

**IMMEDIATE OPPORTUNITY FUND
GRANT AGREEMENT**

Project Name: Bernau Estate Biodynamic Wine and Agriculture Experience

Oregon Department of Transportation, Immediate Opportunity Grant Agreement Number: ~~33976~~

This grant agreement ("Contract"), dated as of the date the Contract is fully executed, is made by and between Yamhill County, a political subdivision of the State of Oregon ("Yamhill County") and Willamette Valley Vineyards, Inc., an Oregon corporation, operating under the assumed business name of Bernau Estate, ("Subrecipient") for grant funding for the project referred to above and described in Exhibit B ("Project"). This Contract becomes effective only when fully signed and approved as required by applicable law. Capitalized terms not defined in Section 1 and elsewhere in the body of the Contract have the meanings assigned to them by Exhibit A.

This Contract includes the following exhibits, listed in descending order of precedence for purposes of resolving any conflict between two or more of the parts:

- Exhibit A General Definitions
- Exhibit B Project Description
- Exhibit C IOF Agreement
- Exhibit D Financial Guarantee Bond

Pursuant to the authority granted in Oregon Revised Statutes 366.572 and 366.576 Yamhill County entered into agreement #33976 with the Oregon Department of Transportation (the "IOF Agreement") to assist in financing certain costs of the road improvements identified in the Project. The IOF Agreement is attached hereto as Exhibit C and incorporated herein by this reference.

This Contract is effective on the date all required signatures are obtained and shall terminate upon completion of the Project and receipt of documentation of filled and created positions outlined under Section 6 – Subrecipient’s Covenants, subsection C.7, or ten (10) calendar years whichever is sooner.

SECTION 1 - KEY TERMS

The following capitalized terms have the meanings assigned below.

Estimated Project Cost: \$10,660,000.

Grant Amount: \$724,500.00

SECTION 2 - FINANCIAL ASSISTANCE

Yamhill County shall provide Subrecipient, and Subrecipient shall accept from Yamhill County, a grant in an aggregate amount not to exceed the Grant Amount (the "Grant").

Conditions to Closing. Yamhill County's obligations are subject to the receipt of the following items, in form and substance satisfactory to Yamhill County and its Counsel:

- (1) This Contract duly signed by an authorized officer of Subrecipient; and
- (2) Such other certificates, documents, opinions and information as Yamhill County may reasonably require.

SECTION 3 - DISBURSEMENTS

- A. Reimbursement Basis. The Financing Proceeds, as defined elsewhere herein, will be disbursed to Subrecipient on an expense reimbursement or costs-incurred basis. The Subrecipient must submit each disbursement request for the Financing Proceeds on a Yamhill County-provided or Yamhill County-approved disbursement request form ("Disbursement Request"), accompanied by receipts and other documentation of expenses that are acceptable to Yamhill County.
- B. Financing Availability. Yamhill County's obligation to make, and Subrecipient's right to request, disbursements under this Contract terminate on the Project close-out deadline.
- C. Conditions to Disbursements. As to any disbursement, Yamhill County has no obligation to disburse funds unless all following conditions are met:
 - (1) Subrecipient is not in Default or there has not been an Event of Default on the part of Subrecipient, as the terms "Default" and "Event of Default" are defined elsewhere herein.
 - (2) The representations and warranties made by Subrecipient in this Contract are true and correct on the date of disbursement as if made on such date.
 - (3) Yamhill County has sufficient funds to disburse the Grant Amount. Notwithstanding the preceding sentence, payment of the Grant Amount by Yamhill County is contingent on Yamhill County receiving funds from the Oregon Department of Transportation sufficient to allow Yamhill County, in the exercise of its reasonable administrative discretion, to pay the Grant Amount in accordance with the terms of this Contract, and notwithstanding anything in the Contract, occurrence of such contingency does not constitute an event of default. Upon occurrence of such contingency, Yamhill County has no further obligation to disburse the Grant Amount to Subrecipient.
 - (4) Yamhill County (a) has received a completed Disbursement Request, (b) has received any

written evidence of materials and labor furnished to or work performed upon the Project, itemized receipts or invoices for payment, and releases, satisfactions or other signed statements or forms as Yamhill County may require, (c) is satisfied that all items listed in the Disbursement Request are reasonable and that the costs for labor and materials were incurred and are properly included in the Costs of the Project, and (d) has determined that the disbursement is only for costs defined as eligible costs.

