

Minutes of Fergus Co. Commissioners Business Meeting
February 10, 2021 – 2:00 p.m.
Fergus County Commissioners
712 W. Main St., Suite 210
Lewistown, MT 59457

Present: Commissioner Ross Butcher, Commissioner Carl Seilstad, Commissioner Sandy Youngbauer, Clerk & Recorder Janel Tucek, and Deputy County Attorney Diane Cochran. Public present: See attached

CALL TO ORDER:

Commissioner Youngbauer called the meeting to order at 2:00 p.m.

APPROVAL OF MINUTES:

Commissioner Youngbauer asked if there were any alterations or corrections to the January 26, 2021 minutes. Hearing none, she stated the minutes stand approved as presented and will be on file with the Clerk and Recorder and on the Fergus County Website.

PERSONNEL ANNOUNCEMENTS:

1. Central MT Family Planning hired Ashley Kalfell 2/1/2021 for front desk personnel.
2. County Attorney – 1/2 time Deputy Co Attorney / 1/2 time City of Lewistown Attorney is still open. Diane Cochran, Deputy County Attorney spoke about the position and where it was advertised.

ANNOUNCEMENTS / REPORTS:

Commissioner Youngbauer read off a list of various documents that were signed since the last meeting.
See attached sheet for the breakdown.

DISCUSSION /ACTION ITEMS:

1. Commissioner Butcher moved to approve the claims from February 5th, 2021; Commissioner Seilstad 2nd. No discussion. **Motion passed.**
2. Investment committee chair Rhonda Long, along with Jamie Goss and Rebekah Rhoades presented to the commissioners the updated by-laws. Commissioner Seilstad moved to approve the updated by-laws; Commissioner Butcher 2nd. Discussion was heard on the few changes that the commissioners saw. **Motion passed.**
3. Fergus County Attorney's office presented a contract for signature for a Legal Services Agreement between Fergus County at the request of the Fergus County Attorney's office and Thorin A. Geist of Cotner Law, PLLC out of Missoula, MT. Commissioner Butcher moved to approve the legal services agreement; Commissioner Seilstad 2nd. Attorney Cochran gave a background run down on Mr. Geist. **Motion passed.**

APPOINTMENTS:

1. Fergus County Recreation District had a position to fill from the Guy Maberry vacancy. Two highly qualified applicants applied: Kevin Kepler and Lynn Franz. Commissioner Butcher moved to approve Lynn Franz to the Fergus County Recreation District. Commissioner Seilstad 2nd; Commissioner Seilstad discussed how it was a hard decision to make with the high quality of each applicant and appreciated those that applied. **Motion passed.**

PUBLIC COMMENT: Richard Battrick spoke about how he will miss Rana Wichman and agreed about the high quality applicants for the Recreation District. Commissioner Butcher spoke about the recreation district funds intentions and some of the various projects the monies have gone towards.

NEXT MEETING DATES:

February 17, 2021 Wednesday 5:15 p.m.	Regular Business Meeting	Fergus Co. Commissioners 712 W Main St., Suite 210 Lewistown, MT 59457
February 24, 2021 Wednesday 10:00 p.m.	Regular Business Meeting	Fergus Co. Commissioners 712 W Main St., Suite 210 Lewistown, MT 59457
March 10, 2021 Thursday 2:00 p.m.	Regular Business Meeting	Fergus Co. Commissioners 712 W Main St., Suite 210 Lewistown, MT 59457

Meeting adjourned at 2:20 p.m.

FERGUS COUNTY COMMISSIONERS:

"Absent"

Sandy Youngbauer, Presiding Officer

[Signature]

Ross Butcher, Commissioner

Attest:

[Signature]

Carl Seilstad, Commissioner

[Signature]

Janel J. Tucek, Clerk & Recorder



**FERGUS COUNTY PUBLIC MEETING
ATTENDANCE ROSTER**

Meeting Date: 2.10.2021

[illegible]

January 28th Signed budget amendment 4-2021 for CMHD cares money

January 29th Signed T Mobil tax additions Century Assessed Properties

January 29th Signed DPHHS contract for Nurse's Office for immunizations

January 29th Submitted a preferred provider contract with Humana PPO

February 2nd Signed warranty 072524 for down payment on flooring at FCSO (\$5,000)

