

ORIGINAL

**CONTRACT BETWEEN
OREGON STATE
UNIVERSITY AND
AGRICULTURAL RESEARCH FOUNDATION**

**AGREEMENT TO PROVIDE SERVICES AND FACILITIES
IN EXCHANGE FOR FINANCIAL SUPPORT**

THIS AGREEMENT is made and entered into between Oregon State University and the Agricultural Research Foundation. This agreement supersedes all previous agreements between the parties as well as amendments thereto, if any.

RECITALS:

1. Oregon State University, hereinafter referred to as UNIVERSITY, is an institution of higher education existing under and by virtue of ORS Chapter 352.
2. Agricultural Research Foundation, hereinafter referred to as FOUNDATION, is a charitable, scientific and educational nonprofit corporation established on October 25, 1934 and existing under the laws of the State of Oregon relating to such corporations (Sec 77-401, Oregon compiled laws Annotated), and by virtue is subject to the Oregon Nonprofit Corporation Law (Oregon Revised Statutes, Chapter 61) for the purpose stated in its Articles of Incorporation, including the primary purpose of supporting UNIVERSITY. The FOUNDATION continues to maintain tax exempt status pursuant to Section 501 (c) (3) of the U.S. Internal Revenue Code.
3. FOUNDATION has been recognized pursuant to Division 46 of the Oregon State University Standards. FOUNDATION fully satisfies the eligibility requirements set forth in OSU Standard 580-046-005(2).
4. The President of UNIVERSITY has recognized FOUNDATION as provided by OSU Standard 580- 046-005(1).
5. FOUNDATION has accepted recognition as provided by OSU Standard 580-046-010(3)
6. It is the purpose of this contract and the representations made by each party pursuant thereto to comply with the requirements of OSU Standard 580-046-035(7) and to set forth the manner in which the UNIVERSITY is to provide support to FOUNDATION and which the FOUNDATION is to provide support for UNIVERSITY.

AGREEMENT:

It is therefore agreed by and between the parties as follows:

1.00 FOUNDATION USE OF UNIVERSITY NAME, ETC.

- 1.1 FOUNDATION may in connection with its lawful business and activities, use the name of the UNIVERSITY as well as the UNIVERSITY's logo, informal seal, and other symbols and marks of the UNIVERSITY.
- 1.2 FOUNDATION shall not delegate the authority for the use permitted by 1.01 to any

person or entity without the express written approval of the President of UNIVERSITY.

2.00 FOUNDATION INDEPENDENCE FROM UNIVERSITY

2.1 UNIVERSITY agrees to encourage and maintain the independence of the FOUNDATION, to act at all times so as not to jeopardize that independence, while at the same time encouraging the cooperative relationship between UNIVERSITY and FOUNDATION.

3.00 UNIVERSITY OFFICERS AND EMPLOYEES AS NON-VOTING MEMBERS OF FOUNDATION'S GOVERNING BODIES

- 3.1 The President of the UNIVERSITY, or designee, shall be an ex officio non-voting member of the FOUNDATION Board of Trustees.
- 3.2 Other UNIVERSITY employees who are ex officio non-voting members of the FOUNDATION'S Board of Trustees are the Dean of the College of Agricultural Sciences/Director of Agricultural Experiment Station, or designee.
- 3.3 FOUNDATION agrees to cooperate with the President and/or the President's designee to permit compliance with OSU Standard 580-046-030(2), including without limitation provision of records and reports sufficient to enable the President to monitor compliance with Division 46.

