

AGRICULTURAL FARMING LEASE

THIS AGRICULTURAL FARMING LEASE ("Lease") is entered into this ____ day of _____, 2012 by and between the CITY OF LOVELAND, COLORADO, a home rule municipality, whose address is 500 E. 3rd Street, Loveland, Colorado 80537 ("City"), and _____, a _____ ("Tenant").

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Premises. The City hereby leases to the Tenant the following-described premises for agricultural farming purposes: see Exhibit A, attached hereto and incorporated herein by reference (the "Premises").

2. Use. The Tenant agrees to farm the Premises in a good and farm-like manner; to use the Premises for agricultural crop production and, in due season, to plow or otherwise prepare the ground, plant, cultivate, irrigate, and harvest the crops grown thereon; to follow acceptable farming rotation practices; to properly clean out the ditches on the Premises prior to irrigation season; and to engage in such farming practices and soil conservation practices as will protect the fertility of the Premises. The Tenant agrees to keep the Premises free of noxious weeds, trespassers, hunting and any other uses not allowed hereunder.

3. Rent. The Tenant shall pay the City rent in the amount of _____ dollars (\$____.00) per acre (the "Rent Amount") per year. The Rent amount shall be due upon possession of the Premises and thereafter shall be payable to the City on March 1 of each year thereafter.

4. Term. This Lease shall be effective from **October 1, 2012 to August 31, 2015**, unless sooner terminated as provided herein. This Lease shall automatically continue in full force and effect for successive one year terms until terminated by either party.

5. Farming Income and Expenses. The Tenant shall receive 100% of the crop income and any Production Flexibility payments from the Farm Service Agency. The Tenant shall pay all expenses in connection with the agricultural farming of the Premises, including, without limitation, expenses associated with preparing the ground, planting, cultivating, irrigating, fertilizing, providing pest control, providing weed control, and harvesting the crops.

6. Hazardous Substances. The Tenant shall be solely responsible for any and all hazardous substances used or stored on the Premises and shall indemnify, save, and hold harmless the City, its officers, employees, and agents from any and all liability, loss, costs, charges, obligations, expenses, attorney's fees, litigation, judgments, damages, claims, and demands of any kind whatsoever arising from or out of the Tenant's use or storage of said hazardous substances on the Premises.

7. Water. The City shall provide the Tenant with water to irrigate the Premises for agricultural purposes and pay all applicable assessments. The Tenant shall not use said water for

any other purpose. Said water and the allocated amounts for the Premises are described in Exhibit B, attached hereto and incorporated herein by reference.

8. **Herbicides and Pesticides.** The Tenant shall maintain a list of all herbicides or pesticides applied in relation to Tenant's use of the Premises, including the application area, amount and purpose. Such list shall be available to the City upon request and shall be provided to the City prior to any annual renewal of the Lease.

9. **Fencing and Driveways.** The Tenant shall keep and maintain all appurtenances to and improvements on the Premises, including, without limitation, fences, buildings, and private driveways and roadways, in good repair at all times, at the Tenant's sole cost and expense. No alterations or extraordinary repairs to the appurtenances to and improvements on the Premises shall be made by the Tenant without the City's prior written approval. Once approved, all such alternations and repairs shall be done at the Tenant's sole cost and expense.

10. **Insurance Requirements.**

a. **General Liability Insurance.** The Tenant shall procure and keep in force during the duration of this Lease a policy of comprehensive general liability insurance insuring the Tenant and naming the City as an additional insured against any liability for personal injury, bodily injury, or death arising out of its use of the Premises with at least One Million Dollars (\$1,000,000) each occurrence. The Tenant shall furnish to the City a certificate of insurance evidencing insurance coverage required by this Lease.

b. **Workers Compensation Insurance.** The Tenant shall pay and maintain workers compensation insurance, if required by law. (Note: if under Colorado law the Tenant is not required to carry workers' compensation insurance, the Tenant shall execute a Certificate of Exemption and Waiver attached hereto as Exhibit C and incorporated herein by reference.)

c. **Crop Insurance.** The City and the Tenant shall each be responsible for paying and maintaining crop damage (optional) insurance.

11. **Indemnification.** To the extent permitted by law, the Tenant hereby covenants and agrees to indemnify, save, and hold harmless the City, its officers, employees, and agents from any and all liability, loss, costs, charges, obligations, expenses, attorney's fees, litigation, judgments, damages, claims, and demands of any kind whatsoever arising from or out of the use of the Premises by the Tenant, its employees, or agents. This paragraph shall survive the expiration or termination of this Lease.

12. **Termination.**

a. Either party shall have the right to terminate this Lease as to the whole or a part of the Premises, without cause, upon one hundred twenty (120) days written notice of termination to the other party. The City shall endeavor to give the Tenant as much notice as possible in order to prevent the Tenant from suffering any lost crops or inability

to harvest. However, in the event the City's termination notice occurs after Tenant has planted crops and the termination date occurs before the crops can be harvested, the City's liability shall be limited to basic costs including inputs, farm operations at the CSU custom farming rates and _____ percent (___%) of _____ for management costs for that portion of the Premises subject to the written notice of termination; provided that total liability shall not exceed two hundred fifty percent (250%) of the annual lease payment.

b. If the Tenant violates any provision of this Lease, or violates any applicable law, the City shall have the right to terminate this Lease for cause upon thirty (30) days written notice of termination to the Tenant, during which time the Tenant shall have the right to cure any such violation. In the event the City terminates this Lease in accordance with this subparagraph, the City shall not be liable for any damages sustained by the Tenant, including those resulting from lost crops or inability to harvest.

