

City of Cody City Council
REVISED - AGENDA

Tuesday, June 2, 2020 – 7:00 p.m. (Pre-Meeting to begin at 6:30 p.m. in Council Chambers)
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

Oath of Office – Officer Thomas Wilshusen

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: Regular Minutes from May 19, 2020.
- b. Authorize the Mayor to sign a letter of support for By Western hands as it relates to their submission for the Wyoming Business Council’s Open Summer Placemaking Grant.
- c. Authorize the mayor to enter into and sign an Agreement for Use of City Property between the City of Cody and Cody Cubs Baseball.
- d. Authorize the discharge of fireworks at the Rodeo Grounds on Sunday May 31st for the Class of 2020 Wild West Graduation Event.

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.

- a. A public hearing to determine if it is in the public interest as it relates to the 2020 Business Ready Community Grant and Loan Application for a Business Committed Project

4. Conduct of Business

- a. Approve Vouchers and payroll in the amount of \$380,630.42.00
- b. Resolution 2020-10

A Resolution Authorizing Submission of Application to the Wyoming Business Council under the Business Ready Community Grant and Loan Program on behalf of the Governing Body of the City of Cody for the Purpose of The Construction of a Manufacturing Facility for use by Wyoming National Laboratories.

Staff Reference: Barry Cook, City Administrator

Spokesperson: James Klessens, Forward Cody

- c. Approve the recapture program relating to the Wyoming National Laboratories Business Ready Community Grant and Loan program application and authorize the Mayor to sign said document
Staff Reference: Barry Cook, City Administrator
Spokesperson: James Klessens, Forward Cody
- d. Approve the agreement to comply with State Statutes and Wyoming Business Council policies in relation to the Wyoming National Laboratories Business Ready Community Grant and Loan program and authorize the Mayor to enter into and sign said agreement.
Staff Reference: Barry Cook, City Administrator
Spokesperson: James Klessens, Forward Cody
- e. Authorize the Mayor to sign and enter into an agreement between the City of Cody and the Yellowstone Regional Airport Joint Powers Board as it relates to a Grant to Construct Access Road and Park Lot, Rehabilitate Access Road and Rehabilitate Runway 4/22 (Pavement Maintenance).
Spokesperson: Bob Hooper, YRA
- f. Consider a request from the “Wild Bunch Gun Fighters” (WBGF) to hold western re-enactment gunfighter shows June 15, 2020 or sooner upon receipt of valid liability insurance through September 26, 2020 on 12th Street between Sheridan Ave and the first alley south of Sheridan Ave. Street Closure and barricades to be set up at 5:00 p.m., while allowing vacated parking spots to be signed for no parking starting at 4:30 p.m. and tear down by 7:00 p.m. Approval conditional upon the receipt of the signed “Conditions for Discharging Weapons in the City of Cody for the WBGF Summer 2020 Re-enactment Shows document, proof of liability insurance and following all Orders issued by the State of Wyoming and Park County Public Health relating to gatherings and the COVID-19 Pandemic.
Staff Reference: Chief Baker
Spokesperson: Paul Lanchbury, Wild Bunch Gun Fighters
Wade French, Cody Trolley (Spectator chairs)
- g. Approve the final plat for the JCA LM Minor Subdivisions, a 2-lot subdivision, subject to conditions.
Staff Reference: Todd Stowell, City Planner

- h. Resolution 2020-11
A Resolution Supporting an Optional One Percent (5th Cent) Sales and Use
Staff Reference: Barry Cook, City Administrator
- i. Resolution 2020-09
A Resolution of the City of Cody, Wyoming Establishing Policies and Procedures for the Tippy Taxi Program.
Staff Reference: Leslie Brumage, Finance Officer
- j. Ordinance 2020-08 – 1st Reading
An Ordinance Amending Title 1 Administration, Chapter 7 Administrative Provisions, Section 1-7-1 Introduction, Article C Appointed Officers and Employees, Section 1-7C-5 Salaries, of the City of Cody Code.
Staff Reference: Leslie Brumage, Finance Officer
- k. Ordinance 2020-09 – 1st Reading
An Ordinance Amending Title 1, Chapter 7, Article C, of the City of Cody Code by Adding Section 8: Clerk and Treasurer
Staff Reference: Scott Kolpitcke, City Attorney
- l. Ordinance 2020-10 1st Reading
An Ordinance Amending Title 4, Chapter 4, Article 1, Section 6 of the City of Cody to Modify the Large Item Pick Up and Tree and Brush Removal Programs
Staff Reference: Phillip Bowman, Public Works Director
- m. Ordinance 2020-13 1st Reading
An Ordinance Amending Title 4, Chapter 4, Article III, Section 13 of the City of Cody to Establish a Large Item Pick Up Charge.
Staff Reference: Phillip Bowman, Public Works Director
- n. Ordinance 2020-11 1st Reading
An Ordinance Providing for the amount of Tax Levy for the City of Cody, Wyoming for the Fiscal Year Ending June 20, 2021.
Staff Reference: Leslie Brumage, Finance Officer
- o. Ordinance 2020-12 1st Reading
An Ordinance Providing for the Annual Appropriation of Money for the Maintenance of the city of Cody, Wyoming for the Fiscal Year Ending June 30, 2021.
Staff Reference: Leslie Brumage, Finance Officer
- p. Ordinance 2020-06 – 2nd Reading

An Ordinance relating to the Annexation to the City of Cody, Wyoming of Lands Owned by Ronald and Kelly Hunt located at 137 Belfry Highway.
Staff Reference: Todd Stowell, City Planner

- q. Ordinance 2020-07 - 2nd Reading
An Ordinance Rezoning Lands Owned by Ronald and Kelly Hunt Located at 137 Belfry Highway to General Business (D-2) with the Entry Corridor Overlay.
Staff Reference: Todd Stowell, City Planner

- r. Ordinance 2020-05 – 2nd Reading
An Ordinance to Enter into a Cable Franchise Agreement with Tri County Telephone Association, Inc., TCT West, Inc., and Tri-Tel Inc.
Staff Reference: Barry Cook , City Administrator and/or Scott Kolpitcke, City Attorney

- 5. Tabled Items
- 6. Matters from Staff Members
- 7. Matters from Council Members
- 8. Adjournment

Upcoming Meetings:

June 9, 2020 – Tuesday – Work Session – 5:00 p.m.

June 16, 2020– Tuesday -Regular Council Meeting – 7:00 p.m.

City of Cody
Council Proceedings
Tuesday, May 19, 2020

A regular meeting of the Cody City Council was held in the Council Chambers at City Hall in Cody, Wyoming on Tuesday, May 19, 2020 at 7:00 p.m.

Present: Mayor Matt Hall, Council Members, Diane Ballard, Glenn Nielson, Jerry Fritz, Landon Greer, Justin Baily and Heidi Rasmussen, City Administrator Barry Cook, City Attorney Scott Kolpitcke, and Administrative Services Officer, Cindy Baker. (Noting Council Member Ballard attending via phone conference)

Absent: None

Mayor Hall called the meeting to order at 7:00 p.m.

Proclamation – Public Works Week May 17-23, 2020

Council Member Greer made a motion seconded by Council Member Rasmussen to approve the Consent Calendar as amended, including approval of Minutes: Regular Minutes from May 5, 2020 and Special Work Session Minutes from April 28, 2020; May 11-13, 2020; approve Vouchers and payroll in the amount of \$1,631,446.16; award Bid 2020-03 to Bobcat of the Big Horn Basin, Inc. for one Bobcat S595 Skid Steer loader, in the amount of \$40,395.2; approve the agreement between the City of Cody and the Cody Kountry Aquatic Team for use of the pool at the Paul Stock Aquatic & Recreation Center; approve use of sidewalk around City Park on August 8th for the First Annual Park County Walk to end Alzheimer's. noting walk will begin at 11:00 and participants will walk for two laps; authorize the Mayor to enter into the Water Service Contract and Assignment of Contract Rights Between the United States and the City of Cody WY and the Shoshone Municipal Water Joint Powers Board.; authorize the closure of Beck Ave from 8th Street to 10th Street on Sunday May 31st from 1:00 p.m. For the Class of 2020 Graduation Event. Street to remain closed until graduation/diplomas acceptance (via drive up) is completed with street reopening approximately at 2:00 p.m.; authorize the Mayor to enter into and sign and Memorandum of Understanding – Professional Services Agreement between Park County and the City of Cody as it relates to the Law Enforcement Center; authorize the Mayor to enter into and sign a Memorandum of Understand and Lease Agreement between the City of Cody and Park County for Use of Law Enforcement Center Property. Vote was unanimous

At 7:10 the Mayor entered into a public hearing to determine if it is in the public interest to transfer ownership of the restaurant liquor license to American Pizza Partners LP dba Pizza Hut located at 736 Yellowstone Ave currently held by Pizza Hut of Cody, Inc. Cindy Baker, Administrative Services Officer provided background information to this request. After calling for comments three times and there being none, the Mayor exited the public hearing at 7: 12 p.m.

