

RESOLUTION NO. 29-94

AMENDING AND EXTENDING THE TERMS AND CONDITIONS OF THE ANDERSON RANCH LEASE WITH CLIFFORD V. DAVIS AND JUDY L. DAVIS

WHEREAS, Clifford V. Davis and Judy L. Davis lease the City property commonly known as the Anderson Ranch; and

WHEREAS, the term of the present lease expires on December 31, 1994; and

WHEREAS, the City and the Davises desire to amend the present lease to extend the term thereof to April 30, 2000; and

WHEREAS, the City and the Davises desire to further amend the present lease by authorizing the Davises to provide big game hunting services on the property.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

That the City Manager, on behalf of the City and as the act of the City, is hereby directed and authorized to execute the attached Lease Amendment and Extension Agreement with Clifford V. Davis and Judy L. Davis, extending the term of said Lease from December 31, 1994, to April 30, 2000, and authorizing the Davises to provide big game hunting services on the property.

PASSED and ADOPTED this 6th day of April, 1994.

Attest:

/s/ Stephanie Nye
City Clerk

/s/ Reford C. Theobald
President of the Council

LEASE AMENDMENT AND EXTENSION AGREEMENT

THIS LEASE AMENDMENT AND EXTENSION AGREEMENT is made and entered into as of the 6th day of April, 1994, between the City of Grand Junction, a Colorado home rule municipality, hereinafter referred to as "the City", and Clifford V. Davis and Judy L. Davis, hereinafter referred to as "the Lessees".

RECITALS

A. The City is the owner of the real property described in Exhibit A which is attached hereto and incorporated herein by reference, commonly known as the Anderson Ranch Property and hereinafter referred to as "the Property".

B. The Lessees have a leasehold interest in the Property for ranching and grazing purposes, hereinafter referred to as "the Lease", which is due to expire on December 31, 1994.

C. The parties desire to amend the Lease to extend the term thereof and provide for rentals for the extended term.

D. The parties further desire to amend the Lease by authorizing the Lessees to provide big game hunting services on the Property.

NOW, THEREFORE, in consideration of the terms, covenants, promises and conditions herein stated, the parties to this Lease Amendment and Extension Agreement agree as follows:

1. The term of the Lease is hereby extended from December 31, 1994, to April 30, 2000, upon the same terms and conditions as provided in the Lease and as provided in this Lease Amendment and Extension Agreement.

2. For and in consideration of the extended lease term herein granted, the Lessees agree to pay to the City as rental for the Property during the extended term the total sum of \$27,000.00 by monthly installments of \$375.00, which installments shall be due and payable, without demand by the City, on or before the 14th day of each month during the extended term.

3. The City grants to the Lessees the exclusive right to conduct private deer and elk hunting operations on the property in accordance with the rules and regulations of the Colorado Division of ("CDOW"). The term of the right to conduct hunting operations shall commence with the 1994 big game hunting season as defined by the CDOW and terminate upon expiration of the 1999 big game hunting season as defined by the CDOW.

4. For and in consideration of the hunting rights herein granted, the Lessees agree to pay rental to the City as follows: 1) For the 1994, 1995 and 1996 big game hunting seasons, the Lessees shall pay to the City a sum of money which represents twenty percent (20%) of the total fees charged and collected by the Lessees from hunters using and occupying the Property. Said sums of money shall be

due and payable to the City in annual installments on or before ten (10) days following the conclusion of each big game hunting season as defined by the CDOW; 2) On or before January 15, 1997, the City and the Lessees shall meet to negotiate the amount of rent to be paid by the Lessees to the City for the 1997, 1998 and 1999 big game hunting seasons. In the event the City and the Lessees are unable to agree upon a rental rate on or before January 30, 1997, then either party shall have the option of terminating the hunting rights herein granted without any requirement for payment of hunting rental fees by the Lessees for big game hunting seasons following the 1997 big game hunting season.

5. With respect to the hunting rights herein granted, the Lessees agree to:

a. Prior to any third party using or occupying the Property for hunting purposes (hereinafter "hunting client"), the Lessees shall deliver to the City a waiver, hold harmless and indemnity agreement prepared by the City and executed by each of the Lessee's hunting clients which provides that each such hunting client agrees to waive and forego any claim, cause of action or demand that each such hunting client may have against the City, its officers, employees and agents, for injury to or destruction of any property of the Lessee's, the Lessee's hunting clients or any third party which may be lost, damaged, destroyed or devalued as a result of the act, or failure to act, of the Lessees, the Lessee's hunting clients or any third party; and to indemnify the City, its officers, employees and agents, and to hold the City, its officers, employees and agents harmless from any and all claims, damages, actions, personal injury (including death), costs and expenses of every kind in any manner arising out of or resulting from the use of or presence on the Property by the Lessee's or the Lessee's hunting clients.

