

Return to:

Tom Halvorson, Civil Attorney
Richland County
201 West Main Street
Sidney, MT 59270

Interlocal Agreement for Usage of Old Dump Ground

1. Parties and Date

AGREEMENT between RICHLAND COUNTY, MONTANA, a political subdivision of the State of Montana, and a body politic and corporate, 201 West Main Street, Sidney, Montana 59270, and CITY OF SIDNEY, MONTANA, a municipal corporation and a political subdivision of the State of Montana, 115 Second Street SE, Sidney, Montana 59270.

2. Recitals

A. The City owns the following described tract of land commonly referred to as the old dump ground:

A certain tract of land in Richland County, Montana and being in the Southeast quarter of the Southeast quarter (SE¹/₄SE¹/₄) of Section 24 and the Northeast quarter of the Northeast quarter (NE¹/₄NE¹/₄) of Section 25 Township 23 Range 58 E and described as follows: .

Beginning at the Section corner common to Sections 24 and 25 Township 23, Range 58, and Section 19 and 31, Township 23 Range 59; thence North along the 58th Range line a distance of six hundred twenty-nine and seventy-six hundredths (629.76) feet, thence South seventy-eight degrees twenty-six minutes West (S78° 26'W) a distance of one thousand three hundred nine and thirty-eight hundredths (1309.38') feet, more or less to the East Right-of-way line of Montana Highway Number 16, thence South forty-four degrees fifty-nine minutes East (S44° 59'E) along the said East Right-of-way line a distance of one thousand eight hundred fourteen and sixty-seven hundredths (1814.67') feet, thence North along said 58th Range Line a distance of nine hundred sixteen and thirty-two hundredths (916.32') feet, more or less, to the point of beginning, containing an area of twenty-two and seventy-seven hundredths 22.77 acres, more or less.

Deed Reference: Nels Bach and Anna Bach to City of Sidney, Montana dated September 23, 1946, recorded November 4, 1947, in Book A63, Pages 182-183 as Document No. 202486.

B. The County has used portions of the surface of the land for the staging and storage of equipment such as mowers, trailers, belly dump trailers, side dump trailers, water trucks, water vac trailers, cement pneumatic trailers, stockpiling conveyors, gravel hoppers, frac tanks, and dozers; and for the staging and storage of materials including gravel, scoria, asphalt, and chips.

C. The City also uses and wishes to continue using the surface of the land.

D. There is a trap shooting range on the premises.

E. The parties wish to memorialize their agreement about how the parties can continue their

respective uses compatibly with each other and with the use made on the trap shooting range.

3. Conditional Use

The parties mutually agree that:

A. City's Priority. The City shall retain priority on the fractional amount, location, and configuration of uses of the surface of the land.

B. County's Secondary Use. As space allows subject to the City's priority, the County may continue to use the surface for the staging and storage of equipment and materials of the sort recited above or relating to road construction and maintenance or other public works infrastructure.

C. Non-Interference. The County shall not place any of its equipment, materials, or property in such a way as would:

- i.** Be a hazard relative to the trap shooting range.
- ii.** Be an interference with the City's visible uses.
- iii.** Impede, interfere with, or obstruct the City's ingress and egress or its maneuver on the premises.

D. Notice to Reduce Use. If the City, in the exercise of its priority, needs to reduce or eliminate all or a portion of the County's use, it shall give the County written notice delivered both to the Board of County Commissioners and the County's Director of Public Works describing the reduction needed, and the County shall have:

- i. Equipment.** Twenty-One (21) days to remove so much of its equipment as necessary to accommodate the City's notice.
- ii. Material.** Sixty (60) days to remove so much of its materials or other property as necessary to accommodate the City's notice.

E. "As Is" Condition. The City is providing use of the surface of the premises in an "as is" condition. Without limiting the generality of the previous sentence, the City has made no representations or warranties relative to the surface, the subsurface or the supersurface; the soil; air, water, gravel or minerals; buildings, improvements, fences, wells, sewers, septic tanks or the like; adjoining premises or the vicinity; access; utilities or services; compliance with laws, regulations, covenants, restrictions or zoning; encroachment by anything on adjoining lands onto the premises; prescriptive rights with the premises or prescriptive rights to which the premises might be subject; nuisances, hazards, dangers, trespasses or rights of action either on the premises or any adjoining lands or in the vicinity. The City in consummating this transaction is acting on the understanding that the County has made such inspection, inquiry, and investigation of the premises and the facts and conditions relative thereto as it deems adequate to accept the premises for use as contemplated by this agreement on an "as is" basis.

F. Risk of Loss. The risk of loss of the equipment, materials, and property belonging to the County shall remain upon the County and shall not be shifted to the City on the basis of its location, staging, or storage on the City's land.

