TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 27, SERIES 2018

A RESOLUTION APPROVING FARMING LEASE WITH BOB BECKER FOR THE
PROPERTY AT 6644 HIGHWAY 14

WHEREAS, the Town Council of the Town of Timnath ("Town") pursuant to C.R.S. § 31-15-103, has the power to pass resolutions; and

WHEREAS, attached hereto as Exhibit A is the lease agreement for the property at 6644 Highway 14 for the value of $80 per farmable acre; and

WHEREAS, the Town Council desires to have the property leased for farming, and the Lessee will provide care for the property with no cost to the Town except as listed in the agreement; and

WHEREAS, the Town Council is familiar with the Lease and finds it to be in the best interest of the Town, its residents, and the general public.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, COLORADO AS FOLLOW:

Section 1. Approval
The Lease is hereby approved in substantially the form as attached hereto, subject to technical or otherwise non-substantive modifications, as deemed necessary by the Town Manager in consultation with the Town Planner, Engineer, Legal Counsel, and other applicable staff or consultants.


TOWN OF TIMNATH, COLORADO

[Signature]
Jill Grossman-Belisle, Mayor

ATTEST:
[Signature]
Milissa Peters, CMC
Town Clerk
FARM LEASE

Farm # 6644 Hwy 14

THIS LEASE (Lease) entered into between the Town of Timnath, a municipal corporation of the State of Colorado, (Timnath) and Robert Becker (Tenant) shall become effective as of the date executed by the Town of Timnath below.

Whereas, the Town of Timnath is the owner of certain real property located in Weld County, Colorado, which is not presently required for any public use or purpose; and

Whereas, the Town of Timnath desires to lease said real property to Tenant.

NOW THEREFORE, in consideration of the terms, covenants, and conditions contained herein, Timnath and Tenant agree as follows:

SECTION 1
FUNDAMENTAL LEASE PROVISIONS

1. **Parties:**
   
   **Landlord**  Town of Timnath  
   4800 Goodman  
   Timnath Colorado, 80547

   **Tenant**  __Bob Becker________________________
   ____________________________________________
   ____________________________________________

2. **Tenant Contact Information:**

   Work Phone Number: ________________

   Home Phone Number: ________________

   Cell Phone Number: __970-581-0235_______

   Email address: _HHybrid1@hotmail.com_

   Emergency Contact: __________________________
   Name __________________________
   Phone Number __________________

3. **Leased Premises:** Timnath hereby agrees to lease to Tenant and Tenant hereby agrees to lease from Timnath the Leased Premises as described below or as additionally described in Exhibit A, which is attached hereto and incorporated herein by this reference:

   Acreage upon the Leased Premises shall be:
   
   ____93____ acres tillable, irrigated
   ____ acres tillable, dry
   ____ acres irrigated pasture
   ____ acres dry pasture

Farm Lease (version: 10-5-15)
revegetation acres
 acres other (yards, etc.)

Improvements included with the Leased Premises:

Improvements specifically excluded from Leased Premises:

4. **Term:** The Term of this Lease shall be for a period commencing on the 28th day of March, 2018, and terminating on the 31st day of December, 2018. This lease will automatically renew unless terminated as set forth in this agreement by either party 30 days prior to the renewal date of January 1, 2019, or January 1, 2020.

   Renewal: yes ☐ no ☐

5. **Rent:** Total Annual Rent for the Leased Premises over the Term of the Lease, payable as specified in Section 2 of this Lease, shall be $80.00 per acre, per year or any portion of a one year growing season for the land.

6. **Additional Provisions:**

   1) Water is not included with this lease, it will be the Lessee’s responsibility to secure adequate water to farm the property.

   2) The Adjacent pasture land to the east of the farm acreage is not included in this lease.

In the case of a conflict between these Additional Provisions and the Terms and Conditions in Section 2 of this Lease, these Additional Provisions shall prevail.
SECTION 2
TERMS AND CONDITIONS

1. Leased Premises. Timnath hereby agrees to lease to Tenant and Tenant hereby agrees to lease from Timnath the Leased Premises for farming operations as described in Section 1 of this Lease. Said Leased Premises are herein referred to as the “Leased Premises”.

2. Term. The Term of this Lease shall be as described in Section 1 of this Lease.

3. Total Annual Rent. The Total Annual Rent for the Leased Premises shall be for an amount as specified in Section 1 of this Lease.

