



-AGENDA-

MAYOR CANDACE MACHADO

March 25, 2024

7:00 P.M.

Council Members:
Dacia Edwards
Greg Flesvig
Phil Gierke

Town Clerk Janelle Underwood
Town Treasurer Lexi Erickson
Chief of Police Mike Thompson
Fire Chief Leo Malsom
P.W. Director Robert Lewallen

Town Attorney Williams, Porter, Day & Neville
Town Engineer - WLC, Inc.

YouTube Channel <https://www.youtube.com/channel/UCB0HNSulhIk51ixwxexh55w>

Meeting called to order.
Roll call.
Pledge of Allegiance

Approval of Agenda

- 1) Consent Agenda
 - a. Approval of Minutes for Regular Meeting March 11, 2024
 - b. Approval of Business Licenses – East Penn, Pinnacle Plumbing and Ramshorn Construction
- 2) Police Chief Mike Thompson – Officer Introduction
- 3) Authorization for Mayor to Execute Grant Agreement – Homeland Security/FEMA
- 4) Health Insurance Renewal 2024-2025
- 5) Council Updates
- 6) Public Comments
- 7) Adjournment

THE TOWN OF EVANSVILLE

AGENDA SUBJECT TO CHANGE WITHOUT NOTICE

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RECORD OF PROCEEDINGS

Meeting of the Evansville Town Council, Evansville, Wyoming

March 11, 2024

The regular meeting of the Evansville Town Council of the Town of Evansville, County of Natrona, State of Wyoming, was held at 7:00 p.m. in the Council Chambers of the Town Hall.

The meeting was called to order by Mayor Candace Machado at 7:00 p.m. and upon roll call the following were present: Council Members Dacia Edwards, Greg Flesvig and Phil Gierke, Town Attorney Scott Murray, Town Engineer Shane Porter, Town Treasurer Lexi Erickson, Chief of Police Mike Thompson, Fire Chief Leo Malsom, Public Works Director Robert Lewallen, Town Clerk Janelle Underwood, and interested citizens.

Mayor Machado led the Pledge of Allegiance.

APPROVAL OF AGENDA: Motion was made by Greg Flesvig and seconded by Dacia Edwards to approve the agenda. Motion carried.

APPROVAL OF CONSENT AGENDA:

- a) Approval of Minutes for Regular Meeting February 26, 2024, and Work Session March 4, 2024
- b) Approval of Bills

Motion was made by Dacia Edwards and seconded by Phil Gierke to approve the Consent Agenda. Motion carried.

APPOINTMENT OF NATRONA COUNTY TRAVEL AND TOURISM REPRESENTATIVE: Town Clerk Janelle Underwood advised that Tassma Powers represents the Town on the Natrona County Travel and Tourism Council and that her term is expiring and that she has expressed interest in continuing to represent the Town for an additional three-year term.

Motion was made by Dacia Edwards and seconded by Phil Gierke to appoint Tassma Powers to represent the Town of Evansville on the Natrona County Travel and Tourism Council. Motion carried.

COUNCIL INTERVIEW RESCHEDULE FOR APRIL 8, 2024: Town Clerk Janelle Underwood advised that when the date of March 25, 2024, was selected to hold interviews to fill the vacant Council Seat it was not taken into consideration that Spring Break was at the same time, so the next available date was April 8, 2024.

Council Member Greg Flesvig stated that he will not be present at the April 8, 2024, Council Meeting as he will be out of Town.

Town Clerk Janelle Underwood stated that Mayor Candace Machado will be out of town during the April 22, 2024, Council Meeting so we are looking at May 13, 2024, for interviews.

Motion was made by Dacia Edwards and seconded by Greg Flesvig to move the interviews for the vacant Council seat to May 13, 2024. Motion carried.

Mayor Cadace Machado asked if we would keep the deadline for Letters of Interest to fill the vacant Council seat to March 22, 2024, or if that would be extended as well.

Motion was made by Greg Flesvig and seconded by Phil Gierke to move the Letters of Interest deadline to May 1, 2024. Motion carried.

