

COOPERATIVE AGREEMENT
(Community Gardens in Denver Parks)

THIS COOPERATIVE AGREEMENT (the “**Agreement**”), made and entered into, as of the date set forth on the City’s signature page (the “**Effective Date**”), by and between the **CITY AND COUNTY OF DENVER**, a Colorado municipal corporation (the “**City**”), and **DENVER URBAN GARDENS**, a Colorado nonprofit corporation, and having a place of business located at 1031 33rd Street, Suite 100, Denver, Colorado 80205 (“**DUG**”); which may be referred to herein individually as a “Party” or jointly as “Parties.”

R E C I T A L S

WHEREAS, DUG operates community gardens at various sites within Denver for the benefit and use of members of the public interested in gardening; and

WHEREAS, the City owns and operates, through its Department of Parks and Recreation (“**DPR**”), certain parks in which DUG currently operates community gardens; and

WHEREAS, the City and DUG desire to continue their partnership for the operation of the community gardens in those parks and, if the City further desired, add community gardens in those or other Denver parks; and

WHEREAS, DPR and DUG recognize that the benefits of community gardens in parks include the potential to enhance the lives and health of the neighborhood residents; strengthen the relationships between communities and the surrounding parks; and promote innovative approaches to park stewardship; and

WHEREAS, the community gardens located in parks promote the Department of Parks and Recreation’s goals, through *Game Plan for a Healthy City*, which among other aspirations, strives to work more closely with local community organizations to enhance programmatic value and resident service; and

WHEREAS, Section 2.4.4(F) of the Charter of the City and County of Denver authorizes cooperative agreements such as this to be entered into by the City for the development of park and recreational facilities, programs, and activities; and

WHEREAS, along with performing the obligations set forth in this Agreement, the general

role of DUG is to design and build new community gardens subject to DPR's requirements and specifications; assist neighborhood garden leaders in efforts to organize garden participants and obtain waiver and releases from participants protecting both DUG and the City; assist garden leaders in developing and enforcing garden rules and DPR rules and regulations; support garden leaders in their efforts to allocate plots to community members equitably and maintain the garden to DPR standards; educate leaders and garden participants in key aspects of creating successful community gardens; and to serve as the first point of contact for each community garden with garden participants and neighborhood residents; and

WHEREAS, the City, by and through its DPR Executive Director ("Executive Director"), finds and determines that, considering the size and location of each park, the environment and current and proposed use of each park, density of adjacent residential population and their public needs, it is proper and legitimate that a portion of each of the parks, existing and designated in the future, be set aside and used for a community garden, so long as each park otherwise remains available to all City residents and other members of the public for other passive, recreation and park uses;

NOW, THEREFORE, in consideration of the recitals set above and incorporated herein by reference and the mutual promises and terms set forth below, the Parties agree as follows:

1. **THE PARKS; COMMUNITY GARDEN SITES; LICENSE; and SUPERSESSION.**

A. **The Parks and Community Garden Sites.** The garden locations, as identified below, are current or proposed sites for community gardens operated by DUG. Each park authorized for the operation of a community garden by DUG will be referred to herein as a "**Park**" and will be collectively referred to herein as the "**Parks**". The location within each Park for which a community garden is approved will be referred to as the "**CG Site**" and will be collectively referred to herein as the "**CG Sites**".

1) Existing Gardens. The CG Sites and the exact locations are described and depicted in the attached **Exhibit A** which is incorporated herein by reference.

2) Future Gardens.

(i) DPR Constructed Gardens. DPR intends to construct new CG Sites for purposes of this Agreement and DPR's program. Of the new CG Sites constructed by DPR, DPR anticipates that a minimum of one CG Site will be completed by and begin operating in 2022. However, such construction is subject to appropriation, in accordance with Paragraph 12.A. below, and approval by the Executive Director. DPR, by this Agreement, has no obligation to construct or complete the new CG Sites.

(ii) DUG Constructed Gardens. DUG may during the term of this Agreement propose the construction of new gardens within the Parks listed in Exhibit A. If a new CG Site in a Park is proposed by DUG or any reconfiguration, expansion or relocation of any existing CG Site in a Park is proposed, after consultation with DPR, DUG shall submit a detailed written proposal, including whether DUG wishes to perform the construction itself or whether it is requesting that DPR construct the new garden, to the Executive Director requesting that the Executive Director consider allowing the new installation or the reconfiguration, expansion or relocation in accordance with this Agreement. DUG shall prepare a detailed plan, consistent with this Agreement, for review by the Executive Director and the Executive Director's designated representatives. In its proposal, DUG shall include the proposed park location; plot location and size; environmental conditions; proposed use; reasoning for a portion of the park being set aside as a garden; benefits; residential population and public needs; DUG's capacity to develop and maintain the new site; anticipated challenges; fence materials and location; ADA accessibility; shed location and materials (if applicable); new or replacement pedestrian path location, installation method, and materials (if applicable); vehicle access frequency and routes (if applicable); portable toilets (if applicable); existing irrigation system modifications (if applicable); new water taps (if applicable); and estimated costs or DUG's proposal to secure funds for the new garden, including proposed grant funding or a request for City funding. DUG shall also state in its proposal the actions it has taken or will take to comply with (1) the standards and requirements under this Agreement; (2) DPR standards and specifications; and (3) applicable federal, state and

City laws and regulations. Provided that DUG does not request any material variation from the standards and requirements in this Agreement, the Executive Director may, in the Executive Director's sole discretion, authorize the installation and operation of a new CG Site in a Park, whether or not performed by DUG; or a reconfiguration, expansion or relocation of an existing CG Site in a Park. The Executive Director may impose any additional conditions or restrictions the Executive Director deems appropriate. Any material variation from the standards and requirements in this Agreement requested by DUG shall require the approval of an amendment to this Agreement in the same manner as this Agreement was approved. Except as expressly provided for in this Agreement, the Executive Director shall determine what proposed variations are "material." The Executive Director's decision approving or denying a new CG Site in a Park or a reconfiguration, expansion or relocation of an existing CG Site in a Park shall be in writing and is not subject to administrative or judicial appeal.

(iii) Conditions and Requirements for DUG Construction. If the Executive Directors approves DUG to perform construction of a new garden, DPR shall in its sole discretion determine whether to require DUG to execute a separate Assignment Agreement for the construction. Unless otherwise agreed, all such work shall occur at DUG's sole cost. Along with the terms and conditions of any such Assignment Agreement, all work performed by DUG shall be subject requirements regarding the competitive selection of all contractors; payment of prevailing wages; payment of minimum wages; utilization of minority and women owned enterprises and small business enterprises; and all City insurance and other contracting requirements.

B. License. The City does by this Agreement hereby grant to DUG, and DUG does hereby accept from the City, a license for access and use of the CG Sites in Parks, both existing and as may be approved in the future, together with the improvements existing thereon, located in the City and County of Denver, State of Colorado for sole use as community gardens by neighborhood citizens (the "**License**"). The License and permitted uses are limited to only those uses set forth under this Agreement. No other use is allowed unless specifically authorized by the Executive Director. The License shall be non-exclusive but City shall only be permitted to allow other non-conflicting uses of the CG Sites which do not limit DUG's use as contemplated by this

Agreement. No property rights or interests, including leasehold or easement rights, are granted by this License. The licensed CG Sites in Parks are accepted by DUG “as is, where is” with no warranties or representations by the City as to habitability or usability of the CG Sites for the intended purpose. Public and operational access, including any allowed vehicular access, to the CG Sites within Parks shall be as specified by DPR.

