also withhold any and all requested Grant fund from Recipient if the County, in its sole discretion, determines that the rate or scale of requests for funds in any expenditure category materially deviates from the Work or is unsubstantiated by related documentation.

### **b. Redistribution or Retention of Funds**

- 1) If Grant funds are not obligated for reimbursement by Recipient in a timely manner as determined by the County at its sole discretion, the County may reduce Recipient funding as it determines to be appropriate in its sole discretion and redistribute such funds to other Recipients or retain such Grant funds for other County use.
- 2) This remedy is in addition to any other remedies available to the County under this Agreement or otherwise.

## **9. Funding Appropriation**

In the event the Board of Commissioners of the County reduces, changes, eliminates, or otherwise modifies funding in a manner that reduces this grant award, the Recipient agrees to abide by any such decision including termination of this Agreement.

## **10. Termination**

- a. County may immediately terminate this Agreement as set forth below:
  - 1) For its convenience upon thirty (30) days’ prior written notice from County;
  - 2) Immediately upon written notice if County fails to receive funding,
  - 3) Immediately upon written notice if federal or state laws, regulations or guidelines are modified or interpreted in such a way that County cannot lawfully perform its obligations under this Agreement;

- 4) Immediately upon written notice by County to Recipient, or at such later date as County may establish in such notice, if Recipient is in default. Recipient shall be in default under this Agreement if:
  - i. Recipient is in material breach or default of any obligation under this Agreement, fails to perform the work under this Agreement within the time specified herein, or so fails to pursue the work so that performance is endangered, and such breach, default or failure is not cured within thirty (30) days after County's notice, or such longer period as County may specify in such notice.
  - ii. Recipient (a) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or its property, (b) admits in writing its inability, or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) commences a voluntary case under the federal Bankruptcy Code (as now or hereafter in effect), (e) is adjudicated as bankrupt or insolvent, or (f) fails to controvert in a timely or appropriate manner, or agrees in writing to, an involuntary petition for bankruptcy;
  - iii. Any certification, license or certificate required by law to be held by Recipient or others to provide the services required by this Agreement is for any reason denied, revoked, suspended, limited, or not renewed.
- b. Recipient may, upon thirty (30) days written notice, terminate this Agreement in whole or in part, if:
  - 1) County unreasonably fails to provide timely funding hereunder and does not correct such failure within the thirty (30) day notice period.
  - 2) County provides one or more material directives which are contrary to federal or state laws, rules, regulations, guidelines, or original funding source requirements and does not correct any such directive within thirty (30) days of being informed that it is contrary to any such law.
- c. Upon issuance of any notice to terminate this Agreement and prior to the effective date of the termination, County may, in its sole and absolute discretion, require that Recipient obtain prior County approval for any additional expenditure from Agreement grant funds.
- d. In the event of termination of this Agreement by either party, all unexpended money, property, finished or unfinished documents, data, financial reports, audit reports, program reports, studies and reports purchased or prepared by Recipient under this Agreement shall be delivered to County within thirty (30) days of the date of termination or upon such date as requested by County.
- e. Termination of this Agreement shall not impair or invalidate any remedy available to County or to Recipient hereunder, at law, or otherwise.

## **11. Governing Law; Venue; Consent to Jurisdiction**

This Agreement shall be governed by the laws of the State of Oregon. Any action commenced in connection with this Agreement shall be in the Circuit Court of Marion County. All rights and remedies of the County shall be cumulative and may be exercised successively or concurrently. The foregoing is without limitation to or waiver of any other rights or remedies of the County according to law.

## **12. Compliance with Applicable Law**

Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement. Without limiting the generality of the foregoing, Recipient expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated.

## **13. No Third-Party Beneficiaries**

The County and Recipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

## **14. Notices**

Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given shall be given in writing by personal delivery, email, facsimile, or mailing the same, postage prepaid, or other written instrument, to Recipient or the County at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may hereinafter indicate pursuant to this Section; provided however that any notice of termination shall be given by certified or registered mail, return receipt requested. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice delivered by facsimile or email shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against the County, such facsimile transmission must be confirmed by telephone notice to the County's primary contact. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

To Recipient:

Recipient Contact Person: Ken Hector  
Contact Telephone Number: 503-551-3577  
E-Mail Address: kenhec65@gmail.com  
Mailing Address: 879 W. Main St Silverton OR 97381

To County:

County Contact Person: Ashley Gresley, Marion County Community Services Dept.  
Contact Telephone Number: 503-584-7722  
E-Mail Address: agresley@co.marion.or.us  
Mailing Address: 555 Court St NE, Suite 3120, PO Box 14500, Salem, OR 97309

## **15. Insurance and Workers Compensation**

- a. The Recipient shall maintain at all times commercial general liability insurance, property damage



insurance, and medical/professional malpractice if applicable, covering its activities and operations under this Agreement.

