

# **Nebraska Grape and Winery Board**

## **Annual Report 2008**

**For information contact:**

**Nebraska Department of Agriculture  
301 Centennial Mall South  
P.O. Box 94947  
Lincoln, NE 68509  
(402) 471-4876**

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**BOARD  
of  
DIRECTORS**

# Nebraska Grape and Winery Board of Directors

**Eric Nelson** .....Vineyard Owner  
P.O. Box 312  
Raymond, NE 68428  
(402) 580-7320  
elnelson@alltel.net

**Terry Ryan** .....Vineyard Owner  
#1 El Charman Lake Place  
Gibbon, NE 68840  
(308) 830-0775  
tecryan@rcom-ne.com

**Max McFarland** .....Winery/Vineyard Owner  
43315 Rd 757  
Lexington, NE 68850  
(308) 324-0440  
mcfarlandm@unk.edu

**Ellen Burdick** .....Winery/Vineyard Owner  
5052 Rd 197  
Lewellen, NE 69147  
(308) 778-5543  
17ranch@scottsbluff.net

**Bart Holmquist** .....Vineyard Owner  
1333 Prairie View Rd  
Eagle, NE 68347  
(402) 310-9338  
barth@unlserve.unl.edu

## Ex-Officio Members

Casey Foster, Nebraska Department of Agriculture  
P.O. Box 94947, Lincoln, NE 68509-4947  
(402) 471-4876  
casey.foster@nebraska.gov

Dr. Gary Cunningham  
207 Ag Hall, University of Nebraska-Lincoln, Lincoln, NE 68583-0704  
(402) 472-2045  
gcunningham2@unl.edu

# **OVERVIEW of ACTIVITIES**

# BOARD PARTICIPATION

The Board of Directors met twice this fiscal year. The year began on July 1, 2007, and ended on June 30, 2008. Emphasis was placed on supporting marketing and promotional activities and conducting research to assist in the betterment and development of Nebraska's grape and wine industry.

New legislation, which was approved on May 30, 2007, amended §§53-123.15 and 53-304 of the Nebraska Revised Statutes and repealed the original sections. The act, relating to alcoholic liquor, changed the provisions relating to shippers' license fees and provided an excise tax on grapes. Within the act, terms were defined, powers and duties were assigned, and a penalty was enacted. Until April 30, 2012, shipping license fees will be collected by the Nebraska Liquor Control Commission and remitted to the State Treasurer for credit to the Winery and Grape Producers Promotional Fund. Additionally, an excise tax of one cent per pound will be levied upon all grapes sold through commercial channels in Nebraska or delivered in Nebraska. Excise taxes are also remitted to the State Treasurer for credit to the Winery and Grape Producers Promotional Fund. The license fees and excise tax resulted in a substantial increase in Board revenue. The Board's revenue increased from \$10,825.82 in 2007 to \$114,745.90 in 2008.

This revenue increase enabled the Board with the opportunity to fund several projects. In order to expend this money, the Board decided to send out a news release in December 2007 seeking grant proposals from individual growers, farm wineries, organizations, industry groups, or academic institutions that aimed to assist in the betterment of Nebraska's grape and wine industry. The Board's goal was to fund meaningful projects that had the highest likelihood of significant, positive impact on grape and wine production in Nebraska. Interested parties wishing to receive funds were required to submit a detailed proposal to the Board. The proposals were to clearly explain how the money was to be used and how it would enhance the competitiveness of the state's grape and wine industry. The Board developed a grant proposal process in order to provide all interested parties with an opportunity to access these funds. Grant proposal guidelines and application information was made available to the public in December 2007. Applications were due on or before Friday, February 1, 2008. In March 2008, the Board reviewed the applications and approved four proposals, which, combined, totaled \$31,166. (One of these proposals was later denied funding since the results of the project were not going to be made available to the public.) Earlier in the year, the Board approved five other proposals which totaled \$11,890. A description of each funded project is clearly defined in their respective contracts. A copy of all of the contracts are included within this report.

Although the 2007-08 fiscal report shows a large ending cash balance, many of the invoices for the projects were not submitted for payment until after June 30, 2008. Additionally, the new legislation made it difficult for the Board to estimate their revenue

for the year. The shippers' license fees and investment interest was much higher than originally projected. The \$1,011.27 donation was also an added revenue amount that the Board did not anticipate. With the new legislation now in effect, the Board will have a better idea of how much revenue they will receive each year.

Promotion of Nebraska's grape and wine industry is a primary goal of the Board. The Board helps the grape and wine industry become a strong and important part of Nebraska's thriving economy. The Board stays abreast of recent legislation affecting Nebraska's grape and wine industry, supports NWGGA activities, and works closely with the University of Nebraska to receive guidance and education based upon industry research.

This annual report includes Board meeting minutes, a news release, request for proposal application instructions, the 2007-08 fiscal report, bylaws, and statutes.

**Grape and Winery Board Meeting Minutes**  
**November 2, 2007**  
**Misty's Restaurant and Lounge**  
**6235 Havelock Ave,**  
**2<sup>ND</sup> Floor Conference Room**  
**Lincoln, Nebraska**

Board Members Present: Eric Nelson  
Bart Holmquist  
Max McFarland  
Ellen Burdick  
Terry Ryan

Ex-officio Members Present: Casey Foster, Dept. of Ag.

Ex-officio Members Absent: Gary Cunningham, UNL

Guests Present: Jim Ballard, NWGGA  
Hobert B. Rupe, Nebr. Liquor Control Commission  
Laurie Lage, Legislature's Gen. Affairs Committee  
Lorretta McDowell, Miletta Vista Winery  
Mick McDowel, NWGGA  
Dr. Mark Lagrimini, UNL  
Steve Gamet, UNL  
Bob Storant, Dept. of Ag

President Nelson opened the meeting at 7:55 p.m. McFarland moved and Holmquist seconded to approve the agenda as presented. The motion carried unanimously. McFarland moved and Burdick seconded to approve the minutes of the 6-29-2007 meeting. The motion carried unanimously.

On October 15, 2007, a Nebraska Grape and Winery Board meeting notice was published in the Omaha World Herald. This notice identified the time (Friday, November 2, 2007, at 7:30 p.m.) and place (Misty's Restaurant and Lounge, 6235 Havelock Avenue, Lincoln, Nebraska) of the meeting.

Old Business

1. Grape Growers Excise Tax Collection Process: Bob Storant clarified some items in the fee collection process for the Board. The Department of Agriculture ("Department") is proceeding with collecting the fees beginning September 1, 2007, and donations are acceptable, such as grapes sold prior to September 1. The Department has a current list of first purchasers; any input from the industry would be helpful. A fee collection report should probably be a topic on all future agendas to help the Board stay abreast on the status of the fee collection process.

## New Business

1. Legislative: Hobert Rupe updated the Board on some possible effects on the direct shipment of wine to consumers. In the Granholm v. Heald case, the United States Supreme Court ruled that states which allow in-state wineries to ship their product directly to consumers may not bar out-of-state wineries from doing the same. A U.S. District Court in the State of Washington held in Costco Wholesale Corp. v. Hoen, that the State of Washington's alcohol control laws were suspect under federal anti-trust laws and not shielded by the 21<sup>st</sup> Amendment. Nebraska's industry should be looking at proposing statutory changes that may be needed to stay in line with federal laws. This issue is now being studied by the Legislature's General Affairs Committee, as a result of LR 149. Our Board Chairman will be receiving a request to attend the LR 149 Hearing to provide information.

2. 3., 4. Budget: Bob Storant updated us on the budget through October 2007. The revenue category should be split into five line items: Crushed Grape Fees, Shipper License Fees, Producer Check-Off Fees, Investment Interest, and Donations.

As a result of recent legislations, total revenue is projected to be \$87,500. Total available cash is expected to be \$91,626. The Board should plan on setting aside no more than 25% of total revenue for carryover into the next fiscal year. The Board decided on a 10% ending cash balance carryover. As for this fiscal year, total available cash, minus total expenditures, allows for the allocation of \$62,092 for this fiscal year. In order to disburse these funds, the Board will solicit proposals through an RFP process.

The bills for the Grape Growers Survey (\$493.99), and the NWGGA Display Booth (\$2,200), have been received and should be expensed this fiscal year.

Board expenditure line items added to the budget should include printing (\$200), room rental (\$100), Board meeting notices (\$650), and NDA fee collection (\$5,000).

Ryan moved and McFarland seconded that the Board adopt the revised budget. The motion carried unanimously.

5. RFP Process: Casey will develop a template based on other RFP formats he has available and will send it to the Board for approval by December 1<sup>st</sup>. Once finalized, the documents will be published. All proposals are to be sent to the Board Secretary by February 1, 2008, for redistribution to the Board. The Board will discuss and vote on the proposals at their spring meeting in Kearney. McFarland moved and Ryan seconded that the Board approve this process. The motion carried unanimously.

6., 7., 8. Strategic Plan from UNL: Dr Mark Lagrimini, and Steve Gamet updated the Board on current and planned projects and presented the plan for the future of the viticulture program at the University of Nebraska.

9. Strategic Plan from NWGGA. Jim Ballard presented the Board with the NWGGA's Strategic Plan.

10. Legislative Report. Mick McDowell provided some updates on the Association's legislative committee's activities. There probably would be no major legislation introduced this session, but there may be some rule changes needed. They will be working with the Nebraska Liquor Commission staff on those changes.

#### Other Business

1. Next Meeting. The next meeting will be on Saturday afternoon, March 1, 2008, in Kearney, after the Nebraska Winery and Grape Grower's Forum and Trade Show. The exact time and location is to be determined.

2. Adjourn. McFarland moved and Holmquist seconded that the Board adjourn at 11:17 p.m. The motion carried unanimously.

Submitted by:

Terry Ryan, Secretary,  
Nebraska Grape and Winery Board

**NEWS RELEASE**  
**For Immediate Release**

December 6, 2007

**Contact: Casey Foster: 800-422-6692**  
**Eric Nelson: 402-580-7320**

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**NEBRASKA GRAPE AND WINERY BOARD SEEKS GRANT PROPOSALS**

December 3, 2007 - The Nebraska Grape and Winery Board is seeking grant proposals from individual growers, farm wineries, organizations, industry groups, or academic institutions that aim to assist in the betterment of Nebraska's grape and wine industry. The Board's goal is to fund meaningful projects that have the highest likelihood of significant, positive impact on grape and wine production in Nebraska.

Grant proposals will be considered on a competitive basis. Interested parties wishing to receive funds must submit a detailed proposal for review and approval by the Nebraska Grape and Winery Board. Proposals must clearly explain how the money will be used and how it will benefit Nebraska's grape and wine industry. The Board anticipates funding several proposals during the current fiscal year (July 1, 2007 – June 30, 2008). Applications must be submitted electronically or by U.S. mail to Terry Ryan, #1 El Charman Lake Place, Gibbon, Nebraska 68840. The e-mail address is [tecryan@rcom-ne.com](mailto:tecryan@rcom-ne.com). Applications must be postmarked on or before Friday, February 1, 2008.

Eligible projects must enhance the competitiveness of Nebraska's grapes and wines and may focus on research, promotion, marketing, nutrition, trade enhancement, food safety, food security, education, "buy local" programs, increased consumption, increased innovation, product development, and other opportunities. Grant proposals must show how the project will benefit the grape and wine industry, or a segment of the industry, as a whole.

For grant proposal guidelines and application information, please visit <http://agronomy.unl.edu/viticulture/>. For more information, contact Casey Foster at 800-422-6692 or Eric Nelson at 402-580-7320.

# # #

**Nebraska Grape and Winery Board  
Request for Proposal Application Instructions**

Applications Due: **FRIDAY, February 1, 2008**

Applications must be sent or postmarked on or before the above date.

Submit Applications Electronically or by U.S. Mail to:

Terry Ryan, Secretary  
Nebraska Grape and Winery Board  
#1 El Charman Lake Place  
Gibbon, NE 68840  
tecryan@rcom-ne.com

For More Information Contact:

Casey Foster  
Nebraska Department of Agriculture  
800-422-6692  
casey.foster@nebraska.gov

Eric Nelson  
Nebraska Grape and Winery Board Chairperson  
402-580-7320  
elnelson@alltel.net

## **Introduction**

The Nebraska Grape and Winery Board was created to (a) establish a public forum whereby any producer of wine, grapes, or other wine-producing agricultural products has the opportunity, at least once annually, to discuss with the Board its policy and procedures; (b) keep minutes of its meetings and other books and records which clearly reflect all of the acts and transactions of the Board and to make these records available for examination upon request by members of the public; (c) authorize and approve the Department of Agriculture's expenditure of funds collected pursuant to section 53-304; (d) serve as an advisory panel to the Nebraska Liquor Control Commission in all matters pertaining to the wine industry; and (e) adopt and promulgate rules and regulations to carry out sections of 53-30 to 53-305 of the Nebraska Grape and Winery Board Statute.

The Nebraska Unicameral Legislature recently passed LB 441, a law that directs the fees collected from shipping licenses be credited to the Winery and Grape Producers' Promotional fund. Such fees shall be remitted to the State Treasurer for credit to the fund until April 30, 2012. Additionally, it established an excise tax of one cent per pound, which is levied upon all grapes either sold through commercial channels or delivered in Nebraska. This revenue is also credited to the fund. The Nebraska Grape and Winery Board has the power to utilize their revenue to fund projects that are designed to improve and promote Nebraska's grape and wine industry. The Board is seeking to fund proposals that will aid in the betterment of the Nebraska's grape and wine industry.

