

MEMORANDUM OF AGREEMENT

between

Washington State University Clallam County Extension

and

Master Gardener Foundation of Clallam County

I. PARTIES

This Memorandum of Agreement (Agreement) is entered into by and between Washington State University (WSU), an institution of higher education and agency of the state of Washington, by and through its Extension offices in Clallam County, a department of WSU, and the Master Gardener Foundation of Clallam County (MGFCC), a Washington nonprofit corporation. In this Agreement, all the above entities are jointly referred to as the Parties or individually as a Party.

II. PURPOSE

WSU has historically entered in to collaborative efforts to advance the purposes of Extension and wishes to continue to do so as part of its outreach mission.

WSU also intends this Agreement to further its vision to empower individuals, organizations and communities to find solutions for local issues and to improve their quality of life.

WSU recognizes MGFCC as a collaborator in the delivery of research based horticulture information to individuals, communities and horticulture professionals with the purpose of promoting human wellbeing, enhancing our environment and encouraging community stewardship.

To enable both Parties to advance those goals, and to enable MGFCC to accomplish the purposes outlined in this Agreement, WSU and MGFCC agree as follows:

III. DUTIES OF THE PARTIES

- A. Each Party, individually agrees:
1. To comply with all federal, state and local laws applicable to its actions in performance of this Agreement.
 2. That there will be no discrimination in the performance of this Agreement on the basis of race, religion, creed, color, national origin, families with children, sex, marital status, sexual orientation (including gender identity), age, genetic history, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability, in compliance with (a) Presidential Executive Order 11246, as amended, including the Equal Opportunity Clause contained therein; (b) Section 503 of the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veterans Readjustment Act of 1974, as amended, and the Affirmative

Action Clauses contained therein; (c) the Americans with Disabilities Act of 1990, as amended; and (d) applicable non-discrimination laws of the state of Washington. The parties further agree they will not maintain facilities which are segregated on the basis of race, color, religion, or national origin in compliance with Presidential Executive Order 11246, as amended, and will comply with the Americans with Disabilities Act of 1990, as amended, regarding programs, services, activities, and employment practices. To cooperatively ensure that WSU and MGFCC volunteers comply with all applicable WSU policies, including the WSU Master Gardener Program Code of Conduct and Program Policies, as stated in WSU's current Master Gardener Program Handbook.

B. In consideration for MGFCC's furtherance of WSU's educational mission and support of WSU's activities and program delivery, WSU shall provide *[some may not apply to local situations]*:

1. Reasonable space for MGFCC educational resources and activities when possible, including use of Clallam County Extension office meeting room(s) when available.
2. Storage space for MGFCC records, including access to such during regular office hours.
3. Access to computer equipment, Internet connection, and copy machine, and use of WSU MG books and office supplies.
4. WSU Master Gardener training, advanced training and continued support to volunteers in furtherance of the WSU Master Gardener program goals and objectives.
5. Assignment of the WSU Master Gardener Program Coordinator as the primary liaison between WSU and MGFCC.
6. Access to WSU Master Gardener Programs, newsletters, public relations and WSU Extension expertise, and recognition for volunteers.
7. Cooperative ventures with other Extension programs, and other community-oriented organizations, and participation in various fairs and shows.

WSU shall have the authority for the final approval of events or activities that represent, or are co-sponsored by, WSU.

Support for other services will be evaluated and considered on a case-by-case basis, with due regard for the benefits those services will provide to WSU.

C. In consideration for MGFCC's furtherance of WSU's educational mission and support of WSU's activities and program delivery, MGFCC shall provide:

1. Financial contributions in support of the WSU Master Gardener programs in Clallam County in accordance with local, state and federal laws and

ordinances. This shall be accomplished through fundraising activities which may include, but are not limited to:

- a. Conducting plant sales, book sales, raffles and garden tours;
 - b. Sale of garden-related items such as t-shirts, hats, and garden tools (list of foregoing provided as examples only);
 - c. Applying for grants from private corporations and non-profit entities, governmental entities, and other potential grantors acceptable to both Parties; and
 - d. Solicitation of donations and/or endowments from individuals, nonprofit organizations, business entities, and other potential donors acceptable to both Parties.
2. Preparation of an annual budget, maintenance of bank accounts, preparation of periodic financial statements, preparation of reports for governmental agencies, and pay necessary fees and taxes related to the Foundation, including payment of any farmers market or plant clinic fees.
 3. Promotion of the WSU Master Gardener programs in Clallam County through distribution of literature and/or speaking about the programs before various groups or at public events, or in some other fashion in order to increase awareness of the programs in Clallam County, such as Clallam County Fair [*insert others as applicable*].
 4. Participation in cooperative ventures with other Extension programs, nonprofit organizations and/or governmental agencies to promote the WSU Master Gardener programs in Clallam County. This would include participation in the Master Gardener Foundation of Washington State.
 5. Funding for hospitality functions for WSU Master Gardener related activities, such as volunteer recognition, potlucks, business meetings, workshops, clinics, educational classes, and replacing and/or adding resources for plant clinics and similar events. This could include scheduling, set-up, take-down, and decorations.
 6. Funding to maintain diagnostic clinic resources, and demonstration garden areas in a professional manner, and consistent with WSU Policies.
 7. In coordination with WSU, communications, public relations and advertising as necessary to support the goals and objectives of the WSU Master Gardener Program and MGFCC.
 8. MGFCC recognizes itself as a collaborator in and supporter of WSU's specific action to reach out in positive ways to persons who are underrepresented in Extension programs and activities, and to increase diversity in volunteer programs. This policy will be demonstrated to persons through all reasonable effort.
 9. Advice and support to the WSU Master Gardener Program Coordinator with regard to educational activities in furtherance of the WSU Master Gardener Program goals and objectives.
 10. Opportunities at each MGFCC Board Meeting for the WSU Master Gardener Program Coordinator to participate in an advisory and/or requesting capacity.

