

**Memorandum of Understanding
between
Texas Health Community Hope Learning Garden
And
Terrell ISD**

Recitals

This Memorandum of Understanding ("MOU") indicates an agreement to implement the Texas Health Learning Gardens Collaboration ("Project"). This MOU is Terrell Independent School District ("Beneficiary") and Texas Health Community Hope ("THCH").

Texas Health Brand Use Agreement

This agreement requires the beneficiary to comply with all terms, conditions, guidelines, and restrictions outlined in this agreement and includes any modifications that THCH from time to time, make to them. Brand Use Guidelines are listed in Exhibit A. As THCH is a subsidiary of Texas Health Resources ("THCH"), all THR Brand Use Guidelines must be followed.

Overall Project Goals, Services and Outcomes:

The Project Goals and an outline of Administration of the Services are listed in Exhibit B.

Payment Terms:

THCH shall provide a Garden Educator (hired consultant) for each location as well as any reasonable supplies needed for implementation of the Program, herein referred to as the "Services." No other Services shall be provided by THCH in relation to the Project unless expressly agreed upon in writing by the parties.

TERMS AND CONDITIONS

1. **Collaborating Organizations.** Beneficiary is responsible for ensuring that any and all Collaborating Organizations comply with the terms of this Agreement
2. **Compliance with Laws.** Beneficiary will comply with all applicable laws and regulations applicable to any of its activities associated with this grant, including but not limited to the Health Insurance Portability & Accountability Act. Beneficiary will cooperate with THCH in supplying additional information to THCH, or in complying with any procedures which might be required by any governmental agency.
3. **Default and Early Termination.**

a. If either party should fail to perform or be in breach of any of the terms, conditions, agreements, covenants, representations or warranties contained in this Agreement, or anticipatorily breach this Agreement, and such default is not curable, or if such default is curable but remains uncured for a period of 30 days after written notice thereof has been given to the defaulting party, the other party, at its sole discretion, may immediately terminate this Agreement by written notice thereof to the defaulting party.

b. Notwithstanding the provisions of Section 3(A), THCH may terminate this Agreement immediately due to the occurrence of any one or more of the following events: (i) Beneficiary implements Project changes without THCH's prior approval; (ii) the project is not conducted in conformance with applicable laws, or if applicable, any approvals, licenses or certifications required to conduct the Project are not obtained or are suspended or revoked; (iii) Beneficiary commits a willful breach of this Agreement or Beneficiary and or Collaborating Organization commits an act of gross negligence or willful misconduct in connection with the Project; or (iv) THCH has a reasonable good faith basis to believe that Beneficiary or any of its or its Collaborating Organization's key employees, directors, officers, or agents has committed fraud or any other financial or administrative impropriety.

c. The provisions of this Section 5 will not preclude THCH from seeking any other remedies that may be available under this Agreement and applicable law.

6. **INDEMNITY.** AS BETWEEN THE PARTIES, BENEFICIARY ACKNOWLEDGES THAT IT IS SOLELY RESPONSIBLE FOR ANY LIABILITIES THAT MAY ARISE IN CONNECTION WITH THE PROJECT, TO THE EXTENT NOT PROHIBITED UNDER THE APPLICABLE LAWS THAT GOVERN BENEFICIARY. BENEFICIARY AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS FROM AND AGAINST ANY AND ALL COSTS, LOSSES OR EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, THAT NTHC MAY INCUR BY REASON OF BENEFICIARY'S OR ANY COLLABORATING ORGANIZATIONS' NEGLIGENCE OR MISCONDUCT, OMISSION OR BREACH OF ANY OF THE PROVISIONS OF THIS AGREEMENT, OR BY REASON OF ANY THIRD-PARTY CLAIM OR SUIT ARISING OUT OF OR IN CONNECTION WITH BENEFICIARY'S PERFORMANCE OR FAILURE TO PERFORM PURSUANT TO THIS AGREEMENT to the extent allowable by the state of Texas Law.

7. **Dispute Resolution.** In the event of any dispute arising out of this Agreement, the parties shall use good faith efforts to resolve their differences amicably. In the event they are unsuccessful, the parties agree not to commence litigation until attempting to resolve dispute through mediation. Either party may initiate the mediation process with 30 days' prior written notice to the other party. The dispute will be submitted to mediation in Texas. Costs of mediation will be borne equally by the parties.

8. **Non-endorsement.** It is expressly agreed and understood by the parties that the Project does not constitute an endorsement by THCH of any entity, organization, company or individual, nor the products, actions, behavior, or conduct of any entity,

organization, company or individual, and any negligent or intentional misrepresentation by Beneficiary or any Collaborating Organization to the contrary, in any context and in any forum, will constitute a material breach of this Agreement, and the same will be grounds for immediate termination of this Agreement by THCH. In the event of any such misrepresentation, THCH may require Beneficiary or any pertinent Collaborating Organization to publicly acknowledge the misrepresentation in a like forum in which the misrepresentation was made. It is agreed that in the event of a breach of this provision, damages may not be an adequate remedy, and NTHC will be entitled to whatever other remedies are available under applicable law.

9. Relationship of Parties; No Guarantee of Additional Support. The nature of this Agreement is a Service agreement, and no employment, partnership, joint venture or agency relationship is created, implied or deemed to be created pursuant to this Agreement. Beneficiary accepts the Services with the understanding that THCH is not obligated to provide Beneficiary or any Collaborating Organization any additional support in connection with the Agreement or the Project or for any other reason.

