City of Cody City Council
Executive Session 6:30 p.m. Pursuant to W.S. 16-4-405(a)(iii) &(a)(ix)
Tuesday, November 18, 2025-7:00 PM
Meeting Place: City of Cody Council Chambers-1338 Rumsey Avenue, Cody, WY

Meeting Called to Order

Pledge of Allegiance

Moment of Silence

Roll Call

Mayor's Recognitions and Announcements

a. Proclamation - Small Business Saturday
Staff Reference: Cindy Baker

1. **Consent Calendar**
All items under the consent calendar will be acted upon in one motion unless a Councilmember or member of the public requests that an individual item be taken up under Conduct of Business.

a. Approval of Minutes from November 4, 2025.
Staff Reference: Cindy Baker

b. Approve Vouchers and Payroll in the amount $805,306.78.
Staff Reference:

c. Approval of the Subrecipient Agreement between the Wyoming Department of Transportation and the City of Cody for the FY 2026 Transportation Alternatives Program Grant in the amount of $250,000
Staff Reference: Phillip Bowman

2. **Public Comments**
The City Council welcomes input from the public. In order for everyone to be heard, please limit your comments to five (5) minutes per person. The Guidelines for the Conduct of City Council Meetings do not allow action to be taken on public comments.

3. **Public Hearing**

4. **Conduct of Business**

a. Appoint Phil Velayo to fill the vacancy due to a recent resignation from the Wyoming State Shooting Complex Joint Powers Board - Member at Large - for a term ending April 30, 2028. Also adjust the terms for Mayor Reiter to April 30, 2026, and Glenn Ross to April 30, 2027.
Staff Reference: Cindy Baker

b. Ordinance 2025-33 - Third and Final Reading
An Ordinance Amending Title 8, Chapter 2, Article II, III and IV of the City of Cody Municipal Code. Water and Raw Water Rates.

Staff Reference: Phillip Bowman

c. Ordinance 2025-34 - Third & Final Reading
An Ordinance Amending Title 5, Chapter 2, Subsection 23 of the Cody City Code pertaining to Unlawful Intoxicating Chemical Compounds.
Staff Reference: Jason Stafford

d. Ordinance 2025-35 - Third & Final Reading
An Ordinance Amending Title 5, Chapter 1, Subsection 11 of the Cody City Code pertaining to Unlawful Interference with a Police Dog.
Staff Reference: Jason Stafford

e. Approval of Change Order #1 with Sletten Construction of Wyoming, Inc. in the amount of $335,402.20 for the Septage Receiving Facility Project
Staff Reference: Phillip Bowman

5. **Tabled Items**

6. **Matters from Staff Members**

7. **Matters from Council Members**

8. **Adjournment**

Upcoming Meetings:
Council Meeting - Tuesday, December 2, 2025 - 7:00 p.m.
Council Work Session - Tuesday, December 9, 2025 - 5:30 p.m.
Council Meeting - Tuesday, December 16, 2025 - 7:00 p.m.
Council Meeting - Tuesday, January 6, 2026 - 7:00 p.m.

Meeting Date: November 18, 2025
Department: Administrative Services
Staff Reference: Cindy Baker

AGENDA ITEM SUMMARY REPORT
Proclamation - Small Business Saturday

PROPOSED ACTION:
Proclaim Saturday - Novmber 28th as Small Business Saturday

SUMMARY OF INFORMATION:

FISCAL IMPACT:

ATTACHMENTS:
1. Small Business Saturday Proclamation 2025

Small Business Saturday Proclamation

Whereas, the government of Cody, WY, celebrates our local small businesses and the contributions they make to our local economy and community; and

Whereas, 79% of consumers understand the importance of supporting the small businesses in their community on Small Business Saturday, 70% report the day makes them want to encourage others to Shop Small, independently-owned retailers, and 66% report that the day makes them want to Shop Small all year long; and

Whereas, Cody, WY supports our local businesses that create jobs, boost our local economy and preserve our communities; and

Whereas, advocacy groups, as well as public and private organizations across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

Now, Therefore, I, Lee Ann Reiter, Mayor of Cody, Wyoming, in conjunction with the Cody City Council do hereby proclaim November 29, 2025, as

Small Business Saturday

And we urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and throughout the year.

In Witness Whereof, I have hereunto set my hand and affixed my signature on this 18th day of November, 2025 in the City of Cody, County of Park and the great state of Wyoming.

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Lee Ann Reiter, Mayor

City of Cody
City Council Proceedings
November 4, 2025

At 6:15 Council Member Shreve made a motion seconded by Council Member Laing to enter into an Executive Session pursuant to W.S.16-4-405(a)(iii)&(a)(ix). The vote was unanimous. At 6:43 Council Member Tamblyn made a motion seconded by Council Member Laing to exit the Executive Session. The vote was unanimous.

At 7:00 Mayor Reiter called the meeting to order.

Present: Mayor Reiter, Council Members Settineri, Laing, Tamblyn, Shreve, McIsaac, Swett, City Administrator Tony Tolstedt, City Attorney Scott Kolpitcke; and Cindy Baker Administrative Services Officer.

Absent: None

Council Member Swett made a motion seconded by Council Member Tamblyn to approve the Consent Calendar including Approval of Minutes from October 21, October 27 and October 28, 2025, approve vouchers and Payroll in the amount $1,315,651.52, and on behalf of the City of Cody Governing Body, we submit and cast our ballot for Jessica Weaver for the LGLP Board position that begins January 1, 2026. Vote was unanimous.

At 7:02 p.m. Mayor Reiter entered into a public hearing on Ordinances 2025-29 Amending Title 10, Chapter 10, Article F, Section 6 Yards, Ordinance 2025-30 Amending Title 10, Chapter 10, Article F, Section 6 Buffer Zone, Ordinance 2025-31 Amending Title 10, Chapter 10, article F, Section 6 District Regulation, Ordinance 2025-32 Amending Title 10, Chapter 15, Section 8 of the Cody City Code Sign District. After calling for comments three times and there being none Mayor Reiter exited the public hearing at 7:03 p.m. At 7:03 p.m. Mayor Reiter entered into a second public hearing reacting to Cody Craft Brewing LLC, filed an application for a new winery permit in the office of the clerk of the City of Cody for the following described place: 1732 Sheridan Ave, Cody, WY 82414. After calling for comments three times and there being none Mayor Reiter exited the public hearing at 7:05 p.m.

Council Member Settineri made a motion seconded by Council Member Shreve to approve the application for a Winery Permit to Cody Craft Brewing contingent upon receipt of the TBB document. Vote was unanimous.

Council Member Tamblyn made a motion seconded by Council Member Laing to appoint Tim Hopkins to the Yellowstone Regional Airport Board for a two-year term (11/4/2026-12/31-2027) and Heather Mortensen for a three-year term

(1/1/2026-12/31/2028). Vote was unanimous.

Council Member Settineri made a motion seconded by Council Member Laing to appoint Dan Shein and Erin Welty to a three-year term for the Planning, Zoning and Adjustment Board (1/1/2026-12/31/2028). Vote was unanimous.

Council Member Shreve made a motion seconded by Council Member Laing to approve a request from Yellowstone Beverages, LLC for a one-year extension from March 17, 2026 to March 16, 2027 to become operational for the retail liquor license issued for the location of 1234 Sheridan Ave. Vote was unanimous.

Ordinance 2025-27 Third and Final Reading
An Ordinance Amending Title 11, Chapter 7, Section 9 – PUD Council Member Settineri made a motion seconded by Council Member Swett to approve Ordinance 2025-27 Third and Final Reading. The vote was unanimous.

Ordinance 2025-28 Third and Final Reading
An Ordinance Amending Title 11, Chapter 7, Section 10 – Final Plan Review and Approval. Council Member Shreve made a motion seconded by Council Member Laing to approve Ordinance 2025-28 Third and Final Reading. The vote was unanimous.

Ordinance 2025-29 Third and Final Reading
An Ordinance Amending Title 10, Chapter 10, Article F, Section 6 – Yards. Council Member Swett made a motion seconded by Council Member Settineri to approve Ordinance 2025-29 Third and Final Reading. The vote was unanimous.

Ordinance 2025-30 Third and Final Reading
An Ordinance Amending Title 10, Chapter 10, Article F, Section 7 – Buffer Zone. Council Member Settineri made a motion seconded by Council Member Swett to approve Ordinance 2025-30 Third and Final Reading. The vote was unanimous.

Ordinance 2025-31 Third and Final Reading
An Ordinance Amending Title 10, Chapter 10, Article F, Section 8 – District Regulation. Council Member Settineri made a motion seconded by Council Member Tambyln to approve Ordinance 2025-31 Third and Final Reading. The vote was unanimous.

Ordinance 2025-32 Third and Final Reading
An Ordinance Amending Title 10, Chapter 15, Section 8 – Sign Districts. Council Member Tamblyn made a motion seconded by Council Member Swett to approve Ordinance 2025-32 Third and Final Reading. The vote was unanimous.

Ordinance 2025-34 - Second Reading

An Ordinance Amending Title 5, Chapter 2, Subsection 23 of the Cody City Code pertaining to Unlawful Intoxicating Chemical Compounds. Council Member Shreve made a motion seconded by Council Member Laing to approve Ordinance 2025-34 on Second Reading. The vote was unanimous.

Ordinance 2025-35 - Second Reading
An Ordinance Amending Title 5, Chapter 1, Subsection 11 of the Cody City Code pertaining to Unlawful Interference with a Police Dog.Council Member Tamblyn made a motion seconded by Council Member Shreve to approve Ordinance 2025-35 on Second Reading. The vote was unanimous.

Ordinance 2025-33 - Second Reading
An Ordinance Amending Title 8, Chapter 2, Article II, III and IV of the City of Cody Municipal Code - Water & Raw Water Rates.Council Member Swett made a motion seconded by Council MemberSettineri to approve Ordinance 2025-33 on Second Reading. The vote was unanimous.

Council Member Settineri made a motion seconded by Council Member Tamblyn to approve the of Change Order No. 1 to the Professional Services Agreement with Stantec Consulting Services Inc. for the 2024 Pedestrian and ADA Improvements Project - Phase 2. The vote was unanimous.

Mayor Reiter adjourned the meeting at 7:34 p.m.

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Mayor Lee Ann Reiter

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Cindy Baker, Administrative Services Officer

Secondary Name	Invoice Number	Description	Invoice Date	Net Invoice Amount
AMERICAN FAMILY LIFE ASSUR				
	681011	EMPLOYEE PREMIUMS	11/04/2025	2,965.02
Total AMERICAN FAMILY LIFE ASSUR:				2,965.02
AMERICAN WELDING & GAS INC				
	0011225396	BOTTLE RENTAL	10/31/2025	39.86
Total AMERICAN WELDING & GAS INC:				39.86
ANIXTER INC				
	6502448-07	ARRESTORS	10/28/2025	3,928.80
	6523174-06	STAND-OFF BRACKET	11/04/2025	496.20
	6536389-05	#2 PERFORM TIE	10/28/2025	826.66
	6536389-06	#6 COPPER BUTT SPLICE	10/28/2025	329.26
	6552285-02	1/0 DOUBLE TIE	10/28/2025	789.50
Total ANIXTER INC:				6,370.42
BAGNELL, PAULETTE A				
	11525	RESTITUTION FROM MC-2301-012	01/15/2025	75.00
Total BAGNELL, PAULETTE A:				75.00
BAILEY ENTERPRISES INCORPORATED				
	110325	Fuel	11/03/2025	871.34
	110325	Fuel	11/03/2025	135.31
	110325	Fuel	11/03/2025	427.87
	110325	Fuel	11/03/2025	128.36
	110325	Fuel	11/03/2025	3,294.59
	110325	Fuel	11/03/2025	427.87
	110325	Fuel	11/03/2025	746.48
	110325	Fuel	11/03/2025	311.45
	110325	Fuel	11/03/2025	287.85
	110325	Fuel	11/03/2025	34.16
	110325	Fuel	11/03/2025	56.44
	110325	Fuel	11/03/2025	179.73
	110325	Fuel	11/03/2025	94.53
	110325	Fuel	11/03/2025	36.55
	110325	Fuel	11/03/2025	925.07
	110325	Fuel	11/03/2025	136.95
	110325	Fuel	11/03/2025	524.89
	110325	Fuel	11/03/2025	39.50
	110325	Fuel	11/03/2025	5.64
	110325	Fuel	11/03/2025	5.64
	110325	Fuel	11/03/2025	5.64
	110325	Fuel	11/03/2025	72.20
	110325	Fuel	11/03/2025	3,804.18
	110325	Fuel	11/03/2025	1,176.45
	110325	Fuel	11/03/2025	1,015.24
	110325	Fuel	11/03/2025	147.26
	110325	Fuel	11/03/2025	64.74
	110325	Fuel	11/03/2025	8.68
	110325	Fuel	11/03/2025	72.20
	110325	Fuel	11/03/2025	515.43
	110325	Fuel	11/03/2025	308.14
	110325	Fuel	11/03/2025	8.68
	110325	Fuel	11/03/2025	72.20

Secondary Name	Invoice Number	Description	Invoice Date	Net Invoice Amount
	110325	Fuel	11/03/2025	388.19
	110325	Fuel	11/03/2025	115.26
	110325	Fuel	11/03/2025	428.41
	110325	Fuel	11/03/2025	1,147.94
	110325	Fuel	11/03/2025	7.44
	110325	Fuel	11/03/2025	1,836.67
Total BAILEY ENTERPRISES INCORPORATED:				19,865.17
BIG HORN ANKLE & FOOT				
	97164996	REC CENTER REFUND	10/29/2025	282.00
Total BIG HORN ANKLE & FOOT:				282.00
BLACK HILLS GAS HOLDINGS LLC				
BLACK HILLS ENERGY	110425	UTILITIES - NATURAL GAS	11/04/2025	220.70
BLACK HILLS ENERGY	110425	UTILITIES - NATURAL GAS	11/04/2025	663.91
BLACK HILLS ENERGY	110425	UTILITIES - NATURAL GAS	11/04/2025	668.86
BLACK HILLS ENERGY	110425	UTILITIES - NATURAL GAS	11/04/2025	349.65
BLACK HILLS ENERGY	110425	UTILITIES - NATURAL GAS	11/04/2025	3,343.75
BLACK HILLS ENERGY	110425	UTILITIES - NATURAL GAS	11/04/2025	3,343.75
BLACK HILLS ENERGY	110425	UTILITIES - NATURAL GAS	11/04/2025	285.84
BLACK HILLS ENERGY	110425	UTILITIES - NATURAL GAS	11/04/2025	42.13
BLACK HILLS ENERGY	110425	UTILITIES - NATURAL GAS	11/04/2025	322.78
BLACK HILLS ENERGY	110425	UTILITIES - NATURAL GAS	11/04/2025	212.50
Total BLACK HILLS GAS HOLDINGS LLC:				9,453.87
BOBCAT OF BIG HORN BASIN INC				
	15488	SKID STEER BROOM	10/23/2025	187.85
Total BOBCAT OF BIG HORN BASIN INC:				187.85
BORDER STATES INDUSTRIES INC				
	931410916	4/0 AUTO SPLICE	10/31/2025	580.19
	931410925	GROUND LUG	10/31/2025	811.45
	931445469	CROSS ARMS	11/06/2025	8,221.92
	931445477	CUTOUT	11/06/2025	5,977.46
	931445477	CUTOUT	11/06/2025	2,854.40
Total BORDER STATES INDUSTRIES INC:				18,445.42
BOWEN COLLINS & ASSOCIATES				
	39757	WATER RATE AND IMPACT FEE STUDY	10/27/2025	1,575.00
Total BOWEN COLLINS & ASSOCIATES:				1,575.00
CODY ENTERPRISE LLC				
	52109	NOTICE OF PUBLIC HEARING	10/03/2025	84.00
	52111	BID 2025-06	10/03/2025	82.32
	52549	MEETING MINUTES	10/14/2025	1,024.80
	52550	ORDINANCE 2025-23	10/14/2025	100.80
	52654	NOTICE OF PUBLIC HEARING	10/16/2025	100.80
	53143	ORDINANCE 2025-24	10/28/2025	134.40
	53144	LIQUOR LICENSE NOTICE OF APPLICATION	10/28/2025	141.12
	53145	MEETING MINUTES	10/28/2025	1,125.60
	53966	EMPLOYMENT - SEASONAL RECREATION ASSISTANT	10/31/2025	49.98
	53967	EMPLOYMENT - CITY CLERK	10/31/2025	271.32