The Total Annual Rent is due no later than the date of execution of this Lease by Timnath, whichever is later. Payments to Timnath from Tenant must be in the form of a check, money order or cashier’s check. Timnath will not accept cash. In lieu of full payment for the Total Annual Rent hereunder, the Tenant may pay no less than forty percent (40%) of the Total Annual Rent on the date of execution of this Lease, and shall pay the remaining sixty percent (60%) of the Total Annual Rent in full no later than December 1, but only if the Tenant provides Timnath a letter of credit, on or before the date of execution of this Lease, acceptable to Timnath, securing the full amount of the unpaid remaining sixty percent (60%), or Tenant agrees to pay Timnath interest on the unpaid remaining sixty percent (60%) at the rate of one percent (1%) per month (full or partial) compounded monthly. If Tenant fails to exercise the option to pay the partial Total Annual Rent as set forth in this paragraph by the date of execution of this Lease, Tenant’s option to tender partial Total Annual Rent is terminated and the Total Annual Rent is immediately due and payable.

4. Taxes. Timnath shall pay all legally imposed property taxes (if any) upon the Leased Premises. Tenant shall be responsible for payment of all taxes upon Tenant’s personal property.

5. Expenses. Except as otherwise specifically provided herein, Tenant shall be responsible for all expenses associated with the Tenant's farming operation including, but not limited to, labor, seed, fertilizer, utility charges, pumping charges, power, herbicides, pesticides, harvesting fees and water charges.

6. Tenant Obligations. Tenant, in consideration of the leasing of the Leased Premises and at his or her own expense, covenants and agrees as follows:

a. To pay the Total Annual Rent when due.

b. Not to plow out or destroy any established grasslands or pastures without obtaining prior written approval from Timnath.

c. To prepare seed bed, cultivate and to generally conduct farming operations upon the Leased Premises in a good and farmer-like manner.

d. By December 1 of each year, submit to Timnath records of restricted-use pesticides, herbicides and fertilizers applied during the current year.

e. Not to assign, sublease, transfer or encumber the Leased Premises, improvements thereon or any part thereof.

f. To allow Timnath and its officers, agents, representatives, contractors and employees the right to enter the Leased Premises at any time for any purpose.

g. To fully cooperate, and maintain a businesslike relationship, with Timnath, its officers, agents, representatives, contractors and employees; including remaining in good standing
with any and all contracts or obligations between Timnath and Tenant. This includes fulfilling all the obligations of any other Farm or Residence Lease Tenant has with Timnath.

h. To make no improvements, alterations or additions on or to the Leased Premises, structural or otherwise, without prior written approval from Timnath.

i. To keep in good working condition all fencing, buildings, corrals, pumps, wells, well fixtures and any other related irrigation equipment, lawns, trees, shrubbery, hay and hay yards, laterals and ditches, as well as all improvements. Tenant also agrees to keep in good working condition all appliances, electrical and mechanical, owned by Timnath and located on the Leased Premises.

j. To clean out and maintain all lateral ditches leading from the main canal to and upon the Leased Premises, as well as all sub-laterals thereon; including the payment of assessments and other fees. To contribute necessary resources to the full extent of Tenant’s proportionate share; to clean and maintain all such laterals and sub-laterals which are jointly used with others; to construct all distributing ditches; to hold Timnath harmless for any shortage or excess of water for any purposes; to cultivate all land leased; and, in preparation of the ground for crops, to plow and level down all distributing ditches and make new ones in lieu thereof, provided that the laterals used by others and reserved for their use shall not be interfered with.

k. To remove at least once per year or at such longer intervals as Timnath may approve in writing, all sediment piles accumulated from prior cleaning of tail ponds on the Leased Premises and Tenant shall be responsible for cleaning each such tail water pond at least one time per year for the Term hereof.

l. To maintain all buildings and improvements in as good a condition as they existed at the time of execution of this Lease.

m. To preserve and maintain in good working condition all sprinklers, flumes, siphons, checks, dividing boxes and underground tile or drainage system, if any, on the Leased Premises, and, from time to time, and so often as conditions may require, to clean out same in order that water may flow uninterruptedly.

n. To use, store, dispose and remove from the Leased Premises all pesticides, chemicals, and petroleum products and containers in accordance with applicable laws.

o. Not to place or permit to be placed any sign, decal, poster, advertisement, card or other commemorative or communicative illustration on the Leased Premises for any purpose, without prior written approval from Timnath. To permit Timnath to place a "For Rent" sign upon the Leased Premises at any time after 30 days before the end of the Lease.