- (5) Subrecipient has delivered documentation satisfactory to Yamhill County that, in addition to the Financing Proceeds, Subrecipient has available or has obtained binding commitments for all funds necessary to complete the Project.
- (6) Any conditions to disbursement elsewhere in this Contract are met.
- (7) Upon Yamhill County's receipt of the final Disbursement Request, Yamhill County shall conduct an onsite review of the Project. Yamhill County may withhold payment of the final Disbursement Request until such onsite review is completed and the Project is approved by Yamhill County's Project Manager or designee.

SECTION 4 - USE OF FINANCIAL ASSISTANCE

- A. Use of Grant Funds. The Subrecipient shall use the Grant funds only for the activities described in Exhibit B. Subrecipient may not transfer Grant funds among line items in the Project budget without the prior written consent of Yamhill County.
- B. Costs of the Project. The Subrecipient shall apply the Grant funds to the Costs of the Project in accordance with Section 4 Use of Financial Assistance. Grant funds cannot be used for costs in excess of one hundred percent (100%) of the total Costs of the Project and cannot be used for pre-award Costs of the Project, except as permitted by Exhibit B.
- C. Eligible Costs. Eligible Costs of the Project are as defined in Exhibit A.
- D. Non-eligible Costs. Eligible costs do NOT include: (1) operating and working capital or operating expenditures charged to the Project by Subrecipient, (2) loans or grants to be made by third parties, (3) any expenditures incurred after the Contract expiration date, (4) costs associated with the Project that substantially deviate from the Project description in Exhibit B, unless such changed are approved by County by amendment to this Contract.
- E. Costs Paid for by Others. The Subrecipient may not use any of the Grant funds to cover costs to be paid for by other financing for the Project from another State of Oregon agency or any third party.
- F. Unexpended Financing Proceeds. Any Grant funds disbursed to Subrecipient, and any interest earned by Subrecipient on the Grant funds, that are not used as set out herein or that remain after the Project is completed or this Contract is terminated shall be immediately returned to Yamhill County.

SECTION 5 - REPRESENTATIONS AND WARRANTIES OF SUBRECIPIENT

The Subrecipient represents and warrants to Yamhill County:

- A. Estimated Project Cost, Funds for Repayment. A reasonable estimate of the Costs of the Project is shown in Section 1, and the Project is fully funded.
- B. Organization and Authority.
- (1) The Subrecipient is a legal entity, validly organized and existing under the laws of the State of Oregon.
 - (2) The Subrecipient has all necessary right, power and authority under its organizational documents and under Oregon law to (a) execute and deliver this Contract, (b) incur and perform its obligations under this Contract, and (c) receive financing for the Project.
 - (3) This Contract has been authorized by an ordinance, order or resolution of Subrecipient's governing body that was adopted in accordance with applicable law.
 - (4) This Contract has been duly executed by Subrecipient, and when executed by Yamhill County, is legal, valid and binding, and enforceable in accordance with their terms.
- C. Full Disclosure. The Subrecipient has disclosed in writing to Yamhill County all facts that materially adversely affect the Project, or the ability of Subrecipient to perform all obligations required by this Contract. The Subrecipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Contract, including Exhibit B and Exhibit C, is true and accurate in all respects.
- D. Pending Litigation. The Subrecipient has disclosed in writing to Yamhill County all proceedings pending (or to the knowledge of Subrecipient, threatened) against or affecting Subrecipient, in any

court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Project or the ability of Subrecipient to perform all obligations required by this Contract.