Secondary Name	Invoice Number	Description	Invoice Date	Net Invoice Amount
	53968	PARKS LEAD MAINTENANCE WORKER	10/31/2025	221.34
	53969	CITY BOARD POSITION	10/31/2025	161.28
	53970	RAW WATER SHUT OFF	10/31/2025	94.08
	53971	REC CENTER ADVERTISING	10/31/2025	280.00
	53972	FIREFIGHTER/ FIRST RESPONDER 2025	10/31/2025	168.00
Total CODY ENTERPRISE LLC:				4,039.84
COLLECTION SERVICES CENTER				
	10292025	GARNISHMENT REMITANCE # 1049403	10/29/2025	461.53
	11425	GARNISHMENT REMITANCE # 1049403	11/04/2025	461.53
Total COLLECTION SERVICES CENTER:				923.06
DLT SOLUTIONS LLC				
DLT SOLUTIONS	5362047A	AUTODESK SUBSCRIPTION	11/07/2025	854.95
DLT SOLUTIONS	5362047A	AUTODESK SUBSCRIPTION	11/07/2025	854.95
Total DLT SOLUTIONS LLC:				1,709.90
ENERGY LABORATORIES INC				
DEPARTMENT 6250	746253	OIL AND GREASE TESTING	10/28/2025	117.00
Total ENERGY LABORATORIES INC:				117.00
ENGINEERING ASSOCIATES				
	4501066	SURVEY SERVICES	10/28/2025	3,009.89
Total ENGINEERING ASSOCIATES:				3,009.89
ENNIST III, ROBERT F				
BIG HORN FOOD SERVICES	11864	CUSTODIAL SUPPLIES - TRASH BAGS	10/29/2025	93.56
BIG HORN FOOD SERVICES	11864	CUSTODIAL SUPPLIES - TRASH BAGS	10/29/2025	93.57
BIG HORN FOOD SERVICES	11864	CUSTODIAL SUPPLIES - TRASH BAGS	10/29/2025	93.56
BIG HORN FOOD SERVICES	11864	CUSTODIAL SUPPLIES - TRASH BAGS	10/29/2025	93.57
Total ENNIST III, ROBERT F:				374.26
EXPRESS SERVICES INC				
	33074983	EMPLOYMENT SERVICES - PARKS	10/29/2025	1,749.76
	33093127	EMPLOYMENT SERVICES - PARKS	11/04/2025	665.91
Total EXPRESS SERVICES INC:				2,415.67
FALES, JASON				
	14.0624.18	DEPOSIT REFUND	11/05/2025	10.07
Total FALES, JASON:				10.07
FIRE DISTRICT #2				
	BLD-2025-004	1601 STAMPEDE AVE	10/14/2025	144.00
Total FIRE DISTRICT #2:				144.00
FLOYD'S TRUCK CENTER				
	X302081456.0	E01	11/04/2025	45.57

Secondary Name	Invoice Number	Description	Invoice Date	Net Invoice Amount
Total FLOYD'S TRUCK CENTER:				45.57
FRANDSON SAFETY INC				
	107677	CHLORINE CALIBRATION	10/02/2025	150.00
Total FRANDSON SAFETY INC:				150.00
FREMONT AMERI-TECH EQUIPMENT CO				
AMERI-TECH EQUIPMENT CO	00016795	SNOW PLOW FOR B40	10/31/2025	11,289.89
Total FREMONT AMERI-TECH EQUIPMENT CO:				11,289.89
FUSCO, KRISTINE				
	11525	RESTITUTION MC-2503-043	11/05/2025	52.00
Total FUSCO, KRISTINE:				52.00
GEM FITNESS INC				
BETTER BODY FITNESS	19785	MAINTENANCE ON FITNESS EQUIPMENT	11/04/2025	797.00
Total GEM FITNESS INC:				797.00
GLOBE LIFE INC				
	10302025	premiums	10/30/2025	788.00
Total GLOBE LIFE INC:				788.00
GRAVEN, TAYLOR				
	14.0618.13	DEPOSIT REFUND	10/31/2025	354.71
Total GRAVEN, TAYLOR:				354.71
GROATHOUSE CONSTRUCTION				
	11525	RESTITUTION FROM MC-2408-014	11/05/2025	50.00
Total GROATHOUSE CONSTRUCTION:				50.00
GW MECHANICAL INC				
	SV-9604	REPAIRS TO POOL PUMP	10/22/2025	1,610.34
Total GW MECHANICAL INC:				1,610.34
H B I INSURANCE				
	4665	SURETY BOND - MAYOR REITER	11/03/2025	100.00
	4666	SURETY BOND - JUDGE KEEGAN	11/03/2025	170.00
Total H B I INSURANCE:				270.00
HOT COCOA LLC				
	14.0553.10	REFUND CREDIT BALANCE	11/03/2025	81.27
Total HOT COCOA LLC:				81.27
LABAN HARVEST LLC				
NO SPOT LEFT BEHIND	1200	CLEANING SERVICES CITY HALL	10/31/2025	1,649.00
NO SPOT LEFT BEHIND	1200	CLEANING SERVICES REC CENTER	10/31/2025	1,999.50
NO SPOT LEFT BEHIND	1200	CLEANING SERVICES AQUATICS	10/31/2025	1,999.50

Secondary Name	Invoice Number	Description	Invoice Date	Net Invoice Amount
NO SPOT LEFT BEHIND	1201	PW SHOP CLEANING SERVICES	10/31/2025	149.00
NO SPOT LEFT BEHIND	1201	PW SHOP CLEANING SERVICES	10/31/2025	150.00
NO SPOT LEFT BEHIND	1201	PW SHOP CLEANING SERVICES	10/31/2025	150.00
NO SPOT LEFT BEHIND	1201	PW SHOP CLEANING SERVICES	10/31/2025	150.00
Total LABAN HARVEST LLC:				6,247.00
LEROUX INC				
BOONE'S MACHINE & RENTAL	49565	IRRIGATION	10/21/2025	1,500.00
BOONE'S MACHINE & RENTAL	49565A	IRRIGATION	10/30/2025	850.00
Total LEROUX INC:				2,350.00
MARK DEWEES				
LTRC SERVICES	000020	INSTALL RADIO IN CSI VAN	10/21/2025	205.00
Total MARK DEWEES:				205.00
NCPERS GROUP LIFE INS				
C/O MEMBER BENEFITS INC	103025	PREMIUM	10/30/2025	336.00
Total NCPERS GROUP LIFE INS:				336.00
NORCO INC				
	0045033818	BOTTLE RENTAL	10/31/2025	29.14
Total NORCO INC:				29.14
NORMAN, SAMANTHA				
	10.1176.43	DEPOSIT REFUND	11/03/2025	50.46
Total NORMAN, SAMANTHA:				50.46
NORTHWEST PIPE				
	7466067	REPAIRS PARTS HUFF AND PUFF	10/27/2025	2,142.58
	7466243	FLUSHING HYDRANTS	10/27/2025	2,629.38
	7472238	12X6 REDUCER	10/30/2025	441.67
Total NORTHWEST PIPE:				5,213.63
OLSEN, CHAD				
	11525	RESTITUTION FROM MC-2507-088	11/05/2025	3,000.00
Total OLSEN, CHAD:				3,000.00
PARK COUNTY				
	11120	LEC CONTRACT - DISPATCH LABOR COSTS	11/01/2025	5,571.56
	11120	LEC CONTRACT - DISPATCH LABOR COSTS	11/01/2025	928.59
	11120	LEC CONTRACT - DISPATCH LABOR COSTS	11/01/2025	24,452.95
	11120	LEC CONTRACT - TECHNOLOGY SERVICES	11/01/2025	3,315.00
	11120	LEC CONTRACT - INSIDE MAINTENANCE SUPPLIES	11/01/2025	878.51
	11120	LEC CONTRACT - INSIDE MAINTENANCE LABOR	11/01/2025	1,900.12
	11120	LEC CONTRACT - OUTSIDE MAINTENANCE CREDIT	11/01/2025	484.16-
	11120	LEC CONTRACT - BUILDING INSURANCE COSTS	11/01/2025	532.15
	11120	LEC CONTRACT - UTILITIES	11/01/2025	1,120.47

Secondary Name	Invoice Number	Description	Invoice Date	Net Invoice Amount
Total PARK COUNTY:				38,215.19
PARK COUNTY LANDFILL				
	103125	LANDFIL DISPOSAL FEES	10/31/2025	47,321.75
	103125	BULK ITEM DISPOSAL FEES	10/31/2025	191.75
Total PARK COUNTY LANDFILL:				47,513.50
PARK COUNTY PUBLIC HEALTH				
	1716	FLU VACCINATION	04/30/2025	180.00
	1716	FLU VACCINATION	04/30/2025	155.00
	1716	FLU VACCINATION	04/30/2025	75.00
	1716	FLU VACCINATION	04/30/2025	140.00
	1716	FLU VACCINATION	04/30/2025	120.00
	1716	FLU VACCINATION	04/30/2025	35.00
	1716	FLU VACCINATION	04/30/2025	215.00
	1716	FLU VACCINATION	04/30/2025	145.00
	1716	FLU VACCINATION	04/30/2025	35.00
	1716	FLU VACCINATION	04/30/2025	60.00
	1716	FLU VACCINATION	04/30/2025	285.00
Total PARK COUNTY PUBLIC HEALTH:				1,445.00
PARK COUNTY SHERIFF				
	103125	INCARCERATION - OCTOBER	10/31/2025	90.00
Total PARK COUNTY SHERIFF:				90.00
PETERSON, MATTHEW				
	2.1730.57	DEPOSIT REFUND	11/06/2025	69.27
Total PETERSON, MATTHEW:				69.27
PETTENGILL, LISA				
	14.0810.46	DEPOSIT CREDIT BALANCE	11/07/2025	219.33
	14.0810.46	DEPOSIT REFUND	11/07/2025	200.00
Total PETTENGILL, LISA:				419.33
PITNEY BOWES INC				
	3321370516	RENTAL - POSTAGE MACHINE	11/04/2025	729.42
Total PITNEY BOWES INC:				729.42
POMPS TIRE SERVICE INC				
	1780033659	H06	10/20/2025	360.00
Total POMPS TIRE SERVICE INC:				360.00
PROVIDENT LIFE & ACCIDENT INS				
	10302025	PREMIUMS	10/30/2025	23.40
Total PROVIDENT LIFE & ACCIDENT INS:				23.40
PURCHASE POWER				
	11072025	FINANCE/AP	11/07/2025	403.72
	11072025	BUILDING INSPECTION	11/07/2025	10.58

Secondary Name	Invoice Number	Description	Invoice Date	Net Invoice Amount
	11072025	CITY CLERK	11/07/2025	21.62
	11072025	CITY PLANNER	11/07/2025	204.86
	11072025	COURT	11/07/2025	118.40
	11072025	GRANTS	11/07/2025	29.60
	11072025	PUBLIC WORS	11/07/2025	112.90
	11072025	PW LEAD SERVICE LINE	11/07/2025	6.21
	11072025	PAYROLL/HR	11/07/2025	81.17
	11072025	POLICE	11/07/2025	76.12
	11072025	REC	11/07/2025	279.72
	11072025	UTILITY	11/07/2025	634.20
	11072025	WATER	11/07/2025	12.58
	11072025	BALANCE TO REFILL	11/07/2025	8.32
	11072025	REFILL	11/07/2025	41.99
Total PURCHASE POWER:				2,041.99
PYE-BARKER FIRE SAFETY				
RAPID FIRE PROTECTION INC	109434	BACKFLOW, ALARM AND SPRINKLER INSPECTIONS	11/05/2025	850.98
Total PYE-BARKER FIRE SAFETY:				850.98
QUALITY ASPHALT PAVING INC				
	25150	STREETS PAVING	10/30/2025	3,162.50
Total QUALITY ASPHALT PAVING INC:				3,162.50
R & A SAFETY LLC				
	47693	RANDOM DRUG TESTING	10/22/2025	115.50
	47693	RANDOM DRUG TESTING	10/22/2025	90.50
Total R & A SAFETY LLC:				206.00
RIBERA, BRIAN				
	14.1590.20	DEPOSIT REFUND	10/28/2025	52.92
Total RIBERA, BRIAN:				52.92
RIMROCK TIRE INC				
	2-253087	GRADER	10/15/2025	535.80
Total RIMROCK TIRE INC:				535.80
ROBERTSON, LESLIE				
	11525	RESTITUTION FROM MC-2208-010	11/05/2025	200.00
Total ROBERTSON, LESLIE:				200.00
SABER PEST CONTROL LLC				
	AUD205	PEST CONTROL - AUDITORIUM	11/04/2025	100.00
	CH205	PEST CONTROL - CITY HALL	11/04/2025	70.00
	E192	PEST CONTROL - ELECTRIC	11/03/2025	100.00
	P204	PEST CONTROL - CITY SHOP	11/03/2025	60.00
	P204	PEST CONTROL - CITY SHOP	11/03/2025	30.00
	P204	PEST CONTROL - CITY SHOP	11/03/2025	30.00
	PR129	PEST CONTROL - PARKS SHOP	11/03/2025	80.00
	R203	PEST CONTROL - RECYLING/SANITATION	11/05/2025	70.00
	REC205	PEST CONTROL - REC CENTER	11/04/2025	105.00
	REC205	PEST CONTROL - REC CENTER	11/04/2025	105.00

Secondary Name	Invoice Number	Description	Invoice Date	Net Invoice Amount
	W203	PEST CONTROL - WASTEWATER DEPT	11/05/2025	100.00
Total SABER PEST CONTROL LLC:				850.00
SAM, AMANDA				
	97201766	REC CENTER REFUND	10/30/2025	150.00
Total SAM, AMANDA:				150.00
SECKMAN & THOMAS				
CERTIFIED PUBLIC ACCOUNTANTS	3504	Annual Audit	11/03/2025	914.60
CERTIFIED PUBLIC ACCOUNTANTS	3504	Annual Audit	11/03/2025	4,117.40
CERTIFIED PUBLIC ACCOUNTANTS	3504	Annual Audit	11/03/2025	1,077.80
CERTIFIED PUBLIC ACCOUNTANTS	3504	Annual Audit	11/03/2025	340.00
CERTIFIED PUBLIC ACCOUNTANTS	3504	ANNUAL AUDIT	11/03/2025	564.40
CERTIFIED PUBLIC ACCOUNTANTS	3504	ANNUAL AUDIT	11/03/2025	1,567.40
CERTIFIED PUBLIC ACCOUNTANTS	3504	ANNUAL AUDIT	11/03/2025	1,230.80
CERTIFIED PUBLIC ACCOUNTANTS	3504	ANNUAL AUDIT	11/03/2025	918.00
CERTIFIED PUBLIC ACCOUNTANTS	3504	ANNUAL AUDIT	11/03/2025	227.80
CERTIFIED PUBLIC ACCOUNTANTS	3504	ANNUAL AUDIT	11/03/2025	3,134.80
CERTIFIED PUBLIC ACCOUNTANTS	3504	ANNUAL AUDIT	11/03/2025	4,256.80
CERTIFIED PUBLIC ACCOUNTANTS	3504	ANNUAL AUDIT	11/03/2025	2,074.00
CERTIFIED PUBLIC ACCOUNTANTS	3504	ANNUAL AUDIT	11/03/2025	13,576.20
Total SECKMAN & THOMAS:				34,000.00
SHEETS, BILL				
WILD WEST CONSTRUCTION	92025	BIRCH PAVING	09/20/2025	4,305.00
WILD WEST CONSTRUCTION	92025	BIRCH PAVING	09/20/2025	31,562.00
Total SHEETS, BILL:				35,867.00
SHOSHONE MUNICIPAL PIPELINE				
	110125	OCTOBER WATER	11/01/2025	128,872.86
Total SHOSHONE MUNICIPAL PIPELINE:				128,872.86
SOUTHWESTERN EQUIPMENT				
	046940	SANITATION	10/28/2025	342.96
Total SOUTHWESTERN EQUIPMENT:				342.96
SPEED GOAT CONSTRUCTION LLC				
	1016	BIRCH C&G	10/31/2025	16,000.00
	1016	BIRCH C&G	10/31/2025	1,520.88
Total SPEED GOAT CONSTRUCTION LLC:				17,520.88
STUEBNER, TABATHA				
	11525	RESTITUTION FROM MC-2412-002	11/05/2025	250.00
Total STUEBNER, TABATHA:				250.00
TECH PRODUCTS				
	118021	TAGGING	11/04/2025	2,658.67
Total TECH PRODUCTS:				2,658.67

