

FARM LEASE
Letterly Property South, 14289 Potomac Street, Brighton, CO 80601
31.4 Acres, 24.3 Farmable Acres

THIS FARM LEASE ("Lease") is made and entered into as of the ____ day of _____, 2015 (the "effective date"), by and between **THE CITY OF BRIGHTON**, a Colorado home rule municipality having its address at 500 South 4th Avenue, Brighton, Colorado 80601 ("Landlord"), and **Autumn Nursery, LLC**, a Colorado limited liability corporation, having a business address of 12650 W. 64th Ave, Unit E #160, Arvada, Colorado 80004 ("Tenant"), as follows:

WITNESSETH, that the Landlord, for and in consideration of the rents, covenants, promises and agreements hereinafter set forth, does hereby lease and convey unto the Tenant for the "Term," subject to the terms and provisions of this Lease and all attached Exhibits, the following described real property, to wit (the "Premises"):

A PARCEL ONE AND TWO OF LAND OWNED BY THE LANDLORD AND LOCATED IN THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 1 SOUTH RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDAN, CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED IN EXHIBIT A, ATTACHED HERETO AND INCORPORATED BY REFERENCE, CONTAINING APPROXIMATELY THIRTY ONE AND 4/100 (31.4) ACRES.

Located in the County of Adams, State of Colorado, for five (5) years, commencing on the effective date hereof, and ending on the last day of December, 2019 (the "Term"); for the Tenant's use as a tree nursery or other crops, as provided herein. At the expiration of the Term, Landlord and Tenant may renew this Lease for an additional five (5) year Term by executing a new Lease instrument, which right of renewal shall be at the sole discretion of the Landlord.

The Tenant does hereby hire and let said Premises from the Landlord, and covenants and agrees with the Landlord and Landlord's agents or assigns, that as payment to the Landlord for the use and benefit accruing to the Tenant from the use and occupancy of the Premises as provided herein, the Tenant shall and hereby does bind the Tenant and its heirs and personal representatives, as follows:

First. Cash Rent. The Tenants shall pay to the Landlord cash rent for the Term, in the base amount of Three Thousand Six Hundred Forty-Five Dollars (\$3,645.00) per 24.3 farmable acres, payable in one (1) installment per year, made in good funds made payable and delivered to Landlord on or before December 31st. Tenant shall pay the following cash rent yearly installment for the remaining years in the Term: \$21,645 Year 2, \$21,645 Year 3, \$21,645 Year 4, and \$21,645 Year 5.

Tenant to pay One Thousand Five Hundred Dollars (\$1,500) for rent of the shop building, payable in good funds on the first day of each month of the Term.

Upon the renewal of the initial Term for an additional five (5) year term, the Landlord and Tenant shall agree upon the cash rent yearly installment for said additional term, and execute an addendum to this Lease setting forth said cash rental amounts.

Second. Crops. The Tenant shall farm the Premises in a good and workmanlike manner; shall haul out all debris on the Premises and properly dispose of same or place it where the Landlord desires or instructs, and shall plant on the Premises the following crops: farmable acres, more or less, of crops at the Tenant's discretion.

Third. Duty of Care. The Tenant especially covenants and agrees that the Tenant shall care for the Premises as the Tenant's own, and shall diligently and properly care for and cultivate all of the crops to be grown on the Premises, whenever and as often as said crops shall reasonably require; and Tenant hereby expressly consents that the Tenant shall procure such help or assistance as is reasonably necessary to properly care for and cultivate said crops, and that all expenses thereof shall be paid for by the Tenant. The Tenant shall not allow any furrows to be run so as to cause ditches to wash said Premises, unless first having written consent of the Landlord. That he shall clean out and maintain in good repair, during the term of this Lease, all ditches belonging or appertaining to the Premises.

Fourth. Duty to Cut and Control Weeds. It is further agreed to and understood Tenant agrees to keep all foul and noxious weeds cut and controlled on said Premises, including in all ditches, canals and laterals if any; and also, upon any strip of land lying outside the fences, if any, as far as the center of the roadway, if necessary.

