



Boulder County Purchasing
1325 Pearl Street
Boulder, CO 80302
purchasing@bouldercounty.org

REQUEST FOR PROPOSAL
COVER PAGE

RFP Number: **7118-20**

RFP Title: **IBM Open Space Agricultural Lease.**

Mandatory Pre-Proposal Meeting: **Thursday, March 12, 2020 at 10:00 a.m.**
Boulder County Parks and Open Space
Administrative Building
5201 St. Vrain Road
Longmont, Colorado 80503

RFP Questions Due: **Wednesday, March 18, 2020 by 2:00 p.m.**

Addendum Due Date: **Wednesday, March 25, 2020 end of day**

Email Address: purchasing@bouldercounty.org

Documents included in this package:
Proposal Instructions
Terms and Conditions
Property Information
Insurance and W-9 Requirements
Submittal Checklist
Evaluation Criteria
Proposal Section
Signature Page
Attachments A-B

SUBMITTAL DUE DATE: Thursday, April 2, 2020 by 2:00 p.m.



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PROPOSAL INSTRUCTIONS

BACKGROUND:

The Boulder County Parks and Open Space Department, Agricultural Resource Management Division, is seeking proposals from qualified parties to lease the IBM Agricultural Open Space property. This property is recommended for grazing; however, the qualified party may choose to grow crops as well.

LEASE LANGUAGE:

The successful proposer will be required to enter into a Lease Agreement and meet all insurance requirements prior to any activity on the leased premises beginning.

All proposers are instructed to thoroughly review all the stated insurance requirements for this Lease, the insurance requirements stated are the minimum and standard for Boulder County Government, for this Lease. All tenants are required to meet the insurance requirements, as stated, for the leasing of county property as part of the Boulder County process. Owner/Sole Proprietors/Officer are not exempt from the county's insurance requirements and/or coverage limits. Please refer to the Insurance Requirements in this RFP.

In the event the selected proposer is unable to commence work as agreed to, the Boulder County Commissioners may rescind the Lease award and proceed to award the Lease to another proposer based on RFP # 7118-20, re-bid the Lease, or proceed in any lawful manner the County deems necessary.

PRE-PROPOSAL MEETING:

A Mandatory Pre-proposal meeting is scheduled, starting promptly at **Thursday, March 12, 2020 at 10:00 a.m.** Interested Parties are asked to meet at **Boulder County Parks and Open Space Administrative Building, 5201 St. Vrain Road, Longmont, Colorado 80503.** A site visit will occur after the Pre-Bid meeting. **Bids from proposers not represented at the mandatory, pre-proposal meeting, and/or site visit will not be accepted.**

ATTACHMENTS:

The following documents are part of this RFP:

1. Attachment A: Sample Lease Agreement
2. Attachment B: Property Map

WRITTEN INQUIRIES:

All inquiries regarding this RFP will be submitted via email to the Boulder County Purchasing Office at purchasing@bouldercounty.org on or before **2:00 p.m. Wednesday, March 18, 2020**. A response from the county to all inquiries will be posted and sent via email no later than end of day **Wednesday, March 25, 2020**.

Please do not contact any other county department or personnel with questions or for information regarding this solicitation.

SUBMITTAL INSTRUCTIONS:

Submittals are due at the Administrative Services Information Desk or email box (preferred) listed below, for time and date recording on or before **2:00 p.m. Mountain Time Thursday, April 2, 2020**.

Your response can be submitted in the following ways. **Please note that email responses to this solicitation are preferred but are limited to a maximum of 50MB capacity. NO ZIP FILES ALLOWED.** Electronic submittals must be received in the email box listed below. Submittals sent to any other box will NOT be forwarded or accepted. This email box is only accessed on the due date of your questions or proposals. Please use the Delivery Receipt option to verify receipt of your email. It is the sole responsibility of the proposer to ensure their documents are received before the deadline specified above. Boulder **County does not accept responsibility under any circumstance for delayed or failed email or mailed submittals.**

Email purchasing@bouldercounty.org; identified as **RFP # 7118-20** in the subject line.

-OR-

US Mail One (1) unbound copy of your submittal, printed double-sided, 11 point, on at least 50% post-consumer, recycled paper must be submitted in a sealed envelope, clearly marked as **RFP # 7118-20**, to the Administrative Services Information Desk located at 1325 Pearl Street, Boulder, CO 80302.

All RFPs must be received, and time and date recorded by authorized county staff by the above due date and time. Sole responsibility rests with the proposer to see that their RFP response is received on time at the stated location(s). Any responses received after due date and time will be returned to the proposer.

The Board of County Commissioners reserves the right to reject any and all responses, to waive any informalities or irregularities therein, and to accept the proposal that, in the opinion of the Board, is in the best interest of the Board and of the County of Boulder, State of Colorado.

Americans with Disabilities Act (ADA): If you need special services provided for under the Americans with Disabilities Act, contact the ADA Coordinator or the Human Resources office at (303) 441-3525 at least 48 hours before the scheduled event.



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TERMS AND CONDITIONS

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1. Proposers are expected to examine the drawing, specifications, schedule of delivery, and all instructions. Failure to do so will be at the proposer's risk.
 2. Each proposer will furnish the information required in the Request for Proposals.
 3. The Lease will be awarded to the responsible proposer whose submittal, conforming to the Request for Proposals, will be most advantageous to the County of Boulder.
 4. The County of Boulder reserves the right to reject any or all proposals and to waive informalities and minor irregularities in proposals received, and to accept any portion of or all items proposed if deemed in the best interest of the County of Boulder to do so.
 5. No submittal will be withdrawn for a period of thirty (30) days subsequent to the opening of proposals without the consent of the County Purchasing Agent or delegated representative.
 6. A Lease will be furnished to the successful proposer results in a binding contract without further action by either party.
 7. Late or unsigned proposals will not be accepted or considered. It is the responsibility of proposers to ensure that the proposal arrives at the Administrative Services Information Desk prior to the time indicated in the "Request for Proposals."
 8. The proposal will be exclusive of any Federal or State taxes from which the County of Boulder is exempt by law.
 9. Any interpretation, correction or change of the RFP documents will be made by Addendum. Interpretations, corrections and changes of the RFP documents made in any other manner will not be binding, and proposers will not rely upon such interpretations, corrections and changes. The County's Representative will not be responsible for oral clarification.
 10. Confidential/Proprietary Information: Proposals submitted in response to this "Request

