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**DRAFT – SEPTEMBER 21, 2015**

**MEMORANDUM OF UNDERSTANDING**  
*between the*  
**Master Gardener Association of San Diego County**  
*and*  
**The Regents of the University of California**

**January 1, 2016**

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**WHEREAS**, The Regents of the University of California (“The Regents” and/or “UNIVERSITY”), through its Division of Agriculture and Natural Resources (“UC ANR”) conducts the UC Cooperative Extension Master Gardener Program (“UCCE MGP”) throughout California, and

**WHEREAS**, the Master Gardener Association of San Diego County (“ASSOCIATION”) supports the educational and research activities of the UCCE MGP that benefit San Diego home gardeners that grow plants for their personal use and enjoyment, and

**WHEREAS**, through the ASSOCIATION individuals have donated literally thousands of hours of volunteer service to the local UCCE MGP, providing horticulture and pest management information and technical assistance, managing a website and a telephone information center, conducting public seminars, exhibits, clinics, presentations, and other such activities, and

**WHEREAS**, the ASSOCIATION plays a critical role in supporting the interest and enthusiasm of the local UCCE MGP, and

**WHEREAS**, the UC ANR values, appreciates and wishes to sustain the ASSOCIATION’S outstanding contribution to the furtherance of the local UCCE MGP, and

**WHEREAS**, both the ASSOCIATION and the UNIVERSITY are non-profit corporations with contributions to them being tax deductible as charitable contributions under relevant provisions of State and federal tax law, therefore:

**NOW THEREFORE**, The Regents of the University of California, hereinafter known as the UNIVERSITY, and the Master Gardener Association of San Diego County, hereinafter known as the ASSOCIATION, enter into this Memorandum of Understanding (“MOU”) for purposes of clarifying their respective roles and responsibility in connection their ongoing collaboration to support the UCCE MGP in San Diego County.

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## I. PARTIES

The parties to this Memorandum of Understanding (MOU) are:

- A. The University of California, Agriculture and Natural Resources (UC ANR), a tax-exempt California corporation, and
- B. The San Diego County Master Gardener Association, a tax-exempt California corporation.

## II. PURPOSE

The purpose of this MOU is to record the parties' agreement to collaborate in support of the University of California Cooperative Extension Master Gardener Program of San Diego County for the benefit of San Diego County gardeners.

## III. THE UNIVERSITY AGREES:

- A. Regarding Official UNIVERSITY Support Group Recognition
  - 1. To recognize the ASSOCIATION as an official UNIVERSITY Support Group in accordance with the *Policy on University Support Groups* approved by The Regents on September 15, 1995 and the *Administrative Guidelines for University Support Groups* issued in connection therewith and revised on October 24, 2012, copies of which are attached and made a part of this agreement. Future updates or revisions of the policy and guidelines are incorporated herein as they are issued.
  - 2. To extend to the ASSOCIATION the rights and privileges of official-recognized UNIVERSITY Support Groups. Such rights and privileges will include, but are not necessarily limited to the use of the UNIVERSITY'S name, facilities and resources. More specifically, as approved by the UCCE San Diego County Director, the ASSOCIATION may use the UCCE Master Gardener Program name and logo, the UCCE San Diego County facilities, and other resources of the UCCE San Diego County office such as supplies and equipment.
  - 3. To recognize and support the ASSOCIATION'S sole purpose, e.g., the furtherance of the University of California Cooperative Extension Master Gardener Program in San Diego County, in accordance with the University of California Cooperative Extension *Master Gardener Program Administrative Handbook for Program Staff* dated June 1, 2011, a copy of which is attached and made a part of this agreement. Future updates or revisions of the University of California Cooperative Extension *Master Gardener Program*

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*Administrative Handbook for Program Staff* are incorporated herein as they are issued.

4. To cover the ASSOCIATION under the UNIVERSITY'S self-insurance program for general, automobile and event liability insurance as further explained below. This coverage is provided during activities that are sponsored by the ASSOCIATION with the concurrence of the UNIVERSITY, and while ASSOCIATION members are acting within the course and scope of their responsibilities under this MOU and the ASSOCIATION'S Articles of Incorporation and By-laws. Further, to authorize the ASSOCIATION, at the ASSOCIATION'S sole discretion, to purchase insurance through UNIVERSITY'S "Campus Connexions" program.

