

**RESOLUTION NO. 2210**

**A RESOLUTION OF THE GOLDEN CITY COUNCIL  
AUTHORIZING A LICENSE AGREEMENT WITH DENVER  
URBAN GARDENS TO USE A PORTION OF CITY PROPERTY  
FOR THE GOLDEN COMMUNITY GARDEN.**

WHEREAS, the successful Golden Community Garden efforts in 2009 through 2012 were the result of many volunteer hours spent organizing, constructing and maintaining the Garden for the use of the community; and

WHEREAS, the Golden Community Garden has furthered the City's progress toward its Sustainability Goals in terms of giving the community access to healthy eating options, improving our community's self reliance, reducing vehicle miles traveled, and supporting local food; and

WHEREAS, Golden Community Garden Steering Committee wishes to continue their efforts by partnering with Denver Urban Gardens to provide for the long term management of the Garden; and

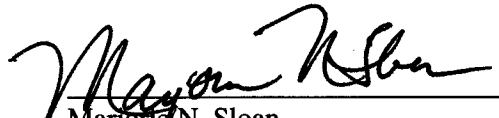
WHEREAS, Denver Urban Gardens currently operates over 120 community gardens in the Denver metro area and has the expertise to support, garden organization, leadership, and maintenance.

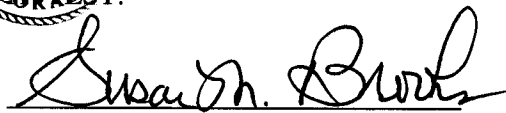
THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

The Mayor is authorized to execute on behalf of the City of Golden, an Agreement to allow Denver Urban Gardens to use City property, substantially similar to the agreement attached hereto, including Exhibits A through C.


Adopted this 16<sup>th</sup> day of August, 2012.



  
Marjorie N. Sloan  
Mayor

  
Susan M. Brooks, MMC  
City Clerk


Approved as to form:

  
David S. Williamson  
City Attorney

I, Susan M. Brooks, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing is a true copy of a certain Resolution adopted by the City Council of the City of Golden, Colorado at a rescheduled regular business meeting thereof held on the 16<sup>th</sup> day of August, A.D. 2012.



ATTEST:

  
Susan M. Brooks, City Clerk of the City of  
Golden, Colorado

## **GOLDEN COMMUNITY GARDEN LICENSE AGREEMENT**

THIS LICENSE AGREEMENT ("Agreement") is entered into by and between the CITY OF GOLDEN, COLORADO a Colorado home rule municipality (the "City" or "Golden"), and DENVER URBAN GARDENS, a Colorado nonprofit corporation (the "Licensee").

### **RECITALS**

WHEREAS, the City is the owner of certain property in Golden, Colorado, known as the "upper shops" location; and

WHEREAS, the Licensee desires to operate and maintain a community garden, known as the "Golden Community Garden," within the City in the "upper shops" location; and

WHEREAS, the Golden Community Garden will be accessible to the public and may be used by Golden citizens upon application and as space permits; and

WHEREAS, since 2009, the Golden Community Garden has existed to provide a place for citizens of Golden to plant and harvest their own produce in a communal setting, to visibly enhance an underdeveloped area, and to educate participants and the community regarding efficient watering practices; and

WHEREAS, Denver Urban Gardens, a Denver metro region nonprofit organization, wishes to support the Golden Community Garden through these practices; and

WHEREAS, the City believes the grant of this License and the continuance of the Golden Community Garden in cooperation with Denver Urban Gardens will benefit the citizens of Golden.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Grant of License. Subject to the terms and conditions set forth herein, the City grants to the Licensee a non-exclusive revocable license to operate and maintain a community garden (the "Golden Community Garden" or "Garden") within City property known as the "upper shops" location (the "Property"). The exact location and boundaries of the Property to which this Agreement applies is shown on **Exhibit A**.

2. Term. The term of the Agreement granted herein shall be from the date last signed below, through December 31, 2012. Upon annual verification by the City that Licensee is in compliance with the terms set forth in this Agreement, this Agreement shall automatically renew each year on January 1<sup>st</sup> for one-calendar year terms, until December 31, 2021.

3. Ownership of Improvements.

- a. **Existing Improvements.** All Permanent Improvements that were installed or constructed on the Property before the date of this Agreement are property of the City. For purposes of this Agreement, "Permanent Improvements" shall mean any and all improvements requiring a building permit from the City to construct or install.
- b. **Future Improvements.** All Permanent Improvements installed or constructed on the Property after the date of this Agreement shall be the property of the City, unless the City and Licensee expressly agree otherwise in writing before a building permit is issued.