FIRE DEPARTMENT REMODEL PROPOSAL: Fire Chief Leo Malsom and Assistant Fire Chief Mark Cornett presented a proposal to the Governing Body to complete some remodeling in the living quarters of the Fire Station to increase safety and functionality of the area. Assistant Fire Chief Cornett said that the Fire Station was built in the 1980's and when the upstairs of the Fire Department was finished, it was at a time that the department was staffed with volunteers. He said that in 2012 the department went full-time with fire fighters that stay at the station while on duty. Assistant Chief Cornett stated that what they would like to do is remove and replace the cabinets and countertops that are original, address some egress, sheetrock, and lighting issues, replace the vinyl

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flooring, and just give the living quarters a much-needed interior facelift. Chief Cornett stated that the original plan was to spread the project out over the course of two fiscal years at a cost of seven thousand five hundred dollars (\$7,500.00) for a total of fifteen thousand dollars (\$15,000.00), but they are finding that the costs for the remodel is higher than anticipated and are asking if the Governing Body would approve a total cost of seventeen thousand five hundred dollars (\$17,500.00) to go in and complete the entire project now. He stated that the labor would all be done in-house as many of the members are individuals with professional construction experience including cabinet installers, drywall install and repair, painters, and flooring installers.

A great deal of discussion took place as far as future planning to replace appliances and station updates. Motion was made by Greg Flesvig and seconded by Dacia Edwards to approve the increase that was planned for the 2024-2025 Fiscal Year Budget of ten thousand dollars (\$10,000.00) for the needed remodel. Motion carried.

ORDINANCE #2-2024: An Ordinance Approving the Neumiller Addition to the Town of Evansville. Third and final reading. Town Clerk Janelle Underwood summarized Ordinance 2-2024. Motion was made by Dacia Edwards and seconded by Greg Flesvig to approve Ordinance #2-2024 on third and final reading. Motion carried.

ORDINANCE #3-2024: An Ordinance Approving the Rezone of Lot 2 of the Neumiller Addition from Urban Agriculture to Light Industrial, Evansville, Wyoming. Third and final reading. Town Clerk Janelle Underwood summarized Ordinance #3-2024. Motion was made by Greg Flesvig and seconded by Dacia Edwards to approve Ordinance #3-2024 on third reading. Motion carried.

RESOLUTION #4-2024: A Resolution Extending Hours of Operation for Liquor Licensees on March 17, 2024 – March 18, 2024. Town Clerk Janelle Underwood summarized Resolution #4-2024. Motion was made by Dacia Edwards and seconded by Greg Flesvig to approve Resolution #4-2024. Motion carried.

RESOLUTION #5-2024: A Resolution Declaring the Intent of the Town of Evansville, Wyoming to Create a Local Assessment District No. 2024-01 in Said Town; to Authorize the Construction of Local Improvements Therein; and to Assess the Cost or Portion Thereof on the Property Benefited Thereby. Town Engineer summarized Resolution #5-2024. Motion was made by Dacia Edwards and seconded by Greg Flesvig to approve Resolution #5-2024. Motion carried.

ENGINEER'S REPORT: Town Engineer Shane Porter stated that Mesa Solutions, True Land and McMurry's have approached the Town to consider applying for a Wyoming Business Council – Business Read Community Grant to provide funding for the offsite improvements to Mystery Bridge Road and Wildcat Road as well as the improvements for a new westerly road and for Mesa Solutions to construct an approximately 400,000 SF facility located north of I-25 in Evansville. Engineer Porter said that the total estimated cost of the proposed improvements is approximately ten million dollars (\$10,000,000.00) which includes road, water, and sewer and that the estimate is still preliminary and will have to be fine-tuned. He said that based on the current cost estimates, which are still being evaluated, the Town's match would be five percent (5%) which would be approximately fifty thousand dollars (\$50,000.00) although this could change some as the final cost estimates are being determined. He stated that this would be a major infrastructure improvement for the Town and if the Town wishes to move forward, he will coordinate the meetings with all the parties to begin work on the application.

Motion was made by Greg Flesvig and seconded by Dacia Edwards authorizing Engineer Shane Porter to move forward with the Wyoming Business Council – Business Read Community Grant application for the Mesa Solutions Project. Motion carried.

Engineer Porter said that on the 2023 Evansville Sidewalks Project, he had Contractor's Pay Request Number Two in the amount of one hundred forty-three thousand four hundred sixty dollars (\$143,460.00) to Crown Construction.