C. Supersession. This Agreement shall supersede and fully replace, as of the Effective Date of this Agreement, any and all prior agreements, still in effect, between the City and DUG regarding the use of any Denver parks as community gardens. This supersession shall not include any agreements by which the City funded or acted as a conduit for any funding to DUG for the operation of community gardens within Denver or the use of any non-park property owned by the City as a community garden.

2. **TERM and EXTENSION.**

A. Term. The term of this Agreement shall commence as of the date of execution of this Agreement, and shall terminate on the same date five (5) years after the Effective Date, unless sooner terminated as hereinafter provided or unless the term is extended by an amendment to this Agreement executed in the same manner as this Agreement (“**Term**”).

B. Temporary Extension. Notwithstanding the Term set forth in paragraph 2.A. above, the Executive Director may allow, in the Executive Director’s sole discretion, for the initiation of a new growing season by DUG after the expiration of the Term of this Agreement if the Executive Director determines that a delay, beyond the control of DUG, prevented the timely extension of this Agreement, but this temporary extension shall not exceed six (6) months and this Agreement shall remain in effect and be enforceable during said temporary extension.

C. Additional CG Sites. The addition of CG Sites subject to the Executive Director’s approval, as provided in paragraph 1.A.2 above, shall not extend the Term of this Agreement.

D. Extension by Amendment. DUG may submit to the Executive Director a written request to extend the Term of this Agreement at any time, but no later than four (4) months prior to the expiration of the Term of the Agreement. Upon reviewing the request, the Executive Director may agree to extend the Term by amendment and, if deemed appropriate by the Executive

Director, make such other amendments to the Agreement. The Executive Director's decision will depend, in part, on DPR plans for each Park being used or proposed to be used as a CG Site and changing public needs with respect to community gardens or other park uses.

3. **COMPENSATION; GARDEN FEES; and REPORTS.**

A. Compensation. By December 1st following each growing season, DUG shall pay to the City the sum of nine dollars (\$9.00) for each gardening plot used for the whole or part of the growing season in each CG Site in a Park. All payments shall be tendered to the DPR Finance Office.

B. Garden Fees. DUG is authorized to charge participants a yearly fee per gardening not to exceed fifty dollars (\$50.00), unless a higher fee is authorized by the Executive Director in advance and in writing. The collected garden fees are to be used to defray DUG's operational costs. DUG may also obtain grants, donations and in-kind services to assist with operating the CG Sites. DUG shall be solely responsible for properly managing any funds and in-kind services it receives.

C. Reports. By December 1st each year, DUG shall provide to the Executive Director a detailed written report of the previous growing season, May 1st through October 15th, describing the public use of all of the CG Sites in the Parks during the most recent growing season; the number and percentage of usage by Denver residents; demographic data specified by DPR; the participants who received waived or reduced fees improvements to accessibility; programmatic and performance issues; planned or proposed establishment of new community gardens; list of all fertilizers, pesticides and herbicides used and/or stored on site and the method, frequency and extent of their application during the prior year; any planned changes to the fertilizers, pesticides or herbicides for the upcoming year; proposed modification to pest management plan for the upcoming year; garden fees collected; other funding received; receipt of in-kind services; and operational expenses incurred. DUG shall provide additional information as may be requested by DPR.

D. Grants. DUG shall have the right to apply for, accept and utilize, for the benefit and use of DPR and DPR parks with CG Sites, grants and other governmental or private financial assistance ("**Grants**"). If DUG intends to apply for grants anticipated to benefit DPR or

or DPR parks with CG Sites, then DUG shall provide DPR prior notice of DUG's intention to apply for grants before initiating any application or submission process. DUG and DPR shall cooperate to ensure any grant DUG intends to pursue is not in conflict with DPR projects or programs. Any Grant which requires certain covenants, conservation easements, or other restrictions be imposed on DPR or other City property, in whole or part, as a condition of obtaining the Grant must be approved in advance by the DPR Executive Director and, if applicable, through Denver's established contract process including City Council approval, prior to submittal of the grant application. Any Grant for capital or non-capital work on or affecting City property and any Grant for programs or operations on or within City property or requiring utilization of DPR or other City personnel or resources shall also require DPR approval. If DUG obtains a Grant after DPR approval, DUG shall be responsible for complying with the terms and conditions of Grants. Notwithstanding, DUG has no authority under this Agreement to bind City to any contractual obligations without the City expression authorization. Any grant or other funding for the sole or partial benefit of, or requiring the approval of the owner of the real property, shall require the prior approval of DPR. No other City agency is authorized to approve a grant intended to benefit of DPR or DPR property or any other land or facility operated and managed under DPR's authority. DPR has no obligation to approve any Grant or proposal. The DPR Executive Director retains the sole discretion to approve or reject any Grant request or proposal. DPR approval shall not be unreasonably withheld.

4. **COORDINATION AND LIAISON.**

A. **Executive Director's Rep:** The Executive Director is vested with the authority to act on behalf of the City in performing the City's obligations under this Agreement. The Executive Director has designated the Director of Parks to act on the Executive Director's behalf as the authorized representative ("**Executive Director's Rep**"). The Executive Director may change the Executive Director's Rep at any time by providing written notice to the DUG's Rep, as identified in paragraph 4.B. below, of such change.

B. **DUG's Rep:** DUG's authorized representative under this Agreement is the Executive Director of DUG ("**DUG's Rep**"), and, as such, is responsible for overseeing the satisfactory performance of DUG's obligations in accordance with the terms and conditions of this

Agreement. DUG may change DUG's Rep at any time by providing written notice to the Executive Director's Rep of such change.

5. **GENERAL RESPONSIBILITIES.**

A. **Responsibility.** DUG agrees to be responsible for developing, managing and maintaining the CG Sites in Parks. DUG shall be responsible for all costs and expenses related to developing, managing and maintaining the CG Sites in Parks, except as expressly provided otherwise in this Agreement. The operation and use of the CG Sites will be limited to the areas as depicted in **Exhibit A**. DUG, as practically as possible, shall effectively and efficiently operate the CG Sites and shall minimize and mitigate any adverse impacts on the surrounding Park. The City and DPR shall be responsible for maintenance and operation of the Parks outside of the CG Sites, unless otherwise expressly provided otherwise in this Agreement.

B. **Coordination.** DUG's Rep shall coordinate the installation and operations of the CG Sites in Parks with the Executive Director's Rep and shall advise the Executive Director's Rep of any issues or concerns with the operation and use of the CG Sites or the surrounding Parks within forty-eight (48) hours of identifying the issue. The Executive Director's Rep shall endeavor to keep DUG's Rep informed of any operations or uses in the Parks that may impact the use of the CG Sites in Parks. DUG's Rep shall consult with the Executive Director's Rep to ensure compliance with all applicable DPR standards and specifications for the CG Sites and the Parks. DPR shall have a right of access at any time to inspect the CG Sites in Parks.