10. Entire Agreement; Amendment; Severability; No Waiver. This Agreement supersedes any prior oral or written understandings or communications between the parties and constitutes the entire agreement between the parties with respect to the Project. This Agreement may not be modified, altered, amended or revoked except in writing, duly executed by each of the parties. The provisions of this Agreement are severable so that if any provision is found to be invalid or illegal, that finding will not affect the validity or enforceability of the remaining provisions. Failure of either party to enforce its rights under this Agreement will not constitute a waiver of such rights.

11. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of Texas, without regard to any conflicts of law principles. Any dispute arising out of or in connection with this Agreement that is not resolved under Section 8 will be filed and heard in state or federal courts of Kaufman County, Texas.

12. Assignment. This Agreement is entered into by THCH in reliance upon the qualifications of Beneficiary. Beneficiary may not assign or transfer this Agreement, directly or indirectly, by operation of law, change of control or otherwise, without NTHC's prior written consent.

13. Notices. Any notice will be in writing and personally delivered by facsimile, or sent via reputable overnight courier (such as Federal Express) or certified mail, postage prepaid and return receipt requested, addressed to the other party at the address specified below (unless otherwise notified in writing by a party).

To NTHC: North Texas Healthy Community
612 E. Lamar Blvd.
Arlington, TX 76011
Attn: Vice President

To Beneficiary

Terrell ISD
700 N. Catherine Street
Terrell, TX 75160

14. Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed an original and all of which together will constitute one and the same agreement.

North Texas Healthy Community

Authorized by: *Matt Dufrene, Vice President, Texas Health Community Hope*

Electronically signed: Date

Beneficiary: Terrell ISD

Authorized by:

Electronically signed: Date

EXHIBIT A

Texas Health Brand Use Agreement

Brand Use Agreement

This agreement requires the Beneficiary to comply with all terms, conditions, guidelines, and restrictions outlined in this agreement and includes any modifications that Texas Health Resources may, from time to time, make to them. Brand Use Guidelines are listed below. The Beneficiary will send any and all advertising, collateral, advertorials, digital marketing, and signage in advance for approval to a Texas Health Brand Management (THBM) designee, allowing five working days for review and provide final digital copies for our records.

Brand Use Guidelines

Brand use refers to use of the Texas Health or THCH name, mark, logo, graphic identity, tagline(s), images and positioning statements.

Key items included within the scope of the Texas Health or THCH brand use include but are not limited to:

- The Beneficiary will send all advertising, collateral, advertorials, digital marketing & signage in advance for approval to a THBM designee, allowing five workdays for review & provide final digital copies for our records.
- The Beneficiary will adhere to all brand standards, inclusive of graphic, advertising, digital, photography & signage standards.
- The Beneficiary will follow internal and external signage standards to present a consistent image across all markets.
- The Beneficiary will direct any logo creation requests to THBM for assistance. Logos using the Texas Health or THCH mark are not to be created by any other source. Logos are developed by THBM department and housed in a master database that the partner can access.
- The Beneficiary is prohibited from co-branding or using brands/marks to endorse or promote third party products and services without prior approval from THBM.
- The Beneficiary will notify THBM of any issue of a critical nature that might generate adverse publicity and coordinate with a designee on managing the issue.

Texas Health or THCH may, at any time, in its sole discretion and without liability, withdraw its approval of any proposed or actual use of the Texas Health or THCH brands.

EXHIBIT B

Project Scope and Timeline

Learning healthy habits at a young age can carry lifetime benefits. School gardens encourage students to eat fruits and vegetables, stay active, and are linked to happier moods, lower rates of obesity, and healthier habits lasting into adulthood. When campus gardening programs began to wither after the pandemic, Texas Health Community Hope (THCH) and its partners dug in, helping new gardens take root throughout the community. Local companies and community organizations assist with funding and volunteers, while parents, school staff, neighborhood partners, and even students help plant, weed, water, and keep the gardens growing. THCH also supports a learning garden expert (hired consultant by THCH) who assists with garden planning, configuration, crop selection and planting, cultivation, and integration of garden activities into curriculum and lesson plans.

Administration

- A Learning Garden Assessment will be completed by the Beneficiary's school campus team.
- Once the Assessment is received and reviewed, the school's Garden Committee and THCH/or Garden Educator will meet on-site at the school garden space to agree upon support services.
- Once the on-site visit has been conducted, all parties (Beneficiary and THCH) will confirm the visit assessment which will then move forward for the campus/school designee (principal, school's designee, district designee) to sign the agreement.
- THCH agrees to designate an internal contact who will serve as the Point of Contact to provide learning garden information and guidance.
- A Garden Educator will be assigned to your campus for a minimum of three hours of support for your school garden program. Examples of support and guidance include, but are not limited to:
 - Design guidance;
 - Identified funding sources;
 - Advice and guidance on using committee's garden funds for sourcing and purchasing materials;
 - Running garden workday makeovers and community and parent events;
 - Curriculum integration; and
 - Model lessons.
- The beneficiary's campus will be a part of the THCH Learning Garden Network, which will provide learning garden best practices via newsletters, webinars, and correspondence.
- Each Beneficiary campus will be able to access new curriculum/garden pathways beginning in 2024.
- The school's Garden Committee (campus educators, principal, school staff with or without parent) agrees to complete two progress surveys/assessments per

school year. One will be conducted at the beginning of the school year and one at the end of the school year. These surveys will include plans, goals, successes, achievement, incorporating photographs, testimonials, stories, and garden users' quotes.