

**AGREEMENT**

This Agreement entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1987 by and between the CITY OF PORTLAND, OREGON, hereinafter referred to as the City and LEACH GARDEN FRIENDS, a nonprofit Oregon Corporation, hereinafter referred to as the Friends.

**WITNESSETH**

WHEREAS, the City desires to maintain a botanical garden and museum hereinafter referred to as the Garden as set forth in the Will of John and Lilla Leach for the use and benefit of the City, its citizens and the public generally; and

WHEREAS, the Friends desire to provide volunteer help in planning, reconstruction, maintenance, programming and fund raising for the Garden; and

WHEREAS, the City desires that the Friends will conduct fund raising activities which will eventually make the Garden self-sustaining with continuing support from the City.

NOW, THEREFORE, IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. The Friends shall, for a period of five years from the date of this Agreement, have the privilege of renting the Garden facilities for weddings, receptions, meetings and similar functions for the sole purpose of raising funds to rebuild, maintain and develop the Garden and the buildings and conduct educational programs for the use of the general public according to plans approved by the City. The Friends shall recommend to the City hours and days that the Garden may be available for rental by the general public which shall be subject to prior approval by the Commissioner in Charge of the Bureau of Parks.

2. The Friends will provide staff from their membership to handle interviews, reservations and contracts and to provide routine preparation and cleanup of the premises. The Friends' staff person will remain on the premises during all such functions.

3. The Friends will retain responsibility for reimbursement of staff from agreed-upon rental fees as deemed necessary for supervision and janitorial services.

4. The Friends may, as membership and acquisition of equipment allow, provide equipment rental, catering services, video taping or

similar services by such acquisition or by contract, fees from which shall cover equipment costs and then be used for general Garden rebuilding and maintenance funding. With prior approval of the Commissioner in Charge of the Bureau of Parks, the Friends may establish a gift shop on the premises, and apply all revenue derived therefrom to the management and operation of the Garden.

5. The City by and through the Commissioner in Charge of the Bureau of Parks will designate the charges to be collected for the above functions to be held in the Garden and the Commissioner in Charge of the Bureau of Parks will retain full authority as to how the Building or any improvements are used.

6. The City shall provide the cost of such utilities as are normally provided for the Garden.

7. The Friends will be responsible for the collection and dispersal of funds from the rental of the Garden and shall keep accurate and sufficient records of all transactions for inspection by the City or the City's authorized representatives at all reasonable times.

8. The Friends and the City of Portland shall indemnify and hold harmless each other, their officers, agents and employees from and against any negligent or intentional acts of the indemnitor and all resulting claims for damages for personal injury, death or property damage arising from or in connection with the operation or rental of the Garden by the Friends.

9. The Friends shall obtain and furnish the City with evidence of liability insurance in a company or companies licensed to do business in Oregon insuring it and naming as additional insureds the City of Portland, its officers, agents and employees in amounts of not less than \$100,000 for one personal injury; \$300,000 for personal injuries resulting from any single accident; and \$300,000 for property damage for any one occurrence. Such insurance shall provide for 30 days prior notice to the City before cancellation and shall be subject to approval as to form and adequacy of coverage by the City Attorney.

10. The Friends shall comply with all applicable laws and ordinances and with all orders and regulations issued by the Commissioner in Charge of the Bureau of Parks relating to the operation of the area and shall

comply with all other laws, ordinances and regulations of the City of Portland and the State of Oregon.

11. No part of the revenues received from the operation of the Garden shall enure to the benefit of any private individual or person. No part of the revenue from the operation of the Garden shall be used to carry on propaganda or otherwise attempt to influence legislation nor shall the Friends or any person use such revenue to participate in any political campaign on behalf of any candidate for public office or any issues presented to the public at any election.

12. Either party may terminate this Agreement upon ninety (90) days written notice to the other party, and in addition the City may terminate this Agreement without prior notice or upon shorter notice at any time when in the opinion of the Commissioner in Charge of the Bureau of Parks, the services to be performed by the terms of this Agreement are not performed in a satisfactory manner or in the judgment of the Commissioner in Charge the public interest is not being served by continuation of the Agreement.

13. City Project Manager

a. The City Project Manager shall be the Public Gardens Supervisor or such person as shall be designated in writing by the Superintendent of Parks.

b. The Project Manager is authorized to approve work and billings hereunder, to give notices referred to herein, to terminate this Agreement as provided herein, and to carry out any other City actions referred to herein.

14. Workers' Compensation Insurance

a. The Friends shall obtain workers' compensation insurance coverage for all of its workers, employees and subcontractors either as a carrier-insured employer or a self-insured employer, as provided by Chapter 656 of the Oregon Revised Statutes, before this Contract is executed. A certification of insurance, or copy thereof, shall be attached to this Agreement as Exhibit \_\_\_, and shall be incorporated herein and made a term and part of this Agreement. The Friends further agree to maintain workers' compensation insurance coverage for the duration of this Agreement.

b. In the event the Friends' workers' compensation insurance coverage expires during the term of this Agreement, the Friends agree to timely renew its insurance, either as a carrier-insured employer or a self-insured employer as provided by Chapter 656 of the Oregon Revised Statutes, before its expirations, and the Friends agree to provide the City of Portland such further certification of workers' compensation insurance as renewals of said insurance occur.

c. The Friends agree to properly complete the City of Portland's Workers' Compensation Insurance Questionnaire prior to commencing work under this Agreement. Questionnaire is attached to this Agreement as Exhibit \_\_\_ and shall remain attached to this Agreement and become a part thereof as if fully copied herein.

