



# MEMORANDUM OF AGREEMENT

**This Memorandum of Agreement (“Agreement”)**, made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the City of New York (“City”), a municipal corporation of the State of New York (“State”), acting by and through its Department of Parks & Recreation (“Parks”) which has an office at The Arsenal, Central Park, 830 Fifth Avenue, New York, New York 10065; and \_\_\_\_\_ (“Garden”), having an address at \_\_\_\_\_ (“Site”).

**WHEREAS**, Parks, through its GreenThumb program (“GreenThumb”), provides programming, technical, and material support to approximately 550 community gardens throughout New York City; and

**WHEREAS**, the Garden wishes to provide a community garden at the Site, a parcel located at Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_ in the Borough of \_\_\_\_\_; and

**WHEREAS**, recognizing that the community surrounding the Site would benefit from a community garden, the Garden has requested material support and expertise from GreenThumb, and GreenThumb wishes to provide material support and expertise to the Garden on a limited basis.

**NOW, THEREFORE**, in exchange for the consideration described in this Agreement, the parties agree as follows:

1. **Term.** This four- year Agreement shall commence on \_\_\_\_\_ and expire on December 31, 2024, unless terminated earlier as provided in Section 4 of this Agreement. The period between the commencement date and any expiration or termination date shall be the “Term.”
2. **Scope of Agreement.** Parks agrees to reasonably provide the Garden with the following materials and services during the course of each calendar year of the Term as long as the Garden agrees to the terms outlined below, and subject to availability of materials and staff, and conditioned on the understanding that GreenThumb’s mission to support City-owned community gardens takes precedence over any obligations contained in this Agreement.

- a. Parks will provide the Garden with certain basic gardening materials and supplies, including soil, lumber, and gardening tools.
- b. Parks will provide to the Garden with programming and technical assistance, including networking events, resource fairs, and educational workshops.
- c. Parks may host GreenThumb workshops at the Garden from time to time, with advance agreement of the Garden.

In exchange for provision of the materials and services above, the Garden agrees that it will:

- a. Design and install a garden for the benefit of the surrounding community;
- b. Remain open and accessible to the public at least 20 hours per week from the period of April 1st to October 31st annually, and make best efforts to maintain five (5) total hours of public access during weekends (Saturday and Sunday);
- c. Host at least two free community events each season;
- d. Send a representative to at least one GreenThumb-sponsored event per year;
- e. Post a sign provided by GreenThumb on the fence of the Garden explaining that the Garden is a registered member garden with GreenThumb;



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- f. Post a sign on the external fence of the Garden indicating the name of the group, a contact name and number, that the garden is open to new members, and indicating the hours during which the Garden is open to the public; and
- g. Make gardening plots and/or membership at the Garden available to the public on a first come, first serve basis, through the use of a waiting list if necessary, and will make every efforts to include members of the public who wish to join and participate in the stewardship of the space even when plots are not currently available.

**3. Use of materials and services.** The parties agree that the materials and services provided by Parks to the Garden shall not be used for any purposes except those described in this Agreement. The City and its officials and employees make no representations as to the quality or fitness of the materials or services provided, and the Garden agrees to accept the materials and services provided in accordance with this Agreement on an “as is” basis.

**4. Termination.** Either party may terminate this Agreement at any time during the Term and for any reason, upon thirty (30) days’ written notice to the other party.

**5. Notices.** Any notices required to be sent to either party shall be in writing and sent via first class mail and electronic mail to the following contact persons:

**6. If to Parks:** Carlos Martinez  
Acting Director, GreenThumb  
The Arsenal, Central Park  
830 Fifth Avenue  
New York, NY 10065  
[carlos.martinez@parks.nyc.gov](mailto:carlos.martinez@parks.nyc.gov)

a. If to Garden: \_\_\_\_\_ (Name)  
\_\_\_\_\_ (Title)  
\_\_\_\_\_ (Address)  
\_\_\_\_\_ (Email)



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- 7. No third-party beneficiary.** The parties agree that this Agreement is intended for the sole benefit of Parks and the Garden, and that nothing in this Agreement shall be deemed to have been intended to confer a benefit of any kind onto any third parties.
- 8. Entire Agreement.** This Agreement represents the full and entire understanding and agreement between the parties with regard to the subject matter hereof and supersedes all prior agreements (whether written or oral) of the parties relating to the subject matter of this Agreement.
- 9. Counterparts.** This Agreement may be executed in one or more counterparts and as so executed shall constitute one and the same agreement. This Agreement may be executed and exchanged by facsimile or by electronic transmission, which shall be deemed an original for all purposes.
- 10. Severability.** If any provision(s) of this Agreement is held unenforceable for any reason, each and all other provision(s) shall nevertheless remain in full force and effect.
- 11. Waiver of Jury Trial.** The parties expressly waive all rights to trial by jury in any summary proceeding hereafter instituted by City against the Garden or any counterclaim or cause of action directly or indirectly arising out of the terms, covenants, or conditions of this Agreement or any matter whatsoever in any way connected with this Agreement. The provision relating to waiver of jury trial shall survive the expiration or termination of this Agreement or any renewals thereof.
- 12. Choice of Law, Consent to Jurisdiction and Venue.** This Agreement shall be deemed to be executed in the City of New York, State of New York, and shall be governed by and construed in accordance with the laws of the State of New York. Any and all claims asserted by or against the City arising under this Agreement or related thereto shall be heard and determined either in the courts of the United States located in New York City (“Federal Courts”) or in the courts of the State of New York (“New York State Courts”) located in the City and County of New York.
- 13. Personnel.** Members of the Garden are not employees of Parks or the City pursuant to this Agreement. The Garden agrees that neither the Garden nor its members or agents including but not limited to experts and consultants will hold themselves out as, or claim to be, officers or employees of the City, or of any department, agency, or unit thereof, and that they will not, by reason hereof, make any claim, demand, or application for any rights or privileges applicable to a City officer or employee, including but not limited to worker’s compensation coverage, unemployment insurance benefits, social security coverage, or employee retirement membership or credit for operations undertaken pursuant to this Agreement.
- 14. No Claim Against Officials or Employees.** No claim whatsoever shall be made by the Garden against any officer, director, member, agent, employee, or volunteer of the City, nor shall any such officer, director, member, employee or volunteer have any personal liability for, or on account of, anything done or omitted in connection with this Agreement.
- 15. Indemnification and Related Obligations.** To the fullest extent permitted by law, the Garden shall indemnify, defend, and hold the City and its officials and employees harmless against any and all claims, liens, demands, judgments, penalties, fines, liabilities, settlements, damages, costs, and expenses of any



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kind or nature (including, without limitation, attorneys' fees and disbursements) arising out of or related to any of the operations under this Agreement (regardless of whether or not the Garden itself has been negligent) and/or the Garden's failure to comply with the law or any of the requirements of this Agreement. Insofar as the facts or law relating to any of the foregoing would preclude the City or its officials and employees from being completely indemnified by the Garden, the City, and its officials and employees shall be partially indemnified by the Garden to the fullest extent permitted by law.

### **IN WITNESS WHEREOF, the parties hereto**

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be signed and sealed on the day and year first above written.

CITY OF NEW YORK  
PARKS & RECREATION

\_\_\_\_\_  
(Garden Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_