February 3rd Signed Credit Applications for Road Department purchase from North Power EG and Jackson group Peterbilt

February 4th Signed DPHHS contract for CMHD

February 8th Signed MT Interactive agreement for District Court

February 9th Signed CDC Supplemental COVID19 vaccine redistribution Agreement for FCNC

FERGUS COUNTY VOUCHER

Voucher No: 1076

Voucher Date: 02/02/2021

Prepared By: NT

Printed: 02/02/2021 02:43:54 PM

FERGUS COUNTY is hereby authorized to draw warrants against FERGUS COUNTY funds for the sum of \$5,000.00 on account of obligations incurred for value received in services and for materials as shown below for period July 1, 2020 to June 30, 2021 (period cannot overlap fiscal year end.)

I certify that this claim is just and correct, and the services and/or materials herein represented have been received during the period listed above. All items are properly coded and not in excess of the budget.

Sandra Youngbauer
SANDRA YOUNGBAUER

PRESIDING OFFICER

Ross Butcher
ROSS BUTCHER

COMMISSIONER

Carl Seilstad
CARL SEILSTAD

COMMISSIONER

FERGUS COUNTY

Fund		Amount
4406	CAPITAL PROJECTS-PUBLIC SAFETY	\$5,000.00
		\$5,000.00

FERGUS COUNTY VOUCHER

Voucher No: 1077

Voucher Date: 02/09/2021

Prepared By: 

Printed: 02/09/2021 03:12:11 PM

FERGUS COUNTY is hereby authorized to draw warrants against FERGUS COUNTY funds for the sum of \$172,135.10 on account of obligations incurred for value received in services and for materials as shown below for period July 1, 2020 to June 30, 2021 (period cannot overlap fiscal year end.)

I certify that this claim is just and correct, and the services and/or materials herein represented have been received during the period listed above. All items are properly coded and not in excess of the budget.

SANDRA YOUNGBAUER

PRESIDING OFFICER

ROSS BUTCHER

COMMISSIONER

CARL SEILSTAD

COMMISSIONER

FERGUS COUNTY

Fund		Amount
1000	GEN	\$34,076.73
2110	ROAD	\$17,548.04
2130	BRIDGE	\$9,983.14
2140	WEED	\$328.82
2160	FAIR	\$10,017.00
2180	DT/CRT	\$341.00
2210	PARKS REC	\$477.79
2250	PLAN	\$823.13
2272	CMHD	\$1,075.48
2274	EMP/R	\$17,009.86
2290	EXT SERV	\$191.00
2300	PUBLIC SAFETY	\$26,224.35
2393	RECORD PRES	\$353.62
2395	COMPUTER	\$3,252.40
2420	GAS TAX	\$14,884.02
2800	CRISIS INTERVENTION	\$1,400.00
2830	JUNK VEHICLE	\$275.76
2915	CRIME CONTROL	\$4,368.00
2972	F PLAN	\$2,289.33
2974	FAM PLAN FUNDRAISING	\$557.89
2975	MTUPP	\$170.00

BYLAWS

Of the

FERGUS COUNTY INVESTMENT COMMITTEE

Article One

Purpose

The Fergus County Investment Committee was organized and established January 1, 1982 for the purpose of acting in an advisory capacity in recommending to the Fergus County Commissioners and Fergus County Treasurer, an investment program for all funds held by Fergus County which shall provide the maximum benefit possible to taxpayers.

Article Two

Members

Section 1. Membership: Membership of the Fergus County Investment Committee shall consist of one representative from the following:

- a. County Commissioners' Office
- b. County Treasurers' Office
- c. County Superintendent of Schools Office
- d. Public School Districts: (An administrator, clerk, or trustee) each of the school districts in Fergus County that have an operating public high school district and is participating in the Fergus County Investment Pool.
- e. Central Montana Learning Resource Center Cooperative

Section 2. Committee Selection:

- a. Committee membership shall be defined each year at the June meeting. Total membership shall not exceed sixteen (16).
- b. A vacancy shall occur when a member no longer qualifies for committee membership as defined under Section 1 above, no longer resides in the County, or becomes unable to serve for other reasons.
- c. Interim vacancies shall be filled by the remaining members of the committee.

Article Three

Fiscal Year

The fiscal year of the Fergus County Investment Committee shall be from July 1 of each year through June 30 of the following year.

