

**PEND OREILLE COUNTY  
NEWPORT, WASHINGTON**

**RESOLUTION NO. 2024- 046**

AMENDMENT NO. 2 TO MEMORANDUM OF AGREEMENT BETWEEN  
WASHINGTON STATE UNIVERSITY EXTENSION AND PEND OREILLE COUNTY-  
DEMONSTRATION GARDEN (*Amending A-2019-30*)

**WHEREAS**, Chapter 39.34 RCW, the Interlocal Cooperation Act, authorizes public agencies to enter into agreements for mutually advantageous joint or cooperative action; and

**WHEREAS**, Pend Oreille County and Washington State University Extension are public agencies within the meaning of Chapter 39.34 RCW; and

**WHEREAS**, pursuant to the provisions of RCW 36.32.120(6), the Board of County Commissioners of Pend Oreille County, Washington ("the Board") has the care of county property and the management of county funds and business; and

**WHEREAS**, the Board approved Agreement A-2019-30, setting forth the guidelines for the operation of the WSU Master Gardener Demonstration Garden, which is attached hereto; and

**WHEREAS**, the Board believes that the best interest of the public will be served by entering said agreement with Washington State University Extension, allowing for the replacement of the existing fencing.

**NOW, THEREFORE, BE IT HEREBY RESOLVED**, by the Pend Oreille County Board of Commissioners that Amendment No. 2 to Memorandum of Agreement Between Washington State University Extension And Pend Oreille County, which is attached hereto and incorporated herein, be established and adopted.

**BE IT FURTHER RESOLVED**, by the Pend Oreille County Board of Commissioners, that the Memorandum of Agreement Between Washington State University Extension And Pend Oreille County is hereby approved, and the Chair of the Board, or a majority of the Board is hereby authorized to execute it on behalf of Pend Oreille County.

**ADOPTED** this 11 day of March, 2024.

**BOARD OF COUNTY COMMISSIONERS  
PEND OREILLE COUNTY, WASHINGTON**



Robert Rosencrantz, Chair

Absent  
John Gentle, Vice-Chair

  
Brian Smiley, Member

ATTEST:

  
Crystal Zieske, Clerk of the Board

**AMENDMENT NO. 2 TO MEMORANDUM OF AGREEMENT  
BETWEEN  
WASHINGTON STATE UNIVERSITY  
AND  
PEND OREILLE COUNTY**

**THIS AMENDMENT NO. 2 TO MEMORANDUM OF AGREEMENT** ("Amendment No. 2") is made and entered into this 11 day of March, 2024 by and between Washington State University, an institution of higher education and agency of the state of Washington, by and through its Pend Oreille County Extension Unit ("WSU" and "WSU Extension" respectively) and Pend Oreille County ("Landowner"). WSU and Landowner may be individually referred to herein as a "Party" or jointly referred to herein as the "Parties."

**RECITALS**

**WHEREAS**, the Parties entered into that certain Memorandum of Agreement dated June 1, 2018, for the purpose of a Demonstration Garden of approximately .25 acres and located NW of the WSU Extension Office off Circle Drive (227 S. Garden Ave.) in Newport, WA and contemporaneously executed Amendment No. 1 relating to certain improvements to further the Demonstration Garden's purpose;

**WHEREAS**, both parties desire to replace the existing fencing;

**NOW, THEREFORE**, for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree to amend the Memorandum of Agreement as follows:

1. Fencing. As an addition to Section XI. Structures, WSU agrees to pay to construct and install a replacement fence as further described by the scope of work provided in Exhibit A. WSU agrees to construct and install the fence along the approximate outline shown in Exhibit B. The Parties agree that Landowner shall assume ownership of the fence constructed pursuant to this Amendment No. 2 and that WSU shall maintain, replace, or repair the same to effectuate WSU's purpose of securing the Demonstration Garden.
2. Other Terms and Conditions Unchanged. Apart from the modifications and amendments set forth above, the Memorandum of Agreement shall remain unchanged and in full force and effect. In the event of any conflict between the terms of the Memorandum of Agreement and this Amendment No. 2, the terms of this Amendment No. 2 shall control.
3. Capitalized Terms. All capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Memorandum of Agreement.
4. Electronic Signatures. This Amendment No. 2 may be executed in two or more counterparts, and by electronic signature including scanned copies, all of which when taken together, shall constitute one original document.