Interested parties wishing to receive funds must submit a detailed proposal for review and approval by the Nebraska Grape and Winery Board. Proposals must clearly explain how the money will be used and how it will enhance the competitiveness of Nebraska's grape and wine industry. During this current fiscal year (July 1, 2007 – June 30, 2008), the Board is anticipating funding several proposals that will, combined, equal \$62,000.

The Board has developed this grant proposal process in order to provide all interested parties an opportunity to access these funds. The Board's goal is to fund meaningful projects that have the highest likelihood of significant, positive impact on the grape and wine production in Nebraska.

## **Grant Eligibility**

Proposals should be initiated by individual growers, farm wineries, organizations, industry groups, or academic institutions, or should involve collaboration or partnerships between producers, industry groups, academics, or other organizations. Applicants may cooperate with any public or private organization involving agricultural development, research, and/or marketing to enhance Nebraska's grape and wine industry. If two or more individuals or organizations propose a joint project, they may submit one application as co-applicants. Applicants proposing joint projects are not required to form a legal entity, but must show in their application how the project potentially impacts

and produces measurable outcomes for the grape and wine industry and/or the public. Two - five year project proposals will be considered, subject to annual review and re-authorization.

Examples of enhancing the competitiveness of Nebraska's grapes and wines include, but are not limited to: research, promotion, marketing, nutrition, trade enhancement, food safety, food security, education, "buy local" programs, increased consumption, increased innovation, improved efficiency and reduced costs of distribution systems, environmental concerns and conservation, product development, and developing cooperatives.

### **Program Policies**

The Nebraska Grape and Winery Board reserves the right to:

- Reject any or all proposals received;
- Request additional information on project proposals;
- Recommend partial funding for a proposal, that may be less than the full amount requested in the grant application;
- Tie the release of project funds to completion of necessary, timely progress reports.

### **Funding Allocation**

Projects funded during this fiscal year will be valid upon the respective party's signature to an Agreement with the Nebraska Department of Agriculture and the party incurring an obligation of funds for the project prior to June 30, 2008. Invoices shall be presented to the Department of Agriculture from which payment shall be made. A final report of the project will be provided to the Board and the Department of Agriculture. There will be no funding match requirement of applicants, although priority will be given to those projects that show in-kind and additional cash commitment to supplement the funding request.

### ***Proposals will NOT fund the following expenses:***

- *Paying off existing debt;*
- *Substituting existing efforts or research already funded;*
- *Purchase of equipment, land, or buildings;*
- *Business entertainment or business gifts;*
- *Lobbying or political efforts.*

### **Grant Proposal Review and Selection**

Grant applications will be reviewed and decided upon by the Nebraska Grape and Winery Board with input from relative entities. The Nebraska Grape and Winery Board will make the final decision.

## Questions and Scoring Criteria

There will be 100 points possible, which is outlined below.

### Application Instructions

All applications should include the following information:

#### A. Cover Page

1. Name of applicant whose name should be used on all correspondence. Include contact information (address, phone/fax, e-mail) for one individual. This person should also be the one that will appear on a grant agreement and who will be responsible for tracking and accounting for project funds and ensuring the completion of the project.
2. Abstract of 200 words or less for the proposed project.
3. Listing of all other individuals, entities, organizations, or businesses involved with the project.

#### B. Project Purpose (5 points)

In one or two paragraphs, clearly state the specific issue, problem, interest, or need to be addressed. Explain why your project is important and timely. Indicate the amount of time needed to complete the project.

#### C. Potential Impact (10 points)

In one page or less, discuss the number of people or operations affected, the intended beneficiaries of the project, and/or potential economic impact if data from the project are available.

#### D. Goals (5 points)

Describe the overall goal(s) of the project in one or two sentences.

#### E. Work Plan (45 points)

On three pages or less, describe your proposal and its expected benefit to the Nebraska grape and wine industry. Explain how each goal and measurable outcome will be accomplished. The measurable outcomes must list the elements that will be monitored or evaluated, by whom, how often and for how long? Expected measurable outcomes may be long term and exceed the grant period. If so, provide a timeframe when long term outcome measures will be achieved.

The major considerations here are:

- *Can project benefits be measured, reported and tracked over time?*
- *Does the project provide an overall economic benefit to Nebraska's grape and wine industry?*

- *Does the project make good business sense and does it have a high likelihood of success?*
- *Are the expected benefits of the proposal commensurate with total investment?*

Other considerations will be given to:

- *Does the project contribute to a positive image of Nebraska grape and wine products?*
- *Does the project provide educational benefits to the public about Nebraska grape and wine products?*

**F. Project Commitment (10 points)**

On one page or less, describe the partnerships, alliances, networks, or other collaborative efforts that will be created to implement this project. List all parties involved and describe what each contributes in skills and abilities to make this proposal succeed and work toward the goals and outcomes, as well as the commitments for each party (in-kind, monetary, labor, etc.).

Major consideration will be given to whether:

- *The project creates collaborative efforts that enable multiple organizations or individuals to achieve collective results that would not be possible by individual entities;*
- *The applicants demonstrate commitment by way of in-kind time, resources, or other means.*

**G. Financial Feasibility (25 points)**

This question requires a one page or less narrative and a one page or less standard budget outline. How do you intend to use the grant funds? Provide a breakdown of the components of the proposal and where the grant funds fit into the overall project financing. Prioritize funding needs, if possible. Provide budget estimates for the total project cost.

Major consideration will be given to whether:

- *The project makes good business sense according to the proposed expenses and activities noted in the budget;*
- *The budget supports the anticipated benefits and whether the benefits are commensurate with the total project financing;*
- *The project coordinating entity has a process in place to track and account for grant fund expenditures; can accounting and project records be readily retrieved and reported?*

List the source and amount of funds, if any, which the applicant plans to use for the project. This information provides assurance that the applicant will have sufficient resources to meet project goals.

<b>Type</b>	<b>Source</b>	<b>Amount</b>	<b>Purpose</b>
<b>Total</b>			

**H. Signed Agreements Page** (provided on page 6)

**Agreement:**

I/we the undersigned applicants, \_\_\_\_\_  
of \_\_\_\_\_  
(name/names)  
\_\_\_\_\_, Nebraska, hereby make an application for Nebraska  
(city/cities)

Grape and Winery Board funds, under the terms and conditions of the Nebraska  
Department of Agriculture, in the amount of \$\_\_\_\_\_. The total  
cost \_\_\_\_\_ of the project is  
(amount requested)  
\$\_\_\_\_\_.  
(total project amount)

The undersigned hereby warrants to the Nebraska Grape and Winery Board that to the  
best of my/our knowledge, all information presented in this grant application is factual  
and true; that I/we understand that if this proposal is funded, I/we will be required to sign  
a grant agreement and other necessary documentation containing terms and conditions  
upon which funds will be released; and that I/we understand that I/we will be required to  
submit a final report at the completion of the project as a condition to participating in this  
grant program.

Social Security Number or Federal Tax ID Number: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: \_\_\_\_\_

**Nebraska Grape and Winery Board Meeting Minutes**  
**March 1, 2008**  
**Holiday Inn**  
**Kearney, Nebraska**

Board Members present: Eric Nelson  
Max McFarland  
Ellen Burdick  
Bart Holmquist  
Terry Ryan

Ex-officio Members present: Casey Foster, Department of Agriculture  
Dr. Gary Cunningham, UNL

Guests present: Dr. Paul Read, UNL

President Nelson opened the meeting at 3:10 p.m. McFarland moved and Holmquist seconded that the agenda be approved without a Legislative report. The motion carried unanimously. Holmquist moved and Burdick seconded that the minutes of the November 2, 2007, Board meeting be approved as presented. The motion carried unanimously.

**Election of Officers:**

McFarland moved and Ryan seconded that Bart Holmquist be elected Secretary. The motion carried unanimously. Burdick moved and Holmquist seconded that Eric Nelson be re-elected President. The motion carried unanimously. Burdick moved and Ryan seconded that Max McFarland be re-elected Vice President. The motion carried unanimously.

**Old Business:**

On February 16, 2008, a Nebraska Grape and Winery Board meeting notice was published in the Omaha World Herald. This notice identified the time (Saturday, March 1, 2008, 3:00 p.m.) and place (Holiday Inn, 110 Second Avenue, Kearney, Nebraska) of the meeting.

**UNL Report:**

Dr. Paul Read updated the Board on the Trellis and Nutrient Deficiency Studies conducted by the UNL Viticulture Program. The trellis study includes the use of steel versus wood posts and using wire versus duraline. The nutrition study in western Nebraska is underway and includes 35 cultivars. Several different treatments are being tried. UNL may be participating in a nationwide study considering some of the same treatments. A new PhD student is working on non-wine grapes including the use of acetic acid trials for delaying bud-break. UNL is also working on a GIS mapping system for pesticide drift and how it pertains and impacts Nebraska vineyards. The Vines and

Wines class conducted by Dr. Read is very popular and the Forums are getting better and better.

Casey updated the Board on the status of some previously funded projects. The Nebraska Winery and Grape Growers' Association's new booth project is not yet finished. McFarland moved and Holmquist seconded that the Board extend the completion deadline for this project to June 30, 2008. The motion carried unanimously. The other projects funded for the 2007-08 Fiscal Year are also due to be completed by that same date.

The Nebraska Department of Agriculture, under agreement with the Nebraska Grape and Wine Board, administers the State checkoff on grapes produced in Nebraska. The Grape and Wine Act requires that an assessment be paid by growers at the time of first sale or delivery of grapes. The assessment fee rate currently levied is one cent per pound on all grapes sold or delivered in the state of Nebraska for commercial use. Funds collected are remitted to the Winery and Grape Producers Promotional Fund. Consequently, checkoff fees received as of January 2008 were in the amount of \$2,526.93, which was much less than the original estimate of \$7,000. Checkoff fee donations amounted to \$1,011.27.

Total Board revenue resulted from shipper license fees (\$8,000), checkoff fees (\$2,526.93), crushed grape fees (\$8,456.92), investment interest (\$179.75), and donations (\$1,011.27). This amount, combined with the beginning cash balance of \$4,125.82, resulted in a total available cash balance of \$24,300.69.

The Board Expense line item was discussed, as well as the reimbursement process for the Board members.

#### **New Business:**

The Board decided to adjust their Fiscal Year 2007-08 budget. McFarland moved and Holmquist seconded that the Board reduce the Unobligated Contractual line item to \$57,075. The motion carried unanimously. Ryan moved and McFarland seconded that the Board project revenues for Fiscal Year 2008-09 be \$87,500. The motion carried unanimously. Holmquist moved and Ryan seconded that the Board plan to increase expenditures to \$87,500. The motion carried unanimously. McFarland moved and Holmquist seconded that the ending cash balance for Fiscal Year 2008-09 be set at \$8,700. The motion carried unanimously.

In December 2007, the Board requested that individual growers, farm wineries, organizations, industry groups, or academic institutions submit proposals that aim at assisting in the betterment of Nebraska's grape and wine industry. The Board received several proposals, all of which were discussed at the meeting. McFarland moved and Burdick seconded that the Board not fund the following two projects: Prospective/New Grape Grower Instructional DVD and Maintaining the Vintage Nebraska Web Site. Proposals the Board did approve for funding for both the current and next Fiscal Years are: Grape Cluster Thinning project (\$1,133 for 2007-08, and \$2,301 for 2008-09);

Mac's Creek's Cold Hardiness project (\$1,840 for 2008-09); UNL Viticulture Program projects (\$14,000 for 2007-08 and \$34,540 for 2008-09); and the NWGGA's projects (\$10,500 for 2007-08 and \$57,635 for 2008-09). Additional funds in the amount of \$5,533 for 2007-08 and \$7,943 for 2008-09 were approved for Cuthills Vineyard's proposal pending additional information provided to the Board regarding their proposal. The motion carried unanimously.

The Board also felt that they needed to revise their RFP for next year.

**Other Business:**

The Board stated that Feather River Vineyards owns their own winery.

Ryan moved and McFarland seconded that the next meeting be scheduled for the night before (October 31) the fall workshop in Lincoln, with the specific location and time to be determined at later date. The motion carried unanimously.

Burdick moved and McFarland seconded that we adjourn the meeting at 8:30 p.m. The motion carried unanimously.