6. **OPERATIONS.** As specified below, and as expressly provided otherwise, the costs and expenses for the operation and maintenance of the CG Sites in Parks shall be borne by DUG:

A. **Permanent Improvements.** A "permanent improvement" is any structural item attached to the ground. DUG is not by the Agreement permitted to perform permanent improvements unless approved by DPR, but DUG may propose such improvements. Any permanent improvement proposed by DUG will require the prior written approval of the Executive Director and compliance with the City Charter and all applicable City ordinances, rules, regulations and specifications. Completed permanent improvements shall be donated to the City and become the property of the City. Sheds are not considered permanent improvements and are

allowed within the CG Sites. Except as set forth in subparagraph B. regarding fencing, below, DUG has no obligation under this Agreement to perform permanent improvements.

B. Fencing. Subject to prior written approval by DPR, DUG shall construct and maintain a safe and sturdy perimeter fence around each of the CG Sites in Parks. Fencing shall be considered a permanent improvement and subject to the limitations and requirements in subparagraph A., above. Fence materials, installation locations, and installation methods must be approved in advance by the Executive Director's Rep. The fence shall be repaired or replaced as needed or as directed by the Executive Director's Rep.

C. Sheds. One garden shed, not to exceed ten feet by ten feet (10' x 10'), is allowed for each CG Site. The shed must be a durable pre-fabricated structure made of materials approved by the Executive Director's Rep and must be located within the CG Site at a location approved by the Executive Director's Rep. The shed shall not be attached to the ground unless such method of attachment is approved by the Executive Director's Rep. Locking devices must be included on the doors to the shed. DUG must provide appropriate signage on sheds if it elects to store hazardous material in sheds.

D. Tools and Equipment. DUG shall have the right to place and use at each CG Site in a Park such tools, equipment, and other materials necessary for the operation of a CG Site. DUG shall be responsible for securing said tools, equipment and other materials in the shed or some other manner to prevent theft. The City shall have no responsibility for replacing or paying for any damaged, lost or stolen tools, equipment or other materials.

E. Good Repair; Debris. DUG shall maintain all parts of each CG Site in good order and repair and shall keep, during the growing season and year-round, the CG Site and the Park within the fence line of each CG Site free of rubbish, trash and debris along with loose dead plant material from the garden.

F. Damage. DUG shall be responsible for repairing damage to each CG Site and the surrounding Park caused by misuse by its officers, employees, agents, contractors or invitees or its gardening participants. All graffiti and vandalism in the CG Site, including the fences and sheds, shall be promptly remedied by DUG. The City shall have no responsibility for repairing or paying for any damage to CG Sites in Parks.

G. Pedestrian Access. Paths in Parks providing ingress and egress to CG Sites for DUG staff and gardening participants are allowed. The location, methods of installation, and materials for any new or replacement pedestrian path in any Park containing a CG Site is subject to the prior approval of the Executive Director's Rep. DUG shall be responsible for maintaining the paths.

H. Vehicle Access. Access by trucks, cars or other motorized vehicles to each CG Site will be limited to the delivery of large equipment and bulk materials for the purpose of community gardening and for the installation or replacement of the fence or shed by authorized personnel. The access routes location within a Park and the occurrence and frequency of vehicle access is subject to the prior approval of the Executive Director's Rep. Regular vehicle access to garden sites for day-to-day garden care is prohibited. DUG shall be responsible for repairing any damage caused by such vehicle access.

I. Security. DUG shall be responsible for securing the CG Sites in Parks in accordance with DUG practices. Any special security features, such as gate locks or night patrols, require the approval of the Executive Director's Rep. City curfew (11 p.m. to 5 a.m. daily) shall apply to CG Sites unless approval for after-hours access is approved by the Executive Director's Rep.

J. Signs. Any signs displaying the name of the community garden or acknowledging the role of DUG in operating the community garden shall include an acknowledgment of the City's ownership of the Park and of the cooperative effort between the City and DUG. Discreet signs may be posted as necessary for stating DUG guidelines, rules and standards for the operation and use of the CG Sites. If desired, DUG's Rep may work with the Executive Director's Rep for the preparation and posting of signs displaying DPR's Park Use Rules. Subject to DPR's Corporate Sponsorship Policy, which prohibits permanent advertising in parks, DUG may, with DPR approval, temporarily display corporate the logos, brands, or names of sponsors of CG Sites within DPR parks. All other signs must be approved by the Executive Director.

K. Portable Restrooms. Portable restrooms are not permitted to be installed by DUG within the CG Site or within the surrounding Park. If DUG identifies a need for portable

restrooms, DUG's Rep may submit a proposal to the Executive Director's Rep. DUG shall be solely responsible for arranging for the installation of, and maintaining in a sanitary and safe condition, any approved portable restroom.

L. Composting. Composting is allowed within the CG Sites. DUG shall take all reasonably prudent measures to assure that odors from the composting pile are controlled and mitigated; that composting piles are properly contained; and that air and water erosion from composting piles are prevented. DUG's Rep shall cooperate with the Executive Director's Rep in setting and conforming with best management practices in this regard.

M. Dust, Drainage and Erosion. DUG shall take all reasonably prudent measures necessary to assure that air erosion of soil and water erosion of soil are controlled and mitigated and to assure that drainage and water run-off, including from garden watering, is properly handled. DUG's Rep shall cooperate with the Executive Director's Rep in setting and conforming with best management practices in this regard.

N. Fertilizers, Pesticides and Herbicides. No non-organic pesticides, herbicides, or other chemicals intended to kill or control insects, vermin, weeds, or unwanted vegetation and no chemical fertilizers shall be brought to, kept, or used at any CG Site; except that DUG may use non-organic pesticides for rat control as set forth in this subparagraph N. DUG shall be responsible for strictly enforcing this prohibition. Due to the possible health risks rats pose at CG Sites, DUG is permitted to use bait stations with poison to address rats. DUG is authorized to utilize non-organic fixed bait stations to control rats at the CG Sites in the Parks under the condition that the non-organic fixed bait stations are installed and managed by a licensed professional exterminator. DUG shall use best efforts including installation of appropriate signs approved by DPR to prevent domesticated animals from tampering with bait stations. DUG shall be solely liable and responsible for damage or injury caused as a result of use of bait stations. Organic pesticides, herbicides, and fertilizers may be utilized so long as they are applied sparingly and in accordance with good gardening practices and manufacturer's directions and so long as they are stored in leak-proof and properly labeled containers or off-site. DUG must inform the Executive Director's Rep prior to using any new fertilizers, pesticides or herbicides. The Executive Director's Rep or other City agencies shall have the authority to specify or limit the use of any pesticides, herbicides, or

fertilizers. DUG shall be solely responsible for any injury or damage resulting from the improper use or storage of fertilizers, pesticides and herbicides. DUG's Rep shall cooperate with the Executive Director's Rep in setting and conforming with best management practices in this regard.