E. No Defaults.

- (1) No Defaults or Events of Default exist or occur upon authorization, execution or delivery of this Contract.
- (2) The Subrecipient has not violated, and has not received notice of any claimed violation of, any agreement or instrument to which it is a party or by which the Project or its property may be bound, that would materially adversely affect the Project or the ability of Subrecipient to perform all obligations required by this Contract.

F. Compliance with Existing Agreements and Applicable Law. The authorization and execution of, and the performance of all obligations required by, this Contract will not: (i) cause a breach of any agreement or instrument to which Subrecipient is a party or by which the Project or any of Subrecipient's property or assets may be bound; (ii) violate any provision of the charter or other document pursuant to which Subrecipient was organized or established; or (iii) violate any laws, regulations, ordinances, resolutions, or court orders related to Subrecipient, the Project or Subrecipient's properties or operations.

G. Compliance with Tax Laws. Subrecipient is not in violation of any Oregon tax laws, including but not limited to a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620.

SECTION 6 - COVENANTS OF SUBRECIPIENT

The Subrecipient covenants as follows:

- A. Notice of Adverse Change. Subrecipient shall promptly notify Yamhill County of any adverse change in the activities, prospects or condition (financial or otherwise) of Subrecipient or the Project related to the ability of Subrecipient to perform all obligations required by this Contract.
- B. Compliance with Laws. The Subrecipient shall comply with all applicable laws, rules, regulations and orders of any court or governmental authority that relate to this Contract and the Project. In particular, but without limitation, Subrecipient shall comply with the following, as applicable:
 - (1) Oregon Tax Laws, (as defined in Section 5.G).
- C. Project Obligations. Subrecipient hereby assumes and shall perform all obligations of Yamhill County as "Agency" listed under "AGENCY OBLIGATIONS" of the IOF Agreement as if Subrecipient is Yamhill County and this Contract hereby incorporates and passes through all applicable requirements of the IOF Agreement to Subrecipient. In addition, Subrecipient shall perform the following:
 - (1) Ensure the completion of the Project using its own fiscal resources or money from other sources to pay for any Costs of the Project in excess of the total amount of financial assistance provided pursuant to this Contract.
 - (2) Ensure the completion of the Project no later than the Project Completion Date, unless otherwise permitted by Yamhill County in writing.

- (3) No later than the Project Closeout Deadline, provide Yamhill County with a final project completion report on a form provided by Yamhill County, including Subrecipient's certification that the Project is complete, all payments are made, and no further disbursements are needed; provided however, for the purposes of this Contract, Yamhill County will be the final judge of the Project's completion.
 - (4) Subrecipient hereby names ODOT as a third-party beneficiary of this Contract and shall name Yamhill County and ODOT as additional or "dual" obligees on Subrecipient's payment and performance bonds and Subrecipient's Financial Guarantee Bond.
 - (5) Meet the insurance requirements of the IOF Agreement, including the minimum insurance requirements contained in Exhibit B of the IOF Agreement.
 - (6) Without limiting the generality of Subrecipient's obligations outlined elsewhere herein, Subrecipient shall keep accurate cost accounting records and provide itemized reports and invoices for construction to Yamhill County's Project manager, in a form identifying the Project and approved by Yamhill County.
 - (7) Without limiting the generality of Subrecipient's obligations as outlined elsewhere herein, because the purpose of the IOF Agreement and this Project is to promote job-growth, Subrecipient hereby acknowledges and assumes full responsibility for compliance with Section 15 under "AGENCY OBLIGATIONS" in the IOF Agreement. If Subrecipient shows a deficiency in the number of FTE positions, Subrecipient shall reimburse Yamhill County Financing Proceeds on a pro-rated basis, equal to the amounts Yamhill County is required to reimburse ODOT under the IOF Agreement. Subrecipient's obligation under this subsection 7 is secured in part by the Financial Guarantee Bond, such Financial Guarantee Bond to remain in full force and effect for the entire term of this Contract and which is attached hereto as Exhibit D and incorporated herein by this reference. Reimbursements resulting from a failure to provide job documentation, failure to meet job target goals or failure to obtain Project Site Certification shall be paid by Subrecipient within three (3) months after the expiration of the time limits under Section 15 of the IOF Agreement and otherwise in accordance with Sections 15 and 16 of the IOF Agreement.
 - (8) Subrecipient agrees that should any environmental or land-use issues arise at any time during the development or construction of the Project, Yamhill County may, at its discretion and when exercised in good faith, suspend payments until it is satisfied that the issue has been resolved.
- D. Books and Records. The Subrecipient shall keep accurate books and records and maintain them according to generally accepted accounting principles established by the Government Accounting Standards Board in effect at the time. Subrecipient shall have these records audited annually by an independent certified public accountant, which may be part of the annual audit of all records of Subrecipient.
- E. Inspections; Information. The Subrecipient shall ensure that Yamhill County and any party designated by Yamhill County: (i) may inspect, at any reasonable time, the property, if any, constituting the Project; and (ii) at any reasonable time, to inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, papers, plans, writings, investments and any other related matters. The Subrecipient shall supply any related reports and information as Yamhill County may reasonably require.
- F. Records Maintenance. The Subrecipient shall retain and keep accessible all books, documents,