Secondary Name	Invoice Number	Description	Invoice Date	Net Invoice Amount
THOMSON REUTERS - WEST				
	852764996	CLEAR INVESTIGATIONS MONTHLY PAYMENT	11/01/2025	212.96
Total THOMSON REUTERS - WEST:				212.96
TOUGH BED LINERS AND COATINGS LLC				
	1076	BRINE TRUCK BEDLINER	10/24/2025	875.00
Total TOUGH BED LINERS AND COATINGS LLC:				875.00
TYLER TECHNOLOGIES INC				
	025-533815	MUNICIPAL JUSTICE SOFTWARE - DATA CONVERSION	10/28/2025	11,000.00
	025-534239	CARD READER	10/31/2025	529.00
	025-534239	PCI SERVICE FEE	10/31/2025	180.00
Total TYLER TECHNOLOGIES INC:				11,709.00
UDOUJ, FRANK				
	13.1810.68	DEPOSIT REFUND	10/31/2025	142.45
Total UDOUJ, FRANK:				142.45
UNUM LIFE INSURANCE - LIFE				
	10302025	PREMIUM	10/30/2025	1,112.93
Total UNUM LIFE INSURANCE - LIFE:				1,112.93
WOLFF INDUSTRIES, INC				
KEELE SANITATION	814191	TEMP TOILET AT TRAILER	10/31/2025	210.00
Total WOLFF INDUSTRIES, INC:				210.00
WYOMING CHILD SUPPORT				
	102925	Garnishment Remitance # 227551	10/29/2025	323.07
	110425	Garnishment Remitance # 227551	11/04/2025	323.07
Total WYOMING CHILD SUPPORT:				646.14
WYOMING DEPARTMENT OF WORKFORCE SERVICES				
	110425	UNEMPLOYMENT FOR 3RD QUARTER	11/04/2025	817.52
	110425	UNEMPLOYMENT FOR 3RD QUARTER	11/04/2025	66.88
	110425	UNEMPLOYMENT FOR 3RD QUARTER	11/04/2025	66.88
	110425	UNEMPLOYMENT FOR 3RD QUARTER	11/04/2025	1,136.88
	110425	UNEMPLOYMENT FOR 3RD QUARTER	11/04/2025	26.75
	110425	UNEMPLOYMENT FOR 3RD QUARTER	11/04/2025	40.12
WORKERS COMPENSATION DIV	1142025	CONTRIBUTIONS	11/04/2025	9,744.46
WORKERS COMPENSATION DIV	1142025	PD VOLUNTEERS	11/04/2025	12.87
WORKERS COMPENSATION DIV	1142025	REC VOLUNTEERS	11/04/2025	137.38
WORKERS COMPENSATION DIV	1142025	INTEREST OWED FROM JUNE - FY CHANGES	11/04/2025	56.82
Total WYOMING DEPARTMENT OF WORKFORCE SERVICES:				12,106.56
Grand Totals:				448,366.02
			Payroll 10/20-11/2	356,940.76
			Total	805,306.78

Secondary Name	Invoice Number	Description	Invoice Date	Net Invoice Amount

Report Criteria:

- Detail report.
- Invoices with totals above $0 included.
- Paid and unpaid invoices included.
- Invoice Detail.Input date = 11/11/2025
- Invoice.Batch = {NOT LIKE} "1"

Meeting Date: November 18, 2025
Department: Public Works
Staff Reference: Phillip Bowman

AGENDA ITEM SUMMARY REPORT

Approval of the Subrecipient Agreement between the Wyoming Department of Transportation and the City of Cody for the FY 2026 Transportation Alternatives Program Grant in the amount of $250,000

PROPOSED ACTION:
Consider approval of the Subrecipient Agreement between the Wyoming Department of Transportation Local Government Coordination Office and the City of Cody for the FY 2026 Transportation Alternatives Program Grant in the amount of $250,000, and authorize the Mayor to sign all associated documents.

SUMMARY OF INFORMATION:
In March 2025, the Wyoming Department of Transportation (WYDOT) Local Government Programs (LGP) Office informed City Staff of increased grant funding levels available through the Transportation Alternatives Program (TAP) in FY 2026. As a result, City Staff investigated the potential of seeking TAP Grant funding for the West Yellowstone Sidewalk Improvements Project (Project) identified in the *2024 Saddle Up Cody! Active Transportation Plan*. The proposed Project will include design of an attached sidewalk along the south side of West Yellowstone Avenue from the west side of Sulfur Creek, around the corner at 8th Street, and continuing along the east side of 8th Street to the intersection of Canyon Avenue. The Project will also address drainage challenges at the 8th Street and Gerrans Avenue intersection. The Project scope, potential TAP Grant funding, and overall schedule for design and construction were discussed at the June 24, 2025, City Council Work Session, and Resolution 2025-07 was approved by the City Council on July 1, 2025, to authorize the submittal of the FY 2026 TAP Grant Application to WYDOT.

City Staff were notified on October 20, 2025, that the City's FY 2026 TAP Grant Application was approved with a total funding amount of $250,000, which includes $226,225 of WYDOT federal TAP Grant funding and $23,775 of local match funding from the City. The Subrecipient Agreement between WYDOT and the City has been prepared to define the responsibilities of both parties, and upon approval of the Agreement work on the project will begin. If the Subrecipient Agreement is approved, a future Budget Amendment to the approved FY 2026 Budget will be required to provide the City's match amount of $23,775 from the Capital Acquisition Fund (General Fund) and account for the new revenue of $226,225 from the TAP Grant.

It is noted that due to an electronic signature routing process change with WYDOT, the actual Subrecipient Agreement for the Project has already been electronically signed by the Mayor and fully executed by WYDOT. The routing process has been reviewed and discussed with WYDOT to ensure this does not happen again with future agreements. If the City Council does <u>not</u> approve the Subrecipient Agreement and accept the TAP Grant, City Staff will work with WYDOT to terminate the executed agreement.

Approval of the Subrecipient Agreement will provide funding for only the design phase of the Project. It is anticipated that the design will be completed in calendar year 2026 and early 2027. Upon completion of the design, the City will need to apply for a separate TAP Grant to fund the construction phase of the Project. The earliest the City could apply for the construction TAP Grant would be the WYDOT FY 2028 application cycle (application due in July 2027), and if that TAP Grant is approved then construction of the Project would likely take place in calendar year 2028.

City Council approval of the Subrecipient Agreement will be subject to final review and approval of the agreement documents by the City Attorney.

FISCAL IMPACT:

The West Yellowstone Sidewalk Improvements Project is not included in the approved FY 2026 Budget. If the Subrecipient Agreement is approved by City Council, a future Budget Amendment to the approved FY 2026 Budget will be required to provide the City's match amount of $23,775 from the Capital Acquisition Fund (General Fund) and account for the new revenue of $226,225 from the TAP Grant.

ATTACHMENTS:

1. WYDOT Project Award Letter - October 20, 2025
2. Subrecipient Agreement between WYDOT and City of Cody

Mark Gordon
Governor

WYOMING Department of Transportation

"Provide a safe and effective transportation system"

5300 Bishop Boulevard, Cheyenne, Wyoming 82009-3340

Darin J. Westby, P.E.
Director

October 20, 2025

City of Cody
Attention: Jake Moyer
1338 Rumsey Avenue
Cody, WY 82414-3713

Re: **Award Letter -** FY2026 Transportation Alternatives Program Project (TAP) CD26507

Dear Jake Moyer,

Congratulations! The Wyoming Transportation Commission has approved your Fiscal Year 2026 West Yellowstone Ave Sidewalk
Improvements Project project. Please review the table below for the breakdown of funding:

TAP Funding	Local Cash Match	Project Total
$226,225.00	$23,775.00	$250,000.00

Prior to issuance of a cooperative agreement on this project, the City of Cody agrees upon the following funding requirements:

- ❏ Award of the project is contingent upon available federal funding.
- ❏ Simplified Consultant Selection or Request for Proposal (RFP).
- ❏ Project-specific Google training.
- ❏ Provide the Project Delivery Systems Questionnaire (WYDOT Internal Review will contact you regarding this document.)
- ❏ Monitoring per risk level. (Evaluation of Risk Letter will be issued at a later date.)

If the above-noted items are not completed prior to June 1, 2026, the City of Cody's project will be in danger of termination.

Authorization to proceed with the project will be granted in future correspondence. Once the cooperative agreement is signed, the Local Government Office will be contacting you to arrange a date and time to discuss project funding requirements. If you have any questions, please contact me at 307-777-4451 or Alyssa.Quinn1@wyo.gov.

Sincerely,

Alyssa Quinn

Alyssa Quinn
Local Government Specialist

Cc: Pete Hallsten, P.E. – WYDOT District Engineer
WYDOT Internal Review

This letter is NOT a Notice to Proceed and any costs incurred prior to receipt of the Notice to Proceed will not be considered for reimbursement.

FISCAL YEAR (FY) 2026
TRANSPORTATION ALTERNATIVES PROGRAM
SUBRECIPIENT AGREEMENT
BETWEEN THE
WYOMING DEPARTMENT OF TRANSPORTATION, LOCAL GOVERNMENT COORDINATION OFFICE
AND THE
CITY OF CODY

1. **Parties.** The parties to this Subrecipient Agreement (Agreement) are the Wyoming Department of Transportation, Local Government Coordination Office (WYDOT), whose address is: 5300 Bishop Boulevard, Cheyenne, Wyoming 82009, and the City of Cody (Subrecipient), whose address is: 1338 Rumsey Avenue, Cody, Wyoming 82414-3713.

2. **Purpose.** The purpose of this Agreement is to set forth the respective relationships and responsibilities of the Subrecipient and WYDOT in the administration of the subaward of federal financial assistance from WYDOT to the Subrecipient for the Wyoming Transportation Alternatives Program.

3. **Term of Agreement.** This Agreement is effective when all parties have executed it (Effective Date). The term of this Agreement is from January 1, 2026, or the Effective Date, whichever is later (Term Start Date), through December 31, 2028. The Budget Period is from the Term Start Date through September 30, 2028. The Period of Performance is from the Term Start Date through December 31, 2028, and shall allow ninety (90) days for Project closeout beyond completion of the Responsibilities of the Project. No work shall commence prior to receipt of a Notice to Proceed. However, the parties agree that the maintenance responsibilities described in Section 5(M) are indefinite.

4. **Project Funding.**

   A. The Project has a total estimated cost of two hundred fifty thousand dollars ($250,000.00) (including local cost share), as described in Attachment A, Federal Award Information, which is attached to and incorporated into this Agreement by this reference. Federal funding for this Project shall not exceed two hundred twenty-six thousand, two hundred twenty-five dollars ($226,225.00). In accordance with WYDOT's policies, a program cost share requirement of ninety and forty-nine hundredths percent (90.49%) federal share and nine and fifty-one hundredths percent (9.51%) local share of the Project costs shall apply. Project costs exceeding the total estimated Project costs shall be borne by the Subrecipient.

   Project administration costs incurred on activities related directly to any professional services to include Architectural/Engineering (A/E) contracts entered into for this individual award are eligible for reimbursement under this program at a ninety and forty-nine hundredths percent/nine and fifty-one hundredths percent (90.49%/9.51%) cost share ratio and must remain within the total Project cost.

B. Transportation Alternatives is funded on a reimbursement basis. No funds shall be paid by WYDOT prior to being paid first by the Subrecipient. All requests for payment must be submitted to WYDOT's Local Government Coordination (LGC) Office on the Local Public Agency (LPA) Cost Reimbursement Form that will be supplied to the Subrecipient. Reimbursement requests must include all applicable supporting documentation including copies of invoices to be reimbursed and proof of payment by the Subrecipient. The Cost Principles found in 2 CFR 200 Subpart E apply to this award. WYDOT will make payment to the Subrecipient within forty-five (45) days of receipt of a complete and approved reimbursement request pursuant to Wyo. Stat. § 16-6-602.

Costs incurred prior to the Notice to Proceed and after the Budget Period will not be eligible for reimbursement. The Notice to Proceed shall be issued by WYDOT once the Agreement has been executed by both parties, an Authorization for Expenditure (AFE) is issued by WYDOT, all environmental work has been completed, and any additional requirements of the Federal Highway Administration (FHWA) have been completed.

C. WYDOT will accept reimbursement requests on a monthly basis. Requests must be submitted at least once every three (3) months in order for the Project to remain active. Failure to submit reimbursement requests may be considered Project abandonment and result in the loss of federal funding. If no financial activity occurs in a given quarter, the Subrecipient shall notify WYDOT's LGC Office in writing of the status and schedule of the Project.

D. This Agreement is required to comply with the Federal Funding Accountability and Transparency Act (FFATA) of 2006. As the prime Recipient of these funds, WYDOT will report the required information to the Federal Funding Accountability and Transparency Act Subaward Reporting System. The FFATA requires any person or entity receiving contract or grant funds directly from the federal government to report certain information regarding those funds through a centralized website, www.sam.gov. The law requires the Subrecipient to provide its Unique Entity Identifier (UEI) number to WYDOT. This requirement means the Subrecipient must register with www.sam.gov to be assigned a UEI number. Instructions for this process can be found at www.sam.gov. Additional information regarding this Act may be found at www.sam.gov.

5. **Responsibilities of the Subrecipient.** The Subrecipient shall:

A. **Project Scope.** The Subrecipient shall hire a consultant for the preliminary engineering and design of an approximately three thousand, three hundred (3,300) linear foot, minimum five (5)-foot-wide, Americans with Disabilities Act of 1990 (ADA)-compliant concrete attached sidewalk. The sidewalk will begin at the existing sidewalk along West Yellowstone Avenue at the Sulphur Creek crossing and extend to the intersection of 8th Street and Canyon Avenue. The work will include a spur extending east along Gerrans Avenue for approximately one hundred

(100) linear feet from the intersection of 8th Street that will include drainage solutions along Gerrans Avenue (Project), as described in Attachment B, Project Description, and at the locations shown on Attachment C, Location Map, which are attached to and incorporated into this Agreement by this reference. The Subrecipient shall commence and complete the Project in a professional, economical, and efficient manner.

In the event of unusual or unexpected Project delay, the Subrecipient may submit a request to WYDOT for an extension of time to complete the Project. The request shall be in writing to WYDOT's LGC Office. Failure of the Subrecipient to perform its duties within the time frame herein agreed to may be considered Project abandonment.

B. Complete all administrative requirements, including employing at least one (1) LPA Certified staff member.

C. **End of Fiscal Year Financial Reporting.**

(i) The Subrecipient shall provide end-of-fiscal-year financial reporting by October 31 of each year that this Agreement is in effect. Subrecipient must report all expenses incurred that have not yet been submitted for reimbursement by October 31.

(ii) Reimbursement requests must be submitted by November 30.

Failure to meet these deadlines may result in WYDOT rejecting reimbursement requests.

D. **Project Administration.** Project administration must be performed by a public employee to be in responsible charge. The Subrecipient shall appoint a public employee as the project administrator who is accountable for the Project. The project administrator shall have a current certification from WYDOT under WYDOT LPA Certification Program. Any costs incurred as a result of the work completed by the project administrator, or supplies and other related costs, shall be included as overhead to the Subrecipient and are not reimbursable under this award, unless the Subrecipient has a WYDOT approved Indirect Cost rate. Project administration costs incurred on activities related directly to any professional services are reimbursable in accordance with Section 4 above.

E. **Project Milestones.** The Subrecipient shall meet the Project milestone completion dates provided in Attachment E, Project Milestones, which is attached to and incorporated into this Agreement by this reference.

F. **Design Review and Approval.** All Project designs to include engineering, architectural, and landscape architectural plans, specifications, and required federal provisions (Contract Documents) shall be prepared under the supervision of a qualified professional engineer or architect licensed to perform such work in the

State of Wyoming while adhering to, but not limited to: A Policy On Geometric Design of Highways and Streets, 2018, 7th Edition; AASHTO Guide for the Development of Bicycle Facilities, 2024, 5th Edition; WYDOT Road Design Manual; and WYDOT Standard Plans.

(i) An appropriate level of environmental, historical, and/or review and mitigation statement in accordance with the Section 4(f) of the Department of Transportation Act shall be submitted to WYDOT's LGC Office. A Categorical Exclusion issued by the FHWA, if applicable, is required prior to the Subrecipient's construction contract award. Projects completed within existing right-of-way may be eligible for inclusion in the Programmatic Categorical Exclusion issued by WYDOT Environmental Services.

(ii) WYDOT's LGC Office must authorize and receive a copy of such plans and Project Contract Documents prior to the Subrecipient proceeding with construction bidding, contracting, or other construction authorization under this Agreement. Contract procedures shall be compliant with 23 CFR 635 Subpart A.

G. **Consultant Selection**. The consultant selection process must be based on qualifications. Using WYDOT's help, the selection process shall comply with the Brooks Act, 40 U.S.C. 1101 *et seq.*, with guidance included in WYDOT Operating Policy 40-1.

H. **Project Contracting and Construction.** Project work shall be performed by individuals, partnerships, corporations, or other business entities who are duly qualified to do business in the State of Wyoming and who have secured all licenses and permits required by applicable state laws, county regulations, and city ordinances. Upon notification of WYDOT approval of the Project design documents, issuance of a Categorical Exclusion, and a written Notice to Proceed, the Subrecipient may proceed with open, public competitive bidding for Project construction. Such Project bidding shall follow accepted municipal and county bidding procedures, including public advertising and be compliant with 23 CFR 635 Subpart A. Since federal funds are involved in the Project, no in-state preference will apply for materials, contracts, or subcontracts. Bid analysis shall be performed to ensure balanced unit bidding. Once this analysis is completed, the Subrecipient shall make a recommendation to WYDOT of the low, responsible, and responsive bidder for WYDOT concurrence prior to contract award. WYDOT reserves the right to review all contract bids prior to contract award. Extra work and claims must be within the scope of contract.

