

RESOLUTION NO. 4718

A RESOLUTION APPROVING A REAL PROPERTY LEASE AGREEMENT BETWEEN THE CITY OF MILES CITY AND KATELYN MATZEN, FOR CERTAIN REAL PROPERTY OWNED BY MILES CITY, MONTANA.

WHEREAS, the City of Miles City has advertised and solicited bids in accordance with City policies for the lease of the following City-owned real property located on the perimeter of the municipal wastewater treatment plant north of the City of Miles City in Custer County, Montana, to wit:

Legal Description: Portions of the South half and/or Government Lots 6 through 9 of Section 22 of Township 8 North, Range 47 East, containing approximately 16.5 acres, more or less;

AND WHEREAS, Katelyn Matzen was the sole bidder for said leasehold, and the City desires to enter into a lease agreement with said bidder.

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

The City Council hereby authorizes and approves the terms and conditions of the Lease Agreement between the City of Miles City and Katelyn Matzen attached hereto as Exhibit "A", which is made a part hereof by this reference; and hereby authorizes the Mayor of the City of Miles City to execute such lease and bind the City of Miles City thereto and to perform the terms and conditions of such lease.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY AN AFFIRMATIVE VOTE OF 2/3 OF THE MEMBERSHIP OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 8TH DAY OF SEPTEMBER, 2026.

C.A. Grenz, Mayor

ATTEST:

Mary Rowe, City Clerk

***Exhibit "A" TO RESOLUTION NO. 4718
CITY PROPERTY LEASE AGREEMENT***

THIS AGREEMENT, made and entered into this _____ day of September, 2026, 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 **KATELYN MATZEN**, 209 Pleasant Street, Miles City, Montana, 59301, hereinafter referred to as "**TENANT**".

RECITALS:

WHEREAS the CITY owns certain real property located on the perimeter of the municipal wastewater treatment plant north of the City of Miles City, Custer County, Montana, more particularly described as follows:

Portions of the South half and/or Government Lots 6 through 9 of Section 22 of Township 8 North, Range 47 East, containing approximately 16.5 acres, more or less; see Attachment 1, an approximate map of the premises, hereinafter the "Leasehold".

AND WHEREAS it is the desire of TENANT to lease the above-described Leasehold for a term of four (4) years, plus the remainder of the current fiscal year, subject to the options to renew as hereinafter provided;

AND WHEREAS the CITY is agreeable to providing such 4+ year term lease, together with the option to renew for one (1) additional five-year term, upon the Leasehold under 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 municipal wastewater treatment plant north of the City of Miles City and more particularly described as follows:

Portions of the SE ¼ of Section 22 of Township 8 North, Range 47 East, containing approximately 16.5 acres, more or less.

II. INITIAL TERM

The term of this Agreement shall be for a period of four (4) years, plus _____ days of the fiscal year ending June 30, 2027, beginning on September ____, 2026 and expiring at midnight on June 30, 2031, hereinafter, "*the initial lease term*", subject to the option to renew this lease as provided for in Article IV of this lease agreement.

III. RENTAL

The annual rental for the initial lease term described in Section II. shall be in accordance with the rates established by the CITY, as follows:

Portions of the SE ¼ of Section 22 of Township 8 North, Range 47 East, containing approximately 16.5 acres, more or less, for a total annual rental of one-thousand, five-hundred and forty-two and 00/100 dollars (\$1,542.00) per year. For the first partial year of the initial lease term commencing September _____, 2026, a prorated amount of one-thousand, two-hundred and forty-six and 27/100 dollars (\$1,246.27) shall be paid before or upon the anticipated contract execution date of September 11, 2026.*

For the remainder of the current fiscal year, TENANT has paid the CITY a processing fee of \$500.00. CITY shall credit TENANT the \$500.00 fee and apply it to the rental for the remainder of the current fiscal year.

*Should the execution date change from the anticipated date, the prorated rental amount due and payable on the actual execution date shall be based on the amount of \$4.22466 per day, with the prorated rental amount subject to approval by the Mayor of the City of Miles City.