for Proposals” and any resulting Lease are subject to the provisions of the Colorado Public (Open) Records Act, 24-72-201 et.seq., C.R.S., as amended. Any restrictions on the use or inspection of material contained within the proposal and any resulting Lease will be clearly stated in the proposal itself. Confidential/proprietary information must be readily identified, marked and separated/packaged from the rest of the proposal. **Co-mingling of confidential/proprietary and other information is NOT acceptable. Any information that will be included in any resulting Lease cannot be considered confidential.**

The Boulder County Attorney’s Office retains sole authority for determining whether the Colorado Open Records Act requires or permits Boulder County to disclose proposal or bid documents, or any information contained therein, pursuant to an open records request.

11. Boulder County promotes the purchase/leasing of energy efficient, materials efficient and reduced toxic level products where availability, quality and budget constraints allow. Proposers are expected whenever possible to provide products that earn the ENERGY STAR and meet the ENERGY STAR specifications for energy efficiency with power management features enabled. Proposers are encouraged to offer products and equipment with post-consumer recycled-content materials. Products should be packaged and delivered with a minimum amount of recycled packaging that adequately protects the product but is not excessive.
12. Pursuant to Colorado law (House Bill 1292), in any bidding process for public works in which a bid is received from a non-resident bidder who is from a state that provides a percentage bidding preference, a comparable percentage disadvantage will be applied to the bid of that bidder. Bidders may obtain additional information from the Department of Personnel’s website: <http://www.colorado.gov/dpa/>.



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PROPERTY INFORMATION

PROPERTY INFORMATION:

Lease:

IBM Agricultural Open Space Property.

Location:

This property is bordered on the north by Niwot Road, on the south by Monarch Road and on the east by N. 71st Street. Legal description is part of the N1/2 of S35, T2N, R70W.

Property Description:

Approximately 185.7 acres of land known as the IBM Open Space Property. The land has moderate weed pressure and heavy prairie dog activity. Crops historically grown on this property include, but are not limited to: Alfalfa, native and introduced grasses, corn, sorghum and other commodity crops in rotation.

Irrigation Water:

The County and City's water rights are tied to the property in perpetuity under the terms of the reciprocal conservation easements.

County Owned:

93 shares of the Left Hand Ditch Company and 100 shares of the Reformed New Hinman Ditch Company (fka New Hinman Ditch Company).

City of Boulder Owned:

92 shares of the Left Hand Ditch Company and 100 shares of the Reformed New Hinman Ditch Company (fka New Hinman Ditch Company).

Soil Conditions:

Soil conditions for the property i.e. soil types and production, slope, etc. are as follows:

Nunn Sandy Clay Loam	40.4%
Valmont Cobby Clay Loam	56.2%
Renohill silty clay loam	3.3%

Fencing:

The entire property boundary is fenced.

Facilities:

There are no barns, hay sheds or any other facilities available on this property.

Rent: Cash rent of Five Thousand Five Hundred dollars and no cents (\$5,500.00) annually.

Term:

This will be a three (3) year Lease Agreement. (One year with two one-year tenant options to renew).



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INSURANCE AND W-9 REQUIREMENTS

INSURANCE REQUIREMENTS:

Note that the insurance amounts listed below are the minimum required for this Lease. If you require a waiver of insurance requirements (e.g. Workers' Compensation and sole proprietorships) you may request one in your response with an explanation.

Commercial Farm Liability \$1,000,000 Each Occurrence
 \$2,000,000 General Aggregate
 \$2,000,000 Products Completed Operations Aggregate
 3 years Products/Completed Operations

Automobile Liability \$1,000,000 Each Accident
 *Including Hired & Non-Owned Auto

Worker's Compensation and Employer's Liability
 Statutory limits

W-9 REQUIREMENT:

Please provide a copy of your business's W-9 with your proposal.



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SUBMITTAL SECTION

The proposer’s attention is especially called to the items listed below, which must be submitted in full as part of the PROPOSAL. Failure to submit any of the documents listed below as a part of your PROPOSAL or submitting a proposal on any condition, limitation or provision not officially invited in this Request for Proposal (RFP) may be cause for rejection of the PROPOSAL.

THIS CHECKLIST MUST BE SUBMITTED AS PART OF YOUR PROPOSAL PACKAGE: Proposer will check each box indicating compliance:

INCLUDED	ITEM
	Name of your company / organization
	Type of organization (Corporation, Partnership, etc.)
	Details of proposed operational plan
	Address
	Name and address of the partners (If applicable)
	Contact person(s)
	Telephone, fax, and email
	Information on the relevant experience of key personnel
	Submit three references that are familiar with your agricultural experience
	W-9
	Signature page
	Addendum acknowledgement(s) (If applicable)



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EVALUATION CRITERIA

All proposals will be evaluated by an evaluation team consisting of staff from the Parks and Open Space Department and the CSU Cooperative Extension Service office. The committee may request additional information from proposers or request interviews with one or more proposers. Final evaluation and selection may be based on, but is not limited to, any or all of the following:

1. **EXPERIENCE:** Proposer has clearly demonstrated high quality and successful past performance in the commercial agricultural business, and experience in operating practices related to the type of operation proposed. Proposed operation. Incorporation of farming and/or grazing management practices that conserve soil, water, rangeland, and other resources.
2. **FIT and FLEXIBILITY:** Proposed operation supports the Boulder County BCPOS agricultural and resource management objectives and would be able to reasonably accommodate multiple management objectives such as wildlife values, public trials of experimental crops or cropping systems, and requests for public tours, etc., that are frequently required of BCPOS tenants. Agricultural experience and past performance in agricultural endeavors.
3. **ORGANIZATION and APPEARANCE:** Proposer's current agricultural operation is demonstrably well maintained and organized, the property meets county code (e.g., storage of materials, weed management), etc. If proposer does not meet the standard with a current operation, the proposer may document other past activities or jobs where those standards have been met. Each proposer is encouraged to provide affidavits from neighbors to attest to their maintenance of the property.
4. **EQUIPMENT:** Equipment is either owned by or demonstrably available to the proposer and is adequate to the proposed operation. A simple list of equipment is not adequate. At a minimum, the proposer will need to submit photographs of equipment if owned and/or affidavits of availability of equipment as part of the proposal if not owned. All equipment should be operable and well maintained.
5. **FINANCES:** Demonstrated ability of proposer to meet the financial demands of proposed operation or an affidavit of good standing with a lender.
6. **EQUITY and DIVERSITY:** Proposer meets eligibility requirements for a small disadvantaged business or can claim an affiliation with one or more Equal Employment Opportunity Commission (EEOC) protected groups or historically disadvantaged groups, such as, but not limited to: age (younger operators), gender (female), race, ethnicity, or sexual orientation.
7. **PRACTICES and SUSTAINABILITY:** Proposer declares the style of farming or ranching practices that will be used and how well they fit with the county's agricultural sustainability focus. Classifications include, but are not limited to: Regenerative, Certified NOP Organic, Pesticide Free, Natural, Integrated Pest Management (IPM) and soil health improvements per county goals.



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PROPOSAL SECTION

If submitting a proposal for multiple properties, please submit a separate proposal for each property by providing answers to questions 2 through 11 for each property you're interested in.

Please submit the following information in the order listed below:

1. Please submit your name, E-mail address, mailing address, and phone number.
2. Please describe the operation you propose for this property, with as much detail as possible.
3. Please include practices that conserve soil, water, and other resources.
4. Please describe your proposed Crop Production. (e.g., crops raised, tillage, irrigation.)
5. Please submit other details of your management not included above.
6. If you are currently involved in other agricultural enterprises, briefly describe the operation(s) and include general locations.
7. How will the Boulder County agricultural land you are proposing to Lease, fit in with the rest of your operation?
8. Please describe your agricultural background.
9. Please list the machinery and equipment needs for your planned operation on the property and how you will meet those needs. (e.g.: own, Lease, borrow, hire custom, etc.)
10. Describe how you will meet the labor demands for the proposed operation. Are you involved in your agricultural enterprises on a full-time basis? If not, what percentage of your time is dedicated to agricultural pursuits?
11. If you plan to manage an organic operation, please describe your experience in organic production.

Please provide personal references that are familiar with your agricultural experience.

Name

Email address and Phone #

*Please note that proposers may be asked to provide financial reference(s) and information upon request.



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SIGNATURE PAGE

Contact Information	Response
Company Name including DBA	
List Type of Organization (Corporation, Partnership, etc.)	
Name, Title, and Email Address of Person Authorized to Lease with Boulder County	
Company Address	
Company Phone Number	
Company Website	

By signing below, I certify that:

- I am authorized to bid on my company's behalf.
- I am not currently an employee of Boulder County.
- None of my employees or agents is currently an employee of Boulder County.
- I am not related to any Boulder County employee or Elected Official.
- (Sole Proprietorships Only) I am not a Public Employees' Retirement Association (PERA) retiree.

**Signature of Person Authorized to Bid on
 Company's Behalf**

Date

Note: If you cannot certify the above statements, please explain in a statement of explanation.

Attachment A
SAMPLE LEASE AGREEMENT

THIS LEASE AGREEMENT, hereinafter referred to as "Lease" or "Agreement", is made to be effective as of the 1st day of _____ between the County of Boulder, a body corporate and politic, whose address is P.O. Box 471, Boulder, Colorado 80306, of the County of Boulder, State of Colorado hereinafter referred to as "Landlord" or "County", and _____, whose address is _____, hereinafter referred to as "Tenant".

In consideration of the mutual covenants contained herein and other valuable consideration, the parties hereto agree as follows.

1. LEASE OF PREMISES

The Landlord and Tenant hereby agree to enter into a lease for approximately _____ acres of land known as the _____ Open Space Property, Boulder County, Colorado, hereinafter referred to as the "Leased Premises", legally described in Exhibit A, and as shown on the map attached hereto as Exhibit B, which exhibits are made a part hereof by this reference.

Included in the Leased Premises are the following structures, facilities and equipment as identified on Exhibit B: Including a center pivot irrigation system, _____.

2. TERM

The term of this Lease shall commence on _____ (OR) the execution hereof and shall end on December 31, _____ unless terminated by Landlord at an earlier date, as provided in Paragraph 18 of this Agreement. If Tenant is in compliance with all the terms of the Lease, including all rental payments due, Tenant, at Tenant's option, may renew the Lease upon the same conditions for up to two additional one-year terms. If Tenant chooses to exercise either of the two options to renew the Lease, Tenant must provide written or verbal notice to Landlord by **December 15** of the year prior to the applicable option year. Any work or preparation for farming after termination/expiration of the Lease term shall not constitute or be construed as a renewal of the terms of this Lease.

Landlord may also terminate this Lease if it sells the Leased Premises to a third party. In the event Landlord sells the Leased Premises to a third party prior to the expiration of this Lease, Landlord shall provide written notice to Tenant of such sale no less than thirty (30) days prior to the date of sale. Tenant reserves the right to negotiate a new lease with the new owner. However, if Tenant is unable to negotiate a new lease with the new owner, Tenant may remain in possession of Leased Premises after the sale until: (a) the later of 60 days or the end of the current growing season (the growing season being from March 1 to October 31); or (b) the later of 60 days or the start of the next growing season if the sale occurs during the dormant season.