I. Submit Plans, Specifications and Estimates (PS&E), and bid documents to WYDOT's LGC Office for review and concurrence prior to Project advertisement.

J. Submit bid tabulations to WYDOT's LGC Office for review and concurrence prior to awarding the Project.

K. Monitor Project progress and submit reimbursement requests to WYDOT in accordance with Section 4 above.

L. **Project and Final Inspections.** Project inspections shall be conducted by the Subrecipient or authorized representatives. WYDOT representatives may inspect the Project at their discretion. The Subrecipient shall notify WYDOT of final inspection and a WYDOT representative will accompany the Subrecipient's representative on the final inspection. Prior to the final payment (normally the final ten percent [10%]), the Subrecipient shall notify WYDOT that the Project has been completed in substantial conformance with the plans and specifications, including compliance with Wyo. Stat. § 16-6-116. The Subrecipient shall complete the WYDOT Final Acceptance Certificate, which shall accompany the final reimbursement payment request.

M. **Project Maintenance.** Upon completion of the Project, the Subrecipient shall maintain, at its sole expense, all features constructed under this Agreement. Maintenance shall include all repairs necessary to keep the improvements in their constructed condition adhering to all state and federal requirements for the life cycle of the Project. The Subrecipient shall be responsible for the cost of removal and replacement of any or all encroachments within WYDOT's right-of-way if the right-of-way is needed for highway purposes, including any highway re-construction or maintenance activity that impacts the encroachment in accordance with Subrecipient's encroachment permit.

N. **Records Retention.** The Subrecipient shall keep records and audit reports on file for three (3) years after the Project is complete.

O. **Right-of-Way and Utilities.** The Subrecipient is responsible for right-of-way and utility clearance. Prior to Project bidding, the Subrecipient must submit a completed Right-of-Way and Utility Certificate to WYDOT's LGC Office, if applicable, indicating clearance of right-of-way and utilities for the Project. All acquisition of private property and relocation of displaced individuals and businesses shall be in accordance with Wyo. Stat. § 1-26-501, *et seq.*, the Wyoming Eminent Domain Act; the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646; and the regulations of 49 CFR Part 24.

6. **Responsibilities of WYDOT**. WYDOT shall:

A. Reimburse the Subrecipient in accordance with Section 4 above.

B. Assist the Subrecipient with the consultant selection process.

C. Review the Subrecipient's PS&E and bid documents for compliance, and issue concurrence, prior to advertisement.

D. Review bid tabulations and issue concurrence prior to the Subrecipient awarding the Project.

E. Provide ongoing support throughout construction, including site inspections and reimbursement processing.

F. Review the Project at substantial completion and process final reimbursement.

G. Issue final acceptance upon completion of all Subrecipient responsibilities.

7. Special Provisions.

A. **Assumption of Risk.** The Subrecipient shall assume the risk of any loss of state or federal funding, either administrative or program dollars, due to the Subrecipient's failure to comply with state or federal requirements. WYDOT shall notify the Subrecipient of any state or federal determination of noncompliance.

B. **Conflict of Interest.** Per 2 CFR 200.112, the Subrecipient must disclose in writing any potential conflict of interest to WYDOT including financial or other personal interests.

C. **Environmental Policy Acts.** The Subrecipient agrees all activities under this Agreement will comply with the Clean Air Act, the Clean Water Act, the National Environmental Policy Act, and other related provisions of federal environmental protection laws, rules or regulations.

D. **Federal and State Required Contract Provisions.** The Subrecipient shall determine which of the following provisions are applicable and shall ensure compliance with all applicable provisions:

(i) Environmental Documentation. Contract Documents shall include the appropriate level of environmental review and analysis in accordance with 23 CFR 771, to include mitigation assessment where required.

(ii) National Historic Preservation Act (106 process). Projects involving historic or archaeological sites, the Contract Documents shall include the appropriate review and mitigation assessment.

(iii) Design Exceptions. Contract Documents must note any design exceptions; no exceptions are available for compliance with the ADA.

(iv) Buy America Provisions. Requires the use of American steel, iron products, manufactured products, and construction materials associated with this

Project, when specified in accordance with the Infrastructure Investment and Jobs Act (IIJA), Pub. L. No. 117-58, § 11513 and § 70911, *et seq.*

(v) Disadvantage Business Enterprises (DBE). DBE efforts shall be included in the Project file, using the Form "E-91-DBE" to document the bid solicitation and to assure that the action taken is in compliance with this request. Written proof of compliance must be available when requested.

(vi) Required Federal Contract Provisions. Provisions in Attachment D, Form FHWA-1273, which is attached to and incorporated into this Agreement by this reference, shall apply to all work performed under this Agreement, including work performed by subcontract. All Contract Documents shall include the most recent version of Form FHWA-1273 provisions, which may be updated from time to time. The Form FHWA-1273 provisions are required to be physically incorporated into each subcontract and subsequent lower-tier subcontracts and shall not be incorporated by reference. The prime contractor is responsible for compliance with the Form FHWA-1273 requirements by all subcontractors and lower-tier subcontractors. Failure to comply with the required contract provisions may be considered as grounds for contract termination. Furthermore, failure to incorporate the Form FHWA-1273 into all subcontracts or failure to comply with the requirements of Section IV, Payment of Predetermined Minimum Wage and Section V, Statements and Payrolls, may be considered as grounds for debarment under 29 CFR 5.12.

(vii) Contractor and subcontractor Certification for Suspension and Debarment. Requires contractor and subcontractor to certify that they are not suspended, debarred, or ineligible from entering into contracts with any federal entity, state agency, or local body.

(viii) Manual on Uniform Traffic Control Devices (MUTCD). Signing and pavement striping of public roads must meet MUTCD criteria. Projects that intersect with public roadways must be appropriately signed during the construction stage. Permanent safety signing should be identified on a separate plan sheet in the Contract Documents.

(ix) Labor Rates. Contract Documents must include provisions for the compliance with Davis-Bacon as outlined in the Form FHWA-1273.

(x) Equipment/Materials/Labor Cost Determination. Unless supported by appropriate cost effectiveness determination, the use of public-owned equipment, material, or labor will not be allowed. To be eligible, such costs must comply with effective hourly schedules and be supported by a Public Interest Finding.

(xi) Domestic Preferences for Procurement. Requires a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products) in accordance to 2 CFR 200.322.

(xii) Prohibition on certain telecommunications and video surveillance equipment or services. Prohibits procuring, obtaining, extending, renewing, or entering into contracts for equipment or services from manufacturers listed in 2 CFR 200.216.

(xiii) Never Contract with the Enemy. Federal awarding agencies and recipients are subject to the regulations implementing Never Contract with the Enemy in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered contracts, grants, and cooperative agreements that are expected to exceed fifty thousand dollars ($50,000.00) within the Period of Performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities in accordance to 2 CFR 200.215.

(xiv) Wyoming Preference for Labor. The Subrecipient shall comply with the Wyoming Preference Act of 1971 (Wyo. Stat. § 16-6-201, *et seq.*).

E. **Human Trafficking.** As required by 22 U.S.C. § 7104(g) and 2 CFR Part 175, this Agreement may be terminated without penalty if a private entity that receives funds under this Agreement:

(i) Engages in severe forms of trafficking in persons during the period of time that the award is in effect;

(ii) Procures a commercial sex act during the period of time that the award is in effect; or

(iii) Uses forced labor in the performance of the award or subawards under the award.

F. **Kickbacks.** Subrecipient certifies and warrants that no gratuities, kickbacks, or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Agreement. If Subrecipient breaches or violates this warranty, WYDOT may, at its discretion, terminate this Agreement without liability to WYDOT, or deduct from the agreed upon price or consideration, or otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee.

The Subrecipient shall comply with the Copeland Anti-Kickback Act (18 U.S.C. § 874) as supplemented in the Department of Labor Regulations (29 CFR, Part 3). This Act provides that the Subrecipient is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public works to give up any part of the compensation to which he or she is otherwise entitled.

G. **Limitations on Lobbying Activities.** By signing this Agreement, Subrecipient certifies and agrees that, in accordance with P.L. 101-121, payments made from a federal grant shall not be utilized by Subrecipient or its subcontractors in connection with lobbying member(s) of Congress, or any federal agency in connection with the award of a federal grant, contract, cooperative agreement, or loan. Subrecipient and subcontractors may also be required to submit an additional certification statement and disclosure form acceptable to WYDOT before commencement of the work.

The Subrecipient and subcontractors may also be required to submit an additional certification statement and disclosure form acceptable to WYDOT before commencement of the work.

H. **Mandatory Disclosures.** Per 2 CFR 200.113, the Subrecipient must disclose, in a timely manner, in writing to WYDOT all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting this award. Failure to make required disclosures can result in remedies for noncompliance including suspension or debarment.

I. **Monitoring Activities.** WYDOT shall have the right to monitor all activities related to this Agreement that are performed by Subrecipient or its subcontractors. This shall include, but not be limited to, the right to make site inspections at any time and with reasonable notice; to bring experts and consultants on site to examine or evaluate completed work or work in progress; to examine the books, ledgers, documents, papers, and records pertinent to this Agreement; and to observe personnel in every phase of performance of Agreement related work.

J. **Nondiscrimination.** The Subrecipient shall comply with the Civil Rights Act of 1964, the Wyoming Fair Employment Practices Act (Wyo. Stat. § 27-9-105, *et seq.*), ADA, 42 U.S.C. § 12101, *et seq.*, and the Age Discrimination Act of 1975 and any properly promulgated rules and regulations thereto and shall not discriminate against any individual on the grounds of age, sex, color, race, religion, national origin, or disability in connection with the performance under this Agreement.

Federal law requires the Subrecipient to include all relevant special provisions of this Agreement in every subcontract awarded over ten thousand dollars ($10,000.00) so that such provisions are binding on each subcontractor.

K. **No Finder's Fees.** No finder's fee, employment agency fee, or other such fee related to the procurement of this Agreement, shall be paid by either party.

L. **Prohibited Interest.** No member, officer, or employee of the Subrecipient during their tenure or one (1) year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

M. **Project Abandonment.** Should the Subrecipient abandon the Project at any time prior to completion, or if the Project is not let to construction within two (2) years of the completion of the design due to the delay or actions by the Subrecipient, the Subrecipient shall reimburse WYDOT for the entire cost, including any federal aid portion of the work completed at the time of abandonment.

N. **Publicity.** Any publicity given to the projects, programs, or services provided herein, including, but not limited to, notices, information, pamphlets, press releases, research, reports, signs, and similar public notices in whatever form, prepared by or for the Subrecipient and related to the services and work to be performed under this Agreement, shall identify WYDOT as the sponsoring agency and shall not be released without prior written approval of WYDOT.

O. **Restrictions, Prohibitions, Controls, and Labor Provisions.**

(i) Equal Employment Opportunity. In connection with carrying out the Project, the Subrecipient shall not discriminate against any employee or applicant for employment because of race, color, age, creed, sex, national origin, or disability. The Subrecipient shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, age, national origin, or disability. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(ii) DBE Requirements.

(a) It is the policy of WYDOT that DBEs, defined as minority business enterprises and women-owned business enterprises, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this Agreement.

(b) DBE Obligation. The Subrecipient agrees to ensure that DBEs as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this Agreement. In this regard, the Subrecipient shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that DBEs have the maximum opportunity to compete for and perform contracts. The Subrecipient and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of WYDOT assisted Contracts.

(iii) Title VI Civil Rights Act of 1964. The Subrecipient shall comply and shall assure the compliance by contractors and subcontractors under this Project with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (49 U.S.C. 2000d), the Regulations of the United States Department of Transportation (DOT) issued there under, 49 CFR Part 21, and the Assurance by the Subrecipient pursuant thereto.

(iv) Compliance with Elderly and Disabled Regulations. The Subrecipient shall comply with applicable regulations regarding transportation for Elderly and Disabled persons set forth in 49 CFR Part 27 and the ADA.

P. **Suspension and Debarment.** By signing this Agreement, Subrecipient certifies that neither it nor its principals/agents are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction or from receiving federal financial or nonfinancial assistance, nor are any of the participants involved in the execution of this Agreement suspended, debarred, or voluntarily excluded by any federal department or agency in accordance with Executive Order 12549 (Debarment and Suspension), or 2 CFR Part 180, or are on the debarred, or otherwise ineligible, vendors lists maintained by the federal government. Further, Subrecipient agrees to notify WYDOT by certified mail should it or any of its principals/agents become ineligible for payment, debarred, suspended, or voluntarily excluded from receiving federal funds during the term of this Agreement.

Q. **Administration of Federal Funds.** Subrecipient agrees its use of the funds awarded herein is subject to the Uniform Administrative Requirements of 2 CFR Part 200, *et seq.,* and any additional requirements set forth by the federal funding agency; all applicable regulations published in the Code of Federal Regulations; and other program guidance as provided to it by WYDOT.

R. **Copyright License and Patent Rights.** Subrecipient acknowledges that federal grantor, the State of Wyoming, and WYDOT reserve a royalty-free, nonexclusive, unlimited, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for federal and state government purposes: (1) the copyright in any work developed under this Agreement; and (2) any rights of copyright to which Subrecipient purchases ownership using funds awarded under this Agreement. Subrecipient must consult with WYDOT regarding any patent rights that arise from, or are purchased with, funds awarded under this Agreement.

S. **Federal Audit Requirements.** Subrecipient agrees that if it expends an aggregate amount in excess of the amount set forth in 2 CFR Part 200, Subpart F in federal awards during its fiscal year, it must undergo an organization-wide financial and compliance single audit. Subrecipient agrees to comply with the audit requirements of the U.S. General Accounting Office Government Auditing Standards and Audit Requirements of 2 CFR Part 200, Subpart F. If findings are made which cover any part of this Agreement, Subrecipient shall provide one (1) copy of the audit report to WYDOT and require the release of the audit report by its auditor be held until adjusting entries are disclosed and made to WYDOT's records.

T. **Non-Supplanting Certification.** Subrecipient hereby affirms that federal grant funds shall be used to supplement existing funds, and shall not replace (supplant) funds that have been appropriated for the same purpose. Subrecipient should be able to document that any reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds under this Agreement.

U. **Program Income.** Subrecipient shall not deposit grant funds in an interest bearing account without prior approval of WYDOT. Any income attributable to the grant funds distributed under this Agreement must be used to increase the scope of the program or returned to WYDOT.

V. **Applicability of Appendix II to 2 CFR Part 200.** This Agreement has been funded, in whole or in part, with an Award of Federal funds and is bound by the federal contract provisions required by the Uniform Guidance Appendix II of 2 CFR Part 200 (the Federal Contract Provisions), incorporated herein by this reference. In the event of a conflict between the Special Provisions section of this Agreement, or any attachments or exhibits incorporated herein, and the Federal Contract Provisions, the Federal Contract Provisions shall control. Failure to comply with the Federal Contract Provisions shall constitute an event of default under this Agreement. If such a default remains uncured five (5) calendar days following the termination of a thirty (30) day prior written notice period, WYDOT may terminate this Agreement. This remedy will be in addition to any other remedy available to the State of Wyoming and WYDOT under this Agreement, at law, or in equity.

8. **General Provisions.**

A. **Amendments.** Any changes, modifications, revisions, or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed by all parties to this Agreement.

B. **Applicable Law, Rules of Construction, and Venue.** The construction, interpretation, and enforcement of this Agreement shall be governed by the laws of the State of Wyoming, without regard to conflicts of law principles. The terms "hereof," "hereunder," "herein," and words of similar import, are intended to refer to this Agreement as a whole and not to any particular provision or part. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the parties. The venue shall be the First Judicial District, Laramie County, Wyoming.

C. **Assignment Prohibited and Agreement Shall Not be Used as Collateral.** Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set out in this Agreement without the prior written consent of the other party. The Subrecipient shall not use this Agreement, or any portion thereof, for collateral for any financial obligation without the prior written permission of WYDOT.

D. **Audit and Access to Records.** WYDOT and its representatives shall have access to any books, documents, papers, electronic data, and records of the Subrecipient which are pertinent to this Agreement. The Subrecipient shall immediately, upon receiving written instruction from WYDOT, provide to any independent auditor or accountant all books, documents, papers, electronic data, and records of the Subrecipient which are pertinent to this Agreement. The Subrecipient shall cooperate fully with any such independent auditor or accountant during the entire course of any audit authorized by WYDOT.

E. **Availability of Funds.** Each payment obligation of WYDOT is conditioned upon the availability of government funds which are appropriated or allocated for the payment of this obligation and which may be limited for any reason including, but not limited to, congressional, legislative, gubernatorial, or administrative action. If funds are not allocated and available for continued performance of the Agreement, the Agreement may be terminated by WYDOT at the end of the period for which the funds are available. WYDOT shall notify the Subrecipient at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to WYDOT in the event this provision is exercised, and WYDOT shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section.