O. New CG Sites. For any new CG Sites in Parks approved by the Executive Director or any reconfiguration, expansion or relocation of any existing CG Sites in Parks approved by the Executive Director, DUG shall be responsible, among other things, for basic site preparation, proper grading and drainage, and park irrigation system retrofitting, all in accordance with DPR standards and specifications, this Agreement, and subject to any water conservation requirements and restrictions imposed by Denver Water. No on-site work is to commence in this regard until DPR has determined whether any modifications are necessary to existing park irrigation systems in and around the CG Site, and until necessary modifications are made. Any proposed work in this regard shall be subject to the prior approval of the Executive Director's Rep.

P. Garden Irrigation Water Supply.

1) Water Taps. All water taps for garden irrigation water service to CG Sites shall be held by DPR. DPR shall be the applicant to Denver Water for any new water taps required for CG Sites. Any water taps serving existing CG Sites that are currently held by DUG shall be transferred by DUG to DPR or otherwise brought under the authority of DPR, in accordance with Denver Water's requirements, within thirty (30) days of the Effective Date of this Agreement. DPR will install any needed water taps and associated appurtenances and monitor the water usage for the CG Sites in Parks. DPR's decision regarding the location of a water tap and associated appurtenances for each CG Site will be based on the needs of the particular garden, the irrigation system in the Park, and other infrastructure and utility considerations in the Park.

2) Costs. DUG shall be responsible for all costs and expenses associated with water taps and meters (including any transfer and installation costs), the garden irrigation water service system, and any modifications necessary to the irrigation system in the Parks in order to accommodate the installation and operation of the CG Sites. DPR will pay the water service charges for the garden irrigation water service at CG Sites, unless DPR determines that there has been a material failure to comply with the watering methods and water conservation requirements set forth below, in which case DPR may require DUG to pay any excess water service

costs resulting from such failure.

3) **Potable Water.** Water taps will be for a potable water supply unless DPR, DUG and Denver Water concur that a non-potable water supply meets all health and environmental requirements for gardening use. If a decision is made that a retrofit is appropriate, DUG shall be responsible for such costs.

4) **Watering Methods and Water Conservation.** All garden watering shall be by handheld hose application only and must be attended at all times. No more water than is reasonably necessary to establish and maintain a healthy garden shall be used. From May 1st through October 1st of each year, no garden watering is allowed between 10 a.m. and 6 p.m or in accordance with Denver Water's regulations. No garden watering is allowed during strong winds or rain. Garden watering is required to conform to Denver Water's operating rules, which are subject to change during droughts. Any water conservation restrictions or requirements imposed by Denver Water shall be strictly applied and enforced by DUG at the CG Sites. DUG's Rep shall cooperate with the Executive Director's Rep in setting and conforming with best management practices in this regard.

5) **Other.** DPR shall determine the start-up and shutdown dates for garden water irrigation service for CG Sites. DUG shall be responsible for properly regulating the public's use of the water system in the CG Sites and promptly informing DPR of any probable issues with the water system.

Q. **End of Season.** At the end of each growing season, DUG shall arrange for trimming or removal of dead or dying vegetation as appropriate. All gardening tools, equipment and materials are to be removed from the CG Sites or stored in an enclosed and secured garden shed in each of the CG Sites. The City shall have no responsibility for replacing or paying for any damaged, lost or stolen tools, equipment or materials stored on site when the growing season ends.

R. **Off Season.** During the non-growing season, DUG shall make the CG Sites available for access and use by DPR. DPR will not remove or damage any fences, sheds, access paths, garden plots, perennial plants, or authorized improvements installed by DUG, and will not otherwise make any use or modifications that interferes with or is in conflict with DUG's use under this Agreement. All DPR uses will not start before November 1st of each year and will terminate

on or before March 31st of each year. Notwithstanding the foregoing, DPR reserves its rights to access the CG Sites and park to address, mitigate or abate emergencies.

S. Utilities and other Facilities and Infrastructure within a Park. DPR shall have no responsibility or liability, including for DUG's costs or replacement of DUG property, for utilities or other structures, facilities or infrastructure within a Park that may require maintenance, repair or major innovation, whether required by the City or other owner or operator, to the extent such work may interfere with DUG operations or activities. DPR will make all reasonable efforts to assist DUG in moving, removing or modifying gardens and equipment to avoid damage or loss. City makes no warranty or guarantee that DUG property will not be damaged or destroyed as a result of maintenance, repairs or renovation of utilities, structures or facilities in a Park.

7. LEGAL REQUIREMENTS.

A. Rules. DUG shall be responsible for setting and enforcing guidelines, rules, standards, and practices for controlling the public's access, use, and activities at the CG Sites for community gardening purposes. Upon request, DUG shall provide the Executive Director's Rep with a copy of all guidelines, rules, standards, and practices that DUG has adopted for this purpose. Except for those activities which are common and customary for community gardening, all other activities of the members of public participating in community gardening at the CG Sites shall be subject to the Park Use Rules and Regulations, as adopted and amended by the Executive Director, and the corresponding enforcement through Article I of Chapter 39 of the Denver Revised Municipal Code. DUG shall endeavor to encourage compliance with said rules, regulations and ordinances and report to the City any violations.

B. Release & Waiver. DUG shall obtain a waiver and release from each member of the public who elects to participate in gardening and related activities at the CG Sites. Said waiver and release shall include the City and the City's officers, employees, and agents as entities and persons against whom claims by the participating members of the public are being waived and released.

C. Americans with Disabilities Act. The Parties recognize that the City is subject to the provisions of Title II of the Americans with Disabilities Act ("**ADA**") and that DUG is subject to the provisions of Title III of the ADA. The CG Sites in Parks are to be accessible to,

and usable by, individuals with disabilities, consistent with the rights and obligations of the City pursuant to Title II of the ADA. City shall be responsible for ensuring that the policies, practices and procedures it applies in its ownership and operation of the CG Sites are in compliance with Title II of ADA. DUG represents that it has viewed or otherwise apprised itself of such access to and within the CG Sites and accepts such access and other conditions of the CG Sites as adequate for DUG's responsibilities under the ADA. DUG shall be responsible for ensuring that the CG Sites comply and continue to comply in all respects with the ADA, including accessibility, usability and configuration insofar as DUG modifies, rearranges or sets up in the facility in order to accommodate DUG's usage. DUG shall be responsible for any violations of the ADA that arise from DUG's modification of the CG Sites in order to accommodate DUG's usage. DUG shall be responsible for providing auxiliary aids and services that are ancillary to its usage and for ensuring that the policies, practices and procedures it applies are in compliance with the ADA.

D. Environmental Protection.

1) DUG shall comply with the applicable Federal, State, and local environmental laws, regulations, and standards that are or may become applicable to DUG's activities at the CG Sites in Parks.

2) DUG shall be solely responsible for obtaining at its cost and expense any environmental permits required for its operation under this Agreement, independent of any existing permits held by the City.

3) With respect to its operations in CG Sites, DUG shall save, indemnify and hold harmless the City from any damages, costs, expenses, liabilities, fines, or penalties resulting from releases, discharges, emissions, spills, storage, disposal, or any other acts or omissions by DUG, its officers, agents, employees, contractors, or invitees, giving rise to City liability, civil or criminal, or responsibility under Federal, State or local environmental laws. This provision shall survive the expiration or termination of this Agreement, and DUG's obligations hereunder shall apply whenever the City incurs costs or liabilities for DUG's actions of the types described in this paragraph.