B. Operational Matters

1. Authority of the UC ANR Vice President

- a. To confirm that, in the context of this MOU, all references to the "Chancellor" found in the UNIVERSITY'S *Policy on University Support Groups* and its *Administrative Guidelines for University Support Groups* should be understood to mean the UC ANR Vice President.
- b. To confirm that, in the context of this MOU, the UC ANR Vice President has re-delegated to the UCCE San Diego County Director the responsibility to serve as an ex-officio voting member of the ASSOCIATION'S Board. As well, the UC ANR Vice President has re-delegated to the UCCE San Diego County Director the responsibility for the other local programmatic and operational matters related to the implementation of this MOU. The UCCE San Diego County Director may use discretion in designating certain of their responsibilities to the UCCE San Diego County personnel reporting to them, including but not limited to the UCCE San Diego County MGP Advisor, and the UCCE San Diego County MGP Program Representative.

2. Authority of the ASSOCIATION

To acknowledge that the ASSOCIATION is a separately incorporated, self-governed California non-profit corporation and that as such, it has sole authority over its policies and procedures, including but not limited to those regarding ASSOCIATION membership.

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3. Monetary Gifts

To confirm that the ASSOCIATION may continue to solicit and accept donations by individuals or organizations in support of ASSOCIATION, provided that they do not solicit and/or accept grants for extramurally funded-research projects that would otherwise be conducted by UNIVERSITY academics based on specific written academic research proposals.

4. Gifts of Tangible Personal Property

- a. To confirm that the ASSOCIATION may accept modestly-valued donations of “in-kind” gifts of tangible personal property, including but not limited to plant materials and gardening supplies and equipment.
- b. To confirm that in the event that the ASSOCIATION is offered a high-value gift of tangible personal property, the ASSOCIATION Board and the UCCE San Diego County Director will identify, if at all possible, how the gift might be accepted in a manner that is compliant with relevant UNIVERSITY policies.

5. Existing and Future ASSOCIATION Operations

- a. To confirm that at the time of the execution of this MOU, the ASSOCIATION may have existing contractual obligations that the ASSOCIATION will continue to honor. Further, to confirm that the ASSOCIATION may enter into new contractual obligations, subject to the approval of the ASSOCIATION’S Board, and with the concurrence of the UCCE San Diego County Director.
- b. To confirm that at the time of the execution of this MOU, the ASSOCIATION may have existing fundraising activities underway and/or planned, as have been approved by the ASSOCIATION’S Board, and that the ASSOCIATION will continue to honor those fundraising activities and plans with the concurrence of the UCCE San Diego County director.
- c. To confirm that matters of the ASSOCIATION’S policies and protocols, including but not limited to those related to fundraising, will be authorized by the ASSOCIATION with the concurrence of the UCCE San Diego County director.

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- d. To confirm that further administrative, financial and/or programmatic requirements not referenced in this MOU will be subject to the mutual agreement of the ASSOCIATION and the UCCE San Diego County Director.

C. Programmatic Matters

1. To confer with the ASSOCIATION regarding the UCCE San Diego County MGP so that the ASSOCIATION'S educational, public service, and fundraising activities may be maximally beneficial to San Diego County.
2. To recognize the volunteer work performed in support of ASSOCIATION affairs as a UCCE MGP "Qualifying Service Activity," and recognize the time so devoted as qualifying UCCE MGP volunteers hours, in accordance with the University of California Cooperative Extension Master Gardener Program *Administrative Handbook* for Program Staff.
3. To confirm that the ASSOCIATION will continue to initiate and conduct programmatic activities, with the concurrence of the UCCE San Diego County Director. This will include, but will not necessarily be limited to the determination of appropriate presenters and topics for continuing education of the ASSOCIATION'S membership and the training of new ASSOCIATION members, with the concurrence of the UCCE San Diego County Director.

D. Annual Submittal Requesting Continued Official UNIVERSITY Support Group Recognition

1. To confirm that in compiling their annual request for continued Official UNIVERSITY Support Group recognition, with respect to the list of donors referenced in the *Administrative Guidelines for University Support Groups*, if such a list is requested by the UC ANR Vice President or the UCCE San Diego County Director, this shall be a list of donations for which the ASSOCIATION issued a gift acknowledgement letter (as differentiated from donations to a collection jar and similar small donations for which acknowledgement letters are not required).
2. To confirm that in compiling their annual request for continued Official UNIVERSITY Support Group recognition, with respect to the list of major activities and/or special, one-time fundraising campaign, the UC ANR Controller's Office will verify that the list (if applicable) has been supplied, but will not review it in an evaluative manner.
3. To confirm that UNIVERSITY will not use the information provided by the ASSOCIATION in their annual submittal to intentionally solicit donations to the UNIVERSITY.