F. **Award of Related Agreements.** WYDOT may award supplemental or successor contracts for work related to this Agreement or may award contracts to other Subrecipients for work related to this Agreement. The Subrecipient shall cooperate fully with other Subrecipients and WYDOT in all such cases.

G. **Compliance with Laws.** The Subrecipient shall keep informed of and comply with all applicable federal, state, and local laws and regulations, and all federal grant requirements and executive orders in the performance of this Agreement.

H. **Confidentiality of Information.** Except when disclosure is required by the Wyoming Public Records Act or court order, all documents, data compilations, reports, computer programs, photographs, data, and other work provided to or produced by the Subrecipient in the performance of this Contract shall be kept confidential by the Subrecipient unless written permission is granted by WYDOT for its release. If and when Subrecipient receives a request for information subject to this Agreement, Subrecipient shall notify WYDOT within ten (10) days of such request and shall not release such information to a third party unless directed to do so by WYDOT.

I. **Entirety of Agreement.** This Agreement, consisting of seventeen (17) pages; Attachment A, Federal Award Information, consisting of one (1) page; Attachment B, Project Description, consisting of five (5) pages; Attachment C, Location Map, consisting of one (1) page; Attachment D, Form FHWA-1273, consisting of fourteen (14) pages; Attachment E, Project Milestones, consisting of one (1) page; and the Federal Contract Provisions, represent the entire and integrated Agreement between the parties and shall supersede all prior negotiations, representations, and agreements, whether written or oral. In the event of a conflict or inconsistency between the language of this Agreement and the language of any attachment or document incorporated by reference, the language of this Agreement shall control.

J. **Ethics.** The Subrecipient shall keep informed of and comply with the Wyoming Ethics and Disclosure Act (Wyo. Stat. § 9-13-101, *et seq.*) and any and all ethical standards governing the Subrecipient's profession.

K. **Extensions.** Nothing in this Agreement shall be interpreted or deemed to create an expectation that this Agreement will be extended beyond the term described herein. Any extension of this Agreement shall be initiated by WYDOT and shall be accomplished through a written amendment between the parties entered into before the expiration of the original Agreement or any valid amendment thereto, and shall be effective only after it is reduced to writing and executed by all parties to the Agreement.

L. **Force Majeure.** Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays.

M. **Indemnification.** Each party to this Agreement shall assume the risk of any liability arising from its own conduct. Neither party agrees to insure, defend, or indemnify the other.

N. **Independent Contractor.** The Subrecipient shall function as an independent contractor for the purposes of this Agreement and shall not be considered an employee of the State of Wyoming for any purpose. Consistent with the express terms of this Agreement, the Subrecipient shall be free from control or direction over the details of the performance of services under this Agreement. The Subrecipient shall assume sole responsibility for any debts or liabilities that may be incurred by the Subrecipient in fulfilling the terms of this Agreement and shall be solely responsible for the payment of all federal, state, and local taxes which may accrue because of this Agreement. Nothing in this Agreement shall be interpreted as authorizing the Subrecipient or its agents or employees to act as an agent or representative for or on behalf of the State of Wyoming or WYDOT or to incur any obligation of any kind on behalf of the State of Wyoming or WYDOT. The Subrecipient agrees that no health or hospitalization benefits, workers' compensation, unemployment insurance, or similar benefits available to State of Wyoming employees will inure to the benefit of the Subrecipient or the Subrecipient's agents or employees as a result of this Agreement.

O. **Notices.** All notices arising out of, or from, the provisions of this Agreement shall be in writing either by regular mail or delivery in person at the addresses provided under this Agreement.

P. **Ownership and Return of Documents and Information.** WYDOT is the official custodian and owns all documents, data compilations, reports, computer programs, photographs, data, and other work provided to or produced by the Subrecipient in the performance of this Agreement. Upon termination of services, for any reason, the Subrecipient agrees to return all such original and derivative information and documents to WYDOT in a useable format. In the case of electronic transmission, such transmission shall be secured. The return of information by any other means shall be by a parcel service that utilizes tracking numbers.

Q. **Patent or Copyright Protection.** The Subrecipient recognizes that certain proprietary matters or techniques may be subject to patent, trademark, copyright, license, or other similar restrictions, and warrants that no work performed by the Subrecipient or its subcontractors will violate any such restriction. The Subrecipient shall defend and indemnify WYDOT for any violation or alleged violation of such patent, trademark, copyright, license, or other restrictions.

R. **Prior Approval.** This Agreement shall not be binding upon either party, no services shall be performed, and the Wyoming State Auditor shall not draw warrants for payment, until this Agreement has been fully executed, approved as to form by the Office of the Attorney General, filed with and approved by A&I Procurement, and approved by the Governor of the State of Wyoming, or his designee, if required by Wyo. Stat. § 9-2-3204(b)(iv).

S. **Severability.** Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of the Agreement shall continue in full force and effect, and the parties may renegotiate the terms affected by the severance.

T. **Sovereign Immunity and Limitations.** Pursuant to Wyo. Stat. § 1-39-104(a), the State of Wyoming and WYDOT expressly reserve sovereign immunity by entering into this Agreement and the Subrecipient expressly reserves governmental immunity. Each of them specifically retains all immunities and defenses available to them as sovereigns or governmental entities pursuant to Wyo. Stat. § 1-39-101, *et seq.*, and all other applicable law. The parties acknowledge that the State of Wyoming has sovereign immunity and only the Wyoming Legislature has the power to waive sovereign immunity. Designations of venue, choice of law, enforcement actions, and similar provisions shall not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Agreement shall not be strictly construed, either against or for either party, except that any ambiguity as to immunity shall be construed in favor of immunity.

U. **Taxes.** The Subrecipient shall pay all taxes and other such amounts required by federal, state, and local law, including, but not limited to, federal and social security taxes, workers' compensation, unemployment insurance, and sales taxes.

V. **Termination of Agreement.** This Agreement may be terminated, without cause, by WYDOT upon thirty (30) days written notice. This Agreement may be terminated by WYDOT immediately for cause if the Subrecipient fails to perform in accordance with the terms of this Agreement.

W. **Third-Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of third-party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties, and obligations contained in this Agreement shall operate only between the parties to this Agreement and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement.

X. **Time is of the Essence.** Time is of the essence in all provisions of this Agreement.

Y. **Titles Not Controlling.** Titles of sections and subsections are for reference only and shall not be used to construe the language in this Agreement.

Z. **Waiver.** The waiver of any breach of any term or condition in this Agreement shall not be deemed a waiver of any prior or subsequent breach. Failure to object to a breach shall not constitute a waiver.

AA. **Counterparts.** This Agreement may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute one and the same Agreement. Delivery by the Subrecipient of an originally signed counterpart of this Agreement by facsimile or PDF shall be followed up immediately by delivery of the originally signed counterpart to WYDOT.

BB. **Insurance Requirements.** The Subrecipient is protected by the Wyoming Governmental Claims Act, Wyo. Stat. § 1-39-101, *et seq.*, and certifies that it is a member of the Wyoming Association of Risk Management (WARM) pool or the Local Government Liability Pool (LGLP), Wyo. Stat. § 1-42-201, *et seq.,* and shall provide a letter verifying its participation in the WARM or LGLP to WYDOT.

9. **Signatures.** The parties to this Agreement, either personally or through their duly authorized representatives, have executed this Agreement on the dates set out below and certify that they have read, understood, and agreed to the terms and conditions of this Agreement.

The Effective Date of this Agreement is the date of the signature last affixed to this page.

ATTEST:	WYOMING DEPARTMENT OF TRANSPORTATION:
Caitlin Casner, Secretary Transportation Commission of Wyoming	Brian Olsen, P.E., Assistant Chief Engineer, Engineering and Planning
	Date

ATTEST:	THE CITY OF CODY:
Signature	Signature
Print Name, Title	Print Name, Title
	Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

#251960	10/27/25
Nicholas T. Garcia, Assistant Attorney General	Date

Federal Award Information - Required by 2 CFR § 200.332

Subrecipient Name: City of Cody

Subrecipient Unique Entity Identifier (UEI): JQFJZD58AN57

Federal Award Identification Number (FAIN): To be provided via agreement update letter

Federal Award Date: To be provided via agreement update letter

Period of Performance Start and End Date: Term Start Date through December 31, 2028

Budget Period Start and End Date: Term Start Date through September 30, 2028

Federal Funds Obligated: $226,225.00

Total Federal Award to Subrecipient: $226,225.00

Total Project Cost: $250,000.00

Awarding Federal Agency: Federal Highway Administration

Federal Highway Administration: Wyoming Division Office
Telephone: 307-772-2101
Email: HDAWY@dot.gov

Pass-through Agency: Wyoming Department of Transportation (WYDOT)

WYDOT Program Mgr.: Alyssa Quinn
Telephone: 307-777-4451
Email: Alyssa.Quinn1@wyo.gov

Subrecipient Contact: Jake Moyer
Phone: 307-527-7514
Email: jmoyer@codywy.gov

WYDOT Contact for Confirmation of Funds:
Telephone: 307-777-4862
Email: cole.bostron@wyo.gov

Assistance Listing No.: 20.205

Assistance Listing Title: Highway Planning and Construction

Research and Development: No

Indirect Cost Rate (ICAP): N/A

Project Name: West Yellowstone Avenue Sidewalk Improvements Project

Subrecipient County: Park

Project Number: CD26507

TAP Attachment A: Project Description

City of Cody

Nature of Project:

☐ Planning/Feasibility Study	☒ Preliminary Engineering/Design Only
☐ Construction Only	

Project Type/Planning Document Considerations (Select all that apply):

Non-Motorized Transportation		
☒ ADA Upgrades	☐ ADA Transition Plan	
☒ Safe Routes for Non-Drivers	☒ Pedestrian and Bicycle Facilities	
☐ Conversion of Abandoned Railway Corridors to Trails	☐ Safe Routes to School	
Environmental Mitigation		
☒ Vegetation Management	☒Storm Water Mitigation	☐Wildlife Management
Historic/Scenic Transportation Activities		
☐Scenic Turnouts and Overlooks		
☐ Outdoor Advertising Management	☐Archeological Activities	
☐ Historic Preservation and Rehabilitation of Historic Transportation Facilities		

Project Location:

Describe the location of the project using any mileposts, landmarks, significant intersections, etc. West Yellowstone Avenue from the Sulphur Creek crossing to the intersection of 8th Street and Canyon Avenue, and Gerrans Avenue approximately 100’ east from the intersection of 8th Street. US 14 milepost 50.7 – 51.3

Physical Description:

Facility Type: Sidewalk			
Surface Type: Concrete		If Other, please specify:	
Length: 3,300 feet	☐N/A	Width: 5-6 feet	☐N/A

Transportation Alternatives Reporting Fields:

Project Latitude and Longitude (Decimal Degrees): 44.517300, -109.072875
11-Digit Census Tract Number(s): 56029965400
Municipality/Census Designated Location: City of Cody
County: Park
Metropolitan Planning Organization (if applicable): N/A

Secured Funding Match:

Can the project sponsor provide proof of local funding match?

☒ Yes ☐ No

Has the project sponsor included a project maintenance line item in their **local** budget?

☐ Yes ☐ No ☒ N/A for Planning or Design

Project Benefits:

Check the following connections that this project provides (Must be within ½ mile of the start/end of the proposed project): ☒ Residential to Residential ☒ Residential to Retail/Dining ☒ Residential to Education ☒ Residential to Recreation ☒ Residential to Employment ☒ Employment to Retail/Dining ☒ Employment to Recreation ☒ Employment to Education ☒ Recreation to Retail/Dining ☐ Fixed Route Transit Stop ☐ K-6 School within 1 Mile ☒ 7-12 School within 2 Miles	☐ N/A for Planning
Does the project provide a new connection?	☒ Yes ☐ No ☐ N/A for Planning
Does the project fill a sidewalk, pathway, or accessibility gap ("missing link")?	☒ Yes ☐ No ☐ N/A for Planning
Will the project induce non-motorized trips?	☒ Yes ☐ No ☐ N/A for Planning

Please answer the following questions related to Project Benefits:

- Descriptions of the connections this project provides

The section identified in the project scope is a key sidewalk gap that connects Cody High School, hotels, and campgrounds to amenities along a commercial corridor. With the completion of this section non-vehicular mobility would be possible for locals and visitors traveling to restaurants, retail stores, school events, City Park, Buffalo Bill Center of the West, and Cody Regional Hospital.

- How does this project impact/induce non-motorized trips and connections?

Locals and visitors prefer to travel this section by vehicle due to insufficient sidewalks and crosswalks along West Yellowstone Avenue and 8th Street. This sidewalk extension would promote non-vehicular travel options including walking and biking trips to nearby amenities as highlighted above.

- How does this project fit into your entity's Master Plan (if applicable)?

This Project was identified as the number three (#3) Priority Project in the *2024 Active Transportation Master Plan* due to the section being a crucial sidewalk gap in a key retail and commercial district. The higher ranked projects in the *Active Transportation Plan* were designated primarily for recreational purposes, and would not encourage non-vehicular travel options or promote transportation equity.

Show proof of connections on Map 1 of Attachment B

Safety:

Does this project provide a safety improvement?	☒ Yes ☐ No ☐ N/A for Planning

If yes, check all parties that will benefit from the safety improvement:
☒ Bicyclists
☒ Pedestrians
☒ Children
☒ Elderly
☒ People with disabilities

Will the project enhance awareness of persons with disabilities, elderly, students, children, pedestrians, or cyclists outside of the project limits? ☐ Yes ☒ No ☐ N/A for Planning
Describe the details of <u>each</u> safety improvement outlined in the above **Safety** section and describe how awareness of the following will be enhanced outside of the project limits: ● Persons with disabilities: All disabled visitors staying at the Best Western, the Wyoming inn, and the Super 8 could utilize the new sidewalks with ADA ramps to travel to local restaurants, retail businesses, Cody High School, Cody Regional Urgent Care, and the Hospital without a motorized vehicle. Disabled residents living in the area will have improved access to restaurants and retail businesses. ● Elderly: Elderly residents in the neighborhood east of 8th Street and elderly visitors will have access to sidewalks with proper ADA ramps. ● Students: High School Students from the Valley View Neighborhood will be able to travel to school by bicycle using the newly installed sidewalk. ● Children: The attached sidewalk will provide a clearly identified pedestrian path for children to walk or bike to school and other destinations. ● Pedestrian: The proposed improvements will result in decreased jaywalking across the WYDOT highway. ● Cyclists: Cyclists riding this corridor have to ride in the gutter pan due to the thin road shoulder, this improved section will allow them to ride on the attached sidewalk, avoiding the narrow road shoulder on that section of highway. Based on community feedback from our Active Transportation Master Plan, the increased feeling of safety will result in more frequent bicycle trips along this corridor.

Economic Opportunity:

Does the project improve economic opportunity by bringing more people to businesses? ☒ Yes ☐ No ☐ N/A for Planning
Describe how economic opportunities will be improved by bringing more people to businesses: Retail businesses and restaurants previously accessible only by motorized vehicle will now be accessible by foot and bike from local hotels, residential areas, and Cody High School.
Does the project close a gap of existing walking/biking infrastructure to improve usability in a downtown, revitalization or business district? ☒ Yes ☐ No ☐ N/A for Planning
Describe how gaps in walking/biking infrastructure will be closed and how this will impact the usability of a downtown, revitalization or business district: The sidewalk extension will provide walking and biking access to local businesses that we're previously accessible by vehicular transportation only.

Provide Transportation Equity (Select all that apply based on provided demographic data):

Is the project located in a community where the population age 65 years and older is above the state average?

☐ Yes ☒ No

Is the project located in a community where the disabled population is above the state average?

☐ Yes ☒ No

Is the project located in a community where the poverty rate is above the state median?

☐ Yes ☒ No

Is the project located in a community where the median household income is below the state average?

☐ Yes ☒ No

Describe how the project will enhance transportation equity in the community:

- How will transportation equity be enhanced with respect to the disabled population within your town/city?

The project will improve transportation equity along the West Yellowstone Corridor using ADA compliant sidewalks and ramps to increase non-vehicular mobility options for disabled residents and visitors within the commercial district identified.

- How will transportation equity be enhanced with respect to the impoverished or the members of your community with a median household income below the state average?

Less fortunate members of the community will be able to commute to work, bike to school, and have improved access to the grocery store (Walmart) using non-vehicular methods of transportation.

Describe why this area was chosen for this project and how it ranks in transportation equity in comparison to other areas within your town/city:

This project was selected because it was the highest priority project (from the *2024 Active Transportation Master Plan)* that provides non-vehicular travel options combined with transportation equity for visitors, business owners, and locals of all economic statuses and physical abilities.