4.00 COOPERATION BETWEEN FOUNDATION AND UNIVERSITY

- 4.1 FOUNDATION agrees, in accepting gifts of all kinds, to obtain UNIVERSITY approval of any restrictive terms and conditions, and to coordinate with the Oregon State University Foundation ("OSU Foundation") regarding funding goals, programs, or campaigns proposed by the OSU Foundation. UNIVERSITY and FOUNDATION shall advise donors that a restricted gift for the benefit of the UNIVERSITY may not be accepted without UNIVERSITY and FOUNDATION approval.
- 4.2 FOUNDATION shall annually provide to the President a summary of gifts received.
- 4.3 FOUNDATION agrees that no UNIVERSITY funds, including funds resulting from a UNIVERSITY activity, shall be deposited in a FOUNDATION account.
- 4.4 UNIVERSITY and FOUNDATION agree to periodically review existing guidelines and practice regarding the identification of funds so that the intended donee, whether UNIVERSITY or FOUNDATION, actually receives the funds, subject to the following:
 - 4.4(1) If the FOUNDATION is the intended recipient of funds made payable to the UNIVERSITY, the funds shall first be deposited in a state account and then transferred to the FOUNDATION.
 - 4.4(2) Funds payable or gifts made to the UNIVERSITY shall not be transferred to the FOUNDATION unless accompanying documents demonstrate that the FOUNDATION is the intended recipient.
 - 4.4(3) If the FOUNDATION deposits funds in its accounts or receives other gifts intended for the UNIVERSITY, the FOUNDATION shall transfer those funds or gifts to the UNIVERSITY.

To assist in this review, FOUNDATION agrees to provide UNIVERSITY quarterly reports of receipts broken out by gifts, grants, and contracts. FOUNDATION shall provide such reports no later than twenty days after each quarter ending March 31, June 30, September 30, and December 31 to the President, Vice-President for Finance and Administration and Vice- President for Research of University.

5.00 LIMITATIONS ON PAYMENTS BY FOUNDATIONS

- 5.1 FOUNDATION agrees not to make any payments to a UNIVERSITY employee except as permitted by OSU Standard 580-046-035(6).
- 5.2 UNIVERSITY agrees to pay out all moneys it receives under OSU Standard 580-046-035(6) in the manner provided by OSU Standard 580-046-035(6) (c).

6.00 UNIVERSITY SUPPORT OF FOUNDATION

- 6.1 UNIVERSITY shall provide FOUNDATION with rent-free office space in the University Plaza Building Suite 320. UNIVERSITY shall provide utilities and janitorial services to FOUNDATION at no cost.
- 6.2 UNIVERSITY shall provide support services to FOUNDATION of the type provided to UNIVERSITY departments on a cost basis including, but not limited to; access to the UNIVERSITY telephone system, maintenance from Facilities Services, Printing Department, Motor Pool, University mail system, and Surplus Property sales. FOUNDATION shall provide reimbursement for such services in accordance with normally established rates for UNIVERSITY departments.
- 6.3 UNIVERSITY shall provide FOUNDATION employees with staff identification cards. FOUNDATION employees shall be entitled to parking, admittance to athletic events, access to Valley Library, and participation in staff recreation/fitness programs at the same rate that such benefits and facilities are made available to UNIVERSITY employees.
- 6.4 The UNIVERSITY may provide other limited and reasonable support to the FOUNDATION consistent with the support outlined above from funds otherwise available to the UNIVERSITY.

7.00 FOUNDATION SUPPORT OF UNIVERSITY

7.1 FOUNDATION support of the UNIVERSITY may include, but is not limited to:

- 7.1(1) Receiving, investing, and administering funds for charitable, scientific and educational activities of the UNIVERSITY.
- 7.1(2) Cooperating with the OSU Foundation in its fund raising activities and development programs with individuals, corporations, foundations and other private organizations.
- 7.1(3) Supporting the UNIVERSITY by means of funds donated to FOUNDATION and consistent with such restrictions as meet UNIVERSITY guidelines or have been approved by UNIVERSITY. Designated funding shall be provided in accordance with donors' wishes. Funding is normally provided for purchase of UNIVERSITY equipment and supplies, faculty travel, support of research by selected faculty, staff, and students, funding faculty chairs, providing scholarships to students in carrying out other activities of the UNIVERSITY

involving educational, research, cultural, scientific, public service, and other charitable activities and lawful purposes of UNIVERSITY. All such support shall be in accordance with FOUNDATION purposes as stated in its Articles of Incorporation and Bylaws, and in accordance with Division 46.

