



MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (“Agreement”), made this _____ day of _____, 2019, 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 privately owned 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 Agreement shall commence on _____ and expire on December 31, 2022, 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 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 in 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 but not limited to group development support, 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



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8. 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.

9. 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.

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

By: _____

By: _____

Title: _____

Title: _____

Dated: _____

Dated: _____



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EXHIBIT A

Section 1.01 Agreement to Insure

Parks shall not commence performing services under this Agreement unless and until all insurance required by this Article is in effect. Garden shall ensure continuous insurance coverage in the manner, form, and limits required by this Article throughout the Term.

Section 1.02 Commercial General Liability Insurance

A. Garden shall maintain Commercial General Liability Insurance covering Garden as Named Insured and the City as an Additional Insured in the amount of at least One Million Dollars (\$1,000,000) per occurrence for bodily injury (including death) and property damage, and One Million Dollars (\$1,000,000) for personal and advertising injury. In the event such insurance contains an aggregate limit, the aggregate shall apply on a per-location basis applicable to the Premises and such per-location aggregate shall be at least Two Million Dollars (\$2,000,000). Licensee shall maintain coverage for products completed operations in the amount of Two Million Dollars (\$2,000,000). This insurance shall protect the insureds from claims that may arise from any of the operations under this Agreement. Coverage shall be at least as broad as that provided by the most recently issued Insurance Services Office (“ISO”) Form CG 00 01, and shall contain no exclusions other than as required by law or as approved by the Commissioner, and shall be “occurrence” based rather than “claims-made.” Such CGL insurance shall be primary and non-contributing to any insurance or self-insurance maintained by the City. A certified copy of this CGL policy or a Certificate of Insurance (evidencing the CGL insurance and the City’s status as additional insured) must be submitted to and accepted by the Commissioner prior to or upon execution of this Agreement.

B. Such Commercial General Liability Insurance shall name the City, together with its officials and employees, as an Additional Insured for claims that may arise from any of the operations under this Agreement. Coverage shall be at least as broad as the most recently issued ISO Forms CG 20 26 and CG 20 37, and the limits for the City shall be no lower than Garden’s. “Blanket” or other forms are acceptable if they provide the City, together with its officials and employees, with coverage at least as broad as ISO Forms CG 20 26 and CG 20 37.

Section 1.03 Indemnification

A. 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 whatever 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 had 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.