The Recipient shall add Marion County, its officers/officials, agents, employees, and volunteers as additional insureds for general liability and property damage insurance coverage and a **separate** endorsement shall be issued by the company showing Marion County as an Additional Insured and provide Notice of Cancellation as set forth in the policy. Such insurance shall be in the forms and amounts not less than set forth in ORS 30.260 to 30.300. All insurance shall be evidenced by a Certificate of Insurance and Endorsement provided to the County, indicating coverages, limits and effective dates, by an insurance company licensed to do business in the State of Oregon.

- b. The County, pursuant to applicable provisions of ORS 30.260 to 30.300, maintains a self-insurance program that provides property damage and personal injury coverage.
- c. The Recipient shall obtain and maintain at all times during the term of this contract, workers' compensation insurance with statutory limits and employers' liability insurance. The Recipient shall provide the County with evidence that it is a carrier-insured or self-insured employer in full compliance with the requirements of ORS Chapter 656, or that it employs no persons subject to the requirements of ORS 656, Workers' Compensation Coverage.
- d. The Recipient and the County agree that there is no relationship under this Agreement except as specified herein. The County exercises no control over, is not responsible for the act of, and assumes no specific responsibilities to or for officers, employees, or agents of the Recipient, or the public in general, except as specified in this Agreement.

## 16. Recipient Status

- a. The Recipient is a separate and independently established business, retains sole and absolute discretion over the manner and means of carrying out the Recipient's activities and responsibilities for the purpose of implementing the provisions of this Agreement, and maintains the appropriate license/certifications, if required under Oregon Law. This Agreement shall not be construed as creating an agency, partnership, joint venture, employment relationship or any other relationship between the parties other than that of independent parties. The Recipient is acting as an "independent contractor" and is not an employee of County, and accepts full responsibility for taxes or other obligations associated with payment for services under this contract. As an "independent contractor", Recipient will not receive any benefits normally accruing to County employees unless required by applicable law. Furthermore, Recipient is free to contract with other parties for the duration of the Agreement.
- b. Recipient agrees that insurance coverage, whether purchased or by self-insurance, for Recipient's agents, employees, officers and/or subcontractors is the sole responsibility of Recipient.
- c. Recipient certifies that it is not employed by or contracting with the federal government for the Services covered by this Agreement.
- d. Recipient certifies to the best of its knowledge and belief that neither the Recipient nor any of its principals, officers, directors or employees:
  - 1) Is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or County;
  - 2) Has within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State or local) transaction or

contract related to a public transaction; violation of federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;

- 3) Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in subsection (d)(2); and
- 4) Has within a three-year period preceding this Agreement had one or more public transactions (federal, State or local) terminated for cause or default.

#### **17. Fixed Assets**

Recipient shall, and shall cause its sub recipients to, maintain policies and procedures for property management that comply with all requirements of the applicable OMB Circulars and specific requirements of the source of funds, to the extent applicable.

#### **18. Captions**

The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

#### **19. Severability**

If any term or provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision thereof.

#### **20. Execution and Counterparts**

This Agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

#### **21. Indemnity**

Recipient shall defend, save, indemnify, and hold harmless the County, its officers, agents, and employees from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever, including attorney fees, resulting from, arising out of, or relating to the activities of Recipient or its officers, employees, Subcontractors, subcontractors, or agents under this Agreement. Recipient shall have control of the defense and settlement of any claim that is subject to this section. However, neither Recipient nor any attorney engaged by Recipient shall defend the claim in the name of either County or any department of County, nor purport to act as legal representative of either County or any of its departments, without first receiving from County Legal Counsel authority to act as legal counsel for the County, nor shall Recipient settle any claim on behalf of County without the approval of County Legal Counsel. County may, at its election and expense, assume its own defense and settlement.

#### **22. Time is of the Essence**

Time is of the essence in the performance of all under this Agreement.

#### **23. No Limitations on Actions of The County in Exercise of Its Governmental Powers**

Nothing in this Agreement is intended, nor shall it be construed, to in any way limit the actions of the County in the exercise of its governmental powers. It is the express intention of the parties hereto that the County shall retain the full right and ability to exercise its governmental powers with respect to the

Recipient, the grant funds, and the transactions contemplated by this Agreement to the same extent as if it were a party to this Agreement, and in no event shall the County have any liability in contract arising under this Agreement by virtue of any exercise of its governmental powers.

#### **24. Amendments**

This Agreement may be amended only by a written instrument executed by the parties or by their successors.

#### **25. Merger Clause**

This Agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.

No waiver, consent, modification or change of terms of this Agreement shall bind all parties unless in writing and signed by both parties and all necessary the County approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of the County to enforce any provision of this Agreement shall not constitute a waiver by the County of that or any other provision.

#### **26. CERTIFICATIONS AND SIGNATURE OF RECIPIENT 'S AUTHORIZED REPRESENTATIVE**

THIS AGREEMENT MUST BE SIGNED BY AN AUTHORIZED REPRESENTATIVE OF RECIPIENT.