Submitted:

Terry Ryan

Acting Nebraska Grape and Winery Board Secretary

**WINE & GRAPE PRODUCTION PROMOTION BOARD**  
**JULY 1, 2007 - JUNE 30, 2008**

DESCRIPTION	FY2007-08 BUDGET	JUNE, 2008	FY2007-08 YR-TO- DATE	YTD AS % OF BUDGET
BEGINNING CASH BALANCE	\$ 4,126	\$ 97,225.00	\$ 4,125.82	
REVENUE:				
Shipper License Fees	\$ 70,000	\$ 5,500.00	\$ 96,000.00	
Check-Off Fee	7,000	0.00	2,587.03	
Crushed Grape Fees	10,000	0.00	9,705.14	
Investment Interest	500	389.61	1,316.64	
Donations	0	0.00	1,011.27	
Total Revenue	\$ 87,500	\$ 5,889.61	\$ 110,620.08	126%
TOTAL AVAILABLE CASH	\$ 91,626	\$ 103,114.61	\$ 114,745.90	
EXPENDITURES:				
Printing (Annual Report)	\$ 200	\$	\$ 0.00	
Room Rental	100		0.00	
Board Meeting Notices	650		116.10	
Contractual	0		12.91	
<b>NWGGA Contracts</b>				
NWGGA - Booth	2,200		* 0.00	
NWGGA - Passport Wine Tour	2,000		2,000.00	
NWGGA - Exec. Dir. & Marketing	10,500	9,410.92	9,410.92	
<b>UNL Contracts</b>				
UNL - Yr 2 Trellis Study	3,000	2,409.67	2,409.67	
UNL - Yr 1 Nutrient Deficiency Study	2,980	706.29	706.29	
UNL Extension - Grape Cluster	1,133		1,133.00	
UNL - Viticulture	14,000		7,000.00	
<b>Contracts (Misc.)</b>				
Grape Growers' Survey	494		* 493.99	
Mac's Creek - Yr 1 Cold Hardiness Study	1,710		0.00	
Cuthills Vineyard	5,533		0.00	
NDA Fee Collection	5,000		659.10	
<b>Board Expense</b>	2,500	443.52	659.71	
Total Expenditures	\$ 52,000	\$ 12,970.40	\$ 24,601.69	47%
Adjustment to Fund Balance	0			
ENDING CASH BALANCE	\$ 39,626	\$ 90,144.21	\$ 90,144.21	

\*The ending cash balance is 100% invested in the short-term investment pool.

Percent of Fiscal Year Elapsed: 100%

FY06-07 Revenue to Date: \$9,424.28

FY06-07 Expenditures to Date: \$6,700.00

\*Carryover expenditure from FY2006-07.

**AGREEMENT**

**between**

**NEBRASKA WINERY AND GRAPE GROWERS' ASSOCIATION**

**and**

**NEBRASKA DEPARTMENT OF AGRICULTURE**

**#18-13-052**

This Agreement entered into by and between the Nebraska Winery and Grape Growers' Association, hereinafter called the "NWGGA," and the Nebraska Department of Agriculture, hereinafter called the "Department," provides for the funding from the Nebraska Grape and Winery Board funds to NWGGA toward marketing activities to assist in the betterment of Nebraska's grape and wine industry.

WHEREAS, it has been proven that high-quality wine grapes and wines can be produced in Nebraska;

WHEREAS, numerous awards have been won by Nebraska wineries at many of the most prestigious wine competitions proving Nebraska wineries can produce wines meeting local favor and receiving national acclaim;

WHEREAS, the Nebraska Grape and Winery Board, under Neb. Rev. Stat. §§53-301 to 53-305, has conducted a public board meeting and directed the Department to provide funds to NWGGA;

WHEREAS, the promotional activities conducted by NWGGA will greatly assist the Nebraska grape and winery industry;

WHEREAS, both parties hereto desire to enter into this Agreement in order to further promote Nebraska's grape and wine industry.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties hereto that:

1. The Nebraska Grape and Winery Board approved two thousand two hundred dollars (\$2,200) from the Winery and Grape Producers Promotional Fund to pay for the creation of a new NWGGA display booth.

This booth will represent Nebraska's emerging grape and wine industry and a variety of events, meetings, and conferences associated with this industry. The display will consist of two free standing banner displays, one table cover with the new Nebraska Wines logo and tag line, and four brochure racks. This display is designed to encourage the growth and development of Nebraska's wine industry by creating awareness resulting in the marketing of

Nebraska wines. It will present an image of high-quality grapes and wines grown and produced in Nebraska.

The amount of two thousand two hundred dollars (\$2,200) will be used to pay for the creation of this display.

2. Duration of Agreement: This Agreement shall be in force and effective from July 1, 2007, to June 30, 2008.
3. The Department agrees to provide the funds as set out in paragraph 1, from the Winery and Grape Producers' Promotional Fund.
4. NWGGA agrees to provide a final report of the costs to the Department after the booth has been created.
5. Payment in the amount of two thousand two hundred dollars (\$2,200) from the Winery and Grape Producers' Promotional Fund to NWGGA will be payable in full upon both parties signing this Agreement, and NWGGA incurring an obligation. NWGGA shall present an invoice to the Department from which payment shall be made.
6. Funding for this project is subject to legislative appropriations and funding being available. Any unused funds shall be refunded to the Department and credited back to the Winery and Grape Producers Promotional Fund.
7. After the Agreement begins, it is understood that, if additional costs should be incurred, with the mutual written consent of all parties to this Agreement, and provided resources are available, this Agreement may be amended.
8. The parties mutually agree as follows:
  - a. NWGGA shall:
    - (1) Not discriminate against recipients of services on the basis of race, color, religion, national origin, sex, disability, or age; and
    - (2) Not discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex, or qualified disability.

It is further understood and agreed that, if NWGGA is in violation of this clause, it shall be barred forthwith from receiving further funds unless a satisfactory showing is made indicating discriminatory practices have terminated and a recurrence of such act or action is unlikely.

- b. This Agreement incorporates the complete understanding of the parties. Any modification of the Agreement shall be in writing and executed by each party of the Agreement to be valid.

- c. NWGGA agrees to have in force, during the Agreement period, and available for inspection, a policy regarding a drug-free workplace. The policy shall contain:
  - (1) A statement notifying employees that the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited in the NWGGA workplace;
  - (2) The specific actions that will be taken against employees for violating the policy; and
  - (3) A requirement that each employee shall receive a copy of the policy.
- d. NWGGA shall indemnify and hold harmless the Department from any and all claims and liabilities, including costs and legal fees, that may arise out of or on account of any failure on the part of NWGGA to perform such duties for the Department as herein specified. This obligation shall survive the expiration or termination of this Agreement.
- e. The books of account, files, and other records of NWGGA which are applicable to this Agreement, shall be available for inspection, review, and audit by the Department and its representatives to determine the proper application and use of all funds paid to and for the account or benefit of NWGGA.
- f. NWGGA agrees to maintain all books, documents, papers, or other records involving transactions related to this Agreement for a period of five (5) years. If any litigation or audit is begun or a claim is instituted involving the Agreement, NWGGA shall retain the records beyond the five (5) year period until litigation, audit findings, or any claims have been fully resolved and the Department has agreed that such records no longer need to be retained.
- g. NWGGA specifically agrees that funds given to NWGGA shall be used only for the projects and purposes enumerated herein and further acknowledges that expenditures shall not be used for political activity.
- h. Any funds paid to NWGGA under this Agreement, and not fully utilized and earned pursuant to this Agreement during the Agreement period, shall be returned to the Department and credited to the Winery and Grape Producers Promotional Fund unless otherwise agreed. Furthermore, if NWGGA fails to perform as outlined herein, NWGGA shall be required to repay any unearned funds received under this Agreement.
- i. This Agreement is not assignable without the express written approval of the Department.

- j. This Agreement may be terminated by either of the parties hereto at any time by giving thirty (30) days advance written notice to the other party.
- k. The relationship of the Department and NWGGA under this Agreement shall be that of principal and independent contractor. It is understood by both the Department and NWGGA that NWGGA is not an employee of the Department. It is understood that the Department assumes no responsibility beyond those specifically stated in this Agreement.
- l. All provisions of this Agreement are subject to the Americans with Disabilities Act.
- m. NWGGA guarantees payment of compensation to injured workers according to the Nebraska Workers Compensation Act.
- n. This contract becomes valid upon the date of the final signature.

Approved:

NEBRASKA DEPARTMENT OF  
AGRICULTURE

\_\_\_\_\_

Date

\_\_\_\_\_

Greg Ibach, Director

NEBRASKA WINERY AND GRAPE  
GROWERS' ASSOCIATION

\_\_\_\_\_

Date

\_\_\_\_\_

Mick McDowell, President

nwgacontract-boothdisplay021908.doc

**AGREEMENT**

**between**

**NEBRASKA WINERY AND GRAPE GROWERS' ASSOCIATION**

**and**

**NEBRASKA DEPARTMENT OF AGRICULTURE**

**#18-13-057**

This Agreement entered into by and between the Nebraska Winery and Grape Growers' Association, hereinafter called the "NWGGA," and the Nebraska Department of Agriculture, hereinafter called the "Department," provides for the funding from the Nebraska Grape and Winery Board funds to NWGGA toward marketing activities to assist in the betterment of Nebraska's grape and wine industry.

WHEREAS, it has been proven that high-quality wine grapes and wines can be produced in Nebraska;

WHEREAS, numerous awards have been won by Nebraska wineries at many of the most prestigious wine competitions, proving Nebraska wineries can produce wines meeting local favor and receiving national acclaim;

WHEREAS, the Nebraska Grape and Winery Board, under Neb. Rev. Stat. §§53-301 to 53-305, has conducted a public board meeting and directed the Department to provide funds to NWGGA;

WHEREAS, the promotional activities conducted by NWGGA will greatly assist the Nebraska grape and winery industry; and

WHEREAS, both parties hereto desire to enter into this Agreement in order to further promote Nebraska's grape and wine industry.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties hereto that:

1. The Nebraska Grape and Winery Board approved two thousand dollars (\$2,000) from the Winery and Grape Producers' Promotional Fund to assist in paying for the development of a Nebraska Wine Tour Program. Through this program, participants will receive a Passport that lists all the NWGGA wineries, vineyards, and tasting rooms, and a brief description of each enterprise. Each location will have a customized stamp that will be used to stamp the visitor's Passport upon their visit.

The amount of two thousand dollars (\$2,000) will be used to assist in program development, creation, printing of initial Passports, and Passport Stamps for each participating location.

2. Duration of Agreement: This Agreement shall be in force and effective from July 1, 2007, to June 30, 2008.
3. The Department agrees to provide the funds as set out in Paragraph 1, from the Winery and Grape Producers' Promotional Fund.
4. NWGGA agrees to provide a copy of a sample Passport to the Department with a report of the costs involved for this project.
5. Payment in the amount of two thousand dollars (\$2,000) from the Winery and Grape Producers' Promotional Fund to NWGGA will be payable in full upon both parties signing this Agreement, and NWGGA incurring an obligation of at least two thousand dollars (\$2,000) for this project. NWGGA shall present an invoice to the Department from which payment shall be made.
6. Funding for this project is subject to legislative appropriations and funding being available. Any unused funds shall be refunded to the Department and credited back to the Winery and Grape Producers' Promotional Fund.
7. After the Agreement begins, it is understood that, if additional costs should be incurred, with the mutual written consent of all parties to this Agreement, and provided resources are available, this Agreement may be amended.
8. The parties mutually agree as follows:
  - a. NWGGA shall:
    - (1) Not discriminate against recipients of services on the basis of race, color, religion, national origin, sex, disability, or age; and
    - (2) Not discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex, or qualified disability.

It is further understood and agreed that, if NWGGA is in violation of this clause, it shall be barred forthwith from receiving further funds, unless a satisfactory showing is made indicating discriminatory practices have terminated and a recurrence of such act or action is unlikely.

- b. This Agreement incorporates the complete understanding of the parties. Any modification of the Agreement shall be in writing and executed by each party of the Agreement to be valid.

- c. NWGGA agrees to have in force, during the Agreement period, and available for inspection, a policy regarding a drug-free workplace. The policy shall contain:
  - (1) A statement notifying employees that the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited in the NWGGA workplace;
  - (2) The specific actions that will be taken against employees for violating the policy; and
  - (3) A requirement that each employee shall receive a copy of the policy.
- d. NWGGA shall indemnify and hold harmless the Department from any and all claims and liabilities, including costs and legal fees that may arise out of or on account of any failure on the part of NWGGA to perform such duties for the Department as herein specified. This obligation shall survive the expiration or termination of this Agreement.
- e. The books of account, files, and other records of NWGGA which are applicable to this Agreement, shall be available for inspection, review, and audit by the Department and its representatives to determine the proper application and use of all funds paid to, and for the account or benefit of, NWGGA.
- f. NWGGA agrees to maintain all books, documents, papers, or other records involving transactions related to this Agreement for a period of five (5) years. If any litigation or audit is begun or a claim is instituted involving the Agreement, NWGGA shall retain the records beyond the five (5) year period until litigation, audit findings, or any claims have been fully resolved and the Department has agreed that such records no longer need to be retained.
- g. NWGGA specifically agrees that funds given to NWGGA shall be used only for the projects and purposes enumerated herein and further acknowledges that expenditures shall not be used for political activity.
- h. Any funds paid to NWGGA under this Agreement, and not fully utilized and earned pursuant to this Agreement during the Agreement period, shall be returned to the Department and credited to the Winery and Grape Producers' Promotional Fund unless otherwise agreed. Furthermore, if NWGGA fails to perform as outlined herein, NWGGA shall be required to repay any unearned funds received under this Agreement.
- i. This Agreement is not assignable without the express written approval of the Department.

- j. This Agreement may be terminated by either of the parties hereto at any time by giving thirty (30) days advance written notice to the other party.
- k. The relationship of the Department and NWGGA under this Agreement shall be that of principal and independent contractor. It is understood by both the Department and NWGGA that NWGGA is not an employee of the Department. It is understood that the Department assumes no responsibility beyond those specifically stated in this Agreement.
- l. All provisions of this Agreement are subject to the Americans with Disabilities Act.
- m. NWGGA guarantees payment of compensation to injured workers according to the Nebraska Workers Compensation Act.
- n. This contract becomes valid upon the date of the final signature.