Motion was made by Greg Flesvig and seconded by Dacia Edwards to approve Crown Construction Pay Estimate Number Two in the amount of one hundred forty-three thousand four hundred sixty dollars (\$143,460.00) for the 2023 Evansville Sidewalks Project. Motion carried.

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Engineer Porter stated that the Town received an ARPA Grant through SLIB to complete the Emergency Connection Project. He said that this project provides a connection to the City of Casper Water System in case Evansville cannot make water at the Water Treatment Plant. He stated that the project involves a Chlorination System in a new building at the Home Depot Tank Site with connections to the storage tank. Engineer Porter said that there is some specialized work involved and WLC intends to hire CH Guernsey as a subconsultant on this project to design the Chlorination System and Building. He stated that he needs authorization for the Mayor to execute the Contract for Professional Services for the Emergency Connection Project.

Motion was made by Dacia Edwards and seconded by Greg Flesvig authorizing the Mayor to execute the Contract for Professional Services. Motion carried.

Motion was made by Dacia Edwards and seconded by Greg Flesvig to approve the Engineer's report. Motion carried.

COUNCIL UPDATES: Council Member Phil Gierke said that he was at a loss as to what to do about the Dog Park. He stated that he just wishes people would pick up their dog's poop and that he thinks the Town Council is going to have to put some thought into how to manage it. He said that it is not as bad as last time and that he is concerned about spreading diseases and that he is at a loss, but he is not going to pick it up. He also stated that he feels the Dog Park might be too big and that it might be something to consider because of the distance that maybe some people cannot get to the back area to pick up after their dogs.

Council Member Gierke stated that he looked at the sidewalk project at that it looks nice.

Council Member Dacia Edwards said that she would like to thank Public Works for all the hard work that they are doing, and she appreciates it.

PUBLIC COMMENTS: There were no public comments.

ADJOURNMENT: There being no further business, motion was made by Greg Flesvig and seconded by Dacia Edwards to adjourn at 7:42 p.m. Motion carried.

APPROVED: _____

Candace Machado
Candace Machado, Mayor

ATTESTED: _____

Janelle Underwood
Janelle Underwood, Town Clerk

**GRANT AWARD AGREEMENT BETWEEN
WYOMING OFFICE OF HOMELAND SECURITY
AND
Town of Evansville**

Grant Award Agreement for Federal Assistance coordinated through the U.S. Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA), through the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §5121-5207 and Related Authorities (hereinafter referred to as the Stafford Act), Public Assistance (PA) Program.

Disaster Declaration No.: FEMA-4739-DR-WY
Federal Award Date: September 11, 2023
Federal Grant ID: 4739-DR-WY-P1SWY500
Subrecipient Name: Town of Evansville
Subrecipient UEI #: EVK5LHXW1WZ9
CFDA #: 97.036 Disaster Grants- Public Assistance
Award Period: June 15, 2027

1. **Parties.** The parties to this Grant Award Agreement (Agreement) are the Wyoming Office of Homeland Security, whose principal address is 5500 Bishop Boulevard, Cheyenne, WY 82002 (Agency) and Town of Evansville, 235 Curtis St, Evansville, WY 82636
2. **Purpose of Agreement.** The purpose of this Agreement is to provide Public Assistance funds to assist eligible applicants to respond to and recover from the flooding event. Funds are allocated from the President's Disaster Relief Fund for use in a designated emergency or major disaster area. The Federal Emergency Management Agency (FEMA) approves grants from this allocation on the basis of project worksheets for eligible expenses. Agency is responsible for distributing Public Assistance (PA) funds to eligible applicants for the facilitation of approved FEMA project worksheets. Project Descriptions detailing approved FEMA project worksheets shall be updated by the Agency as changes or additions are obligated by FEMA and shall be incorporated into this Agreement by this reference. Funding allocated under this Agreement is not for the purpose of research and development as defined by 2 CFR Part 200.87.
3. **Funding Authority.** The funds Agency will utilize to reimburse the Subrecipient are grants distributed to the Agency under FEMA State Agreement. Once the Subrecipient has been reimbursed, the agency will down draw funds from FEMA via the U.S. Department of Health and Human Services (HHS) Payment Management System.
4. **Term of Agreement.** This Agreement is effective when all parties have executed it (Effective Date). The term of this Agreement is from September 11, 2023 until September 11, 2027.
5. **Payment.**
 - A. The Agency agrees to pay for services described in each Subrecipient's Project Description. Total payment under this Agreement shall not exceed the Total Award under DR-4739 as described on the Project Description. Payment may be adjusted according to changes to the project worksheet(s) or the award amounts as obligated by FEMA. Payment shall be made when services are completed, and upon receipt and

approval of reimbursement request forms, which are incorporated herein by this reference. Payment shall be made within forty-five (45) days after submission of invoice pursuant to Wyo. Stat. § 16-6-602. Subrecipient shall submit invoices in sufficient detail to ensure that payments may be made in conformance with this Agreement.