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 2 as of the date and year first written above.

WSU:

PEND OREILLE COUNTY:

APPROVED BY:

Signature: Shawna Thompson  
Name: Shawna Thompson  
Title: Manager, Real Estate & Bus Ops

Signature: Robert Rosencrantz  
Name: Robert Rosencrantz  
Title: County Commissioner, Chair

RECOMMENDED BY:

Signature: Beverly Sarles  
Name: BEVERLY SARLES  
Title: MASTER GARDENER PROGRAM COORDINATOR

## Exhibit A

### WSU/Pend Oreille County Master Gardeners Fence Replacement

#### General Description of Work:

Remove the existing fencing around the Master Gardener Demonstration Garden located on Circle Drive, Newport, on County owned property just northwest of the WSU/Pend Oreille County Extension Office. Remove existing fence; enlarge the garden as specified in diagram; dig post holes; install one new gate; reinstall one existing gate; and install new deer fencing with buried edging under the fence.

#### Detailed Description:

- Dismantle existing fencing.
  - Retain metal T-posts for reuse, if possible.
  - Retain small gate on north corner for reuse and relocation.
  - Retain, in place, the arbor/gate on the east side of the garden
  - Remove used fencing from the site.
- Install new fencing.
  - The new garden dimensions are approximately 78' x 111'. The fence shall be 6' high.
  - Call before digging to ensure all utility lines are marked.
  - The east fence line and the south fence line shall remain the same. The north and west fence lines will be extended to include the greenhouse and additional gardening space.
  - The new post in the southeast corner is to be kept in the same spot as the existing fence post. The new post in the southwest corner will be extended out approximately 12 feet to the west. The new corner post in the northwest corner will be extended out the west by 12 feet and to the north approximately 51 feet. The new corner post in the north east corner will be extended to the north approximately 51 feet. The north edge of the greenhouse will establish the north line of the fence. The north line of the fence will extend straight out from the east and west so that the greenhouse is now included in the fenced area.
  - Connect the new fence to the existing arbor/gate on the east side.
- Posts
  - Dig all holes for wood posts.
  - All wood posts shall be treated; brown, if possible.
  - Each of the 4 corner posts and the 3 extra gate posts shall be 6x6x10-s. (The gate posts included in the arbor are already installed and will remain in use.)
  - Each gate post and corner post will be reinforced by installing a 4x4x10 post 6 feet away and then attaching a 2x4 horizontally across the top. Those posts will be further reinforced by installing a diagonal 2x4 from the top of the corner post to the bottom of the 4x4 reinforcing post.

- Each corner post and gate post shall be installed in concrete, a minimum of 3 bags per hole.
- Evenly spaced T-posts shall be installed between the 4x4 posts, depending upon the specific location along the fence. The T-posts currently used in the existing fence shall be reused, if possible. T-posts should be no further apart than 8 feet or closer together than 6 feet.
- Gates
  - A new 6' tall x 10' wide fence shall be installed on the west side of the fence on the south corner.
  - The small gate in the northeast corner of the existing garden shall be removed and then replaced on the west side of the garden fence as shown in the diagram.
  - The arbor/gate on the east side remains in the same position. And the new fencing should be attached to that arbor and follow the same line as the existing fencing.
- Edging
  - Metal edging, 10" or 12" tall, is to be buried, 8" deep, along the entire perimeter of the fence to keep weeds from encroaching into the garden. The edging should completely enclose the garden. This edging should be steel.
- Fence fabric
  - Fence fabric is to be 6' tall, 12 gauge welded wire, with mesh openings approximately 2"x4". Fabric should be fastened to T-posts in at least 4 places. Fabric should be stapled to posts in at least 6 places.
- Please itemize the quote for the following individual parts of the job:
  - Old fence removal
  - Materials (not including buried weed barrier)
  - Digging holes, concrete and placing posts
  - Weed barrier materials and installation
  - Installing fence fabric and installing gates