4. Installation, Construction and Maintenance of Improvements and Alterations. Licensee shall be responsible for the installation, construction and maintenance of all improvements located on the Property that are necessary for the operation of the Golden Community Garden. All improvements, including Permanent Improvements, to the Garden made by or at the direction of the Licensee must be approved in writing by the City prior to installation and construction. Licensee is responsible for acquisition of all permits and payments of all fees associated with such installation and construction. No Permanent Improvements shall be authorized without the express written consent of the City of Golden Sustainability Manager and Chief Building Official, and must be installed in accordance with an Annual Work Plan approved through the City in collaboration with the Licensee and the Golden Community Garden Steering Committee. The City shall not be responsible for, or liable for damage, theft or loss of, any improvements or personal property brought, installed, constructed, or kept on the Property by Licensee or by any of the participants in the Garden ("Gardeners").

5. Roles and Responsibilities.

a. **Licensee.** The Licensee shall be responsible for general management of the Garden, including plot reservations, plot revenue and fund management, and organizing volunteers. Licensee shall maintain memberships of the Garden open to all City of Golden residents and shall not discriminate on the basis of race, religion, national origin, color, sex, age, veteran status, or disability.

b. **City.** From time to time, at the discretion of the City Parks and Recreation Director, City Parks personnel may work with the Licensee to perform seasonal clean-up or other work to maintain City accreditation and best management practices for maintenance of the Garden.

6. Utilities and Tap Fees. Licensee shall be responsible for obtaining and paying all water, electricity, drainage, or any other utility service used on the Property during the license term. Licensee shall pay all water consumption costs through the City's water billing system. The applicable rate charged shall be the current City non-potable irrigation rate. A one and one-half inch (1-1/2") irrigation tap shall be provided and retained by the City.



7. Eighth Street Access Road. If the City requires the construction of a new public access road identified in the Clear Creek Corridor Master Plan to connect Eighth Street and the Community Center, the Licensee shall assist in the removal of all Garden improvements necessary for the City's demolition and construction of the road area and shall relocate said improvements to an area approved by the City. If Licensee wishes to preserve and relocate any Garden infrastructure removed due to City demolition of the road area, costs for the removal of the infrastructure, beyond basic demolition, shall be borne by the Licensee.

8. Operation Requirements. The Licensee shall operate and maintain the Property as a community garden. Licensee's operation on the Property shall not conflict or interfere with City operations that require unfettered access to the Church Ditch turn-out and continuous access by truck on the north side of the Property to the water plant ponds. Licensee shall operate the Garden in accordance with a set of garden rules substantially in the form attached as **Exhibit B**, and Licensee shall have all persons to whom it assigns plots in the Garden ("Gardeners") acknowledge and sign (either electronically or on paper) the garden rules. Licensee shall also require all Gardeners in the Golden Community Garden to acknowledge and sign (either electronically or on paper) an "Advisement of Risk, Release of Liability, and Indemnification Agreement" as to the City of Golden, in substantially the form attached hereto as **Exhibit C**, and shall collect, maintain for the duration of this Agreement, and provide the same to the City upon request. Should this Agreement terminate for any reason whatsoever, Licensee shall provide copies of all acknowledged and signed "Advisement of Risk, Release of Liability, and Indemnification Agreements" to the City for its records.

9. Reporting Requirements. The Licensee shall submit an Annual Work Plan to the City's Sustainability Manager prior to each growing season and an end-of-year summary prior to each growing season. The Annual Work Plan shall include any plans to construct or install new Permanent Improvements or to alter any existing Permanent Improvements.

10. Indemnification and Release. Licensee shall, for itself, its officers, officials, members, participants, agents and subcontractors, defend, indemnify, and hold harmless the City, its successors, assigns, officers, employees, agents and appointed and elected officials from and against all liability, injury, damage or death and all claims or demands of any nature and reimburse the City for all its reasonable expenses, including attorney fees, incurred as a result of, or in any manner arising from, the construction, operation, or maintenance of the Golden Community Garden.

In the event of legal action between the City and Licensee for a breach of this Agreement, the prevailing party shall be awarded its costs including reasonable attorney fees.

The parties hereto understand and agree that the City, its officer and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado

Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S., as from time to time amended, or otherwise available to the City, its officers, officials, or employees.

11. **Insurance.** Licensee shall obtain and maintain, during the term of this Agreement, general liability insurance for the operations of the activities licensed herein. Such insurance shall be written by an insurance company licensed to do business in the State of Colorado, and shall include a limit of liability of at least one million dollars, (\$1,000,000.00) and shall include Golden as a named insured. A Certificate of Insurance shall be completed by the Licensee's insurance agent(s) as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by the City prior to commencement of any services under this Agreement. The Certificate shall identify this Agreement, and shall be provided within 30 days of the effective date of this Agreement and annually thereafter on or before January 30<sup>th</sup>, so long as this Agreement remains in effect. The completed Certificate of Insurance shall be sent to:

City of Golden  
Attn: Sustainability Manager  
911 10<sup>th</sup> St.  
Golden, CO 80401

At least 20 days prior to the effective date for any material change(s) in insurance coverage required herein, Licensee shall notify the City such change, and timely take such steps that may be necessary to comply with the insurance provisions of this Agreement. The City shall have the right to request and receive a certified copy of any policy and any endorsement thereto.

