

MEMORANDUM

TO: Government Operations Committee

FROM: Tracy Willette, Director
Parks and Recreation

SUBJ: Community Garden MOU

DATE: January 28, 2015

In 2011 the Bangor Community Garden on Essex Street opened for its first season. The Community Garden started as a concept brought to the City by a group of citizens who were hoping to partner with the City to create an opportunity for downtown citizens to garden and grow their own produce. Through the efforts of those citizens along with representatives from National ABLE and the University of Maine Cooperative Extension, we are now in our fourth season of operation.

The Bangor Community garden is administered through a Memorandum of Understanding between the City, The University of Maine, and National ABLE. There is a management committee with representation from each of the above mentioned organizations as well as citizen volunteers. Plots that are rented on a yearly basis on a first come first serve basis. In addition to plots rented by individual gardeners, organizations can rent multiple plots with the intent of distributing produce to agencies such as local food pantries. For example, there are plots set aside for the Maine Harvest for Hunger. This program is coordinated through the University of Maine Cooperative Extension.

The initial Memorandum of Understanding has expired and each of the agencies would like to renew the MOU. This new MOU would continue indefinitely unless one of the conditions contained in the new language occurred. Staff is asking for your approval to enter into this new MOU.

I will be available at your meeting to answer any further questions or provide any additional information that may be needed.

MEMORANDUM OF UNDERSTANDING
BANGOR COMMUNITY GARDEN PROJECT
ARTICLE I PARTIES TO THE MEMORANDUM

1. National ABLE Network, Maine Office, Bangor, Maine (hereinafter referred to as ABLE)
2. City of Bangor, Maine (hereinafter referred to as the "City")
3. University of Maine Cooperative Extension, Bangor, Maine (hereinafter referred to as Cooperative Extension)

Any references to "Parties" contained herein refer to these parties collectively.

ARTICLE II Reasons for the Memorandum

This memorandum clarifies the purpose of a community garden to be assembled and located at a site known as the "Former Naval Reserve Property" located on Essex Street in Bangor, Maine and sets forth the respective roles and responsibilities of the collaborating parties.

ARTICLE III Location of the Community Garden

The community garden will be located on a parcel of City owned property identified on City Tax maps as lot 63 on sheet 46. It is more commonly referred to as the "Former Naval Reserve Property" on Essex Street. It is understood by all parties to this memorandum that this parcel has been identified as a potential site for future development and may be sold by the City for such purposes. In the event the City enters into a purchase and sale agreement for the above parcel, all parties to this memorandum will work cooperatively to attempt to identify an alternate location for the community garden.

ARTICLE IV Purpose of the Community Garden

The parties agree that the community garden is for use by the Citizens of Bangor for the following purposes:

1. Provide educational programs regarding effective gardening techniques; sustainable gardening, and other educational purposes as the Parties may identify. The Parties agree that the area indentified (Exhibit or site plan) is designated for educational and workforce development purposes. So long as National ABLE and/or UCME are parties to this MOU, they shall have priority in using this area to further educational training and workforce development needs over any other potential uses for the designated area.
2. Provide gardening opportunities for local citizens.
3. Provide a gardening opportunity as described through a set of criteria and guidelines set forth by a committee established by the Parties to this memorandum and further described in this memorandum.

ARTICLE V Bangor Community Garden Committee

The Bangor Community Garden (“BCG”) project shall constitute an Organizing Committee formed to provide the design, planning, development, fundraising, and to oversee new construction and maintenance of the area. BCG shall also have an Executive Committee which will have the ability to make routine or time-sensitive decisions on behalf of BCG. All decisions of either committee are subject to a majority vote at any meeting attended by a quorum of Committee members although the EC retains veto power.

1. Organizing Committee (OC) shall consist of any individuals attending BCG meetings which are open to the community at large. Anyone with interest in the BCG may attend meetings and vote on questions brought to the meeting.
 - a. Leadership within the OC shall consist of members of the OC interested and willing to take on the responsibilities of the following positions: Garden Coordinator, Grounds Manager, Fundraising Coordinator/Community Outreach Officer, and City Liaison. Duties of these positions are described in Appendix 1.
2. Executive Committee (EC): The City, ABLE, UMCE, and the Organizing Committee shall each appoint a representative to serve on the EC. Each nominating party may replace its own appointed committee members at any time at its own discretion.

ARTICLE VI Future construction, and implementation.