Fifth. Maintenance and Return of Premises. Tenant has received said demised Premises in good order and condition, and at the expiration of the Term of this Lease, or upon a breach by the Tenant of any of the covenants herein contained, agrees to peaceably and faithfully yield up and deliver said Premises to the Landlord, inclusive of all ditches, wells, pumps, pipelines, equipment and fixtures thereon, if any, in as good order and condition as when the same were entered upon, loss by inevitable accident, act of God, or ordinary wear and tear excepted; and the Tenant shall also keep said Premises, inclusive of said ditches, fixtures and equipment, if any, and all fences and gates, in good order and repair during this Lease, at the Tenant's own expense. Tenant agrees not to sublet all or any portion of said Premises to any other party, nor shall Tenant assign this Lease or any interest herein without prior written consent of the Landlord, which consent may be withheld in the Landlord's sole discretion. Tenant shall not use or permit the said Premises to be used for any purpose prohibited by the laws or regulations of the United States, the State of Colorado, Adams County, the City of Brighton, or other governmental entity or agency having jurisdiction or regulatory authority over the Premises or its appurtenances, nor shall the Tenant use or permit the Premises or its appurtenances to be used contrary to the terms of this Lease, or to the detriment or disadvantage of the Landlord in any respect.

Sixth. Irrigation Water B Surface Water Rights & Well Pumping Conditions and Restrictions. That said Landlord hereby grants to Tenant permission to use thirty (30) shares of the Fulton Irrigation Ditch Company located on the Premises, provided, however, that the

Landlord may terminate said use by the Tenant in the event Landlord determines, in its sole discretion, that it needs said water. Furthermore, it is expressly understood and agreed between the parties hereto, that said Landlord shall not be liable to Tenant for any shortage of water for the irrigation of the aforesaid Premises.

Tenant shall pay to the City the annual Fulton Irrigating Ditch Company assessments for the subject water, the amount of the assessment to be determined annually. Tenant shall pay all other expenses incident to the use of the water during the term of the Lease, including, but not limited to, any fees assessed by the Ditch Company to use the water at the location specified by Tenant. Landlord hereby agrees to allow Tenant to use the subject water subject to approval by the Ditch Company. Tenant agrees that water will be used only in connection with the operation of the Property, and will not be used on other property without prior written approval of the Landlord and the Ditch Company. Tenant shall keep records of all water used on the property during the term of the Lease, and shall deliver copies of those records to Landlord. Landlord makes no warranty or agreement of any kind concerning the amount of water or water rights available on or to the Property and Operator shall in no way hold Landlord responsible for any shortage or excess of water for any purpose. Tenant agrees not to assign the water rights pursuant to this Lease to any other person, nor to sublease all or any part of the water. Tenant shall provide access to property by the Landlord and/or other parties for the purposed of maintaining and managing Fulton Ditch Water that flows through the property.

The Landlord hereby grants to Tenant permission to use the Letterly Well #1-1364, Colorado Well permit NO WDID0206977, Augmented by Central Colorado Water Conservancy District (CCWCD) contract #1056. Tenant shall follow the pumping allocation determined by CCWCD annually. If the tenant anticipates pumping water beyond the allocation, additional augmentation must be secured prior to pumping. Over pumping may result in fines, penalties, and/or curtailment of pumping. Tenant shall be responsible Fines or Penalties. Tenant shall pay the annual assessment determined by CCWCD. The assessment is determined annually.

Tenant further covenants and agrees with the Landlord that he shall not waste, or cause to be wasted, water on any adjacent or surrounding lands, or any public highways or railroads, and agrees to indemnify and hold harmless the City from any and all damages or claims by waste water as aforesaid. Tenant agrees to pay for all said damages or claims and to reserve at the time of gathering and marketing sufficient crops, to use the proceeds of the sale thereof to satisfy said damages or claims, and to pay any unpaid repairs on said main lateral with which the Tenant is properly chargeable.

Seven. Tenant's Share of Ditch Maintenance. Tenant, in consideration of the Premises, and as otherwise provided herein, agrees to pay Tenant's pro rata proportion and share of the necessary expenses of keeping any ditch or lateral on the premises in good repair. Tenant shall also keep all other fixtures and equipment, if any, in good repair at Tenant's expense. Said expenses are to be paid in money or work on said facilities at the option of the Tenant; but if paid in work, the work must be done at such times as the same is needed and required.

Eight. Entry by Landlord During Term. The Landlord hereby reserves the right to re-enter the Premises at any reasonable time during the Term of this Lease, upon providing reasonable advance notice to the Tenant. Tenant agrees to reasonably cooperate with the Landlord regarding same, and shall allow all reasonable entry and inspections of the Premises such as may occur during reasonable business hours. It is understood between the parties that if, during the term of this Lease, the Landlord determines in its sole discretion that it is necessary to occupy and use all or part of the Lease Premises for its own purpose, then this Lease may be cancelled or modified by Landlord to provide for said use by the Landlord as the Landlord may determine. All adjustments, if any, as a result of the cancellation or modification shall be as of the date of change of use. If cancelled or modified, the Landlord shall not be liable for any loss or damage to Tenant as a result thereof.

