

**AGREEMENT BETWEEN GARDEN CITY HARVEST  
AND CITY OF MISSOULA  
FOR NORTHSIDE COMMUNITY GARDEN**

THIS AGREEMENT, made and entered into this 1<sup>st</sup> day of May, 2024, between the CITY OF MISSOULA ("City"), a municipal corporation, 435 Ryman, Missoula, Montana 59802 and Garden City Harvest ("GCH"), 1657 River Road, Missoula, Montana 59801, a non-profit 501(c)(3) organization, is for the purpose of allowing GCH to use land that is managed, per Land Use Agreement with the Resurrection Cemetery Association (RCA) - Exhibit A, by the City to operate the Northside Community Garden, located at the corner of Cooley Street and Holmes Street in Missoula, Montana for citizens as described below.

**RECITALS**

**WHEREAS** the City manages and maintains property for a Community Park located at the corner of Cooley and Holmes Streets in Missoula (1460 Holmes St) and wishes for a portion of the subject parkland to be managed and used as a Community Garden (Exhibit A), (the "Property").

**WHEREAS** local production of food can improve nutrition for Missoula's families and citizens, especially those Missoulians who do not live in households that have access to adequate or any gardening space, while enhancing household food budgets; and

**WHEREAS** gardening is a healthy and wholesome activity suitable for people of all ages including seniors and children, can add to the social fabric of Missoula, aid citizens' food budgets, build life skills through gardening, and increase the consumption of healthy, locally grown vegetables and fruits; and

**WHEREAS** local gardening is a beneficial use of unused or underused City parcels that are located near households without adequate land for gardening; and

**WHEREAS** GCH is an existing Missoula-based non-profit organization with 28 years of experience managing Missoula’s existing community gardens and operates all current community gardens within the City limits, including the Northside Community Garden.

**NOW THEREFORE**, in consideration of the mutual promises set forth in this agreement, the parties agree as follows:

1. The City grants to GCH the authority to use that portion of the Property for a Community Garden, so that residents of Missoula may grow their own food. The period of use covered by this Agreement is 10 years beginning May 1, 2024, and ending April 30, 2034. This Agreement may be terminated by either party prior to the end of the term upon six months written notification to the other party. This Agreement shall be terminated in the event the City’s right to use the Property is terminated by RCA. GCH and the City agree that this is not a lease. This Agreement may be renewed in five-year increments through the term of the Land Use Agreement between the City and RCA.

2. GCH shall act as the agency representative of the Community Gardeners (collectively referred to as “Gardeners”) to the City. GCH's use of the Property is subject to the following limitations:

a) All Gardeners authorized by GCH to use the Property must abide by the Community Garden Guidelines, established by GCH.

b) GCH shall appoint local representatives known as Garden Leader(s). The Garden Leader(s) shall coordinate garden activities with GCH.

3. GCH shall be responsible for the following:

a) Pay for future added utilities, should additional utilities be needed, for seasonal operation of the community garden – specifically power and trash removal and any new water source if added associated with the gardens.

b) Coordinating garden plot availability to residents of Missoula regardless of their affiliation with GCH, the Garden Leader(s) or the City; or their race, color, creed, religion, sex, sexual orientation, age, national origin, physical or mental disability, marital status, political ideas, veteran status, physical challenges, socioeconomic status, gender, or gender identification. (See Exhibit B, City Non-Discrimination Policy)

c) Coordinating ongoing general garden maintenance, and tool replacement and repair, inclusive of:

- i. Ensuring the site is picked up and that any trash generated by the garden use is removed weekly during garden season.
- ii. Timely ensuring the garden area is free of loose trash, debris, tools, and other potential hazards or attractive nuisances at the end of each growing season.
- iii. Maintain garden materials storage, inclusive of compost, mulch, and other amendments in a manner that limits and minimizes potential offensive odors, attraction of pests, public health, and safety concerns.
- iv. Work collaboratively with the City to treat noxious weeds in the garden's 100' organic perimeter buffer.
- v. Promptly report to the City any concerns such as water leaks, rodent problems, property damage, acts of vandalism, etc.

d) Maintaining annual and routine formal contact with the City with updates on the garden.

e) Designing, implementing, and organizing basic garden improvements and upgrades. Major site improvements shall be a mutually agreed upon and a shared effort between the City and GCH. Garden area shall not be reduced in overall scale, however following adoption of a neighborhood master plan for the park, GCH acknowledges that park improvements will be implemented and GCH will work with the City to maximize park and garden benefits for the neighborhood.

f) Identification and communication with Garden Leadership, maintain contracts with gardeners seasonally, collect nominal plot rental fees from gardeners, and conduct outreach and recruitment including outreach to adjacent garden neighborhoods.

g) Maintaining general liability insurance on the Property to protect the City, GCH, and participating gardeners. The City shall be named as additional insured on the policy.