Council Member Rasmussen made a motion seconded by Council Member Ballard to approve the transfer of ownership of the restaurant liquor license to American Pizza Partners LP dba Pizza Hut located at 736 Yellowstone Ave currently held by Pizza Hut of Cody, Inc. Vote was unanimous

Council Member Nielson made a motion seconded by Council Member Baily to authorize, upon written request, up to a two-month extension in membership or a refund up to two months for current members, noting request must be made prior to July 1, 2020. Vote was unanimous.

Council Member Fritz made a motion seconded by Council Member Rasmussen to approve the preliminary plat for the 2-lot minor subdivision by Thomas Schulz. Vote was unanimous.

Resolution 2020-08

Council Member Fritz made a motion seconded by Council Member Baily to adopt the 2020 Electrical Distribution Standards Policy Director. Vote was unanimous.

Ordinance 2020-06 – First Reading

An Ordinance relating to the Annexation to the City of Cody, Wyoming of Lands Owned by Ronald and Kelly Hunt located at 137 Belfry Highway. Council Member Nielson made a motion seconded by Council Member Greer to pass Ordinance 2020-06 on First Reading. Vote was unanimous.

Ordinance 2020-07 – First Reading

An Ordinance Rezoning Lands Owned by Ronald and Kelly Hunt Located at 137 Belfry Highway to General Business (D-2) with the Entry Corridor Overlay. Council Member Rasmussen made a motion seconded by Council Member Baily to pass Ordinance 2020-07 on First Reading. Vote was unanimous.

Ordinance 2020-05 – First Reading

An Ordinance to Enter into a Cable Franchise Agreement with Tri County Telephone Association, Inc., TCT West, Inc., and Tri-Tel Inc. Council Member Greer made a motion seconded by Council Member Fritz to pass Ordinance 2020-05 on First Reading. Vote was unanimous.

There being no further action Mayor Hall adjourned the meeting at 8:10 p.m.

Mayor, Matt Hall

City Clerk, Cindy Baker



City of Cody Agenda Request Form



In order to fully prepare the Council for their meetings, individuals wishing to appear before the Council are asked to complete the following information prior to placement on the agenda. You will be notified of the date you have been scheduled to appear. You may also be contacted by City staff prior to the meeting to address concerns or provide additional information. Some requests may not require appearing before the Council for approval.

Please provide the following detailed information relating to your concern or request. **This form (and any relevant attachments) should be submitted in a timely manner, preferably at least 14 days prior to allow sufficient time for internal review. Untimely submission may result in the inability to be considered for approval.** Council packets are prepared in advance prior to Tuesday meetings. Meetings are held the first and third Tuesday of each month. Please complete the following information in full and return to City of Cody PO Box 2200 Cody, WY 82414 (Fax 307-527-6532),

Name of person to appear before the Council Graham Jackson

Organization Represented By Western Hands

Date you wish to appear before the Council June 2, 2020

Email Address grahamincody@yahoo.com Telephone 307.250.0802

Names of all individuals who will speak on this topic Graham Jackson

Event Title (if applicable) _____

Date(s) of Event (if applicable) _____

Location of Event (if applicable) _____

Full description of topic to be discussed (include all relevant information including any street closures, times of event, any special requirements or request etc., attach additional sheet if necessary and map showing location of event where applicable) By Western Hands is currently working on developing a Public Space between the alley and our building on 12th Street. Please see attached. drawing. We have developed a Fundraising Plan for this outdoor space, which includes donations and grants. We have been working with the Wyoming Business Council on their Open Summer Placemaking Grant and would appreciate a Letter of Support from the Cody City Council to complete this grant request. The grant application is for \$2,500 and, if received, would be earmarked for construction costs. The Public Space is adjacent to the alley and close to the Public Parking off the same alley. We envision the area to be used by locals and tourists.

Which City employee(s) have you spoken to about this issue? Matt Hall, Todd Stowell and

Leslie Brumage

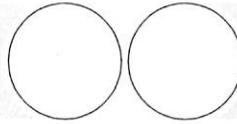
Signature  Date May 22, 2020



PRECISION PLAN AND DESIGN INC.
A CUSTOM PLAN SERVICE
300 12TH STREET
CODY, WYOMING 82414
307.582.6221 | 307.573.2764
www.precisionplananddesign.com

PROJECT LOCATION
CODY, WY

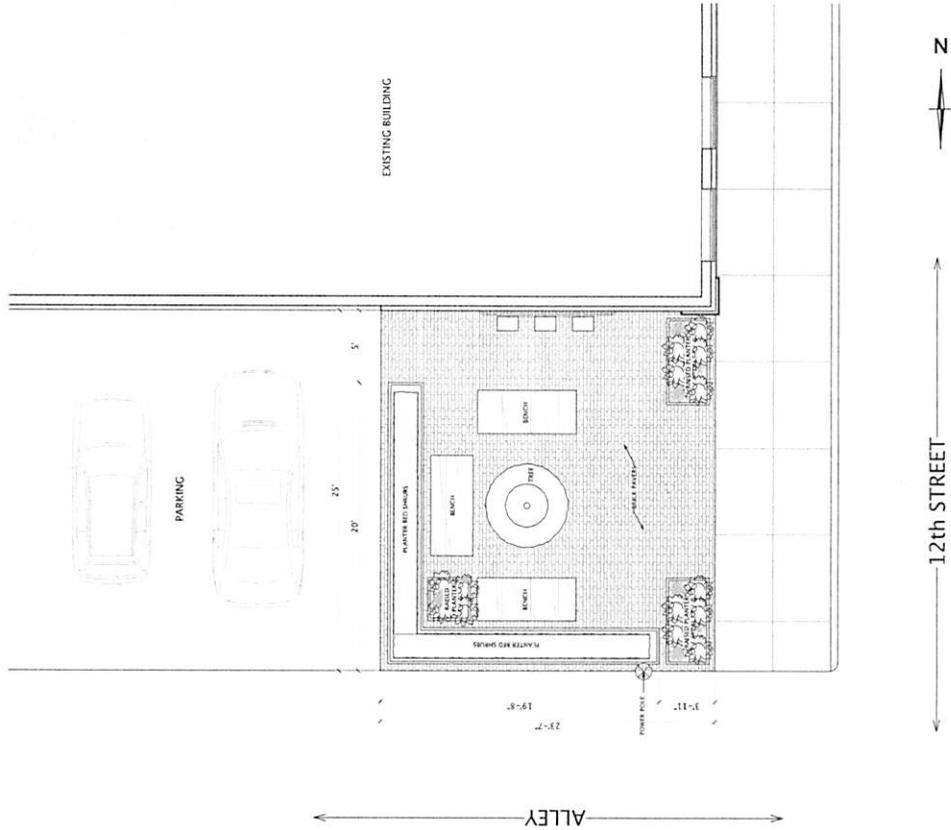
BY WESTERN HANDS
RICK HENDRICH
CODY, WYOMING 82414
PH: 307.699.8148
hendrichbuilding@outlook.com