12. **Compliance with Laws.** This Agreement relates only to permission to encroach onto City property under the terms and conditions set forth herein. The execution of this Agreement shall not relieve the Licensee from complying with any provision of the Golden Municipal Code, including compliance with zoning ordinances and use restrictions, or building codes, nor shall this Agreement be construed as approval by the City to construct the improvements contemplated by Licensee, to the extent that City approvals or permits are otherwise required by the Golden Municipal Code or Colorado statute.

13. **Notice.** Any notice or communication between the Licensee and the City which may be required or which may be given under the terms of this Agreement shall be in writing, and shall be deemed to have been sufficiently given, when directly presented or sent pre-paid, first class United States Mail, addressed as follows:

City of Golden  
Attn: Theresa Worsham  
Sustainability Manager  
1445 10th Street  
Golden, CO 80401

Denver Urban Gardens  
Attn: Michael Buchenau  
Executive Director  
3377 Blake Street, Suite 113  
Denver, CO 80205

Tel:(303) 384-8117

Tel:(303) 292-9900

14. Police Power Reserved. The rights granted herein shall not limit or otherwise restrict the right of the City to exercise its police power with respect to its control of the licensed property.

15. Termination. Either party may terminate this Agreement, with or without cause, by providing the other party written notice in accordance with the following: the Licensee shall provide 90 days written notice to the City to terminate this Agreement at any time during the term; the City shall provide written notice of termination to the Licensee by September 30<sup>th</sup> of the year prior to the next growing season. In either event, Licensee shall be responsible for providing notice to the Gardeners of the termination of the Agreement and their obligation to remove any and all improvements and personal property in their individual plots within 90 days from the date of notice of termination, per paragraph 16 below.

16. Removal of Improvements and Personal Property.

Upon termination by either party, the Gardeners shall have 90 days from the date of the written notice of termination to remove any and all improvements or personal property from their individual plots. Any improvements or personal property left on the Property by the Gardeners 90 days after termination shall be subject to disposal by the City.

With respect to Permanent Improvements on the Property, upon termination by either Party, Licensee shall remove at its expense only those Permanent Improvements installed by Licensee on the Property that the City and Licensee agreed, pursuant to paragraph 3.b. of this Agreement, are the property of Licensee. Such Permanent Improvements shall be removed by Licensee within 90 days from the date of written notice of termination, and, if not removed within such time frame, shall become the property of the City, and shall be subject to transfer, donation, sale, relocation, removal, disposal or destruction by the City. All other improvements on the Property (with the exception of personal property owned by Gardeners) shall be the property of the City, and the City may transfer, donate, sell, relocate, remove, dispose or destroy such improvements in any manner it chooses. Licensee shall be responsible for reclaiming all Garden property during a joint demolition effort between the City and Licensee upon termination.

17. Relocation of Garden within City. The foregoing notwithstanding, if the City chooses to relocate the Garden within the City during the term of this Agreement or upon termination of this Agreement, the City may, subject to its sole discretion, relocate any and all Permanent Improvements owned by the City to the new Garden location. Licensee shall remove, at its expense, those Permanent Improvements on the Property that are owned by Licensee within 90 days of receiving written notice from the City of its intent to relocate the Garden within the City, and Licensee may, at its expense, relocate its improvements (Permanent and otherwise) to the new Garden location, subject to City approval and permitting requirements. Any

improvements owned by Licensee that are not removed within such time frame, shall become the property of the City, and shall be subject to transfer, donation, sale, relocation, removal, disposal or destruction by the City. The Gardeners shall also have 90 days from the date of the written notice of termination to remove (and relocate, at their option) any and all improvements or personal property from their individual plots. Licensee shall be responsible for providing notice to the Gardeners of the relocation of the Garden, and shall advise the Gardeners that any improvements or personal property left on the Property by the Gardeners more than 90 days after Licensee received written notice of relocation shall be subject to disposal by the City.

18. Non-Assignability. Neither this Agreement, nor any of the rights or obligations of the parties hereto, shall be assigned by either party without the written consent of the other.

