

**YAMHILL COUNTY FY2024 ECONOMIC DEVELOPMENT GRANT AGREEMENT  
SMALL GRANT**

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THIS GRANT AGREEMENT, ("Agreement") is made and entered into by and between **Yamhill County**, a political subdivision of the State of Oregon ("County") and **Alumbra Cellars**, an **Oregon Domestic Business Corporation**, located at **12470 SE Dayton Hwy, Dayton, OR 97114** ("Recipient"). Each party may hereinafter be individually referred to as the "Party" and collectively referred to as the "Parties."

**RECITALS**

1. By the authority granted in ORS 461.547, County has established an Economic Development Grant program ("Program") for the purpose of financing grants to public and private entities to fund economic development projects that further the public purposes described in ORS 461.540.
2. County has received and reviewed Recipient's application for Program funds and County approved Recipient's application at its formal session on July 25, 2024 (B.O. 24-211).
3. The County has set specific conditions for receipt of Program funds and the inability of Recipient to meet these conditions may result in a loss of Program funding. The receipt and use of Program funding under this Agreement by Recipient is subject to conditions contained herein and in the Program application.

**NOW THEREFORE**, in consideration of the mutual covenants contained below and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**I. TERMS OF AGREEMENT**

1. County and Recipient agree that Recipient shall use approved Program funds for the purpose of **expansion/relocation/retention**, referred to herein as the "Project", as further described in Recipient's Application, which is attached hereto as Exhibit A and incorporated herein by this reference.
2. The total amount of Program funds awarded to Recipient is \$10,000.00 ("Grant Funds"). Eligible costs for this Project include **purchase of winery equipment – de-stemmer, a pump, fermenters and stainless-steel tanks**, and County will not provide any Grant funds prior to the effective date of this Agreement, unless previously approved by the County. This grant reporting period begins on **June 25, 2024**.
3. If Recipient does not complete the Project in accordance with this Agreement Recipient shall pay back all the Grant Funds to County. Any Grant Funds disbursed to Recipient but not used for the approved Project must be returned to County. Project related expenditures incurred by Recipient prior to the effective date of this agreement must be preapproved by county staff and included as part of this Agreement.
4. The term of this Agreement is effective on the date all required signatures are obtained and shall expire 12 months from that date.

## II. RECIPIENT OBLIGATIONS

1. Recipient shall perform Project work described in Exhibit A and comply with all Program requirements.
2. *Recipient shall submit to County for review and approval quarterly progress reports on Project milestones outlined herein and in Exhibit A. Recipient will use the expenditure form provided by the County to itemize expenditures and provide a breakdown of Grant Funds expended and dollars remaining, if any.*
3. The quarterly progress report will consist of two documents provided by the county: a quarterly report form outlining milestones and a quarterly expenditure report, which are attached hereto as Exhibit B and incorporated herein by this reference and shall be submitted according to the following schedule:
  - **December 1, 2024:**
  - **June 1, 2025**
4. Any changes to Project scope as detailed in Exhibit A or schedule must be approved by the County and memorialized in a written amendment to this Agreement signed by both parties. Recipient shall not proceed with any changes to Project prior to the Amendment being approved and executed by County. An Amendment may be rejected by County in its reasonable discretion.
5. As part of Recipient's quarterly report Recipient shall include details identifying the number of jobs created or retained to date, both during and after Project completion, as a direct result of this Project. The report must also include a correlation to the number of jobs projected in Recipient's application. This report must also include data that measures Project's success as described in the Program application.
6. Recipient must comply with ORS 280.518, which requires any economic development program financed with proceeds from the Oregon state lottery to display a sign in a conspicuous location on Project site or specify in the program information that Project is financed with proceeds from the state lottery. Recipient shall provide proof to County that Recipient has displayed a sign or specified in its program information that Project is financed with proceeds from the Oregon state lottery. County will provide the applicant with the sign.
7. Recipient must produce or provide, upon County's request, any documents or information identified or referenced in the Project application or in other documents provided by Recipient to County prior to the execution of the Agreement. These may include, but are not limited to, information pertaining to Project milestones, schedule, budget and cash flow, feasibility, contracts, likelihood of completion within planned time frame, and other items related to completion of promised Project elements.
8. Recipient shall comply with all federal, state, and local laws, regulations, executive orders, and ordinances applicable under this Agreement, including, without limitation, the applicable provisions of ORS 279A, 279B and 279C. Without limiting the generality of the foregoing, Recipient 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.