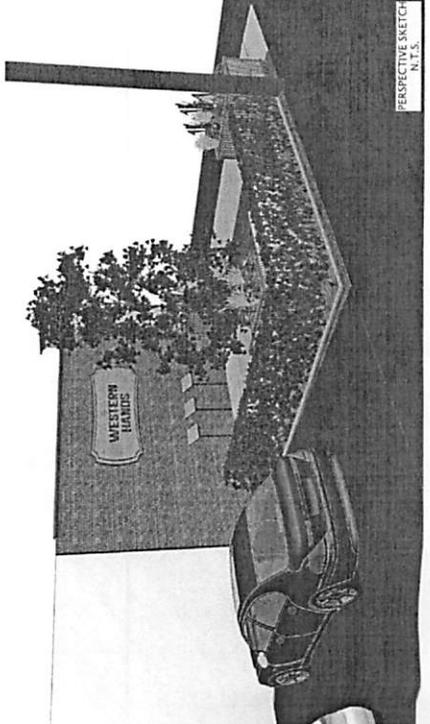
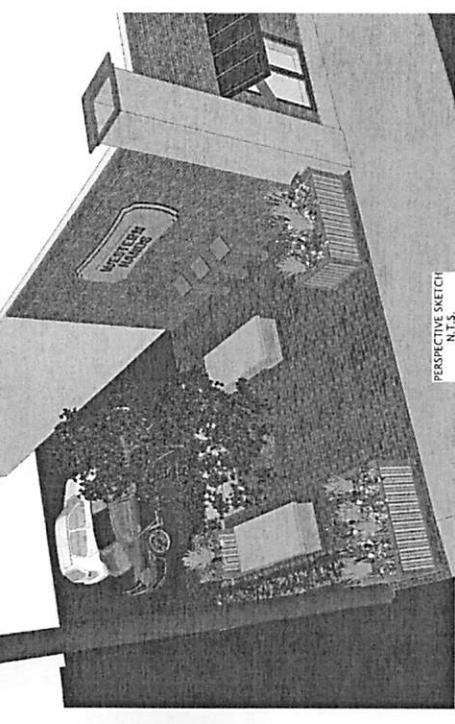
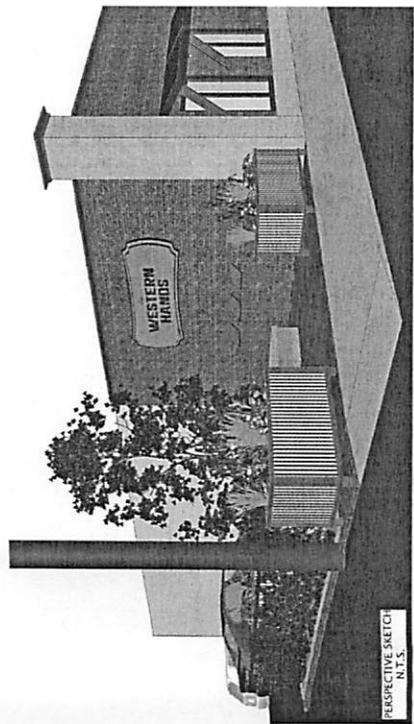
NOTE: ALTHOUGH GREAT CARE WAS TAKEN TO VERIFY THE ACCURACY OF THE INFORMATION AND THIS PLAN TO CREATE THE BEST POSSIBLE REPRESENTATION OF THE FINISHED PROJECT, THE ARCHITECT ASSUMES NO LIABILITY FOR ANY PROJECTS THAT MAY BE CONSTRUCTED FROM THIS PLAN. THE ARCHITECT MAKES NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, REGARDING THE ACCURACY, COMPLETENESS, OR SUITABILITY OF THIS PLAN. ALL INFORMATION IS SUBJECT TO CHANGE PER PERMITS AND STANDARDS.

DATE: 05.14.20
REVISION: 3

PROJECT NO.
1722



PATIO AREA PLAN VIEW
SCALE 1/4" = 1'-0"



AGREEMENT FOR USE OF CITY PROPERTY

THE PARTIES to this agreement are the City of Cody, Wyoming, a municipal corporation (CITY) and Cody Cubs Baseball, a Wyoming corporation (CCB). This agreement is dated as of the date last executed by the parties below.

RECITALS

a. CITY is a municipal corporation in Wyoming, and is the owner of certain real property in Cody, Wyoming, known as the "Legion Baseball Fields".

b. CCB sponsors and promotes competitive youth baseball teams in Cody, Wyoming. Those teams use the CITY'S Legion baseball fields for practices, games and tournaments.

c. Due to the COVID-19 pandemic, and the resulting revenue shortfalls to the CITY, CITY lacks the funding to hire or provide staff this year to maintain the Legion Baseball Fields and the adjoining facilities, such as the restrooms, in their customary manner.

c. CITY and CCB wish to enter into this Agreement for Use of City Equipment (AGREEMENT) to allow CCB to use certain equipment owned by the CITY so that members of CCB can perform the work and services which the CITY cannot provide.

NOW, THEREFORE, in consideration of the mutual covenants, assurances, conditions, representations and promises described herein, the parties agree as follows:

1. Subject to the terms and conditions of this Agreement, CITY authorizes CCB to use the following equipment to help maintain and perform

work on the Legion Baseball Fields during the 2020 baseball season:

- a. John Deere 1200H Hydro Bunker & Field Rake (aka bunker rake) (City of Cody vehicle ID # i05).
- b. Chalker and chalk (for infield basepaths and foul lines)
- c. Paint machine and paint (for outfield foul lines)
- d. Hand tools: Rakes.

2. As a condition of CITY allowing CCB to use the equipment described above, CCB agrees that it shall comply with the following terms and conditions:

- a. CCB shall not allow any of its members, players, coaches, volunteers, parents or others to use CITY equipment, unless the person has received training and instruction from CITY personnel on the proper use and care of the equipment.
- b. CCB shall not permit any person under the age of 20 to operate the bunker rake.
- c. CCB shall use the equipment in a proper manner for its intended purpose, consistent with the instructions and training provide by the CITY staff, and shall not misuse or abuse the equipment.
- d. CCB shall empty the garbage cans following each game, and during games as necessary.
- e. CCB shall clean the restrooms at least once a week, and shall clean them at least once a day on when games are played.
- f. CCB shall indemnify and hold CITY harmless for any and all losses, damages, claims, legal actions or proceedings, and lawsuits of any kind for bodily injury or death to any persons, and property damage arising out of CCB use of CITY equipment, or arising out of

CCB's negligent or intentional acts, errors or omissions. This indemnification shall include, but not be limited to paying for reasonable attorney's fees and costs incurred by the CITY in defending against any such claims or lawsuits, and shall also include any and all judgments, settlements, decrees and all amounts paid by or on behalf of CITY arising out of CCB's use of CITY equipment, or arising out of CCB's negligent or intentional acts, errors or omissions

g. CCB shall be responsible for repairing or replacing damage caused by CCB to CITY equipment. CITY may, at its option, perform such repairs or replace the equipment, and CCB shall reimburse CITY for any and all costs, fees and expenses to repair or replace CITY equipment damaged or destroyed by CCB, or CCB's agents, representatives, employees, volunteers, guests, coaches, players and others acting on CCB's behalf. CCB shall ensure that all equipment is returned to the CITY when this AGREEMENT terminates.

3. This Agreement shall terminate on September 1, 2020, unless sooner terminated pursuant to the terms described herein. This Agreement may be terminated by either party for any reason by giving written notice to the other party at least thirty (30) days in advance of the termination.

4. CCB assumes all liability for itself, its agents, its representatives, employees, guests, invitees, coaches, players and volunteers with respect to the use of CITY equipment pursuant to this agreement. CITY shall not be liable or responsible for damage or loss to CCB's personal property, equipment or machinery. CCB shall provide such insurance as is reasonable to protect CCB's personal property. CCB shall also provide general liability insurance in an amount not less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate. CCB shall provide proof of such insurance to CITY.

5. CCB shall comply with all applicable local, state and federal laws, statutes, rules, regulations, codes and ordinances, including, but not limited to, City of Cody regulations.

6. By entering into this agreement, the CITY does not waive its sovereign immunity or governmental immunity, and does not waive the immunities, defenses and limitations provided under the Wyoming Constitution and Wyoming law, and expressly reserves the right to assert immunity as a defense to any action arising under this AGREEMENT.

7. CCB shall not assign or transfer its rights under this AGREEMENT.

8. This AGREEMENT contains the entire understanding of the parties and there are no other promises, covenants, assurances or understandings beyond the scope of this written agreement.

CODY CUBS BASEBALL:

BY: _____

June _____, 2020.

CITY OF CODY, WYOMING:

MATT HALL, MAYOR

June _____, 2020.

