

RESOLUTION NO. 3546

A RESOLUTION AUTHORIZING THE LEASING TO DUANE BUNDY AND JANE BUNDY, OF MILES CITY MONTANA, A TRACT OF LAND OWNED BY THE CITY OF MILES CITY, MONTANA ON THE PERIMETER OF THE SEWAGE TREATMENT PLANT IN SECTION 22, TOWNSHIP 8 NORTH, RANGE 47 EAST, M.P.M.

WHEREAS, DUANE BUNDY and JANE BUNDY, of 19 Wyttenhove Lane, Miles City, Montana 59301, have hereunto made application for lease of the following described real property located in Custer County, Montana:

Real property on the perimeter of the Sewage Treatment Plant, located in Section 22, Township 8 North Range 47 East, M.P.M. in Custer County, Montana as set forth in the diagram, Attachment "A" of Exhibit "A" to this Resolution, consisting of 16.5 acres more or less.

AND WHEREAS the City Council finds that the area applied for is reasonably necessary for the use of the Lessees as a site for the purpose described in the attached Lease and the application of said Lessees should be granted.

NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA:

It does hereby authorize the leasing to Duane Bundy and Jane Bundy, of 19 Wyttenhove Lane, Miles City, Montana 59301, the property owned by the City of Miles City and described above, in accordance with the terms, covenants, purposes and conditions set forth in the copy of the Lease Agreement, attached hereto as Exhibit "A", and made a part hereof.

PASSED AND ADOPTED by at least a two-thirds affirmative vote of all members of the Miles City Council this 11th day of September, 2012.



C. A. Grenz, Mayor

ATTEST:


Rebecca Stanton, City Clerk

LEASE AGREEMENT

THIS AGREEMENT, made entered into this 12th day of Sept. 2012, by and between the **CITY OF MILES CITY, MONTANA**, a Montana municipal corporation, of 17 S. Eighth Street, Miles City, Montana 59301, hereinafter referred to as the "**CITY**" and Duane and Jane Bundy, as joint tenants with right of survivorship, of 19 Wyttenhove Lane Miles City 59301, hereinafter referred to as "**TENANT**".

WHEREAS the CITY owns certain real property located on the perimeter of the sewage treatment plant located in Section 22, Township 8N Range 47E in Custer County particularly described as follows

See Exhibit A, diagram, attached hereto and incorporated herein by reference.
approximately 16.5 acres.

AND WHEREAS it is the desire of TENANT to lease the above described property in order to use it for agricultural purposes.

AND WHEREAS the land is mostly in the floodway and is otherwise not usable for most purposes except agriculture.

AND WHEREAS the area is currently vacant and available then the area is leasable on the following terms and conditions;

NOW, THEREFORE, the parties hereto mutually covenant and agree as follows:

I. AGREEMENT

The CITY, for and in consideration of the rents to be paid and the covenants to be performed by TENANT, does hereby demise, lease, and let unto TENANT the real property located on the perimeter of the sewage treatment plant located in Section 22, Township 8N Range 47E in Custer County particularly described as follows

See Exhibit A, diagram, attached hereto and incorporated herein by reference
approximately 16.5 acres, hereinafter "*Leasehold*".

II. INITIAL TERM

The term of this Agreement shall be for a period 10 months, beginning on Sept., 2012 and expiring at midnight on June 30, 2013, hereinafter, "*the initial lease term*", subject to the option in TENANT to renew this lease as provided for in Article IV of this lease.

III. RENTAL

Annual rental for the initial lease term shall be the following:

Subject property as shown in exhibit A of this agreement contains approximately 16.5 acres at a rate of \$4.60 per acre for a total of Seventy Five and 90/100 dollars (\$75.90) per year.

Payments for the first year of this agreement shall be paid upon contract execution date. The payment due at execution shall be \$75.90 for the remaining lease year through June 30, 2013. Payments in subsequent years shall be due and payable in advance on July 1st of each subsequent year of the lease term, commencing July 1, 2013 through July 1, 2016.

