

BIG HORN COUNTY BOARD OF COUNTY COMMISSIONERS

121 3rd St W
Room 301
Hardin, MT 59034



BIG HORN COUNTY BOARD OF COUNTY COMMISSIONERS MINUTES January 12, 2023 9:00 AM

Members

Sidney Fitzpatrick, Chairman
George Real Bird III, Member
Larry Vandersloot, Member

1. Call to Order

Chairman Real Bird calls the meeting to order.

3. Roll Call

2. Claim Approvals

Commissioners reviewed and signed the claims book for the week of 1/5-1/11.

4. Approve Minutes and Supporting Documents

Minutes for January 3rd, 2022 were presented and they will come back to it.

5. Old Business

6. New Business

Jeanne Torske

1. Wages
2. Resolutions
3. Fairgrounds
4. Beartooth MOU

Jeanne Torske, County Attorney, discussed the wages at which the Deputy county attorney positions are being advertised. The Commissioners will have Lindsey Fox, Human Resources, contact surrounding counties to get some comparables.

Jeanne moved on to Resolutions.

Commissioner Vandersloot entertained a motion to approve the public posting resolution. The motion was seconded by Commissioner Big Hair and passed unanimously.

Commissioner Vandersloot entertained a motion to approve the credit of incarceration rate resolution. The motion was seconded by Commissioner Big Hair and passed unanimously.

Commissioner Vandersloot entertained a motion to approve the travel rate resolution. The motion was seconded by Commissioner Big Hair and passed unanimously.

Commissioner Vandersloot entertained a motion to approve the office hours resolution. The motion was seconded by Commissioner Big Hair and passed unanimously.

Commissioner Vandersloot entertained a motion to approve the meeting dates resolution. The motion was seconded by Commissioner Big Hair and passed unanimously.

Jeanne looked over the fairgrounds contract and it's ready for signature. Commissioner Vandersloot entertained a motion to approve the fairgrounds contract. The motion was seconded by Commissioner Big Hair and passed unanimously.

She also went over the Beartooth RC&D MOU and it is also ready for signature. Commissioner Vandersloot entertained a motion to approve the Beartooth RC&D MOU. The motion was seconded by Commissioner Big Hair and passed unanimously.

AJ Espinoza - Truck

Commissioner Vandersloot entertained a motion to approve the Peterbilt Semi for \$171,198. The motion was seconded by Commissioner Big Hair and passed unanimously.

Lindsey Fox - Personnel

(Closed Door)

~~Mitzi Racine~~

Fortera - Bridge Beams

Commissioner Vandersloot entertained a motion to purchase bridge beams for Soap Creek Bridge for \$79,955.00. The motion was seconded by Commissioner Big Hair and passed unanimously.

7. Public Comments

8. Discussion

9. Adjourn

There being no other business, the board adjourned.

Approved: 
George Real Bird III
Presiding Officer

Attest: 
Peri Schenderline
Deputy Clerk & Recorder

COUNTY OF BIG HORN, MONTANA

RESOLUTION 2023- 1

PREAMBLE:

A Resolution to establish a public location for posting information.

RECITALS:

MCA Section 7-1-2123 states:

Posting.

(1) The governing body shall specify by resolution a public location for posting information and shall order erected a suitable posting board.

(2) When posting is required, a copy of the document must be placed on the posting board, and a copy must be available at the office of the county clerk and recorder.

THEREFORE:

1. The Big Horn County, board of county Commissioner's location for posting information shall be in the Big Horn County Courthouse on the bulletin board between the doors numbered 201 and 202.

EFFECTIVE:

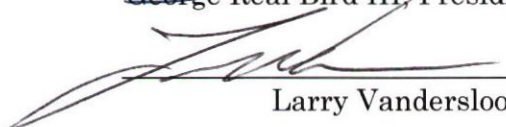
This shall become immediately effective.

ENACTED:

This 12th day of January, 2023, in Hardin, Montana.

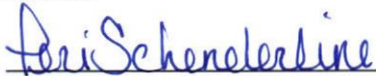
BOARD OF COMMISSIONERS
BIG HORN COUNTY, MONTANA


George Real Bird III, Presiding Officer


Larry Vandersloot, Member


Lawrence Big Hair, Member

Attest:


Peri Schenderline
Deputy Clerk and Recorder

COUNTY OF BIG HORN, MONTANA

RESOLUTION 2023- 2

PREAMBLE:

A Resolution to establish daily rate of credit for incarceration.

RECITALS:

Montana Code Annotated Section **46-18-403(2)** states: **Credit for incarceration prior to conviction.**

(2) A person incarcerated on a bailable offense who does not supply bail and against whom a fine is levied on conviction of the offense may be allowed a credit for each day of incarceration prior to conviction, except that the amount allowed or credited may not exceed the amount of the fine. The daily rate of credit for incarceration must be established annually by the board of county commissioners by resolution. The daily rate must be equal to the actual cost incurred by the detention facility for which the rate is established.

THEREFORE:

1. The daily rate for credit for incarceration is hereby established at One hundred thirty-five and No/100 Dollars (\$135.00).

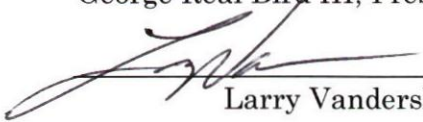
EFFECTIVE:

This shall become immediately effective.

Executed this 12th day of January, 202~~2~~³, in Hardin, Montana.

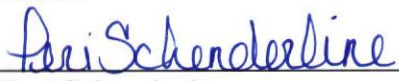
BOARD OF COMMISSIONERS
BIG HORN COUNTY, MONTANA


George Real Bird III, Presiding Officer


Larry Vandersloot, Member


Lawrence Big Hair, Member

Attest:


Peri Schenderline
Deputy Clerk and Recorder

COUNTY OF BIG HORN, MONTANA

RESOLUTION 2023- 3

PREAMBLE:

Big Horn County officers and employees are authorized by law to be reimbursed for meal and lodging expenses on necessary travel in connection with the duties of their respective offices, conventions, etc.

RECITALS:

MCA section **2-18-501** states:

Meals, lodging, and transportation of persons in state service. All elected state officials, appointed members of boards, commissions, or councils, department directors, and all other state employees must be reimbursed for meals and lodging while away from the person's designated headquarters and engaged in official state business;

THEREFORE:

The 2023 travel rates effective January 1, 2023, for all county officers and county employees are henceforth to be reimbursed in the following manner.