ATTEST:

CYNTHIA D. BAKER
CLERK

DATE: _____

City of Cody Agenda Request Form

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Please provide the following detailed information relating to your concern or request. **This form (and any relevant attachments) should be submitted in a timely manner, preferred lead time 14 days minimum to allow sufficient time for internal review. Untimely submission may result in the inability to be considered for approval.** Council packets are prepared in advance prior to the Tuesday meetings. Note Meetings are held the first and third Tuesday of each month. Please complete the following information in full and return to City of Cody PO Box 2200 Cody, WY 82414 (Fax 307-527-6532),

Name of person to appear before the Council MARC C. THOMPSON

Organization Represented PARENTS OF CHS GRADUATES

Date you wish to appear before the Council _____

E-Mail Address thompsonlaw94@gmail.com Telephone 307 587 3351

Names of all individuals who will speak on this topic _____

Event Title (if applicable) WILD WEST GRADUATION

Date(s) of Event (if applicable) MAY 31, 2020

Location of Event (if applicable) CODY STAMPEAR ROдео GROUNDS

Full description of topic to be discussed (include all relevant information including any street closures, times of event, any special requirements or request etc., attach additional sheet if necessary and map showing location of event where applicable) _____

CHRIS GOOD OF PYRO TECH PROFESSIONALS
IS LAUNCHING FIREWORKS AT END OF EVENT

HE LAUNCHES ANNUALLY FOR THE CODY STAMPEAR
AND IS SAFE AND PROFESSIONAL

EVENT HAS BEEN APPROVED BY PARK COUNTY HEALTH
OFFICER AND STATE HEALTH OFFICER.

Which City employee(s) have you spoken to about this issue? MR. COOK

Signature [Signature] Date 5/31/2020

Approved Ray A Cook 5/29/20
Administrator.



(no subject)

1 message

Chuck Baker <CBaker@codypd.net>
To: Barry Cook <bcook@cityofcody.com>

Fri, May 29, 2020 at 1:43 PM

5-5-2: PERMIT FOR PUBLIC DISPLAY:  

The city council shall have the power to grant permits within the city limits for supervised public displays of fireworks by individuals, the city, amusement parks and other organizations and groups, and to adopt reasonable rules and regulations for the granting of such permits. Every such display shall be handled by a competent operator and shall be of a character and so located, discharged and fired as not to be hazardous to property or to endanger any person. No permit shall be transferable or assignable. (Ord. 79-18)

Chuck Baker, Chief of Police

Cody Police Department

cbaker@codypd.net | (307) 527-8723

1402 River View Dr, Cody, WY 82414-3127

Submit an anonymous crime tip.



Report Criteria:

Invoice.Detail.Input date = 05/26/2020
Invoice.Batch = {NOT LIKE} "1"

Secondary Name	Invoice	Description	Invoice Date	Total Cost
ANIXTER INC (130622)				
	4550287-00	Pole, lex Std 2908-45808T4	05/08/2020	5,857.00
	4591369-00	1/0 TRI-PLEX WIRE	05/15/2020	490.80
	4591369-00	1/0 TRI-PLEX WIRE	05/15/2020	490.88
	4598632-00	CLEVIS, CONNECTORS, GUY MARKERS	05/15/2020	108.00
	4598632-00	CLEVIS, CONNECTORS, GUY MARKERS	05/15/2020	659.93
Total :				7,606.61
Total ANIXTER INC (130622):				7,606.61
BORDER STATES INDUSTRIES, INC (1420)				
	919917951	EQUIPMENT LOCKS	05/05/2020	364.27
	919970780	4/0 ELBOWS	05/14/2020	1,154.16
	919970780	4-WAY MODULES	05/14/2020	384.72
	919970780	GROUND ROD CLAMP	05/14/2020	429.25
Total :				2,332.40
Total BORDER STATES INDUSTRIES, INC (1420):				2,332.40
C & C WELDING, INC (1690)				
	24183	SWEEPER REPAIR	05/01/2020	360.00
Total :				360.00
Total C & C WELDING, INC (1690):				360.00
CENTURY LINK (10091)				
	51920	UTILITIES - CENTURY LINK	05/19/2020	41.01
Total :				41.01
Total CENTURY LINK (10091):				41.01
CITY OF CODY (2260)				
	053120	UTILITIES - CITY OF CODY	05/31/2020	2,177.74
	053120	UTILITIES - CITY OF CODY	05/31/2020	5,732.70
	053120	UTILITIES - CITY OF CODY	05/31/2020	131.24
	053120	UTILITIES - CITY OF CODY	05/31/2020	587.64
	053120	UTILITIES - CITY OF CODY	05/31/2020	854.59
	053120	UTILITIES - CITY OF CODY	05/31/2020	5,942.02
	053120	UTILITIES - CITY OF CODY	05/31/2020	8,694.29
	053120	UTILITIES - CITY OF CODY	05/31/2020	32.65
	053120	UTILITIES - CITY OF CODY	05/31/2020	4,324.10
	053120	UTILITIES - CITY OF CODY	05/31/2020	4,258.31
	053120	UTILITIES - CITY OF CODY	05/31/2020	47.59
	053120	UTILITIES - CITY OF CODY	05/31/2020	5,944.28-
	053120	UTILITIES - CITY OF CODY	05/31/2020	1,305.14
	053120	UTILITIES - CITY OF CODY	05/31/2020	1,305.14
	053120	UTILITIES - CITY OF CODY	05/31/2020	526.91
	053120	UTILITIES - CITY OF CODY	05/31/2020	813.19
	053120	UTILITIES - CITY OF CODY	05/31/2020	39.00
	053120	UTILITIES - CITY OF CODY	05/31/2020	24.00

Secondary Name	Invoice	Description	Invoice Date	Total Cost
Total :				30,851.97
Total CITY OF CODY (2260):				30,851.97
ELEMENT MATERIALS TESTING (132059)				
	13.1560.73	REFUND UTILITY DEPOSIT	05/08/2020	500.00
Total :				500.00
Total ELEMENT MATERIALS TESTING (132059):				500.00
ENNIST III, ROBERT F (131798)				
BIG HORN FOOD SERVICES	40109	CAN LINERS	05/11/2020	71.94
Total :				71.94
Total ENNIST III, ROBERT F (131798):				71.94
FITZSIMMONS, TOM (132265)				
	7.1170.23	REFUND UTILITY DEPOSIT	05/08/2020	381.62
Total :				381.62
Total FITZSIMMONS, TOM (132265):				381.62
GRANICUS, INC (128565)				
	126136	GRANICUS SOFTWARE	04/30/2020	11,493.05
Total :				11,493.05
Total GRANICUS, INC (128565):				11,493.05
HARRISON, TIMOTHY BRUCE (131713)				
BLUE ASPEN ENTERPRISES LLC	200013	REPAIR TO ICE MACHINE AT AUDITORIUM	04/02/2020	262.50
Total :				262.50
Total HARRISON, TIMOTHY BRUCE (131713):				262.50
HENDERSON, BECK (132266)				
	50720	REFUND OPEN CONTAINER PERMIT EVENT CANCELLED	05/07/2020	50.00
Total :				50.00
Total HENDERSON, BECK (132266):				50.00
HOWERTON, JENIE (132269)				
	14.1360.49	REFUND UTILITY DEPOSIT	05/15/2020	323.62
Total :				323.62
Total HOWERTON, JENIE (132269):				323.62
ICON ENTERPRISES INC (129304)				
CIVICPLUS	199907	FY20-21 WEBSITE HOSTING	05/19/2020	7,696.44
CIVICPLUS	199908	FY20-21 CIVIC REC HOSTING	05/19/2020	29,833.33