Commencing July 1, 2031, if lessee exercises the option to renew per Section IV, the annual rental amount of one-thousand, five-hundred and forty-two and 00/100 dollars (\$1,542.00) per year shall be due and payable in advance of July 1st of each subsequent year of the lease terms, commencing July 1, 2031 through June 30, 2036.

IV. OPTION TO RENEW.

FOLLOWING the "INITIAL LEASE TERM", TENANT shall have options to renew this lease a maximum of one (1) time, for a renewal period of five (5) years. TENANT shall provide notice to the CITY of TENANT'S intent to renew not more than 90 days and not less than 30 days prior to the expiration of the initial or renewal term. Rental rates at each payment period shall be at the above rental rate as approved by City Council, or at the current rate established by the City Council at the time of renewal, whichever is greater.

V. EXPIRATION AND HOLDOVER

Upon expiration of the initial lease term or renewal term, TENANT shall cease all use of the Premises and surrender possession to the CITY unless TENANT has timely exercised the renewal option provided in Article IV or the CITY has permitted TENANT to remain in possession pursuant to this Article.

Notwithstanding the expiration of the Initial Lease Term or Renewal Term, if TENANT remains in possession of the Leasehold for the purpose of grazing horses, continues to comply with all terms and conditions of this Agreement, remains in good standing, and the CITY does not require TENANT to surrender possession, the parties may continue the tenancy on a holdover basis consistent with the provisions of §70-26-204, Montana Code Annotated.

During any such holdover period, the annual rental shall remain One Thousand Five Hundred Forty-Two Dollars (\$1,542.00) per year, or at the current rate established by the City Council at the time of renewal, whichever is greater. The holdover tenancy shall be for a period of not more than one (1) year at a time and may continue from year to year only so long as TENANT remains in good standing, continues to use the Premises solely for the purposes authorized by this Agreement, the CITY permits such continued use, and the CITY accepts the annual rental payment.

The parties intend that any holdover tenancy under this Article shall be on the same terms and conditions of this Agreement, except that the contractual initial lease term and renewal term shall have expired and the tenancy shall thereafter continue only on a year-to-year basis as provided in this Article and §70-26-204, MCA.

TENANT shall have no additional contractual option to renew this Agreement following expiration of the Renewal Term. Continued possession following expiration of the Renewal Term shall not constitute an exercise or extension of the renewal option provided in Article IV and shall not create a new five-year term.

The CITY may terminate the holdover tenancy by providing TENANT with written notice of the CITY'S intent to require surrender of the Premises. Upon expiration of the applicable holdover period or the effective date stated in the CITY'S notice, whichever is applicable, TENANT shall cease grazing and surrender possession of the Leasehold as directed by the CITY.

The CITY'S acceptance of an annual rental payment during a holdover period shall constitute acceptance of rent for the applicable holdover year and shall be consistent with the parties' intent that the holdover tenancy continue on the terms provided in this Article. Acceptance of rent for one holdover year shall not constitute a commitment by the CITY to permit TENANT to remain in possession for any subsequent year.

Nothing in this Article shall prevent the CITY from requiring TENANT to cease grazing or surrender possession of the Leasehold sooner when necessary for municipal purposes, including operation, maintenance, repair, construction, expansion, regulatory compliance, public health or safety, emergency access, or other activities associated with the City's municipal wastewater treatment facility, subject to any notice or other requirements imposed by applicable law or this Agreement.

VI. RESPONSIBILITIES OF THE TENANT

TENANT hereby acknowledges, covenants and agrees as follows:

A. Purpose.

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

Grazing and pasturing of horses. The number of horses shall generally be restricted to up to four (4) horses at any time by the TENANT.

TENANT agrees to use the premises for the stated purpose and the stated purpose only, and covenants that TENANT 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 due to fire or otherwise.

B. Compliance with Laws.

TENANT shall abide by all local, state and federal rules, regulations and laws respecting the use of real property, pesticides, soil erosion, hazardous materials, and chemicals and farming practices.