1. **LODGING** expenses up to **\$98.00** plus tax per night, original receipt or confirmation notice required. If attending a conference where the rate at the conference site is higher than the \$98.00, you can request actual cost reimbursement, you must get approval from the County Commissioners prior to attending. Overnight lodging is considered a non-taxable expense, paid through the claims process.
2. **MEALS** will be paid at the State rates no receipt required. An elected official or employee is eligible for the meal allowance provided below, if the person is in travel status for more than 3 continuous hours during the following, if you go over amount, it will be at your own expense.
 - a. For in State **morning meal allowance**- **\$7.50** – between the hours of 12:01am and 10:00am.
 - b. For the in-State **midday meal allowance** - **\$8.50** – between the hours of 10:01am and 3:00pm.
 - c. For the in-State **evening meal allowance** - **\$14.50** – between the hours of 3:01pm and 12 midnight.

An eligible person may receive:

- a. Only one of the three meal allowances provided, if the travel was performed within the persons assigned travel shift; or
- b. A maximum of two meal allowances if the travel begins before or was completed after the person's assigned travel shift and the travel did not exceed 24 hours.

"Travel Shift" is that period of time beginning one (1) hour before and terminating one (1) hour after the person's normally assigned work shift. For purposes of making the computation under this Resolution an elected official shall be considered to have

a normally assigned work shift which begins at 8:00am and ends at 5:00pm. All times will be calculated using Mountain time.

Out of state meal allowances are as follows; Morning - \$13.00; Midday - \$15.00; Evening - \$26.00.

3. **MILAGE** – The mileage will be reimbursed at the rate of **sixty-five cents (\$.65.5)** per mile for the first one thousand miles per month. Mileage Reimbursed is considered a non-taxable expense, paid through the claims process. However commuting mileage for the County Commissioners is considered a taxable expense, paid bi-weekly through payroll
4. **USE OF COUNTY VEHICLE** – Commuting from home to work or from work to home in a County vehicle falls under the Commuting Rule (IRS Publication 15-B) This is considered a benefit and is taxable to the employee. A claim form is required to be completed daily, and submitted bi-weekly with your time sheet for that respective pay period. A \$3.00 per day charge will be added to your paycheck and W-2 at the end of the year. There is no exchange of money involved.
5. Personal use of a county vehicle is prohibited per standards of conduct (MCA 2-2-121)

EFFECTIVE:

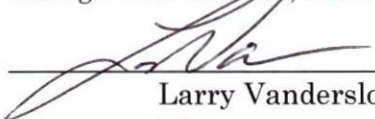
This shall become effective immediately

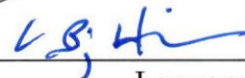
Enacted:

This 12th day of January, 2023, in Hardin, Montana.

BOARD OF COMMISSIONERS
BIG HORN COUNTY, MONTANA


George Real Bird III, Presiding Officer


Larry Vandersloot, Member


Lawrence Big Hair, Member

Attest:


Peri Schenderline
Deputy Clerk and Recorder

COUNTY OF BIG HORN, MONTANA

RESOLUTION 2023- 4

PREAMBLE:

Big Horn County has experienced a shortage in employees and therefore the inability to fully staff offices.

RECITALS:

MCA section 7-4-102 states:

Office hours. (1) Unless otherwise provided by law, each officer shall keep the officer's office open for the transaction of business during the office hours determined by the governing body by resolution after a public hearing and only if consented to by any affected elected county officer each day except Saturdays and legal holidays.

(2) County and city treasurers may, in the interest of the safekeeping of funds, securities, and records under their control, close their offices during the period from noon to 1 p.m. every day.

THEREFORE:

1. The Big Horn County, Board of County Commissioners establish that the County Treasurer's Office, the County Clerk's Office, the Clerk of the District Court's Office, the County Sheriff's Office and the County Attorney's Office may be closed from the period of noon to 1 p.m. any day that is open for business.
2. Nothing contained in this Resolution shall prohibit electronic filing with any office that has electronic filing and the date and time of such filing shall be determined by the rules for electronic filing for the particular office.

EFFECTIVE:

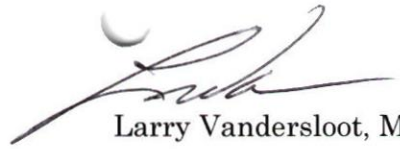
This shall become immediately effective.

ENACTED:

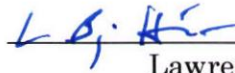
This 12th day of January, 2023, in Hardin, Montana.

BOARD OF COMMISSIONERS
BIG HORN COUNTY, MONTANA


George Real Bird III, Presiding Officer



Larry Vandersloot, Member



Lawrence Big Hair, Member

Attest:



Peri Schenderline
Deputy Clerk and Recorder

COUNTY OF BIG HORN, MONTANA

RESOLUTION 2023- 5

PREAMBLE:

A Resolution to establish regular meeting dates of the Big Horn County Board of County Commissioners and public notice.

RECITALS:

In accordance with MCA 7-5-2122: The board of county commissioners of a county shall establish by resolution a regular meeting date and notify the public of that date.

Except as provided in MCA 2-3-112(3) or in the event of an emergency affecting the public health, welfare, or safety, all meetings must be held on the date designated.

THEREFORE:

1. The Board of Commissioners, Big Horn County, Montana that the Board of Commissioners meetings days are as follows:

<u>Meeting</u>	<u>Day</u>	<u>Time</u>
Public Meeting	Every Thursday	9AM
Administrative Staff Updates	Every Monday and Tuesday	9AM-10AM
Office Hours	Every Monday, Tuesday, And Wednesday	10AM

2. The location for such meeting shall be in the Big Horn County Courthouse, Hardin, Big Horn County, Montana.
3. Such meeting time and place be posted on the regular agenda of the Big Horn County Commissioners.

EFFECTIVE:

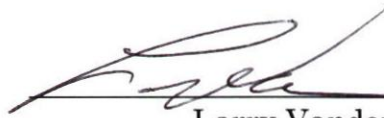
This shall become immediately effective.

Enacted:

This 12th day of January, 2023, in Hardin, Montana.