- B. No payment shall be made for work performed before the term of this Agreement. Should the Subrecipient fail to perform in a manner consistent with the terms and conditions set forth in this Agreement, payment under this Agreement may be withheld until such time as the Subrecipient performs its duties and responsibilities to the satisfaction of the Agency.

6. **Responsibilities of Subrecipient.**

- A. Subrecipient may use its own procurement procedures, provided its procurement process conforms to applicable federal and state laws and the standards identified in 44 CFR part 13 (OMB Circular A-102), per 44 CFR Section 13.36, whichever may be more restrictive must be followed. Subrecipient must develop or draft specifications, requirements, statements of work, and/or Requests for Proposals (RFPs) for a proposed procurement to be excluded from the competitive bidding requirements. Any request for exemption must be submitted to the Agency and approved by FEMA in writing prior to obligation or expenditure of such funds.
- B. Subrecipient will be monitored periodically by the staff of Agency, FEMA, and/or the authorized subrecipients thereof, to ensure the program goals, objectives, timelines, budgets and other related Agreement compliance standards are being met.
- C. Subrecipient shall notify Agency of any changes to the scope of work as identified in any approved Project Worksheet prior to starting the project. Failure to notify Agency may jeopardize the receipt of federal funds.
- D. Subrecipient understands and agrees that it shall not use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government.
- E. **Small Projects.**
 - (i) The Subrecipient shall only fund estimated expenditures included in the approved small project worksheets. The funding level is fixed, regardless of the final cost incurred by Subrecipient; however, if a significant cost overrun occurs, Subrecipient may request supplemental funding on small projects by submitting an appeal through the State to FEMA. An appeal should be submitted only when the total costs for all small projects exceed the total cost approved for all small projects. Appeals must be submitted within sixty (60) days of completion of the last small project. The appeal must include documentation of actual costs correlated to each line item in the scopes of work. This includes projects with underruns as well as those with overruns. An explanation of costs and quantity differences with the approved scopes of work should be included.

- (ii) Subrecipient shall provide documentation of all expenditures incurred to complete the small project within thirty (30) days of small project completion along with a Project Completion and Certification Report.
- (iii) Payment will occur upon completion of the project in accordance with Section 5 above.

F. Large Projects.

- (i) The Subrecipient shall only fund approved expenditures which were included in the approved large project worksheet. If a cost overrun occurs, the Subrecipient may submit a request for additional funding through the State to the Regional Administrator for a final determination. All requests for the Regional Administrator's approval will contain sufficient documentation to support the eligibility of all claimed work and costs. The State will include a written recommendation when forwarding the request. FEMA will reconcile final costs for eligible work against the original estimate, prepare a revised Project Worksheet (PW), and adjust the approved amount upward or downward as necessary.
- (ii) Subrecipient shall request reimbursement of approved large project worksheet expenditures by completing a reimbursement request form and attaching backup documentation of expenditures. Payment will occur upon completion of the project in accordance with Section 5 above.
- (iii) Subrecipient shall provide documentation of all expenditures incurred to complete the large project within thirty (30) days of large project completion along with a Project Completion and Certification.

G. Eligible costs shall be reduced by the amount of any insurance proceeds actually received or anticipated, salvage values, and other credits and discounts.

H. Subrecipient shall comply with all applicable "Federal, State, and local environmental and historic preservation (EHP) requirements and shall provide any information requested by FEMA to ensure compliance with applicable laws including: National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898)." Failure of the Subrecipient to meet federal, state and local EHP requirements and obtain applicable permits may jeopardize federal funding. Subrecipient shall not undertake any project having the potential to impact EHP resources without the prior approval of FEMA. Subrecipient must comply with all conditions placed on the project as the result of the EHP review. Any change to the approved project scope of work will require re-evaluation for compliance with EHP requirements. If ground disturbing activities occur during project implementation, the Subrecipient must ensure monitoring of ground disturbance and if any potential archeological resources are discovered, the Subrecipient will immediately cease construction in that area and notify FEMA and the appropriate State Historic Preservation Office.

