

MONROE COUNTY BOARD OF COMMISSIONERS

Date to be heard: 9/23/2020

Item for Formal Meeting? ☒

(Ex: Routine items, continuing grants)

OR

Item for Work Session / Discussion ☐

(Ex: Public interest items, Ordinance changes, new grants and grants that add personnel)

Title of item to appear on the agenda:

*Include VENDOR's Name in title if appropriate*

Approval of Contract between Monroe County and The Gardener, LLC.

*All Grants must complete the following*

Is this a grant request? Yes ☐

New Grant to the County? Yes ☐

Grant Type:

Reimbursement/Drawdown ☐

Up Front Payment ☐

County IS Pass Through ☐

Federal Agency:

Federal Program:

CFDA #

Federal Award Number and Year:

*Or other identifying number*

Pass Through Entity

**Amount Received**

Federal:

State:

Local Match:

Total Received:

**Contracts/Agreements/MOU- Interlocal/Ordinance/Resolution/Grant item:**

Fund Name: County General

Fund Number 1000

Amount: \$292,500

**If there is a monetary number in the Amount Box, you HAVE to include the Fund Name & Number. IF this is a grant waiting on the creation of a Fund Name & Number, indicate that in the boxes.**

Executive Summary:

The Gardener, LLC. contract approval for employee training program.

Person Presenting: Elizabeth Sensenstein

Department: Human Resources

Attorney who reviewed:

*County Legal Review required prior to submission of this form for all contracts*

Submitted by: Elizabeth Sensenstein

Date: 9/18/2020

Each agenda request and all necessary documents to the Auditor's Office (Anita Freeman) at: [afreeman@co.monroe.in.us](mailto:afreeman@co.monroe.in.us) AND to the Commissioner's

Office e-mail: [Commissionersoffice@co.monroe.in.us](mailto:Commissionersoffice@co.monroe.in.us)

## INDEPENDENT CONTRACTOR AGREEMENT

This Employee Training Agreement ("Agreement") made \_\_\_\_\_, 20\_\_\_\_ by and between Monroe County Government ("Employer") and The Guarden LLC ("Independent Contractor").

The Guarden LLC is an independent contractor willing to provide certain skills and abilities for which the Employer has a demand and need.

In consideration of the mutual terms, conditions, and covenants hereinafter set forth, Employer and The Guarden LLC agree as follows:

**1. Work Status.** The Employer hereby employs The Guarden LLC as an independent contractor, and The Guarden LLC hereby accepts employment.

**2. Start Date.** The term of this Agreement shall commence on execution by the parties and appropriation of funding by the County Council. Either party may terminate the contract based upon the Base Group Evaluation which is to be completed within one (1) year from contract execution.

**3. Services Provided.** The Employer shall pay The Guarden LLC, and the The Guarden LLC shall accept from the Employer as compensation for the following services to be provided, and as referenced in the attached exhibit A:

**Evaluations:** The Guarden LLC shall conduct three (3) evaluations of Monroe County Government. Evaluations will include:

**Pre-training Survey**—Climate Assessment

**Base Group Evaluation:** Determine the effectiveness of the Training; either party may terminate the contract based upon this Evaluation.

**Post-training Survey** (unless contract is cancelled after the Base Group Evaluation)—Climate Assessment with an organizational profile.

**Trainings:** Each employee will receive training sessions over the course of the contract in the following areas for a minimum of 225 staff. Such minimum 225 staff, (up to 300) shall be deemed the Base Group. Each training shall be for at least three (3) hours:

1. De-escalation
2. Identifying and confronting Bias
3. Imposter syndrome & the workplace
4. Bystander Intervention
5. Culturally-sensitive communication

**Human Resources Consultation:** The Guarden LLC agrees to offer one hour of consultation on a weekly basis with County Management regarding Human Resource implementation and problem solving.

**Training Video.** A training video that the County will have all intellectual property rights in to, that can be used for training new staff and/or refreshing already trained staff. Such video shall be created with the consultation of County Management.

**Other Services** on an as needed basis: Remediation and reconciliation meetings with staff and management up to an average of 90 minutes per week of the contract.

**4. Compensation.** The Employer shall compensate The Guarden LLC in the following manner:  
**Billing:** The Guarden LLC will bill The Employer for the first 225 employees, **\$25 per for employee within 15 days of contract execution and council funding approval and \$235 per employee per training session.** Employees after the initial 225 shall be billed at \$240 per employee per training session. The Guarden LLC shall provide an invoice after each training session and the County shall pay within 30 days of the invoice. All invoices shall be submitted to the Human Resources Department, who shall verify the training.

**Costs include:**

1. All training, evaluation, and survey materials
2. All trainer time
3. All overhead and other related costs, such as insurance, etc.
4. A training video that the County will have all intellectual property rights in to, that can be used for training new staff and/or refreshing already trained staff. Such video shall be created with the consultation of County Management.

**5. Proposed project timeline:** The following timeline shall serve as a guide for completion for the Employer and Independent Contractor, Independent Contractor shall work the County Human Resources Department for actual training schedules:

**Timeline:**

1. *Pre-training survey* within 30 days from contract execution and council funding approval
2. *Presentation of pre-training survey* 15 days after Pre-training Survey execution
3. *Weekly trainings begin* within 60 days from contract execution
4. *Base Group evaluation* to be administered 10 months from contract execution
5. *Presentation of Base Group Evaluation to the County* 1 year from contract execution:  
Presentation must show objective information demonstrating 1) the types of training performed, 2) the number of employees trained and 3) effect of the training on those that have been trained. The evaluation should also indicate any significant obstacles the contractor has encountered during the initial period.
6. *Completion of all contracted trainings, post training survey, and presentation of post training survey results to HR* 2 years from contract execution

**6. Materials.** The Independent Contractor's materials used for providing the services shall ☐ be reimbursed ☒ not be reimbursed by the Employer.