**This Agreement shall be effective on the date last signed below:**

**FOR THE CITY OF GOLDEN:**

\_\_\_\_\_  
Marjorie Sloan, Mayor

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk

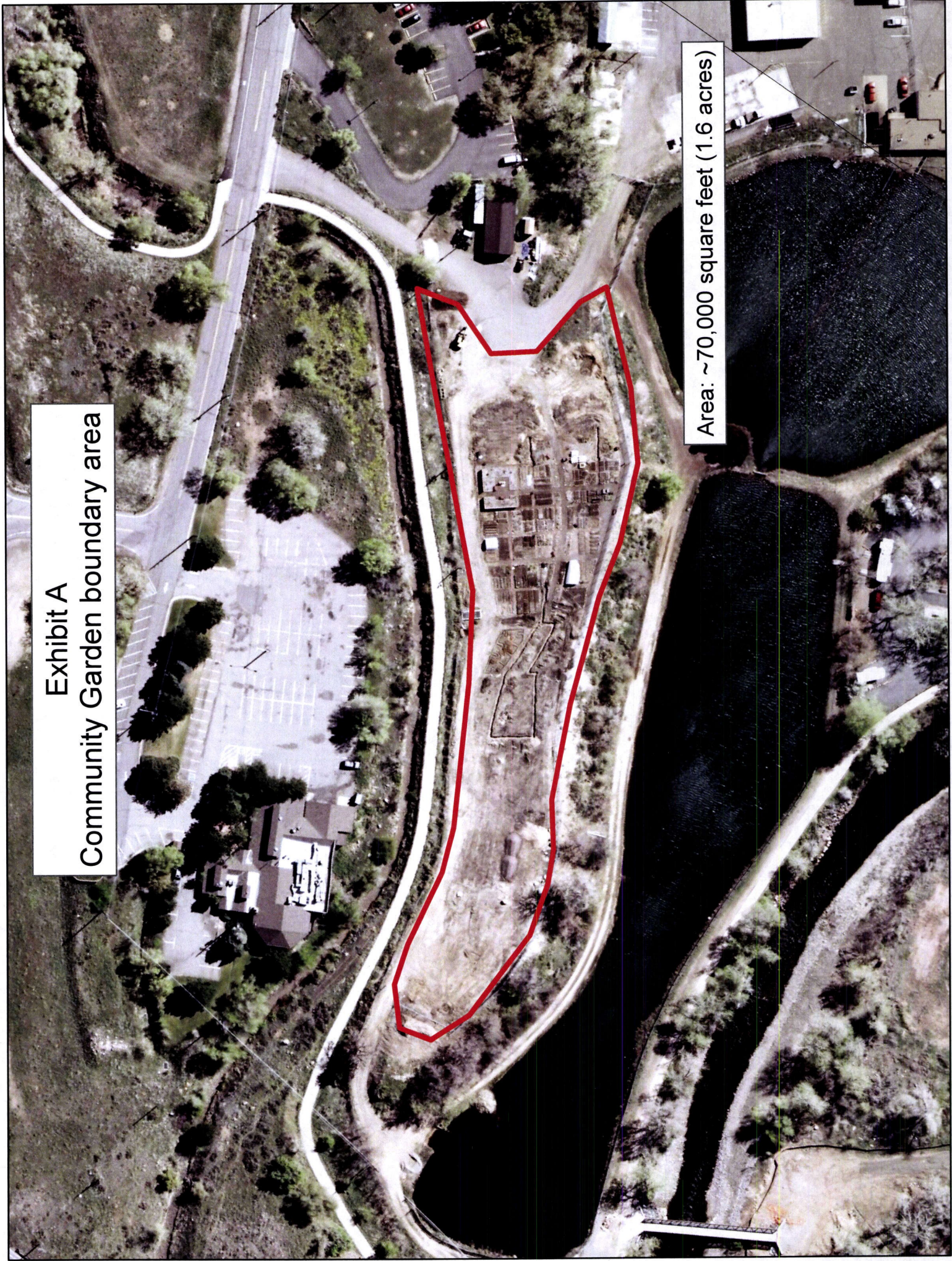
**FOR THE LICENSEE:**

\_\_\_\_\_  
Michael Buchenau, Denver Urban Gardens

Date: \_\_\_\_\_



Exhibit A  
Community Garden boundary area



Area: ~70,000 square feet (1.6 acres)



## Exhibit B

# Community Garden Rules and Regulations



### GARDENER RESPONSIBILITIES

The following guidelines outline the management of the Community Garden and its site property. These guidelines have been established by Golden Community Garden Steering Committee as a basis for a use agreement between the two parties. In turn, Golden Community Garden provides gardeners with the authority and permission to use the garden site. We, as a community, have a responsibility to keep our garden managed effectively. The garden is a privilege and everything works more smoothly when people are involved in its overall upkeep. Please also remember to treat your fellow gardeners as you would like to be treated.

Golden Community Garden has a volunteer Steering Committee to collect the plot fees, assign plots, organize maintenance, and coordinate garden related activities. With your signature below, you acknowledge as a participating gardener responsibility for the following:

1. **Providing an average of four hours per month per plot** (or approximately 16 hours over the season) to the community garden above and beyond your own garden plot. (Failure to contribute your hours can result in the loss of gardening privileges.) Hours can be tracked here: <http://www.goldencommunitygarden.org/hours.html>
2. Submitting dues for the 2011 gardening season.
3. If for any reason you find that you cannot care for your garden, you are required to notify the Steering Committee and make arrangements with other gardeners to water and maintain your plot during your absence. **If a garden appears neglected/abandoned (unwatered and/or overrun with weeds) you will be given ten (10) days notice to maintain your plot. After this time your plot will be re-assigned.**
4. The Golden Community Garden requires water restrictions and conservation measures be followed. A gardener **MUST** remain on the premises while his/her garden is being watered, unless they have installed drip irrigation. With or without drip systems, the garden cannot allow excess water to drain onto adjacent property.
5. **It is Golden Community Garden policy to prohibit use of non-organic pesticides, herbicides and fertilizers.**
6. The maintenance of Common areas and furnishings, fencing, trees, trash receptacles, compost bins, street right-of-way, and water lines are the shared responsibility of all gardeners.
7. All pathways must be kept clear for all to use. If you're plot encroaches on the pathway (mulch paths are generally 3', and gravel pathways are 5' wide), you may find that maintenance will be done to return the area to a pathway.
8. Gardeners must have their plot planted within two weeks after opening day or the plot could be forfeited and reassigned.
9. Each gardener is responsible for clearing and tilling his/her plot before the close of the season. All dead plants, weeds, trash, tools, sticks and cages are to be removed or stored by November 1<sup>st</sup> (Unless arrangements are made for late season gardening.)
10. The Garden Steering Committee shall not discriminate on the basis of race, creed, color, national or ethnic origin, religion, marital status, age, sex, sexual orientation, or disability, in its garden membership and the administration of its programs.
11. In the event that a dispute arises between gardeners, or between a gardener (s) and the designated garden steering committee, and a resolution of the dispute cannot be reached by these parties, I agree to have Golden Community Garden act as the arbitrator of the dispute, and I further agree to adhere to Golden Community Garden's decision as final.

**Mail to: P.O. Box 17481 Golden, CO 80402**

More information, including answers to frequently asked questions can be found on our website:

<http://www.goldencommunitygarden.org>



## Exhibit C

# CITY OF GOLDEN ~ COMMUNITY GARDEN PROGRAM

### **ADVISEMENT OF RISK, RELEASE OF LIABILITY AND INDEMNIFICATION AGREEMENT:**

**Please read this form carefully** and be aware that by your participation in this Community Garden Program you are advised of and assume the risks that you may experience as a result of participating in this Program.

The Community Garden Program is an activity in which, despite preparation, instruction, medical advice, conditioning, and equipment, there is still a risk of personal and bodily injury, sickness, disease, death, property loss or damage, such as the following. This list is by no means exhaustive, but includes:

1. Muscle strain and other muscle or soft tissue injuries.
2. Foot problems or foot injury.
3. Heat stroke or heat exhaustion.
4. Other bodily injury.

I do hereby assume all such risks and further waive, exempt and release the City of Golden, its officers and employees from any and all claims, actions or demands for any injury, loss or damage arising out of my participation in the Community Garden Program, whether or not caused by the act, omission, negligence or fault of the City or its officers and employees

I further agree to indemnify, hold harmless, and defend the City of Golden and its officers and employees from any and all claims, demands or actions resulting from injuries, damages, or losses arising out of, connected with, or in any way associated with the activities of the Community Garden Program.

I understand and acknowledge that the City of Golden, its officers, and its employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently \$150,000 per person and \$600,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. §24-10-101 et seq., as amended, or otherwise available to the City of Golden, its officers, or its employees.

I understand and agree that this Agreement shall be governed by the laws of the State of Colorado, and that jurisdiction and venue for any suit or cause of action under this Agreement shall lie in the courts of Jefferson County, Colorado. I further agree that if any portion of this Agreement is held invalid that the remainder shall continue in full force and effect and that this Agreement shall be binding upon me, my successors, representatives, heirs, executors, assigns and transferees.

Photographs, digital images, or videotape of program participants and spectators may be used for future promotional or marketing material.

I have read and fully understand the above. I understand this agreement may not be amended except upon written agreement of the parties.

**Participant's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Participant's Name (please print):** \_\_\_\_\_

**Birth Date:** \_\_\_\_\_ **Age:** \_\_\_\_\_ **Sex:** M \_\_\_ F \_\_\_ **Phone #:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Photo Release (please initial):** \_\_\_\_\_ Yes \_\_\_\_\_ No

### **IF PARTICIPANT IS UNDER 18 YEARS OLD, PARENT SIGNATURE AND DATE:**

By initialing above and signing below, I acknowledge that I am the parent of the above-named participant, as such term is defined in C.R.S. § 13-22-107 (2)(b), and I hereby waive and release any prospective claim of the participant against the City of Golden, its officers, and its employees, for negligence, to the extent provided by Colorado law, in connection with the above-described activities.

**Parent's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Parent - Print Name:** \_\_\_\_\_

## **GOLDEN COMMUNITY GARDEN LICENSE AGREEMENT**

THIS LICENSE AGREEMENT ("Agreement") is entered into by and between the CITY OF GOLDEN, COLORADO a Colorado home rule municipality (the "City" or "Golden"), and DENVER URBAN GARDENS, a Colorado nonprofit corporation (the "Licensee").

### **RECITALS**

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WHEREAS, the Licensee desires to operate and maintain a community garden, known as the "Golden Community Garden," within the City in the "upper shops" location; and

WHEREAS, the Golden Community Garden will be accessible to the public and may be used by Golden citizens upon application and as space permits; and

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WHEREAS, the City believes the grant of this License and the continuance of the Golden Community Garden in cooperation with Denver Urban Gardens will benefit the citizens of Golden.