Approved:

NEBRASKA DEPARTMENT OF  
AGRICULTURE

\_\_\_\_\_  
Date

\_\_\_\_\_  
Greg Ibach, Director

NEBRASKA WINERY AND GRAPE  
GROWERS' ASSOCIATION

\_\_\_\_\_  
Date

\_\_\_\_\_  
Lory Cappel, Chair  
NWGGA Marketing Committee

**AGREEMENT**

**between**

**BOARD OF REGENTS OF THE UNIVERSITY OF NEBRASKA**

**and**

**NEBRASKA DEPARTMENT OF AGRICULTURE**

**#18-13-058**

This Agreement entered into by and between the Board of Regents of the University of Nebraska, hereinafter called the "Viticulture Program," and the Nebraska Department of Agriculture, hereinafter called the "Department," provides for the funding from the Nebraska Grape and Winery Board funds toward Viticulture Program research activities to assist in the betterment of Nebraska's grape industry.

WHEREAS, it has been proven that high-quality wine grapes and wines can be produced in Nebraska;

WHEREAS, numerous awards have been won by Nebraska wineries at many of the most prestigious wine competitions proving the fact that the Nebraska wineries can produce wines meeting local favor and receiving national acclaim;

WHEREAS, the Nebraska Grape and Winery Board, under Neb. Rev. Stat. §§53-301 to 53-305, has conducted a public board meeting and directed the Department to provide funds to the Viticulture Program;

WHEREAS, the research activities conducted by the Viticulture Program will greatly assist the Nebraska grape and winery industry;

WHEREAS, both parties hereto desire to enter into this Agreement in order to further promote Nebraska's grape and wine industry.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties hereto that:

1. The Nebraska Grape and Winery Board approved three thousand dollars (\$3,000) from the Winery and Grape Producers Promotional Fund to pay for the second year of a five-year Viticulture Program activity. This project is:
  - a. Studying 'Marquette' (formerly designated as MN 1211) grapevines on four different trellis systems;
  - b. Comparing yield and crop uniformity among four trellis systems;
  - c. Determining if the trellis system has an influence on cold-hardiness; and

- d. Examining the influence of trellis systems on fruit quality parameters.

The procedures for this project involve the following:

- In 2006, Marquette' grapevines were planted in each cooperating state using the same four trellis systems – High Cordon (HC), Vertical Shoot Positioning (VSP), Smart-Dyson (SD) and Geneva Double Curtain (GDC). Spacing will be 8' in rows 12' apart. Bordering plants were planted on the end of each row in the experimental planting.
- Each trellis system will be replicated four times with six vines per replication in a randomized block design.
- Standard vineyard management practices will be employed as practiced in the respective vineyards.
- Data will be from the middle four plants in each block of six vines.
- Data will be analyzed by LSD and SAS systems of analysis. Analysis of variance, multiple comparisons and interactions will be analyzed based on Dr. David Marx's recommendations including the use of the appropriate SAS Software Package (SAS Institute Cary, NC).
- Costs will vary for the different trellis systems and have been calculated accordingly, with the budget reflecting these figures.

Three thousand dollars (\$3,000) will partially pay for viticulture technologist salary, trellis materials, drip irrigation materials and labor, and travel costs for local project oversight and implementation.

2. Duration of Agreement: This Agreement shall be in force and effective from July 1, 2007, to June 30, 2008.
3. The Department agrees to provide the funds as set out above from the Winery and Grape Producers Promotional Fund.
4. Payment in the amount of three thousand dollars (\$3,000) from the Winery and Grape Producers Promotional Fund to the Viticulture Program will be payable in full upon both parties' signature to this Agreement, and Viticulture Program incurring an obligation. The Viticulture Program shall present an Interagency Billing Transaction (IBT) invoice to the Department to make payment from.
5. Funding for this project is subject to legislative appropriations and funding being available.

6. It is understood that, after the Agreement begins, if additional costs would be incurred, with the mutual written consent of all parties and, provided resources are available, this Agreement may be amended.
7. Viticulture Program shall utilize funds provided by the Department only for facilities, materials, and personnel to conduct the duties called for in this Agreement. Department funds collected from a checkoff fee paid by the industry are not to be used to pay administrative or indirect costs.
8. The parties mutually agree as follows:
  - a. The Viticulture Program shall:
    - (1) Not discriminate against recipients of services on the basis of race, color, religion, national origin, sex, disability, or age; and
    - (2) Not discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex, or qualified disability.

It is further understood and agreed that, if the Viticulture Program is in violation of this clause, it shall be barred forthwith from receiving further funds unless a satisfactory showing is made indicating discriminatory practices have terminated and a recurrence of such act or action is unlikely.

- b. This Agreement incorporates the complete understanding of the parties. Any modification of the Agreement shall be in writing and executed by each party to be valid.
- c. The Viticulture Program agrees to have in force, during the Agreement period, and available for inspection, a policy regarding a drug-free workplace. The policy shall contain:
  - (1) A statement notifying employees that the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited in the Viticulture Program workplace;
  - (2) The specific actions that will be taken against employees for violating the policy; and
  - (3) A requirement that each employee receives a copy of the policy.
- d. The Viticulture Program shall indemnify and hold harmless the Department from any and all claims and liabilities, including costs and legal fees that may arise out of, or on account of, any failure on the part of the Viticulture Program to perform such duties for the Department as herein specified to the extent allowed by Nebraska law.

This obligation shall survive the expiration or termination of this Agreement.

- e. The books of accounts, files, and other records of the Viticulture Program which are applicable to this Agreement shall be available for inspection, review, and audit by the Department and its representatives to determine the proper application and use of all funds paid to and for the account or benefit of the Viticulture Program.
- f. The Viticulture Program agrees to maintain all books, documents, papers, or other records involving transactions related to this Agreement for a period of five (5) years. If any litigation or audit is begun or a claim is instituted involving the Agreement, the Viticulture Program shall retain the records beyond the five (5) year period until litigation, audit findings, or any claims have been fully resolved and the Department has agreed that such records no longer need to be retained.
- g. The Viticulture Program specifically agrees that funds given to the Viticulture Program shall be used only for the projects and purposes enumerated herein and further acknowledges that expenditures shall not be used for political activity.
- h. Any funds paid to the Viticulture Program under this Agreement, and not fully utilized and earned pursuant to this Agreement during the Agreement period, shall be returned to the Department and credited to the Winery and Grape Producers Promotional Fund unless otherwise agreed. Furthermore, if the Viticulture Program fails to perform as outlined herein, the Viticulture Program shall be required to repay any unearned funds received under this Agreement.
- i. This Agreement is not assignable without the express written approval of the Department.
- j. This Agreement may be terminated by either of the parties hereto at any time by giving thirty (30) days advance written notice to the other party.
- k. The relationship of the Department and the Viticulture Program under this Agreement shall be that of principal and independent contractor. It is understood by both the Department and the Viticulture Program that the Viticulture Program is not an employee of the Department. It is understood that the Department assumes no responsibility beyond those specifically stated in this Agreement.
- l. All provisions of this Agreement are subject to the Americans with Disabilities Act.

- m. The Viticulture Program guarantees payment of compensation to injured workers according to the Nebraska Workers Compensation Act.
- n. This contract becomes valid upon the date of the final signature.

Approved:

NEBRASKA DEPARTMENT OF  
AGRICULTURE

\_\_\_\_\_  
Date

\_\_\_\_\_  
Greg Ibach, Director

BOARD OF REGENTS OF THE  
UNIVERSITY OF NEBRASKA

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jeanne Wicks, Director  
Sponsored Programs

unlviticulturecontract-trellis070107.doc

**AGREEMENT**

**between**

**BOARD OF REGENTS OF THE UNIVERSITY OF NEBRASKA**

**and**

**NEBRASKA DEPARTMENT OF AGRICULTURE**

**#18-13-059**

This Agreement entered into by and between the Board of Regents of the University of Nebraska, hereinafter called the "Viticulture Program," and the Nebraska Department of Agriculture, hereinafter called the "Department," provides for the funding from the Nebraska Grape and Winery Board funds toward Viticulture Program research activities to assist in the betterment of Nebraska's grape industry.

WHEREAS, it has been proven that high-quality wine grapes and wines can be produced in Nebraska;

WHEREAS, numerous awards have been won by Nebraska wineries at many of the most prestigious wine competitions proving the fact that the Nebraska wineries can produce wines meeting local favor and receiving national acclaim;

WHEREAS, the Nebraska Grape and Winery Board, under Neb. Rev. Stat. §§53-301 to 53-305, has conducted a public board meeting and directed the Department to provide funds to the Viticulture Program;

WHEREAS, the research activities conducted by the Viticulture Program will greatly assist the Nebraska grape and winery industry;

WHEREAS, both parties hereto desire to enter into this Agreement in order to further promote Nebraska's grape and wine industry.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties hereto that:

1. The Nebraska Grape and Winery Board approved two thousand nine hundred eighty dollars (\$2,980) from the Winery and Grape Producers Promotional Fund to pay for a Viticulture Program activity evaluating grape nutrient deficiencies in western Nebraska vineyards. The objectives of this project are to:
  - a. Identify cultivar differences in expressing chlorosis and determine which one or more elements (Fe, Mn, Zn, Cu, or multiples) are involved through petiole and soil tests;

- b. Apply nutrient compounds with or without chelation to correct the deficiencies and eliminate the chlorosis; and
  - c. Examine the genetic background of susceptible cultivars (expressing chlorosis symptoms) versus those not exhibiting chlorosis.
2. The projected outcomes of this project will result in a list of high PH-tolerant cultivars which will be made available to western Nebraska grape growers and growers in other regions who also have soils with high PH. This project will also generate information that will provide recommendations to growers for alleviating chlorosis on existing vines, either by soil or foliar treatments. As a result of this research, species imparting tolerance to high PH soils may be selected as parents in future breeding programs.

Two thousand nine hundred eighty dollars (\$2,980) will partially pay for viticulture research technologist salary, student labor, foliar and soils tests, vineyard and laboratory expenses (including chemicals), and travel costs for local project oversight and implementation.

3. Duration of Agreement: This Agreement shall be in force and effective from July 1, 2007, to June 30, 2008.
4. The Department agrees to provide the funds as set out above from the Winery and Grape Producers Promotional Fund.
5. Payment in the amount of two thousand nine hundred eighty dollars (\$2,980) from the Winery and Grape Producers Promotional Fund to the Viticulture Program will be payable in full upon both parties signature to this Agreement, and Viticulture Program incurring an obligation. The Viticulture Program shall present an Interagency Billing Transaction (IBT) invoice to the Department from which payment will be made.
6. Funding for this project is subject to legislative appropriations and funding being available.
7. It is understood that, after the Agreement begins, if additional costs would be incurred, with the mutual written consent of all parties and, provided resources are available, this Agreement may be amended.
8. Viticulture Program shall utilize funds provided by the Department only for facilities, materials, and personnel to conduct the duties called for in this Agreement. Department funds collected from a checkoff fee paid by the industry are not to be used to pay administrative or indirect costs.
9. The parties mutually agree as follows:
- a. The Viticulture Program shall:

- (1) Not discriminate against recipients of services on the basis of race, color, religion, national origin, sex, disability, or age; and
- (2) Not discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex, or qualified disability.

It is further understood and agreed that, if the Viticulture Program is in violation of this clause, it shall be barred forthwith from receiving further funds, unless a satisfactory showing is made indicating discriminatory practices have terminated and a recurrence of such act or action is unlikely.

- b. This Agreement incorporates the complete understanding of the parties. Any modification of the Agreement shall be in writing and executed by each party to be valid.
- c. The Viticulture Program agrees to have in force, during the Agreement period, and available for inspection, a policy regarding a drug-free workplace. The policy shall contain:
  - (1) A statement notifying employees that the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited in the Viticulture Program workplace;
  - (2) The specific actions that will be taken against employees for violating the policy; and
  - (3) A requirement that each employee receives a copy of the policy.
- d. The Viticulture Program shall indemnify and hold harmless the Department from any and all claims and liabilities, including costs and legal fees that may arise out of or on account of any failure on the part of the Viticulture Program to perform such duties for the Department as herein specified to the extent allowed by Nebraska law. This obligation shall survive the expiration or termination of this Agreement.
- e. The books of account, files, and other records of the Viticulture Program which are applicable to this Agreement shall be available for inspection, review, and audit by the Department and its representatives to determine the proper application and use of all funds paid to, and for the account or benefit of the Viticulture Program.
- f. The Viticulture Program agrees to maintain all books, documents, papers, or other records involving transactions related to this Agreement for a period of five (5) years. If any litigation or audit is begun or a claim is instituted involving the Agreement, the Viticulture Program shall retain the records beyond the five (5) year period until

litigation, audit findings, or any claims have been fully resolved and the Department has agreed that such records no longer needs to be retained.

- g. The Viticulture Program specifically agrees that funds given to the Viticulture Program shall be used only for the projects and purposes enumerated herein and further acknowledges that expenditures shall not be used for political activity.
- h. Any funds paid to the Viticulture Program under this Agreement, and not fully utilized and earned pursuant to this Agreement during the Agreement period, shall be returned to the Department and credited to the Winery and Grape Producers Promotional Fund unless otherwise agreed. Furthermore, if the Viticulture Program fails to perform as outlined herein, the Viticulture Program shall be required to repay any unearned funds received under this Agreement.
- i. This Agreement is not assignable without the express written approval of the Department.
- j. This Agreement may be terminated by either of the parties hereto at any time by giving thirty (30) days advance written notice to the other party.
- k. The relationship of the Department and the Viticulture Program under this Agreement shall be that of principal and independent contractor. It is understood by both the Department and the Viticulture Program that the Viticulture Program is not an employee of the Department. It is understood that the Department assumes no responsibility beyond those specifically stated in this Agreement.
- l. All provisions of this Agreement are subject to the Americans with Disabilities Act.
- m. The Viticulture Program guarantee payment of compensation to injured workers according to the Nebraska Workers Compensation Act.

n. This contract becomes valid upon the date of the final signature.