Article Four

Meeting of Members

- Section 1. Meeting Dates: The Fergus County Investment Committee will meet the second Thursday of each month at 11:30 a.m. in the Superintendent's office at the Courthouse (712 W. Main, Lewistown, MT 59457) unless otherwise designated by committee. There will be no regular meetings held during July nor August.
- Section 2. Special Meetings: Special meetings of the committee members may be called by the chairperson.
- Section 3. Quorum: A quorum shall consist of a majority of the members in attendance.

Article Five

Officers

- Section 1. Officers: The officers of the committee shall be the chairperson, vice-chairperson, and secretary.
- Section 2. Election and Term of Office: The officers of the committee shall be elected by the membership. Each officer shall hold office for the coming fiscal year beginning July 1. Election of officers will be held at the June meeting of each year.
- Section 3. Vacancies: Vacancies shall be filled by the remaining members of the committee.

Article Six

Books and Records

The secretary shall keep correct and current minutes of meetings for the committee. The permanent record shall be filed with the Clerk and Recorder's Office.

Article Seven

Amendments

- Section 1. The Bylaws of the Fergus County Investment Committee may be amended by a two-thirds (2/3) vote of members in attendance.
- Section 2. Bylaw changes will require readings at two consecutive meetings.

Article Eight

Investment Instructions

The County Treasurer shall invest all funds held by Fergus County by adhering to all statutes, rules, and regulations of the State of Montana, including the following statutes: Title 7, Chapter 6, part 2, 20-9-212 and 20-9-213 as set out in MCA.

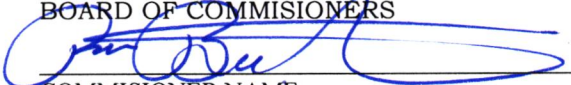
Article Nine

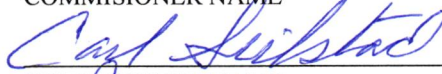
Solicitation for Investment

The committee shall solicit financial institutions on an annual basis, to submit bids for investment of public funds. Solicitation shall occur in the month of April. The committee shall be responsible for selecting and recommending to the Board of Commissioners the institution in which funds will be invested. The committee shall select the bid that results in the highest rate of return from a reputable and stable financial institution, taking in to consideration the financial cost to each party to make such changes to conduct business with the bidding institution. If a financial institution has contracted for investment of funds for the prior year, then such institution shall be given the opportunity to meet or beat the bid terms of the best offer from other bidders for the current year. The decision on which financial institution is selected to contract for the investment of public funds shall be with the Board of Commissioners after the receipt of a recommendation of the committee. The recommendation of the committee shall be submitted by the County Superintendent to the Board of Commissioners in writing and shall appear on the Resolution Declaring the Investment Program of Fergus County no later than the third Wednesday in June. When the Board of Commissioners votes on the Investment Committee's recommendation, the Commissioner who sits on the Committee shall abstain from the vote.

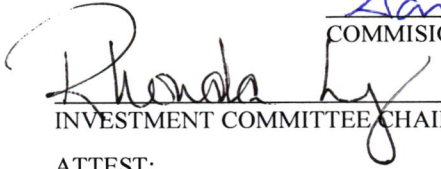
PASSED AND APPROVED This 10 Day of February, 2021

BOARD OF COMMISSIONERS

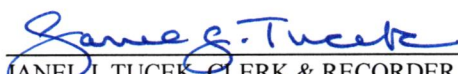

COMMISSIONER NAME

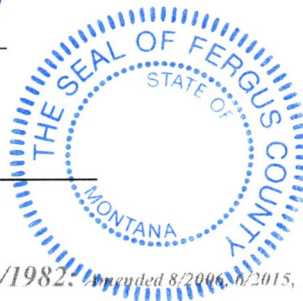

COMMISSIONER NAME


COMMISSIONER NAME


INVESTMENT COMMITTEE CHAIR

ATTEST:


LANEL J. TUCEK, CLERK & RECORDER



LEGAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this 7th day of February, 2021, by and between the COUNTY OF FERGUS, by and through its Board of County Commissioners, herein referred to as "COUNTY", at the request of Fergus County Attorney herein referred to as "COUNTY ATTORNEY," and THORIN A. GEIST of COTNER LAW, PLLC, 2700 Radio Way, Missoula, Montana, herein referred to as "ATTORNEY."

