

RESOLUTION NO. 7

SERIES 2015

RESOLUTIONS OF THE CRESTED BUTTE TOWN COUNCIL APPROVING THE SERVICES CONTRACT WITH BECKER ARENA PRODUCTS, INC. FOR THE REPAIR OF THE DASHER BOARD SYSTEM AND COMPONENTS AT THE BIG MINE ICE ARENA

WHEREAS, the Town of Crested Butte, Colorado (the "**Town**") is a home rule municipality duly and regularly organized and now validly existing as a body corporate and politic under and by virtue of the Constitution and laws of the State of Colorado;

WHEREAS, the dasher board system and related components at the Big Mine Ice Arena (the "**Arena**") have been damaged and require repair before the same may be utilized public functions in the Arena;

WHEREAS, Becker Arena Products, Inc. ("**Becker**") installed and has subsequently maintained such dasher board system and related components;

WHEREAS, the Town staff has requested that Becker repair such dasher board system and related components;

WHEREAS, before Becker can commence the repair of such dasher board system and related components, Becker has required that the Town enter into a services contract for Becker to perform such repairs;

WHEREAS, the Town staff recommends that the Town contract with Becker to perform the repairs on the dasher board system and components in the Arena, Becker being the best person to perform such repairs and such repairs being delivered at a competitive rate; and

WHEREAS, based on the foregoing, the Town Council desires to have Becker repair the dasher board system and components, and, on account thereof, finds that entering into the services contract with Becker for Becker's performance of the repair of the dasher board system and components at the Arena is in the best interest of the health, safety and general welfare of the citizens and visitors of Crested Butte.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT:

1. **Findings.** The Town Council hereby finds that is in the best interest of the Town, its residents and visitors to enter the services agreement with Becker in substantially the same form as attached hereto as **Exhibit "A"** (the "**Becker Agreement**").

2. **Approval; Authorization of Town Manager.** Based on the foregoing, the Town Council hereby approves the Becker Agreement and hereby authorizes the Town Manager to execute the same.

INTRODUCED, READ AND ADOPTED BEFORE THE TOWN COUNCIL THIS 18th
DAY OF May, 2015.

TOWN OF CRESTED BUTTE, COLORADO

By: *Aaron J. Huckstep*
Aaron J. Huckstep, Mayor

ATTEST

Lynelle Stanford
Lynelle Stanford, Town Clerk

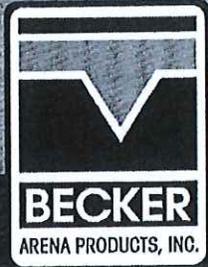
(SEAL)



EXHIBIT "A"

Becker Services Agreement

[attach form here]



Rink Solutions That Perform!



Quotation # 040215-CRE

Revision #

Date: April 28, 2015

Prepared for:
Mr. Peter Curvin
Town of Crested Butte
Crested Butte, Colorado

Our understanding of your current situation:

You have requested pricing for the repair/replacement materials on your dasher system

Our approach to meet your needs:

We are providing pricing for our BAP6.0 *Signature Series* dasher board components along with the installation of all materials as described.

Thank you for considering Becker Arena Products, Inc. as a product supplier and partner in your current project. We have been serving the Sports and Recreation Industry since 1988. We welcome the opportunity to earn your trust with this project by demonstrating our ability to perform to your satisfaction through our staff of professionals, with our versatility, experience, on-time deliveries and commitment to quality.

With Becker Arena Products you will receive a Worry Free project – Guaranteed.

Confidential: This document contains proprietary and confidential information that is owned and is of significant value to Becker Arena Products, Inc. No unauthorized use, disclosure or reproduction of any of this information is permitted without the prior written consent of Becker Arena Products, Inc.

Quotation Details and Options

Becker Arena Products, Inc.

Savage MN 55378

www.beckerarena.com

800-234-5522

Per your recent request, below please find the pricing for the following dasher board system components and installation.