Landlord and Tenant agree that, notwithstanding anything in this Lease to the contrary, Landlord may terminate the Lease as to (Name of Parcel) at any time upon thirty (30) days written notice to Tenant.

In the event Tenant owns property adjacent to the Leased Premises ("Tenant's Property"), Landlord may terminate this Lease if Tenant sells the Tenant's Property to a third party. In the event Tenant sells the Tenant's Property to a third party prior to the expiration of this Lease, Tenant shall provide written notice to Landlord of such sale no less than thirty (30) days prior to the date of sale. Landlord reserves the right to terminate the Lease and negotiate a new lease with the new owner or lease the property to a new tenant, at Landlord's sole discretion. Tenant may remain in possession of Leased Premises after the sale for up to 30 days but must remove all personal property within that time period.

3. RENT

Cash Rent

Tenant shall pay the Landlord rent of \$_____ per annum, based on _____ acres at \$_____ per acre and shall be paid as follows: _____ . **FINAL PAYMENT MUST BE RECEIVED BY DECEMBER 15 OF THE APPLICABLE YEAR.**

In the event that the Tenant wants to grow hemp, the Tenant acknowledges that a higher rental rate will be charged for the acres in hemp production.

Within thirty (30) days of planting perennial crop seed, Tenant shall submit to Landlord written evidence of the cost of such seed. Should Tenant cease to lease the Leased Premises within five (5) years after Tenant's planting perennial crop seed, unless the Lease is terminated pursuant to Paragraph 18, Landlord shall reimburse Tenant a pro rata share of the cost of such perennial crop seed. Such reimbursement shall be paid to Tenant within thirty (30) days after expiration or termination of this Lease. At the Landlord's sole discretion, the reimbursement for perennial crop seed may be credited against the final cash rent payment due from Tenant.

-OR-

Crop Share Rent

Rent is based on the following crop share arrangement:

1. Alfalfa, grass and other forage crops harvested mechanically:
 - a. Crop Share:

Landlord receives One-half (1/2) of the crops / Tenant receives One-half (1/2) of the crops

b. Cost Share:

Seed – 100% furnished by Landlord

Cost and application of Herbicide, Insecticide, Fertilizer and Pesticide - One-half (1/2) Landlord / One-half (1/2) Tenant

Mowing, Raking - Tenant provides all

Baling, Stacking - One-half (1/2) Landlord / One-half (1/2) Tenant

-AND-

2. Beans, corn, small grains, and other crops:

a. Crop Share:

Landlord receives One-half (1/2) of the crops / Tenant receives One-half (1/2) of the crops

b. Cost Share:

Seed – 100% furnished by Landlord

Cost and application of Fertilizer, Herbicide, Insecticide and Pesticide - One-half (1/2) Landlord / One-half (1/2) Tenant

Harvest - One-half (1/2) Landlord / One-half (1/2) Tenant

c. Freight expense:

1. Within 5 miles of Leased Premises – 100% Tenant

2. Over 5 miles from Leased Premises - One-half (1/2) Landlord / One-half (1/2) Tenant

3. Comparative freight expense deducted from price of feed crops purchased by producer.

d. Crop Residue:

Crop Share: Landlord receives One-half (1/2) of the crop residue / Tenant receives One-half (1/2) of the crop residue

Cost Share: One-half (1/2) of expenses to Landlord / One-half (1/2) of expenses to Tenant

-OR-

2. Beans, corn, small grains, and other crops:

a. Crop Share:

Landlord receives One-third (1/3) of the crops / Tenant receives two-thirds (2/3) of the crops

b. Cost Share:

Seed – 100% furnished by Tenant

Cost and application of Fertilizer, Herbicide, Insecticide and Pesticide - One-third (1/3) Landlord / Two-thirds (2/3) Tenant

Harvest - 100% furnished by Tenant

c. Freight expense:

1. Within 5 miles of Leased Premises – 100% Tenant

2. Over 5 miles from Leased Premises - One-third (1/3) Landlord / Two-thirds (2/3) Tenant

3. Comparative freight expense deducted from price of feed crops purchased by producer.

d. Crop Residue:

Crop Share: Landlord receives One-third (1/3) of the crop residue / Tenant receives two-thirds (2/3) of the crop residue

Cost Share: One-third (1/3) of expenses to Landlord / two-thirds (2/3) of expenses to Tenant

AND/OR

3. Sugar Beets:

a. Crop Share:

Landlord receives One-fourth (1/4) of the crops / Tenant receives Three-fourths (3/4) of the crops

b. Cost Share:

Seed – 100% furnished by Tenant

Cost and application of Fertilizer – One-half (1/2) Landlord, One-half (1/2) Tenant

Cost and application of Herbicide, Insecticide and Fumigant - One-fourth (1/4) Landlord / Three-fourths (3/4) Tenant

Freight - One-fourth (1/4) Landlord / Three-fourths (3/4) Tenant

Harvest - 100% furnished by Tenant

For any reimbursable crop share expense, Tenant shall submit to the Landlord, within sixty (60) days after incurred, written evidence of the cost of such expense. Any expenses incurred by the Tenant, not presented to the Landlord in the time allowed, shall be reimbursed only at Landlord's sole discretion.