## Exhibit B



A-2019-22

REID #: 26-150-002

WSU Contract # 28563

**MEMORANDUM OF AGREEMENT  
FOR A DEMONSTRATION GARDEN**

**I. INTRODUCTION**

This Memorandum of Agreement ("MOA") is entered into and made effective this 1<sup>st</sup> day of June 2018 by and between Washington State University, an institution of higher education and agency of the state of Washington ("WSU"), by and through its Pend Oreille County Extension Unit ("WSU EXTENSION"), and Pend Oreille County ("LANDOWNER"). The above entities are individually referred to as a "PARTY" and collectively referred to as the "PARTIES".

**II. PURPOSE**

This MOA, as amended, sets forth the guidelines for the PARTIES' operation of the WSU Master Gardener Demonstration Garden (the "DEMONSTRATION GARDEN") on property owned by LANDOWNER, as further described in Section V. herein.

**III. GUIDING PRINCIPLES**

All PARTIES agree to follow the concepts and principles set forth in this MOA, as amended by that Amendment No. 1 to Memorandum of Agreement ("Amendment No. 1") attached hereto in Exhibit "A". The guiding principles set forth in this MOA and in Amendment No. 1 were jointly prepared by the WSU Master Gardeners and LANDOWNER.

**IV. MISSION**

In furtherance of WSU's educational mission, the DEMONSTRATION GARDEN is intended to:

- a. Demonstrate environmentally sound gardening techniques based on WSU research;
- b. Provide hands-on experience for WSU Master Gardener volunteers;
- c. Educate the public, including youth, in science-based horticulture and related topics; and
- d. Provide a focal point for public use and enjoyment of the LANDOWNER'S 227 Garden Avenue Building.

**V. LOCATION**

The DEMONSTRATION GARDEN, located on property owned by the Landowner, is approximately .25 acres in size and is located just northwest of the WSU/Pend Oreille County Extension Office off of Circle Drive in Newport, WA; Geo Parcel # 453124580012 (the "PREMISES"). The PARTIES agree that the location and identification specifications for the PREMISES are an accurate identification of the DEMONSTRATION GARDEN.

**VI. DURATION AND TERMINATION**

This MOA shall be deemed to have taken effect on June 1, 2018, and it shall remain in effect until terminated by either PARTY. Any and all actions taken by the PARTIES under this MOU prior to such date are hereby approved and ratified by the PARTIES.

Either PARTY may terminate this MOA upon not less than ninety (90) days prior written notice to the other PARTY. The PARTIES agree that the DEMONSTRATION GARDEN shall continue to be operated under the terms of this MOA so long as the following basic criteria are met:

- A. The WSU Master Gardener Program and LANDOWNER promote and enact WSU Extension educational goals on the PREMISES;
- B. The WSU Master Gardeners maintain the DEMONSTRATION GARDEN so that it presents a positive public image;
- C. The LANDOWNER continues to own the land; and
- D. Neither PARTY has terminated this MOA as provided above.

#### **VII. AMENDMENTS**

This MOA may be amended or supplemented by mutual consent of the PARTIES. Such amendments or supplements shall not be binding unless they are in writing and signed by personnel authorized to bind each of the PARTIES.

#### **VIII. PROVISION OF LAND**

In further consideration for the services the WSU Master Gardener Program will provide to manage the DEMONSTRATION GARDEN, the LANDOWNER shall provide WSU EXTENSION the use of the PREMISES described in Paragraph V. herein for the DEMONSTRATION GARDEN at no cost to WSU EXTENSION. In consideration for the use of the PREMISES, WSU Master Gardener Program shall organize and promote educational use and enjoyment of the DEMONSTRATION GARDEN in the best interests of the general public, and consistent with the LANDOWNER's and WSU EXTENSION's missions.