Secondary Name	Invoice	Description	Invoice Date	Total Cost
Total :				37,529.77
Total ICON ENTERPRISES INC (129304):				37,529.77
INDUSTRIAL CHEM LABS (132270)				
	302328	LIFT STATION DEGREASER	04/15/2020	105.36
Total :				105.36
Total INDUSTRIAL CHEM LABS (132270):				105.36
KOHN, SUSAN (132272)				
	12.0210.13	REFUND UTILITY DEPOSIT	05/15/2020	30.29
Total :				30.29
Total KOHN, SUSAN (132272):				30.29
METZLER AND MOORE REALTY (132271)				
HAT LAND AND LIVESTOCK	17.1716.15	REFUND UTILITY DEPOSIT	05/21/2020	327.35
Total :				327.35
Total METZLER AND MOORE REALTY (132271):				327.35
MSDSOONLINE INC (131452)				
VELOCITYEHS	219003	MSDS SUBSCRIPTION	05/08/2020	3,928.00
Total :				3,928.00
Total MSDSONLINE INC (131452):				3,928.00
NORCO, INC. (128948)				
	29174627	CYLINDER RENT	04/30/2020	23.40
Total :				23.40
Total NORCO, INC. (128948):				23.40
PARK COUNTY ANIMAL SHELTER (5120)				
	051120	RESTITUTION - MICHELLE JONES MC-1910-048	05/11/2020	50.00
Total :				50.00
Total PARK COUNTY ANIMAL SHELTER (5120):				50.00
PARK COUNTY SCHOOL DIST #6 (8970)				
	13639	REFUND SRO REIMBURSEMENT DUE TO SCHOOL CLOSURE	05/15/2020	18,969.05
Total :				18,969.05
Total PARK COUNTY SCHOOL DIST #6 (8970):				18,969.05
PROFFIT, DOUGLAS J (128647)				
PROFFITS ENTERPRISES LLC	10839	SPRING CLEAN UP GREYBULL/REC CENTER HILL	04/30/2020	1,566.70

Secondary Name	Invoice	Description	Invoice Date	Total Cost
Total :				1,566.70
Total PROFFIT, DOUGLAS J (128647):				1,566.70
QA BALANCE SERVICES INC (8245)				
	12062	LAB EQUIPMENT CALIBRATION	05/06/2020	370.00
	12062	LAB EQUIPMENT CALIBRATION	05/06/2020	370.00
Total :				740.00
Total QA BALANCE SERVICES INC (8245):				740.00
QUALITY ASPHALT PAVING, INC (125010)				
	2021	ASPHALT PATCHING	05/05/2020	787.50
	2021	ASPHALT PATCHING	05/05/2020	528.75
	2021	ASPHALT PATCHING	05/05/2020	337.50
Total :				1,653.75
Total QUALITY ASPHALT PAVING, INC (125010):				1,653.75
ROCKY MOUNTAIN POWER (7570)				
	051820	UTILITIES - ROCKY MOUNTAIN POWER	05/18/2020	28.19
	051820	UTILITIES - ROCKY MOUNTAIN POWER	05/18/2020	215.90
Total :				244.09
Total ROCKY MOUNTAIN POWER (7570):				244.09
SKAGGS COMPANIES (131474)				
	450_A_11486_1	BULLET PROOF VESTS GRANT	03/10/2020	908.85
Total :				908.85
Total SKAGGS COMPANIES (131474):				908.85
STOCKWELL, BRADY (131393)				
	2277	REC CENTER REFUND	05/11/2020	25.00
Total :				25.00
Total STOCKWELL, BRADY (131393):				25.00
SYSTEMS GRAPHICS INC (129162)				
ADVANCED INFO SYSTEMS	15140	OUTSOURCE BILLS	05/13/2020	15.77
ADVANCED INFO SYSTEMS	15140	OUTSOURCE BILLS	05/13/2020	97.46
ADVANCED INFO SYSTEMS	15140	OUTSOURCE BILLS	05/13/2020	89.24
ADVANCED INFO SYSTEMS	15140	OUTSOURCE BILLS	05/13/2020	88.63
ADVANCED INFO SYSTEMS	15140	OUTSOURCE BILLS	05/13/2020	110.14
ADVANCED INFO SYSTEMS	15143	OUTSOURCE BILLS	05/19/2020	6.59
ADVANCED INFO SYSTEMS	15143	OUTSOURCE BILLS	05/19/2020	40.76
ADVANCED INFO SYSTEMS	15143	OUTSOURCE BILLS	05/19/2020	37.32
ADVANCED INFO SYSTEMS	15143	OUTSOURCE BILLS	05/19/2020	37.07
ADVANCED INFO SYSTEMS	15143	OUTSOURCE BILLS	05/19/2020	46.06
Total :				569.04

Secondary Name	Invoice	Description	Invoice Date	Total Cost
Total SYSTEMS GRAPHICS INC (129162):				569.04
TECH PRODUCTS (126248)				
	90562	POLE TAGS FOR TESTING	05/06/2020	105.38
Total :				105.38
Total TECH PRODUCTS (126248):				105.38
T-O ENGINEERS INC (131708)				
	171133-11787	BEACON HILL WATER TANK	04/13/2020	3,350.00
	171133-11787	BEACON HILL WATER TANK	04/13/2020	1,650.00
	171133-11788	BEACON HILL WATER TANK DESIGN	04/13/2020	750.00
	171133-11876	BEACON HILL WATER TANK	05/11/2020	2,118.88
	171133-11876	BEACON HILL WATER TANK	05/11/2020	1,043.62
Total :				8,912.50
Total T-O ENGINEERS INC (131708):				8,912.50
TUNDRA GENERAL CONTRACTORS, LLC (130416)				
	9201973	MUSHROOM INSTALLED IN POOL	03/17/2020	973.96
Total :				973.96
Total TUNDRA GENERAL CONTRACTORS, LLC (130416):				973.96
WARD, ERICKA (131771)				
	2.0970.29	REFUND UTILITY DEPOSIT	05/14/2020	83.73
Total :				83.73
Total WARD, ERICKA (131771):				83.73
WARREN, WESLEY (132267)				
OR PETERSON, ELIZABETH	9.0740.17	REFUND UTILTIY DEPOSIT	05/07/2020	26.25
Total :				26.25
Total WARREN, WESLEY (132267):				26.25
WESCO RECEIVABLES CORP (131137)				
WESCO DBA:WESCO/KVA/MODERN	476359	LIGHTING ARRESTORS	05/11/2020	202.80
WESCO DBA:WESCO/KVA/MODERN	476359	LIGHTING ARRESTORS	05/11/2020	405.60
WESCO DBA:WESCO/KVA/MODERN	476359	LIGHTING ARRESTORS	05/11/2020	202.80
WESCO DBA:WESCO/KVA/MODERN	476359	LIGHTING ARRESTORS	05/11/2020	202.80
WESCO DBA:WESCO/KVA/MODERN	476359	LIGHTING ARRESTORS	05/11/2020	202.80
WESCO DBA:WESCO/KVA/MODERN	476359	LIGHTING ARRESTORS	05/11/2020	135.20
Total :				1,352.00
Total WESCO RECEIVABLES CORP (131137):				1,352.00
WESTERN UNITED ELECTRIC SUPPLY (10605)				
	6009590	WILDLIFE BUSHING COVERS	05/07/2020	211.02
	6010006	MISC CONNECTORS	05/13/2020	995.22

Secondary Name	Invoice	Description	Invoice Date	Total Cost
Total :				1,206.24
Total WESTERN UNITED ELECTRIC SUPPLY (10605):				1,206.24
WHITEHEAD, AHSLEY (132268)				
	5.0160.24	REFUND UTILITY DEPOSIT	05/08/2020	16.39
Total :				16.39
Total WHITEHEAD, AHSLEY (132268):				16.39
WY ASSOC OF SHERIFFS & CHIEFS (10705)				
	001	ANNUAL WASCOP DUES	05/13/2020	250.00
Total :				250.00
Total WY ASSOC OF SHERIFFS & CHIEFS (10705):				250.00
WYOMING CHILD SUPPORT (132047)				
	5192020	Garnishment	05/19/2020	225.23
Total :				225.23
Total WYOMING CHILD SUPPORT (132047):				225.23
WYOMING DEPARTMENT OF WORKFORCE SERVICES (10810)				
	52620	UNEMPLOYMENT FOR 1ST QTR	05/26/2020	459.42
	52620	UNEMPLOYMENT FOR 1ST QTR	05/26/2020	44.94
	52620	UNEMPLOYMENT FOR 1ST QTR	05/26/2020	143.00
	52620	UNEMPLOYMENT FOR 1ST QTR	05/26/2020	503.40
	52620	UNEMPLOYMENT FOR 1ST QTR	05/26/2020	287.81
	52620	UNEMPLOYMENT FOR 1ST QTR	05/26/2020	2,910.10
	52620	UNEMPLOYMENT FOR 1ST QTR	05/26/2020	.32
	52620	UNEMPLOYMENT FOR 1ST QTR	05/26/2020	2.03
	52620	UNEMPLOYMENT FOR 1ST QTR	05/26/2020	.21
	52620	UNEMPLOYMENT FOR 1ST QTR	05/26/2020	8.12
Total :				4,359.35
Total WYOMING DEPARTMENT OF WORKFORCE SERVICES (10810):				4,359.35
WYOMING PEACE OFFICERS ASSC. (127646)				
	2020	ANNUAL DUES - 22 OFFICERS	05/13/2020	20.00
	2020	ANNUAL DUES - 22 OFFICERS	05/13/2020	160.00
	2020	ANNUAL DUES - 22 OFFICERS	05/13/2020	30.00
	2020	ANNUAL DUES - 22 OFFICERS	05/13/2020	10.00
Total :				220.00
Total WYOMING PEACE OFFICERS ASSC. (127646):				220.00
Grand Totals:				138,676.40