IV. OPTION TO RENEW

This Agreement shall be automatically renewed each year for a period not to exceed one (1) year upon the same terms and conditions herein unless the CITY or the TENANT gives to the other party written notice of cancellation of said Agreement. Said notice shall be given at least (30) days prior to the termination date of this Agreement or any subsequent renewal termination date. In the event this Agreement is automatically renewed, it is understood and agreed that the CITY reserves the right and the power to review the rental on an annual basis, and may adjust the rental as economic conditions and the rental market dictate, and any adjustment shall be evidenced by an amendment attached hereto and dated and signed by the parties hereto.

V. RESPONSIBILITIES OF THE TENANT

TENANT does hereby acknowledge, covenant and agrees as follows:

A. Purpose.

TENANT desires to lease the premises described above for the following general purposes:

The pasturing of stock and activities directly related thereto.

TENANT agrees to use the premises for the stated purpose and the stated purpose only, and covenants that they will not use or occupy said premises, or allow the same to be used or occupied, for any unlawful purpose or any purpose deemed extrahazardous on account of fire or otherwise, or any use which may subject the property to civil or criminal forfeiture.

B. Compliance with Laws.

TENANT shall comply with, conform to, and obey all present and future laws, ordinances, rules and regulations of all governmental authorities or agencies, respecting the use and occupation of the premises.

C. Independent Investigation.

TENANT acknowledges that it has carefully examined and inspected the premises and improvements and it is fully familiar and acquainted therewith, and agrees to accept the same in their present conditions, and that it is not leasing the premises because of any warranty, representation, information or promises made by the CITY or anyone acting for or on behalf of the CITY, which are not specifically set forth in this Agreement.

D. Maintenance.

TENANT agrees to keep the premises and improvements thereon in good repair and upkeep, reasonable wear and tear alone excepted, and further agrees neither to permit nor cause any waste on the property, or with respect to any improvements thereon. Tenant shall keep the premises in a clean and orderly condition and not allow accumulations of junked or inoperable automobiles, trucks, farm equipment, or scrap upon the premises.

E. Improvements to Remain.

Within sixty (60) days immediately following the expiration of this lease, the TENANT shall remove any improvements TENANT has placed on the leasehold and shall restore, at TENANT'S expense, the leasehold premises to level with the adjoining property and in a debris free condition. If inclement weather during such sixty (60) day period delays such removal and restoration, CITY shall provide TENANT with a reasonable time, not to exceed an additional sixty (60) days in which to remove the improvements and restore the leasehold. If TENANT fails to remove such improvements within such sixty (60) day period, CITY, at its option, may (1) cause the removal of such improvements and restoration of the leasehold premises to be done and shall be entitled to recover all costs and expenses of such removal and restoration from TENANT or (2) may retain all such improvements as property of CITY without compensation to TENANT. Provided, however, that upon termination of the Lease, TENANT, within such same sixty (60) day period, shall have the right to sell the improvements TENANT has placed upon the Leasehold to a successor tenant.

In the event that any financial institution holds a security interest upon any of the improvements hereon, then, in the event of termination of this lease, whether by expiration of term or uncured default, the financial institution holding such security agreement shall be allowed to remove any improvements upon which it holds a security interest within the times provided for the TENANT to remove improvements, as set forth in the first paragraph of this subsection.

F. Right to Inspect.

The CITY or the CITY'S authorized agents shall have the right to enter upon the premises after written notice and during normal business hours, in order to inspect and determine whether TENANT is in compliance with the terms of this Agreement.

G. Utilities.

TENANT agrees to pay for the use and maintenance of all utility services, if any, on the premises, including gas, electricity, telecommunications, water, sewer and solid waste disposal, if applicable.

H. Taxes and Assessments.

TENANT shall pay any and all taxes and assessments which may be lawfully levied against TENANT'S occupancy or use of the premises or any improvements thereon as a result of TENANT'S occupancy.