Nine. Landlord's Reversion and Estate. It is further expressly agreed and understood by and between the Parties, that the Landlord does not by this Lease part with Landlord's entire possession of said Premises, but only so far and so much as is necessary to enable the Tenant to properly farm said Premises temporarily, and to carry out the terms and provisions of this Lease. All crops are and shall be held by the Tenant except as otherwise provided herein, and the Landlord hereby reserves the right to at all reasonable times enter in and upon said Premises and every part thereof and to do such acts and things as may be deemed necessary for the protection of the Landlord's interest and estate therein.

Ten. Hold Harmless. Tenant shall indemnify, defend, and hold Landlord harmless from and against any and all claims or demands arising from or out of Tenant's use and occupancy of the Premises, or from the conduct of Tenant's business or from any activity, work or other acts or undertakings that may be undertaken, permitted or suffered by Tenant in or about the Premises, and the Tenant shall further indemnify, defend and hold the Landlord harmless in all respects from and against any and all claims or demands arising from or out of any breach or default in the performance of the terms and provisions of this Lease by Tenant, including any attachments, Exhibits, documents or instruments referenced herein; or arising from any negligent or intentional act or omission by Tenant or its agents, employees, hands, contractors, guests, or invitees on the Premises, and from and against any and all costs, attorneys fees, expenses or liabilities incurred by Landlord in the defense of any such claim or demand, or any action or proceeding brought thereon. Tenant hereby assumes all risk of bodily injury or damage to property or persons in or about the Premises from any cause during the term of this Lease or otherwise during Tenant's occupancy of the Premises, and Tenant hereby expressly waives all claims or demands in respect thereof against Landlord, except where such damage or loss, if any, is proximately caused by the Landlord.

Eleven. Entire Agreement. It is understood that this instrument embodies the whole agreement between the parties. There are no promises, terms, conditions, or obligations other than those contained herein and this Lease shall supersede all previous communications, representations, or agreements either verbal or written between the parties hereto.

Twelve. Notice. All notice provided under this Lease shall be effective when mailed, postage prepaid and sent to the following addresses:

If Tenant:

Autumn Nursery, LLC
Marc A Robinson
12650 W. 64th Ave., Unit E #160
Arvada, CO 80004
Phone Number: 303-638-8554

If City:

Director of Parks
and Recreation
City of Brighton
500 South 4th Avenue
Brighton, CO 80601
303.655.2049

With Copy To:

City Manager
City of Brighton
500 South 4th Avenue
Brighton, CO 80601
303.655.2001

Procurement & Contracts
Manager
City of Brighton
500 South 4th Avenue
Brighton, CO 80601

Thirteen. Miscellaneous. The Tenant shall not cause, allow, or suffer or permit to be caused or allowed, any undue waste or destruction of Landlord's Property. In case of any breach of this Lease by a Party, then the non-breaching Party shall be entitled to claim and recover its actual damages and reasonable attorney fees and costs from the other Party, in any civil action to remedy or cure such breach. This Lease may be recorded in the real property records of Adams County, Colorado.

Fourteen. Additional Provisions: (1) Tenant shall keep all fences in good repair and all ditch banks and fence lines shall be kept free from weeds; (2) United Power or other utility bills, if any, associated with Tenant's farming activities shall be promptly paid by Tenant, in full, when due; (3) No trash, debris, vegetable packing boxes, or other refuse or material shall be deposited or left upon the Premises, and the Tenant agrees to keep the Premises free and clear of such trash, debris and other such material during this Lease and upon re-delivery of the Premises to Landlord at the end of this Lease; (4) Lessee will have one (1) year to remove all inoperable equipment and vehicles from the Premises; (5) Lessee has agreed to provide the City with a tree nursery. The nursery will contain 600 trees after the third year of the initial Term of the Lease. The City will purchase two hundred (200) tree whips per year, for three (3) years. The Lessee will plant, water, trim, replace and otherwise maintain the trees. At the time the City desires to use the trees, the Lessee shall dig and ball the trees for pickup by the City; (6) the Tenant shall manage the Premises in accordance with the Deed of Conservation Easement in Gross, Exhibit C attached hereto; (7) In the event that the Premises, or any portion thereof, become subject to a condemnation or other proceeding or taking through eminent domain or other process, then all proceeds shall be payable to the Landlord except for any compensation attributable to Tenant's crops, which shall be Tenant's obligation, not Landlord's, to pursue and recover from the condemning authority directly. Tenant shall have no claim to any portion of the just compensation or proceeds attributable to the real property and Premises; (8) By entering into this Lease, the Landlord does not in any way waive its rights, remedies, limitations, or exclusions under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq.; (9) To the extent that any of these Additional Provisions conflict with any other provision in this Lease, then these Additional Provisions shall control, such that