<u>GL Period</u>	<u>Amount</u>
05/20	138,676.40
Grand Totals:	<u>138,676.40</u>

Vendor number hash: 4531905
Vendor number hash - split: 7532869
Total number of invoices: 47
Total number of transactions: 99

<u>Terms Description</u>	<u>Invoice Amount</u>	<u>Discount Amount</u>	<u>Net Invoice Amount</u>
Open Terms	138,676.40	.00	138,676.40
Grand Totals:	<u>138,676.40</u>	<u>.00</u>	<u>138,676.40</u>
		Payroll 05/20/20	241,954.02
			<u>380,630.42</u>

Report Criteria:

Invoice.Detail.Input date = 05/26/2020
Invoice.Batch = {NOT LIKE} "1"

RESOLUTION OF SUPPORT

RESOLUTION NO. 2020-10

**A RESOLUTION AUTHORIZING SUBMISSION OF
APPLICATION TO THE WYOMING BUSINESS COUNCIL
UNDER THE BUSINESS READY COMMUNITY GRANT AND
LOAN PROGRAM ON BEHALF OF THE GOVERNING BODY OF
THE CITY OF CODY FOR THE PURPOSE OF:**

**THE CONSTRUCTION OF A MANUFACTURING FACILITY
FOR USE BY WYOMING NATIONAL LABORATORIES.**

WITNESSETH

WHEREAS, the Governing Body of the City of Cody desires to enter into a partnership with Forward Cody Wyoming, Inc, and WYOMING NATIONAL LABORATORIES, and submit a proposal to the Business Ready Community Grant to assist in financing this project; and

WHEREAS, the Governing Body of the City of Cody recognizes that high tech ventures are a compatible industry in the Cody area and is supportive of Forward Cody Wyoming's effort to grow such business including supporting incentives to encourage businesses to grow and expand in the community, and

WHEREAS, the public benefit of this project will include direct and indirect employment of high-quality positions, the resultant economic impact throughout the community, and the establishment of a specialized technology company which is poised to spur other such ventures, and

WHEREAS, the specific goals and measures of success of this project are:

- The completion of a headquarters facility of approximately 10,800 square feet by October 31, 2021.
- Employing 96 full time positions at an average annual wage of \$62,171 in the first five years of operation.

WHEREAS, the Business Ready Community Grant requires that certain criteria be met, as described in the Wyoming Business Council's Rules governing the program, and to the best of our knowledge this application meets those criteria; and

WHEREAS, the Governing Body of the City of Cody plans to provide cash match to this Business Ready Community Grant from the following source(s):

- A grant to Forward Cody from the Economic Development Administration (EDA) - \$2,138,198

WHEREAS, the Governing Body for the City of Cody has approved a comprehensive Operation and Maintenance plan including projected expenses and project income sources extending the life of the asset(s); and

WHEREAS, the Governing Body for the will use the revenue recaptured from this project to enhance the ability of the Cody community to further economic development efforts including operational support, special projects, studies and business finance, and

WHEREAS, in the event of any project cost overruns, Forward Cody through the proposed budget has agreed to provide funding in the amount necessary to complete the project. In the event of cost overruns, WYOMING NATIONAL LABORATORIES has agreed to provide any additional funding necessary to complete the project, and

WHEREAS, the Governing Body of the City of Cody, Wyoming understand the state statutes regarding contracts for public improvements and agrees to follow state procurement standards inclusive of W.S. § 115-1-113 and W.S. § 16-6-1001 et seq.; and

WHEREAS, the Governing Body of the City of Cody, Wyoming understand the state statutes regarding the Wyoming Preference Act (W.S. § 16-6-201 to W.S. § 16-6-206) and will adhere to this statute throughout the project; and

WHEREAS, the City of Cody held a public hearing on June 2, 2020 and provided project information through other means including social media to solicit awareness and testimony from citizens, and gave full consideration to all comments received; and

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE City of Cody, that a grant application in the amount of \$2,138,198 in grant funding be submitted to the Wyoming Business Council for consideration of assistance in funding the Wyoming National Laboratories Facility.

BE IT FURTHER RESOLVED, that James Klessens, CEO/President of Forward Cody Wyoming, Inc. is hereby designated as the authorized representative. to act on behalf of the Governing Body on all matters relating to this grant application.

PASSED, APPROVED AND ADOPTED THIS 2nd day of June, 2020.

By: _____

ATTEST:

CERTIFICATE

I, Cindy Baker, Administrative Services Director hereby certify that the foregoing Resolution was adopted by the City of Cody at a public meeting held on June 2, 2020 and that the meeting was held accordingly to law; and that said Resolution has been duly entered in the permanent record of the City of Cody.

Revenue Recapture Plan

Wyoming National Laboratories Business Committed Application

Revenues recaptured from Forward Cody projects serve to develop a long term sustained economic development effort for the community. As defined in Administrative Rule, the net income derived from the funds may be retained in the community for the furtherance of economic development activity, including use of up to 50% for operations. Recent rules revisions require a return of 25% of the net income to the Wyoming Business Council.

Each year, Forward Cody meets with the City of Cody to define the proposed uses of the funds in conjunction with particular projects. These uses have remained consistent over time and include:

- 50% Operations
- 25% Revolving Loan Fund
- 10% Special Studies Pool
- 10% Special Community Projects
- 5% Property Management

Uses to date

All net income at this point has been either used proportionally for operations or invested in the Grow Cody Fund. The Fund is housed in a separate account with an asset value of \$274,722 on March 31, 2020. Up to that time, the Board approved uses for a feasibility study for the George Farms Dairy (\$5,000), the Gunsmithing Study (\$5,000) and for a Transportation Planning Effort in Park County (\$5,000). In May 2016, the Board approved a loan to the Light Manufacturing Incubator for \$16,391. These funds were used in an upgrade of the facility's electrical system to support a gun manufacturer, Gunwerks use of the building. This loan has been paid in full. In 2017, Forward Cody funded a conceptual plan for a new Visitor's Center for the Cody Country Chamber of Commerce (\$5,000). In mid-summer 2018, Forward Cody utilized \$26,032 to fund one-half of the cost of an HVAC system in the Light Manufacturing Incubator. This note will be paid in 4 separate increments until full paid in July of 2022.

Risk Management

The assets deployed on behalf of the community all carry the risk of maintenance through the aging of infrastructure. In January of 2017, the Board approved a Cost Segregation Study report authored by the Property Management Committee. This report takes in to account the value of real estate at completion of the construction and the segregates the cost of components with a shorter life expectancy. (ie: roof, furnace, carpet) While depreciation normally serves this purpose, justifying the 39 year depreciation on an asset such as a furnace with a 15 year life expectancy is risky at best. The Committee determined that a value could be defined to provide replacement of failed components and not place the remaining assets in jeopardy. It also does not rely on the organization's general fund for large maintenance items.

The initial board action set aside \$87,895 of the Grow Cody Fund toward this purpose. Additionally, 25% of net proceeds attributable to the Grow Cody Fund will be encumbered annually. This added \$12,272.25 in 2018 and \$11,422.75 in 2019 for a current encumbrance of \$111,590.

The unencumbered balance of the Grow Cody Fund is \$143,050.

The Wyoming National Laboratories Project:

Forward Cody will construct a 10,800 square foot facility for Wyoming National Laboratories to establish their company headquarters in Cody. The facility will be constructed on a 5-acre tract in the Yellowstone Regional Airport Business Park. The facility will be leased at an annual rate of \$120,000 per year, triple net. The lease is fixed for 20 years.

The following is a summary of the revenue and expenses projected over the 20-year lease.