C. Independent Investigation.

TENANT acknowledges that the TENANT has carefully examined and inspected the premises and improvements and are fully familiar and acquainted therewith, and agree to accept the same in their present conditions, and that TENANT 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 Leasehold and improvements thereon in good repair and upkeep, reasonable wear and tear alone excepted, and further agree neither to permit nor cause any waste on the property, or with respect to any improvements thereon. TENANT shall not create any condition which would be considered a public nuisance as defined in Chapter 15 of the Miles City Code of Ordinances. TENANT shall keep the Leasehold in a clean and orderly condition and not allow accumulations of junked or inoperable automobiles, trucks, farm equipment, or scrap upon the Leasehold.

TENANT shall maintain the property with good husbandry and in good farmer-like manner consistent with the prevailing standards for Custer County, Montana. TENANT will abide by all local, state and federal rules, regulations and laws respecting the use of real property, pesticides, soil erosion, hazardous materials, and chemicals and farming practices. TENANT will take all necessary steps to ensure proper weed control for all property subject to this lease. Fences and other improvements will be maintained in good condition.

TENANT assumes responsibility for TENANT'S use and occupancy of the Leasehold and for the care, custody, and control of all horses brought onto or kept on the Leasehold by TENANT.

E. Improvements to Remain.

Within sixty (60) days immediately following the expiration of this lease, the TENANT shall remove any improvements located on the Leasehold and shall restore, at TENANT'S

expense, the Leasehold to level with the adjoining property and in a debris free condition. "Improvements" shall not include CITY property. 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 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. CITY Access and Right to Inspect.

The CITY, through its officers, employees, agents, contractors, and authorized representatives, shall have the right to enter and cross the Leasehold at any time, without prior notice to TENANT, for purposes of operating, maintaining, inspecting, repairing, improving, securing, or protecting the municipal wastewater treatment plant and its facilities, equipment, utilities, fencing, gates, and improvements, or for any other municipal, emergency, regulatory, or governmental purpose. The CITY'S exercise of its rights under this Section shall not constitute a breach of this Lease or entitle TENANT to compensation, damages, or a reduction in rent.

In the event of an emergency or condition that, in the CITY'S reasonable judgment, threatens public health or safety, the treatment plant, CITY property, the environment, or the safe operation of the facility, the CITY may take such reasonable action as is necessary to address the condition, including temporarily restricting TENANT'S access to the Leasehold or requiring the immediate removal of horses. To the extent reasonably practicable under the circumstances, the CITY shall notify TENANT of such action.

Further, the CITY or the CITY'S authorized agents shall have the right to enter upon the premises after providing twenty-four (24) hours' written notice and during normal business hours, in order to inspect and determine compliance with the terms of this Agreement.

G. Escaped Horses.

TENANT shall take all reasonable precautions to prevent horses from escaping the Leasehold. If any horse owned, possessed, or controlled by TENANT escapes from the Leasehold, TENANT shall promptly take all reasonable steps to locate and safely recover the horse and shall promptly notify the CITY if the escaped horse enters any portion of the

municipal treatment plant, public right-of-way, neighboring property, or other area outside the Leasehold.

TENANT shall be responsible, to the extent permitted by law, for reasonable costs incurred as a result of an escaped horse, including costs of repairing damage to CITY fences, gates, equipment, structures, landscaping, or other property caused by the horse.

H. Protection of Treatment Plant Facilities.

TENANT acknowledges that the Leasehold is located on or adjacent to an operating municipal wastewater treatment facility. TENANT shall conduct all activities in a manner that does not interfere with the CITY'S operation, maintenance, inspection, or repair of the treatment plant or its facilities.

TENANT shall be responsible for damage to the CITY'S treatment plant facilities, fencing, gates, equipment, utilities, structures, improvements, or other property caused by TENANT, TENANT'S horses, or any person acting by, through, or on behalf of TENANT, except to the extent such damage is caused by the negligence or willful misconduct of the CITY.

I. Notice of Claims.

TENANT shall promptly notify the CITY of any accident, injury, property damage, escaped horse, or other occurrence involving the Leasehold or TENANT'S horses that could reasonably be expected to result in a claim against the CITY.