Tenant shall harvest the crop and deliver it to a mutually agreed upon market. Within 30 days after harvest, but in no event later than **November 15** of the applicable year of the Lease, Tenant must give Landlord production numbers and revenue totals. The only exception to this

deadline shall be if, prior to November 15 of the applicable year, the Director of Boulder County Parks & Open Space gives Tenant written approval to provide these figures after November 15. Upon completion of harvest, Tenant shall furnish Landlord with documentation confirming sale or storage of Landlord's share of the crop in Landlord's name. Remittance of sale proceeds or verification of stored crop is due within thirty (30) days of completion of harvest, but in no event later than **December 15** of the applicable year of the Lease or option, or the Director of Boulder County Parks & Open Space may give written approval prior to December 15th of the applicable year as to the date the crop is marketed. Tenant reserves the right to purchase Landlord's share of the crops. If Tenant wishes to purchase the Landlord's share of crop, Tenant must inform Landlord of his/her/it's intentions to buy no later than 30 days after harvest. Total payment for this share of the crop must be paid in full by December 15th of each year to the Landlord.

Sale of Crop to Tenant:

Prices for the following crops shall be established as follows:

- a. Alfalfa price will be determined at each cutting depending upon quality and prevailing market price.
- b. The price of corn silage will be determined at prevailing market price at time of sale, less a freight deduction of \$ _____ for each gross ton.
- c. Shelled corn (including high moisture corn and other small grains) will be purchased at prevailing market price at harvest, less a freight deduction of \$ _____ per bushel (corn- ____lbs.).
- d. Payment for feed crops purchased by Tenant will be according to paragraph 3 of the Lease.

Rent payment shall be satisfied upon receipt of sale proceeds from, or verification of storage of, Landlord's share, in Landlord's name. Landlord reserves the right to sell Landlord's portion of the crop at Landlord's discretion at any time during the Lease term. Proceeds or notice shall be mailed to the Attn:

Accounts Receivable Department
Boulder County Finance
P.O. Box 471
Boulder, CO 80306.

-OR-

Grazing Rent

For crop not harvested mechanically and for crop aftermath that is grazed, the Tenant shall pay the Landlord rent equal to \$ _____ per animal unit equivalent per day ("AUD"). The total rent owed for each year shall be established at the end of each grazing season by an accounting between the Landlord and the Tenant, hereinafter referred to as the "Final Accounting". Rent shall be paid as follows: The total rent payment shall be due 30 days after the Final Accounting for each grazing season, but in no event later than **December 15** of the applicable year of the initial term of

SAMPLE

the Lease. Thereafter the final rent payment during the term of any option shall be due 30 days after the Final Accounting for each grazing season throughout the term of any option but in no event later than **December 15** of the applicable year of the option. ****OR**** Thereafter, one-half of the estimated annual rent shall be due on January 1 of each year during the term of any option, and the final rent payment shall be due 30 days after the Final Accounting for each grazing season throughout the term of any option but in no event later than December 15th of the applicable year of the option.

RENT OF YARDAGE

If any grazing on aftermath occurs whereby animals are provided with feed not grown on the Leased Premises, Tenant shall pay the Landlord FIVE CENTS (\$0.05) per AUD

ORGANIC CERTIFICATION

With the prior written agreement of Landlord, Tenant's rent for acreage in transition from conventional to organic production methods will be reduced by 50% for each of the three years of the organic certification process. This discount shall not apply to acreage that is not in transition to organic production or to any other rent owed by Tenant to Landlord. In the event Tenant receives organic certification after the three-year certification process, Landlord will pay any certification fees for the initial year following certification, if those fees are not otherwise paid for by other incentive programs. In the County's discretion, the Lease may be extended for an additional two years, beyond the term described in paragraph 2 of this Lease, if certification is obtained within the term of the Lease.

Rent is due by 4:30 p.m. on the specified date by mail to:
Boulder County Finance Department
Attn: Accounts Receivable
P.O. Box 471
Boulder, Colorado 80306.

4. LATE PAYMENTS

If any of the payments for **cash rent, rent for grazing, crop share rent and/or water assessments** or any other payments due under this Lease are more than thirty (30) days past due, the balance due and owing shall begin to accrue interest after 4:30 p.m. on the due date at a rate of 1.5% (percent) per month. Tenant may not exercise any option to renew the Lease if Tenant is not current with rental payments at the time Tenant gives notice of intent to exercise the option.

5. USE

Tenant shall use the Leased Premises for the purpose of agricultural production.

6. WATER RIGHTS

Tenant acknowledges that there are no water rights available for irrigation of the Leased Premises.

-OR-

Tenant acknowledges that the following irrigation water rights are owned by the Landlord and available to Tenant for agricultural use:

_____ shares of the _____ Ditch Company.

The irrigation water is to be used for irrigation of the Leased Premises only. Landlord shall be responsible for payment of water assessments for this/these share/s. Tenant acknowledges that Landlord makes no guaranty or representation as to the amount or quality of water any shares or other interest in a water right(s) will provide. Tenant shall be responsible for acquisition of, and payment for additional rental water to be used on the Leased Premises, including ditch carrying charges resulting from such rental.

**** FOR CROP SHARE OR GRAZING LEASES **** On rare occasions, Landlord may participate in purchase of rental water, but only after prior written agreement is given by the Director of Boulder County Parks & Open Space, based on a determination that the additional water will add considerable yield to the property. Additionally, if pumping is necessary for irrigation, the Tenant shall be responsible for any utility charges or fuel to pump water associated with any system. Tenant further agrees to provide County with an irrigation schedule that provides a record of quantities of irrigation water used, and of starting and ending dates of annual irrigation.

-OR-

If a center pivot system is included with the Lease, Tenant shall be responsible for all labor charges for general annual repairs and maintenance and Landlord shall be responsible for all parts charges for general annual repairs and maintenance on such system. Landlord shall be responsible for major repair costs of the pivot sprinkler, such as pump replacement and/or repair of other major components, provided there has been no negligence in performing annual repairs, maintenance, and operation of said system on the part of the Tenant.