9. Recipient shall indemnify, defend, save, and hold harmless County, its officers, and employees from any and all claims, suits, or action of any nature arising out of activities of Recipient, its consultants, its contractors, its officers, subcontractors, agents, or employees under this Agreement. If Recipient is a local public agency, then Recipient's total liability shall not exceed the tort claims limits providing in the Oregon Tort Claims Act, ORS 30.260 and 30.300 for "local public bodies."
10. Recipient acknowledges and agrees that County and its duly authorized representatives shall have access to the books, documents, papers, and records of Recipient which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after execution of this Agreement. Copies of applicable records will be made available upon request. Payment for costs of copies is reimbursable by the requesting Party.
11. Recipient shall work as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers' compensation, unemployment taxes, and state and federal income tax withholdings.
12. All employers, including Recipient, that employ subject workers who work under this Agreement 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. Recipient shall ensure that each of its Contractors complies with these requirements.
13. Recipient and County shall, upon completion of the Project, perform a review. In addition, County may conduct periodic inspections following the execution of this Agreement to verify Project progress and/or completion and to ensure that the Project continues to serve the purpose for which Grant Funds were provided. This paragraph shall survive any expiration of this Agreement.
14. Recipient certifies and represents that (i) the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Recipient, under the direction or approval of its governing body, commission, board, officers, members, or representatives, and to legally bind Recipient and shall provide County proof of such authority upon request, and (ii) there is no proceeding pending or threatened against Recipient before any court or governmental authority that if adversely determined would materially adversely affect the Project or the ability of Recipient to carry out the Project.
15. Recipient's Project Manager is **Elena Rodriguez, 12470 SE Amity Dayton Hwy, Dayton, OR 97114; 503-714-13000; elena@alumbracellars.com** or assigned designee upon individual's absence. Recipient shall notify County in writing when any contact information changes during the term of this Agreement.
16. Recipient may not use any Grant Funds to reimburse itself for the defense of or settlement of any claim.
17. Recipient must obtain and maintain insurance in types and amounts customarily carried by Recipient's industry and appropriate for the Project. Additionally, if the Project includes the construction, remodel or repair of real property or improvements to real property, Recipient must insure the real property and improvements against liability and risk of direct physical loss, damage, or destruction at least to the extent that similar insurance is customarily carried by entities constructing, operating and maintaining similar property or facilities.