BOARD OF COMMISSIONERS
BIG HORN COUNTY, MONTANA


George Real Bird III, Presiding Officer

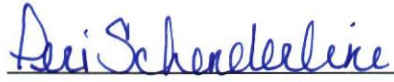


Larry Vandersloot, Member



Lawrence Big Hair, Member

Attest:



Deputy Clerk+Recorder

USE AGREEMENT

_____ Fair grounds Manager	_____ Accountant
_____ County Sanitarian	_____ Commissioners' Attorney
_____ Commissioners' Administrative Assistant	
For County Use Only	

NAME OF EVENT: _____
DATE (S) OF EVENT: _____
TIMES OF EVENT: _____

NAME: _____ PHONE: _____
CONTACT PERSON: _____ CELL: _____
ADDRESS CITY/ST/ZIP: _____
EMAIL: _____ FAX: _____

FACILITY COVERED IN THIS USE AGREEMENT: _____

DESCRIPTION OF EVENT: _____

SET UP DATES & TIMES: _____
TEAR DOWN DATES & TIMES: _____
SETTLEMENT DATE & TIME: _____

This USE AGREEMENT [hereinafter AGREEMENT] made _____, 202____ between Big Horn County, P.O. Box 908 Hardin, MT 59034, hereinafter designated "COUNTY" and the entity whose name is set forth above, hereinafter designated "USER". NOTE: This AGREEMENT is VOID if not fully executed by _____.

ADDITIONAL INSTRUCTIONS, INFORMATION OR AGREEMENTS AFFECTING THIS AGREEMENT (See Fairground Event checklist which is attached hereto and by this reference made a part hereof as if set forth in full.)

(1) FACILITIES - In consideration of the mutual performance of the agreements herein and payment of the specified amounts, COUNTY allows USER, for the period stated above, the right to occupy and use the FACILITIES listed above less listed exceptions.

(2) USE & PAYMENT INFORMATION:

USE FEE: Per Addendum A

CLEANING DEPOSIT: Per Addendum A

OTHER SERVICES:

Insurance (see #6): Provide a copy of policy of insurance, or a copy of the Policy Exclusions and a copy of the certificate of insurance listing the Limits of Liability. Provide a copy of the Endorsement which adds Big Horn County as an additional insured. If your event uses volunteers, provide Workman's Comp Certificate proving coverage of all volunteers. Clause 6, with the exception of subclause (c) thereof shall not apply to any event that is not put on for profit and is by limited invitation only.

(3) CANCELLATION - It is agreed by both USER and COUNTY this AGREEMENT shall not be cancelled without good and reasonable cause. In the event the FACILITIES to be used hereunder or any portion thereof are not available for occupancy upon commencement or during the term of this AGREEMENT due to (a) emergency, including, but not limited to, the use of the Facilities as an emergency shelter; the need for which will be in the sole discretion of the COUNTY, (b) fire, (c) casualty, (d) acts of God, (e) strikes, or (f) other cause beyond the control of COUNTY, this AGREEMENT and the obligations of COUNTY and USER hereunder shall terminate, and USER hereby waives any claim against COUNTY, its attorneys, elected officials, employees and agents for damages by reason of such termination; provided that any unearned portion of the rent due hereunder shall abate or, if previously paid, shall be promptly refunded by COUNTY to USER. In the event of a concert cancellation, COUNTY will assess the promoter 3% of the ticket sale gross to cover the refund costs. This will be in addition to the 3% box office fee.

(4) ASSIGNMENT - USER shall not: (a) assign this AGREEMENT, (b) sublet any part of the FACILITIES without the written consent of COUNTY (this DOES NOT apply to USER's exhibitors), (c) allow any use of the FACILITIES other than herein specified, (d) allow anything to be brought onto or into the FACILITIES or permit any act which will endanger persons or property on or in the FACILITIES. The USER herein is an independent contractor and not the agent or employee of the COUNTY.

(5) TERMINATION - It is agreed that if default be made in payment or rent or in any obligation by USER in this agreement, said USER does hereby authorize and fully empower COUNTY to immediately re-enter and take possession of the FACILITIES, without any additional notice of intention to re-enter, and to remove all persons and their property therefrom and to use such means as is reasonably necessary for such purpose whether said FACILITIES are occupied or vacant all without terminating this AGREEMENT or at COUNTY's election to pursue any other remedy provided by law, including specific performance. In the event an

action is filed in any Court to enforce the provisions of this Agreement, each party shall pay for its own attorney's fees and expenses.

(6) INSURANCE / INDEMNIFICATION / WORKERS COMPENSATION

(a) USER shall maintain, at its sole cost and expense, general liability insurance naming COUNTY as additional insured for the period of the use, (including move in and move out days), against liability for damages for bodily injuries, including death, products, completed operations and property damages in a minimum amount of Seven Hundred Fifty Thousand Dollars (\$750,000.00) for each claim and One Million Five Hundred Thousand Dollars, (\$1,500,000.00) in the aggregate arising from incidents which occur during the period of the use (including move in and move out days). In addition, USER shall maintain for the duration of the use (including move in and move out days) at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the engagement by USER, USER'S agents, employees, representatives, assigns, sub-contractors or participants. The policy of insurance shall be an occurrence policy with a Best Rating of A- or better.

(b) USER shall deliver to COUNTY at least ten (10) days prior to the use (including move in and move out days) a Certificate of Insurance and an Endorsement showing such insurance to be in effect and naming COUNTY as an additional insured with respect to any and all claims arising out of USER's operations during its use (including move in and move out days). COUNTY reserves the right to require complete copies of insurance policies at all times. The policy of insurance will be endorsed to provide COUNTY a 5 (five) day notice of cancellation.

(c) USER shall defend, indemnify and hold harmless COUNTY from and against any and all claims, demands, obligations, causes of action and lawsuits and all damages and liabilities, fines, judgments, costs (including settlement costs), and expenses associated therewith (including reasonable attorney's fees and disbursements), arising from incidents which occur during the period of the use (including move in and move out days). The indemnification and defense obligations under this paragraph of this AGREEMENT shall not be limited by any assertion or finding that COUNTY is liable for any damages by reason of a non-delegable duty.

(d) Specific Requirements for Workers' Compensation: USER is required to maintain workers' compensation insurance or an independent contractor's exemption issued by the Montana Department of Labor covering the USER and/or employees, including volunteers. USER is not, nor are USER's employees and/or volunteers employees of COUNTY. This insurance/exemption must be valid for the entire period of use (including move in and move out days)

Any and all duties to insure or indemnify under this AGREEMENT shall survive this AGREEMENT.