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IV. THE ASSOCIATION AGREES:

- A. To conduct itself as an official UNIVERSITY Support Group in accordance with the *Policy on University Support Groups* approved by The Regents on September 15, 1995 and the *Administrative Guidelines for University Support Groups* issued in connection therewith and revised on October 24, 2012, copies of which are attached and made a part of this agreement. Future updates or revisions of the policy and guidelines are incorporated herein as they are issued.
- B. That the ASSOCIATION'S sole purpose is the furtherance of the UNIVERSITY'S California Cooperative Extension Master Gardener Program in San Diego County, in accordance with the University of California Cooperative Extension *Master Gardener Program Administrative Handbook for Program Staff* dated June 1, 2011, a copy of which is attached and made a part of this agreement. Future updates or revisions of the University of California Cooperative Extension *Master Gardener Program Administrative Handbook for Program Staff* are incorporated herein as they are issued.
- C. That where the terms of this agreement or the current *University Support Group Policy* and *Administrative Guidelines* (as modified by approved exceptions) are more limiting than the ASSOCIATION'S Articles of Incorporation and By-Laws, the ASSOCIATION will adhere to the terms of this MOU, to the *University Support Group Policy*, and to the *Administrative Guidelines*.
- D. To confer with the UNIVERSITY regarding the UCCE San Diego County MGP so that the UNIVERSITY'S educational, public service, and fundraising activities may be maximally beneficial to San Diego County.
- E. To have a working understanding of the UNIVERSITY'S Non-Discrimination and Affirmative Action Policy and will exhibit a commitment to compliance with it. Specifically, the ASSOCIATION agrees not to discriminate on the basis of race, color, national origin, religion, sex, gender identity, pregnancy, disability, age, medical condition (cancer-related), ancestry, marital status, citizenship, sexual orientation, or status as a Vietnam-era veteran or special disabled veteran. The ASSOCIATION also agrees to abide by the UNIVERSITY'S policy prohibiting sexual harassment and sexual violence. Finally, the ASSOCIATION agrees to abide by other UNIVERSITY policies applicable to the work of the ASSOCIATION (e.g., Conflict of Interest, etc.).

V. THE UNIVERSITY AND THE ASSOCIATION MUTUALLY AGREE:

A. Shared Commitments

The parties share the following commitments in regard to this MOU.

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1. To maintain a strong, trusting and mutually-supportive relationship; and to work, communicate and collaborate together for the benefit of the UCCE San Diego County MGP.
  2. To conduct their respective affairs and their relationship in a manner that allows both parties to be accountable and transparent to the public they serve.
  3. To be clear about the parties' respective roles and responsibilities, and, to the extent that any confusion arises in the future, to work together to resolve it.

B. Logos

That the ASSOCIATION'S logo is the property of the ASSOCIATION, and the UCCE Master Gardener Program logo is the property of the UNIVERSITY, and that when used together, they will be of equal size.

C. Conflict Resolution

That should any conflict arise as a result of this MOU, a UNIVERSITY representative and the President of the ASSOCIATION Board will meet to resolve it.

VI. FINANCIAL MATTERS

The parties agree to the following, in accordance with UNIVERSITY'S *Policy on University Support Groups* and UNIVERSITY'S *Administrative Guidelines for University Support Groups*.

A. With respect to financial matters, the UNIVERSITY will:

1. Grant an exception to the UNIVERSITY'S *Administrative Guidelines for University Support Groups* authorizing the ASSOCIATION to operate using a fiscal year of June 1 to May 31.
2. Confirm that the ASSOCIATION will conduct their record-keeping and financial reporting on a cash-accounting basis.
3. Confirm that revenue raised by the ASSOCIATION may remain with the ASSOCIATION, subject to the provisions of the UNIVERSITY'S *Administrative Guidelines for University Support Groups*, and with the concurrence of the UCCE San Diego County Director.