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5. Roles and Responsibilities.

a. Licensee. The Licensee shall be responsible for general management of the Garden, including plot reservations, plot revenue and fund management, and organizing volunteers. Licensee shall maintain memberships of the Garden open to all City of Golden residents and shall not discriminate on the basis of race, religion, national origin, color, sex, age, veteran status, or disability.

b. City. From time to time, at the discretion of the City Parks and Recreation Director, City Parks personnel may work with the Licensee to perform seasonal clean-up or other work to maintain City accreditation and best management practices for maintenance of the Garden.

6. Utilities and Tap Fees. Licensee shall be responsible for obtaining and paying all water, electricity, drainage, or any other utility service used on the Property during the license term. Licensee shall pay all water consumption costs through the City's water billing system. The applicable rate charged shall be the current City non-potable irrigation rate. A one and one-half inch (1-1/2") irrigation tap shall be provided and retained by the City.

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the infrastructure, beyond basic demolition, shall be borne by the Licensee.

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In the event of legal action between the City and Licensee for a breach of this Agreement, the prevailing party shall be awarded its costs including reasonable attorney fees.

The parties hereto understand and agree that the City, its officer and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S., as from time to time amended, or otherwise available to the City, its officers, officials, or employees.

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Attn: Theresa Worsham  
Sustainability Manager  
1445 10th Street  
Golden, CO 80401  
Tel:(303) 384-8117

Denver Urban Gardens  
Attn: Michael Buchenau  
Executive Director  
3377 Blake Street, Suite 113  
Denver, CO 80205  
Tel:(303) 292-9900

14. Police Power Reserved. The rights granted herein shall not limit or otherwise restrict the right of the City to exercise its police power with respect to its control of the licensed property.

15. Termination. Either party may terminate this Agreement, with or without cause, by providing the other party written notice in accordance with the following: the Licensee shall provide 90 days written notice to the City to terminate this Agreement at any time during the term; the City shall provide written notice of termination to the Licensee by September 30<sup>th</sup> of the year prior to the next growing season. In either event, Licensee shall be responsible for providing notice to the Gardeners of the termination of the Agreement and their obligation to

remove any and all improvements and personal property in their individual plots within 90 days from the date of notice of termination, per paragraph 16 below.

16. Removal of Improvements and Personal Property.

Upon termination by either party, the Gardeners shall have 90 days from the date of the written notice of termination to remove any and all improvements or personal property from their individual plots. Any improvements or personal property left on the Property by the Gardeners 90 days after termination shall be subject to disposal by the City.


With respect to Permanent Improvements on the Property, upon termination by either Party, Licensee shall remove at its expense only those Permanent Improvements installed by Licensee on the Property that the City and Licensee agreed, pursuant to paragraph 3.b. of this Agreement, are the property of Licensee. Such Permanent Improvements shall be removed by Licensee within 90 days from the date of written notice of termination, and, if not removed within such time frame, shall become the property of the City, and shall be subject to transfer, donation, sale, relocation, removal, disposal or destruction by the City. All other improvements on the Property (with the exception of personal property owned by Gardeners) shall be the property of the City, and the City may transfer, donate, sell, relocate, remove, dispose or destroy such improvements in any manner it chooses. Licensee shall be responsible for reclaiming all Garden property during a joint demolition effort between the City and Licensee upon termination.

17. Relocation of Garden within City. The foregoing notwithstanding, if the City chooses to relocate the Garden within the City during the term of this Agreement or upon termination of this Agreement, the City may, subject to its sole discretion, relocate any and all Permanent Improvements owned by the City to the new Garden location. Licensee shall remove, at its expense, those Permanent Improvements on the Property that are owned by Licensee within 90 days of receiving written notice from the City of its intent to relocate the Garden within the City, and Licensee may, at its expense, relocate its improvements (Permanent and otherwise) to the new Garden location, subject to City approval and permitting requirements. Any improvements owned by Licensee that are not removed within such time frame, shall become the property of the City, and shall be subject to transfer, donation, sale, relocation, removal, disposal or destruction by the City. The Gardeners shall also have 90 days from the date of the written notice of termination to remove (and relocate, at their option) any and all improvements or personal property from their individual plots. Licensee shall be responsible for providing notice to the Gardeners of the relocation of the Garden, and shall advise the Gardeners that any improvements or personal property left on the Property by the Gardeners more than 90 days after Licensee received written notice of relocation shall be subject to disposal by the City.

18. Non-Assignability. Neither this Agreement, nor any of the rights or obligations of the parties hereto, shall be assigned by either party without the written consent of the other.