#### **IX. PROVISION OF UTILITIES**

In further consideration for the services the WSU Master Gardener Program will provide to manage the DEMONSTRATION GARDEN, the LANDOWNER shall provide and pay the cost for a sufficient, year round supply of water and electricity for the DEMONSTRATION GARDEN. The water and electricity shall use the existing connections to the water and power supplies at the PREMISES. If one or both of those connections must be modified to provide reasonably adequate service to the DEMONSTRATION GARDEN, the cost and plan for such modifications to water or electric lines will be the responsibility of both PARTIES under terms to be negotiated and attached as an amendment to this MOA. The LANDOWNER shall maintain and pay the cost of public road access to the DEMONSTRATION GARDEN and the parking lots currently surrounding it.

#### **X. RESTROOM FACILITIES**

Provision and maintenance of restroom facilities for the volunteers, visitors and others attending or working in the DEMONSTRATION GARDEN will be negotiated between the PARTIES as part of the expansion and development of the public garden site of the DEMONSTRATION GARDEN.



## **XI. STRUCTURES**

Plans for all new structures and for modification of existing structures on the Premises must be presented to representatives of LANDOWNER for approval. All PARTIES must approve the plan before modification or construction of the structure can commence. For the purpose of this subsection, "structures" shall include signage and gates. The LANDOWNER will install appropriate and clearly visible signage. The final decision on any structural improvements will be made by the PARTIES in a separately negotiated amendment to this MOA as needed, such amendment to include at a minimum the costs to be borne by each PARTY for construction of the improvements and which PARTY shall own the improvements.

## **XII. MAINTENANCE OF GARDEN**

The WSU Master Gardeners will develop and maintain the DEMONSTRATION GARDEN in a manner acceptable to WSU and the LANDOWNER. The LANDOWNER shall provide and pay for all routine maintenance of the PREMISES, such as mowing the turf in and around the DEMONSTRATION GARDEN in accordance with the LANDOWNER's ordinary and usual mowing schedule. The PARTIES agree that before other public service or educational groups may build demonstration sites at the DEMONSTRATION GARDEN, all PARTIES shall review and approve the proposals on a case-by-case basis. The DEMONSTRATION GARDEN shall at all times be maintained in a manner that makes it reasonably safe for the public, visitors, volunteers, and employees. The PARTIES jointly shall make the final determination of whether the DEMONSTRATION GARDEN is adequately maintained. WSU Master Gardener volunteers shall not utilize or operate any LANDOWNER equipment to care and/ or maintain the DEMONSTRATION GARDEN.

## **XIII. INDEPENDENT CAPACITY**

The employees or agents of each PARTY who are engaged in the performance of this MOA shall continue to be the employees or agents of that PARTY and shall not be considered for any purpose to be employees or agents of the other PARTY.

## **XIV. DISPUTES:**

Disputes regarding the development and/or maintenance of the DEMONSTRATION GARDEN under this MOA shall be brought to the attention of the Public Works Director for the LANDOWNER, the WSU EXTENSION Director and/or Master Gardener Coordinator, and WSU EXTENSION's representative designated for this purpose for resolution. Failure to reach a resolution within thirty (30) days shall require the PARTIES to seek mediation. Failure of mediation within sixty (60) days thereafter shall automatically terminate this MOA.

## **XV. RECORDS MAINTENANCE**

The PARTIES to this MOA shall each maintain books, records, documents, and other evidence that sufficiently and properly reflects all direct and indirect costs expended by any PARTY in the performance of the services described herein. These records shall be subject to inspection, review, or audit by personnel of all PARTIES, other personnel duly authorized by any of the PARTIES, the Office of the State Auditor, and federal officials so authorized by law. All records relevant to this MOA shall be retained for six (6) years after expiration and all PARTIES mentioned above shall have full access and the right to examine any of these materials during this period.

#### XVI. COMPLIANCE WITH LAWS

All PARTIES shall comply with all federal, state and local laws, rules, and regulations in carrying out this MOA. All PARTIES agree 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, 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.

#### XVII. AGREEMENT APPROVAL

Each PARTY represents and warrants that all necessary approvals for this MOA have been obtained and the persons whose signatures appear below have the authority necessary to execute this MOA on behalf of the PARTIES indicated.