(7) COUNTY ACCESS - USER agrees that authorized agents of the COUNTY shall at all times, without interruption, have free access to the FACILITIES used under this User Agreement. This right of inspection, however, does not create a specific duty by COUNTY to conduct such inspection. Furthermore, inspections performed by COUNTY and any change orders or recommendations resulting therefrom are not to be interpreted as a warranty for fitness or safety by virtue of COUNTY'S inspection.

(8) LAWS, REGULATIONS, CHOICE OF LAW AND VENUE - USER agrees to comply with all federal, state, and local laws, and COUNTY rules and policies during the term of the use, and to pay all taxes imposed by law in connection with its use and occupancy the FACILITIES. Specifically, without limiting the foregoing, the Parties each respectively understands that they are bound by applicable state and federal law and local ordinances. This includes, but is not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, PL 101-336, Section 504 of Rehabilitation Act of 1973, the Patient Protection and Affordable Care Act, [P.L. 111-48, 124 Stat. 119], if applicable, 18-5-401, MCA et seq. concerning the Blind Enterprise Program's vending facility rules, and Executive Order No. 12-2015 Amending and Providing For Implementation of the Montana Sage Grouse Conservation Strategy. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016, the Parties agrees that (i) the hiring of persons, if any, to perform this AGREEMENT will be made on the basis of merit and qualifications and (ii) there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, physical or mental disability, military service or veteran status, or marital status by the persons performing this Agreement. Any provisions of this contract prohibited by law or declared invalid by a court of law shall be invalid and void as to the extent such provision is prohibited by law without invalidating the remaining provisions of this AGREEMENT. The laws of the State of Montana shall govern this contract. In the event of litigation concerning this contract, venue for such litigation shall be in the Twenty Second Judicial District, Big Horn County, Montana.

(9) FOOD, DRINK, SIGNAGE & OTHER ADVERTISING - USER agrees to comply with current COUNTY policies regarding food, drink, signage and other advertising. USER, if the use is applicable shall comply with all the laws, including but not limited to statutes and regulations regarding food safety. (Further information may be found at <https://dphhs.mt.gov/publichealth/FCSS/RetailFood/>). Furthermore, USER accepts full responsibility and agrees to hold COUNTY, its attorney's elected officials, agents, employees, and/or representatives harmless and free from any/all loss or liability arising from incidents relating to the handling, serving,

and consumption of all food items brought into the FACILITY by USER for its event. Any exception to these policies must be in writing and signed by the Big Horn County Commissioners. Sufficient space must be allowed to access all Fairground concession stands. If USER desires to sell, distribute, provide or serve all alcoholic beverages including beer, wine, and liquor in any venues USER shall provide two weeks' notice for these services and shall adhere to the Montana Law, Montana Liquor Control Commission regulations, COUNTY's rules and policies and any ordinances of the City of Hardin. USER agrees that no advertising or other matter shall be placed or posted or distributed in or about the FACILITIES or announced or publicized over any loud speaker system without first having obtained the written permission of the Big Horn County Commissioners. USER agrees to abide by all applicable provisions of exclusive sale, signage, and advertising contracts COUNTY may have with third parties. USER will not cover, block or remove any existing signage placed by COUNTY. USER will not allow the sale or distribution of any food or beverage items by any parties other than those to whom the COUNTY has given its written consent.

(10) FIRE & PYROTECHNICS - USER is responsible for payment of Fire Marshall, if required, due to pyrotechnics. USER agrees it will not stage any act or performance if fire or flame is involved without the prior approval of the Fire Chief of the City of Hardin. USER further agrees that it will not use any decorative materials including combustible materials in or about the FACILITIES without first securing the prior inspection and approval of the Fire Chief of the City of Hardin.

(11) ALTERATIONS - No alterations, additions or improvements shall be made by USER except with the written consent of COUNTY. No holes shall be bored, cut or otherwise made, nor shall any nails, screws, bolts or fastenings be driven in the floors, walls, ceilings, columns or any other part of the buildings.

(12) VENDORS - Within the used FACILITIES COUNTY will not permit the sale of commercial space to any vendor other than those who have purchased space from the USER. The only exceptions are: (a) Those vendors (or products) covered by prior contracts such as (naming rights); (b) COUNTY reserves the right to sell COUNTY souvenirs. The USER shall pay the COUNTY a percentage of 35% of gross for the sale of USER'S T-shirts, programs, novelties and other souvenirs and 35% of gross for sale of tapes, C.D.s, DVD's or other electronic media. The USER shall not sell or cause to be sold any such products in or about the described facilities except on terms and conditions established or agreed to by the COUNTY.

(13) TICKETS & CREDIT CARDS - USER agrees that they will not distribute in any manner or permit to be distributed in any manner tickets in excess of seating capacity, or admit a larger number of persons than can safely and freely move about in the space contracted for, and the decision of the Board of Commissioners of Big Horn County in this respect shall be final. COUNTY shall

receive from USER 6 (6) complimentary tickets to the event(s) situated in a suitable and reasonable location.

(14) **TELEVISED or BROADCAST EVENTS** - USER shall not televise or broadcast USER's event without the written approval of the Board of County Commissioners of Big Horn County. If USER desires to televise or broadcast, by internet or otherwise, its event(s), USER agrees to pay COUNTY an additional fee of \$500.00 or 10 percent of the consideration received by the USER, whichever is greater, and in addition thereto to pay all cost in connection with televising or broadcasting of the event.

(15) **OTHER EVENTS** - USER understands and agrees that during the term of this contract other events may be held in other parts of the Fairgrounds or in other nearby facilities not included in this agreement, and USER shall so conduct its activities so as not to interfere with such other events.

(16) **COPYRIGHTED MATERIAL** - USER and its representatives warrants that all copyrighted material to be performed at above described event has been duly licensed or authorized by the copyright owners or their representatives and agrees to indemnify and hold COUNTY harmless from any and all claims, losses, or expenses incurred with regard thereto. The USER shall furnish to the COUNTY a copy of said License 30 days prior to the event.

(17) **OUTSIDE COMMERCIAL SPACE** - Unless otherwise stated in this AGREEMENT, a use agreement requiring commercial space on the outside of the FACILITIES, shall include only that space adjacent to the building out to the outer edge or drip line of the roof. Grass areas for commercial space are not included in any agreement unless specifically stated. Damage to grass, walkways or landscaping shall be the responsibility of the USER and repair shall be billed on the basis of time, material and labor needed for repair.