Consultant Selection:

Will TAP funds be used to pay for a consultant on this project?

☒ Yes ☐ No

If yes, will the cost of the consultant be: ☒ Less than $250,000 ☐ More than $250,000

Brief Project Summary:

Outline the need for the project and the benefits of the project.
The *2024 Cody Active Transportation Plan*, identified the sidewalk gap between the Sulphur Creek Crossing on Yellowstone Ave and the 8th Street corner as a critical deficiency. With the help of the local non-profit group "That Other Project", the City has expanded the scope to include the gap from the Best Western Hotel, north to the intersection of 8th Steet and Canyon Avenue. This corridor has significant foot traffic from hotels, restaurants, and various other businesses but lacks the sidewalk and pedestrian improvements necessary to support that use.

Be sure to also address any questions or concerns that may arise with respect to:

- Environmental Specifications:

The project will extend attached sidewalk within existing WYDOT ROW with previously disturbed soils. No environmental issues are anticipated.

- Right-of-Way:

Project will be designed within existing WYDOT ROW and it is not anticipated that any ROW or easement acquisition will be needed for its completion.

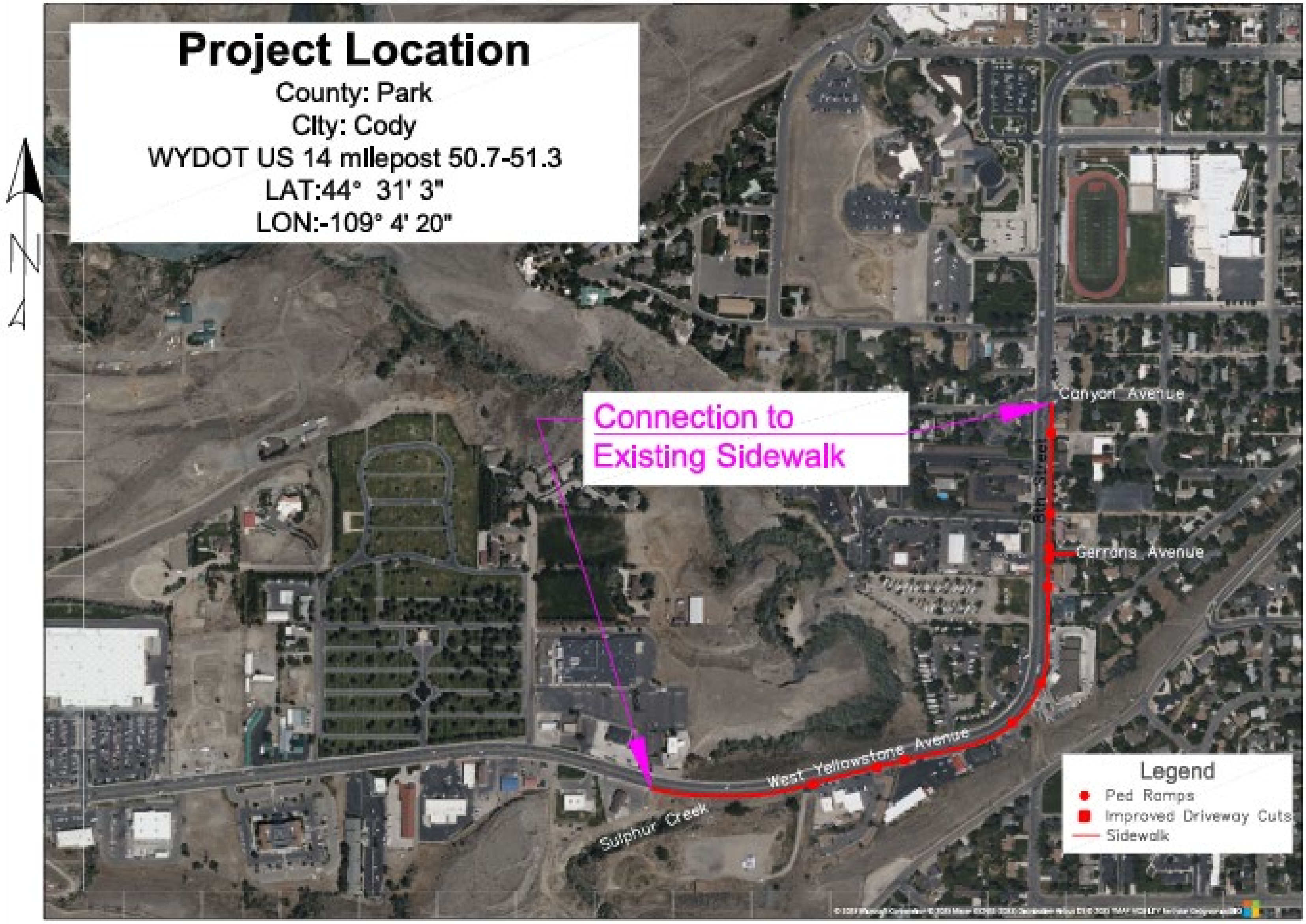
- Timeline of this project:

If the TAP Grant is approved, the City will begin design in early 2026 and apply for a second TAP Grant for construction in calendar year 2027 or 2028.

- Describe any public input in support or in protest of this project:

Public input was strongly in favor of the project during the community work sessions conducted during *2024 Active Transportation Master Plan,* which led this project to be identified as the number three (#3) priority project. The local non-profit group "That Other Project" has continued to meet with Public Works staff in support of the need for this project.

West Yellowstone Sidewalk Improvement Project - Location and Connections Map



FHWA-1273 – Revised October 23, 2023

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Non-segregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
XI. Certification Regarding Use of Contract Funds for Lobbying
XII. Use of United States-Flag Vessels:

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (*see* 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

(1) Withholding monthly progress payments;
(2) Assessing sanctions;
(3) Liquidated damages; and/or
(4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than $10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 “Contract provisions and related matters” with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided,* That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH–1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

(ii) The classification is used in the area by the construction industry; and

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is used in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to *DBAconformance@dol.gov*. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(4) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to *DBAconformance@dol.gov*, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

d. *Fringe benefits not expressed as an hourly rate.* Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided,* That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

3. Records and certified payrolls (29 CFR 5.5)

a. *Basic record requirements* (1) *Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. *Certified payroll requirements* (1) *Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (*e.g.,* the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH–347 or in any other format desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division website at *https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347/.pdf* or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

(4) *Use of Optional Form WH–347.* The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 will satisfy the requirement for submission of the “Statement of Compliance” required by paragraph 3.b.(3) of this section.

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices* (1) *Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

c. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeyworkers shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001.

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or 29 CFR part 1 or 3; or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or 29 CFR part 1 or 3.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchpersons and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

* $31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

4. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of $150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1**. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. “First Tier Covered Transactions” refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

* * * * *

3. **Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, ‘on-board’ commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B) This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

Activity:	Must Be Completed By:
Qualifications-Based Consultant Selection	March 1, 2026
Executed Copy of Consultant Agreement	June 1, 2026
Environmental Documentation	December 31, 2026
Executed Right-of-Way and Utilities Certificate	December 31, 2026
Approved Plans, Specifications, and Estimates (PS&E)	July 1, 2027
Final Acceptance	December 31, 2027
Final Reimbursement Request	December 31, 2027
Consultant Performance Review	December 31, 2027

Meeting Date: November 18, 2025
Department: Administrative Services
Staff Reference: Cindy Baker

AGENDA ITEM SUMMARY REPORT

Appoint Phil Velayo to fill the vacancy due to a recent resignation from the Wyoming State Shooting Complex Joint Powers Board - Member at Large - for a term ending April 30, 2028. Also adjust the terms for Mayor Reiter to April 30, 2026, and Glenn Ross to April 30, 2027.

PROPOSED ACTION:
Appoint Phil Velayo to fill the vacancy due to a recent resignation from the Wyoming State Shooting Complex Joint Powers Board - Member at Large - for a term ending April 30, 2028. Also adjust the terms for Mayor Reiter to April 30, 2026, and Glenn Ross to April 30, 2027.

SUMMARY OF INFORMATION:
Jim Sauber has turned in his resignation. This appointment would be to replace him as member at large and fulfill the original term ending December 21, 2027. During review of the by-laws of the WSSCJPB, it was determined the fiscal year for this Board is May 1 through April 30th - thus the need to approve and adjust the terms to line up accordingly .

FISCAL IMPACT:

ATTACHMENTS:
None

Meeting Date: November 18, 2025
Department: Public Works
Staff Reference: Phillip Bowman

AGENDA ITEM SUMMARY REPORT

Ordinance 2025-33 - Third and Final Reading

An Ordinance Amending Title 8, Chapter 2, Article II, III and IV of the City of Cody Municipal Code. Water and Raw Water Rates.

PROPOSED ACTION:

Approve Ordinance 2025-33 on Third and Final Reading to modify and set treated water and raw water service charges and rates becoming effective December 1, 2025.

SUMMARY OF INFORMATION:

A typographical error in Ordinance 2025-33 found in Title 8, Chapter 2, Article III for the raw water service charges for townhouse residences has been corrected to provide the written amount of the charge matching the number amount previously shown ($ 88.44 per year, $ 7.37 per month). The actual amount of the charge did not change, and the percentage increase remains the same at 3.08%. No other changes have been made since approval of the Ordinance on Second Reading, and no public comments have been received.

FISCAL IMPACT:

The Water Enterprise Fund is projected to collect $4.726 million of revenue as "Charges for Services" for treated water and raw water in the approved FY 2026 Budget. Approval of Ordinance 2025-33 and the resultant rate increase of approximately 3% is aligned with the approved budget and revenue projections.

ATTACHMENTS:

1. Ordinance 2025-33 - Third and Final Reading

ORDINANCE 2025-33

AN ORDINANCE AMENDING TITLE 8, CHAPTER 2, ARTICLE II, III, & IV OF THE CITY OF CODY MUNICIPAL CODE TO MODIFY AND SET TREATED WATER AND RAW WATER SERVICE CHARGES AND RATES

Title 8, Chapter 2, Article II, shall be hereby amended as follows effective December 1, 2025.

8-2-40: SCHEDULE OF RATES AND CHARGES

The rates for metered water sold within the City limits shall be as follows:
The minimum monthly charge for each meter shall be as follows:

Meter Size	SMP Charge	City Base Charge
3/4 inch	$ 11.00	$ 18.20
1 inch	$ 22.00	$ 36.40
1 1/2 inch	$ 44.00	$ 72.80
2 inches	$ 77.00	$ 127.40
3 inches	$ 176.00	$ 291.20
4 inches	$ 308.00	$ 509.60
6 inches	$ 704.00	$ 1,164.80

The SMP Charge is the wholesale tap equivalency fee charged by the Shoshone Municipal Pipeline. The City Base Charge is the fee assessed by the City for the operation and maintenance of the treated water storage and distribution system. The minimum monthly fee is calculated as follows:

SMP Charge + City Base Charge + three dollars and sixty-four cents ($ 3.64) per thousand gallons per month.

All sections shall remain unchanged until Item B.1.

1. For water taken and purchased from the City Water Crane, a minimum of ten dollars and twenty cents ($ 10.20) for the first one thousand (1,000) gallons or less, plus ten dollars and twenty cents ($ 10.20) per one thousand (1,000) gallons for each additional one thousand (1,000) gallons, or any fraction thereof per trip or load.

All sections shall remain unchanged until Item B.2.d.

   d. The fee for water use shall be a minimum of ten dollars and twenty cents ($ 10.20) per one thousand (1,000) gallons or any fraction thereof of water used. This fee may be adjusted to the wholesale cost to the City if the water is used for a City-funded project subject to the approval of the Public Works Director.

All sections shall remain unchanged until Item B.3.

3. Any person desiring to take domestic City water from any other unmetered source, excepting City personnel for authorized City purposes and Fire Department personnel for authorized Fire Department purposes, shall first obtain a written permit from the Public Works Director or his/her designee. Such permit shall fully state the name and billing address of the person or party responsible for payment of water taken, meter number for meter used, and the location of the source (hydrant) from where the water is to be taken. The fee for the use of water shall be a minimum of ten dollars and twenty cents ($ 10.20) for the first one thousand (1,000) gallons or less, plus ten dollars and twenty cents ($ 10.20) per one thousand (1,000) gallons for each additional one thousand (1,000) gallons, or fraction thereof, per trip or load. This fee may be adjusted to the wholesale cost to the City, if the water is used for a City project or as determined by the Governing Body.

* NO FURTHER MODIFICATIONS TO TITLE 8, CHAPTER 2, ARTICLE II *

Title 8, Chapter 2, Article III, shall be hereby amended as follows effective December 1, 2025.

8-2-56: SCHEDULE OF RATES AND CHARGES; TIME OF PAYMENT; FAILURE TO PAY; REQUIREMENT FOR METER:

A. All users tapped to the raw water system, except as provided in subsections B, C, D, E and F of this section, shall pay a raw water fee based on tap size. All utility bills generated on or after December 1, 2025, shall be billed in monthly installments as follows:

Tap Size	Annual Fee	Payable In Monthly Installments
3/4 inch	$ 176.64	$ 14.72
1 inch	$ 265.08	$ 22.09
1 1/4 inches	$ 441.72	$ 36.81
1 1/2 inches	$ 706.56	$ 58.88
2 inches	$ 1,059.84	$ 88.32
2 1/2 inches	$ 1,324.92	$ 110.41
3 inches	$ 1,589.46	$ 132.48
4 inches	$ 2,208.00	$ 184.00

All sections remain unchanged until Item E.

E. Individual taps for townhouse residences shall pay an annual fee of eighty-eight dollars and forty-four cents ($ 88.44), which shall be billed in monthly installments of seven dollars and thirty-seven cents ($ 7.37).

* NO FURTHER MODIFICATIONS TO TITLE 8, CHAPTER 2, ARTICLE III *

Title 8, Chapter 2, Article IV, shall be hereby amended as follows effective December 1, 2025.

8-2-58: SPECIAL USE WATER POLICY:

A. < NO CHANGE >

B. Use; Calculation: The special use water policy allows authorized customers a reduced rate on the treated water for lawn and garden use. The special use water policy is calculated as follows:

1. An average will be calculated using the November through May billing periods based on the account holder's treated water usage.

2. For the June through October billing periods, customers will be billed their average usage at the regular rate of three dollars and sixty-four cents ($ 3.64) per one thousand (1,000) gallons of treated water used. The amount used over the average usage will be billed at one dollar and fifty cents ($ 1.50) per one thousand (1,000) gallons of treated water used. Wastewater will be billed based on the average treated water use from the November through May billing periods. There is no additional sewer charge on the additional water beyond the average used for irrigation purposes.

3. For the November through May billing periods, the account holder will be charged three dollars and sixty-four cents ($ 3.64) per one thousand (1,000) gallons of water actually used, and wastewater will be charged at one dollar and ninety-eight cents ($ 1.98) per one thousand (1,000) gallons based on the actual amount of treated water used.

8-2-59: MODIFIED SPECIAL USE WATER POLICY:

A. < NO CHANGE >

B. Use; Calculation: The modified special use water policy allows authorized customers a reduced rate on the wastewater charges when water is used for lawn and garden use. The modified special use water policy is calculated as follows:

1. For calculation of wastewater purposes, an average will be calculated using the November through May billing periods based on the account holder's treated water usage.

2. For the June through October billing periods, customers will be billed for the actual amount of water used at the three dollars and sixty-four cents ($ 3.64) per one thousand (1,000) gallons of treated water used. Wastewater will be billed at one dollar and ninety-eight cents ($ 1.98) per one thousand (1,000) gallons based on the average treated water use from the November through May billing periods. There is no additional sewer charge on the additional water beyond the average used for irrigation purposes.

* NO FURTHER MODIFICATIONS TO TITLE 8, CHAPTER 2, ARTICLE IV *

This Ordinance 2025-33 shall become effective at the final passage after third reading and publication in the Cody Enterprise as required by law:

PASSED ON FIRST READING: OCTOBER 21, 2025

PASSED ON SECOND READING: NOVEMBER 4, 2025

PASSED ON THIRD READING: ______________________________

____
Lee Ann Reiter, Mayor

ATTEST:

____
Cynthia D. Baker, Administrative Services Officer

Meeting Date: November 18, 2025
Department: Police Department
Staff Reference: Jason Stafford

AGENDA ITEM SUMMARY REPORT

Ordinance 2025-34 - Third & Final Reading
An Ordinance Amending Title 5, Chapter 2, Subsection 23 of the Cody City Code pertaining to Unlawful Intoxicating Chemical Compounds.

PROPOSED ACTION:
Ordinance 2025-34 - Third & Final Reading
An Ordinance Amending Title 5, Chapter 2, Subsection 23 of the Cody City Code pertaining to Unlawful Intoxicating Chemical Compounds.