papers, and records that are directly related to this Contract, the Project or the Financing Proceeds for a minimum of six years, or such longer period as may be required by other provisions of this Contract or applicable law, following the Project Closeout Deadline. If there are unresolved issues at the end of such period, Subrecipient shall retain the books, documents, papers and records until the issues are resolved.

- G. Economic Benefit Data. Yamhill County may require Subrecipient to submit specific data on the economic development benefits of the Project and other information to evaluate the success and economic impact of the Project, from the date of this Contract until six years after the Project Completion Date. The Subrecipient shall, at its own expense, prepare and submit the data within the time specified by Yamhill County.
- H. Notice of Default. The Subrecipient shall give Yamhill County prompt written notice of any Default as soon as any senior administrative or financial officer of Subrecipient becomes aware of its existence or reasonably believes a Default is likely.
- I. Indemnity. **Subrecipient shall defend, indemnify, save and hold harmless Yamhill County and its officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and attorney' s fees incurred related to any actual or alleged act or omission by Subrecipient, or its employees, agents or contractors.**
- J. Prevailing Wages; certified statement. The Subrecipient hereby certifies, and it shall be a condition of disbursement, as provided by ORS 279C.800 through 279C.870, that in performing this Contract the Subrecipient will ensure that any contractor or subcontractor (herein "Contractor") employed by Subrecipient on the Project will pay and cause to be paid not less than the prevailing rate of wages as of the date of Subrecipients agreement or agreements with Contractor, per hour, per day, and per week for and to each and every worker who may be employed in and about the performance of the Project. In the event any Contractor hired by Subrecipient on the Project is obligated to abide by prevailing wage requirements imposed by federal law, the Subrecipient shall ensure that such Contractor complies with the Davis-Bacon Act (40 U.S.C. 3141 et seq). The Contractor shall file with the Subrecipient certified statements as required under ORS279C.845 with regard to payment of prevailing wages. Pursuant to ORS 279C.845(7) until Subrecipient receives the certified statements from Contractor, Subrecipient shall retain 25% of any amount earned by the Contractor as required by law. Subrecipient shall pay Contractor any retained amounts under this Section within 14 days of receipt of certified statements.
- K. BOLI Fee. In accordance with ORS 279C.825, as amended in 2009, the Subrecipient shall pay a fee to the Bureau of Labor and Industries (BOLI), Wage and Hour Division, Rom 1160, Prevailing Wage Unit, 800 NE Oregon Street, #32, Portland, Oregon 97232. The fee is an amount equal to one-tenth of one percent (0.1 percent) of the contract price of each contract for the Project, with a minimum fee of \$250.00 and a maximum fee of \$7,500.00. The fee shall be paid at the time Subrecipient enters into each agreement with a Contractor for Project work or services or as otherwise directed by BOLI. The fee shall be paid in accordance with the administrative rules of BOLI.
- L. Public Works Bond. Before commencing work under any contract with a Contractor for the Project, the Subrecipient shall ensure that the Contractor has a public works bond as described

in PRS 279C.836 filed with the Construction Contractor's Board ("CCB").