(18) **DAMAGE DEPOSIT** - This damage deposit will be returned to USER within thirty (30) days of the end of use (including move in and move out days or by a time limit mutually agreed upon, less any damage cost done to the building(s)) as a result of the use. Damage will be charged at replacement cost plus labor.

(19) **ON GROUNDS CAMPING** - COUNTY shall be responsible for all camper fee collection. 'Camping Permit' window cards with a carbon copy will be available. USER will be informed of non-permitted RV's.

(20) **PARKING LOTS** - Exclusive control of all parking is reserved expressly to the COUNTY. Parking lots and/or areas used for Trade Shows or Commercial space shall be negotiated depending on the area needed, power needs, etc. NO overnight parking will be permitted. All towing will be at the owner's expense.

(21) ACCEPTABLE USE OF INTERNET – COUNTY reserves the right to deny, suspend or revoke access to any or all internet services provided by COUNTY when COUNTY determines that the internet access has been used unacceptably, whether such use was made by USER, USER's agents, promoters, employees, exhibitors, customers or third parties. Some examples of unacceptable uses include, but are not limited to, password cracking, security scanning, use of profanity, use of offensive material, "spamming" (e.g., sending bulk unsolicited commercial emails), uploading or downloading illegal, copyrighted or licensed material, any use of the services that affects the services to COUNTY Public Access users, or which affects the performance of COUNTY's Public Access Network. USER may only use COUNTY's Public Access Network for lawful purposes. Transference of any information in violation of any Federal, State or Local laws is forbidden. This includes, but is not restricted to, copyrighted data, information legally judged to be threatening or obscene and information protected by privacy rights. COUNTY prohibits the use of its services for the reproduction, dissemination, storage or handling, in any way, obscene or pornographic material, or any other data which COUNTY deems unacceptable, including, but not limited to, pornography, malicious material, or any and all information of an adult nature.

(22) RISK OF LOSS - USER agrees that the risk of loss or damage to any of its property, or the property of any USER's parties or agents, including loss or damage the result of theft, fire, water damage, failure of COUNTY systems or any other man-made or natural causes and occurrences shall be borne by USER. USER shall carry insurance on such property as USER elects, and USER shall look only to such insurance in the event of any loss or damage to any of its property or the property of USER's parties or agents.

(23) FORCE MAJEURE – Except as provided for in Clause 3 hereof, neither party to this AGREEMENT shall be liable in damages for any delay or default in performing hereunder if such delay or default is caused by unforeseen conditions beyond its reasonable control, including but not limited to Acts of God, fire, flood, tornados, earthquakes, acts of war, acts of terrorism, labor disputes, intervention of any governmental authority, ("Force Majeure").

(24) PROMOTION – USER - (including USER's promoters and agents), agree to reference the FACILITIES, for promotional purposes, as the BIG HORN COUNTY FAIRGROUNDS.

(25) TIME IS OF THE ESSENCE - Time shall be of the essence regarding this USER agreement, and the time granted shall not be extended for the occupancy or use of the FACILITIES or for the installation or removal of equipment without prior written agreement. All additional time shall be paid for according to the schedule of fees as established from time to time by COUNTY.

(26) ENTIRE AGREEMENT - This AGREEMENT constitutes the entire agreement between the parties, and no statement, promises, or inducements made by either party or their respective representatives that are not contained in this contract shall be valid or binding. This AGREEMENT shall not be modified except by written documents signed by both parties to this Agreement.

NOTE: Fairgrounds is a county owned public facility. The public is entitled to see a copy of our signed contracts. Original documents cannot be removed from the office of the Board of Commissioners of Big Horn County.

(27) NOTICES - Any written notices required or permitted under or related to this contract shall be sufficiently made or given if delivered personally or mailed by certified mail, return receipt requested to the appropriate recipient at their address specified in this contract; provided that either party may change their respective address by giving the other party written notice of such change. Any such notice shall be deemed to have been made or given by the date of personal delivery or a date two (2) days after mailing.

(28) RIGHT OF FIRST REFUSAL FOR FUTURE DATES – USER shall have an exclusive right of first refusal for a period of thirty (30) days to request to schedule an event for during a time period that begins fifty one (51) weeks to fifty three (53) weeks after the end of the event (including move in and move out days) provided for in this AGREEMENT [hereinafter REFUSAL PERIOD]. The RIGHT OF FIRST REFUSAL must be exercised by providing a notice of exercise in writing which must be received by COUNTY before the REFUSAL PERIOD expires. This RIGHT OF FIRST REFUSAL is not assignable. Nothing herein shall be construed to require COUNTY to allow USER to schedule a future event. A nonrefundable deposit equal to the amount of _____ will be required with the notice of exercise, provided, however, the amount of deposit for the RIGHT OF FIRST REFUSAL may be used for the deposit or use fee that is in effect when the future event occurs. Exercise of the RIGHT OF FIRST REFUSAL does not guarantee that the fees for the future event will be the same as those for the event provided for in this AGREEMENT. The fees to be charged, the deposits to be made and the terms of use for the FACILITIES for the future event will be set by COUNTY no later than one (1) month prior to the beginning of the future event.

(29) BINDING ON SUCCESSORS, ASSIGNS, EXECUTORS AND HEIRS – This Agreement is binding upon the heirs, assigns, successors, executors of each of the parties as if in each case particularly mentioned.

IN WITNESS WHEREOF, the parties have agreed to these terms on the dates indicated below.

ADDENDUM "A" Use Fees 1/1/2023

Item	Rate	Deposit Cash or Money order ONLY	Initial of USER to indicate usage
Arena and Bleachers, including use of PA	\$300.00 per day	\$250.00	
Under the Grandstands, including use of kitchen and PA	\$250.00	\$250.00	
Dennis Wacker Pavilion	\$200.00 per day	\$250.00	
Barn Stalls (if entire barn is not rented) (includes water for animals, use of bathroom and showers and hauling of manure if placed in a pile near dumpster by USER):	\$15.00 per day	\$5.00 Cleaning fee	
Large Barn	\$200.00	\$250.00	
Small Barn	\$200.00	\$250.00	
RV parking with electrical:	\$15.00		

Fairground Event Checklist Return

- € Signed Contract and all fees to Jill Dale Administrative Support, Big Horn County Extension, jdale@bighorncountymt.gov (no later than 2 weeks prior to beginning of event) Failure to meet deadline subjects facility to rental by another which subsequent rental will not be subject to the deadline set forth in paragraph.