I. Indemnification.

TENANT shall indemnify and hold the CITY harmless for any loss, damage, claim and/or liability occasioned by, growing out of, or arising or resulting from any default hereunder, or any tortious or negligent act on the part of TENANT, its agents, employees or customers, and TENANT hereby agrees to indemnify and hold harmless the CITY for any such loss or damage. The obligations hereunder shall survive the termination of this lease.

J. Insurance.

TENANT agrees to maintain with a good and reputable insurance company a policy of special form property insurance coverage covering the improvements on the leasehold premises in an amount equal to 100% of the replacement value, and said policy of insurance shall have a loss-payable clause specifically naming and covering the interests of the CITY. TENANT further agrees to carry premises liability insurance in the amount of at least ONE MILLION AND NO/100THS DOLLARS (\$1,000,000.00) personal injury and property damage per occurrence and in aggregate, with the CITY named as an additional insured on all such policies of insurance. TENANT shall carry Worker's Compensation Insurance as required by the laws of the State of Montana. TENANT shall provide evidence of such current and valid insurance upon approval of this lease by the Miles City City Council and, thereafter, upon demand of the lease administrator of the CITY. All such policies of insurance shall carry an endorsement requiring ten (10) days prior written notice to the CITY by the insurer prior to their cancellation, termination or non-renewal

K. Environmental Warranty.

TENANT warrants and agrees to neither cause nor allow to be caused any release of hazardous substances from, into, or upon the premises, nor to cause or allow to be caused any contamination by hazardous waste or substances with respect to the premises, and that, when applicable, TENANT shall comply with all local, state and federal environmental laws and regulations.

TENANT agrees to indemnify, defend and hold harmless the CITY, its employees, agents, members, successors and assigns, from and against any and all damage, claim, liability,

H. Interpretation.

This Agreement shall be governed and construed in all respects according to the laws of the State of Montana.

I. Contingent Upon Approval of City Council.

This Agreement shall not become effective until a resolution approving this lease has been adopted by the affirmative vote of two-thirds of the membership of the City Council of the City of Miles City, pursuant to §7-8-4201(2) MCA.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement the date and year first hereinabove written.

CITY OF MILES CITY

By: C. A. Grenz
ITS MAYOR

ATTEST:

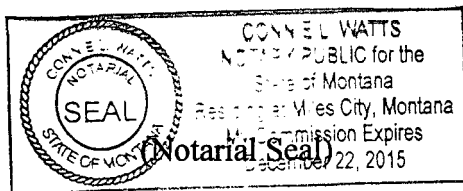
Rebecca Stanton
CITY CLERK

TENANT:

Duane Bundy Jane Bundy
DUANE AND JANE BUNDY

STATE OF MONTANA)
: SS.
COUNTY OF CUSTER)

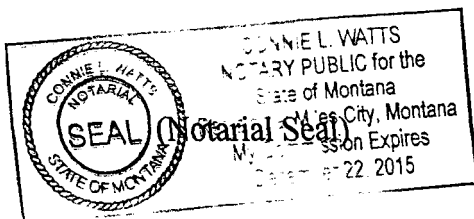
This instrument was acknowledged before me on the 12th day of Sept, 2012
by C.A. Grenz in his capacity as Mayor of the City of Miles City, Montana, a Montana
municipal corporation.



Connie L. Watts
Connie L. Watts
(Printed name of notary)
Notary Public for the State of Montana
Residing at Miles City, Montana
My Commission expires: 12 / 22 / 2015

STATE OF MONTANA)
: SS.
COUNTY OF CUSTER)

This instrument was acknowledged before me on the 19th day of Sept, 2012
by DUANE AND JANE BUNDY.