SUMMARY OF INFORMATION:
No changes or comments since First Reading

FISCAL IMPACT:
N/A

ATTACHMENTS:
1. Amended 5-2-23 third reading

ORDINANCE NO. 2025-34

AN ORDINANCE FOR THE AMENDMENT OF SECTION TITLE 5, CHAPTER 2, SUBSECTION 23 OF THE CODY CITY CODE PERTAINING TO UNLAWFUL INTOXICATING CHEMICAL COMPOUNDS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CODY, PARK COUNTY, WYOMING:

IT IS HEREBY ORDAINED by the Governing Body of the City of Cody, Park County, Wyoming, as follows:

SECTION 1: Section 5-2-23 (G) shall be amended to provide as follows:

5-2-23: UNLAWFUL INTOXICATING CHEMICAL COMPOUNDS:

A. It shall be unlawful for any person, including a corporation or other entity, to manufacture, distribute, dispense, ingest, use, possess, purchase, attempt to purchase, sell, publicly display for sale, attempt to sell, give, trade or barter, any one or more of the following chemical compounds and/or substances, including their salts, isomers, homologues and salts of their isomers and homologues:

1. Salvia divinorum or Salvinorum A; all parts of the plant presently classified botanically as Salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compounds, manufacture, salts derivative, mixture or preparation of such plants, its seeds or extracts;
2. Pentyl-3-(1-naphthoyl) indole (also known as JWH-018);
3. (6ar,10ar)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c] chromen-1-ol (also known as HU-210 or 1,1-dimethylheptyl-11-hydroxy-delta8- tetrahydrocannabinol);
4. 2 (3-hydroxycyclohexyl)-5-(2-methyloctan-2-yl) phenol (also known as CP-47,497), and the dimethylhexyl, dimethyloctyl and dimethylnonyl homologues of CP-47,497;
5. 1-Butyl-3-(1-naphthoyl) indole (also known as JWH-073);
6. 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl) indole (also known as JWH-200);
7. 1-Pentyl-3-(2-methoxyphenylacetyl) indole (also known as JWH-250);
8. 1-Hexyl-3-(1-naphthoyl) indole (also known as JWH-019);
9. 1-Pentyl-3-(4-chloro-1-naphthoyl) indole (also known as JWH-398);
10. N-benzylpiperazine (also known as BZP);
11. 1-(3-trifluoromethylphenyl) piperazine (also known as TFMPP);
12. Any similar structural analogs of the above chemical compounds;
13. Any other synthetic cannabinoids.

B. It is not an offense under subsection A of this section if the person was acting at the direction of an authorized agent of the City of Cody to enforce or ensure compliance with this law prohibiting the sale of the aforementioned intoxicating chemical compound.

C. If any of the aforementioned intoxicating chemical compounds are found in the possession of any person, they may be confiscated and destroyed by law enforcement officials.

D. This section shall not apply to drugs or substances lawfully prescribed or to drugs or substances which have been approved by the Federal Food and Drug Administration or which are specifically permitted by Wyoming law.

E. The City of Cody shall have the authority to seek an injunction to compel compliance of any business which fails to or refuses to comply with this section.

F. If any provision of this section is held invalid, such invalidity shall not affect the remaining provisions of this section which shall remain effective absent the invalid provision, and to this end, the provisions of this section are declared to be severable.

G. Any person in violation of this section shall be guilty of a misdemeanor and shall be punished by a fine of not more than seven hundred fifty dollars ($750.00).

SECTION 2: This Ordinance shall become effective at the final passage and publication in the Cody Enterprise.

PASSED ON FIRST READING: ____October 21, 2025
PASSED ON SECOND READING: ___November 4, 2025
PASSED ON THIRD READING: __________________________, 2025

ATTEST:

____
Lee Ann Reiter, Mayor

____
Cynthia D. Baker
Administrative Services Director

Meeting Date: November 18, 2025
Department: Police Department
Staff Reference: Jason Stafford

AGENDA ITEM SUMMARY REPORT

Ordinance 2025-35 - Third & Final Reading
An Ordinance Amending Title 5, Chapter 1, Subsection 11 of the Cody City Code pertaining to Unlawful Interference with a Police Dog.

PROPOSED ACTION:
Approve Ordinance 2025-35 on Second Reading

SUMMARY OF INFORMATION:
No changes or comments since First Reading

FISCAL IMPACT:
N/A

ATTACHMENTS:
1. 2025-35 third reading

ORDINANCE NO. 2025-35

AN ORDINANCE FOR THE AMENDMENT OF SECTION TITLE 5, CHAPTER 1, SUBSECTION 11 OF THE CODY CITY CODE PERTAINING TO INTERFERENCE WITH POLICE DOGS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CODY, PARK COUNTY, WYOMING:

IT IS HEREBY ORDAINED by the Governing Body of the City of Cody, Park County, Wyoming, as follows:

SECTION 1: Section 5-1-11(C) shall be amended to provide as follows:

5-1-11: UNLAWFUL INTERFERENCE WITH A POLICE DOG:

A. "Police dog" means any dog used or kept for use by a police officer in discharging any legal duty or power of his or her office.

B. A person commits the crime of unlawful interference with a police dog if, acting without the permission of the police department or other agency or person owning the police dog, he or she intentionally:

1. Injures or kills any police dog; or
2. Provokes with the intent to cause fear or anger, physically mistreats, or attempts to injure any police dog; or
3. Interferes with or meddles with any police dog while such animal is being used by the department or with any officer or member thereof while such officer or member is using such animal in the performance of any of the functions or duties of the department, or of the officer or member.

C. The violation of any provision of this section shall constitute a misdemeanor and shall be punished by a fine of not more than seven hundred fifty dollars ($750.00), to which shall be added costs of ten dollars ($10.00).

SECTION 2: This Ordinance shall become effective at the final passage and publication in the Cody Enterprise.

PASSED ON FIRST READING: _October 21, 2025
PASSED ON SECOND READING: _November 4, 2025
PASSED ON THIRD READING: ___________________________, 2025

ATTEST:

______________________________ ______________________________

Lee Ann Reiter, Mayor

Cynthia D. Baker
Administrative Services Director

Meeting Date: November 18, 2025
Department: Public Works
Staff Reference: Phillip Bowman

AGENDA ITEM SUMMARY REPORT

Approval of Change Order #1 with Sletten Construction of Wyoming, Inc. in the amount of $335,402.20 for the Septage Receiving Facility Project

PROPOSED ACTION:
Consider approval of Change Order #1 with Sletten Construction of Wyoming, Inc. in the amount of $335,402.20 for the Septage Receiving Facility Project, and authorize the Mayor to sign all associated contract documents.

SUMMARY OF INFORMATION:
The City of Cody and Park County Government have been working in partnership to develop a Septage Receiving Facility (Project) at the Cody Wastewater Treatment Facility since 2021. Park County has received a grant from the State Loan and Investment Board (SLIB) for construction of the Project in the total amount of $4.443 million, which includes $2.443 million of ARPA Grant funding and $2.0 million of local match provided by Park County. The City Council approved Work Authorization #2 with Sletten Construction of Wyoming, Inc. (Sletten) on February 4, 2025, to define the total amount under contract with a Guaranteed Maximum Price (GMP) for construction costs of $4,134,715. The approval of Work Authorization #2 and the GMP specifically <u>excluded</u> the SCADA control system for the Project from Sletten's scope of work, and it was known that a future Change Order would be needed to add this work into Sletten's scope.

City Staff, Park County Staff, and Engineering Associates (project engineer) have worked with Sletten and the City's SCADA equipment provider (MicroComm) to define the final scope of work and costs to install the SCADA control system equipment required for the Project since approval of Work Authorization #2. The costs for this work have been defined in Change Order #1 and are $335,402.20. Change Order #1 will add this cost to the GMP amount under contract with Sletten, bringing the total amount under contract to $4,470,117.20. There is also additional time needed for Sletten and MicroComm to complete this work, so Change Order #1 modifies the Substantial Completion date of the Project to be June 5, 2026 (previously December 31, 2025) and the Final Completion date to be July 2, 2026 (previously January 30, 2026). The reason for this additional contract time is the long lead time to order and manufacture the equipment being provided by MicroComm for the Project.

With the cost of Change Order #1 defined, City Staff worked with Park County Staff to determine the amount of additional funding needed to approve Change Order #1. City Staff and Park County Staff have met with the Board of County Commissioners (BoCC) on November 4, 2025, and the BoCC has approved providing additional funding to the Project for Change Order #1. The general agreement proposed is that Park County and the City will share the cost of Change Order #1 with a 50/50 split, so the City of Cody would be responsible for one-half of this cost or approximately $167,700. With approval of Change Order #1, it is proposed that the

City of Cody provide an additional $170,000 of funding to the Project with a future Budget Amendment to the approved FY 2026 Budget from the Wastewater Enterprise Fund - Unassigned Fund Balance.

City Council approval of Change Order #1 is contingent upon review and approval of all change order documents by the City Attorney prior to signature by the Mayor.

FISCAL IMPACT:

The Septage Receiving Facility Project is included in the approved FY 2026 Budget in the Wastewater Enterprise Fund with the total amount of funding set at $3,890,480. The amount budgeted includes offsetting revenue from Park County for this full amount.

With approval of Change Order #1 with Sletten, a future Budget Amendment to the approved FY 2026 Budget for the Wastewater Enterprise Fund is proposed to provide an additional $170,000 from the Unassigned Fund Balance that is projected to be approximately $3.336 million at the end of FY 2026.

ATTACHMENTS:

1. Change Order #1 with Sletten Construction of Wyoming, Inc., including Exhibit B (Table 1 - Compensation Summary)

CHANGE ORDER NO.: 1

		Project No.
Owner:	City of Cody	
Engineer:	Engineering Associates	24012.00
Construction Manager at Risk:	Sletten Construction	
Project:	Septage Waste Receiving Facility	
Work Authorization:	2 (Feb 4, 2025)	

Date Issued: 11/07/25 Effective Date of Change Order: 11/18/25

The Contract is modified as follows upon execution of this Change Order:

Description:

This CO incorporates SCADA system by MicroComm into Sletten's scope of work, including associated work by other subcontractors. Includes overhead and management costs for Sletten. Beginning May 1, Sletten will track and communicate T&M costs accrued during SCADA startup and integration.

Attachments:

Updated Table 1 Exhibit B of WA2 including CO1. Owner's Contingency Allocation 1.
Sletten Change Order Request #5 dated 10/29/25 with attachments.

Change in Guaranteed Maximum Price

Original Guaranteed Maximum Price this Work Authorization	$4,057,847.36
Net change from previously approved Change Orders No. 1 to No. **N/A**	n/a
Guaranteed Maximum Price prior to this Change Order	$4,057,847.36
Increase this Change Order:	$335,402.20
Allocation from Owners Contingency to GMP:	$23,600.85
Guaranteed Maximum Price incorporating this Change Order:	$4,416,850.41

Change in Contract Times for Work Authorization

The completion dates for this Work Authorization are modified by this Change Order as shown below.

	Original	Previous	Current
Substantial Completion Date	December 31, 2025	n/a	June 5, 2026
Final Completion Date	January 30, 2026	n/a	July 2, 2026

	Recommended by Engineer	Accepted by CMAR
By:	Eric Wodahl	
Title:	Project Manager	
Date:	11/7/25	

Approved by Owner

By:

Title:

Date:

Table 1 - GUARANTEED MAXIMUM PRICE with Change Order(s)

Compensation for CMAR Design-Phase Services								1	**$**	**16,000.00**
Estimated Cost of the Work								2	**$**	**3,623,078.00**
CMAR Fee	3	7.0%	of Estimated Cost of Work					4	$	253,615.46
Cost of the Work with CMAR Fee								5	**$**	**3,876,693.46**
CMAR and Other Contingency Allowances										
CMAR Contingency Allowance	6	5.0%	of	7	$	3,623,078.00	Estimated Cost of the Work	8	$	181,153.90
Contingency Allocated from Owner's Contingency								9	$	23,600.85
Total CMAR and Other Contingency Allowances								10	**$**	**204,754.75**
Total Change Orders **(Including Change Order 1)**									**$**	**335,402.20**
Guaranteed Maximum Price **(Total Estimated Cost of Work with CMAR Fee, plus the Total CMAR and Other Contingency Allowances, plus COs)**								11	**$**	**4,416,850.41**
Owner's Contingency Allowance Remaining								12	**$**	**37,266.79**
Total Amount of Contract Award **(Total of Compensation for CMAR Design-Phase Services, Guaranteed Maximum Price, and Owner's Contingency Allowance)**								13	**$**	**4,470,117.20**

SLETTEN

5159-24194 | CODY SEPTAGE RECEIVING

CODY, WYOMING

COR #5

Date:	10/29/2025	**Reference:**	MicroComm

To: City of Cody/Park County
Attn: Phillip Bowman/Brian Edwards

Requested By: Cassie Pope, Sletten Construction of Wyoming

Description:

This Change Order Request is for Sletten to incorporate MicroComm into our scope of work. This includes supplying and installing MicroComm equipment, supplying and installing Temperature controls, and Sletten's overhead and management costs for the month of April 2026.
Incorporating MicroComm's scope of work into Sletten's contract pushes our anticipated Substantial Completion date to June 5th, 2026, and final completion date to July 2nd, 2026. Substantial completion will be defined as completion of Industrial and MicroComm equipment testing and start up.
As MicroComm's lead times may fluctuate, we have included Sletten's daily rates for General Conditions items and will track these costs on a T&M basis starting May 1st, 2026.
Yellowstone Electric's proposal will be considered their "Not to Exceed" cost, and their work related to MicroComm will be tracked on a T&M basis.
MicroComm SOW Clarifications:
- Section 01 81 33 Cyber Security Requirements is not included as MicroComm's SCADA workstation is being reused.
- Section 40 66 05 does not include fiber, fiber terminals or fiber switches.
- Section 40 71 00 includes MicroComms Magnetic Flow Meter enclosure that is a NEMA 4X, not a NEMA 7 as shown on the drawings.
- Section 40 76 00 states a "d" instrument pipe-stand mount. MicroComm is supplying a wall mount stand as shown on the drawings.
- The following items are not specified but are shown on the drawings and to be supplied by MicroComm: PIT-01: E+H Cerebar Pressure Transmitter NPW Pressure; PG-01: Winters Pressure Gauge; Diaphram seal, tee, and ball valve assembly.
- WA-2 Transmitter and Gauge are excluded.

Cost Impact:	$ 335,402.20	**Current Contract Value:**	$4,081,448.21
		Pending CORs:	$0.00
Schedule Impact:	90 Business Days	**New Contract Value:**	$4,416,850.41

THIS PROPOSAL REQUEST IS BASED SOLELY ON THE USUAL COST ELEMENTS SUCH AS LABOR, MATERIALS, AND NORMAL MARKUPS AND DOES NOT INCLUDE ANY AMOUNTS FOR CHANGES IN THE SEQUENCE OF WORK, DELAYS, DISRUPTIONS, RESCHEDULING, EXTENDED OVERHEAD, ACCELERATION AND/OR IMPACT COSTS. SLETTEN CONSTRUCTION RESERVES OUR RIGHT TO MAKE CLAIM FOR ANY AND ALL OF THESE AND OTHER RELATED ITEMS OF COSTS PRIOR TO ANY FINAL SETTLEMENT OF THIS CONTRACT. SHOULD THE OWNER REQUEST THAT THIS CHANGE BE FUNDED BY THE CONTRACTOR'S CONTINGENCY. SLETTEN RESERVES THE RIGHT TO REQUEST A FUTURE INCREASE TO THE OVERALL CONTRACT VALUE FOR THE COST OF THE ADDED SCOPE INCLUDED IN THIS CHANGE REQUEST, SHOULD ADDITIONAL UNFORESEEN CONDITIONS ARISE REQUIRING THE USE OF THE CONTRACTOR'S PROJECT CONTINGENCY.