BAP6.0 SIGNATURE SERIES HOCKEY DASHER BOARD SYSTEM COMPONENTS

Becker Arena Products, Inc. shall furnish and install the following new materials based on the information furnished and will include the following items and features.

DASHER FRAMING & FIBERGLASS FACING, POLYETHYLENE CAP RAIL & KICK PLATE

88 total lineal feet of 42" high BAP6.0 *Signature Series* galvanized steel frame dasher boards
(Ring panels only)
48 lineal feet of straight panels
40 lineal feet of radius
1/4" thick white high-impact fiberglass dasher facing
1/2" thick x 10" high yellow high-density polyethylene kick plate
3/4" blue high-density polyethylene cap rail
All panels pre-assembled
All panel steel framing hot dip galvanized after fabrication
Drilled in Hilti -HIT-Z-R 5/8" drilled in heavy duty epoxy anchors with threaded end, washers and nuts- reuse anchor plates

GATES

One 3'-0" wide radius access gate with heavy duty hinges and ice side push button latches
1" thick high-density polyethylene thresholds on access gate

TEMPERED GLASS SHIELDING

49.25 lineal feet of 15mm (5/8") x 6'-0" high tempered glass shielding for the radius corners of the rink complete with two-piece anodized aluminum shield supports
144 lineal feet of 12mm (1/2") x 6'-0" high tempered glass shielding for the long side of the rink complete with new two-piece anodized aluminum shield supports
Shield termination padding

NETTING

One black nylon puck control net above the shielding on the one long side of the rink including all cable, conduit frame and hardware. One net 11'-2" high x 144' long

INSTALLATION

Becker Arena Products, Inc. will provide an experienced and professional certified installation team for the complete installation of the dasher system. Price includes installation of the new anchors, installing the new and existing dasher boards, new tempered glass shielding with supports and netting with conduit as relates to the damage to the dasher system. Labor (Non-union labor / non prevailing wage rate labor).

TOTAL PRICE DELIVERED & INSTALLED

\$ 39,760.00*

OPTION # 1

Supply and Installation of twenty-two external support posts (1 support post per panel)
For the new panels supplied and panels that will be reinstalled.

\$2,965.00 Accept NR

***EXCLUSIONS TO PRICING:** City of Crested Butte to furnish a fork lift and personnel lift for our installation crew during the duration of the repair process
Job site to be free of debris and damaged dasher system components
Dashers system components that will be re-used in the repair process must be on site and available to the installers

Payment terms:

50% due upon placement of order (\$ 19,880.00)
Balance due upon completion of installation (\$ 22,845)

Please Note: Taxes are the responsibility of the purchaser. Prices do not include special insurance requirements, or applicable permits and/or license fees. All payment terms are based on credit approval.

This proposal is subject to Becker Arena Products, Inc. Standard Terms and Conditions and Limited Warranty and may be withdrawn without penalty at any time before contract execution. If accepted, please sign and return one copy and retain a copy for your files. When approved by one of our officers and returned, it becomes a binding contract. This proposal is subject to change, withdrawal or cancellation until accepted by you. If Becker Arena Products, Inc. have not received your acceptance within 30 days from the date hereof, this proposal shall automatically expire. Becker Arena Products, Inc. retains a security interest in all products covered in this agreement until all sales' terms have been met. In addition, the purchaser agrees to sign any additional documents for Becker Arena Products, Inc. to perfect its security interest in the products.

The above proposal is accepted:

Todd Crossatt
Purchaser Signature

Town Manager
Title

Todd Crossatt
Print Name

5/11/15
Date

[Signature]
Becker Arena Products, Inc.

VP
Title

Laurie Presta
Print Name

5-12-15
Date

Becker Arena Products, Inc.

STANDARD TERMS AND CONDITIONS

1. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota, as applied to contracts executed in and performed wholly within the State of Minnesota.

2. Delays. Becker Arena Products, Inc. (Seller) will not be liable for any delay in the performance of orders or contracts, or in the delivery or shipment of the goods, or for any damages suffered by the Purchaser by reason of such delay, including liquidated or actual damages.