J. Utilities.

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

K. 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.

L. Indemnification.

To the fullest extent permitted by law, TENANT shall indemnify and hold the CITY and its elected and appointed officials, officers, employees, agents, and volunteers (collectively, the "CITY Parties") 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, her 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.

M. Insurance.

1. Liability Insurance.

Throughout the term of this Lease, TENANT shall, at TENANT'S sole cost and expense, maintain liability insurance providing coverage for bodily injury and property damage arising out of or relating to TENANT'S use of the Leasehold and the ownership, possession, custody, control, handling, and grazing of horses on the Leasehold.

The insurance shall have limits of liability of not less than **SEVEN-HUNDRED, FIFTY-THOUSAND AND NO/100THS DOLLARS (\$750,000.00) per occurrence and ONE MILLION, FIVE-HUNDRED THOUSAND AND NO/100THS DOLLARS (\$1,500,000.00) aggregate**, unless otherwise approved in writing by the CITY.

2. Coverage of Horses and Grazing Activities.

The required liability insurance shall specifically provide coverage for claims arising from the presence and grazing of TENANT'S horses on the Leasehold, including, as applicable, injuries or property damage caused by a horse escaping from the Leasehold. TENANT shall be responsible for confirming with the insurer that the policy provides such coverage.

3. CITY as Additional Insured.

To the extent available under the applicable insurance policy, TENANT shall cause the CITY of Miles City, including its elected and appointed officials, officers, employees, agents, and volunteers, to be named as an additional insured with respect to liability arising out of TENANT'S use of the Leasehold and TENANT'S horses and activities thereon.

4. Evidence of Insurance.

Before commencing use of the Leasehold, TENANT shall provide the CITY with a certificate of insurance or other evidence reasonably satisfactory to the CITY demonstrating that the insurance required by this Section is in effect. TENANT shall provide evidence of such current and valid insurance upon execution of this agreement and, thereafter, each year on or before July 1, or upon demand by the CITY.

5. Continuation of Coverage.

TENANT shall maintain the required insurance throughout the entire term of this Lease. If the insurance is canceled, terminated, or materially reduced or changed so that it no longer provides the coverage required by this Section, TENANT shall promptly notify the CITY and shall obtain replacement coverage before continuing to use the Leasehold.

6. Deductibles.

Any deductible or self-insured retention applicable to the required insurance shall be the sole responsibility of TENANT.

7. No Limitation of Liability.

The insurance requirements of this Lease shall not limit TENANT'S liability or

obligations under this Lease. TENANT shall remain responsible for all injury, loss, or damage caused by TENANT, TENANT'S horses, or any person acting on TENANT'S behalf, to the extent provided by this Lease or applicable law.

8. TENANT'S Property.

The CITY shall not be responsible for loss of or damage to TENANT'S horses, personal property, equipment, vehicles, feed, tack, or other property located on the Leasehold. TENANT shall be solely responsible for obtaining any insurance TENANT desires for such property.

9. Worker's Compensation Insurance.

In the event the TENANT has employees for TENTANT'S activities on the Leasehold, TENANT shall carry Worker's Compensation Insurance as required by the laws of the State of Montana.

N. Environmental Warranty.

TENANT warrants and agrees to neither cause nor allow to be caused any release of hazardous substances from, into, or upon the Leasehold, 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, or loss, including reasonable attorneys and other fees, arising out of, or in any way connected to, any condition in, on or of the property, that is caused or allowed to be caused by TENANT, TENANT'S agents, employees or customers. Such duty of indemnification shall include, but not be limited to, damage, liability or loss pursuant to all local, state and federal environmental laws and regulations, strict liability and common law. The obligations hereunder shall survive the termination of this lease.

TENANT shall not be responsible under this Section for preexisting environmental hazards, if any.

O. Compliance with ADA.

TENANT agrees to comply with the Americans with Disabilities Act as the same may apply to TENANT.