15. The Friends may subcontract work under this Agreement, in whole or in part, with the written approval of the City. The Friends shall require any approved subcontractor to agree, as to the portion subcontracted, to fulfill all obligations of the Contractor as specified in this Agreement. Notwithstanding City approval of a subcontractor, the Friends shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to the Friends hereunder. The Friends agree that if subcontractors are employed in the performance of this Agreement, the Friends and their subcontractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.

16. In the event this Agreement shall be terminated by either party:

a. The right, title and interest of the Friends in the implements, tools, materials, and other like assets used in the improvement, construction, operation or maintenance of the Garden, except for that real property which title is held in the Friends name and any other assets and personal property held by the Friends, shall be conveyed to the City by the Friends within sixty (60) days from the date of termination;

b. All monies in the hands of the Friends resulting only from fees received under the terms of this Agreement after payment of debts and obligations, and excluding any other monies in the hands of the Friends received from sources other than fees received under the terms of this

Agreement, shall be deposited in a trust fund account with City Fiscal Administration to be devoted for the purposes of operation and maintenance of the Garden.

17. This Agreement may be renewed by mutual agreement of the parties.

IN WITNESS WHEREOF, Friends have caused this Agreement to be executed in triplicate and the City has caused the same to be executed in triplicate by the Commissioner in Charge of the Bureau of Parks and by the City Auditor pursuant to Ordinance No. \_\_\_\_\_.

LEACH GARDEN FRIENDS

CITY OF PORTLAND

BY \_\_\_\_\_

BY \_\_\_\_\_  
Commissioner of Public Affairs

BY \_\_\_\_\_  
City Auditor

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

JS/jke/wp  
6/19/87

**ORDINANCE NO. 159930**

An Ordinance authorizing an Agreement with Leach Garden Friends, a non-profit Oregon corporation, to provide volunteer help in planning, reconstruction, maintenance, programming, and fund raising for Leach Botanical Garden for a period of five (5) years, retroactive to February 24, 1987, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. An agreement with Leach Garden Friends similar to the one attached was in effect for three years and has expired.
2. The City desires to continue to maintain a botanical garden and museum on the premises generally known as Leach Botanical Garden as set forth in the Will of John and Lilla Leach.
3. Leach Garden Friends is an Oregon nonprofit corporation organized and capable of providing voluntary help in planning, reconstruction, maintenance, programming, and fund raising for Leach Botanical Garden.
4. It is desirable to enter into an Agreement with Leach Garden Friends to allow renting of the facilities at Leach Botanical Garden for weddings, receptions, meetings, and similar functions for the sole purpose of raising funds to rebuild and maintain the Garden and the buildings and to further conduct the educational programs for the general public.
5. The form of Agreement attached to this Ordinance is an appropriate form of the Agreement with Leach Garden Friends to accomplish the aforementioned purposes.

NOW, THEREFORE, the Council directs:


- a. The Commissioner of the Bureau of Parks and Recreation and the City Auditor are hereby authorized to execute on behalf of the City the attached Agreement with Leach Garden Friends.
- b. That the attached Agreement be entered into for a period of five (5) years retroactive to February 24, 1987, subject to evidence of required in-force insurance during the contract period.

**ORDINANCE No.**

Section 2. The Council declares that an emergency exists because the Agreement is retroactive to February 24, 1987; therefore, the Ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, **AUG 5 1987**

Commissioner Lindberg  
Cleve Williams:JS:jke/wp  
April 10, 1987

**BARBARA CLARK**  
Auditor of the City of Portland  
By  Deputy

1267  
Calendar No.

1214

ORDINANCE No. 159930

Title

An Ordinance authorizing an Agreement with Leach Garden Friends, a non-profit Oregon corporation, to provide volunteer help in planning, reconstruction, maintenance, programming, and fund raising for Leach Botanical Garden for a period of five (5) years retroactive to February 24, 1987, and declaring an emergency.

JUL 29 1987  
CONTINUED TO AUG 5 1987

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
BLUMENAUER	/	
BOGLE		/
KOCH	/	
LINDBERG	/	
CLARK	/	

FOUR-FIFTHS CALENDAR	
BLUMENAUER	
BOGLE	
KOCH	
LINDBERG	
CLARK	

Filed JUL 24 1987

BARBARA CLARK  
Auditor of the CITY OF PORTLAND

By Edna Casco  
Deputy

INTRODUCED BY	
Commissioner Mike Lindberg	
NOTED BY THE COMMISSIONER	
Affairs	<i>MDL</i>
Finance and Administration	
Safety	
Utilities	
Works	
BUREAU APPROVAL	
Bureau: Parks	
Prepared By: Jim Sjulín	Date: April 10, 1987
Budget Impact Review: <input checked="" type="checkbox"/> Completed <input type="checkbox"/> Not required	
Bureau Head: <i>Cle Williams</i> Cleve Williams, Superintendent	
CALENDAR	
Consent <input checked="" type="checkbox"/>	Regular <input type="checkbox"/>
NOTED BY	
City Attorney	
City Auditor	
City Engineer	