4) The City's rights under this Agreement specifically include the right for City officials to inspect, upon reasonable notice, the CG Sites for compliance with

environmental, safety, and occupational health laws and regulations, whether or not the City is responsible for enforcing them. Such inspections are without prejudice to the right of duly constituted enforcement officials to make such inspections. DUG shall have no claim on account of any entries against the City or any officer, agent, employee, or contractor thereof.

5) DUG agrees that the City assumes no liability to DUG should hazardous waste cleanup requirements, whether imposed by law or regulatory agencies, interfere with DUG's use of the CG Sites. DUG shall have no claim on account of any such interference against the City or any officer, agent, employee or contractor thereof.

6) DUG must comply with all Federal, State, and local laws, regulations, and other requirements relating to occupational safety and health, the handling and storage of hazardous materials, and the proper generation, handling, accumulation, treatment, storage, disposal, and transportation of hazardous wastes. DUG will not undertake any treatment, storage, or disposal of hazardous waste unless DUG is in possession of, and in compliance with, a valid permit issued as required by law and shall only proceed with the knowledge and supervision of the Denver Department of Public Health and Environment.

7) DUG must maintain and make available to the City all records, inspection logs, and manifests that track the generation, handling, storage, treatment and disposal of hazardous waste, as well as all other records required by applicable laws and requirements. The City reserves the right to inspect the CG Sites, DUG records for compliance with federal, state, and local laws, regulations, and other requirements relating to the generation, handling, storage, treatment and disposal of hazardous waste, as well as to the discharge or release of hazardous substances. Violations will be reported by the City to appropriate regulatory agencies, as required by applicable law. DUG will be liable for the payment of any fines and penalties which may accrue as a result of the actions of DUG.

8) DUG shall comply with all requirements of the Federal Water Pollution Control Act, the National Pollutant Discharge Elimination System (NPDES), and any applicable State or local requirements, including the City's MS4 Storm Water Permit.

9) DUG shall strictly comply with the hazardous waste permit requirements under the Resource Conservation and Recovery Act (RCRA), its State equivalent

and any other applicable laws, rules or regulations. DUG must provide at its own expense such hazardous waste storage facilities not located on City-owned property which comply with all laws and regulations as it may need for such storage. Notwithstanding any other provisions of this Agreement, DUG shall not store or otherwise allow hazardous waste to remain at the CG Sites in Parks without the express written consent of the Executive Director.

10) DUG shall not, under any circumstances, use, own, possess or allow the presence of any nuclear or radioactive material at the CG Sites in Parks.

11) Any violation of the requirements and restrictions of this paragraph 7.D. shall be deemed a material breach of this Agreement.

E. Permits, Licenses, Taxes, Charges and Penalties. DUG agrees to pay promptly all taxes, excises, license fees, and permit fees of whatever nature applicable to its operations or activities under this Agreement, and to take out and keep current all required licenses or permits (federal, state, or local) required for the conduct of its business hereunder, and further agrees not to permit any of said taxes, excises or license or permit fees to become delinquent. The City shall not be liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts which the City may be required to pay under § 20-107 to § 20-115, D.R.M.C. The City is a tax exempt entity.

F. Liens and Other Encumbrances. DUG shall not permit any mechanic's or materialman's liens or any other liens to be imposed and remain for more than ninety (90) days upon any City-owned property, or any part thereof, by reason of any worker labor performed or materials or equipment furnished by any person or legal entity to or on behalf of DUG, either pursuant to C.R.S. § 38-26-107 or by any other authority. DUG shall promptly pay when due all bills, debts and obligations incurred in connection with this Agreement and shall not permit the same to become delinquent. DUG shall not permit any lien, mortgage, judgment, execution or adjudication of bankruptcy which will in any way impair the rights of the City to the CG Sites or the surrounding Parks under this Agreement. DUG will indemnify and save harmless the City for the extent of any and all payments, interests, and penalties resulting from failure to comply with this paragraph. The DUG's obligations set out in this paragraph shall survive the termination of this Agreement.

G. Discrimination. DUG agrees to comply with all applicable laws concerning non-discrimination against persons because of their race, color, religion, national origin, gender, gender identity or gender expression, age, military status, sexual orientation, marital status, or physical or mental disability in connection with membership on the board of directors of DUG and its activities and actions relating to the CG Sites in Parks. In connection with the performance under this Agreement, DUG agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, gender identity or gender expression, age, military status, sexual orientation, marital status, protective hairstyle, or physical or mental disability; and further agrees to insert the foregoing provision in all subcontracts it may enter.

H. Use, Possession Or Sale Of Alcohol or Drugs. DUG, its officers, agents, and employees, shall cooperate and comply with the provisions of Executive Order No. 94 and Attachment A thereto concerning the non-medically necessary use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in the City's barring DUG personnel from City facilities or participating in City operations.

I. Illegal Uses. DUG agrees not to use, or permit to be used, the CG Sites or the surrounding Parks for any purpose whatsoever prohibited by the laws of the United States or the State of Colorado or the Charter, ordinances, rules and regulations, or policies of the City and County of Denver.

J. Governing Law: This Agreement shall be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated in this Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments and supplements to the same.

K. Compliance with Law: DUG shall perform or cause to be performed all services and work under this Agreement in full compliance with all applicable laws, codes, rules, regulations and orders of the United States of America, the State of Colorado, and the City and

County of Denver.

L. Venue: Venue for any legal action relating to this Agreement shall lie in the District Court in and for the City and County of Denver.

8. **LIABILITY**.

A. Insurance.

1) General Conditions. DUG agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. DUG shall keep the required insurance coverage in force at all times during the term of the Agreement, including any extension thereof, and during any warranty period. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-VIII" or better. Each policy shall require notification to the City in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices paragraph of this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, DUG shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices paragraph by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City's contract number. DUG shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of DUG. DUG shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

2) Proof of Insurance. DUG may not commence services or work relating to this Agreement prior to placement of coverages required under this Agreement. DUG certifies that the certificate of insurance attached as **Exhibit B**, preferably an ACORD form, complies with all insurance requirements of this Agreement. The City requests that the City's

contract number be referenced on the certificate of insurance. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of DUG's breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

3) Additional Insureds. For Commercial General Liability and Auto Liability, DUG's insurer(s), and any subcontractor's insurer(s), shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

4) Waiver of Subrogation. For all coverages required under this Agreement, DUG's insurer shall waive subrogation rights against the City.

5) Contractors and Consultants. DUG shall confirm and document that all subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) procure and maintain coverage as approved by DUG and appropriate to their respective primary business risks considering the nature and scope of services provided.

6) Workers' Compensation/Employer's Liability Insurance. DUG shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims.

7) Commercial General Liability. DUG shall maintain a Commercial General Liability insurance policy with minimum limits of \$1,000,000 for each bodily injury and property damage occurrence, \$2,000,000 products and completed operations aggregate (if applicable), and \$2,000,000 policy aggregate.

8) Automobile Liability. DUG shall maintain Automobile Liability with minimum limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.