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4. Confirm that debt incurred by the UNIVERSITY and debt incurred by the ASSOCIATION will be the sole and exclusive responsibility of the party that incurred the debt.
  5. Authorize the ASSOCIATION to hold external financial accounts, subject to the provisions of the UNIVERSITY'S *Administrative Guidelines for University Support Groups*.
  6. Be accountable for all funds and/or other resources that may be provided by the ASSOCIATION to the UNIVERSITY for the benefit of the UCCE San Diego County Master Gardener Program.
  7. To the extent that such funds are deposited in a financial account held by The Regents (e.g., an Agency Account, a Fund Functioning as an Endowment, and/or an Endowment), to invest them prudently, to reinvest all interest earned, and to make the funds, along with all accrued interest, available for expenditure for the purpose designated.
  8. To expend all such funds held in The Regents' financial accounts for the benefit of the UCCE San Diego County Master Gardener Program as the ASSOCIATION may direct; provided that the UCCE County Director concurs with such expenditure, and that it does not violate the wishes of any donor and/or UNIVERSITY policy.
  9. To be accountable to the ASSOCIATION for all such expenditures made with such funds, including but not limited to providing to the ASSOCIATION complete written and/or electronic information on same.
- B. With respect to financial matters, the ASSOCIATION will:
1. Select a maximum of one (1) financial institution at which they will hold their funds.
  2. Hold a maximum of three such external financial accounts as follows.
    - a. One checking account for membership dues transactions.
    - b. One checking account for gifts.
    - c. One savings, money market or equivalent account.
  3. Ensure that all such external financial accounts conform to the following limitations.



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- a. The checking account for membership dues transactions will not exceed \$25,000 (twenty-five thousand dollars).
  - b. The checking account for gifts will not exceed \$100,000.
  - c. The savings, money market or equivalent account will not exceed \$100,000.
4. To the extent that any of their external financial accounts should unavoidably exceed the limits described above, the ASSOCIATION agrees to transfer excess funds to the UNIVERSITY using one or more of the following options.
    - a. Transfer the excess funds to an interest-bearing UNIVERSITY agency account.
    - b. Transfer the excess funds to an interest-bearing UNIVERSITY endowment fund account.
    - c. Transfer the excess funds to the UCCE County Master Gardener Program for use in accordance with the donors' wishes.
  5. Agree that if it elects to collect membership dues, it will maintain a separate account in which to hold those funds, so that they are separated from gift funds. The choice to collect membership dues, and the decision as to the amounts of those dues, will rest with the ASSOCIATION.
  6. Agree that all ASSOCIATION checks issued in excess of \$1,000 will bear two (2) signatures by the appropriate members of the ASSOCIATION'S Board.
  7. Permit the UCCE San Diego County Director (or the Director's designee) to inspect and audit its books and records, and to authorize access to records of its external financial accounts. In the event that this should be necessary, the Director (or designee) will so advise the ASSOCIATION'S Treasurer, and the Director will work with the Treasurer to do so in a manner that is not disruptive to the ASSOCIATION.

## VII. INDEMNIFICATION

- A. THE REGENTS OF THE UNIVERSITY OF CALIFORNIA shall defend, indemnify and hold THE MASTER GARDENER ASSOCIATION OF SAN DIEGO COUNTY, its officers and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by

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or result from the negligent or intentional acts or omissions of THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, its officers, agents or employees.

- B. THE MASTER GARDENER ASSOCIATION OF SAN DIEGO COUNTY shall defend, indemnify and hold THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, its officers, employees and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of THE MASTER GARDENER ASSOCIATION OF SAN DIEGO COUNTY, its officers and agents.

### VIII. INSURANCE

A. As to the ASSOCIATION:

1. For purpose of this Memorandum of Understanding, all board members and agents of the ASSOCIATION shall be insured by the ASSOCIATION. The ASSOCIATION, at its sole cost and expense, shall insure its activities in connection with this Memorandum of Understanding and obtain, keep in force and maintain insurance as follows:

- a. Comprehensive or Commercial Form General Liability Insurance (contractual liability included) with minimum limits as follows:

i.	Each occurrence	\$1,000,000
ii.	Personal and Advertising Liability	\$1,000,000
iii.	General Aggregate*	\$2,000,000

\* applicable to commercial form only

(If such insurance is written on a claims-made form, it shall continue for three years following termination of this Memorandum of Understanding. The insurance shall have a retroactive date of placement prior to or coinciding with the commencement date of this Memorandum of Understanding.)

- b. Business Automobile Liability Insurance for owned, scheduled, non-owned, or hired automobiles with a combined single limit not less than \$1,000,000 per occurrence.
- c. Director/Officers Liability (D/O) with limit of \$1,000,000.
2. The insurance and the coverage referred to in this section of the Memorandum of Understanding shall be endorsed to include the

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UNIVERSITY as an additional insured. Such a provision, however, shall apply only in proportion to and to the extent of the negligent acts or omission of the ASSOCIATION, its officers, agents, or any person or persons under its direct supervision and control, and then only to the extent such supervision and control is required by law. The ASSOCIATION, upon execution of this Memorandum of Understanding, shall furnish the UNIVERSITY with Certificates of Insurance evidencing compliance with all requirements. Certificates shall further make provisions for thirty (30) day advance written notice to the UNIVERSITY of any modification, change or cancellation of any of the above insurance coverage.