G. Insurance. The County shall maintain commercial general liability insurance or the

equivalent for a local government entity covering its equipment, materials, property, and activities upon the premises.

H. Indemnification. The County shall protect, defend, indemnify, and hold the City, its elected and appointed officials, agents, and employees, while acting in their duties as such, harmless from and against all claims, liabilities, demands, causes of action, and judgments (including the cost of defense and reasonable attorney fees) arising in favor of or asserted by the City's employees or third parties on account of damage to property, bodily or personal injury, or death arising out of the staging, storage, or location of any of the County's equipment, material, or property on the premises except insofar as damage, injury, or death results from the fault, negligence, or breach of duty, obligation, or responsibility of a party or person other than the County and those whose wrongs are imputed to the County such as by *respondeat superior*.

4. Declarations required by § 7-11-105

A. Duration. The duration of this agreement shall be a term of ten (10) years. After the primary term of ten (10) years, this agreement shall renew automatically for successive one (1) year terms, unless superseded by a new agreement. Notwithstanding the primary term or any automatic renewal, this agreement may be terminated for convenience and without cause by either party upon a 60-day written notice. During the 60 days, both parties shall be obligated to continue to perform their respective duties.

B. No Separate Entity. No separate legal entity is created by this contract.

C. Purpose. The purpose of this contract is to make the most efficient use of the powers of each of the parties by cooperating with each other on the basis of mutual advantage for the best maintenance of their roads, infrastructure, equipment, materials, and the like influenced especially by geographic and economic factors.

D. Budgeting. No separate, special, or additional budgeting or financing is needed.

E. Ownership and Disposition. Each party shall continue to separately own its own respective property used in connection with this agreement, and upon partial or complete termination of this agreement, there will be no need for disposing of any property.

F. No Joint Administration. No joint administrator or board is being established for the undertaking. The respective directors of public works of the parties will supervise the undertaking.

G. Property. No additional real or personal property will be acquired, held, or disposed of for the undertaking beyond what each party otherwise would have held in connection with its own equipment and materials.

H. Retirement Systems. Each party remains separately responsible for reports and payment of retirement system contributions for its own respective employees.

I. Special Employment. There is no employment of any person under § 7-11-105(9) pursuant to this agreement.

5. Miscellaneous Provisions

A. Notices. Any notice or communication with respect to this Agreement shall be deemed sufficiently given if sent by registered or certified mail, postage prepaid and properly addressed as

follows:

COUNTY: Board of County Commissioners
201 West Main
Sidney, MT 59270

and

Richland County Director of Public Works
2140 West Holly Street
Sidney, MT 59270

City: Hon. Mayor of Sidney
115 2nd Street SE
Sidney, MT 59270

and

Sidney Director of Public Works
115 2nd Street SE
Sidney, MT 59270

and shall be deemed to have been delivered as of four (4) days following the date so mailed. Either party may change its address for the purposes of this paragraph by giving notice of the change to the other party in the above-described manner for giving notice.

B. Modifications. No modification of this agreement may be effective for any purpose unless the modification shall be memorialized in a signed and notarized written agreement entered by all the parties.

C. Counterpart Execution. This agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement. The counterparts of this agreement may be executed and delivered by facsimile or other electronic signature by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

6. Execution and Acknowledgment

IN WITNESS WHEREOF, the parties have executed this instrument this _____ day of _____, 2022.

(s e a l)

RICHLAND COUNTY, MONTANA

By _____
Shane Gorder, Chairman
Board of County Commissioners

ATTEST:

STEPHANIE VERHASSELT
County Clerk

CITY OF SIDNEY

(seal)

By _____
RICK NORBY, Mayor

ATTEST:

JESSICA CHAMBERLIN
City Clerk

STATE OF MONTANA)
) ss.
County of Richland)

On this _____ day of _____, 2022, before me, the undersigned Notary Public for the State of Montana, personally appeared SHANE GORDER, Chairman of the Board of County Commissioners of Richland County, Montana, and STEPHANIE VERHASSELT, County Clerk and Recorder of Richland County, Montana, to me personally known, and who did each acknowledge to me that they did respectively execute the within instrument by authority of the order of the Board of County Commissioners duly made and entered.

(notary seal)

Notary Public for the State of Montana, residing at
Sidney, Montana. My commission expires:
_____.

STATE OF MONTANA)
) ss.
County of Richland)

On this _____ day of _____, 2022, before me, the undersigned Notary Public for the State of Montana, personally appeared RICK NORBY, Mayor of Sidney, Montana, and JESSICA CHAMBERLIN, Clerk of Sidney, Montana, to me personally known, and who did each acknowledge to me that they did respectively execute the within instrument by authority of the order of the City Council of the City of Sidney duly made and entered.

(notary seal)

Notary Public for the State of Montana, residing at
Sidney, Montana. My commission expires:
_____.