- € Submit a Certificate of Insurance and an Endorsement Form naming Big Horn County as additional insureds. If your event uses volunteers, please provide Workman's Comp Certificate proving coverage of all volunteers. (email to pschenderline@bighorncountymt.gov or mail with contract)
- € Send Completed W-9 (email to mopie@bighorncountymt.gov, mail with contract, or fax to (406)665-9884)
- € Contact Paul Wagenaar to go over Logistics and Equipment Needs (406)679-5662,
- € Contact Big County Health Department to discuss any Food and Beverage, including catering and outside food vendors. (406)665-8720
- € For ticketed events or those charging admission, Contact Box Office Manager, Mike Opie, (406)665-9884, mopie@bighorncountymt.gov

A
MEMORANDUM OF UNDERSTANDING
Between
Big Horn County Commissioners
And the
Beartooth Resource Conservation and Development Area, Inc.

THIS MEMORANDUM OF UNDERSTANDING is made and entered into this 12th day of January, 2023 by and between the **Beartooth Resource Conservation and Development Area, Inc.**, whose principal business address is P.O. Box 180, Joliet, Montana, 59041, hereinafter referred to as "**Beartooth RC&D**" and **Big Horn County, Montana by and through its Commissioners**, hereinafter referred to as "**County**".

WHEREAS, The Beartooth RC&D has been formally recognized by the U.S. Department of Commerce, Economic Development Administration (EDA) as a designated Economic Development District (EDD), and as a District, the Beartooth RC&D has been awarded funding to carry out the Comprehensive Economic Development Strategy (CEDS). This funding will provide a staff person, administrative support and operating costs. This is a continual grant, renewable based on successful program operation and availability of federal funds. Local match is required.

WHEREAS, Each entity participating in the District will designate a representative and an alternate to the regional Beartooth RC&D Board. This individual will convey the needs and economic development goals of the community to the Beartooth RC&D board meetings. Regular board meetings will be held every two months to assess project status and evaluate regional economic development needs.

NOW THEREFORE IT IS UNDERSTOOD AS FOLLOWS:

ARTICLE 1: SCOPE OF WORK:

Beartooth RC&D employs an Economic Development Director to assist in the completion of the Comprehensive Economic Development Strategy for the five county region. The Director's time will be allocated consistent with the goals in the CEDS by the Beartooth RC&D board of directors. The board is composed of one representative and an alternate from business partners, county and local elected officials and local economic development partners from our five county region. Input from this board is essential for meeting the needs of the communities in our region.

Priority will be assigned projects of regional scope or projects with strong local leadership. Grant funding for this position is from EDA, therefore, emphasis will be on regional economic development planning and projects which have a correlation to job creation, economic diversification and increased tax base. Matching funds are from participating entities and emphasis will be placed on their specified projects.

Annual Evaluation:

The performance of the Economic Development District will be evaluated annually by local entities participating on the regional Beartooth RC&D Board. Progress and/or accomplishments on each program/project will be reported and evaluated to ensure resources are being utilized in the most effective and efficient manner possible. Annual Comprehensive Economic Development Strategy updates and an annual plan of work will be developed with input from the Beartooth RC&D staff and board. Annual reports on projects and economic development activities will be provided to the board and participating entities along with the renewal of the Memorandum of Understanding.

ARTICLE 2: PERIOD OF PERFORMANCE:

The term of this Memorandum of Understanding shall be from **January 1, 2023**, through **December 31, 2023**, unless extended by mutual agreement by both parties. Such extension must be in writing, signed by authorized representatives of both parties, and made a part of the original Memorandum of Understanding by modification reference. This Memorandum of Understanding supersedes the prior Memorandum for participation in the Economic Development District.

ARTICLE 3: PAYMENT:

County's annual contribution will be One Thousand Five Hundred Seventy and 61/100 Dollars (\$1,570.61). This includes a "Membership" fee in the amount of Seven Hundred Fifty (\$750.00) plus a per capita assessment of 6-1/3 cents per person based on the population of 12,957 as reported in the 2021 Census. These funds will provide the necessary match to obtain the \$70,000 in federal funds. Entities who do not participate financially in the match requirement will not receive services from the Economic Development Coordinator.

Annually, the Beartooth RC&D /EDD staff will provide a comprehensive report of the previous year's activity. A new Memorandum of Understanding will be prepared and a request for the following year's match submitted. County will be billed for the matching funds after January 1, 2023, for the current year's assessment.

Payment as provided in this section shall be full compensation for work performed, services rendered and for all materials, supplies, equipment, and incidentals necessary to complete the work.

ARTICLE 4: EXAMINATION OF RC&D RECORDS:

The County or its representatives shall have the right to examine any books, records, or other documents of the Beartooth RC&D, directly relating to costs when such costs are the basis of compensation hereunder.

ARTICLE 5: OWNERSHIP AND USE OF DOCUMENTS:

Reproducible copies of all documents and other materials produced by the Beartooth RC&D in connection with the services rendered under this Memorandum of Understanding shall be provided to the County for the County's use whether the project for which they are made is executed or not. The Beartooth RC&D shall be permitted to retain originals, including reproducible originals, of drawings and specifications for information, reference and use in connection with Beartooth RC&D endeavors.

ARTICLE 6: WARRANTY:

The Beartooth RC&D warrants that all services performed herein shall be performed using that degree of skill and care ordinarily exercised in and consistent with generally accepted practices for the nature of the services and shall conform to all requirements of this Memorandum of Understanding.

ARTICLE 7: SAFETY:

The Beartooth RC&D agrees to fully comply with the Occupational Safety and Health Act of 1970, all regulations issued there under and all state laws and regulations enacted and adopted pursuant thereto. The Beartooth RC&D shall take all necessary precautions in performing the services hereunder to prevent injury to persons or damage to property.

ARTICLE 8: CONFIDENTIALITY AND CONFLICTS OF INTEREST:

The Beartooth RC&D agrees to hold in strict confidence any proprietary or other data, findings, results, or recommendations deemed to be confidential by the County and obtained or developed by the Beartooth RC&D in connection with the work under this Memorandum of Understanding. The Beartooth RC&D warrants and agrees they do not and will not have any conflicts of interest regarding the performance of services hereunder.