7. PROPERTY MANAGEMENT

Tenant shall manage the Leased Premises consistent with a Soil and Water Conservation Plan as prepared and approved by the **Longmont OR Boulder Valley** Conservation District, or its successor, in cooperation with the Natural Resource Conservation Service, hereinafter referred to as "NRCS", which Plan shall be current during each Lease period. Tenant shall file and certify acreage with the Boulder County Consolidated Farm Service Agency, and maintain and submit production, fertilizer and chemical application records as required by the federal government, or as required hereunder. Tenant shall be held responsible and accountable for any degradation to the land and/or

ecological integrity of the area as a result of failure to adhere to any of the requirements under the terms of the Soil and Water Conservation Plan. Such failure by Tenant shall be grounds for termination of the Lease.

Tenant shall also assist Landlord in developing an annual written agricultural operation plan and an annual written integrated weed operation plan prior to each growing season. As the growing season progresses, the plans may be modified as conditions, such as weather, vary. Tenant agrees to implement management according to these plans, and to any modifications made to the plans by the Landlord.

Tenant will take all measures necessary to prevent pollutants from entering storm drains and watercourses. To eliminate stormwater pollution, Tenant shall implement effective pollution prevention control measures. Pollution prevention controls include general good housekeeping practices, appropriate scheduling of activities, operational practices, maintenance procedures and other measures to prevent the discharge of pollutants directly or indirectly to the storm drain system and watercourses. These pollution prevention controls shall be maintained for the duration of this Lease. Tenant shall also be responsible for proper disposal of all waste materials, including wastes generated by the implementation of pollution prevention controls. Tenant shall otherwise comply with the Federal Clean Water Act, Colorado Water Quality Control Act, and Boulder County's local Clean Water Act, Illegal Discharge Ordinance (No. 2012-4).

For work performed in urbanized areas, Tenant must comply with the requirements of MS4 Permit (COR090000), which is available through the Colorado Department of Public Health and Environment.

Tenant shall comply with all of the terms set forth in the current protocols for genetically modified crops to be grown on Boulder County Parks & Open Space. Current copies of the protocols will be kept on file with the County's Agricultural Operations office and are available for inspection and copying during normal business hours.

**** ONLY IF GRAZING****

The vegetation on the Leased Premises shall not be over grazed. Grazing shall occur only if adequate forage is available. Landlord will monitor grazing and the natural resources impacted by grazing. Such natural resources shall include but not be limited to: soils, vegetation, water, and wildlife. Landlord has authority to require Tenant to make any adjustments with respect to grazing. Any adjustments required by Landlord shall be executed by Tenant within the time period required by Landlord. If Tenant fails to do so, Landlord may remove grazing animals and Tenant shall be responsible for any expenses incurred as a result of such removal. Tenant shall be held responsible and accountable for any damage to pasture and ecological integrity of the area as a result of failure to adhere to any of Landlord's requirements under the terms of the operation plan. Such failure by Tenant shall be grounds for termination of the Lease.

8. RENEWAL

If Landlord elects to renew the Lease beyond the Tenant's second option to renew, and Tenant is in compliance with all the terms of the Lease, including all rental payments due, Landlord shall notify Tenant of the renewal terms, in writing, on or before July 31 of the year of the last option. Tenant shall have fifteen (15) calendar days from the receipt of said notice to accept or reject, in writing, a renewal of the Lease.

If Landlord and Tenant do not agree to renew this Lease for any cause, Landlord, or its agent, may enter the Leased Premises after Tenant has harvested the then-current crop, in order to begin preparatory work for future crops.

(For dryland crops)

If the parties do not agree to renew this Lease for any cause on or before March 31 of the last year of the Lease term or option, Tenant shall not begin summer fallow preparations or any other work preparatory for future crops. Additionally, Landlord or any agent of the Landlord, may enter upon the Leased Premises after March 31 or after harvest of current year crop for fallowing operations and also after harvest of current year crop in order to begin preparatory work for future crops.

9. REMOVAL OF PERSONAL PROPERTY

Tenant shall have the duration of the Lease term to remove all of Tenant's personal property from the Leased Premises, unless Landlord terminates this Lease as provided in Paragraph 18 of this Agreement. Tenant agrees that any personal property of Tenant remaining on the Leased Premises after the end of the Lease term, or termination of the Lease, shall be deemed abandoned by Tenant and Landlord shall have the right to dispose of any such personal property in any manner Landlord deems appropriate. Tenant will be liable for any disposal costs incurred by Landlord.

10. DELIVERY OF POSSESSION

The Tenant shall be entitled to possession of the Leased Premises at 7 a.m. on the date of commencement of the Lease term.

11. TERMINATION

This Lease shall terminate at the end of the Lease term or, if an option has been exercised, at the end of the option period, unless a new Lease for a new term, is executed by both parties. This Lease shall also terminate upon Tenant's death. Additionally, the Landlord may terminate this Lease pursuant to the provisions of Paragraph 18 contained herein.

Tenant agrees to reside within thirty miles of the borders of Boulder County. In the

event Tenant moves beyond the 30 miles from any Boulder County border, County may, at its sole discretion, terminate the Lease.

12. **HOLDOVER**

If Tenant holds over after the expiration or termination of this Lease agreement, Tenant shall occupy the Leased Premises on a month-to-month basis at a rental rate and rental terms to be specified by the Landlord unless a new Lease, for a new term, is executed by both parties within thirty (30) days of the termination of this Lease.

13. **INSURANCE REQUIREMENTS**

The Tenant shall procure and maintain at its own expense, and without cost to the County, the following kinds and minimum amounts of insurance for purposes of insuring the liability risks which the Grantee has assumed until this Lease has expired or is terminated:

- a. Farmer's Liability Insurance Policy. This coverage should be provided on an Occurrence Form, ISO CG001 or equivalent, with Minimum limits of \$1,000,000.00 Each Occurrence and \$2,000,000.00 General Aggregate resulting from the current agricultural operations on the Leased Premises.
- b. Automobile Liability Insurance. Tenant shall purchase Automobile Liability Insurance which includes coverage for all owned, non-owned, and hired vehicles with a minimum limit of \$1,000,000.00 each accident for each occurrence resulting from the current agricultural operations on the Leased Premises.
- c. Workers' Compensation and Employer's Liability. Workers' Compensation, if applicable, must be maintained to statutory limits. Employer's Liability is required for minimum limits of \$100,000.00 Each Accident/\$500,000.00 Disease-Policy Limit/\$100,000.00 Disease-Each Employee.