7. **Weed Control.** The Tenant shall be responsible for removal of all weeds on the Leased Premises. Tenant shall destroy all weeds along lateral ditches, fences and fields before the same shall form seed. Tenant shall exercise such methods and practices as may be reasonably necessary to control the growth of weeds on the Leased Premises, and to exercise such practices as are required, consistent with good farming methods, in order to keep all crops free and clear of weeds. If the Tenant fails to perform Tenant’s obligations under this paragraph, Timnath may take such action as it deems appropriate to bring the Leased Premises into compliance, and the cost thereof shall be paid by Tenant promptly upon completion. Failure to pay such cost shall constitute a default under this Lease.

8. **Reservation of Mineral Rights.** Timnath hereby reserves all coal, oil, gas, mineral and mineral rights in, on or underneath the surface of the Leased Premises, or any part thereof in and to itself and to any of its lessees, except Tenant, their heirs, successors, or assigns, and reserves to itself...
and such lessees, except Tenant, the right to enter in and upon the surface of the Leased Premises and to have and use and enjoy so much of the Leased Premises as shall be required to prospect for, develop and produce such mineral rights from the Leased Premises or any part thereof, as well as to have so much of the Leased Premises as shall be required for buildings, tanks, pipes, lines, fixtures and equipment in connection therewith. All of the foregoing shall be done as a reserved right and without opposition or hindrance from said Tenant as fully and completely as if this Lease had not been made.

a. At the time of such possession, if the land has been prepared for crops, or if a growing crop be thereon, then the Tenant shall be paid for his work in preparation and also for any growing crop thereon to the extent of his share and interest in the same, including a reasonable profit, which payment shall be upon a basis consistent with the conditions, including market conditions, at the time such possession is acquired. No such payment shall be made in any subsequent Lease year.

b. If the land has not been so prepared for crop, that portion of the Tenant's Total Annual Rent, representing total acreage Rent will be adjusted by the acreage reduced as a direct result of any mineral rights development.

9. **Eminent Domain.** In the event the Leased Premises or any part thereof or any estate therein, materially affecting Tenant's use of the Leased Premises, shall be taken by any entity other than the Town of Timnath by virtue of eminent domain, this Lease shall terminate on the date upon which title vests pursuant to such taking and prepaid Rent or additional Rents shall be apportioned as of said date. Tenant shall not be entitled to any part of any eminent domain award or any payment in lieu thereof, as against Timnath, provided however that Tenant may file a claim against such third party entity for land prepared or planted in crop, taken as a result of any such action in eminent domain, and for relocation or moving expenses.

10. **Additional Reserved Rights.** In addition to any other rights reserved in Timnath under this Lease, if at any time during the Term hereof, in the sole determination of Timnath, all or any portion of the Leased Premises shall be required for use by Timnath for any purpose, Timnath may, upon giving thirty (30) days written notice of such determination to Tenant, terminate this Lease with respect to such portion of the Leased Premises as may be required by Timnath. Tenant shall be compensated for the value of crops as detailed below. Tenant shall have no further claim against Timnath in such event, except as herein specifically provided.

a. At the time of such termination, if the land has been prepared for crops, or if a growing crop be thereon, then the Tenant shall be paid for his work in preparation and also for any growing crop thereon to the extent of his share and interest in the same, including a reasonable profit, which payment shall be upon a basis consistent with the conditions, including market conditions, at the time such possession is acquired. No such payment shall be made in any subsequent Lease year.

b. If the land has not been so prepared for crop, that portion of the Tenant's Total Annual Rent, representing total acreage Rent will be adjusted by the acreage reduced as a direct result of any termination.

11. **Claims.** Timnath shall be entitled to and shall have a valid claim against Tenant as additional Rent to recover for all money advanced from employment of labor or otherwise advanced to protect itself against any loss occasioned by reason of any failure by Tenant to fulfill and perform any or all of the conditions and agreements of this Lease. This includes claims for damages against Tenant for loss occasioned by neglect and or failure to perform all things herein agreed to including, but not limited to, the right of Timnath to cut weeds and otherwise perform Tenant's obligations under Paragraphs 6 and 8 above or take any remedial actions necessary to address violations by tenant to the provisions of Paragraph 15 below. Timnath shall have a lien on the share of crops of Tenant and other property of Tenant for the Rent, additional Rent and/or damages due Timnath under this
12. **Disclaimer of Warranties.** Timnath makes no warranties of any kind as to the condition or fitness of the Leased Premises. Tenant affirms that he has inspected the Leased Premises and takes possession as is.

13. **Non-Waiver.** No waiver of any term, provision or condition of this Lease, in any one or more instances, shall be deemed to be or shall be construed as a further or continuing waiver of any such term, provision or condition or as a waiver of any other term, provision, condition or right under this Lease. Timnath's acceptance of any sums of money from Tenant following an event of default shall be taken to be a payment on account by Tenant and shall not constitute a waiver by Timnath of any rights, nor shall any such payment cure Tenant's default if such payment is less than the full amount due and outstanding, nor shall any such payment from Tenant reinstate this Lease if previously terminated by Timnath.