- M. Inclusion in all Project Contracts. Subrecipient shall include the above prevailing wage rate provisions in any Project contract with a Contractor that the Contractor shall pay applicable prevailing wages, file the certified statement and have a public works bond filed with the CCB as provided herein before commencing Project work.

SECTION 7-DEFAULTS

Any of the following constitutes an "Event of Default":

- A. Any false or misleading representation is made by or on behalf of Subrecipient, in this Contract or in any document provided by Subrecipient related to this Grant or the Project.
- B. Subrecipient fails to perform any obligation required under this Contract, other than those referred to in subsection A of this section 7, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Subrecipient by Yamhill County. Yamhill County may agree in writing to an extension of time if it determines Subrecipient instituted and has diligently pursued corrective action.

SECTION 8 - REMEDIES

- A. Remedies. Upon any Event of Default, Yamhill County may pursue any or all remedies in this Contract and any other remedies available at law or in equity to enforce the performance of any obligation of Subrecipient. Remedies may include, but are not limited to any one or more of the following:
 - (1) Termination of this Contract including terminating Yamhill County's commitment and obligation to make the Grant or disbursements of Grant amounts under the Contract.
 - (2) Barring Subrecipient from applying for future awards from Yamhill County.
 - (3) Withholding amounts otherwise due to Subrecipient for application to the payment of amounts due under this Contract.
 - (4) Requiring repayment of the Grant and all interest earned by Subrecipient on Grant funds.
- B. Application of Moneys. Any moneys collected by Yamhill County pursuant to section 8.A will be applied first, to pay any attorneys' fees and other fees and expenses incurred by Yamhill County; then, as applicable, to repay any Grant funds owed; then, to pay other amounts due and payable under this Contract, if any.
- C. No Remedy Exclusive: Waiver: Notice. No remedy available to Yamhill County is intended to be exclusive, and every remedy will be in addition to every other remedy. No delay or omission to exercise any right or remedy will impair or is to be construed as a waiver of such right or remedy. No single or partial exercise of any right power or privilege under this Contract will preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. Yamhill County is not required to provide any notice in order to exercise any right or remedy, other than notice required in section 7 of this Contract.
- D. Default by Yamhill County. In the event Yamhill County defaults on any obligation in this Contract, Subrecipient's remedy will be limited to injunction, special action, action for specific

performance, or other available equitable remedy for performance of Yamhill County's obligations.

SECTION 9 - MISCELLANEOUS

- A. Time is of the Essence. Subrecipient agrees that time is of the essence under this Contract.
- B. Relationship of Parties: Successors and Assigns: No Third-Party Beneficiaries.
- (1) The parties agree that their relationship is that of independent contracting parties and that Subrecipient is not an officer, employee, or agent of Yamhill County or the State of Oregon as those terms are used in ORS 30.265.
 - (2) Except as provided under Section 6.C.4, nothing in this Contract gives, or is to be construed to give, directly or indirectly, to any third persons any rights and benefits greater than those enjoyed by the general public.
 - (3) This Contract will be binding upon and inure to the benefit of Yamhill County, Subrecipient, and their respective successors and permitted assigns.
 - (4) Subrecipient may not assign or transfer any of its rights or obligations or any interest in this Contract without the prior written consent of Yamhill County. Yamhill County may grant, withhold or impose conditions on such consent in its sole discretion. In the event of an assignment, Subrecipient shall pay, or cause to be paid to Yamhill County, any fees or costs incurred because of such assignment, including but not limited to attorneys' fees of Yamhill County's Counsel. Any approved assignment is not to be construed as creating any obligation of Yamhill County beyond those in this Contract, nor does assignment relieve Subrecipient of any of its duties or obligations under this Contract.
 - (5) Subrecipient hereby approves and consents to any assignment, sale or transfer of this Contract that Yamhill County deems to be necessary.
- C. Disclaimer of Warranties; Limitation of Liability. The Subrecipient agrees that:
- (1) Yamhill County makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the Project or any portion of the Project, or any other warranty or representation.
 - (2) In no event are Yamhill County or its agents liable or responsible for any direct, indirect, incidental, special, consequential or punitive damages in connection with or arising out of this Contract or the existence, furnishing, functioning or use of the Project.
- D. Notices. All notices to be given under this Contract must be in writing and addressed as shown below, or to other addresses that either party may hereafter indicate pursuant to this section. Notices may only be delivered by personal delivery or mailed, postage prepaid. Any such notice is effective five calendar days after mailing, or upon actual delivery if personally delivered.