### III. COUNTY OBLIGATIONS

1. This Agreement is contingent upon receipt by County of lottery funds sufficient to fund the Project. The Agreement is effective and funds may be disbursed upon execution of this Agreement and the availability of Program funds as determined by County in its sole discretion.
2. Each disbursement of Grant Funds by County is contingent upon County receiving appropriations, limitations, allotments, or other expenditure authority sufficient to allow County, in the exercise of its reasonable discretion, to make payments under this Agreement.
3. County shall monitor Project for compliance and notify Recipient in writing if it appears Recipient is failing to comply with Program requirements terms of this Agreement or Recipient's application and documents provided by Recipient to County prior to the execution of the Agreement.
4. County may impose sanctions against Recipient for failing to comply with the requirements governing the Program. Before imposing sanctions, County will send a notice to cure to Recipient if Recipient fails to comply with Program requirements. County will allow fifteen (15) days from the date the notice to cure is sent for Recipient to respond and correct noted deficiencies or respond and show substantial steps toward cure; provided however, that in no event shall Recipient have more than 30 days to correct the noted deficiencies and if noted deficiencies have not been fully corrected within 30 days the County may impose sanctions against Recipient. The following circumstances may warrant sanctions:
  - a. Work on the Project has not been substantially initiated within six (6) months of the effective date of this Agreement or if continuous progress on Project has not been maintained for six (6) months;
  - b. Other Program or statutory requirements have not been met;
  - c. There is a significant deviation from the terms and conditions of this Agreement or representations of Recipient's application and documents provided to County prior to the execution of the Agreement;
  - d. Significant corrective actions have been found to be necessary to protect the integrity of the funds for the approved Project, and those corrective actions are not, or will not, be made within a reasonable time;
  - e. Key milestones shown in Project schedule are delayed by more than ninety (90) days without prior County Approval; or
  - f. Failure to submit quarterly progress reports as required in this Agreement.
5. One or more of the following sanctions may be imposed if the circumstances listed above are not remedied within the time specified in the notice to cure:
  - a. Revocation of this grant award;
  - b. Withholding of unexpended funds, if any;
  - c. The return of unexpended funds or repayment of expended funds;
  - d. The barring of Recipient from applying for future assistance; or
  - e. Other remedies that may be incorporated into this Agreement.

6. The remedies set forth in this Agreement are cumulative, are not exclusive, and are in addition to any other rights and remedies provided by law or under this Agreement.
7. County's Program manager is **Gioia Goodrum, 434 NE Evans, McMinnville, OR 97128, 503-434-7320, [goodrumg@yamhillcounty.gov](mailto:goodrumg@yamhillcounty.gov)**, or assigned designee upon individual's absence.

#### **IV. GENERAL PROVISIONS**

1. This Agreement may be terminated effective upon delivery of written notice to Recipient, or at such later date as may be established by County under any of the following conditions:
  - a. If Recipient fails to perform any of the provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and within ten (10) days or such longer period as County may authorize, after receipt of written notice from County, fails to correct such failures.
  - b. The Legislature fails to approve, reduces, eliminates, or otherwise interferes with appropriations of state expenditure limitation to the extent that legal authority is insufficient to enable County in its reasonable discretion, to continue making payments under this Agreement.
  - c. County or a court of competent jurisdiction determines that state law, rules, regulation, or guidelines are modified, changed, or interpreted in such a way that the activities described in Exhibit A are no longer allowable or no longer eligible for funding proposed by this Agreement.
2. County may impose one (1) or more of the sanctions described in this Agreement without prior notice and without opportunity to cure, in the event County determines:
  - a. Statements, information, or representations in the Program application and documents provided by Recipient to County prior to the execution of the Agreement, for Project were false, misleading, fraudulent or misrepresentations; or
  - b. There has been a change in circumstances so that information provided in the application and documents provided by Recipient to County prior to the execution of the Agreement, and relied upon in making the grant or loan, or representations concerning considerations in the selection of Project are no longer true or accurate.
3. Recipient may terminate this Agreement effective upon delivery of written notice to County under any of the following conditions:
  - a. County fails to make payments due under this Agreement, or
  - b. County fails to perform the provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and within ten (10) days or such longer period as Recipient may authorize, after receipt of written notice from Recipient, fails to correct such failure.
4. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
5. County and Recipient are the only Parties to this Agreement and, as such, are the only Parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise to third persons unless such third persons are expressly identified by name and specifically described as intended to be beneficiaries of its terms.