3. Arbitration. Any and all controversies or claims arising out of or relating to this contract or the performance or breach thereof shall be settled by arbitration in Minneapolis, Minnesota in accordance with the then existing rules and procedure of the American Arbitration Association.

4. Mechanic's Lien or Bond Rights. Nothing herein shall be deemed to waive or affect Seller's right to assert a mechanic's lien against the property on which the goods are installed or to make a claim against any bond. Purchaser agrees to provide any and all information requested by Seller, within three (3) calendar days, to allow Seller to preserve or effectuate its mechanic's lien or bond rights.

5. Change Orders. A change order will be required for any additional work to be performed or materials to be supplied by the Seller, which is not included in the contract or is a result of the Purchaser's failure to comply with the terms and conditions as described herein. A change order must be filled out by the Seller and signed by the Purchaser before any work commences or material is ordered and/or shipped.

6. Production Schedule, Installation Schedule, and Storage. When Seller has received and accepted the contract along with signed approval drawings and credit approval, they will have up to 8 weeks to produce and deliver the rink provided that there are no custom materials needed. Custom materials will include non-standard colors and/or materials. The Purchaser will be contacted after the receipt of the required information to coordinate a shipping date and an installation date(s) (if cast-in-place anchors). This date will serve as the contract delivery date and will be used to schedule production, delivery, and installation. The Owner/Purchaser will be contacted 21 days prior to shipping to confirm that the site will be ready. If the Purchaser's site is not ready or will not be ready on this date, the following will occur:

- A. Seller may choose whether or not to produce the rink according to its production schedule. If they produce the rink on schedule, it will be stored at Becker Arena Product's location of business and storage fees will be charged to the Purchaser at the rate of \$US 300 per week. All payments will be due according to the terms from the original ship date. If the Seller chooses to delay production to coincide with the new ship date, no storage fees will apply and payment will be due according to the terms from the original ship date. If payment in the contract is a net full payment due, the time will start from the original ship date and not the adjusted ship date.

- B. A new shipping installation date will be coordinated with Seller's installation department and confirmed with the Purchaser. The Seller will reschedule the installation for the next available date according to the
- C. Seller's installation schedule. In some cases, the site delay may cause additional charges. This includes, but is not limited to, wages, remobilization, and equipment rental, to be paid by the Purchaser.
- D. If the Purchaser's site is not ready when the Seller's installation crew arrives, additional costs will be charged to the Purchaser. This includes, but is not limited to wages, travel, lodging, meals, equipment rental and changes in Becker Arena Product's installation schedule.

7. General Site Requirements. The following criteria must be met or extra charges may apply, and delays will be incurred, if the site is not in compliance when Seller is ready to deliver and install the goods:

- A. **Concrete and Floor Work:** All concrete work is to be completed and allowed to cure, according to job specifications and/or refrigeration contractors requirements, before the date installation is scheduled to begin.
- B. The levelness of the perimeter concrete, where the rink is to be installed, must be within 1/8" of levelness for every 10' in length and no more than 1/4" difference in height over the length and width of the perimeter surface.
- C. For sand floors, the first 6" from the front of the curb, where the rink is to be installed, must be within 1/16" of flatness from the inside edge outward and meet the levelness and flatness conditions specified above. Sand floors are not to be final graded prior to dasher board installation.
- D. Expansion joints, which are to be covered completely by the rink, are to be within 1/2" of straightness from end to end and side to side. The distance from side to side and end to end of the outside edge of the expansion joint is to be within 1/2" of the required dimension for the frame to cover it.
- E. If, upon arrival, the perimeter concrete is inspected and does not meet the specifications for levelness, flatness, straightness and size, the following will occur:
 - 1. Seller's Representative will determine if rink can be shimmed or adjusted/cut to achieve desired levelness, fit and/or expansion joint coverage while maintaining the structural integrity of the rink. If so, the additional time and materials to do this will be paid by the Purchaser. A change order must be filled out by the Seller's Representative and signed by the Purchaser before any work commences.
 - 2. If the rink cannot be shimmed or adjusted to the desired levelness and/or coverage while maintaining the structural integrity of the rink, the Purchaser will be responsible for fixing the surface to meet specifications. All associated costs for this are the sole responsibility of the Purchaser.
 - 3. The Seller will accept contracts that are retrofit projects with the understanding that the condition of the underlying perimeter concrete work meets the specifications stated above. If, after removal of the existing rink, the concrete does not meet these conditions, points 'A' and 'B' from above will apply.