14. **Use of Leased Premises.** The Leased Premises shall be used solely for the purposes of conducting farming operations and any other permitted use specified herein. Commercial hunting or fishing and subleasing the Leased Premises for any recreational purpose are prohibited. Tenant agrees not to use or permit the use of the Leased Premises for any purpose that constitutes a violation of any state law, rule or regulation, any municipal or county ordinance, rule or regulation, or any federal law or regulation. Tenant specifically agrees not to possess or allow anyone to possess any amount of marijuana for medical or recreational use or any usable form of marijuana or products that contain marijuana infused products for medical or recreational use or to commit, permit or allow any cultivation, manufacture or sale of any usable form of marijuana on the Leased Premises; not to commit a nuisance on the Leased Premises or permit others to do so; and to do no act whereby any insurance coverage would not be afforded.

15. **Indemnification.** Tenant agrees:

a. To assume all risk of damage, loss, or destruction to all Tenant property kept at the Leased Premises. Not to hold Timnath liable for any loss or damage to Tenant's property, including but not limited to any loss sustained by Tenant as a result of any third party, fire, water, theft, or the elements, or for loss of any of Tenant's property from any cause from said Leased Premises. That Timnath shall not be liable for any injury, whether to person or property, sustained by Tenant, Tenant's family, guests, invitees, or any person entering on or about the Leased Premises.

b. To indemnify and hold harmless Timnath, its officers, agents, and its employees, from and against all liability, claims, demands, causes of action in law or equity, including expenses, court costs and attorneys’ fees, on account of any injury, loss, or damage, to person or property, which arise out of or are in any manner connected with the Leased Premises, real property or structure(s) or any part thereof, which injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease, or from any negligent or willful act or omission, error, professional error, mistake, accident, or other fault of the Tenant, any Subcontractor of the Tenant, or any officer, employee or agent of the Tenant.

17. **Tenant's Insurance Obligations.** The Tenant agrees:

a. To procure and maintain in force during the Term of this Lease, at Tenant's own cost, the following coverages:

(1) Commercial General or Business Liability Insurance with minimum combined
single limits of FIVE HUNDRED THOUSAND DOLLARS ($500,000) each occurrence and ONE MILLION DOLLARS ($1,000,000) general aggregate.

(2) Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS ($1,000,000) for any one occurrence, with respect to each of the Tenant owned, hired or non-owned vehicles assigned to or used in the operation of the Leased Premises. In the event that the Tenant's insurance does not cover non-owned automobiles, the requirements of this paragraph shall be met by each employee of the Tenant who utilizes an automobile in the operation of the Leased Premises.

(3) Worker's Compensation Insurance as required by the Labor Code of the State of Colorado and Employer's Liability Insurance.

b. If approved by Timnath, evidence of qualified self-insured status may be substituted for one or more of the foregoing insurance coverages.

c. A Certificate of Insurance shall be completed by the Tenant's insurance agent(s) as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by Timnath's Risk Management Office. The Certificate shall identify this Lease and name the Town of Timnath as an additional insured, and shall provide that the coverage afforded under the policies shall not be canceled, terminated or materially changed until at least 30 days prior written notice has been given to Timnath.

d. Failure on the part of the Tenant to procure or maintain policies providing the required coverage, conditions and minimum limits shall constitute a default of this Lease.

e. Timnath reserves the right to request and receive a certified copy of any policy and any endorsement thereto. Tenant agrees to execute any and all documents necessary to allow Timnath access to any and all insurance policies and endorsements pertaining to this Lease.

18. No Waiver of Governmental Immunity Act. The parties hereto understand and agree that Timnath, its officers, agents and employees are relying on, and do not waive or intend to waive by any provision of this Lease, the monetary limitations nor any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as it may be from time to time amended, or otherwise available to Timnath, its officers, agents or employees.

19. No Extension. This Lease shall not be construed to be extended beyond its date of expiration by any action undertaken by either of the parties. Any costs or expenses incurred by Tenant in preparing for future planting or any other thing done by Tenant in connection with the conduct of future farming operations upon the Leased Premises by Tenant after expiration of this Lease shall be at Tenant's own risk and Timnath shall have no liability to Tenant in connection therewith.

20. Expiration of Lease. Upon expiration of this Lease, Tenant agrees to leave the Leased Premises and improvements in as good order and condition as when Tenant took possession of the same, ordinary wear or uncontrollable loss excepted.