- I. Subrecipient shall comply with all Public Assistance Program and Policy Guide Version 4 (PAPPGv4), Effective June, 1, 2020, policies.
- J. Subrecipient shall not commingle or transfer funds under this Agreement with the funds of any other state or federal grants.

7. **Responsibilities of Agency.** Agency shall:

- A. The State of Wyoming may provide a percentage of the non-federal share of Subrecipient's approved Project Worksheet costs at the Governor's discretion.
- B. Be available to provide necessary and feasible technical advice, which may be reasonably required by Subrecipient.
- C. Provide required PA Program guidance and applicable forms as requested by the Subrecipient.
- D. Pay Subrecipient as stated in Section 5 above. Agency will request the State of Wyoming disburse awarded funds to the Subrecipient upon receipt of a fully executed Grant Award Agreement and FEMA-approved Project Worksheets, only as funding is made available.
- E. Notify Subrecipient of any state or federal determination of noncompliance. Agency will provide Subrecipient written notice of intent to impose immediate measures and will make reasonable efforts to resolve the problem informally.
- F. Notify Subrecipient of information and updates received from FEMA or other federal agencies which may affect or otherwise restrict the availability of funds awarded to Subrecipient herein.

8. **Special Provisions.**

- A. **Cost Principles.** Subrecipient agrees to comply with the standards set forth in OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments (2 CFR Part 225).
- B. **Davis-Bacon Act.** Generally, the provisions of the Davis-Bacon Act do not apply to State or local contracts for work completed using Public Assistance funds under the Stafford Act. However, the provisions may apply to contracts let by other Federal agencies. If a State or local government incorporates prevailing wage rates of the U.S. Department of Labor as part of its normal practice for all agreements, regardless of funding source, then those rates would be eligible.
- C. **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), 44 CFR Part 17, 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 Agency 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.

- D. Federal Audit Requirements.** Subrecipient agrees that if it expends an aggregate amount of seven hundred fifty thousand dollars (\$750,000.00) or more in federal funds 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 C.F.R. 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 Agency and require the release of the audit report by its auditor be held until adjusting entries are disclosed and made to Agency's records.
- 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 this Agreement is in effect;
 - (ii) Procures a commercial sex act during the period of time that this Agreement is in effect; or
 - (iii) Uses forced labor in the performance of the award or sub awards under this Agreement.
- F. 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.
- If applicable, Subrecipient and subcontractors may also be required to submit an additional certification statement and disclosure form acceptable to the Agency before commencement of the work.
- G. Monitoring Activities.** Agency 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.

H. 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.*), the Americans with Disabilities Act (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.

If applicable, 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.

I. 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.

J. 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.

K. Records Retention. The Subrecipient shall keep complete records of all work (i.e. receipts, checks, job orders, contracts, equipment usage documentation and payroll information) funded under the Public Assistance Program for a minimum of three (3) years. For states the start date is determined by the date of the final Financial Status Report to FEMA. For Subrecipients the start date is determined by the date of the final Financial Status Report to the State or the date of the Certification of Completion of their final project. During this three-year period, all approved Project Worksheets are subject to federal and/or state reviews or audits.

L. Recoupment of Federal Funds. If an approved Project Worksheet (PW) is totally or partially deobligated, Subrecipient will be notified as soon as possible. Reimbursement by Subrecipient to the Agency will be requested once a Project Worksheet or Project Worksheet version (deobligating the approved funding) is processed. The Subrecipient will have sixty (60) days from the date of notification to return the requested funds to the Agency.

M. Contact Information. Subrecipient's submission of required reports, forms, and communications regarding this Agreement shall be directed to the attention of Agency's designated contact, per the information set forth below. Subrecipient must keep Agency up-to-date as to the name of the person acting as Subrecipient's primary contact for this Agreement by completing and submitting a generic Designation of Applicant's Agent Form, including any change of contact, address, or telephone information. If an Applicant's Agent is not specifically designated, the jurisdiction's chief-elected official will be the Applicant's Agent. Subrecipient's primary contact shall cooperate with any assessments, national evaluation efforts, or information or data collection requests including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this Agreement.