RECITALS

WHEREAS, § 7-4-2712, MCA, provides that the COUNTY ATTORNEY is the public prosecutor and shall: (1) institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses when the county attorney has information that the offenses have been committed and for that purpose, whenever not otherwise officially engaged, must be present and assist the magistrate in cases of arrest and appear before and give advice to the grand jury whenever cases are presented to them for their consideration; and (2) draw all indictments and informations.

WHEREAS, § 7-4-2716, MCA, provides that the COUNTY ATTORNEY shall (1) attend the district court and conduct, on behalf of the state, all prosecutions for public offenses and represent the state in all matters and proceedings to which it is a party or in which it may be beneficially interested, at all times and in all places within the limits of the county; and (2) when ordered or directed by the attorney general to do so, promptly institute and diligently prosecute in the proper court and in the name of the state of Montana any criminal or civil action or special proceeding;

WHEREAS, § 7-4-2705, MCA, authorizes the COUNTY to employ or authorize the COUNTY ATTORNEY to employ special counsel to assist in the prosecution of criminal cases pending in the county or to represent the county in any civil action in which the county is a party.

WHEREAS, the COUNTY has been unable after due diligence to fill the position of Deputy County Attorney as authorized by § 7-4-2703, MCA, and the criminal caseload in the Office of the Fergus County Attorney has now reached a critical level such that assistance is required to fulfill the obligations of the office.

WHEREAS, ATTORNEY is licensed to practice law in the State of Montana (Bar #9396) and has significant experience prosecuting felony level criminal offenses, both as a former Deputy County Attorney and as a Special Assistant United States Attorney, and is willing to provide services to the COUNTY as a Special Deputy Fergus County Attorney pursuant to § 7-4-2705, MCA.

AGREEMENT

THEREFORE, it is hereby agreed that ATTORNEY shall serve as a Special Deputy Fergus County Attorney in accord with the following terms and conditions:

1. **SCOPE:** ATTORNEY is authorized to represent the COUNTY and the STATE OF MONTANA in felony level criminal matters and is hereby appointed as a Special Deputy Fergus County Attorney pursuant to § 7-4-2705, MCA.
2. **DUTIES:** Under the general direction of the COUNTY ATTORNEY, the ATTORNEY's duties shall include, but are not limited to:
 - a. Prosecuting felony level criminal cases before the Tenth Judicial District Court, Fergus County, Montana.
 - b. Representing the COUNTY and the State of Montana in various courtrooms proceedings, including jury trials, bench trials, omnibus hearings, motions hearing, and other pre and post-trial hearings.
 - c. Reviewing police reports and witness statements.
 - d. Filing of criminal charges (all charging decisions will be at the final discretion of the COUNTY ATTORNEY or the Attorney General for the State of Montana).
 - e. Negotiation of plea agreements (all plea agreements will be subject to the final approval of the COUNTY ATTORNEY or the Attorney General for the State of Montana).
 - f. Conducting legal research.
 - g. Interviewing witnesses.
 - h. Preparation of legal documents, briefs and opinions.
 - i. Preparation and review of search warrants and investigative subpoenas.
 - j. Attending meetings with legal and law enforcement personnel.
 - k. Conferring with, training, and advising public agencies on relative legal matters.
 - l. Working with the Montana Attorney General on cases before the Montana Supreme Court.
 - m. Other duties as assigned.

3. **OBLIGATIONS:** To facilitate the completion of the duties specified herein, ATTORNEY agrees:

- a. To coordinate with and keep the COUNTY ATTORNEY apprised as to the status of any cases assigned.
- b. To provide regular and routine hours, with ATTORNEY retaining ultimate authority to determine the hours of work, the length of workdays, and the means and methods of performance of the work. It is understood that ATTORNEY may to the extent permissible complete the duties herein remotely.
- c. To make every attempt and effort to complete the work in the most efficient manner. Decisions regarding personal appearances for District Court or work to be completed shall be left to the personal discretion of the ATTORNEY in consultation with the COUNTY ATTORNEY.
- d. To manage all case files in the case management system within the Office of the Fergus County Attorney.
- e. To maintain total confidentiality of COUNTY records.