##### APPROVED:

##### WSU EXTENSION


Recommended By:

  
Andre-Denis Wright  
Dean, WSU Extension

##### LANDOWNER

  
[Name] Karen Skocz  
[Title] Chair, County Commissioners

Approved By:

  
Ryan H. Goodell  
Executive Director, Real Estate Services

## **Exhibit A**

### **AMENDMENT NO. 1 TO THE MEMORANDUM OF AGREEMENT FOR A DEMONSTRATION GARDEN**

This Amendment No. 1 to the Memorandum of Agreement (the "Amendment No. 1") is made effective this 1<sup>st</sup> day of June 2018 by and between Washington State University, an institution of higher education and agency of the State of Washington, by and through its WSU/Pend Oreille County Extension Unit ("WSU Extension") and the Pend Oreille County ("Landowner"), parties to the "Memorandum of Agreement for A Demonstration Garden" (the "MOA"), dated June 1, 2018. WSU Extension and Landowner may be individually referred to herein as a "Party" or jointly referred to herein as the "Parties".

The MOA is amended as follows:

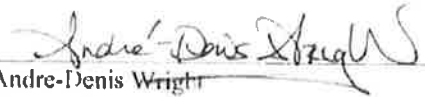
- Restroom facilities for Master Gardener sponsored events in the garden and greenhouse will be provided in the WSU/Pend Oreille County Extension building.
- The Parties must approve all new structures and modifications of existing structures (including exterior signage) in writing. Upon request for approval, both Parties will make all efforts to reply, in writing, within ten (10) working days of the request.
- No in-ground planting of trees or shrubs are permitted without prior approval from Landowner's Public Works Department (the "PW"). If in-ground trees are permitted, WSU Extension will be responsible for any damages or interruptions caused by root intrusions.
- PW will continue to provide and pay for electricity as it is currently provided.
- WSU Extension will pay for any upgrades to the electrical system. Should any approved upgrades involve new electrical service, WSU Extension will have a new meter installed and take over monthly payments to PUD for electricity.
- WSU Extension will pay for any upgrades to the current propane heating system along with any expenses for propane tank installation, purchase or rental; propane delivery; and propane.
- PW will continue to provide water, as it is currently provided, to the garden and greenhouse.
- WSU Extension will pay for any upgrades to the water system within the garden and greenhouse.
- WSU Extension will purchase and install appropriate and clearly visible exterior signage that has been approved by PW.
- PW is not responsible for any risk or liability arising from Master Gardener activities permitted within the garden and the greenhouse. These shall include but are not limited to consumption of items grown on the described properties or injury of any Master Gardener members or their guests. A Certificate of Liability Insurance shall be provided to the PW from WSU Extension.
- The Parties reserve the right to change, modify or terminate this agreement at any time. Each party agrees to provide nine (9) months written notice when terminating this MOA. At said point in time, the garden must be returned to the condition in which it was accepted by WSU Extension in February 2015. All non-county property added since that date of February 2015 must be removed from the garden and greenhouse or as stated in future amendments.

- Damages due to weather, drought or any other similar unforeseen issues and events will not be covered by PW or Landowner.
- PW reserves the right to access the garden and/or greenhouse at any time to make repairs or improvements to sewer lines, water lines, and other County utilities, if necessary. PW will make all efforts to minimize damages from such repairs and improvements.


Except as set forth in this Amendment No. 1, the MOA shall remain unchanged and shall continue in full force and effect in accordance with its terms. If there is conflict between the terms of this Amendment No. 1 and the MOA, the terms of this Amendment No. 1 shall control.

#### WSU EXTENSION


Recommended By:

  
 Andre-Denis Wright  
 Dean, WSU Extension

Approved By:

  
 Ryan H. Goodell  
 Executive Director, Real Estate Services

#### LANDOWNER

  
 [Name] Karen J. Skoug  
 [Title] Chair, County Commissioner

Acknowledged and Agreed:  
 PW

[Name] \_\_\_\_\_  
 [Title] \_\_\_\_\_