- 7.1(4) Performing other acts as may be deemed appropriate for carrying out the purposes of the FOUNDATION.

8.00 AUDITS, LEGAL AND REPORTING

- 8.1 FOUNDATION will engage a certified public accounting firm mutually acceptable to FOUNDATION and UNIVERSITY to serve as FOUNDATION'S independent auditor, to conduct a full and complete annual audit of its finances and operations and to examine compliance of UNIVERSITY and FOUNDATION with the provisions of Division 46 in connection with that annual audit. FOUNDATION agrees to notify UNIVERSITY within 30 days of its engagement of said certified public accounting firm.
- 8.2 FOUNDATION agrees to provide annually by September 21:
 - 8.2(1) Audit Report
 - 8.2(2) List of FOUNDATION officers, directors and trustees
 - 8.2(3) List of FOUNDATION Managers
 - 8.2(4) Names of officers, directors and trustees of all entities to which OSU Standard 580- 046-020(4) and (5) are applicable.
 - 8.2(5) A resolution of the Board of Directors affirming acceptance of the conditions of recognition by the UNIVERSITY in accordance with OSU Standard 580-046-005(4) (b) and 580-046-010(3).
- 8.3 FOUNDATION agrees to comply with OSU Standard 580-046-040(2) (b) by permitting the President, using UNIVERSITY or Oregon State University internal auditors, to inspect and audit all FOUNDATION books and records at reasonable times at no cost to the FOUNDATION. The FOUNDATION shall provide such reports of and information on its financial status and operations as required by the UNIVERSITY President in order to assure conformance by the UNIVERSITY and the FOUNDATION with these Standards.

9.00 COMPLIANCE WITH OSU STANDARDS

- 9.1 Both the UNIVERSITY and FOUNDATION agree to comply with the OSU Standards pertaining to the relationship between UNIVERSITY and FOUNDATION, including amendments thereto adopted by the Board. UNIVERSITY shall provide FOUNDATION with proposed amendments as soon as possible but in no event less than 5 days prior to the meeting of the Oregon State University Board of Trustees at which they are considered for adoption.

10.00 TAX COMPLIANCE

- 10.1 FOUNDATION hereby affirms, under penalty of perjury, as provided in ORS 305.385(6),

that to the best of FOUNDATION'S knowledge, FOUNDATION is not in violation of any tax laws described in ORS 305.380(4).

11.00 AMENDMENTS

11.1 This contract may be amended by the mutual written consent of the parties at any time.

12.00 TERM

12.1 The term of this agreement shall be from July 1, 2015 to June 30, 2018.

13.00 TERMINATION DUE TO NONAPPROPRIATION OF FUNDS

13.1 If sufficient funds are not provided in future legislatively approved budgets to permit UNIVERSITY in the exercise of its reasonable administrative discretion to continue this contract, UNIVERSITY may terminate this contract without further liability by giving FOUNDATION not less than 30 days prior notice.

14.00 RECIPROCAL INDEMNIFICATION

14.1 Except as otherwise limited by Oregon Law, ORS 30.260 through 30.300, and the Oregon Constitution, Article XI, Section 7, each party shall be responsible for its tortious acts and those of its officers, employees, or agents arising out of, or in any way connected with, the acts of each party under this contract.

15.00 MERGER

15.1 This contract constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this contract. No amendment, consent, or waiver of terms of this contract shall bind either party unless in writing and signed by all parties. Any such amendment, consent, or waiver shall be effective only in the specific instance and for the specific purpose given. The parties, by the signature below of their authorized representatives, acknowledge having read and understood this contract and agree to be bound by its terms and conditions.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their appropriate officers the day and year first written above.

AGRICULTURAL RESEARCH FOUNDATION

By: _____
President

PHILIP J. WALKER

Date: 6-2-15

OREGON STATE UNIVERSITY

By: _____
President

Date: 6/24/15