8. Requirements for Rink Installations:

(Refer to the enclosed "Site Requirements Form")

9. Walk Through Inspection. When Seller's work is complete or near complete, Purchaser or the Purchaser's Representative (including general contractors and architects) must be available for a final walk through inspection with the Seller's Representative. Any parties who do not attend the walk through will forfeit their right to submit punch list items. A final punch list of items to be completed or repaired will be prepared as a result of this walk through. Any item not included on the final "punch list" will not be the responsibility of the Seller unless it is covered by the Seller's Warranty.

10. Shop Drawings and Non-standard Shielding. Preparation of shop drawings will not commence until after the signed contract has been delivered to Seller. Production will not commence until Seller receives approved shop drawings. Field measured, tempered glass (non-standard sizes) may require an additional 3-4 weeks for delivery after completion of installation.

11. Polyethylene. All polyethylene used to manufacture the rink shall be virgin material. All colors shall match within manufacturer's tolerance. Seller will not be responsible for replacing polyethylene that conforms to manufacturer's color tolerance. During manufacturing, all panels shall have the polyethylene overhang past the frame a minimum of 1/16" on each end to allow for contraction of the material due to temperature change in the field. Seller shall not be responsible for material contraction gaps between panels due to temperature change if it adheres to these manufacturing requirements.

12. Material Check-in. The Purchaser shall be responsible to verify the shipment for quantities and any damage caused from shipping for jobs that include installation supervision or are supply only. Any quantity variances and/or damage must be noted and reported to the Project Manager by filling out the Material Check-in Form and faxing it to the Project Manager. Missing/damaged items must be reported within 24 hours of receipt to receive credit. All boxes will be clearly marked by the Seller. The Ship list will clearly identify the contents and quantities of the shipment. It is the responsibility of the Purchaser to verify that all box numbers in the hardware crate are accounted for, not to open and count each individual item in a box. The Purchaser must count anything that is not boxed.

BECKER ARENA PRODUCTS

SITE REQUIREMENTS FORM – CONCRETE FLOOR

To: _____ Fax: _____
Project: Crested Butte Dashon Band Repair Date: 5/12/15
From: _____

In order to install your system within the quoted price, the following 9 line items must be in place before installation begins. The Purchaser will be solely responsible for signing this Site Requirements Form, any future correspondence relating to this project, and the Final Project Walk-Through. The Purchaser must print and sign their name at the bottom of this form, and return with contract to Becker Arena Products, Inc. Upon receipt, Becker Arena Products Inc. will initiate the production process.

1. The site must be accessible to a tractor-trailer and industrial forklift. Driveways to the system slab/surface must support all necessary equipment.
 2. The concrete slab/surface must support at least a 5000lb forklift. Becker Arena Products, Inc. will accept no responsibility for damage to the system slab/surface caused by driving a forklift on the system slab/surface.
 3. Power outlets with no less than a 30amp breaker must be within 50' of the system slab/surface or a portable generator with a minimum of 5KW power rating.
 4. The slab/surface will be broom clean and work area will be free of all materials and debris.
 5. A dumpster (minimum size of 10 yards) and/or an area for trash must be available within 100' of the system slab/surface so the installers can remove their debris.
 6. All overhead work, including but not limited to painting, electrical, HVAC, and insulation must be completed in the system and the building must be enclosed and lockable.
 7. Adequate lighting must be provided.
 8. The corners of the system must be located and pinned by a surveyor.
 9. Building temperature must be no warmer than 65 degrees Fahrenheit. Building temperature over 65 degrees Fahrenheit will cause HDPE to expand, this may cause large gaps between panel sections once the ice is installed.
- Please indicate any special site requirements.