B. Defense & Indemnification.

1) DUG hereby agrees to defend, indemnify, and hold harmless the

City, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to DUG's performance or failure to perform this Agreement ("Claims"), unless and until such Claims have been specifically determined by the trier of fact to be due to the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of DUG and its employees, volunteers, or DUG's contractors or consultants, either passive or active, irrespective of fault, including the City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of the City.

2) DUG's duty to defend and indemnify the City shall arise at the time written notice of the Claim is first provided to the City regardless of whether an action has been filed in court on the Claim. DUG's duty to defend and indemnify the City shall arise even if the City is the only party sued and/or it is alleged that the City's negligence or willful misconduct was the sole cause of the alleged damages.

3) DUG shall defend any and all Claims which may be brought or threatened against the City and shall pay on behalf of the City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of the City shall be in addition to any other legal remedies available to City and shall not be considered the City's exclusive remedy.

4) Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of DUG under the terms of this indemnification obligation. DUG shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

C. Colorado Governmental Immunity Act. DUG understands and agrees that the City is relying upon, and has not waived, the monetary limitations and all other rights, immunities and protection provided by the Colorado Governmental Act, § 24-10-101 *et seq.*, C.R.S.

9. **STATUS AND AUTHORITY OF DUG; POLITICAL ACTIVITY.**

A. Independent. DUG and the City acknowledge and agree that the status of DUG shall be that of a private, nonprofit corporation cooperatively working with the City as an independent contractor solely for the purposes set forth in this Agreement. It is not intended, nor shall it be construed, that DUG's personnel are employees of the City and County under Chapter 18 of the Denver Revised Municipal Code, or for any purpose whatsoever.

B. Limited Authority. The scope of authority DUG may exercise shall be as expressly delegated, assigned, or allowed under, or necessarily implied in, this Agreement. DUG shall have no authority to avoid, modify, or waive any applicable City ordinances or regulatory requirements enacted or adopted under the City's police or taxing powers.

C. Contracts. This Agreement shall not be construed to grant DUG the right or power to bind, or to impose liability upon, the City through any contracts or agreements DUG may make unless the prior, written approval of the Executive Director is obtained and the contract or agreement is in accordance with the City Charter and all applicable City ordinances and regulatory requirements. All contracts or agreements made by DUG shall be in its own name and not in the name of the City.

D. Non-Profit Status. DUG shall at all times take such actions as may be necessary to maintain and preserve, and shall refrain from taking such actions as may be detrimental to, its status as a nonprofit corporation that qualifies as a tax exempt entity under section 501(c)(3) of the Internal Revenue Code (or any successor provision).

E. Political Activity. Fees paid to DUG under this Agreement and the CG Sites or the surrounding Parks shall not be used by DUG in connection with any activity to further the appointment, election, defeat, or removal of any applicant, incumbent, or candidate for public office or any activity undertaken to influence the passage, defeat, or final content of any legislation or ballot proposal. The foregoing shall not in any way limit DUG's right to conduct such activities using other funding sources or outside of the CG Sites and surrounding Parks (subject to any limitations due to its status as a 501(c)(3) organization).

10. **TERMINATION; CASUALTY & SURRENDER OF CG SITES.**

A. Termination for Breach. The City shall have the right to terminate this Agreement and may repossess any or all of the CG Sites in Parks, in the event of a substantial,

flagrant, or persistent breach or default by DUG under this Agreement, unless the breach or default, specified in written notice to DUG, has been properly and completely cured within the time specified in the notice provided by DPR to DUG.

B. Casualty. In the event any CG Site in a Park or a major portion thereof shall be damaged or destroyed by casualty, fire or otherwise, through no fault of DUG, and to the extent the CG Site is rendered largely unusable, without major repair or replacement, as a community garden, DUG may, but shall not be obligated to, repair or replace such damaged or destroyed portions subject to the approval by the Executive Director's Rep of the proposed plan for repair or replacement. In the event DUG elects, by written notice, not to proceed with the repair or replacement at the CG Site in a Park or should fail to proceed with such repair or replacement within six (6) months after the damage or destruction, then the authorization to utilize said CG Site in a Park under this Agreement shall automatically terminate.

C. Surrender of CG Sites; Restoration and Repairs. DUG agrees to promptly deliver and surrender to DPR possession of all of the CG Sites in Parks at the expiration or termination of this Agreement or upon cessation of use of any CG Site. DUG shall restore irrigation systems for the CG Site and, if required by the City, replace turf on the CG Site. DUG shall also repair any other damage to the CG Site that was caused by the fault of DUG or other persons permitted by DUG to enter and use said CG Site in a Park or any portion thereof. Sheds, tools, equipment and other materials placed by DUG in the CG Sites in Parks (but excluding any permanent improvements) shall remain the property of DUG, and DUG shall promptly remove the same at the expiration or termination of this Agreement. Any other costs or expenses incurred by DPR in restoring surrendered CG Sites in Parks shall be paid by City.

D. When Rights and Remedies Not Waived: In no event shall any action by the City hereunder constitute or be construed to be a waiver by the City of any breach of covenant or condition or any default which may then exist on the part of DUG, and the taking of any such action when any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the City with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of this Agreement shall be deemed or taken to be a waiver of any succeeding or other breach.

11. **NOTICES.** Notices concerning the termination or extension of this Agreement, notices of alleged or actual violations of the terms or conditions of this Agreement, and other notices of similar importance, including changes to the persons to be notified or their addresses, shall be made by the City to DUG at the address set forth on the first page of this Agreement and by DUG to:

Executive Director
Department of Parks and Recreation
City and County of Denver
201 West Colfax Avenue, Dept. 601
Denver, Colorado 80202

All notices shall be in writing and provided by either personal delivery, certified mail, return receipt requested, or overnight courier. All notices are effective upon personal delivery or upon placing the notice the United States mail or with the courier service. Coordination and other liaison contacts between the Executive Director's Rep and DUG's Rep may be made by email or other means agreed to by the Executive Director's Rep and DUG's Rep.

12. **GENERAL PROVISIONS.**

A. **City Obligations; Appropriations.** It is expressly understood and agreed that any obligation of the City hereunder, including obligations to pay funds, if any arises, whether direct or contingent, shall extend only to funds appropriated by the Denver City Council for the purpose of this Agreement, encumbered for the purpose of the Agreement and paid into the Treasury of the City. DUG acknowledges that (i) the City does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and (ii) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

B. **Examination of Records.** Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books, documents, papers and records related to DUG's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. DUG shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three

(3) years after the final payment under the Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require DUG to make disclosures in violation of state or federal privacy laws. DUG shall at all times comply with D.R.M.C. 20-276.

C. Assignment & Subcontract. Unless otherwise expressly provided in this Agreement, DUG covenants and agrees that DUG will not assign or transfer DUG's rights and obligations hereunder without first obtaining the written consent of the Executive Director. Such consent may be granted or denied at the sole and absolute discretion of said Executive Director and shall be subject to such terms and conditions as imposed by the Executive Director. Subcontracting services performed or goods provided at CG Sites in Parks shall be subject to the approval of the Executive Director's Rep. Any attempt by DUG to assign or transfer DUG's rights and obligations under this Agreement without such prior written consent of the Executive Director is ineffective and void, and in no way binding on the City. In such event, the Executive Director may elect, at the discretion of said Executive Director, to terminate this Agreement and all rights of DUG under this Agreement and/or to seek such other remedies available to the City under law

D. No Third Party Beneficiary. Enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties. Nothing contained in this Agreement shall give or allow any such claim or right of action to or by any third person or entity. Any person other than the City or DUG receiving any benefits under this Agreement shall be deemed to be an incidental beneficiary only.

