

## Sublease Agreement

This Sublease Agreement (the "Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021 (the "Effective Date"), by and between the Town of Erie, a Colorado municipal corporation with an address of 645 Holbrook Street, P.O. Box 750, Erie, Colorado 80516 (the "Town"), and Ryno Retail, LLC d/b/a Plum Creek Garden Market, a limited liability company with an address of 7290 Kipling Street, Arvada, Colorado 80005 ("Sublessor") (each a "Party" and collectively the "Parties").

Now, therefore, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Property. The Town leases vacant real property located at 130 Wells Street, Erie, Colorado (the "Property"), pursuant to a lease dated January 14, 2021 (the "Lease"). Section 6.f. of the Lease allows the Town to sublease the Property with notice to the property owner, and the Town has provided such notice. Subject to the provisions of this Agreement, the Town hereby subleases the Property to Sublessor. Sublessor has inspected the physical condition of the Property and receives the Property in "as is" condition.

2. Term and Termination.

a. *Term*. The term of this Agreement shall commence on April 1, 2022, and shall end on July 9, 2022 (the "Term").

b. *Termination*. This Agreement may be terminated by the Town, in the Town's sole discretion, upon 30 days' prior written notice to Sublessor.

3. Rent and Security Deposit. The rent shall be \$1,670 per month, payable on the first of each month. There shall be no security deposit, but Sublessor agrees that, upon termination, Sublessor shall restore the Property to its original condition, ordinary wear and tear excepted.

4. Use and Occupancy.

a. *Use Limitations*. Sublessor shall use the Property for a pop-up garden market and associated facilities, including without limitation fencing, parking, and temporary greenhouses.

b. *Alteration of Property*. Sublessor may install all necessary components for use of the Property for a pop-up garden market.

c. *Hazardous Materials and Substances*. Sublessor shall at all times comply with all applicable laws, including without limitation all current and future federal, state and local statutes, regulations, ordinances and rules relating to, without limitation, the following: the emission, discharge, release or threatened release of a Hazardous Material

into the air, surface water, groundwater or land; the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a Hazardous Material; the protection of human health, safety or the indoor or outdoor environment; all applicable environmental statutes of the State of Colorado; and all federal, state or local statutes, laws, ordinances, resolutions, codes, rules, regulations, orders or decrees regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect.

d. *Maintenance.* Sublessor shall keep and maintain the Property in a sanitary condition and comply with all fire, safety, health, environmental, building, zoning, anti-discrimination and all other laws regulating the use of the Property now or hereafter in force.

e. *Conduct.* Sublessor shall not cause or permit any disorderly conduct, noise or nuisance upon or about the Property which may annoy or disturb other tenants located in the Property or persons on adjacent property.

f. *Covenant of Quiet Enjoyment.* The Town covenants that Sublessor shall enjoy quiet and undisturbed possession of the Property during the term period and any subsequent renewal term, subject to the terms and conditions of this Agreement.

g. *Signage.* Sublessor shall have the right to install signs upon the Property with the Town's prior approval. Sublessor shall remove all such signs at the termination of this Agreement. Such installations and removals shall be made in such manner as to avoid injury or damage to the Property.

h. *Utilities.* Utility service shall be designated in the name of the Town. The Town shall pay for such costs directly. Sublessor will have access to water and electric utilities on the Property.

5. Indemnification. Sublessor agrees to indemnify and hold harmless the Town and the property owner and their officers, insurers, volunteers, representatives, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, to the extent caused by the act or omission of Sublessor or Sublessor's employees, volunteers, representatives or agents.

6. Miscellaneous.

a. *Integration.* This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

b. *Severability.* If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected, and each provision of this Agreement shall be valid and enforceable to the extent permitted by law.

c. *Governing Law and Venue.* This Agreement shall be governed and construed in accordance with the laws of the State of Colorado, and any legal action arising out of this Agreement shall be brought in Weld County, Colorado.

d. *Notice.* Any notice under this Agreement shall be in writing and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the other Party at the address set forth on the first page of this Agreement.

e. *Successors.* This Agreement shall inure to the benefit of and be binding upon the Parties and their respective heirs, successors, representatives, administrators, executors and devisees.

f. *Assignment and Subletting.* Sublessor shall not assign this Agreement or sublet any portion of the Property.

g. *No Waiver.* A failure of a Party to enforce any term of this Agreement shall not be deemed to be a waiver of any other term of this Agreement.

h. *Subordination.* This Agreement is and shall be subordinate to all existing and future liens and encumbrances against the Property.

i. *No Joint Venture.* Notwithstanding any provision hereof, the Town shall never be a joint venture in any private entity or activity which participates in this Agreement, and the Town shall never be liable or responsible for any debt or obligation of any participant in this Agreement.

j. *Governmental Immunity.* Nothing herein shall be construed as a waiver of any protections or immunities the Town may have under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended.

k. *No Third-Party Beneficiaries.* There are no intended third-party beneficiaries to this Agreement.

In Witness Whereof, the Parties have executed this Amendment as of the Effective Date.

**Town of Erie, Colorado**

\_\_\_\_\_  
Jennifer Carroll, Mayor

Attest:

\_\_\_\_\_  
Heidi Leatherwood, Town Clerk

**Sublessor**



\_\_\_\_\_  
Ryno Retail, LLC

State of Colorado            )  
  ) ss.  
County of \_\_\_\_\_)

The foregoing instrument was subscribed, sworn to and acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_ of Ryno Retail, LLC dba Plum Creek Garden Market.

My commission expires:

(Seal)

\_\_\_\_\_  
Notary Public