11. Maintain a demonstration garden area in a manner consistent with WSU policies as outlined in the WSU Master Gardener Program Handbook and the level of assistance available from volunteer Master Gardeners. Support for other services will be evaluated and considered on a case-by-case basis, with due regard for the benefits those services will provide to MGFFCC.

IV. USE OF MARKS

MGFFCC may not use WSU's marks without the prior written approval of WSU's Office of Trademarks and the Office of the Attorney General.

Notwithstanding the foregoing, this Agreement establishes the right of MGFFCC to use the WSU marks that specifically pertain to the WSU Master Gardener Program, e.g. the WSU Master Gardener logo, in support of its activities under this Agreement. If this Agreement is terminated, MGFFCC agrees to immediately cease using any WSU marks, including those associated with the WSU Master Gardener Program, and to cease using the term "Master Gardener" in the MGFFCC name or literature.

V. PERIOD OF PERFORMANCE

Subject to its other provisions, this Agreement shall take effect when all Parties have signed this agreement, and shall continue for a period of 5 years thereafter. The Agreement is renewable upon the written consent of the Parties.

VI. TERMINATION

Either party may terminate this Agreement upon not less than 30 days prior written notification to the other party. If this Agreement is so terminated, the Parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination. At the time of such termination, if MGFFCC holds any monies for the benefit of the WSU Master Gardener Program from fundraising, donations, or any other source, such funds shall be immediately transferred to the Washington State Master Gardener Program.

VII. RECORDS MAINTENANCE

The Parties shall each maintain books, records, and other evidence which sufficiently and properly reflect all direct and indirect costs expended by either Party in the performance of the services described herein, and shall each maintain records of any funds donated to the Party using the term Master Gardener in any event to raise the funds, or solicitation for such funds. These records shall be subject to inspection, review or audit by personnel of either Party, other personnel duly authorized by either Party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained and subject to such access and review by the other Party for 6 years after creation of the record.

Records and other documents, in any medium, furnished by one Party to this Agreement to the other Party, will remain the property of the furnishing Party, unless otherwise agreed. To the extent consistent with the law, including the Washington State Public Disclosure Act, the receiving Party will not disclose or make available such records to any third parties without first giving notice to the furnishing Party and giving that Party a reasonable opportunity to respond. Each Party will use reasonable security procedures and protections to ensure that records and documents provided by the other Party are not erroneously disclosed to third parties.

VIII. HOLD HARMLESS

Each party to this Agreement shall be responsible only for its own acts and omissions and those of its own officers, employees and agents in the performance of this Agreement. The parties to this Agreement shall not be responsible for the acts and omissions of entities or persons not a party to this Agreement.

IX. INDEPENDENT CAPACITY

Each party to this Agreement shall be considered independent contractors, and the employees and agents of each party shall continue to be employees and agents of that party and shall not be considered for any purposes to be employees or agents of the other party.

The Parties recognize that many MGFCC members may also serve as WSU Master Gardener volunteers. WSU shall be considered the employer of such individuals only when WSU has sponsored or co-sponsored the event at which the individual is working and WSU has reasonable control and supervision of the individual volunteer.

X. DISPUTES

In the event that a dispute arises under this Agreement, a Dispute Panel shall determine the matter in the following manner: each party to this Agreement shall appoint one member to the Dispute Panel, and the members so appointed shall jointly appoint an additional member to the Dispute Panel. The Dispute Panel shall review the facts, contract terms and applicable statutes and rules and make a determination of the dispute. The determination of the Dispute Panel shall be final and binding on the parties. The parties shall share equally the costs, if any, for these services.

XI. GOVERNANCE

The laws of the State of Washington shall govern this Agreement.

XII. ASSIGNMENT

The work and services to be provided under this Agreement are not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party.

XIII. WAIVER

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the parties and attached to the original document.

XIV. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

XV. COMPLETE AGREEMENT

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties.

XVI. AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of the Parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the Parties.

XVII. NOTICES

All notices, requests, demands, and other communications required or permitted under this agreement shall be in writing and shall be deemed to have been duly given, made and received when delivered and acknowledged by receipt or 5 days after deposit in the United States mails registered or certified mail, postage prepaid, addressed as set forth below:

A. If to WSU Clallam County Extension:
Clea Rome (or successor), Director
WSU Extension, Clallam County
223 E. 4th St., Ste. 15
Port Angeles, WA 98362

B. If to Clallam County Master Gardener Foundation:
Roger Steiner (or successor), President
Clallam County Master Gardener Foundation
PO Box 1596
Sequim, WA 98382-1596

Either party may alter the address to which communications or copies are to be sent by giving notice of such change of address in conformity with this Agreement.

XVIII. AGREEMENT APPROVAL

Each party represents and warrants that all necessary approvals for this agreement have been obtained, and the persons whose signatures appear below have the authority necessary to execute this Agreement on behalf of the parties indicated.

RECOMMENDATION FOR APPROVAL

The following, by signing, recommend approval for this AGREEMENT.

For WSU Clallam County Extension Director,
WSU Extension

Master Gardener Program Leader

Name: Clea Rome
Title: Director
Date: 2-15-22

Name: Laurel Moulton
Title: Master Gardener Program Coordinator
Date: 2/14/22

APPROVED:

WASHINGTON STATE UNIVERSITY

Heather Davison

Name: Heather Davison
Associate Manager
Title: Real Estate and Business Operations
Date: 1/28/2022

MASTER GARDENER FOUNDATION
OF Clallam COUNTY

Name: Royce A. Jensen
Title: President Clallam Co. MG Foundation
Date: 3/8/22