13. Other Agreements and Regulations. This Lease is made subject to the agreements and contracts entered into with the Big Thompson Soil Conservation District and the regulations prescribed by the U.S. Department of Agriculture's Natural Resources Conservation Service, including the Farm Bill Conservation Programs (see, www.nrcs.usda.gov).

14. Governing Law and Venue. This Lease shall be governed by the laws of the State of Colorado, and venue shall be in the County of Larimer, State of Colorado.

15. Assignment. The Tenant shall not assign this Lease without the City's prior written consent. This Lease shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, personal representatives, successors, and assigns.

16. Severability. In the event a court of competent jurisdiction holds any provision of this Lease invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Lease.

17. Notices. Written notices required under this Lease and all other correspondence between the parties shall be directed to the following and shall be deemed received when hand-delivered or three (3) days after being sent by regular U.S. mail:

If to the City: Ken Cooper, Facilities Manager
Department of Public Works
City of Loveland
410 East 5th Street
Loveland, CO 80537
Phone: (970) 962-2635
Email: ken.cooper@cityofloveland.org

If to the Tenant: _____

EXHIBIT A

Legal Description of Premises

Parcel I:

Lot 2, Ehrlich MLD #03-S2229, County of Larimer, State of Colorado.

Parcel II:

A parcel of land located in the North $\frac{1}{2}$ of Section 27, Township 5 North, Range 68 West of the Sixth Principal Meridian, County of Larimer, State of Colorado being more particularly described as follows:

Considering the west line of the Northwest $\frac{1}{4}$ of Section 27, Township 5 North, Range 68 West of the Sixth Principal Meridian, monumented on the north by a 2.5" aluminum cap marked "1995 LS 20676" and on the south by a 2.5" aluminum cap marked "1993 LS 12374" as bears north 00 degrees 14 minutes 56 seconds west with all bearing contained herein relative thereto.

Commencing at the northwest corner of Section 27, Township 5 North, Range 68 West of the Sixth Principal Meridian, County of Larimer, State of Colorado; thence run north 89 degrees 38 minutes 50 seconds east along the north line of the Northwest $\frac{1}{4}$ of said Section 27 for a distance of 30.00 feet; thence leaving said north line run south 00 degrees 14 minutes 56 seconds east for a distance of 30.00 feet to a point on the south right of way line of State Highway 402 said right of way line being 30.00 feet southerly and parallel with the north line of the aforesaid Northwest $\frac{1}{4}$; thence run north 89 degrees 38 minutes 50 seconds east along said south right of way line for a distance of 1776.91 feet to the point of beginning; thence continue north 89 degrees 38 minutes 50 seconds east along said south right of way line for a distance of 244.93 feet to the westerly right of way to Interstate Highway 25; thence leaving said south right of way line run southeasterly along said westerly right of way for the following four courses;

1. Thence run south 00 degrees 01 minutes 18 seconds east for a distance of 4.72 feet;
2. Thence run south 56 degrees 02 minutes 04 seconds east for a distance of 59.72 feet;
3. Thence run south 34 degrees 14 minutes 24 seconds east for a distance of 1289.50 feet;
4. Thence run south 23 degrees 48 minutes 54 seconds east a distance of 1129.70 feet to the southerly line of Parcel 4 of the land survey plat dated March 31, 1997 and

recorded April 4, 1997 at Reception No. 97020793, thence leaving said westerly right of way line run along said southerly line for the following two courses:

1. Thence run south 89 degrees 28 minutes 20 seconds west for a distance of 1030.62 feet;
2. Thence run north 00 degrees 06 minutes 52 seconds east for a distance of 697.05 feet to the south line of Parcel 3 of the aforesaid land survey plat;

Thence leaving said southerly line run south 89 degrees 28 minutes 19 seconds west along said south line for a distance of 371.82 feet; thence leaving said south line run north 00 degrees 47 minutes 40 seconds west for a distance of 563.23 feet to the center of a concrete ditch and the beginning of a curve concave to the north having a radius of 180.22 and a chord bearing north 85 degrees 53 minutes 47 seconds west; thence run westerly along the center of said concrete ditch for the following four courses:

1. Thence run westerly along the arc of said curve through a central angle of 27 degrees 18 minutes 47 seconds for a distance of 85.91 feet to the end of said curve;
2. Thence run north 72 degrees 14 minutes 24 seconds west for a distance of 214.69 feet to the beginning of a curve concave to the south having a radius of 1155.17 feet and a chord bearing of north 76 degrees 28 minutes 52 seconds west;
3. Thence run westerly along the arc of said curve through a central angle of 08 degrees 28 minutes 58 seconds for a distance of 171.03 feet to the end of said curve;
4. Thence run north 80 degrees 43 minutes 21 seconds west a distance of 313.76 feet; thence leaving the center of said concrete ditch run north 43 degrees 50 minutes 12 seconds east for a distance of 1007.44 feet to the point of beginning, County of Larimer, State of Colorado.

EXHIBIT B

Description of Water Rights

1. All water associated with share certificate number 6100 in the Consolidated Home Supply Ditch and Reservoir Company.
2. All water associated with share certificate numbers 738, 745, and 757 in the Big Thompson Ditch and Manufacturing Company.
3. All rights for carriage associated with share certificate number 52 in the Consolidated Christian-Connors Lateral Ditch Company.

Copies of the above-referenced share certificates are attached.