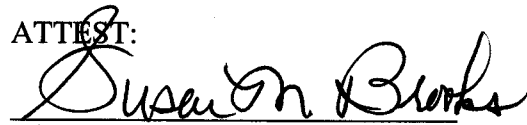
This Agreement shall be effective on the date last signed below:

**FOR THE CITY OF GOLDEN:**

  
\_\_\_\_\_  
Marjorie Sloan, Mayor

Date: August 16, 2012

ATTEST:

  
\_\_\_\_\_  
City Clerk

**FOR THE LICENSEE:**

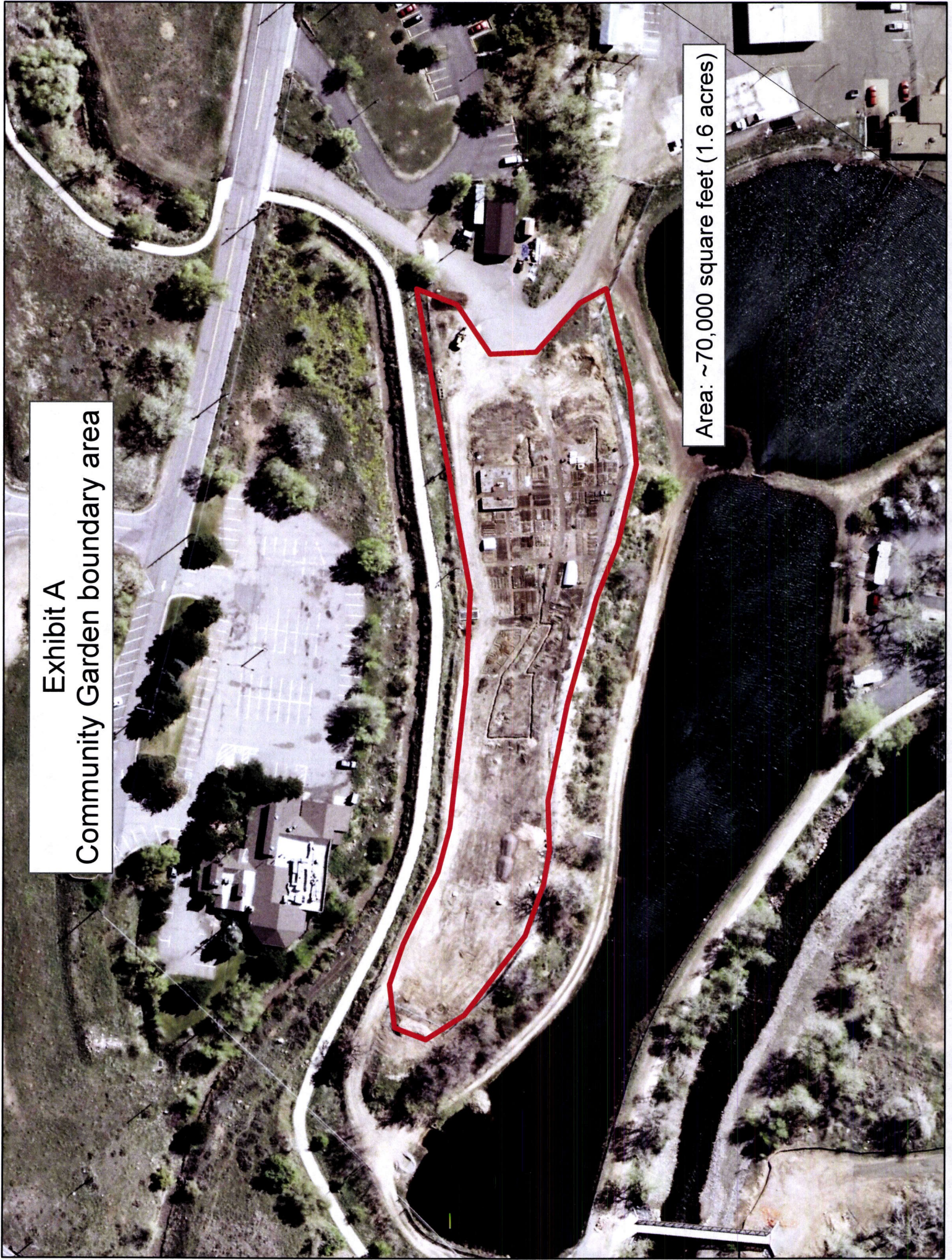
  
\_\_\_\_\_  
Michael Buchenau, Denver Urban Gardens

Date: 10/8/12



Exhibit A  
Community Garden boundary area

Area: ~70,000 square feet (1.6 acres)





## Exhibit B

# Community Garden Rules and Regulations



### GARDENER RESPONSIBILITIES

The following guidelines outline the management of the Community Garden and its site property. These guidelines have been established by Golden Community Garden Steering Committee as a basis for a use agreement between the two parties. In turn, Golden Community Garden provides gardeners with the authority and permission to use the garden site. We, as a community, have a responsibility to keep our garden managed effectively. The garden is a privilege and everything works more smoothly when people are involved in its overall upkeep. Please also remember to treat your fellow gardeners as you would like to be treated.