21. Default by Tenant. If Tenant shall be in arrears in the payment of any installment of Total Annual Rent, or any portion thereof, or in default in any of the covenants or agreements, conditions or undertakings herein contained to be performed by the Tenant, Tenant may be served with a DEMAND FOR PAYMENT OR POSSESSION NOTICE. If the Total Annual Rent has not been received and identified defaults cured, or Tenant has not vacated the Leased Premises on or before the 3rd day after service of the DEMAND FOR PAYMENT OR POSSESSION NOTICE, Timnath may, at its option: declare the Lease terminated; and/or enter upon and repossess said Leased Premises without liability
for trespass and re-rent the same for such rent and upon such conditions as Timnath deems best, making such repairs as may be required, giving credit for the amount of Rent received, if any, less all expenses of such repairs, and said Tenant shall be liable for the balance of the Total Annual Rent due and owing under this Lease until the expiration of the Term of this Lease; and/or pursue an action for forcible entry and detainer, including seeking a judgment against Tenant for possession, rent due and damages incurred, including attorneys fees and costs. If at any time Tenant’s Lease Term shall be ended as aforesaid, Tenant agrees to surrender and deliver up said Leased Premises and all keys peaceably to Timnath immediately upon termination of said Lease Term. Timnath may peacefully expel and remove Tenant, those claiming under Tenant, or any person or persons occupying the same and their effects, all without prejudice to any other remedies available to Timnath in equity or at law for arrears of Rent or breach of covenant. The remedies set forth in this paragraph shall be cumulative.

22. Attorney's Fees and Costs. In any action brought in connection with collecting the Total Annual Rent, amounts, or damages owing by Tenant to Timnath under this Lease, or to enforce any provision of this Lease, Timnath shall also be entitled to recover its reasonable attorney fees and costs incurred from Tenant. Timnath and Tenant agree that any action or proceeding arising out of this Lease shall be heard by a court sitting without a jury and thus hereby waive all rights to a trial by jury.

23. Conveyance of Leased Premises. Timnath may sell, transfer or otherwise convey the Leased Premises and may assign its rights and obligations under this Lease and, upon such assignment, shall be relieved of all rights and obligations under this Lease which may accrue thereafter. In the event of sale, transfer, or other conveyance of the Leased Premises by Timnath, Timnath shall be entitled to the prorated portion of the Rent attributable to the period of Timnath's ownership.

24. Governing Laws. This Lease shall be governed by the laws of the State of Colorado. Venue for any dispute arising under the terms of this Lease shall lie in the appropriate Court in and for the County in which the Leased Premises is located, State of Colorado.

25. Notices. For purposes of this Lease all notices and payments, unless otherwise designated in writing are to be given or made to the addresses as described in Section 1 of this Lease. Notice shall be deemed properly given in accordance with any requirement of this Lease, when deposited in the U.S. Mail, addressed as specified herein.

26. Binding. This Agreement shall be binding upon the heirs, representatives and assigns of the parties.

27. Oral Modification Prohibited. This Lease may not be changed orally but only by agreement in writing signed by the Parties.

28. Mechanics Liens. Within ten (10) days after notice from Timnath, Tenant shall discharge any mechanics lien for materials or labor claimed to have been furnished to the Leased Premises for Tenant's benefit. In the event that Tenant fails to discharge such lien within such ten day period, Timnath may, at its option, declare a default of this Lease and/or discharge such lien and the cost of same shall become additional Rent hereunder.

29. Integrated Agreement. This Lease constitutes the entire agreement of the parties hereto and supersedes any and all prior agreements between the parties with respect to the Leased Premises. No representations, agreements or warranties, other than those expressly set forth herein, shall be binding upon the parties, unless executed in writing by all parties hereto.

30. Reference to Timnath. Wherever reference in this Lease is made to "Timnath" said reference shall include the duly appointed or designated officers, employee(s) and agent(s) in and for the Town of Timnath.
EXECUTED on this ___ day of _______________, 2018.

TOWN OF TIMNATH:

__________________________________________
--April Getchius, Town Manager

ATTEST:

__________________________________________
Milissa Peters, City Clerk
Farm # ______

TENANT

BY: ______________________________

STATE OF COLORADO   
COUNTY OF _____________

) ss

The above and foregoing signature of Tenant __________________ was subscribed and acknowledged before me this _____ day of ____________, 2018.

WITNESS my hand and official seal.

My commission expires on: _____________________________

______________________________
Notary Public
EXHIBIT A

Leased Premises