This form must be signed by the Purchaser and returned to Becker Arena Products, Inc. (with contract) before system production begins and installers can be scheduled. When job is completed or nearing completion, the Purchaser must be available for a final walk-through to inspect the system with Becker Arena Products Installation Supervisor. This will be the Purchaser's chance to formulate a final punch list of items left unfinished or needing to be changed. All items not listed on the punch list will not be considered a punch list item, and unless covered by Becker Arena Products warranty, will be replaced at the Purchaser's expense. Delays or extra work and expenses caused by the site not being ready will be charged to the Purchaser.

Purchaser's Signature: [Signature] Date: 5/12/15

BECKER ARENA PRODUCTS, INC.

2 YEAR LIMITED WARRANTY

1. **What Is Covered By This Limited Warranty -** Becker Arena Products, Inc. ("BAP") warrants to the original purchaser ("Purchaser") that the BAP rink system (the "Rink System") that is subject of this sale (a) conforms to BAP's published specifications and (b) is free from defects in material or workmanship. The duration of this warranty is two years from the date of delivery to the original Purchaser. In the event of any claim of defect during the warranty period, Purchaser shall promptly notify Seller in writing of the claimed defect. Within a reasonable time after such notification Purchaser shall provide Seller full access to the products to inspect, repair, and/or replace the products in question. Seller's sole obligation shall be to correct any actual defect by repair, replacement, or adjustment as determined in Seller's sole discretion. In no event shall notification be effective if received by BAP later than 25 months from date of delivery of the Rink System. These remedies are Purchaser's exclusive remedies for breach of warranty.
2. **What Is Not Covered By This Warranty –** BAP does not warrant (a) any product, component or parts not manufactured by BAP, (b) defects caused by failure to provide a suitable installation environment for the Rink System, (c) defects caused by failure to follow BAP's Rink System maintenance schedule, (d) damage caused by use of the Rink System for purposes other than those for which it was designed, (e) damage caused by a disaster such as fire, flood, wind or lightening, (f) damaged caused by unauthorized attachments or modifications to the Rink System, (g) damage during shipment, or (h) any other abuse or misuse by Purchaser or the Rink System.
3. **Disclaimer Of Warranty –** THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTIES FOUND UNDER ARTICLE 35(2)(a) AND (b) OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS 1980.
4. **Limitations Of Remedies –** In no case shall BAP be liable for any special, incidental or consequential damages based upon breach of warranty, breach of contract, negligence, strict tort or any other legal theory. Such damages include, but are not limited to, loss of profits, loss of savings revenue, loss of use of Rink System or any associated equipment, cost of capital, cost of any substitute equipment, facilities or service, downtime, the claims of third parties (including customers) and injury to property. This limitation does not apply to claims for personal injury. Some states do not allow limits on warranties or on remedies for breach in certain transactions. In such states, the limits in this Section 4 and in Section 3 above may not apply.
5. **Time Limit For Bringing Suit –** Any action for a breach of warranty must be commenced within 27 months following delivery of the Rink System.
6. **No Other Warranties –** Unless modified in a writing signed by both parties, this agreement is understood to be the complete and exclusive agreement between the parties, superseding all prior agreements, oral or written, and all other communications between the parties relating to the subject matter of this agreement. No employee of BAP or any other party is authorized to make any warranty in addition to those made in this agreement.
7. **Allocation Of Risk –** This warranty allocates the risk of product failure between BAP and Purchaser. This allocation is recognized by both parties and is reflected in the price of the Rink System. Purchaser acknowledges it has read this warranty, understands it and is bound by its terms.