If to Yamhill County: Carrie Martin, Grants & Special Projects Manager
 Yamhill County
 535 NE Fifth Street
 McMinnville, OR 97128-4523

If to Recipient : Jim Bernau, Chief Executive Officer

Bernau Estate / Willamette Valley Vineyards
8800 Enchanted Way
Turner, OR 97392

- E. Severability. If any term or condition of this Contract is declared by a court of competent jurisdiction as illegal, invalid or unenforceable, that holding will not invalidate or otherwise affect any other provision.
- F. Amendments, Waivers. This Contract may not be amended without the prior written consent of Yamhill County and Subrecipient. This Contract may not be amended in a manner that is not in compliance with applicable law. No waiver or consent is effective unless in writing and signed by the party against whom such waiver or consent is sought to be enforced. Such waiver or consent will be effective only in the specific instance and for the specific purpose given.
- G. Attorneys' Fees and Other Expenses. In the event that either party to this Contract shall take any action, judicial or otherwise, to enforce or interpret any of the terms of this Contract each party shall be wholly responsible for its own expenses which it may incur in taking such action, including costs and attorney fees, whether incurred in a suit or action or appeal from a judgment or decree therein or in connection with any non-judicial action
- H. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.
- Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Yamhill County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.
- Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.
- I. Integration. This Contract (including all recitals, exhibits, schedules or attachments) constitutes the entire agreement between the parties on the subject matter. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Contract. No waiver, consent, modification, or change of terms of this Contract shall bind either party unless in writing and signed by both parties and all necessary 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 either party to enforce any provision of this Contract shall not constitute a waiver by that party of that or any other provision.
- J. Recitals. The recitals located at the top of this Contract are hereby incorporated into and made a part of this Contract as if expressly set forth herein.
- K. Execution in Counterparts. This Contract may be signed in several counterparts, each of which is an original and all of which constitute one-and-the-same instrument.
- L. Compliance with Applicable Laws. Subrecipient shall comply with all federal, state, and local laws,

regulations, executive orders and ordinances applicable under this Contract, including, without limitation, the applicable provisions of ORS 279A, 279B and 279C, ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279C.270, incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Subrecipient expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

- M. Workers Compensation. All employers, including Subrecipient, that employ subject workers who work under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Subrecipient shall ensure that each of its Contractors or subcontractors complies with these requirements.
- N. Termination. This Contract may be terminated by mutual written consent of both parties. In addition, Yamhill County may terminate this Contract effective upon delivery of written notice to Subrecipient, or at such later date as may established by Yamhill County, under any of the following conditions: (1) Subrecipient fails to provide services called for by this Contract within the time specified herein or any extension thereof, (2) an Event of Default under Section 7, (3) if Subrecipient fails to provide payment of its share of the cost of the Project, (4) if Yamhill County fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow Yamhill County, in the exercise of its reasonable discretion, to continue to make payments for performance of this Contract, (5) if federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Contract is prohibited or Yamhill County is prohibited from paying for such work from the planned funding source. Any such termination shall not prejudice any rights or obligations accrued to the parties prior to termination.
- O. Construction. No Construction against Drafter. This Contract is to be construed as if the parties drafted it jointly.