4. **COUNTY OBLIGATIONS:** To facilitate the completion of the duties specified herein, COUNTY agrees:

- a. To provide full use of the Office of the Fergus County Attorney, including but not limited to the case management system wherein all of the County Attorney pleadings are stored. The COUNTY shall provide remote access to the case management system.
- b. To provide office space and the office legal assistant available to assist the ATTORNEY in preparation and management of the case files. All files shall be kept in the offices of the Fergus County Attorney with the exception of case files assigned to ATTORNEY. Case Files assigned to ATTORNEY shall be kept by ATTORNEY and ATTORNEY shall be responsible for safe and secure preservation of assigned files while off-site. All case files provided to the ATTORNEY shall be managed and organized by the existing legal assistants.
- c. To make the legal assistant(s) available to assist the ATTORNEY in preparation and management of the case files. The legal assistant(s) opens files, collects discovery and will prepare the files for the ATTORNEY to review and handle.

- d. To provide a County assigned email address to correspond and use on all files and for corresponding with the aforementioned legal assistant.
- e. To provide all of the material, tools, experts, and equipment necessary to complete the tasks described herein, COUNTY may provide miscellaneous supplies such as paper, pens, file folders, and mailers to ATTORNEY.
- f. To provide a badge or other form of identification confirming ATTORNEY's role as a Special Deputy Fergus County Attorney.

5. **COMPENSATION:** COUNTY agrees to pay ATTORNEY as follows:

- a. A flat rate of \$6,500 for up to 40 hours per month, inclusive of necessary travel time. Additional time approved by the COUNTY ATTORNEY to be paid at the rate of \$225 per hour, up to a maximum of \$1,800 per day.
- b. Mileage, meal, and lodging expenses approved by the COUNTY ATTORNEY in accord with Fergus County Resolution 1-2021:
 - i. Mileage for routine court appearances.
 - ii. Mileage meals and lodging expenses for any multi-day hearing or trial.

6. **INVOICES:** ATTORNEY shall invoice the COUNTY on or about the 30th day of each of month. Monthly invoices shall be submitted to COUNTY ATTORNEY for approval, COUNTY ATTORNEY shall then complete and submit a claim form to COUNTY for payment. COUNTY will pay according to its bimonthly claims cycle. Pursuant to § 17-8-242, MCA, payment of interest at .05% per day shall be added for any payments more than 30 days past due.

7. **CONFLICTS OF INTERESTS:** ATTORNEY may not engage in work that is a conflict of interest to the COUNTY, as determined by the COUNTY ATTORNEY. ATTORNEY's work with Law Enforcement Support Services, Inc., d/b/a Secure Warrant is not a conflict of interest.

8. **PROPERTY:** All reports, data, and materials submitted by ATTORNEY shall be the sole and exclusive property of COUNTY. ATTORNEY may use any materials developed for COUNTY for other consultations where such use will not infringe upon the rights or identity of COUNTY. As authorized by § 7-4-2705, MCA, ATTORNEY is authorized to access Confidential Criminal Justice Information.

9. **TERMINATION:** This *Legal Services Agreement* may be terminated at any time by mutual written and signed consent of the parties. This *Legal Services Agreement* may be terminated by either party unilaterally by giving notice of the

termination in writing at least thirty (30) days prior to the date of intended termination. All material and work product shall be promptly returned to COUNTY.

10. IMMUNITY: Pursuant to § 2-9-305, MCA, the COUNTY shall immunize, defend, and indemnify ATTORNEY for all actions taken within the course and scope of services provided as a Special Deputy Fergus County Attorney in accord with this *Legal Services Agreement* and § 7-4-2705, MCA. The County agrees to provide insurance as outlined in the MACo PCT Memorandum of Indemnity Coverage to the Attorney, but only for the Attorney's acts and operations on behalf of the County.

11. INDEPENDENT CONTRACTOR: It is understood that the ATTORNEY is an independent contractor as defined by Montana law. ATTORNEY is a public officer for purposes of § 2-9-305, MCA, but shall not be considered an agent or partner in the conduct of business of the COUNTY or the State of Montana. No retirement benefits for health insurance or for retirement will be paid to ATTORNEY. ATTORNEY will not be covered by workers' compensation insurance through the COUNTY.