6. County and Recipient hereto agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
7. 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 Agreement, 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 Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Yamhill 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 above, 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 section 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 section is also not a waiver by the State of Oregon of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.
8. Except as may be provided elsewhere herein, in the event that either party to this Agreement shall take any action, judicial or otherwise, to enforce or interpret any of the terms of this Agreement 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
9. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
10. This Agreement, Project application and documents provided by Recipient to County prior to the execution of the Agreement, and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. In the event of a conflict, the body of this Agreement and the attached Exhibit A will control over Project application and documents provided by Recipient to County 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 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 Agreement shall not constitute a waiver by that Part of that or any other provision.
11. Except as provided elsewhere herein, neither party will be liable for incidental, consequential, or other direct damages arising out of or related to this Agreement, regardless of whether the damages or other liability is based in contract, tort (including negligence), strict liability, product liability or otherwise. Neither party will be liable for any damages or any sort arising solely from the termination of this Agreement in accordance with its terms.

12. Recipient may not assign or transfer its interest in this Agreement without the prior written consent of County and any attempt by Recipient to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. County's consent to Recipient's assignment or transfer of its interest in this Agreement will not relieve Recipient of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the parties hereto, and their respective successors and permitted assigns.
13. Recipient shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Recipient must maintain any other records, whether in paper or other form, pertinent to this Agreement in such a manner as to clearly document Recipient's performance. All financial records and other records, whether in paper, electronic or other forms, that are pertinent to this Agreement, are collectively referred to as "Records." Recipient acknowledges and agrees County and the federal government, and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Recipient must retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.
14. Time is of the essence in Recipient's performance of the Project activities under this Agreement.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions and that the persons executing this Agreement have been duly authorized to do so.

**COUNTY**  
DocuSigned by:  
 By: Lindsay Berschauer  
8E58DDAC84AB478...  
 Chair, Board of Commissioners

Date: 8/22/2024

**RECIPIENT**  
 By: Elena Rodriguez  
Elena Rodriguez Aug 12, 2024 11:44 PDT  
 Print Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**Tax ID # [insert EIN]**

**APPROVED AS TO FORM:**  
DocuSigned by:  
Christian Boenisch  
42D9EF9444634DC...  
 Christian Boenisch  
 County Counsel

**Approved by the BOC on:**  
**08/22/2024**  
**via Board Order No.:24-259**

EXHIBIT A

Agreement No. 24-\_\_

Project Name: Alumbra Cellars purchase of winery equipment

A. PROJECT DESCRIPTION

The funds we are asking for would go towards purchasing winery equipment, either new or used. Our list of equipment that we currently need is a de-stemmer, a pump, fermenters and stainless steel tanks.

B. PROJECT KEY MILESTONES AND SCHEDULE

| Project Activity     | Start Date | End Date |  |  |
|----------------------|------------|----------|--|--|
| Purchasing equipment | 6/1/2024   | 9/1/2024 |  |  |
|                      |            |          |  |  |
|                      |            |          |  |  |
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# Yamhill County ED Grant Agreement - Alumbra Cellars 2024

Final Audit Report

2024-08-12

|                 |                                             |
|-----------------|---------------------------------------------|
| Created:        | 2024-08-12                                  |
| By:             | Gioia Goodrum (goodrumg@yamhillcounty.gov)  |
| Status:         | Signed                                      |
| Transaction ID: | CBJCHBCAABAAKiTR78xW_jVg0SFgnCxFs2m5l6TMvgP |

## "Yamhill County ED Grant Agreement - Alumbra Cellars 2024" History

-  Document created by Gioia Goodrum (goodrumg@yamhillcounty.gov)  
2024-08-12 - 6:28:21 PM GMT
-  Document emailed to elena@alumbracellars.com for signature  
2024-08-12 - 6:28:56 PM GMT
-  Email viewed by elena@alumbracellars.com  
2024-08-12 - 6:43:20 PM GMT
-  Signer elena@alumbracellars.com entered name at signing as Elena Rodriguez  
2024-08-12 - 6:44:35 PM GMT
-  Document e-signed by Elena Rodriguez (elena@alumbracellars.com)  
Signature Date: 2024-08-12 - 6:44:37 PM GMT - Time Source: server- Signature captured from device with phone number XXXXXX5510
-  Agreement completed.  
2024-08-12 - 6:44:37 PM GMT