E. Integration & Amendments. This Agreement, including the exhibits and attachments hereto (each of which is specifically incorporated herein), is intended as the complete integration of all understandings between the Parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect, unless embodied in this Agreement in writing. No subsequent novation, renewal, addition, deletion, or other amendment shall have any force of effect unless embodied in a written amendment to this Agreement executed

by the Parties in the same manner as this Agreement. Any oral representation by any officer or employee of the City at variance with terms and conditions of this Agreement or any written amendment to this Agreement shall not have any force or effect nor bind the City.

F. Severability. If any provision of this Agreement or any portion thereof is held by a court of competent jurisdiction to be invalid, illegal, unenforceable, or in conflict with any law, except for the provisions of the Agreement requiring prior appropriation of funds and limiting the total amount payable by the City, the validity of the remaining portions or provisions shall not be affected, if the intent of the Parties can be fulfilled.

G. Conflict of Interest: No employee of the City shall have any personal or beneficial interest in the services or property described in this Agreement; and DUG shall not hire, or contract for services with, any employee or officer of the City which would be in violation of the City's Code of Ethics, D.R.M.C. §2-51, et seq. or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

H. Successors in Interest: Each and every one of the benefits and burdens of this Cooperative Agreement shall be binding upon and inure to the benefit of the Parties hereto and upon any lawful assigns or successors in interest of the Parties hereto.

I. Claims. In the event that any claim, demand, suit, or other action is made or brought in writing by any person, firm, corporation, or other entity against DUG related in any way to this Agreement, DUG shall give written notice thereof to the City within ten (10) working days after being notified of such claim, demand, suit, or action. Such notice shall state the date and hour of notification and shall include a copy of any such claim, demand, suit, or other action received by DUG. Such written notice shall be delivered either personally or by mail to the address of the City specified in the notice provision of this Agreement.

J. Paragraph Headings. The captions and headings set forth herein are for convenience of reference only and shall not be construed so as to define or limit the terms and provisions hereof.

K. Survival of Certain Provisions. The terms and conditions of this Agreement, together with the exhibits and attachments hereto, that, by reasonable implication, contemplate continued performance, rights or compliance beyond the expiration or termination of this Agreement, shall survive this Agreement and shall continue to be enforceable. Without limiting

the generality of the foregoing, DUG's obligations to provide insurance and to indemnify the City shall survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

L. City Execution of Agreement. This Agreement is expressly subject to, and shall not be or become effective or binding on the City until approved by Denver City Council by ordinance, if so required by the City Charter, and fully executed by all signatories of the City and County of Denver.

M. Legal Authority.

1) DUG and the City each assures and guarantees that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement.

2) The person or persons signing and executing this Agreement on behalf of DUG and the City, do hereby warrant and guarantee that he/she or they have been fully authorized to execute this Agreement on behalf of DUG and the City and to validly and legally bind DUG and the City to all the terms, performances and provisions herein set forth.

3) The City shall have the right, at its option, to either temporarily suspend or permanently terminate this Agreement, if there is a dispute as to the legal authority of either DUG or the persons signing the Agreement to enter into this Agreement. The City shall not be obligated for any performance of the provisions of this Agreement after the City has suspended or terminated this Agreement as provided in this paragraph.

N. Counterparts of the Agreement: This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and each of such counterparts will constitute one and the same instrument.

O. Electronic Signatures and Electronic Records. DUG consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy

of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

Contract Control Number: PARKS-202159010-00
Contractor Name: DENVER URBAN GARDENS

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at
Denver, Colorado as of:

SEAL **CITY AND COUNTY OF DENVER:**

ATTEST: By: _____

APPROVED AS TO FORM: **REGISTERED AND COUNTERSIGNED:**
Attorney for the City and County of Denver
By: _____ By: _____

By: _____

Contract Control Number:
Contractor Name:

PARKS-202159010-00
DENVER URBAN GARDENS

By:  3F846AD2EE29437

Name: Linda Appel Lipsius
(please print)

Title: Executive Director
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

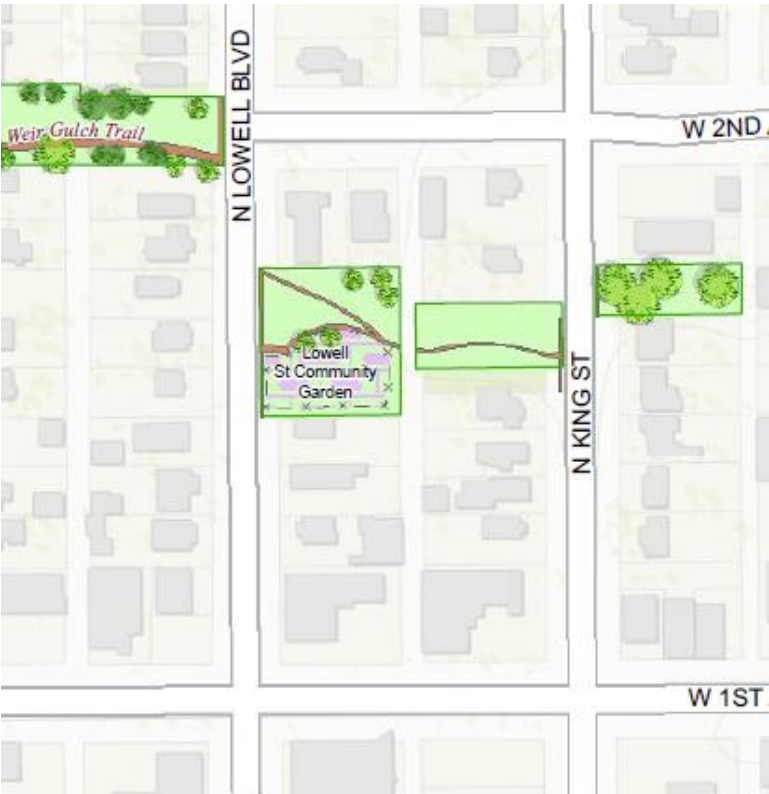
Exhibit A

Park	Garden Name	Address (Approx.)	# of Plots
Eddie Maestas Park	Eddie Maestas Community Garden	Lawrence St. & Park Ave. W. & N. Broadway	25
Weir Gulch Park	Lowell Street Community Garden	100 Lowell Blvd.	50
New Freedom Park	New Freedom Community Garden	1200 Xenia Street (next to Alley on 13 th Ave.)	56
Rosedale Park	Rosedale Community Garden	300 E. Iliff Ave. (fronting on Logan St.)	100
Ruby Hill Park	Ruby Hill Community Garden	W. Florida Ave. & S. Platte River Dr. (access by W. Mexico Ave.)	56
Greenway Park	Greenway Community Garden	7790E.23 rd Ave. in Central Park	38
Lakewood-Dry Gulch Park	West Colfax Community Garden	Utica St. & West Wells Place	38
39 th Avenue Garden	39 th Avenue Community Garden	39th and Williams Street	12
Commons Park	Commons Park Community Garden (to be completed)	19th Street and Little Raven	28
Rocky Mountain Lake Remnant Parcels	To be determined	W. 48 th Avenue	TBD