Approved:

NEBRASKA DEPARTMENT OF  
AGRICULTURE

\_\_\_\_\_  
Date

\_\_\_\_\_  
Greg Ibach, Director

BOARD OF REGENTS OF THE  
UNIVERSITY OF NEBRASKA

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jeanne Wicks, Director  
Sponsored Programs

unlviticulturecontract-nutrient070107.doc

**AGREEMENT**

**between**

**MAC'S CREEK VINEYARD AND WINERY**

**and**

**NEBRASKA DEPARTMENT OF AGRICULTURE**

**#18-13-060**

This Agreement entered into by and between Mac's Creek Vineyard and Winery, hereinafter called the "Vineyard" and the Nebraska Department of Agriculture, hereinafter called the "Department," provides for the funding from the Nebraska Grape and Winery Board funds to the Vineyard toward research activities to assist in the betterment of Nebraska's grape and wine industry.

WHEREAS, it has been proven that high-quality wine grapes and wines can be produced in Nebraska;

WHEREAS, numerous awards have been won by Nebraska wineries at many of the most prestigious wine competitions, proving Nebraska wineries can produce wines meeting local favor and receiving national acclaim;

WHEREAS, the Nebraska Grape and Winery Board, under Neb. Rev. Stat. §§53-301 to 53-305, has conducted a public board meeting and directed the Department to provide funds to the Vineyard for a study of grapevine cold hardiness;

WHEREAS, the research activities conducted by the Vineyard will greatly assist the Nebraska grape and winery industry;

WHEREAS, both parties hereto desire to enter into this Agreement in order to further enhance Nebraska's grape and wine industry.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties hereto that:

1. The Nebraska Grape and Winery Board approved one thousand seven hundred ten dollars (\$1,710) from the Winery and Grape Producers' Promotional Fund to assist the Vineyard in paying for the evaluation of techniques which are designed to enhance grapevine cold hardiness. This project will study the effects of late winter spraying of dormant vines using products which are designed to either delay de-acclimation and/or bud break from 10 to 14 days.

This research project will consist of three samples of 60 vines each. Each sample will consist of 15 vines across four different cultivars, which include Marachel Foch, LaCrosse, Edelweiss, and St. Croix. Each sample will be treated differently.

The first sample (identified as Treatment 1) will be sprayed with Soy Oil, which is designed to delay de-acclimation and bud break. The second sample (Treatment 2) will be brushed with Algniate Gel, which is designed to delay bud break. The third sample, (Control group), will receive no treatments at all.

Results from this project are to determine if there is a difference in delayed bud break counts and harvest yields when comparing the three groups.

The amount of one thousand seven hundred ten dollars (\$1,710) will partially pay for costs involved with this project, which include chemicals, soil samples, labor, research consultant expenses (time, travel, and lodging) and data collection, entry, and analysis.

2. Duration of Agreement: This Agreement shall be in force and effective from July 1, 2007, to June 30, 2008.
3. The Department agrees to provide the funds as set out in Paragraph 1, from the Winery and Grape Producers' Promotional Fund.
4. The Vineyard agrees to provide a copy of the results to the Department with a report of the costs involved for this project.
5. Payment in the amount of one thousand seven hundred ten dollars (\$1,710) from the Winery and Grape Producers' Promotional Fund to the Vineyard will be payable in full upon both parties signing this Agreement, and the Vineyard incurring an obligation of at least one thousand seven hundred ten dollars (\$1,710) for this project. The Vineyard shall present an invoice to the Department from which payment shall be made.
6. Funding for this project is subject to legislative appropriations and funding being available. Any unused funds shall be refunded to the Department and credited back to the Winery and Grape Producers' Promotional Fund.
7. After the Agreement begins, it is understood that, if additional costs should be incurred, with the mutual written consent of all parties to this Agreement, and provided resources are available, this Agreement may be amended.
8. The Vineyard shall utilize funds provided by the Department only for facilities, materials, and personnel to conduct the duties called for in this Agreement. Department funds collected from a checkoff fee paid by the industry are not to be used to pay administrative or indirect costs.
9. The parties mutually agree as follows:
  - a. The Vineyard shall:

- (1) Not discriminate against recipients of services on the basis of race, color, religion, national origin, sex, disability, or age; and
- (2) Not discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex, or qualified disability.

It is further understood and agreed that, if the Vineyard is in violation of this clause, it shall be barred forthwith from receiving further funds, unless a satisfactory showing is made indicating discriminatory practices have terminated and a recurrence of such act or action is unlikely.

- b. This Agreement incorporates the complete understanding of the parties. Any modification of the Agreement shall be in writing and executed by each party of the Agreement to be valid.
- c. The Vineyard agrees to have in force, during the Agreement period, and available for inspection, a policy regarding a drug-free workplace. The policy shall contain:
  - (1) A statement notifying employees that the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited in the Vineyard workplace;
  - (3) The specific actions that will be taken against employees for violating the policy; and
  - (4) A requirement that each employee shall receive a copy of the policy.
- d. The Vineyard shall indemnify and hold harmless the Department from any and all claims and liabilities, including costs and legal fees that may arise out of or on account of any failure on the part of the Vineyard to perform such duties for the Department as herein specified. This obligation shall survive the expiration or termination of this Agreement.
- e. The books of account, files, and other records of the Vineyard which are applicable to this Agreement, shall be available for inspection, review, and audit by the Department and its representatives to determine the proper application and use of all funds paid to, and for the account or benefit of, the Vineyard.
- f. The Vineyard agrees to maintain all books, documents, papers, or other records involving transactions related to this Agreement for a period of five (5) years. If any litigation or audit is begun or a claim is instituted involving the Agreement, the Vineyard shall retain the records beyond the five (5) year period until litigation, audit findings, or any claims have been fully resolved and the Department has agreed that such records no longer need to be retained.

- g. The Vineyard specifically agrees that funds given to the Vineyard shall be used only for the projects and purposes enumerated herein and further acknowledges that expenditures shall not be used for political activity.
- h. Any funds paid to the Vineyard under this Agreement, and not fully utilized and earned pursuant to this Agreement during the Agreement period, shall be returned to the Department and credited to the Winery and Grape Producers' Promotional Fund unless otherwise agreed. Furthermore, if the Vineyard fails to perform as outlined herein, the Vineyard shall be required to repay any unearned funds received under this Agreement.
- i. This Agreement is not assignable without the express written approval of the Department.
- j. This Agreement may be terminated by either of the parties hereto at any time by giving thirty (30) days advance written notice to the other party.
- k. The relationship of the Department and the Vineyard under this Agreement shall be that of principal and independent contractor. It is understood by both the Department and the Vineyard that the Vineyard is not an employee of the Department. It is understood that the Department assumes no responsibility beyond those specifically stated in this Agreement.
- l. All provisions of this Agreement are subject to the Americans with Disabilities Act.
- m. The Vineyard guarantees payment of compensation to injured workers according to the Nebraska Workers Compensation Act.
- n. This contract becomes valid upon the date of the final signature.

Approved:

NEBRASKA DEPARTMENT OF  
AGRICULTURE

\_\_\_\_\_  
Date

\_\_\_\_\_  
Greg Ibach, Director

MAC'S CREEK VINEYARD AND WINERY

\_\_\_\_\_  
Date

\_\_\_\_\_  
Seth McFarland  
Mac's Creek Vineyards

**AGREEMENT**

**between**

**BOARD OF REGENTS OF THE UNIVERSITY OF NEBRASKA**

**and**

**NEBRASKA DEPARTMENT OF AGRICULTURE**

**#18-01-187**

This Agreement, entered into by and between the Board of Regents of the University of Nebraska, hereinafter called the "UNL – Extension," and the Nebraska Department of Agriculture, hereinafter called the "Department," provides for the funding from the Nebraska Grape and Winery Board funds toward UNL – Extension's Grape Cluster Thinning Project to assist in the betterment of Nebraska's grape and wine industry.

WHEREAS, it has been proven that high-quality wine grapes and wines can be produced in Nebraska;

WHEREAS, numerous awards have been won by Nebraska wineries at many of the most prestigious wine competitions proving the fact that the Nebraska wineries can produce wines meeting local favor and receiving national acclaim;

WHEREAS, the Nebraska Grape and Winery Board, under Neb. Rev. Stat. §§53-301 to 53-305, has conducted a public board meeting and directed the Department to provide funds to UNL – Extension;

WHEREAS, the activities conducted by UNL – Extension will greatly assist the Nebraska grape and winery industry;

WHEREAS, both parties hereto desire to enter into this Agreement in order to further promote Nebraska's grape and wine industry.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties hereto that:

1. The Nebraska Grape and Winery Board approved one thousand one hundred thirty-three dollars (\$1,133) from the Winery and Grape Producers Promotional Fund to pay for a UNL – Extension activity that will research commonly grown grape cultivars in Nebraska to determine if grape and wine quality can be improved by early season selective cluster removal. This project will also determine if other factors, such as total yield, cluster size, and grape size, are also affected by cluster removal.
2. The goals of this project are to:

- a. Determine which cultivars respond to cluster removal and offer the highest potential for improving grape quality;
- b. Determine what quality factors are improved; and
- c. Determine if cluster thinning is an economically feasible practice for grape growers.

One thousand one hundred thirty-three dollars (\$1,133) will partially pay for lab supplies and analysis, report expense, and travel costs for project oversight and management.

3. Duration of Agreement. This Agreement shall be in force and effective from July 1, 2007, to June 30, 2008.
4. The Department agrees to provide the funds as set out above from the Winery and Grape Producers Promotional Fund.
5. Payment in the amount of one thousand one hundred thirty-three dollars (\$1,133) from the Winery and Grape Producers Promotional Fund to UNL – Extension will be payable in full upon both parties signature to this Agreement, and UNL – Extension incurring an obligation. UNL – Extension shall present an Interagency Billing Transaction (IBT) invoice to the Department from which payment shall be made.
6. Funding for this project is subject to legislative appropriations and funding being available.
7. It is understood that, after the Agreement begins, if additional costs would be incurred, with the mutual written consent of all parties and, provided resources are available, this Agreement may be amended.
8. UNL – Extension shall utilize funds provided by the Department only for lab supplies and analysis, report expense, and travel costs to conduct the duties called for in this Agreement. Department funds collected from a checkoff fee paid by the industry are not to be used to pay administrative or indirect costs.
9. The parties mutually agree as follows:
  - a. UNL – Extension shall:
    - (1) Not discriminate against recipients of services on the basis of race, color, religion, national origin, sex, disability, or age; and
    - (2) Not discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex, or qualified disability.

It is further understood and agreed that, if UNL – Extension is in violation of this clause, it shall be barred forthwith from receiving further funds, unless a satisfactory showing is made indicating discriminatory practices have terminated and a recurrence of such act or action is unlikely.

- b. This Agreement incorporates the complete understanding of the parties. Any modification of the Agreement shall be in writing and executed by each party to be valid.
- c. UNL – Extension agrees to have in force, during the Agreement period, and available for inspection, a policy regarding a drug-free workplace. The policy shall contain:
  - (1) A statement notifying employees that the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited in the UNL – Extension workplace;
  - (2) The specific actions that will be taken against employees for violating the policy; and
  - (3) A requirement that each employee receives a copy of the policy.
- d. UNL – Extension shall indemnify and hold harmless the Department from any and all claims and liabilities, including costs and legal fees that may arise out of, or on account of, any failure on the part of UNL – Extension to perform such duties for the Department as herein specified to the extent allowed by Nebraska law. This obligation shall survive the expiration or termination of this Agreement.
- e. The books of account, files, and other records of UNL – Extension which are applicable to this Agreement shall be available for inspection, review, and audit by the Department and its representatives to determine the proper application and use of all funds paid to, and for the account or benefit of UNL – Extension.
- f. UNL – Extension agrees to maintain all books, documents, papers, or other records involving transactions related to this Agreement for a period of five (5) years. If any litigation or audit is begun or a claim is instituted involving the Agreement, UNL – Extension shall retain the records beyond the five (5) year period until litigation, audit findings, or any claims have been fully resolved and the Department has agreed that such records no longer need to be retained.
- g. UNL – Extension specifically agrees that funds given to UNL – Extension shall be used only for the projects and purposes enumerated herein, and further acknowledges that expenditures shall not be used for political activity.

- h. Any funds paid to UNL – Extension under this Agreement, and not fully utilized and earned pursuant to this Agreement during the Agreement period, shall be returned to the Department and credited to the Winery and Grape Producers Promotional Fund unless otherwise agreed. Furthermore, if UNL – Extension fails to perform as outlined herein, UNL – Extension shall be required to repay any unearned funds received under this Agreement.
- i. This Agreement is not assignable without the express written approval of the Department.
- j. This Agreement may be terminated by either of the parties hereto at any time by giving thirty (30) days advance written notice to the other party.
- k. The relationship of the Department and UNL – Extension under this Agreement shall be that of principal and independent contractor. It is understood by both the Department and UNL – Extension that UNL – Extension is not an employee of the Department. It is understood that the Department assumes no responsibility beyond those specifically stated in this Agreement.
- l. All provisions of this Agreement are subject to the Americans with Disabilities Act.
- m. UNL – Extension guarantees payment of compensation to injured workers according to the Nebraska Workers Compensation Act.
- n. This contract becomes valid upon the date of the final signature.