[signature]	10/29/2025		
Signature	Date	Signature	Date

ESTIMATE DETAILS

PROJECT: CODY SEPTAGE

DESCRIPTION: MicroComm

SLETTEN

COR#	5

PREPARED BY: **Cassie Pope**

DATE: **29-Oct-25**

DESCRIPTION	***QUANTITY***		***MATERIALS***		***LABOR***			***SUPPLIES***		***EQUIPMENT***		***L.S. / SUB-CONTRACT***		***TOTAL***
	AMOUNT	*UNIT*	*UNIT PRICE*	*AMOUNT*	*TOTAL MH*	*RATE*	*AMOUNT*	*UNIT PRICE*	*AMOUNT*	*UNIT PRICE*	*AMOUNT*	*UNIT PRICE*	*AMOUNT*	
MicroComm - Equipment, Training, and Testing Supply	1	LS										$237,659.84	$237,659.84	$237,659.84
MicroComm Allowance Deduct	1	LS										($50,000.00)	($50,000.00)	($50,000.00)
Yellowstone Electric - MicroComm Equipment Installation	1	LS										$30,914.00	$30,914.00	$30,914.00
Norpac - Temperature Controls	1	LS										$66,403.79	$66,403.79	$66,403.79
Temperature Controls Allowance Deduct	1	LS										($35,000.00)	($35,000.00)	($35,000.00)
Sletten - Management Costs	1	LS				$50,164.64	$50,164.64	$1,359.13	$1,359.13	$4,600.20	$4,600.20	$1,182.00	$1,182.00	$57,305.97
														$0.00
			TOTAL	**$0.00**		TOTAL	**$50,164.64**	TOTAL	**$1,359.13**	TOTAL	**$4,600.20**	TOTAL	**$251,159.63**	**$307,283.60**

* * * * * **TALLY** * * * * *

DESCRIPTION	UNIT		RATE	EXT
FIELD LABOR	1.00	ls		$50,164.64
MATERIAL	1.00	ls		$0.00
EQUIPMENT	1.00	ls		$4,600.20
SUPPLIES	1.00	ls		$1,359.13
PERMIT	1.00	ls		$0.00
SUBCONTRACTOR	1.00	ls		$251,159.63
Subtotal				**$307,283.60**
				============
CM Fee			7%	$21,509.85
				=============
SUBTOTAL W/ Overhead & Profit				$328,793.45
INSURANCE PREMIUMS	1.00	ls	1%	$3,287.93
SUBTOTAL				$332,081.39
BOND PREMIUMS	1.00	ls	1%	$3,320.81
GRAND TOTAL				**$335,402.20**

THIS PROPOSAL REQUEST IS BASED SOLELY ON THE USUAL COST ELEMENTS SUCH AS LABOR, MATERIALS, AND NORMAL MARKUPS AND DOES NOT INCLUDE ANY AMOUNTS FOR CHANGES IN THE SEQUENCE OF WORK, DELAYS, DISRUPTIONS, RESCHEDULING, EXTENDED OVERHEAD, ACCELERATION AND/OR IMPACT COSTS. SLETTEN CONSTRUCTION RESERVES OUR RIGHT TO MAKE CLAIM FOR ANY AND ALL OF THESE AND OTHER RELATED ITEMS OF COSTS PRIOR TO ANY FINAL SETTLEMENT OF THIS CONTRACT.

15895 S Pflumm Rd · Olathe, KS 66062-8502
(913) 390-4500 · www.micro-comm-inc.com

Date: June 13, 2025
~~Bid Date: September 11, 2024; 5:00pm MST~~

Bid For: City of Cody, WY (Wastewater Treatment Plant Improvements - WA#2)
Cody Septage Waste Receiving Station
Proposal for Modifications to the existing Micro-Comm SCADA System as detailed in specification sections: 40 61 13 Thru 40 78 00.

Representative:
Advanced Pump and Equipment, Inc. (APE)
Landon Blakeley
(307) 265-9566 office
(307) 262-3841 mobile

Estimator:
Jay Fromholtz
Micro-Comm, Inc.

Micro-Comm is pleased to provide the following bid for the required Process Control System (SCADA) and instrumentation modification/additions.

Please note this proposal does not include installation of the proposed equipment. Please review the required work and materials that will be supplied by Micro-Comm. Please contact Landon Blakeley (APE) if you should have any questions or need additional clarification on the Micro-Comm SCOPE OF SUPPLY.

Division 40 – Process Controls and Instrumentation

Sections 40 61 13 Thru 40 78 00 Pricing: **$ 222,112.00**

(Materials and Start-up, Installation is not included)

Add 1.5% for bond + 1.5% for MC overhead + 4% for tax on materials = $237,659.84

Terms:

1) This proposal does NOT include taxes, insurance or bonding. Proposal is valid for 60 days. An invoice for the total purchase price will be issued upon shipment. Invoice payment terms net 30 days (based upon credit approval). Payment is required (less 10% retainage) prior to scheduling Micro-Comm Start-up.
2) This proposal is to be executed by copy of this proposal signed and a Micro-Comm approved Purchase Order. Please note, if a contract agreement is required please add an additional 1.5% to cover standard overhead expenses.
3) This proposal includes material and software programming of the specified equipment.
4) All prices are FOB factory, freight allowed.
5) Submittal Drawings will be provided in 60 days, after receipt of an approved/signed purchase order and signed proposal. Equipment will ship within 90 days of approved submittal drawings.
6) Two-week notice and payment (less retainage) are required for on-site start-up labor. This proposal includes, a maximum, (4) trips from Kansas City to jobsite and a maximum of (12) day's onsite labor. In the event additional trips are required; onsite labor may be billed at $1,350/day and $3,500/trip plus expenses.

Accepted By:______________________________________

Date:____

Purchase Order Number:_________________

SCOPE OF SUPPLY

The existing Micro-Comm SCADA system will be modified and upgraded interfacing to the proposed septage waste receiving station devices/equipment. This proposal includes the following control panels, radio, and instrumentation devices. The required software programming and software modifications to the existing computer workstations are included. This proposal includes process and instrumentation materials and startup services but does not include equipment installation.

Section 40 61 13 – PCS General Requirements
Section 40 61 21 – PCS Testing
Section 40 61 96 – PCS Descriptions

Micro-Comm system integration professional services:

1. Engineering submittals & operation and maintenance manuals.
2. Calibration certifications, loop checkout, & final control device documentation.
3. I/O database development and coordination.
4. Interface with Existing Micro-Comm SCADA HMI workstation located at WWTP Blower Building.
5. FAT Factory Witness Test by Micro-Comm with testing and documentation.
6. SAT Site Acceptance Test by Micro-Comm with testing and documentation.
7. Maximum of four (4) onsite start-up/training sessions to commission the proposed control panels and instrumentation devices.

Exclusions and Clarifications:

1. Proposal does not include Section 01 81 33 Cyber Security Requirements. The existing SCADA workstation is being reused and can be re-evaluated for improved Cyber Security.

Section 40 63 43 – Programmable Logic Controllers (PLC)

Micro-Comm supplied materials:

1. CP01 – Will include the specified M1650 PLC.
    a. Includes hardware and software PLC supporting materials.
    b. Spare parts as specified.
    c. Training and support sessions (2-visits, included in Item 7 above).

Section 40 66 05 – Network Equipment

Micro-Comm supplied materials:

1. CP01 – Ethernet Switch as required.
2. One spare Ethernet switch.

Exclusions and Clarifications:

1. Sheet 00E-101. Micro-Comm will provide Ethernet radios/antennas, switch/PoE panels, and outdoor CAT5 cabling as required for the existing Blower Building and proposed Septage Receiving Station.
2. Micro-Comm is not providing fiber, fiber terminals, and/or fiber switch materials.

Section 40 67 00 – Control Panels and Racks

Micro-Comm supplied materials:

1. CP01 – Hoffman Nema 4X-SS, estimated 36x30x12 enclosure. As specified.
2. CP03 – Hoffman Nema 4X-SS, estimated 30x24x10 enclosure. As specified.
    a. NOTE: CP03 includes the YA500D & YA500F Alarm/Strobe Beacons.

Section 40 67 63 – Uninterruptable Power Supply

Micro-Comm supplied materials:

1. CP01 – Micro-Comm 12Vdc Battery Back-up sized at 8-10 hours.
2. CP03 – Rackmount UPS, as specified.

Exclusions and Clarifications:

1. CP01 will include a built-in battery back-up matching the existing Micro-Comm control panels.

Section 40 68 63 – Configuration of HMI Software and Reports:

Micro-Comm supplied materials:

1. Micro-Comm will supply the required programming labor for proper CP01 interface to the existing Micro-Comm HMI Computer Workstation, located in the blower building.

Exclusions and Clarifications:

1. The data between the proposed Sewage Receiving Station and the existing Blower Building will be accomplished with an Ethernet radio/antenna network.

Section 40 71 00 – Flow Instrumentation:

~~Micro-Comm supplied materials:~~

1. ~~FE/FIT-01: E+H Promag 400 Magnetic Meter with remote mounted Transmitter.~~

~~Exclusions and Clarifications:~~

1. ~~The instrument table shows a NEMA 7 (Explosion proof) rated flow meter/transmitter, but also specifies the flow meter as NEMA 4X (Class 1 Div 2 rating). The Micro-Comm/E+H proposed Magnetic flow meter enclosure is NEMA 4X.~~

FE/FIT-01MAG METER PROVIDED BY 46 21 83 SUPPLIER

Section 40 72 00 – Level Instrumentation

Micro-Comm supplied materials:

1. LE/LIT-02: E+H submersible level sensor with Conery stainless steel cable and anchor kit.
2. LSHH/LSLL-401: MultiTrode or Equal Conductance Probe and Transmitter.

Exclusions and Clarifications:

1. Installation and additional installation hardware may be required.
2. LIT101/LE101: SUPPLIED BY 46 21 83 SUPPLIER.

Section 40 74 00 – Temperature Instrumentation

Micro-Comm supplied materials:

1. TT-01: Comet temperature and humidity transmitter. Electrical Room.
2. TT-02: Comet temperature and humidity transmitter. Process Room (Class1/Div2) transmitter.

Section 40 75 00 – Process Liquid Analytical Measurement

~~Micro-Comm supplied materials:~~

1. ~~AE/AIT-01: E+H Prosonic PH Sensor & Transmitter. As specified.~~

WA2-PH ANALYZER DELETED

Section 40 76 00 – Process Gas Analytical Measurement

Micro-Comm supplied materials:

1. AIT/AE-02: Draeger combustible gas sensor with Polytron 5100 transmitter.
2. AIT/AE-03: Draeger Hydrogen Sulfide (H2S) gas sensor with Polytron 5100 transmitter.

Exclusions and Clarifications:

1. The specification table shows a "d" for instrument pipe-stand mount. Micro-Comm is not supplying the pipe stand as the plans indicate a wall mount.

Section 40 78 00 – Panel Mounted Instruments

Micro-Comm supplied materials:

1. Micro-Comm will supply the specified hardware and surge protection devices as required for CP01 and CP03 panels.

Items Not Specified, but shown on the plans

Micro-Comm supplied materials:

1. PIT-01: E+H Cerebar Pressure Transmitter. NPW Pressure.
2. PG-01: Winters Pressure Gauge.
3. Diaphragm seal, tee, and ball valve assembly.

WA2-TRANSMITTER & GAUGE DELETED

End of Document/Proposal.

Yellowstone Electric Inc.
921 Road 8
Powell, WY 82435
Phone: 307-754-4436
Fax:

Bid Proposal

TO: Sletten Construction.

JOB: MicroCom and Septage equipment Low Voltage

Bid Date: 9/6/2024

Work Description: Installation and wiring MicroCom equipment.
This is a change order for Installation and tying in MicroCom equipment.
Labor $18,594.00
Materials $11,881.00

Our total price for the above job is: $30,475.00

Exclusions:

Bond = 1.44% x $30,475 = $30,914.00

Sincerely,

Zane

Norpac Sheet Metal
PO Box 30776
Billings, MT 59107
406.248.1757

DATE: 10/20/2025

CHANGE ORDER REQUEST NO: 2

PROJECT: City of Cody Septage Waste Station
NP JOB#: 24-2542

TO: Cassie Pope
Sletten Construction of Wyoming, Inc
PO Box 2630
Cody, Wyoming 82414

Scope of Change:

Add for Temperature Controls under Norpac Sheetmetal's Contract. **Scope from Allied Controls. Description: Provide installation of HVAC temp control system. Provide sensors, DP sensors, relays, interlocks and rigid raceways for a complete system. Includes deduct for Allied excluding conduit.**

Equipment	0.00
Sub-Contractor	58,900.00
Material	0.00
Fab Labor	0.00
Field Labor	0.00
Consumables	0.00
Project Management	616.00
Sub Total	**59,516.00**
Bond Costs	0.00
Sub Total	**59,516.00**
1% Gross Receipts Tax	0.00
Sub Total	**59,516.00**
5% Overhead	2,975.80
Sub Total	**62,491.80**
5% Profit	3,124.59
Sub Total	**65,616.39**
TOTAL	**65,616.39**

$65,616.39

SUB TOTAL: **$65,616.39**

The original Contract Sum was:	$ -
Previous Change Orders:	$0.00
Contract sum prior to this Change Order:	$ -
Contract sum will be increased/(decreased) by this C.O.:	$65,616.39
New Contract sum including this Change Order:	**$ 65,616.39**

Add 1.2% for Bond = $66,403.79

Mike Charter

mike@norpacsheetmetal.com

Norpac Sheet Metal requires a response to this correspondence no later than 10 business days from time of receipt. Failure to do will be taken as an acceptance of this change order proposal.

Allied Control & Mechanical LLC

P.O. Box 520
Laurel, MT59044 DATE- 010/10/2025
Phone: 406-690-6184 Fax: 406-628-2128
Email: chrisf@alliedcmmt.com

City Of Cody Septage Waste Receiving Temp Control Proposal

Description: **Provide installation of HVAC temp control system. Provide sensors, DP sensors, relays, and interlocks for a complete system.**

Price: **$58,900**

IMC: $12,778
Misc: $6,925
Labor: $23,450
Sub/ETC: $15,747

Addendums:

Alternates:

Excludes:

SLETTEN OVERHEAD AND MANAGEMENT COSTS

MONTHLY OVERHEAD COST

JOB OVERHEAD AND FIELD CONDITIONS	QUANTITY	UNIT	U/P	SUPPLIES	U/P	LABOR	U/P	EQUIPMENT	U/P	SUBCONTRACT	TOTAL
SUPERINTENDENT	1	MO			$14,102.00	$14,102.00					$14,102.00
GENERAL SUPERINTENDENT	34	HOURS			$96.00	$3,264.00					$3,264.00
PROJ. MANAGER **	47	DAYS			$498.00	$23,406.00					$23,406.00
ESOP	12%	LS			12% of Labor	$4,892.64					$4,892.64
SUBSISTENCE	1	MO					$1,495.00	$1,495.00			$1,495.00
EEO AND SAFETY	1	MO	$650.60	$650.60							$650.60
DAILY CLEANUP - 1L 10 hrs/wk	1	MO			$4,500.00	$4,500.00					$4,500.00
DUMP FEES	1	MO							$950.00	$950.00	$950.00
DRINKING WATER	1	MO	$108.53	$108.53							$108.53
TEMPORARY PHONE - 2 EACH	1	MO					$242.00	$242.00			$242.00
TEMPORARY HEAT/COOL--TRAILER	1	MO	$500.00	$500.00			$500.00	$500.00			$1,000.00
TEMPORARY TOILETS (2 ea)	1	MO							$232.00	$232.00	$232.00
TEMPORARY OFFICE	1	MO					$1,040.00	$1,040.00			$1,040.00
PICKUPS - 2 ea	1	MO					$1,123.20	$1,123.20			$1,123.20
OFFICE EQUIPMENT & SUPPLIES	1	MO	$100.00	$100.00			$100.00	$100.00			$200.00
Construction Photographs	1	MO					$100.00	$100.00			$100.00
**This includes the additional 17 days for PM submittal, pay apps, contracts, coordination, etc to incorporate MicroComm into Sletten's SOW.											
TOTAL				**$1,359.13**		**$50,164.64**		**$4,600.20**		**$1,182.00**	**$57,305.97**

DAILY OVERHEAD COST

JOB OVERHEAD AND FIELD CONDITIONS	QUANTITY	UNIT	U/P	SUPPLIES	U/P	LABOR	U/P	EQUIPMENT	U/P	SUBCONTRACT	TOTAL
SUPERINTENDENT	1	DAY			$470.00	$470.00					$470.00
GENERAL SUPERINTENDENT	1.75	HOURS			$96.00	$168.00					$168.00
PROJ. MANAGER	1	DAY			$498.00	$498.00					$498.00
ESOP	12%	LS			12% of Labor	$136.32					$136.32
SUBSISTENCE	1	DAY					$49.83	$49.83			$49.83
EEO AND SAFETY	1	DAY	$21.68	$21.68							$21.68
DAILY CLEANUP - 1L 10 hrs/wk	1	DAY			$150.00	$150.00					$150.00
DUMP FEES	1	DAY							$31.67	$31.67	$31.67
DRINKING WATER	1	DAY	$3.61	$3.61							$3.61
TEMPORARY PHONE - 2 EACH	1	DAY					$8.07	$8.07			$8.07
TEMPORARY HEAT/COOL--TRAILER	1	DAY	$16.66	$16.66			$16.66	$16.66			$33.32
TEMPORARY TOILETS (2 ea)	1	DAY							$7.50	$7.50	$7.50
TEMPORARY OFFICE	1	DAY					$34.67	$34.67			$34.67
PICKUPS - 2 ea	1	DAY					$37.44	$37.44			$37.44
OFFICE EQUIPMENT & SUPPLIES	1	DAY	$3.33	$3.33			$3.33	$3.33			$3.33
Construction Photographs	1	DAY					$3.33	$3.33			
TOTAL				**$45**		**$1,422**		**$153**		**$39**	**$1,653.44**