Eddie Maestas Community Garden



Lowell Street Community Garden



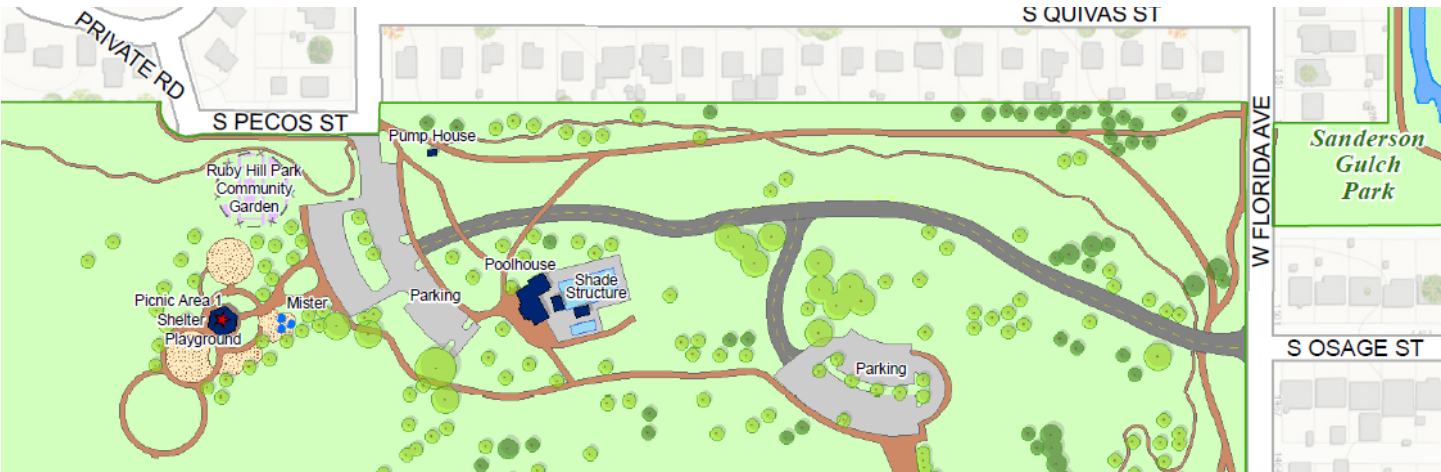
New Freedom Community Garden



Rosedale Community Garden



Ruby Hill Community Garden



Greenway Community Garden



West Colfax Community Garden



39th Avenue Community Garden



Commons Park





EXHIBIT B

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/4/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS **WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Taggart & Associates, Inc. 1680 38th Street Suite 110 Boulder CO 80301	CONTACT NAME: Tiya Anderson PHONE (A/C, No, Ext): 303-442-1484 FAX (A/C, No): 303-442-8822 E-MAIL ADDRESS: certificates@taggartinsurance.com														
INSURED Denver Urban Gardens 1031 33rd Street Suite 100 Denver CO 80205	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A: Philadelphia Indemnity Insurance Company</td> <td>18058</td> </tr> <tr> <td>INSURER B: Owners Insurance Company</td> <td>32700</td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Philadelphia Indemnity Insurance Company	18058	INSURER B: Owners Insurance Company	32700	INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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INSURER C:															
INSURER D:															
INSURER E:															
INSURER F:															

COVERAGES**CERTIFICATE NUMBER:** 1089337060**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:			PHPK2381913	2/17/2022	2/17/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			4434581201	2/17/2022	2/17/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			PHUB803989	2/17/2022	2/17/2023	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability			PHPK2381913	2/17/2022	2/17/2023	Limit 1,000,000 Aggregate 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The City and County of Denver its elected and appointed officials, employees, and volunteers are included as additional insured with respectst to General Liability and Auto Liability as required by written contract. Waiver of subrogation with respects to General Liability and Auto Liability as required by written contract.;

CERTIFICATE HOLDER**CANCELLATION**

City and County of Denver Department of Parks and Recreation 201 West Colfax Ave. Dept 601 Denver CO 80202 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	---

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/25/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Pinnacol Assurance 7501 E. Lowry Blvd. Denver, CO 80230-7006	CONTACT NAME: <table style="width: 100%;"> <tr> <td style="width: 70%;">PHONE (A/C, No, Ext):</td> <td style="width: 30%;">FAX (A/C, No):</td> </tr> <tr> <td colspan="2">E-MAIL ADDRESS:</td> </tr> </table>	PHONE (A/C, No, Ext):	FAX (A/C, No):	E-MAIL ADDRESS:							
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	<table style="width: 100%;"> <tr> <td style="text-align: center;">INSURER(S) AFFORDING COVERAGE</td> <td style="text-align: center;">NAIC #</td> </tr> <tr> <td>INSURER A : Pinnacol Assurance</td> <td style="text-align: center;">41190</td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Pinnacol Assurance	41190						
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INSURED Denver Urban Gardens Inc 1031 33rd Street, Suite 100 Denver, CO 80205	<table style="width: 100%;"> <tr><td>INSURER B :</td><td></td></tr> <tr><td>INSURER C :</td><td></td></tr> <tr><td>INSURER D :</td><td></td></tr> <tr><td>INSURER E :</td><td></td></tr> <tr><td>INSURER F :</td><td></td></tr> </table>	INSURER B :		INSURER C :		INSURER D :		INSURER E :		INSURER F :	
INSURER B :											
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INSURER D :											
INSURER E :											
INSURER F :											

COVERAGES
CERTIFICATE NUMBER:
REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS																
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$																
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$																
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$																
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A	3273551	10/01/2021	10/01/2022	<table style="width: 100%;"> <tr> <td style="width: 5%;">X</td> <td style="width: 15%;">PER STATUTE</td> <td style="width: 10%;">OTH-ER</td> <td style="width: 70%;"></td> </tr> <tr> <td></td> <td>E.L. EACH ACCIDENT</td> <td></td> <td>\$ 100,000</td> </tr> <tr> <td></td> <td>E.L. DISEASE - EA EMPLOYEE</td> <td></td> <td>\$ 100,000</td> </tr> <tr> <td></td> <td>E.L. DISEASE - POLICY LIMIT</td> <td></td> <td>\$ 500,000</td> </tr> </table>	X	PER STATUTE	OTH-ER			E.L. EACH ACCIDENT		\$ 100,000		E.L. DISEASE - EA EMPLOYEE		\$ 100,000		E.L. DISEASE - POLICY LIMIT		\$ 500,000
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	E.L. DISEASE - POLICY LIMIT		\$ 500,000																				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Unless otherwise stated in the policy provisions, coverage in Colorado only.

CERTIFICATE HOLDER

2209509
 Denver Urban Gardens
 1033 33rd St Suite 100
 Denver, CO 80205-2763
 finance@dug.org

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Hub International/CNIA

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ACORD 25 (2016/03)

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