**7. Other Business Activity.** The Independent Contractor may engage in other business activities provided, however, that Independent Contractor shall not during the term of this Agreement solicit the Employer's employees, clients, accounts, or other related business endeavors of the Employer.

**8. Unplanned Events.** If for reasons beyond the control of the Employer and Independent Contractor should affect this Agreement, this Agreement shall be reviewed immediately. Such events include, but are not limited to, illness, incapacitation, death, or other "Acts of God". However, the current COVID health emergency is not an unplanned event for the purpose of this contract. Both parties understand that implementation of the trainings through electronic means, while not preferable, may be required due to the COVID health emergency.

**9. Assignment.** Neither the Employer nor the Independent Contractor may assign this Agreement without the express written consent of the other party.

**10. Worker's Compensation.** Contractor shall purchase and maintain a policy of Worker's Compensation Insurance as required by the laws of the State of Indiana, and furnish a certificate of such insurance to the Board before commencement of work on the Project. Failure to provide this certificate may be regarded by the Board as material breach of this Agreement, and may result in its cancellation without further cause.

**11. Liability Insurance.** Contractor shall purchase and maintain comprehensive general liability insurance in amounts of at least 1 million per occurrence, and 2 million dollars aggregate, and furnish proof of such insurance to the Board before commencement of work on the Project. Failure to provide this certificate may be regarded by the Board as a material breach of this Agreement, and may result in its cancellation without further cause.

**12. Indemnity.** Contractor assumes all risks and responsibilities for accident, injuries or damages to person or property related to performance of the Project, and agrees to indemnify and save harmless the Board from all claims, costs or suits of whatever nature, including attorneys' fees, related to performance of the Project, except such claims, costs or suits arising out of the fault of the Board or its employees.

**13. Non-discrimination.** In the performance of work under this contract, it is agreed that Contractor, any of its subcontractors, or any person acting on their behalf shall not, in any manner, discriminate against or intimidate any employee or job applicant with respect to his, hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of his race, religion, color, sex, disability, national origin or ancestry – or discriminate by reason of such factors, against any citizen of the State of Indiana who is qualified and available to perform the work.

It is further agreed that a penalty may be deducted from the contract in the sum of five dollars (\$5.00) for each person for each calendar day during which such person was discriminated against or intimidated in violation of this provision. If a second or subsequent violation occurs, this contract may be terminated, and all monies due or to become due hereunder may be forfeited. It is further agreed that a breach of this covenant may be considered a material breach of the contract.

**14. Compliance with Law.** Contractor shall, at its own expense, obtain all licenses and permits which may be necessary to complete the Project. Contractor shall comply with all applicable laws and regulations, and indemnify and save harmless the Board for any fines or expenses of any nature which it might incur from Contractor's noncompliance, including laws and regulations concerning harassment under Monroe County Code section 296 which requires, in part that all persons who observe or otherwise learn of or have reason to suspect any conduct which may violate this policy shall promptly report such facts to their elected official, department head, the Human Resources Department or the Monroe County Legal Department, and shall cooperate fully in any investigation or disciplinary action undertaken pursuant to Monroe County Code 296. Contractor will comply with IC 22-5-1.7-3. Specifically including the following:

- ☐ Contractor to enroll in and verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program.
- ☐ Contractor is not required to verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program if the E-Verify program no longer exists.
- ☐ Contractor must sign an affidavit affirming that Contractor does not knowingly employ an unauthorized alien.

**15. Independent Contractor.** It is understood and agreed that Contractor executes this Agreement as an independent contractor, and shall not be considered an employee or agent of the Board for any purpose. Contractor shall have exclusive control over the means, methods and details of

fulfilling its obligations under this Agreement. Contractor shall pay all taxes, withholdings and contributions required by Social Security (FICA) laws, Indiana and federal income tax laws, and Indiana unemployment insurance laws.

**16. Final Agreement.** It is agreed between the parties that there are no other agreements or understandings between them relating to the subject matter of this Agreement. This Agreement supersedes all prior agreements, oral or written, between the parties and is intended as a complete and exclusive statement of the agreement between the parties. No change or modification of this Agreement shall be valid unless the same be in writing and signed by the parties.

**17. Governing Law.** This Agreement shall be construed in accordance with and governed by the laws under the State of Indiana.

**18. Captions.** The captions of the Agreement are for convenience only, and do not in any way limit or amplify its terms.

IN WITNESS WHEREOF, the Parties have indicated their acceptance of the terms of this Agreement by their signatures below on the dates indicated.

MONROE COUNTY BOARD OF COMMISSIONERS on \_\_\_\_ day of \_\_\_\_\_.

BY: \_\_\_\_\_  
Julie Thomas, President

BY: \_\_\_\_\_  
Lee Jones, Vice President

BY: \_\_\_\_\_  
Penny Githens, Member

ATTEST:

BY: \_\_\_\_\_  
Catherine Smith, Auditor

Independent Contractor's Signature: Nichelle Whitney Date: 9-18-2020

Print Name: Nichelle Whitney