The Bangor Community Garden Committee shall oversee the future construction phases with individual duties being determined within the committee through a process administered as described in Article V. Individual roles over and above that process are as follows:

- 1 ABLE shall:
 - a. Be a co-applicant with the City and Cooperative Extension in state, federal or other applications for grant opportunities.
 - b. Provide staffing as needed and as available through their activities and programs at the Community Garden for the purpose of “day to day” management of the garden and assist with programming. ABLE may seek funding opportunities with respect to that area of the BCG reserved for educational purposes or workforce development efforts which it shall coordinate through the EC. ABLE may also support efforts by the BCG to seek other funding opportunities.
 - c. For all components in which the City of Bangor and UMCE are involved, acknowledge the City of Bangor and UMCE (with prior approval) in printed, web, and audio/visual materials, publicity, evaluation and reporting.
- 2 The City shall:
 - a. Authorize the construction of the Community Garden on its land, subject to the conditions described in Article III.

- b. Be a co-applicant with ABLE and Cooperative Extension in state, federal, or other applications for grant opportunities.
- c. Be the fiscal agent for the community garden until such time that the Bangor Community Garden committee has determined that an alternate agent can be established, pursuant to all applicable state and federal guidelines for the establishment of a non-profit entity.
- d. Provide other assistance as needed and available that supports this effort.
- e. Provide insurance certificates for the other Parties to this MOU.
- f. Indemnify, defend, and hold harmless ABLE and UMCE, their governing boards, officers, and employees, agents, volunteers and contractors, and each and all thereof, of and from any and all manner of actions, suits, fines, damages, attorney fees, and claims of whatsoever kind or nature, arising out of or in connection with the ownership, operation, use or condition of the "Former Naval Reserve Property, " including but not limited to, actions, suits, fines, damages, attorney fees, and claims related to conditions or substances on, in or under the soil at that location.
- g. Make a available (for a reasonable fee) the following resources: irrigation water, electricity, the McGruff shed, and bathroom facilities as requested by the EC. The Committee shall decide how the fees will be paid if they are not paid directly through dues.
- h. Provide ongoing repair or maintenance on gate, mowing of public areas at the site, and trim unsafe or overcrowding limbs on trees.
- i. For all components in which UMCE and ABLE are involved, acknowledge UMCE and ABLE in printed, web, and audio/visual materials, publicity, evaluation and reporting. Extension must have prior approval authority over the publicity materials using the University's name.

3 Cooperative Extension shall:

- a. Provide assistance and guidance as needed.
- b. Host at least one free educational program at the garden per year.
- c. Assist others in developing educational programs at the garden.
- d. Share program impact assessment with the City and ABLE.
- e. Advertise programming and announcements in UMCE newsletters and other outlets.
- f. For all components in which the City of Bangor and ABLE are involved, acknowledge the City of Bangor and ABLE in printed, web, and audio/visual materials, publicity, evaluation and reporting.

- g. Be a co-applicant with the City and ABLE in state, federal and other applications for grant opportunities.

ARTICLE VII Modifications of the memorandum

This memorandum may be modified by the unanimous consent of the parties.

ARTICLE VIII Endorsement

On behalf of the parties to this Memorandum of Understanding, we the undersigned indicate our agreement with the provisions of the memorandum.

ARTICLE IX Termination

Any party to this Memorandum of Understanding may withdraw from this Memorandum and terminate its responsibilities hereunder at any time upon providing 90 days written notice to the other parties. In addition, the following shall constitute terminating events.

1. That any party hereto violates this Agreement and fails to cure said breach within thirty (30) days; or
2. Upon notification by the City of Bangor that the parcel will cease to be available for gardening and no alternative location is identified.

ARTICLE x General Provisions

Nondiscrimination: The parties shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, including transgender status and gender expression, national origin, citizenship status, age, disability, genetic information or veterans status. The City shall ensure that the community garden site and facilities are physically accessible to individuals with disabilities.

Agreement Validity: In the event one or more clauses of this agreement are declared invalid, void, unenforceable or illegal, that shall not affect the validity of the remaining portions of this agreement.

Independent Entities: The three Parties to this agreement are independent entities, not partners, agents or joint venturers, of each other and not party shall hold itself out contrary to these terms by advertising or otherwise, nor shall any party be bound by any representation, act or omission whatsoever of any other party.

Entire Agreement: This MOU sets forth the entire agreement between the parties on the subject matter hereof and replaces and supersedes all prior agreements between the parties on the subject, whether oral or written, express or implied.

Waiver: The failure of a party to exercise any of its rights under this agreement for a breach thereof shall not be deemed to be a waiver of such rights, and no waiver by a party, whether written or oral, express or implied, of any rights under or arising from this agreement shall be binding on any subsequent occasion; and no concession by a party shall be treated as an implied modification of the agreement unless specifically agreed in writing.

Binding Effect: This MOU shall be a binding agreement upon, and shall extend to the benefit of, the parties hereto and their permitted successors and assigns.

City of Bangor

National ABLE

Catherine Conlow, City Manager

Daniel Muth, Director

Date:_____

Date:_____

University of Maine

Printed Name:_____

Date:_____