12. INSURANCE: Notwithstanding the COUNTY'S obligation under § 10 of this *Legal Services Agreement*, ATTORNEY shall independently maintain, Professional Liability Insurance, with limits of at least \$500,000 each claim/\$500,000 aggregate. A copy of the declarations page of ATTORNEY's current insurance policy must be submitted to COUNTY with the signed copy of this *Legal Services Agreement*.

13. WORKERS COMPENSATION: ATTORNEY shall comply with the provisions of the Montana Workers' Compensation Act in accordance with §§ 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither the ATTORNEY nor its employees are State employees. This insurance/exemption must be valid for the entire contract term and any renewal. A copy of the declaration page of this current workers' compensation policy must be submitted to the COUNTY with the signed copy of this *Legal Services Agreement*.

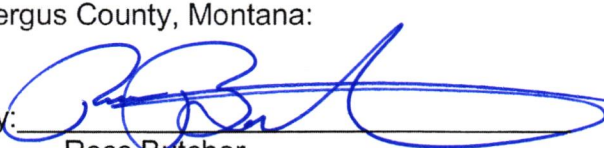
14. TERM: The term of this contract shall be from February 7th, 2021, through June 30, 2021, or until a full-time, permanent Deputy Fergus County Attorney begins work in the Fergus County Attorney's Office, whichever occurs first. The ATTORNEY's compensation for the month of February 2021 shall be pro-rated from start date.

15. **ASSIGNMENT:** ATTORNEY shall not assign, transfer or subcontract any portion of this *Legal Services Agreement* without the express written consent of the COUNTY ATTORNEY in accord with § 18-4-141, MCA.
16. **CHOICE OF LAW/VENUE:** Montana law governs this *Legal Services Agreement*. The parties agree that any litigation concerning this *Legal Services Agreement* must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana and that each party shall pay its own costs and attorney fees. (§ 18-1-401, MCA).
17. **PRIOR AGREEMENTS:** This *Legal Services Agreement* supersedes all prior agreements between the COUNTY and the ATTORNEY.
18. **NOTICE:** All notices required or related to this *Legal Services Agreement* shall be provided by U.S. Mail:
- a. ATTORNEY at COTNER LAW, PLLC, 2700 Radio Way, Missoula, Montana, 59808.
 - b. COUNTY at OFFICE OF THE FERGUS COUNTY ATTORNEY, 801 W. Broadway St., Lewistown, MT 59457.
19. **SEVERABILITY:** If any term or condition of this *Legal Services Agreement* or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this *Legal Services Agreement* are declared severable.
20. **ENTIRE AGREEMENT:** It is agreed by the parties named herein that this contract sets forth the entire agreement between COUNTY and ATTORNEY and there shall be no verbal agreement between the parties in violation or contravention of this contract. This Agreement may only be changed by mutual written agreement between COUNTY and ATTORNEY.

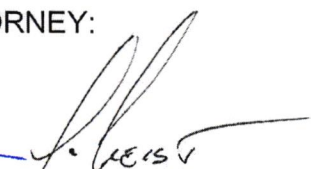
21. **SIGNATURES:**

BOARD OF COUNTY COMMISSIONERS:
Fergus County, Montana:

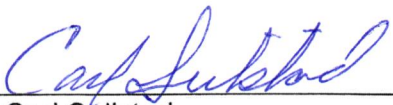
ATTORNEY:

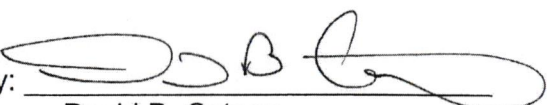
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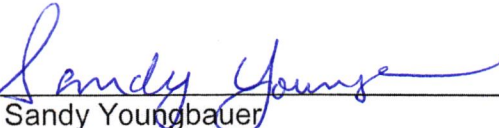
Ross Butcher
Commissioner

By: 

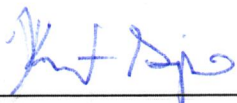
Thorin A. Geist
COTNER LAW, PLLC

By: 
Carl Seilstad
Commissioner

By: 
David B. Cotner
Managing Member
COTNER LAW, PLLC

By: 
Sandy Youngbauer
Commissioner

APPROVED AS TO FORM AND CONTENT:


Kent Sipe
Fergus County Attorney