Approved:

NEBRASKA DEPARTMENT OF  
AGRICULTURE

\_\_\_\_\_  
Date

\_\_\_\_\_  
Greg Ibach, Director

BOARD OF REGENTS OF THE  
UNIVERSITY OF NEBRASKA

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jeanne Wicks, Director  
Sponsored Programs

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## AGREEMENT

between

**BOARD OF REGENTS OF THE UNIVERSITY OF NEBRASKA**

and

**NEBRASKA DEPARTMENT OF AGRICULTURE**

**#18-01-188**

This Agreement, entered into by and between the Board of Regents of the University of Nebraska, hereinafter called the "Viticulture Program," and the Nebraska Department of Agriculture, hereinafter called the "Department," provides for the funding from the Nebraska Grape and Winery Board funds toward Viticulture Program research activities to assist in the betterment of Nebraska's grape industry.

WHEREAS, it has been proven that high-quality wine grapes and wines can be produced in Nebraska;

WHEREAS, numerous awards have been won by Nebraska wineries at many of the most prestigious wine competitions proving the fact that the Nebraska wineries can produce wines meeting local favor and receiving national acclaim;

WHEREAS, the Nebraska Grape and Winery Board, under Neb. Rev. Stat. §§53-301 to 53-305, has conducted a public board meeting and directed the Department to provide funds to the Viticulture Program;

WHEREAS, the research activities conducted by the Viticulture Program will greatly assist the Nebraska grape and winery industry;

WHEREAS, both parties hereto desire to enter into this Agreement in order to further promote Nebraska's grape and wine industry.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties hereto that:

1. The Nebraska Grape and Winery Board approved fourteen thousand dollars (\$14,000) from the Winery and Grape Producers Promotional Fund to pay for the viticulture technologists' salary (\$9,000), student hourly labor (\$2,200), and fuel and vehicle rental costs (\$2,800) involved in oversight and implementation of Viticulture Program activities. These activities will consist of:
  - a. Cultivar and new genotype evaluation;
  - b. Multi-state project evaluating performance of a common set of grape cultivars in multiple locations;

- c. Studies of trellis construction systems and new cultivar performance;
- d. Evaluation of cold-hardiness, spring bud-break, and cold temperature damage prevention and management;
- e. Potential efficacy of chemical and physical treatments on seedless table grape vines to delay spring bud-break;
- f. Disease and insect management;
- g. Trunk studies; and
- h. Sustainable and potentially organic grape production projects.

The overall goal of the Viticulture Program is to provide science-based research information that will assist the development of the Nebraska grape and wine industry in a sustainable and profitable manner, thus enhancing the economic viability of Nebraska communities.

- 3. Duration of Agreement: This Agreement shall be in force and effective from July 1, 2007, to June 30, 2008.
- 4. The Department agrees to provide the funds as set out above from the Winery and Grape Producers Promotional Fund.
- 5. Payment in the amount of seven thousand dollars (\$7,000) from the Winery and Grape Producers Promotional Fund will be advanced to the Viticulture Program upon both parties' signature to this Agreement. The remaining seven thousand dollars (\$7,000) will be paid to the Viticulture Program after incurring an obligation. The Viticulture Program shall present Interagency Billing Transaction (IBT) invoices to the Department from which payments shall be made.
- 6. Funding for this project is subject to legislative appropriations and funding being available.
- 7. It is understood that, after the Agreement begins, if additional costs would be incurred, with the mutual written consent of all parties and, provided resources are available, this Agreement may be amended.
- 8. The Viticulture Program shall utilize funds provided by the Department only for the viticulture technologist's salary, student hourly labor, and fuel and vehicle rental costs to conduct the duties called for in this Agreement. Department funds collected from a checkoff fee paid by the industry are not to be used to pay administrative or indirect costs.
- 9. The parties mutually agree as follows:

- a. The Viticulture Program shall:
- (1) Not discriminate against recipients of services on the basis of race, color, religion, national origin, sex, disability, or age; and
  - (2) Not discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex, or qualified disability.
- It is further understood and agreed that, if the Viticulture Program is in violation of this clause, it shall be barred forthwith from receiving further funds, unless a satisfactory showing is made indicating discriminatory practices have terminated and a recurrence of such act or action is unlikely.
- b. This Agreement incorporates the complete understanding of the parties. Any modification of the Agreement shall be in writing and executed by each party to be valid.
- c. The Viticulture Program agrees to have in force, during the Agreement period, and available for inspection, a policy regarding a drug-free workplace. The policy shall contain:
- (1) A statement notifying employees that the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited in the Viticulture Program workplace;
  - (2) The specific actions that will be taken against employees for violating the policy; and
  - (3) A requirement that each employee receives a copy of the policy.
- d. The Viticulture Program shall indemnify and hold harmless the Department from any and all claims and liabilities, including costs and legal fees that may arise out of, or on account of, any failure on the part of the Viticulture Program to perform such duties for the Department, as herein specified to the extent allowed by Nebraska law. This obligation shall survive the expiration or termination of this Agreement.
- e. The books of account, files, and other records of the Viticulture Program which are applicable to this Agreement shall be available for inspection, review, and audit by the Department and its representatives to determine the proper application and use of all funds paid to, and for the account or benefit of the Viticulture Program.
- f. The Viticulture Program agrees to maintain all books, documents, papers, or other records involving transactions related to this

Agreement for a period of five (5) years. If any litigation or audit is begun or a claim is instituted involving the Agreement, the Viticulture Program shall retain the records beyond the five (5) year period until litigation, audit findings, or any claims have been fully resolved and the Department has agreed that such records no longer need to be retained.

- g. The Viticulture Program specifically agrees that funds given to the Viticulture Program shall be used only for the projects and purposes enumerated herein and further acknowledges that expenditures shall not be used for political activity.
- h. Any funds paid to the Viticulture Program under this Agreement, and not fully utilized and earned pursuant to this Agreement during the Agreement period, shall be returned to the Department and credited to the Winery and Grape Producers Promotional Fund, unless otherwise agreed. Furthermore, if the Viticulture Program fails to perform as outlined herein, the Viticulture Program shall be required to repay any unearned funds received under this Agreement.
- i. This Agreement is not assignable without the express written approval of the Department.
- j. This Agreement may be terminated by either of the parties hereto at any time by giving thirty (30) days advance written notice to the other party.
- k. The relationship of the Department and the Viticulture Program under this Agreement shall be that of principal and independent contractor. It is understood by both the Department and the Viticulture Program that the Viticulture Program is not an employee of the Department. It is understood that the Department assumes no responsibility beyond those specifically stated in this Agreement.
- l. All provisions of this Agreement are subject to the Americans with Disabilities Act.
- m. The Viticulture Program guarantees payment of compensation to injured workers according to the Nebraska Workers Compensation Act.

n. This contract becomes valid upon the date of the final signature.

Approved:

NEBRASKA DEPARTMENT OF  
AGRICULTURE

\_\_\_\_\_  
Date

\_\_\_\_\_  
Greg Ibach, Director

BOARD OF REGENTS OF THE  
UNIVERSITY OF NEBRASKA

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jeanne Wicks, Director  
Sponsored Programs

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**AGREEMENT**

**between**

**NEBRASKA WINERY AND GRAPE GROWERS' ASSOCIATION**

**and**

**NEBRASKA DEPARTMENT OF AGRICULTURE**

**#18-01-189**

This Agreement, entered into by and between the Nebraska Winery and Grape Growers' Association, hereinafter called the "NWGGA," and the Nebraska Department of Agriculture, hereinafter called the "Department," provides for the funding from the Nebraska Grape and Winery Board funds to NWGGA toward funding an Executive Director position and conducting marketing programs to assist in the betterment of Nebraska's grape and wine industry.

WHEREAS, it has been proven that high-quality wine grapes and wines can be produced in Nebraska;

WHEREAS, numerous awards have been won by Nebraska wineries at many of the most prestigious wine competitions proving Nebraska wineries can produce wines meeting local favor and receiving national acclaim;

WHEREAS, the Nebraska Grape and Winery Board, under Neb. Rev. Stat. §§53-301 to 53-305, has conducted a public board meeting and directed the Department to provide funds to NWGGA;

WHEREAS, the promotional activities conducted by NWGGA will greatly assist the Nebraska grape and winery industry;

WHEREAS, both parties hereto desire to enter into this Agreement in order to further promote Nebraska's grape and wine industry.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties hereto that:

1. The Nebraska Grape and Winery Board approved ten thousand five hundred dollars (\$10,500) from the Winery and Grape Producers Promotional Fund to fund an Executive Director position (\$3,000) and to pay for marketing activities (\$7,500), both of which are designed to increase the competitiveness and sustainability of Nebraska's grape and wine industry.

An amount of three thousand dollars (\$3,000) will be used to pay for one month's salary of the NWGGA's Executive Director's position. The remaining seven thousand five hundred dollars (\$7,500) will be used to pay

for brochures, media campaign, Wine Tour Passport Program, Economic Impact Study (Second Phase), web page development (Second Phase), educational seminars, and grower field days. It will be the responsibility of the Executive Director to administer and execute these programs.

2. Duration of Agreement. This Agreement shall be in force and effective from March 1, 2008, to June 30, 2008.
3. The Department agrees to provide the funds as set out in Paragraph 1, from the Winery and Grape Producers Promotional Fund.
4. Payment in the amount of ten thousand five hundred dollars (\$10,500) from the Winery and Grape Producers Promotional Fund to NWGGA will be payable in full upon both parties signing this Agreement and NWGGA incurring an obligation. NWGGA shall present invoices to the Department from which payments shall be made.
6. Funding for these projects are subject to legislative appropriations and funding being available. Any unused funds shall be refunded to the Department and credited back to the Winery and Grape Producers Promotional Fund.
8. After the Agreement begins, it is understood that, if additional costs should be incurred, with the mutual written consent of all parties to this Agreement, and provided resources are available, this Agreement may be amended.
9. NWGGA shall utilize funds provided by the Department only for funding an Executive Director position and marketing activities to conduct the duties called for in this Agreement. Department funds collected from a checkoff fee paid by the industry are not to be used to pay administrative or indirect costs.
9. The parties mutually agree as follows:
  - a. NWGGA shall:
    - (1) Not discriminate against recipients of services on the basis of race, color, religion, national origin, sex, disability, or age; and
    - (2) Not discriminate against any employee or applicant for employment on the basis of race, color, religion, national origin, sex, or qualified disability.

It is further understood and agreed that, if NWGGA is in violation of this clause, it shall be barred forthwith from receiving further funds unless a satisfactory showing is made indicating discriminatory practices have terminated and a recurrence of such act or action is unlikely.

- b. This Agreement incorporates the complete understanding of the parties. Any modification of the Agreement shall be in writing and executed by each party of the Agreement to be valid.
- c. NWGGA agrees to have in force, during the Agreement period, and available for inspection, a policy regarding a drug-free workplace. The policy shall contain:
  - (1) A statement notifying employees that the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited in the NWGGA workplace;
  - (4) The specific actions that will be taken against employees for violating the policy; and
  - (5) A requirement that each employee shall receive a copy of the policy.
- d. NWGGA shall indemnify and hold harmless the Department from any and all claims and liabilities, including costs and legal fees, that may arise out of or on account of any failure on the part of NWGGA to perform such duties for the Department as herein specified. This obligation shall survive the expiration or termination of this Agreement.
- e. The books of account, files, and other records of NWGGA which are applicable to this Agreement, shall be available for inspection, review, and audit by the Department and its representatives to determine the proper application and use of all funds paid to and for the account or benefit of NWGGA.
- f. NWGGA agrees to maintain all books, documents, papers, or other records involving transactions related to this Agreement for a period of five (5) years. If any litigation or audit is begun or a claim is instituted involving the Agreement, NWGGA shall retain the records beyond the five (5) year period until litigation, audit findings, or any claims have been fully resolved and the Department has agreed that such records no longer need to be retained.
- g. NWGGA specifically agrees that funds given to NWGGA shall be used only for the projects and purposes enumerated herein, and further acknowledges that expenditures shall not be used for political activity.
- h. Any funds paid to NWGGA under this Agreement, and not fully utilized and earned pursuant to this Agreement during the Agreement period, shall be returned to the Department and credited to the Winery and Grape Producers Promotional Fund, unless otherwise agreed. Furthermore, if NWGGA fails to perform as outlined herein, NWGGA shall be required to repay any unearned funds received under this Agreement.

- i. This Agreement is not assignable without the express written approval of the Department.
- j. This Agreement may be terminated by either of the parties hereto at any time by giving thirty (30) days advance written notice to the other party.
- k. The relationship of the Department and NWGGA under this Agreement shall be that of principal and independent contractor. It is understood by both the Department and NWGGA that NWGGA is not an employee of the Department. It is understood that the Department assumes no responsibility beyond those specifically stated in this Agreement.
- l. All provisions of this Agreement are subject to the Americans with Disabilities Act.
- m. NWGGA guarantees payment of compensation to injured workers according to the Nebraska Workers Compensation Act.
- n. This contract becomes valid upon the date of the final signature.