The Tenant shall provide Certificates of Insurance to Boulder County annually demonstrating that the insurance requirements have been met prior to the commencement of work under this Lease. The Farmer's Liability Certificate of Insurance shall indicate Boulder County as an **ADDITIONAL INSURED by endorsement to the policy**.

The Additional Insured wording should be as follows: *County of Boulder, State of Colorado, a body corporate and politic, is named as Additional Insured.*

These Certificates of Insurance shall also contain a valid provision or endorsement that these policies may not be canceled, terminated, changed or modified without **thirty (30) days** written notice to the County, pursuant to paragraph 17.

If Tenant does make any change or modification to these policies, Tenant is required to give Landlord a 30-day written notice after such change or modification.

The Certificate Holder is "BOULDER COUNTY". Certificates of Insurance should be forwarded to:

Boulder County
Attn: Lease Coordinator
5201 St. Vrain Road
Longmont, Colorado 80503

14. CONDITION OF PROPERTY

Prior to signing this Agreement, Tenant has inspected or caused to be inspected the Leased Premises and takes the Leased Premises in the condition **AS IS**. No additional representation, statement or warranty, express or implied, has been made by or on behalf of Landlord as to such condition. In no event shall the Landlord be liable for any defect in such Leased Premises or for any limitation on its use as agricultural land.

15. TENANT COVENANTS AND RESPONSIBILITIES

Except for those activities expressly permitted in this Lease which are exceptions to the Boulder County Parks & Open Space Rules and Regulations, Tenant shall abide by, and shall assure compliance by Tenant's guests and invitees with all Boulder County Parks & Open Space Rules and Regulations as those Rules and Regulations may be amended, including the following:

- a. Tenant shall allow the Landlord access to the agricultural Leased Premises at all times.
- b. Tenant shall only allow odors, fumes, vibrations and noise on and from the Leased Premises which are commensurate with the normal conduct of agricultural operations.
- c. All chemical pest control employed on the Leased Premises shall be in accordance with federal, state or local statute, ordinance, resolution, rule or regulation.
- d. Tenant shall maintain all fences which confine livestock within the Leased Premises.
- e. Tenant shall prevent deterioration beyond normal wear and tear of the Leased Premises and existing structures during the term of this Lease and implement management practices, as described in Paragraph 7 herein, to maintain and conserve the soil and water.

- f. Tenant shall confer with Landlord annually on capital improvements needed for the Leased Premises, as well as, scheduling routine maintenance.
- g. Subject to County Rules and Regulations, Tenant shall burn, clean, dredge and generally maintain in a serviceable condition, all ditches, including wasteways, related to the Leased Premises. Any maintenance requiring hired machinery will require the prior, written consent of Landlord, and shall be paid for by Landlord.
- h. Tenant shall properly place, store, use or dispose on the Leased Premises, temporarily or permanently, only those substances legally permitted to be used on the Leased Premises, and which are approved by Landlord. Such substances shall include fuel products that are hazardous, toxic, dangerous or harmful or which are defined as a hazardous substance by the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") 42 USC § 9601. These substances shall be referred to collectively as "hazardous substances". Tenant shall immediately notify Landlord by phone and in writing, of all spills, releases, inspections, correspondence, orders, citations, notices, fines, response and/or cleanup actions, and violations of law, regulations or ordinances which affect the Leased Premises.
- i. Non-agricultural vehicular travel is restricted to existing roads.
- j. Tenant agrees there shall be no construction of any structure, building or other improvement on the Leased Premises without Landlord's prior written approval.
- k. Tenant shall indemnify and save harmless Landlord from and against any and all claims, suits, actions, damages and causes of action arising during the term of this Lease, or any period during which Tenant's personal property remains on the Leased Premises, for personal injury, loss of life, or damage to property sustained in, or upon the Leased Premises or arising out of the use of the Leased Premises, and from and against all costs, attorneys fees, expenses and liabilities incurred in and about any such claims, the investigation thereof or the defense of any action or proceedings brought thereon, and from any judgments, orders, decrees, or liens, resultant therefrom by virtue of the use of the Leased Premises.
- l. Governmental Immunity: Nothing in this agreement shall be construed in any way to be a waiver of the County's immunity protection under the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*, as amended.
- m. Tenant agrees that Tenant shall not permit any mechanic's lien to be perfected or remain against the Leased Premises. Tenant shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Premises.
- n. Tenant agrees that Tenant shall not assign, convey, devise, sublet, pledge or mortgage

any of Tenant's interest herein without the prior written consent of the Landlord thereto, which consent shall be in the absolute discretion of the Landlord. Landlord reserves right to terminate any sub-lease at anytime at Landlord's sole discretion. This shall not preclude Tenant from using Tenant's share of the crop for collateral for an operating loan.