Yamhill County and the Subrecipient, by their signatures below, acknowledges that they have read this Contract, understand it, and agree to be bound by its terms and conditions.



YAMHILL COUNTY

By: [Signature]
Kenneth Huffef, County Administrator

Date: 11/23/2021

BERNAU ESTATE /
WILLAMETTE VALLEY VINEYARDS

By: [Signature]
~~Christine Clair, Winery Director~~
JAMES W. BERNAU, CEO

Date: 11/10/21

Accepted by Yamhill County
Board of Commissioners on
11/22/21 by Board Order
21-478

EXHIBIT A - GENERAL DEFINITIONS

As used in this Contract, the following terms have the meanings below.

"Costs of the Project" means Subrecipient's actual costs (including any financing costs properly allocable to the Project) that are (a) reasonable, necessary and directly related to the Project, (b) permitted by generally accepted accounting principles to be Costs of the Project, and (c) are eligible or permitted uses of the Financing Proceeds under applicable state statute and rule.

"Counsel" means an attorney at law or firm of attorneys at law duly admitted to practice law before the highest court of any state, who may be of counsel to, or an employee of, Yamhill County or Subrecipient.

"Default" means an event which, with notice or lapse of time or both, would become an Event of Default.

"Financing Proceeds" means the proceeds of the Grant. "ORS" means the Oregon Revised Statutes.

"Project Completion Date" means the date on which Recipient completes the Project.

EXHIBIT B - PROJECT DESCRIPTION

Yamhill County Contact	Bernau Estate Contact
Project Contact: Carrie Martin Title: Grants & Special Projects Manager Address: Yamhill County 535 NE Fifth Street McMinnville, OR 97128-4523 Phone: 503-474-4991 Email: martinc@co.yamhill.or.us	Project Contact: Christine Clair Title: Winery Director Address: Willamette Valley Vineyards 8800 Enchanted Way Turner, OR 97392 Phone: 503-588-9463 Email: christine.clair@wvv.com

Project Background:

The Bernau Estate Biodynamic Vineyard, Winery & Gardens will be the first of its kind to welcome the public to learn about biodynamic farming practices and the benefits to the environment and our health, through a working farm and production facility. Biodynamics is a holistic, ecological, and ethical approach to farming, gardening, food and nutrition. Its location near Dundee in the heart of Oregon wine country makes this a prime site for promoting a cutting-edge agricultural practice and Oregon's role in sustainable farming, through an eco-tourism experience

Public benefit includes increased tourism dollars in the Mid-Valley region, workforce development in the service industry, and educational information sharing with the public, community colleges and agricultural community.

Project Activities:

This Grant will be used to make roadway improvements near the new development of Willamette Valley Vineyards along OR 99W (Pacific Highway West) consisting of: (1) moving an existing private approach, (2) extending the existing two-way left turn lane from Northeast Blanchard Land to the relocated approach, (3) constructing a right turn lane in the southbound direction at the relocated approach, (4) improving access turning movement to OR99W to enhance mobility and safety for the increased traffic anticipated from the expansion of WVV ("Project")

EXHIBIT C – IOF AGEEMENT

(see attached)

EXHIBIT D – FINANCIAL GUARANTEE BOND

(see attached)

FINANCIAL GUARANTEE BOND

Bond Number PR2726880

KNOW ALL BY THESE PRESENTS,

That we, Willamette Valley Vineyards, Inc. as Principal, and Platte River Insurance Company, licensed to do business in the State of Nebraska, as Surety, are held and firmly bound unto Yamhill County (Obligee), in the penal sum of Seven Hundred Twenty Four Thousand Five Hundred and No/100ths Dollars (\$724,500.00), for the payment of which sum, well and truly to be made, we bind ourselves, our personal representatives, successors and assigns, jointly, and severally.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas the Obligee and Principal have entered into a written agreement regarding Project Name: Bernau Estate Biodynamic Wine and Agriculture Experience Oregon Department of Transportation, Immediate Opportunity Grant Agreement Number: 33976 (hereinafter referred to as "the Agreement") and

NOW, THEREFORE, If the Principal shall pay to the Obligee all funds due the Obligee according to the Agreement, then this obligation shall be void, otherwise to remain in full force and effect.