Approved:

NEBRASKA DEPARTMENT OF  
AGRICULTURE

\_\_\_\_\_  
Date

\_\_\_\_\_  
Greg Ibach, Director

NEBRASKA WINERY AND GRAPE  
GROWERS' ASSOCIATION

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mick McDowell, President

nwgacontract-execcdir&mkting\_031208.doc

# **BYLAWS**

# BYLAWS

## ARTICLE I. AUTHORITY

This organization, its purpose, procedures, and regulations are established pursuant to Neb. Rev. Stat. §§53-301 through 53-305.

## ARTICLE II. NAME and LOCATION

The name of this organization shall be the Nebraska Grape and Wine Board, hereinafter referred to as the "Board." The principal business office of the Board shall be located at the Nebraska Department of Agriculture office, P.O. Box 94947, 501 Centennial Mall South, Lincoln, Nebraska 68509.

## ARTICLE III. PURPOSE

The purpose of the Board shall be to further the growth and economic development of the grape-growing and wine-making industry in the state of Nebraska to a maximum level as supported by the favorable soil and climatic conditions existing in Nebraska; and to satisfy the market demand for grapes and wine inside and outside of Nebraska. The end objective being to create an economically viable alternative farm crop and wine industry in Nebraska that will enhance the economic condition of the farm industry, in specific, and the state of Nebraska in general.

## ARTICLE IV. MEMBERSHIP

Section 1. The Board shall consist of:

- A. Five (5) members to be appointed by the Governor on a nonpartisan basis;
- B. Nebraska Department of Agriculture Director, or designee, who shall have rights of membership except the right to vote; and
- C. Vice Chancellor, University of Nebraska Institute of Agriculture, and Natural Resources, or designee, who shall have rights of membership except the right to vote.

- Section 2. Board members shall be:
- A. Citizens of Nebraska;
  - B. Twenty-one (21) years of age or older; and
  - C. Engaged in, or previously engaged in, wine or grape production or research in this field in Nebraska.
- Section 3. At least two (2) Board members shall be members of the Nebraska Winery and Grape Growers' Association.
- Section 4. Board members shall serve a term of three (3) years or until their successor is appointed.
- Section 5. Vacancies in the Board resulting from resignation, nonperformance of duties, death, or other cause, shall be filled by appointment of the Governor.

#### **ARTICLE V. OFFICERS**

- Section 1. The elected officers of the Board shall be:
- A. Chairman;
  - B. Vice-Chairman;
  - C. Secretary/Treasurer;
  - D. Other officers as the Board deems necessary to carry out the duties and responsibilities of the Board.
- Section 2. Officers shall be elected from the members of the Board annually, following the appointment of members to fill expired terms, at the first meeting of the calendar year.
- Section 3. The election of officers requires a majority vote of the Board.
- Section 4. The term of office shall be for one (1) year or until the election of their successor.
- Section 5. Any officer may be removed from office for due cause by a two-thirds vote of the voting members of the Board.
- Section 6. Officer duties shall include:
- A. The Chairman shall:
    - 1. Preside at all meetings of the Board; and
    - 2. Perform all duties normally expected of this office and as may be assigned by the Board.

- B. The Vice-Chairman shall:
  - 1. Assume full powers and authority as accorded the chairman in the absence of that officer; and
  - 2. Perform all duties normally expected of this office and as may be assigned by the Board or the Chairman.
  
- C. The Secretary/Treasurer shall:
  - 1. Record the official minutes of all regular and special Board meetings;
  - 2. Give public notice of all regular and special Board meetings in accordance with applicable state laws;
  - 3. Prepare and circulate the Board meeting agendas as established by the Chairman;
  - 4. Serve as the primary liaison between the Board and the Department of Agriculture in all financial matters; and
  - 5. Be responsible for preparing the Annual Financial Report for the approval of the Board.

## **ARTICLE VI. MEETINGS**

- Section 1. Meetings of the Board shall be held at its principal office in Lincoln, Nebraska, but may be held elsewhere if the notice of the meeting, or the waiver of such notice, so provides.
  
- Section 2. Regular meetings of the Board shall be held on a biannual basis at such time and place as may be determined by the Board at its previous meeting.
  
- Section 3. Special meetings of the Board may be called at the request of the Chairman or by any three (3) Board members.
  - A. Notice of special meetings shall state the purpose of the meeting.
  - B. Notice of special meetings shall be publicly advertised as required by state law.
  
- Section 4. A majority of the voting members of the Board shall constitute a quorum. In the absence of a quorum, those present may recess or adjourn to a later date, but may not transact any business for the Board.

## **ARTICLE VII. POWERS AND RESPONSIBILITIES OF THE BOARD**

Section 1. The Board shall:

- A. Function in an advisory capacity to the Nebraska Department of Agriculture and the Nebraska Liquor Control Commission.
- B. Elect officers and keep minutes of meetings and other books and records which will clearly reflect all of the acts and transactions of the board, and to make these records available for examination upon request to members of the public.
- C. Authorize and approve the Department of Agriculture's expenditure of funds collected pursuant to Neb. Rev. Stat. §53-304 (LB 477).
- D. Promulgate and adopt rules and regulations to carry out Neb. Rev. Stat. §§53-301 to 53-305, LB 477.
- E. Make and publish an annual report on, or before, January 1 of each year. The annual report shall set forth, in detail, those requisites required in LB 477, Neb. Rev. Stat. §53-305.
- F. Establish a public forum whereby any producer of wine, grapes, or other wine-producing agricultural products has the opportunity, at least once annually, to discuss the Board's policies and procedures at a Board meeting.
- G. Participate in regional, state, national, and international activities with organizations which have, as their objective, developing new and better grape varieties suitable for growing in Nebraska.
- H. Provide current research data conducted by, or for, the Board to grape growers and vintners in Nebraska and to persons considering entering into grape-growing within the state.
- I. Participate in the development of research projects to improve wine making methods utilizing new and old grape varieties grown in Nebraska.
- J. Develop and participate in studies, programs, research, and the dissemination of information and data pertaining to sales, promotion, and the effective distribution of Nebraska wines.
- K. Serve as an advisory panel to the Nebraska Liquor Control Commission in all matters pertaining to the wine industry.

Section 7. Members of the Board shall serve without compensation except that voting Board members shall be reimbursed for their actual and necessary expenses as provided for in Neb. Rev. Stat. §§81-1174 to 81-1177.

- A. Reimbursement, as allowed, shall include attendance at meetings of the Board;
- B. Reimbursement, as allowed, shall include the expense of engaging in the performance of official responsibilities as determined by the Board; and
- C. All expenses shall be approved by a majority of the members of the Board.

Section 8. The Board shall not be responsible, collectively or individually, in any manner whatsoever, to any person or persons for errors in judgment, mistake, or other acts of commission or omission except for their own individual and personal acts of dishonesty or other acts of a criminal nature.

- No member shall be held responsible, individually or collectively, for the criminal act or default of any other Board member.
- Any liability of an individual Board member shall be separate and not joint.

### **ARTICLE VIII: COMMITTEES**

The Chairman of the Board shall establish committees and designate committee members contingent upon approval by the Board.

### **ARTICLE IX: PARLIAMENTARY AUTHORITY**

All meetings shall be conducted within the general rules set forth in the current edition of *Roberts Rules of Order, Newly Revised*.

### **ARTICLE X: AMENDMENT**

The Board may repeal or amend these Bylaws, or any part thereof, by a two-thirds (b) vote of the Board in presence of a quorum, after ten (10) days written notice of the proposed changes in the Bylaws. In the alternative, such amendments may be requested by mail ballot and will become effective if two-thirds (b) return an affirmative vote on the proposed bylaws changes.

ADOPTED: November 2, 2001

Grapebylaws062001

# **STATUTES**

## NEBRASKA GRAPE AND WINERY BOARD

- Administration:** These statutes create the Nebraska Grape and Winery Board. That Board is given certain duties under these statutes. For administrative purposes, a fund is located in the Nebraska Department of Agriculture. The money in this fund is to be used by the Nebraska Department of Agriculture at the direction of and in cooperation with the board to develop programs that promote the wine industry in Nebraska. See also section 53-123.15 and sections 2-5601 through 2-5605 for information about statutes that provide money for the fund.
- Adoption:** The provisions of these statutes were last revised during the 2007 session of the Nebraska Legislature. This reproduction was prepared following that session.
- Rules:** The Board is given authority to adopt and promulgate regulations, however, none have yet been developed.

### INDEX

<u>Section</u>	<u>Subject</u>
53-301 .....	Nebraska Grape and Winery Board; created.
53-302 .....	Board; officers; terms; expenses.
53-303 .....	Board; powers and duties.
53-304 .....	Winery; payments required; Winery and Grape Producers Promotional Fund; created; use; investment.
53-305 .....	Board; annual report.

53-301. Nebraska Grape and Winery Board; created. (1) The Nebraska Grape and Winery Board is created. The board shall consist of five members to be appointed by the Governor on a nonpartisan basis. All board members shall be (a) citizens of Nebraska, (b) at least twenty-one years of age, and (c) either engaged in or previously engaged in wine or grape production or research in this state. At least two board members shall be members of the Nebraska Winery and Grape Growers Association. In addition, the Director of Agriculture and the vice chancellor of the University of Nebraska Institute of Agriculture and Natural Resources or their designees shall be ex officio members of the board but shall have no vote in board matters.

(2) Whenever a vacancy occurs on the board for any reason, the Governor shall appoint an individual to fill such vacancy pursuant to the qualifications set forth in subsection (1) of this section.

53-302. Board; officers; terms; expenses. (1) Within thirty days after the appointment of the initial members of the Nebraska Grape and Winery Board, such board shall conduct its first regular meeting. During that meeting, the board members shall elect from among themselves,

by majority vote, a chairperson, vice-chairperson, secretary, and treasurer, all to serve for terms of one year from the date of election. Subsequent board meetings shall take place at least once every six months and at such times as called by the chairperson or by any three board members.

(2) Each board member shall serve for a term of three years, upon completion of which he or she may, at the Governor's discretion, be reappointed.

(3) All voting board members shall be reimbursed for their actual and necessary expenses, as provided for in sections 81-1174 to 81-1177, while attending meetings of the board or while engaged in the performance of official responsibilities as determined by the board.

(4) A board member shall be removable by the Governor for cause. The board member shall first be given a written copy of the charges against him or her and also an opportunity to be heard publicly. In addition to all other causes, the failure of a board member to continue to meet any of the requirements for eligibility set out in section 53-301 shall be deemed sufficient cause for removal from office.

53-303. Board; powers and duties. The duties and responsibilities of the Nebraska Grape and Winery Board include, but are not limited to, the following:

(1) To establish a public forum whereby any producer of wine, grapes, or other wine-producing agricultural products has the opportunity, at least once annually, to discuss with the board its policy and procedures;

(2) To keep minutes of its meetings and other books and records which will clearly reflect all of the acts and transactions of the board and to make these records available for examination upon request by members of the public;

(3) To authorize and approve the Department of Agriculture's expenditure of funds collected pursuant to section 53-304;

(4) To serve as an advisory panel to the Nebraska Liquor Control Commission in all matters pertaining to the wine industry; and

(5) To adopt and promulgate rules and regulations to carry out sections 53-301 to 53-305.

53-304. Winery; payments required; Winery and Grape Producers Promotional Fund; created; use; investment.

Each Nebraska winery shall pay to the Nebraska Liquor Control Commission twenty dollars for every one hundred sixty gallons of juice produced or received by its facility. Gifts, grants, or bequests may be received for the support of the Nebraska Grape and Winery Board. Funds paid pursuant to the charge imposed by this section and funds received pursuant to subsection (4) of section 53-123.15 and from gifts, grants, or bequests shall be remitted to the State Treasurer for credit to the Winery and Grape Producers Promotional Fund which is hereby created. For administrative purposes, the fund shall be located in the Department of Agriculture. All revenue credited to the fund pursuant to the charge imposed by this section and excise taxes collected pursuant to section 2-5603 and any funds received as gifts, grants, or

bequests and credited to the fund shall be used by the department, at the direction of and in cooperation with the board, to develop and maintain programs for the research and advancement of the growing, selling, marketing, and promotion of grapes, fruits, berries, honey, and other agricultural products and their byproducts grown and produced in Nebraska for use in the wine industry. Such expenditures may include, but are not limited to, all necessary funding for the employment of experts in the fields of viticulture and enology, as deemed necessary by the board, and programs aimed at improving the promotion of all varieties of wines, grapes, fruits, berries, honey, and other agricultural products and their byproducts grown and produced in Nebraska for use in the wine industry.

Funds credited to the fund shall be used for no other purposes than those stated in this section and any transfers authorized pursuant to section 2-5604. Any funds not expended during a fiscal year may be maintained in the fund for distribution or expenditure during subsequent fiscal years. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

53-305. Board: annual report. The Nebraska Grape and Winery Board shall make and publish an annual report on or before January 1 of each year, which report shall set forth in detail the following:

(1) The name and address of each board member and a copy of all rules and regulations adopted and promulgated by the board; and

(2) A detailed explanation of all programs for which the board approved funding that fiscal year, pursuant to section 53-304, for the research, discovery, promotion, and development of programs for the growing, production, and marketing of Nebraska wines, grapes, fruits, berries, honey, and other agricultural products and their byproducts grown and produced in Nebraska for use in the wine industry.

Each annual report shall be presented to the Nebraska Liquor Control Commission within thirty days after its publication and made available also to any person who requests a copy. Except for the annual copy required by this section to be provided to the commission, the board may charge a nominal fee to cover the costs of printing and postage for making available copies of its annual reports.