b. At the Lessee's expense and during the term of each big game hunting season as defined by the CDOW, purchase and maintain in effect suitable Comprehensive General Liability Insurance which will protect the Lessees, the City and the City's officers, employees and agents from liability in the event of loss of life, personal injury, or property damage suffered by any person or persons on, about or using the Property. Such insurance shall not be cancelable without thirty (30) days prior written notice to the Risk Manager of the City and shall be written for at least a minimum of \$500,000.00, combined single limit. The certificate of insurance shall be deposited with the Risk Manager of the City prior to the Lessee's use of or presence upon the Property and shall designate the City of Grand Junction, its officers, employees and agents as additional insureds.

c. Coordinate their activities with the CDOW to ensure that the harvest of animals and the number of hunters will not exceed the objectives or recommended limits of the CDOW. The Lessees shall at all times follow the recommendations of the CDOW.

d. Within ten (10) days upon the expiration of each season, provide the City with an accurate accounting of the amount(s) and type(s) of animals harvested during each season.

6. The Lessees agree that they have inspected the Property and its boundaries and represent that the Property is safe and acceptable in its present condition for the uses contemplated; the City makes no warranties, representations or promises that the Properties are sufficient or safe for the purposes of the Lessees. The Lessees agree that their use of the Property shall be at the Lessee's and the Lessee's hunting client's own risks.

7. The Lessees shall cause all of its hunters to at all times conduct themselves in a proper and

responsible manner.

8. Any attempt by the Lessees to assign, transfer or convey any of the Lessee's interests in the rights herein granted shall work as an immediate revocation or voiding of said rights without further action by the City.

9. The City shall not be or become responsible for the success or failure, profit or loss of profits, loss opportunities, or any debts contracted by the Lessees, but rather, the Lessees shall save, indemnify and hold the City, its officers, employees and agents harmless against all liability and loss, and against all claims or actions based upon or arising from any claim, lien, damage or injury (including death), to persons or property caused by the Lessees or the Lessee's hunting clients or sustained in connection with the Lessee's performance under this Agreement, the violation of any statute, ordinance, code or regulation, either now in force or hereinafter enacted, and the defence of any such claims or actions, including any and all attorney's fees and litigation costs. The Lessees shall save and indemnify the City, its officers, employees and agents, and hold the City, its officers, employees and agents harmless from the payment of all federal, state and local taxes or contributions imposed or required, including, but not limited to, unemployment insurance, social security and income taxes, and any and all taxes, fees, excises with respect to employees or other persons engaged by the Lessees in the performance of this Agreement.

10. The Lessees agree to provide hunting opportunities on the Property for no less than two (2) physically disabled hunters (as defined by the CDOW), free of charge, during each deer and elk rifle season, and shall use their best efforts to deliberately assist said physically disabled hunters to have productive and enjoyable hunts. On or before July 1 of each calendar year, the Lessees shall meet with the City, or with a local organization designated by the City which represents the physically disabled, to coordinate matters including, but not limited to, the supervision of physically disabled hunters, ingress to and from the Property, the name(s) of able-bodied assistants, and other matters that will eliminate conflicts between able-bodied and physically disabled hunters.

11. In the event the City uses its City Attorney, or engages an attorney to enforce the City's rights hereunder, the Lessees agree to pay for the value or costs of such attorneys, plus all costs, including the costs of any experts. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Colorado. Venue shall be in Mesa County, Colorado.

12. The Lessees, by their acceptance of this Agreement, agree to the preceding terms, promises, conditions and liabilities.

IN WITNESS WHEREOF, each party to this Lease Amendment and Extension Agreement has caused it to be executed as of the day and year first above written.

Attest:

The City of Grand Junction, a Colorado home rule municipality

/s/ Stephanie Nye
City Clerk

/s/ Mark K. Achen
City Manager

Lessees:

Clifford V. Davis

Judy L. Davis

EXHIBIT A

Township 2 South, Range 2 East, Ute Meridian:

- Section 13: The South 1/2 of the South 1/2;
Section 23: The NE1/4 of the NE1/4;
Section 24: The North 1/2; AND ALSO, the North 1/2 of the South 1/2.

Township 12 South, Range 98 West, 6th P.M.:

- Section 24: The SW1/4 of the SE1/4;
Section 25: The NW1/4; The NW1/4 of the NE1/4; AND ALSO, that part of the SW1/4 of Section 25 described as Beginning at the Southwest corner of said Section 25; thence S 89°37' E 335.60 feet; thence N 35°17' E 1586.60 feet; thence N 33°28' E 1600.00 feet to a point on the North line of said SW1/4; thence West to the West 1/4 corner of said Section 25; thence S 00°09' E along the West line of the SW1/4 to the Point of Beginning;
Section 26: Lots 1, 2, 3 and 4;
Section 35: Lots 1 and 2.