ARTICLE 9: APPLICABLE LAW:

This Memorandum of Understanding shall be governed in all respects by the laws of the State of Montana. No changes, amendments or modifications of any of the terms and conditions hereof shall be valid unless agreed to in writing. Venue of any proceeding arising hereunder shall be the Twenty-Second Judicial District, Big Horn County.

ARTICLE 10: COMPLIANCE WITH LAWS:

The Beartooth RC&D shall in performing the services contemplated by this Memorandum of Understanding, faithfully observe and comply with all federal, state, and local laws, ordinances and regulations, applicable to the services to be rendered under this Memorandum of Understanding, including but not limited to the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, PL 101-336, Section 504 of Rehabilitation Act of 1973, the Patient Protection and Affordable Care Act, [P.L. 111-48, 124 Stat. 119], if applicable, 18-5-401, MCA et seq. concerning the Blind Enterprise Program's vending facility rules, and Executive Order No. 12-2015 Amending and Providing For Implementation of the Montana Sage Grouse Conservation Strategy.

ARTICLE 11: CHANGES:

The parties, by mutual agreement, may, at any time during the term of this Memorandum of Understanding and without invalidating the Memorandum of Understanding, make changes within the general scope of the Memorandum of Understanding. Beartooth RC&D agrees to perform such changed services. The County's priority list for project work within their county can be changed at any time. In such case, the District will be informed of this change at the County's earliest convenience.

ARTICLE 12: TERMINATION:

This Memorandum of Understanding may be terminated in whole or in part, in writing, by either party in the event of substantial failure by the other party to fulfill its obligations under this Memorandum of Understanding through no fault of the terminating party, provided that no termination may be effected unless the other party is given: (1) not less than ten (10) days written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.

Upon such termination the County shall pay the Beartooth RC&D amounts due and unpaid for services rendered as of the effective date of termination, and the Beartooth RC&D shall provide to the County all materials, surveys, reports, data, and other information performed or prepared as of such date.

ARTICLE 13: INDEMNIFICATION:

The Beartooth RC&D agrees to and does hereby indemnify and save the County, its officers, officials and employees, harmless against and from:

1. Any and all claims and liabilities, including but not limited to costs, expenses, and attorney fees arising from injury to, or death of, persons (including claims and liabilities for care or loss of services in connection with any bodily injury or death) and including injuries, sickness, disease, or death to Beartooth RC&D employees occasioned by a negligent act, omission, or failure of the Beartooth RC&D;

2. Any and all claims and liabilities, including costs and expenses, for loss or destruction of or damage to any property of any person or entity, including but not limited to property belonging to the Beartooth RC&D or the County, caused by a negligent act, omission, or failure of the Beartooth RC&D and;

3. Any fines, penalties, or other amounts assessed against the County by reason of the Beartooth RC&D failure to comply with all health, safety, and environmental laws and regulations applicable to the services; resulting directly or indirectly from, or occurring in the course of the Beartooth RC&D performance of the services. However, this indemnity shall not extend to claims and liabilities for (i) injury or death to persons or (ii) loss of or damage to property to the extent that these claims and liabilities result directly and solely from the County's negligence or willful misconduct.

4. This Article, 13, INDEMNITY shall survive the termination of this Agreement.

ARTICLE 14: INSURANCE:

The Beartooth RC&D shall maintain and demonstrate the following types of insurance:

1. The Beartooth RC&D agrees that its employees and particularly the employees designated to work on this Memorandum of Understanding are covered by applicable Worker's Compensation provisions. The Beartooth RC&D further agrees that if the County should legally incur any costs whatsoever under the Worker's Compensation laws by reason of the Beartooth RC&D employees' injury or death while engaged in the contract work, the Beartooth RC&D will indemnify and hold harmless the County for such costs which the County may be legally be required to pay to employees of the Beartooth RC&D.

2. Comprehensive general liability insurance for bodily injury, death, or loss of or damage to property of third persons or other liability due to the negligent acts of the Beartooth RC&D in the minimum amounts of \$750,000 per occurrence and \$1.5 million aggregate and an automobile liability policy in the minimum amount of \$1,000,000.00

3. Professional liability errors and omissions insurance in a minimum amount of \$1,000,000.00.

4. All insurance policies hereunder shall name the County as an additional insured and provide that should Beartooth RC & D default in any manner under said insurance policy that County be notified by the insurer prior to cancelation of said insurance policy. It is understood and agreed that Beartooth RC & D's insurance policy is primary to any other valid and collectible insurance available. For any claims related to this Agreement, Beartooth RC & D's insurance coverage shall be primary insurance as respects the County, its elected officials, employees and attorneys. Any insurance or self-insurance maintained by the County, its elected officials, employees, or attorneys shall be excess of the Beartooth RC & D's insurance and shall not contribute with it. Proof of coverage as required by this section shall be delivered to the County within fifteen (15) days of execution of this Agreement indicating that it meets

the requirements herein, including but not limited to confirmation by Beartooth RC&D's insurance carrier that Beartooth RC&D's insurance is the primary insurance as set forth above.

ARTICLE 15: NONDISCRIMINATION:

In accordance with 49-3-207, MCA, and Executive Order No. 04-2016, Beartooth agrees that (i) the hiring of persons, if any, to perform this Agreement will be made on the basis of merit and qualifications and (ii) there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, physical or mental disability, military service or veteran status, or marital status by the persons performing this Agreement.

The Beartooth RC&D will not discriminate against any employee or applicant for employment relating to this project on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental handicap or national origin. All hiring associated with any project shall be on the basis of merit and qualifications related to the requirements of the particular position being filled.

ARTICLE 16: INDEPENDENT CONTRACTOR:

The Beartooth RC&D and the County agree that the Beartooth RC&D is an independent contractor with respect to the services provided pursuant to this Memorandum of Understanding. Nothing in this Memorandum of Understanding shall be considered to create the relationship of employer and employee between the parties hereto. Neither the Beartooth RC&D nor any employee of the Beartooth RC&D shall be entitled to any benefits accorded County employees by virtue of the services provided under this Memorandum of Understanding. The County shall not be responsible for withholding or otherwise deducting federal income tax or social security or for contributing to the state Worker's Compensation program, nor shall the County be deemed in any way to assume the duties of an employer with respect to the Beartooth RC&D, or any employee of the Beartooth RC&D.