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## NEBRASKA GRAPE EXCISE TAX STATUTES

- Administration:** These statutes are administered by the Nebraska Department of Agriculture, Finance and Personnel Division. The Nebraska Department of Agriculture is located in the State Office Building, 301 Centennial Mall South, Lincoln, Nebraska 68509, telephone: (402) 471-6817.
- Adoption:** The provisions of these statutes were initiated during the 2007 session of the Nebraska Legislature. This reproduction was prepared following that session.
- Rules:** The Department of Agriculture has no authority to adopt and promulgate regulations under these statutes.

### INDEX

<u>Section</u>	<u>Subject</u>
2-5601 .....	Terms, defined.
2-5602 .....	Excise tax; amount; payment.
2-5603 .....	Excise tax; first purchaser; deduction; records; contents; statement; remitted to State Treasurer.
2-5604 .....	Department of Agriculture; calculate costs; report.
2-5605 .....	Violation; penalty.

2-5601. Terms, defined. For purposes of sections 2-5601 to 2-5604:

(1) Commercial channels means the sale or delivery of grapes for any use, except grapes intended for ultimate consumption as table grapes, to any commercial buyer, dealer, processor, or cooperative or to any person, public or private, who resells any grapes or product produced from grapes;

(2) Delivered or delivery means receiving grapes for utilization or as a result of sale in the State of Nebraska but excludes receiving grapes for storage;

(3) First purchaser means any person, public or private corporation, association, partnership, or limited liability company buying, accepting for shipment, or otherwise acquiring the property in or to grapes from a grower;

(4) Grower means any landowner personally engaged in growing grapes, a tenant of the landowner personally engaged in growing grapes, and both the owner and tenant jointly and includes a person, a partnership, a limited liability company, an association, a corporation, a cooperative, a trust, or any other business unit, device, or arrangement; and

(5) Table grapes means grapes intended for ultimate consumption as produce in fresh, unprocessed form and not intended for wine production, juice production, or drying.

2-5602. Excise tax; amount; payment. (1) Except as provided in subsection (2) of this section, an excise tax of one cent per pound is levied upon all grapes sold through commercial channels in Nebraska or delivered in Nebraska. The excise tax shall be paid by the grower at the time of sale or delivery and shall be collected by the first purchaser. Grapes shall not be subject to the excise tax imposed by this section more than once.

(2) The excise tax imposed by this section shall not apply to the sale of grapes to the federal government for the ultimate use or consumption by the people of the United States when the State of Nebraska is prohibited from imposing such excise tax by the United States Constitution and the laws enacted pursuant thereto.

2-5603. Excise tax; first purchaser; deduction; records; contents; statement; remitted to State Treasurer. (1) The first purchaser, at the time of settlement, shall deduct the excise tax imposed by section 2-5602. The excise tax shall be deducted whether the grapes are stored in this state or any other state. The first purchaser shall maintain the necessary records of the excise tax for each purchase or delivery of grapes on the settlement form or check stub showing payment to the grower for each purchase or delivery. Such records maintained by the first purchaser shall provide the following information:

- (a) The name and address of the grower and seller;
- (b) The date of the purchase or delivery;
- (c) The number of pounds of grapes purchased; and
- (d) The amount of excise taxes collected on each purchase or delivery.

Such records shall be open for inspection during normal business hours observed by the first purchaser.

(2) The first purchaser shall render and have on file with the Department of Agriculture by the last day of January and July of each year, on forms prescribed by the department, a statement of the number of pounds of grapes purchased in Nebraska. At the time the statement is filed, such first purchaser shall pay and remit to the department the excise tax imposed by section 2-5602.

(3) All excise taxes collected by the department pursuant to this section shall be remitted to the State Treasurer for credit to the Winery and Grape Producers Promotional Fund. The department shall remit the excise tax collected to the State Treasurer within ten days after receipt.

2-5604. Department of Agriculture; calculate costs; report. For each fiscal year beginning with FY2007-08, the Department of Agriculture shall calculate its costs in collecting and enforcing the excise tax imposed by section 2-5602 and shall report such costs to the Department of Administrative Services within thirty days after the end of the calendar quarter. Sufficient funds to cover such costs shall be transferred from the Winery and Grape Producers Promotional Fund to the Management Services Expense Revolving Fund at the end of each calendar quarter. Funds shall be transferred upon the receipt by the Department of Administrative Services of a report of costs incurred by the Department of Agriculture for the previous calendar quarter.

2-5605. Violation; penalty. Any person violating sections 2-5601 to 2-5603 shall be guilty of a Class III misdemeanor.

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# FARM WINERIES STATUTES

## INDEX

<u>Section</u>	<u>Subject</u>
53-123.10 .....	Farm winery license; when issued.
53-123.11 .....	Farm winery license; rights of licensee; removal of unsealed bottle of wine; conditions.
53-123.12 .....	Farm winery license; application requirements; fees.
53-123.13 .....	Farm winery; waiver of requirement; when; conditions.
53-123.15 .....	Shipping license; when required; rights of licensee; application; contents; violation; disciplinary action.

### **53-123.10    Farm winery license; when issued.**

A license to operate a farm winery may be issued by the commission upon an applicant's compliance with section 53-123.12 and such other requirements as the commission adopts and promulgates by rule and regulation to administer §§53-101.02 and 53-123.10 to 53-123.13.

Source: Laws 1985, LB 279, § 4.

### **53-123.11    Farm winery license; rights of licensee; removal of unsealed bottle of wine; conditions.**

- (1) A farm winery license shall entitle the holder to:
  - (a) Sell wines produced at the farm winery onsite at wholesale and retail and to sell wines produced at the farm winery at off-premises sites holding the appropriate retail license;
  - (b) Sell wines produced at the farm winery at retail for consumption on the premises;
  - (c) (i) Permit a customer to remove one unsealed bottle of wine for consumption off the premises. The licensee or his or her agent shall (A) securely reseal such bottle and place the bottle in a bag designed so that it is visibly apparent that the resealed bottle of wine has not been opened or tampered with and (B) provide a dated receipt to the customer and attach to such bag a copy of the dated receipt for the resealed bottle of wine.
    - (ii) If the resealed bottle of wine is transported in a motor vehicle, it must be placed in the trunk of the motor vehicle or the area behind

the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk;

- (d) Ship wines produced at the farm winery by common carrier and sold at retail to recipients in and outside the State of Nebraska, if the output of such farm winery for each calendar year as reported to the commission by December 31 of each year does not exceed thirty thousand gallons. In the event such amount exceeds thirty thousand gallons, the farm winery shall be required to use a licensed wholesaler to distribute its wines for the following calendar year, except that this requirement shall not apply to wines produced and sold onsite at the farm winery pursuant to subdivision (1)(a) of this section;
  - (e) Allow sampling of the wine at the farm winery and at one branch outlet in the state in reasonable amounts;
  - (f) Sell wines produced at the farm winery to other Nebraska farm winery licensees, in bulk, bottled, labeled, or unlabeled, in accordance with 27 C.F.R. 24.308, 27 C.F.R. 24.309, and 27 C.F.R. 24.314, as such regulations existed on January 1, 2008; and
  - (g) Purchase distilled spirits from licensed microdistilleries in Nebraska, in bulk or bottled, made entirely from Nebraska-licensed farm winery wine to be used in the production of fortified wine at the purchasing licensed farm winery.
- (2) No farm winery shall manufacture wine in excess of fifty thousand gallons per year.
  - (3) A holder of a farm winery license may obtain a special designated license pursuant to section 53-124.11.
  - (4) A holder of a farm winery license may obtain an annual catering license pursuant to section 53-124.12.

Source: Laws 1985, LB 279, § 5; Laws 1991, LB 344, § 23; Laws 1997, LB 479, § 1; Laws 2003, LB 536, § 3; Laws 2006, LB 562, § 3; Laws 2008, LB1103, § 2.  
Effective date July 18, 2008

### **53-123.12 Farm winery license; application requirements; fees.**

Any person desiring to obtain a new license to operate a farm winery shall:

- (1) File an application with the commission in triplicate original upon such forms as the commission from time to time prescribes;

- (2) Pay the license fee to the commission under subdivision (2) of section 53-124, which fee shall be returned to the applicant if the application is denied; and
- (3) Pay the state registration fee to the commission in the sum of forty-five dollars.

License fees and registration fees may be paid to the commission by certified or cashier's check of a bank within this state, personal or business check, United States post office money order, or cash in the full amount of such fees. The commission shall then notify, by registered or certified mail marked return receipt requested with postage prepaid, the municipal clerk of the city or incorporated village where such license is sought or, if the license is not sought within a city or incorporated village, the county clerk of the county where such license is sought of the receipt of the application and shall enclose with such notice one copy of the application. No such license shall then be issued by the commission until the expiration of at least forty-five days from the date of mailing such application by the commission. Within thirty-five days from the date of receipt of such application from the commission, the local governing bodies of nearby cities or villages or the county may make and submit to the commission recommendations relative to the granting of or refusal to grant such license to the applicant.

Source: Laws 1985, LB 279, § 7; Laws 1988, LB 1089, § 10; Laws 1991, LB 202, § 2; Laws 2000, LB 973, § 3.

**53-123.13 Farm winery; waiver of requirement; when; conditions.**

- (1) If the operator of a farm winery is unable to produce or purchase seventy-five percent of the grapes, fruit, or other suitable agricultural products used in the farm winery from within the state due to natural disaster which causes substantial loss to the Nebraska-grown crop, such operator may petition the commission to waive the seventy-five-percent requirement prescribed in subdivision (31) of section 53-103 for one year.
- (2) It shall be within the discretion of the commission to waive the seventy-five-percent requirement taking into consideration the availability of products used in farm wineries in this area and the ability of such operator to produce wine from products that are abundant within the state.
- (3) If the operator of a farm winery is granted a waiver, any product purchased as concentrated juice from grapes or other fruits from outside of Nebraska, when reconstituted from concentrate, may not exceed in total volume along with other products purchased the total percentage allowed by the waiver.
- (4) Any product purchased under the waiver or as part of the twenty-five percent of allowable product purchased that is not

Nebraska-grown for the production of wine shall not exceed the twenty-five percent volume allowed under state law if made from concentrated grapes or other fruit, when reconstituted. The concentrate shall not be reduced to less than twenty-two degrees Brix in accordance with 27 C.F.R. 24.180.

Source: Laws 1985, LB 279, § 6; Laws 1986, LB 871, § 2; Laws 1989, LB 441, § 5; Laws 1991, LB 344, § 24; Laws 1994, LB 859, § 5; Laws 2004, LB 485, § 13; Laws 2008, LB1103, § 3. Effective date July 18, 2008.

**53-123.15 Shipping license; when required; rights of licensee; application; contents; violation; disciplinary action.**

- (1) No person shall order or receive alcoholic liquor in this state which has been shipped directly to him or her from outside this state by any person other than a holder of a shipping license issued by the commission, except that a licensed wholesaler may receive not more than three gallons of wine in any calendar year from any person who is not a holder of a shipping license.
- (2) The commission may issue a shipping license to a manufacturer. Such license shall allow the licensee to ship alcoholic liquor only to a licensed wholesaler, except that a licensed wholesaler may, without a shipping license and for the purposes of subdivision (2) of section 53-161, receive beer in this state which has been shipped from outside the state by a manufacturer in accordance with the Nebraska Liquor Control Act to the wholesaler, then transported by the wholesaler to another state for retail distribution, and then returned by the retailer to such wholesaler.
- (3) The commission may issue a shipping license to any person who deals with vintage wines, which shipping license shall allow the licensee to distribute such wines to a licensed wholesaler in the state. For purposes of distributing vintage wines, a licensed shipper must utilize a designated wholesaler if the manufacturer has a designated wholesaler. For purposes of this section, vintage wine shall mean a wine verified to be ten years of age or older and not available from a primary American source of supply.
- (4) The commission may issue a shipping license to any person who sells and ships alcoholic liquor from another state directly to a consumer in this state. A person who receives a license pursuant to this subsection shall pay the fee required in subdivision (11) of section 53-124. Until April 30, 2012, such fee shall be collected by the commission and remitted to the State Treasurer for credit to the Winery and Grape Producers Promotional Fund.

- (5) The application for a shipping license shall be in such form as the commission prescribes. The application shall contain all provisions the commission deems proper and necessary to effectuate the purpose of any section of the act and the rules and regulations of the commission that apply to manufacturers and shall include, but not be limited to, provisions that the applicant, in consideration of the issuance of such shipping license, agrees:
- (a) To comply with and be bound by section 53-164.01 in making and filing reports, paying taxes, penalties, and interest, and keeping records;
  - (b) To permit and be subject to all of the powers granted by section 53 164.01 to the commission or its duly authorized employees or agents for inspection and examination of the applicant's premises and records and to pay the actual expenses, excluding salary, reasonably attributable to such inspections and examinations made by duly authorized employees of the commission if within the United States; and
  - (c) That if the applicant violates any of the provisions of the application or the license, any section of the act, or any of the rules and regulations of the commission that apply to manufacturers, the commission may revoke or suspend such shipping license for such period of time as it may determine.

Source: Laws 1991, LB 344, § 49; Laws 1994, LB 416, § 1; Laws 1995, LB 874, § 1; Laws 2001, LB 671, § 1; Laws 2004, LB 485, § 14; Laws 2007, LB441, § 1.

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