Connie L. Watts
Connie L. Watts
(Printed name of notary)
Notary Public for the State of Montana
Residing at Miles City, Montana
My Commission expires: 12 / 22 / 2015

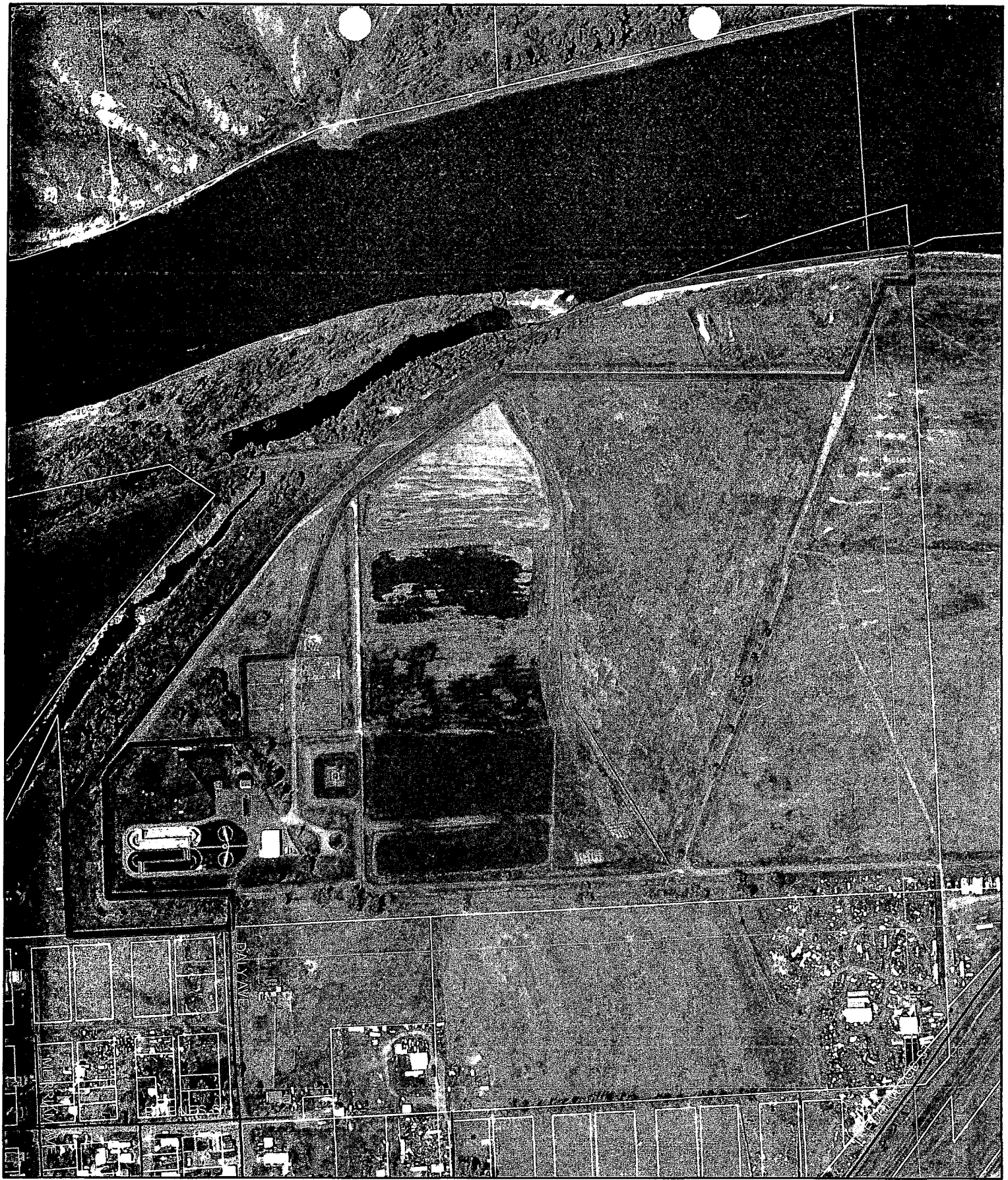


EXHIBIT A
to Duane and Jane Bundy Lease