3. It should be expressly understood, however, that the coverage required herein shall not in any way limit the liability of the ASSOCIATION, its officers or agents.

B. As to the UNIVERSITY:

1. For purposes of this Memorandum of Understanding, all personnel hired by the UNIVERSITY shall be deemed to be employees of and insured by the UNIVERSITY. The UNIVERSITY, at its sole cost and expense, shall insure its activities in connection with this Memorandum of Understanding and obtain, keep in force and maintain insurance as follows:
  - a. General Liability Self-Insurance Program (contractual liability included) with a limit of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) self-insured retention.  
  
(If such insurance is written on a claims-made form, following termination of this Memorandum of Understanding, coverage shall survive for a period of not less than three years. Coverage shall provide for a retroactive date of placement coinciding with the commencement date of this Memorandum of Understanding.)
  - b. Business Automobile Liability Insurance for owned, scheduled, non-owned, or hired automobiles with a combined single limit no less than \$1,000,000 per occurrence.
  - c. Workers' Compensation Self-Insurance as required by the State of California and as amended from time to time.
2. The insurance and the coverage referred to in this section of the Memorandum of Understanding shall be endorsed to include the ASSOCIATION as an additional insured. Such a provision, however, shall apply only in proportion to and to the extent of the negligent acts or omissions of the UNIVERSITY, its officers, agents, employees; or any person

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or persons under the UNIVERSITY's direct supervision and control, and then only to the extent such supervision and control is required by law. The UNIVERSITY, upon execution of this Memorandum of Understanding shall furnish the ASSOCIATION with Certificates of Insurance evidencing compliance with all requirements. Certificates shall further make provisions for thirty (30) day advance written notice to the ASSOCIATION of any modification, change or cancellation of any of the above insurance coverage.

3. It should be expressly understood, however, that the coverage required herein shall not in any way limit the liability of the UNIVERSITY, its officers, agents, or employees.

## IX. GENERAL CONDITIONS

### A. Term

When fully-executed this MOU will be effective as of the date stated on Page 1 of this MOU and will continue until it is terminated by either party as described below.

### B. Modification

This MOU may be modified with the mutual and written approval of the parties, provided that the party proposing a modification submits a written proposal to the other party at least ninety (90) calendar days in advance of the intended effective date of the proposal, in order to accommodate any necessary negotiation. Modification will be effective only when an Amendment to this MOU is fully-executed by both of the parties.

### C. Termination

1. This MOU may be terminated by either party, provided that the party wishing to terminate provides to the other party a written notice of their intent to terminate a at least ninety (90) calendar days in advance of the intended effective date of the termination.
2. In the event of that this MOU is terminated, the ASSOCIATION will, within ninety (90) calendar days, transfer to The Regents all of the ASSOCIATION'S assets remaining after the ASSOCIATION'S payment, or provision for payment, of all debts and liabilities of the corporation. The Regents will administer such assets consistent with the terms of the individual gifts and purpose of the ASSOCIATION, e.g., for the benefit of the UCCE San Diego County Master Gardener Program.

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D. Notices

Any notices required by this MOU shall be sent to:

1. For the UNIVERSITY:

Vice President, University of California Agriculture and Natural Resources  
1111 Franklin Street, 10<sup>th</sup> Floor, Oakland, California 94607

2. For the ASSOCIATION:

Chair of the Board, the Master Gardener Association of San Diego County  
5555 Overland Avenue, San Diego, California 92123

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement.

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Glenda Humiston, Vice President  
University of California, Agriculture and Natural Resources

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Date

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Linda Morse, Chair of the Board of Directors  
The Master Gardener Association of Santa Clara County

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Date

*Approved as to Form:*

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Katina Ancar, Division Counsel  
Office of the General Counsel of The Regents

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Date

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List of Attachments Incorporated Herein By Reference:

- The Master Gardener Association of San Diego County's Articles of Incorporation and all related incorporating documents dated [REDACTED], 2015, including any future amendments.
- Regents of the University of California Policy 5203: *Policy on Support Groups, Campus Foundations, and Alumni Associations*, approved September 15, 1995, Amended September 22, 2005
- University of California *Administrative Guidelines for Support Groups* dated October 24, 2012, including any future amendments.
- University of California Cooperative Extension Master Gardener Program *Administrative Handbook for Program Staff*, including any future amendments.

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