P. Non-Discrimination.

TENANT hereby agrees that the premises will not be used in any manner that would discriminate against any person or persons on the basis of sex, age, physical or mental handicap, race, creed, religion, color, or national origin.

VII. ASSIGNABILITY OF INTEREST

TENANT shall not assign this Lease, nor sublet the premises, nor any part thereof, without the prior written consent of the CITY, which consent shall not be unreasonably withheld. No permitted sublease shall release TENANT from its obligations under this Lease.

VIII. DEFAULT

If TENANT shall at any time be in default in the payment of rent due hereunder, or in the performance of any of the covenants or provisions of this Lease, and TENANT fail to remedy such default within thirty (30) days after receipt of written notice thereof from the CITY, then it shall be lawful for the CITY to enter upon the premises, and again repossesses and enjoy the same as if the Lease had not been entered into, and thereupon this Lease and everything herein contained on the part of the CITY to be done and performed shall cease and terminate, without prejudice, however, to the right of the CITY to recover from TENANT all rent due up to the time of such entry. In the case of such default and entry by the CITY, the ownership of any and all improvements on the premises shall vest in the CITY (if the same shall not have already vested), and the CITY may re-let the premises for the remainder of TENANT'S term for the highest rent obtainable and may recover from TENANT any deficiency between the amount so obtained and the rent due hereunder from TENANT. If the default is in the performance of any of covenants or provision of this Lease, other than failure to timely pay the rental called for herein, and, by the nature of the default, it cannot reasonably be cured within a thirty (30) day period, so long as TENANT commences and diligently pursues a cure of such default promptly within the initial thirty (30) day cure period, then TENANT shall have a further reasonable time to complete such cure, not to exceed an additional sixty (60) days after the expiration of the initial thirty (30) day cure period. Payments not received by the City within thirty (30) calendar days of the annual due date shall be subject to a late fee at a rate of 10% per annum.

IX. MISCELLANEOUS PROVISIONS

If is further mutually understood and agreed as follows:

A. Notice.

Any notice hereunder shall be in writing and may be delivered personally or by registered or certified mail with postage prepaid. Postal notice shall be deemed complete when deposited in a United States Post Office addressed to the TENANT with proper postage attached.

B. Oral Modification Prohibited.

No modification or alteration of this Agreement shall be valid unless evidenced by a writing signed by the parties hereto.

C. Attorneys Fees and Costs.

Should either party incur any costs or expenses, including reasonable attorney fees, in enforcing this Agreement or any provision hereunder, or protecting its rights and interest hereunder, the other or unsuccessful party shall reimburse the prevailing party upon demand.

D. Binding Effects.

This Agreement shall be binding upon and inure to the benefit of the heirs, legal representatives, successors and assigns of the parties hereto; provided, however, that no assignment by, from, through or under TENANT in violation of the provisions hereof shall vest in the assignee(s) any right, title, or interest whatsoever.

E. Time of the Essence.

Time is of the essence of this Agreement and all obligations of this Agreement shall be performed on or before the dates set forth herein.

F. Incorporation of Recitals.

The Recitals set forth above are incorporated into the terms and conditions of this Agreement and made a part hereof by reference.

G. Executed Copy.

Each of the parties hereby acknowledges receiving an executed copy of this Agreement.

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, Mayor

ATTEST:

Mary Rowe, City Clerk

[illegible]

On this ____ day of _____, 2026, before me, the undersigned, a Notary Public for the State of Montana, personally appeared C.A. Grenz in his capacity as Mayor of the City of Miles City, Montana, a Montana municipal corporation, who executed the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Signature of Notary Public
Residing at Miles City, Montana
My Commission expires:____/____/____

(NOTARIAL SEAL)

TENANT:

Katelyn Matzen

[illegible]

On this ____ day of _____, 2026, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Katelyn Matzen., who executed the within instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Signature of Notary Public
Residing at Miles City, Montana
My Commission expires: _____ / _____ / _____

(NOTARIAL SEAL)

ATTACHMENT 1:

Map of Matzen lease of perimeter of the municipal wastewater treatment plant north of the City of Miles City