Golden Community Garden has a volunteer Steering Committee to collect the plot fees, assign plots, organize maintenance, and coordinate garden related activities. With your signature below, you acknowledge as a participating gardener responsibility for the following:

1. **Providing an average of four hours per month per plot** (or approximately 16 hours over the season) to the community garden above and beyond your own garden plot. (Failure to contribute your hours can result in the loss of gardening privileges.) Hours can be tracked here: <http://www.goldencommunitygarden.org/hours.html>
2. Submitting dues for the 2011 gardening season.
3. If for any reason you find that you cannot care for your garden, you are required to notify the Steering Committee and make arrangements with other gardeners to water and maintain your plot during your absence. **If a garden appears neglected/abandoned (unwatered and/or overrun with weeds) you will be given ten (10) days notice to maintain your plot. After this time your plot will be re-assigned.**
4. The Golden Community Garden requires water restrictions and conservation measures be followed. A gardener MUST remain on the premises while his/her garden is being watered, unless they have installed drip irrigation. With or without drip systems, the garden cannot allow excess water to drain onto adjacent property.
5. **It is Golden Community Garden policy to prohibit use of non-organic pesticides, herbicides and fertilizers.**
6. The maintenance of Common areas and furnishings, fencing, trees, trash receptacles, compost bins, street right-of-way, and water lines are the shared responsibility of all gardeners.
7. All pathways must be kept clear for all to use. If you're plot encroaches on the pathway (mulch paths are generally 3', and gravel pathways are 5' wide), you may find that maintenance will be done to return the area to a pathway.
8. Gardeners must have their plot planted within two weeks after opening day or the plot could be forfeited and reassigned.
9. Each gardener is responsible for clearing and tilling his/her plot before the close of the season. All dead plants, weeds, trash, tools, sticks and cages are to be removed or stored by November 1<sup>st</sup> (Unless arrangements are made for late season gardening.)
10. The Garden Steering Committee shall not discriminate on the basis of race, creed, color, national or ethnic origin, religion, marital status, age, sex, sexual orientation, or disability, in its garden membership and the administration of its programs.
11. In the event that a dispute arises between gardeners, or between a gardener (s) and the designated garden steering committee, and a resolution of the dispute cannot be reached by these parties, I agree to have Golden Community Garden act as the arbitrator of the dispute, and I further agree to adhere to Golden Community Garden's decision as final.

**Mail to: P.O. Box 17481 Golden, CO 80402**

More information, including answers to frequently asked questions can be found on our website:

**<http://www.goldencommunitygarden.org>**

## Exhibit C

### CITY OF GOLDEN ~ COMMUNITY GARDEN PROGRAM

#### **ADVISEMENT OF RISK, RELEASE OF LIABILITY AND INDEMNIFICATION AGREEMENT:**

**Please read this form carefully** and be aware that by your participation in this Community Garden Program you are advised of and assume the risks that you may experience as a result of participating in this Program.

The Community Garden Program is an activity in which, despite preparation, instruction, medical advice, conditioning, and equipment, there is still a risk of personal and bodily injury, sickness, disease, death, property loss or damage, such as the following. This list is by no means exhaustive, but includes:

1. Muscle strain and other muscle or soft tissue injuries.
2. Foot problems or foot injury.
3. Heat stroke or heat exhaustion.
4. Other bodily injury.

I do hereby assume all such risks and further waive, exempt and release the City of Golden, its officers and employees from any and all claims, actions or demands for any injury, loss or damage arising out of my participation in the Community Garden Program, whether or not caused by the act, omission, negligence or fault of the City or its officers and employees

I further agree to indemnify, hold harmless, and defend the City of Golden and its officers and employees from any and all claims, demands or actions resulting from injuries, damages, or losses arising out of, connected with, or in any way associated with the activities of the Community Garden Program.

I understand and acknowledge that the City of Golden, its officers, and its employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently \$150,000 per person and \$600,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. §24-10-101 et seq., as amended, or otherwise available to the City of Golden, its officers, or its employees.

I understand and agree that this Agreement shall be governed by the laws of the State of Colorado, and that jurisdiction and venue for any suit or cause of action under this Agreement shall lie in the courts of Jefferson County, Colorado. I further agree that if any portion of this Agreement is held invalid that the remainder shall continue in full force and effect and that this Agreement shall be binding upon me, my successors, representatives, heirs, executors, assigns and transferees.

Photographs, digital images, or videotape of program participants and spectators may be used for future promotional or marketing material.

I have read and fully understand the above. I understand this agreement may not be amended except upon written agreement of the parties.

**Participant's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Participant's Name (please print):** \_\_\_\_\_

**Birth Date:** \_\_\_\_\_ **Age:** \_\_\_\_\_ **Sex:** M \_\_\_ F \_\_\_ **Phone #:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Photo Release (please initial):** \_\_\_\_\_ Yes \_\_\_\_\_ No

#### **IF PARTICIPANT IS UNDER 18 YEARS OLD, PARENT SIGNATURE AND DATE:**

By initialing above and signing below, I acknowledge that I am the parent of the above-named participant, as such term is defined in C.R.S. § 13-22-107 (2)(b), and I hereby waive and release any prospective claim of the participant against the City of Golden, its officers, and its employees, for negligence, to the extent provided by Colorado law, in connection with the above-described activities.

**Parent's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Parent - Print Name:** \_\_\_\_\_