ARTICLE 17: ASSIGNMENT:

The Beartooth RC&D shall not sublet or assign any of the services covered by this Memorandum of Understanding without the express written consent of the County.

ARTICLE 18: NON-WAIVER:

Waiver by the County of any provision of this Memorandum of Understanding or any time limitation provided for in this Memorandum of Understanding shall not constitute a waiver of any other provision.

Article 19: Equal Parties:

County and Beartooth RC&D acknowledge and agree that the parties are experienced and competent business professionals who have been given an opportunity to consult with an attorney concerning this Agreement. Therefore, no provision of this Agreement, including any amendment or addendum, shall be construed against the party who drafted this Agreement.

ARTICLE 20: NOTICES:

Any Notice to be served hereunder may be served upon the parties personally or served by certified mail, return receipt. Notice served by mail shall be deemed complete upon deposit of said notice in any United States Post Office, postage prepaid, directed to the party to be served, at the following addresses:

COUNTY: Big Horn County
P.O. Box 908
Hardin, MT 59034

RC&D: Beartooth RC&D Area, Inc.
P.O. Box 180
Joliet, MT 59041

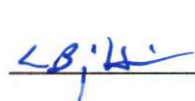
ARTICLE 21: INTEGRATED AGREEMENT:

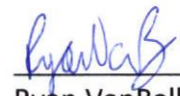
This Memorandum of Understanding together with attachments or addenda represents the entire and integrated Agreement between the County and the Beartooth RC&D and supersedes all prior negotiations, representations, or agreements, written or oral. This Memorandum of Understanding may be amended only by written instrument signed by both the County and the Beartooth RC&D.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals to this Memorandum of Understanding the day and year in this instrument first above written.

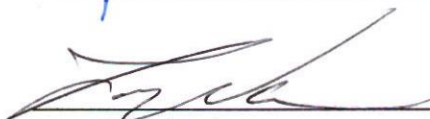
BIG HORN COUNTY COMMISSION

BEARTOOTH RC&D AREA INC.





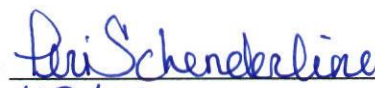
Ryan VanBallegooyen, Chairman



Larry Vandersloot



George Real Bird III

ATTEST: 
Date: 1/12/23



Quotation

Page 1

Project: Soap Creek

Quote: 9522243BR1

Location: MT Saint Xavier

Engineer:

Owner: Big Horn County

Sales Contact: Jared Masin (406)-860-3444

Bid Date: December 15, 2022 at 3:52 PM

Item	Description	Qty	Price	Unit	Total
	Trideck Beam	1.00	\$79,955.00	LS	\$79,955.00
	Price Includes: (5) 2'-3" x 5'-5" x 50'-0" Trideck Beams (Estimated weight = 40850 lbs.), (10) 2'-0" x 5'-6" x 3" End Panels, Embedded Items, Clip Angles, Bolts, Nuts, Swedged Anchor Bolts and Nuts, Weld Tabs.				

GRAND TOTAL (estimated) \$79,955.00

NOTES:

- 1) Delivery: Prices include delivery. Assume up to 5 beams per round. Contractor to ensure passable access to project. On overweight loads requiring permits, all hardware and miscellaneous supplies may be required to be shipped separately at the contractor's expense due to DOT regulations. Rinker will not be held responsible for delays due to DOT regulations, inspections, or weather related conditions. On loads requiring permits, advance notice will be necessary to obtain permits and comply with special requirements or routes
- 2) PRICE DOES NOT INCLUDE: Erection, Nonshrink Grout, Shims, Sealants or any other item not specifically listed in this quote.
- 3) Contractor should contact the Billings plant at (406)-656-1601 to schedule delivery at least two weeks prior to delivery date. Delivery is subject to availability of trucks. Final loading instructions must be complete within 24 hours of delivery or we cannot guarantee that trucking will be available.
- 4) Final production and delivery schedule cannot be confirmed until after the approved shop drawings are received by Rinker. Because Rinker Pipe has no control of the timeliness of the contract award process and submittal review process, we cannot guarantee a firm delivery date at bid time and will not be held responsible for penalties or liquidated damages for missed contract deadlines.
- 5) Remedy: Please contact the plant immediately if there are any problems with the delivered product. Rinker Pipe reserves the right to investigate and remedy noted problems and will endeavor to begin to do so immediately upon notice with our forces or by mutual agreement with the Contractor. Rinker Pipe will not be held responsible for costs for delays, equipment rental, or repairs attempted, for which we are not afforded the opportunity to remedy in a timely manner.
- 6) Contractor should contact Jared Masin 406-860-3444 upon award to discuss preliminary schedule and initiate shop drawing process.

Sales Contact: Jared Masin (406)-860-3444

Prepared By: Brian Jenner (605) 718-4111

Sales/Engineering Office

4310 Pendleton Drive
Rapid City, SD 57701
Ph: (605) 718-4111



Quotation

Page 2

Project: Soap Creek

Quote: 9522243BR1

Owner: Big Horn County

Sales Contact: Jared Masin (406)-860-3444

TERMS AND CONDITIONS OF SALE: All sales are subject to Forterra Concrete Products, Inc., dba Forterra Pipe & Precast, standard Terms and Conditions of Sale which are attached to this quotation and incorporated by reference herein.

Acceptance: Subject to contract award, we hereby order the required material at the above unit prices and agree to the terms and conditions set forth in this quotation and the Forterra Concrete Products, Inc., dba Forterra Pipe & Precast, Terms and Conditions of Sale incorporated by reference herein.

PURCHASER

BY

BY

A handwritten signature in blue ink, appearing to read 'Shane Conley', is written over a horizontal line.

Shane Conley, Sales Manager

TITLE

County Commissioner DATE 01.12.2023

FORTERRA PIPE & PRECAST

TERMS and CONDITIONS of SALE

This quotation and any sale of the products subject to this quotation are governed by Forterra's Standard Terms and Conditions of Sale, which may be found at <https://forterrabp.com/terms-and-conditions> and which are expressly incorporated into any agreement regarding the sale of these products. Any of buyer's terms and conditions that conflict with Forterra's Standard Terms and Conditions of Sale are expressly rejected and shall not constitute the terms of any sale between the parties.