The undersigned certifies under penalty of perjury both individually and on behalf of Recipient that:

- a. The undersigned is a duly authorized representative of Recipient, has been authorized by Recipient to make all representations, attestations, and certifications contained in this Agreement and to execute this Agreement on behalf of Recipient.
- b. By signature on this Agreement for Recipient, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Recipient and that Recipient is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means all tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318.
- c. To the best of the undersigned's knowledge, Recipient has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts.
- d. Recipient is bound by and will comply with all requirements, terms and conditions contained in this Agreement; and
- e. Recipient further certifies to having a formal statement of nondiscrimination in employment policy.

**SIGNATURE PAGE**

**RECIPIENT, BY EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES THAT RECIPIENT HAS READ THIS AGREEMENT, UNDERSTANDS IT, HAS THE LEGAL AUTHORITY TO BIND, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

**MARION COUNTY SIGNATURE  
BOARD OF COMMISSIONERS:**

\_\_\_\_\_  
Chair Date

\_\_\_\_\_  
Commissioner Date

\_\_\_\_\_  
Commissioner Date

Authorized Signature: \_\_\_\_\_  
Department Director or designee Date

Authorized Signature: \_\_\_\_\_  
Chief Administrative Officer Date

Reviewed by Signature: \_\_\_\_\_  
Marion County Legal Counsel Date

Reviewed by Signature: \_\_\_\_\_  
Marion County Contracts & Procurement Date

**OREGON GARDEN FOUNDATION SIGNATURE:**

Authorized Representative: \_\_\_\_\_  
Date

Title: \_\_\_\_\_

## **EXHIBIT A**

### **1. STATEMENT OF SERVICES**

Recipient shall perform Services as described below.

#### **A. GENERAL INFORMATION.**

Funding allocation for this Agreement was presented to the Board of Commissioners at a work session on September 14, 2023. This grant will fund capital improvement projects and operational expenses for the Oregon Garden Foundation. Marion County agreed to provide support to help stabilize the Oregon Garden Foundation.

#### **B. REQUIRED SERVICES, DELIVERABLES AND DELIVERY SCHEDULE.**

##### **1. Build Consistency in Operations and Fundraising Efforts**

- a) The Recipient is building consistency to its operations and fundraising efforts and continues to rebuild relationships with supporters of the Oregon Garden to fulfill its purpose of funding the foundation operations and capital improvement projects for Oregon Garden. Funds will be used by the Recipient for relevant positions and activities as approved by the Oregon Garden Foundation Board that will support the foundation in achieving the long-term goal of sustainability.

##### **2. Reporting Requirements and Timeline**

An annual report is required for the Recipient to receive allocated funds:

- a) Annual Report: On or before June 1<sup>st</sup>, the Recipient shall prepare a written annual progress review report and appear before the Marion County Board of Commissioners at a regularly scheduled meeting or work session to present the report. The report and presentation shall include the following:
  - a. Financial reports, including statement of revenues & expenditures, which are specifically applicable to the execution of this agreement.
  - b. Activity report detailing establishment and progress on goals, objectives and tasks related to the execution of this agreement.
  - c. General overview of the Oregon Garden operations, including metrics on:
    - i. Number of fundraising events held.
    - ii. Gross and net amounts raised from each fundraising event.
    - iii. Number of donors.
    - iv. Total donations received (excludes event sales).
    - v. Number of returning donors; or percentage of donors retained.

##### **3. Special Requirements**

- a) Recipient shall be solely responsible for and shall have control over the means, methods, techniques, sequences, and procedures of performing the work, subject to the plans and specification under this Contract and shall be solely responsible for the errors and omissions of its employees, subcontractors, and agents.

- b) Recipient has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Recipient will apply that skill and knowledge with care and diligence and perform services in a timely, professional, and workmanlike manner in accordance with standards applicable to Recipient's industry, trade or profession.

## 2. COMPENSATION

The total amount available for payment to Recipient under Exhibit A, section 2.A and for authorized reimbursement to Recipient under Exhibit A, section 2.C is \$150,000.00.

- A. METHOD OF PAYMENT FOR SERVICES: County shall pay Recipient \$150,000.00 for completing all Services and delivering all goods required under this Agreement.
- B. BASIS OF PAYMENT FOR SERVICES. County shall pay Recipient a one-time payment upon execution of this Agreement and upon County's approval of Recipient's invoice submitted to County. Requests for payment shall be submitted on or before June 1, 2024.
- C. EXPENSE REIMBURSEMENT. County will not reimburse Recipient for any expenses under this Contract.
- D. GENERAL PAYMENT PROVISIONS. Notwithstanding any other payment provision of this Contract, failure of Recipient to submit required reports when due, or failure to perform or document the performance of contracted services, may result in withholding of payments under this Agreement. Such withholding of payment for cause shall begin thirty (30) days after written notice is given by County to Recipient, and shall continue until Recipient submits required reports, performs required services or establishes, to County's satisfaction, that such failure arose out of causes beyond the control, and without the fault or negligence of Recipient.
- E. INVOICES. Recipient shall send all invoices to County's Contract Administrator at the address specified below or to any other address as County may indicate in writing to Recipient.

Marion County  
Attn: Community Services Department  
555 Court St NE Ste 3120  
Salem, OR 97301

or CSReporting@co.marion.or.us and kweese@co.marion.or.us