This bond shall become effective on November 18, 2021 and shall remain in force until canceled as provided herein.

PROVIDED, that regardless of the number of years this bond is in force, the number of premiums paid, or the number of claims made, the aggregate liability of the Surety shall not be cumulative from year to year and in no event shall exceed the penal sum stated above.

PROVIDED FURTHER, that the Surety may cancel this bond at any time by filing with the Obligee thirty (30) days written notice of its intent to be relieved of any future liability. The Surety shall not be discharged from any liability already accrued under this bond, or which shall accrue hereunder before the expiration of the thirty (30) day period.

Signed sealed and dated this 16th day of November, 2021.

Willamette Valley Vineyards, Inc, Principal

Witness:

By:

, (Name and title)

Witness:

[Signature]

Platte River Insurance Company

By:

[Signature]

Kelly M. Niemela, Attorney-in-Fact



PLATTE RIVER INSURANCE COMPANY
POWER OF ATTORNEY

PR2726880

Bond Number

KNOW ALL MEN BY THESE PRESENTS, That the PLATTE RIVER INSURANCE COMPANY, a corporation of the State of Nebraska, having its principal offices in the City of Middleton, Wisconsin, does make, constitute and appoint

-----SHAWN CARLISI; KARL CHOLTUS; MICHAEL MERTZ; JESSICA CLEETON; SUSAN WILSON; SARAH HARREN; KELLY M. NIEMELA-----
---SANDRA ORR; STACY POWERS; KEM HAYASHI; ALLISON THORNHILL; ALEXANDER K. NEPHEW; WILLIAM ROCKSETH;BRADLEY MAPES---

its true and lawful Attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf, as surety, and as its act and deed, any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

-----ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED: \$20,000,000.00-----

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PLATTE RIVER INSURANCE COMPANY at a meeting duly called and held on the 8th day of January, 2002.

"RESOLVED, that the President, Executive Vice President, Vice President, Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings, and other writings obligatory in the nature thereof, one or more resident vice-presidents, assistant secretaries and attorney(s)-in-fact, each appointee to have the powers and duties usual to such offices to the business of this company; the signature of such officers and seal of the Company may be affixed to any such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company, and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner - Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

IN WITNESS WHEREOF, the PLATTE RIVER INSURANCE COMPANY has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed duly attested, this 1st day of January, 2020.

Attest:

Ryan J. Byrnes
Senior Vice President,
Chief Financial Officer and Treasurer
Suzanne M. Broadbent
Assistant Secretary



PLATTE RIVER INSURANCE COMPANY

John L. Sennott, Jr.
Chief Executive Officer and President

STATE OF WISCONSIN } S.S.:
COUNTY OF DANE

On the 1st day of January, 2020 before me personally came John L. Sennott, Jr., to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hartford, State of Connecticut; that he is Chief Executive Officer and President of PLATTE RIVER INSURANCE COMPANY, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.



David J. Regele
David J. Regele
Notary Public, Dane Co., WI
My Commission Is Permanent

STATE OF WISCONSIN } S.S.:
COUNTY OF DANE

I, the undersigned, duly elected to the office stated below, now the incumbent in PLATTE RIVER INSURANCE COMPANY, a Nebraska Corporation, authorized to make this certificate, DO HEREBY CERTIFY that the foregoing attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed at the City of Middleton, State of Wisconsin this 16th day of November, 2021



Andrew B. Diaz-Matos
Senior Vice President, General Counsel and Secretary