4. The City shall be responsible for the following:

a) Access to the community area adjacent to the garden for shared use by GCH, the Gardeners, and the public.

b) Provide for snow removal on sidewalks adjoining the parkland including those adjacent to the community garden area.

c) Provide for annual mowing if/as needed within the 100' community garden organic buffer area and sidewalk boulevard

d) Pay for water necessary at the gardens.

e) Any areas outside of the garden but on City property shall be the maintained and managed by the City. The City shall consult with GCH, within 30 days, if any changes to those areas are planned.

f) Notify GCH, within 30 days, of any changes affecting basic garden function. Examples of basic garden function include, but are not limited to, irrigation, parking, and pedestrian or vehicle access.

5. GCH shall indemnify, defend and hold the City, its officers, directors, employees and agents harmless from and against any and all claims, losses, damages, and liabilities arising from or related to this Agreement, or the use contemplated hereunder.

6. GCH shall be entitled to improve the Property as required to provide a successful Community Garden. All non-permanent improvements shall remain the property of GCH, and GCH shall be entitled to remove such improvements at the conclusion or termination of this Agreement. Examples of non-permanent improvements include, but are not limited to, tools,

signs, sheds, and shade structures. GCH is not responsible for removal of garden plots, compost, non-garden structures, and irrigation.

7. The City maintains the right to enter and access the Property at all times.

8. The Property described in this Agreement shall be provided to the Gardeners for this purpose only, with no expectation that rent or taxes shall be paid by GCH to the City.

9. The existing garden irrigation system shall be maintained by GCH. GCH shall consult with the City on any major changes to the irrigation system.

9. No non-organic pesticides, herbicides, or other chemicals intended to kill or control insects, vermin, weeds, or unwanted vegetation and no chemical fertilizers shall be brought to, kept, or used at or within 100 feet of the Community Garden, and shall be enforced by the City. GCH shall be responsible for strictly enforcing this prohibition among Gardeners. Organic pesticides, herbicides, and fertilizers may be utilized and applied sparingly and in accordance with good gardening practices and manufacturer's directions and shall be stored in leak-proof containers or off-site. The City shall have the authority to specify or limit the use of any organic pesticides, herbicides, or fertilizers.

10. Signs may be posted as necessary for directional, informational, or regulatory purposes. All signs must be approved by the City. All signage must conform to the City of Missoula rules, regulations and signage code.

11. Decisions regarding upgrades or enhancements to the soil and soil amendments shall be made by GCH.

12. GCH and the Gardeners shall have access to public parking along Holmes and Cooley Streets.

13. GCH shall have vehicle access to the site for deliveries and site maintenance as needed.

14. Notwithstanding any other provision in this Agreement, the parties may mutually modify this Agreement in writing, and they shall agree on such written modification to their respective rights and obligations upon modification.

15. This Agreement is binding on the successors and assigns of the parties, but no assignment of rights may be made without the City's written consent.

16. The Property being located in Missoula County in the State of Montana, the law governing the interpretation or enforcement of the terms and conditions of this Agreement shall be the laws of the State of Montana.

17. GCH shall have the authority to conduct community workdays, educational workshops, host volunteer groups, and organize other community events onsite that are open to the public and/or community gardeners.

Garden City Harvest

THE CITY OF MISSOULA  
A Municipal Corporation

\_\_\_\_\_  
BY: Jean Zosel, Executive Director

\_\_\_\_\_  
Andrea Davis, Mayor

ATTEST: \_\_\_\_\_  
Claire Trimble, City Legislative Services and Clerk  
(Seal)

# Exhibit A

City Parkland showing area to be managed and used by GCH for Community Garden purposes