- o. Tenant agrees the Leased Premises shall not be used for any purposes prohibited by the laws of the United States or the State of Colorado or the ordinances or resolutions of the County of Boulder.
- p. Tenant agrees to deliver up and surrender to the Landlord, possession of said Leased Premises at the expiration or termination of this Lease, by lapse of time or otherwise.
- q. No public access or recreational use of the Leased Premises can be authorized by the Tenant.
- r. It shall be unlawful for any unauthorized person, to remove, destroy, mutilate, collect or deface any natural or man-made object on the Leased Premises.
- s. It shall be unlawful for any person or domestic animal to feed, hunt, pursue, trap, molest, disturb or kill any wildlife at any time on the Leased Premises, except where and when such activities are permitted by action of the Board of County Commissioners or by written permission from the Director of the Parks & Open Space. This provision shall not apply to any county, state or federal government personnel authorized by the Board of County Commissioners to carry out a wildlife management program through law or County-approved rules and regulations.
- t. Ground fires are unlawful. Exceptions to the ground fire prohibition may be allowed only with written permission from the Board of County Commissioners or the Director of Parks & Open Space and are subject to the burning requirements for Boulder County.
- u. It shall be unlawful to dispose of trash, garbage, rubbish, litter or debris on the Leased Premises.
- v. Under no circumstance may hazardous materials be deposited on the Leased Premises.
- w. It shall be a violation of this Lease for any person, acting individually or on behalf of a business or organization, to use the Leased Premises for any commercial purpose (such as a staging area for a bicycle race; filming movies or commercials; hosting a farm to table dinner; riding activities of a commercial horse stable, riding school or livery) without first obtaining written permission from the Landlord. The only

exception to this prohibition against commercial activities on the Leased Premises is that agricultural products produced by Tenant may be sold on the Leased Premises, after approval by Boulder County Parks & Open Space, so long as the sale is conducted in accordance with the provisions of the Boulder County Land Use Code.

- x. It shall be unlawful to take off or land any motorized or non- motorized aircraft within the Leased Premises; aircraft includes but is not limited to: airplanes, helicopters, ultralights, gliders/sailplanes, and hot-air balloons.

16. EASEMENTS AND LICENSES

Notwithstanding any other provision of this Lease, Tenant accepts this Lease subject to all existing easements and licenses of record held by third parties and acknowledges that Landlord retains the right, in its sole discretion, to grant easements or licenses to third parties for entry upon and or use of a portion of the Leased Premises by the third party and or its agents during the term of this Lease. In the event that a third party, acting pursuant to an easement or license, damages the Leased Premises or Tenant's crops and or Tenant's personal property, Landlord will restore the Leased Premises to its prior condition and/or compensate Tenant for the fair market value of any damage to such crop and or Tenant's personal property.

17. NOTICES

Any notice from one party to another, required by the terms of this Lease agreement, may be delivered in person to such party (delivery to one of two or more persons named as a party shall be effective notice to all), or shall be delivered by first class mail, postage prepaid, and shall be deemed given one (1) day after the date mailed, addressed to the respective parties as follows:

Landlord:

Boulder County Parks & Open Space
5201 St. Vrain Road
Longmont, Colorado 80503
303-678-6200 - phone no. provided for informational purposes only.

Tenant:

**

**

303- - phone no. provided for informational purposes only.

18. BREACH

The Tenant agrees to observe and perform the conditions and agreements herein set forth to be observed and performed by the Tenant. If Tenant defaults in the payment of rent, or any part thereof, or if the Tenant shall fail to observe or perform any conditions or agreements set forth in this

Agreement, Landlord shall give Tenant written notice that Tenant has fifteen (15) days to cure such breach. If Tenant fails to commence within said fifteen (15) day period, a course of performance to cure such default and thereafter to diligently pursue the work required to correct it, then, and in that event, and as often as the same may happen, it shall be lawful for the Landlord, at its election, to terminate this Lease and to re-enter and repossess itself of the Leased Premises, with or without legal proceedings, using such force as may be necessary, and to remove therefrom any livestock, crops and any personal property belonging to the Tenant without prejudice to any claim for rent or for the breach of covenants hereof, or without being guilty of any manner of trespass or forcible entry or detainer. Tenant agrees to indemnify and hold harmless the Landlord from and against any costs for the removal and storing of livestock and crops elsewhere incurred by the Landlord under the provisions of this paragraph.

19. JOINT AND SEVERAL LIABILITY

If this Lease is signed on behalf of Tenant by more than one person, the liability of the persons so signing shall be joint and several.

20. MISCELLANEOUS PROVISIONS

Tenant's rights under this Lease are personal to Tenant and the Lease shall terminate upon the Tenant's death, unless Landlord elects, in writing, to permit assignment to a third party.

Time is of the essence of this Lease and of all provisions herein.

If any provisions of this Lease shall be declared invalid or unenforceable, the remainder of the Lease shall continue in full force and effect.

Notwithstanding anything to the contrary contained herein, Landlord's liability under this Lease shall be limited to Landlord's interest in the Leased Premises.

Execution by Counterparts and Electronic Signatures: This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The Tenant and County approve the use of electronic signatures for execution of this Agreement. Only the following two forms of electronic signatures shall be permitted to bind the Tenant and County to this Agreement: (1) Electronic or facsimile delivery of a fully executed copy of a signature page; (2) The image of the signature of an authorized signer inserted onto PDF format documents. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, CRS §§ 24-71.3-101 to -121.

21. PAYMENT OF ATTORNEY'S FEES AND COSTS

If the Landlord shall commence an action for collection of rent or other sums payable under this Lease, or to compel performance of any of the terms or conditions of this Lease, or for damages

for failure of Tenant to perform under this Lease, the Landlord shall collect from the Tenant and Tenant shall pay to the Landlord all reasonable attorney's fees in respect thereof, unless the Landlord shall lose such action, in which case Landlord shall pay Tenant's reasonable attorney's fees and costs.

22. VENUE

This Lease shall be governed by the laws of the State of Colorado. Venue for any action brought under this Lease shall be the Boulder District Court.

23. ENTIRE AGREEMENT

This Lease contains the entire agreement of the parties and may not be altered or amended except by mutual written agreement signed by both parties.

SAMPLE

IN WITNESS WHEREOF, the parties hereto have executed this Lease on the date set forth opposite their respective signatures.

LANDLORD:

By: _____

Eric M. Lane, Director
Boulder County Parks
& Open Space

Date

ATTEST:

Clerk to the Board

TENANT:

SAMPLE

Tenant's name

Date