9. **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 and signed 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 the Agency.
- D. Assumption of Risk.** Subrecipient shall assume the risk of any loss of state or federal funding, either administrative or program dollars, due to Subrecipients failure to comply with state or federal requirements.
- E. Availability of Funds.** Each payment obligation of the Agency 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 the Agency at the end of the period for which the funds are available. The Agency 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 the Agency in the event this provision is exercised, and the Agency 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 Contracts.** The Agency 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 the Agency in all such cases.
- G. Certificate of Good Standing.** The Subrecipient shall provide to the Agency a Certificate of Good Standing from the Wyoming Secretary of State, or other proof that Subrecipient is authorized to conduct business in the State of Wyoming, if required, before performing work under this Agreement. Subrecipient shall ensure that annual

filings and corporate taxes due and owing to the Secretary of State's office are up-to-date before signing 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 Agreement shall be kept confidential by the Subrecipient unless written permission is granted by the Agency for its release. If and when Subrecipient receives a request for information subject to this Agreement, Subrecipient shall notify Agency within ten (10) days of such request and shall not release such information to a third party unless directed to do so by Agency.
- I. Conflicts of Interest.** Subrecipient shall immediately notify Agency of any potential or actual conflicts of interest arising during the course of Subrecipient's performance under this Agreement. This Agreement may be terminated in the event Agency discovers an undisclosed conflict of interest. Termination of this Agreement will be subject to a mutual settlement of accounts.
- J. Entirety of Agreement.** This Agreement, consisting of twelve (12) pages, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, and agreements, whether written or verbal. 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.
- K. Ethics.** 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 Subrecipient's profession.
- L. 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.
- M. 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.
- N. 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.
- O. 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 Agency or to incur any obligation of any kind on behalf of the State of Wyoming or Agency. 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.

- P. 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, Agency may, at its discretion, terminate this Agreement without liability to Agency, or deduct from this Agreement price or consideration, or otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee.
- Q. Notices.** All notices arising out of, or from, the provisions of this Agreement shall be in writing either by regular mail, e-mail, facsimile, or delivery in person using addresses provided under this Agreement.

Contact for the Agency:

Ashley Paulsrud
Grants/Finance Section Chief
5500 Bishop Boulevard
Cheyenne, WY 82009
307-777-4907
Ashley.paulsrud@wyo.gov

With a copy to:

Lynn Budd (Awarding Official)
Director, Wyoming Office of Homeland Security
5500 Bishop Boulevard
Cheyenne, WY 82009
307-777-8511
Lynn.budd@wyo.gov

- R. 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 the Agency for any infringement or alleged infringement of such patent, trademark, copyright, license, or other restrictions.

- S. 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).
- T. Program Income.** Income attributable to the Agreement shall be returned to the Agency. Subrecipient shall not deposit funds in an interest-bearing account without prior approval by the Agency.
- U. 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.
- V. Sovereign Immunity and Limitations.** Pursuant to Wyo. Stat. § 1-39-104(a), the State of Wyoming and Agency 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.
- W. Taxes.** 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.
- X. Termination of Agreement.** This Agreement may be terminated, without cause, by the Agency upon thirty (30) days written notice. This Agreement may be terminated by the Agency immediately for cause if the Subrecipient fails to perform in accordance with the terms of this Agreement.
- Y. 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 insure 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.
- Z. Time is of the Essence.** Time is of the essence in all provisions of this Agreement.
- AA. Titles Not Controlling.** Titles of sections and subsections are for reference only, and shall not be used to construe the language in this Agreement.

- BB. 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.
- CC. 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 the Agency. The Subrecipients failure to deliver, either personally or via US Mail, postage prepaid, the originally signed counterpart to the Agency within five (5) business days shall be considered a material breach and may result in immediate termination of this Agreement by the Agency.

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10. **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.

WYOMING OFFICE OF HOMELAND SECURITY

Lynn Budd, Director

Date

SUBRECIPIENT

Subrecipient Designee Signature

Date

Attested by:

Date

ATTORNEY'S APPROVAL AS TO FORM

Attorney Signature

Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

Jodi A. Darrough # 237 459
Jodi A. Darrough, Senior Assistant Attorney General

3-14-24

Date