<u>Income</u>	
Annual Lease Payment -	\$120,000
<u>Expense</u>	
YRA Lease of Lot 4 **	\$ 17,424
Ownership Costs **	<u>\$ 0**</u>
Net Income	\$102,576

*** All maintenance, taxes and insurance are paid by tenant.*

Proposed Distribution of Recaptured Funds

This project is jointly funded by the Wyoming Business Council and the U.S. Department of Commerce Economic Development Administration. The percentage involvement is equal. The Wyoming Business Council requires 25% of net income for the project be returned to the State. It would stand to reason that this return would be based on the net income attributable to the Wyoming Business Council Investment. The following table depicts the annual distribution of project revenues related to the WBC Investment.

	Net Income	Net Attributable To WBC Investment (50%)	25% to State	75% to Grow Cody Fund
Annual	\$ 102,576	\$ 51,288	\$ 12,822	\$ 38,466
20 Yrs.	\$ 2,051,520	\$ 1,025,760	\$256,440	\$ 769,320

Return on Investment

The lease for this project was calculated using a 3.0% capitalization rate. This lower than market rate was utilized to accommodate the high capital need by the company for the installation of equipment and personnel to grow the company.

The Cash on Cash -Return on Investment can be calculated by simply taking the annual revenue projection (net) and dividing it by the project cost.

<u>Annual Net Income</u>	<u>\$102,576</u>	= 2.44 % ROI
Project Cost	\$4,200,000	

This Plan is approved by the Forward Cody Board of Directors on May 14, 2020.

James Blair, Chairman

Approved by the City of Cody

Matt Hall, Mayor

June 2, 2020

Certification

This document certifies City of Cody agrees to comply with State Statutes and Wyoming Business Council policies in relation to the Wyoming National Lab headquarters facility project, inclusive of:

- Wyoming Procurement Standards: W.S. § 15-1-113 and W.S. § 16-6-101, et seq.
- Wyoming Preference Act: W.S § 16-6-201 through W.S. § 16-6-206
- Wyoming Sites Requirement: If the State funded project includes an available site or structure, the City of Cody agrees to list the available property on <http://www.wyomingsites.org>, and keep this listing updated until the property has been leased or sold.

Matt Hall, Mayor
City of Cody

Date



U.S. Department
of Transportation
Federal Aviation
Administration

Northwest Mountain Region
Colorado · Idaho · Montana · Oregon · Utah
Washington · Wyoming

Denver Airports District Office
26805 E. 68th Ave., Suite 224
Denver, CO 80249

May 27, 2020

The Honorable Matt Hall, Mayor
City of Cody
1338 Rumsey Avenue
Cody, WY 82414

Mr. Thomas “Bucky” Hall, Chairman
Yellowstone Regional Airport Joint Powers Board
2010 Roger Sedam Drive
Cody, WY 82414

Dear Mayor Hall and Mr. Hall:

We are enclosing an electronic copy of the Grant Offer for Airport Improvement Program (AIP) Project No. 3-56-0006-040-2020 at the Yellowstone Regional Airport. Please read this letter and the Grant Offer carefully.

To properly enter into this agreement, you must do the following:

- The governing body must provide authority to execute the grant to the individual signing the grant; i.e. the sponsor’s authorized representative.
- The sponsor’s authorized representative must execute the grant, followed by the attorney’s certification, no later than June 30, 2020, in order for the grant to be valid.
- The Sponsor’s attorney must sign and date the grant agreement *after* the Sponsor.
- You may not make any modification to the text, terms or conditions of the grant offer.
- A final, pdf. copy of the grant will be e-mailed once all parties have signed.

Subject to the requirements in 2 CFR § 200.305, each payment request for reimbursement under this grant must be made electronically via the Delphi eInvoicing System. Please see the attached Grant Agreement for more information regarding the use of this System.

The terms and conditions of this agreement require you to complete the project without undue delay. To ensure proper stewardship of Federal funds, **you are expected to submit payment requests for reimbursement of allowable incurred project expenses in accordance with project progress.** Should you fail to make draws on a regular basis, your grant may be placed in “inactive” status, which will affect your ability to receive future grant offers.

Until the grant is completed and closed, you are responsible for submitting formal reports as follows:

- A signed/dated SF-270 (non-construction projects) or SF-271 or equivalent (construction projects) and SF-425 annually, due 90 days after the end of each federal fiscal year in which this grant is open (due December 31 of each year this grant is open); and
- Performance Reports, which are due within 30 days of the end of a reporting period as follows:
 1. Non-construction project: Due annually at the end of the Federal fiscal year.
 2. Construction project: Submit FAA form 5370-1, Construction Progress and Inspection Report at the end of each fiscal quarter.

Once the project is completed and all costs are determined, we ask that you close the project without undue delay and submit the final closeout report documentation as required by FAA's Denver Airports District Office.

As a condition of receiving Federal assistance under this award, you must comply with audit requirements as established under 2 CFR part 200. Subpart F requires non-Federal entities that expend \$750,000 or more in Federal awards to conduct a single or program specific audit for that year. Note that this includes Federal expenditures made under other Federal-assistance programs. Please take appropriate and necessary action to assure your organization will comply with applicable audit requirements and standards. **A copy of a "Single Audit Certification Form" will be sent separately via email.** Please complete and return a copy to our office with the executed Grant Agreement. Please make a copy for your files.

Rebecca Wersal is the assigned program manager for this grant and is readily available to assist you and your designated representative with the requirements stated herein. If you should have any questions, please contact Rebecca at (303) 342-1257.

We sincerely value your cooperation in these efforts and look forward to working with you to complete this important project.

Sincerely,



John P. Bauer (May 27, 2020 06:13 MDT)

John P. Bauer
Manager, Denver Airports District Office

Enclosures



U.S. Department of Transportation
Federal Aviation Administration

GRANT AGREEMENT

PART I – OFFER

Date of Offer May 27, 2020

Airport/Planning Area Yellowstone Regional Airport

AIP Grant Number 3-56-0006-040-2020 (Contract No. DOT-FA20NM-1019)

DUNS Number 18-277-8746

TO: City of Cody, Wyoming and the Yellowstone Regional Airport Joint Powers Board
(herein called the "Sponsor") (For Co-Sponsors, list all Co-Sponsor names. The word "Sponsor" in this Grant Agreement also applies to a Co-Sponsor.)

FROM: The United States of America (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated February 11, 2019 and amended on April 9, 2020, for a grant of Federal funds for a project at or associated with the Yellowstone Regional Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Yellowstone Regional Airport (herein called the "Project") consisting of the following:

- Construct Access Road and Parking Lot**
- Rehabilitate Access Road**
- Rehabilitate Runway 4/22 (Pavement Maintenance)**

which is more fully described in the Project Application.

NOW THEREFORE, according to the applicable provisions of the former Federal Aviation Act of 1958, as amended and recodified, 49 U.S.C. § 40101, et seq., and the former Airport and Airway Improvement Act of 1982 (AAIA), as amended and recodified, 49 U.S.C. § 47101, et seq., (herein the AAIA grant statute is referred to as "the Act"), the representations contained in the Project Application, and in consideration of (a) the Sponsor's adoption and ratification of the Grant Assurances dated March 2014, as applied and interpreted consistent with the FAA Reauthorization Act of 2018 (see 2018 Reauthorization grant condition), (b) the Sponsor's acceptance of this Offer, and (c) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurances and conditions as herein provided.

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay 100.00 percent of the allowable costs incurred accomplishing the Project as the United States share of the Project.

This Offer is made on and **SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$1,245,204.
The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):
\$0 for planning;
\$1,245,204 for airport development or noise program implementation; and
\$0 for land acquisition.
2. **Period of Performance.** The period of performance begins on the date the Sponsor formally accepts this agreement. Unless explicitly stated otherwise in an amendment from the FAA, the end date of the period of performance is 4 years (1,460 calendar days) from the date of formal grant acceptance by the Sponsor.
The Sponsor may only charge allowable costs for obligations incurred prior to the end date of the period of performance (2 CFR § 200.309). Unless the FAA authorizes a written extension, the sponsor must submit all project closeout documentation and liquidate (pay off) all obligations incurred under this award no later than 90 calendar days after the end date of the period of performance (2 CFR § 200.343).
The period of performance end date does not relieve or reduce Sponsor obligations and assurances that extend beyond the closeout of a grant agreement.
3. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
4. **Indirect Costs – Sponsor.** Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the project application, as accepted by the FAA, to allowable costs for Sponsor direct salaries and wages.
5. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with the regulations, policies, and procedures of the Secretary. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
6. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this agreement, and the regulations, policies, and procedures of the Secretary. Per 2 CFR § 200.308, the Sponsor agrees to report to the FAA any disengagement from performing the project that exceeds three months. The report must include a reason for the project stoppage. The Sponsor also agrees to comply with the assurances which are part of this agreement.
7. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
8. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before June 30, 2020, or such subsequent date as may be prescribed in writing by the FAA.
9. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner for any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor, that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal

share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.

10. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.
11. **System for Award Management (SAM) Registration And Universal Identifier.**
 - A. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).
 - B. Data Universal Numbering System: DUNS number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D & B) to uniquely identify business entities. A DUNS number may be obtained from D & B by telephone (currently 866-705-5771) or on the web (currently at <http://fedgov.dnb.com/webform>).
12. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this agreement electronically via the Delphi invoicing System for Department of Transportation (DOT) Financial Assistance Awardees.
13. **Informal Letter Amendment of AIP Projects.** If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.

The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA's authority to increase the maximum obligation does not apply to the "planning" component of condition No. 1.

The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.

An informal letter amendment has the same force and effect as a formal grant amendment.
14. **Air and Water Quality.** The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this agreement.
15. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.
16. **Buy American.** Unless otherwise approved in advance by the FAA, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for which funds are provided under this grant. The Sponsor will include a provision implementing Buy American in every contract.
17. **Maximum Obligation Increase for Primary Airports.** In accordance with 49 U.S.C. § 47108(b), as amended, the maximum obligation of the United States, as stated in Condition No. 1 of this Grant Offer:
 - A. may not be increased for a planning project;
 - B. may be increased by not more than 15 percent for development projects;
 - C. may be increased by not more than 15 percent for a land project.

18. **Audits for Public Sponsors.** The Sponsor must provide for a Single Audit or program specific audit in accordance with 2 CFR part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. Provide one copy of the completed audit to the FAA, if requested.
19. **Suspension or Debarment.** When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:
- A. Verify the non-federal entity is eligible to participate in this Federal program by:
 - 1. Checking the excluded parties list system (EPLS) as maintained within the System for Award Management (SAM) to determine if the non-federal entity is excluded or disqualified; or
 - 2. Collecting a certification statement from the non-federal entity attesting they are not excluded or disqualified from participating; or
 - 3. Adding a clause or condition to covered transactions attesting individual or firm are not excluded or disqualified from participating.
 - B. Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions (e.g. Sub-contracts).
 - C. Immediately disclose to the FAA whenever the Sponsor (1) learns they have entered into a covered transaction with an ineligible entity or (2) suspends or debar a contractor, person, or entity.
20. **Ban on Texting When Driving.**
- A. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
 - 1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
 - 2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
 - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
 - B. The Sponsor must insert the substance of this clause on banning texting when driving in all subgrants, contracts, and subcontracts.
21. **Exhibit "A" Property Map.** The Exhibit "A" Property Map dated September 2017, is incorporated herein by reference or is submitted with the project application and made part of this grant agreement.
22. **Employee Protection from Reprisal.**
- A. Prohibition of Reprisals –
 - 1. In accordance with 41 U.S.C. § 4712, an employee of a grantee or subgrantee may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in sub-paragraph (A)(2), information that the employee reasonably believes is evidence of:
 - i. Gross mismanagement of a Federal grant;
 - ii. Gross waste of Federal funds;
 - iii. An abuse of authority relating to implementation or use of Federal funds;
 - iv. A substantial and specific danger to public health or safety; or
 - v. A violation of law, rule, or regulation related to a Federal grant.

2. Persons and bodies covered: The persons and bodies to which a disclosure by an employee is covered are as follows:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Federal office or employee responsible for oversight of a grant program;
 - v. A court or grand jury;
 - vi. A management office of the grantee or subgrantee; or
 - vii. A Federal or State regulatory enforcement agency.
 3. Submission of Complaint – A person who believes that they have been subjected to a reprisal prohibited by paragraph A of this grant term may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.
 4. Time Limitation for Submittal of a Complaint - A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.
 5. Required Actions of the Inspector General – Actions, limitations, and exceptions of the Inspector General’s office are established under 41 U.S.C. § 4712(b)
 6. Assumption of Rights to Civil Remedy - Upon receipt of an explanation of a decision not to conduct or continue an investigation by the Office of Inspector General, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c).
23. **2018 FAA Reauthorization.** This grant agreement is subject to the terms and conditions contained herein including the terms known as the Grant Assurances as they were published in the Federal Register on April 3, 2014. On October 5, 2018, the FAA Reauthorization Act of 2018 made certain amendments to 49 U.S.C. chapter 471. The Reauthorization Act will require FAA to make certain amendments to the assurances in order to best achieve consistency with the statute. Federal law requires that FAA publish any amendments to the assurances in the Federal Register along with an opportunity to comment. In order not to delay the offer of this grant, the existing assurances are attached herein; however, FAA shall interpret and apply these assurances consistent with the Reauthorization Act. To the extent there is a conflict between the assurances and Federal statutes, the statutes shall apply. The full text of the Act is at <https://www.congress.gov/bill/115th-congress/house-bill/302/text>.
24. **Co-Sponsor.** The Co-Sponsors understand and agree that they jointly and severally adopt and ratify the representations and assurances contained therein and that the word "Sponsor" as used in the application and other assurances is deemed to include all co-sponsors.

SPECIAL CONDITIONS

25. **Current FAA Advisory Circulars for AIP Projects.** The sponsor will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the *Current FAA Advisory Circulars Required For Use In AIP Funded and PFC Approved Projects*, dated February 28, 2020, and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.
26. **Agency Agreement.** The FAA, in tendering this Offer on behalf of the United States, recognizes the existence of an Agency relationship between the Sponsor, as principal, and the Wyoming Department of Transportation, Division of Aeronautics, as agent. The Sponsor agrees that it will not amend, modify, or terminate said Agency Agreement without prior written approval of the FAA or its designated representative.
27. **Final Project Documentation.** The Sponsor understands and agrees that in accordance with 49 USC 47111, and with the Airport District Office's (ADO) concurrence, that no payments totaling more than 90.00 percent of United States

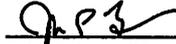
Government's share of the project's estimated allowable cost may be made before the project is determined to be substantially complete. Substantially complete means the following: (1) The project results in a complete, usable unit of work as defined in the grant agreement; and (2) The sponsor submits necessary documents showing that the project is substantially complete per the contract requirements, or has a plan (that FAA agrees with) that addresses all elements contained on the punch list. Furthermore, no payments totaling more than 97.50 percent of the United States Government's share of the project's estimated allowable cost may be made until: (1) The sponsor submits all necessary closeout documentation and (2) The sponsor receives final payment notification from the ADO.

28. **Solid Waste Recycling Plan.** The Sponsor certifies that it has a solid waste recycling plan as part of an existing Airport Master Plan, as prescribed by 49 U.S.C. 47106(a)(6).
29. **Pavement Maintenance Management Program.** The Sponsor agrees that it will implement an effective airport pavement maintenance management program as required by Grant Assurance Pavement Preventive Management. The Sponsor agrees that it will use the program for the useful life of any pavement constructed, reconstructed, or repaired with federal financial assistance at the airport. The Sponsor further agrees that the program will
- A. Follow FAA Advisory Circular 150/5380-6, "Guidelines and Procedures for Maintenance of Airport Pavements," for specific guidelines and procedures for maintaining airport pavements, establishing an effective maintenance program, specific types of distress and its probable cause, inspection guidelines, and recommended methods of repair;
 - B. Detail the procedures to be followed to assure that proper pavement maintenance, both preventive and repair, is performed;
 - C. Include a Pavement Inventory, Inspection Schedule, Record Keeping, Information Retrieval, and Reference, meeting the following requirements:
 1. Pavement Inventory. The following must be depicted in an appropriate form and level of detail:
 - a. location of all runways, taxiways, and aprons;
 - b. dimensions;
 - c. type of pavement, and;
 - d. year of construction or most recent major rehabilitation.
 2. Inspection Schedule.
 - a. Detailed Inspection. A detailed inspection must be performed at least once a year. If a history of recorded pavement deterioration is available, i.e., Pavement Condition Index (PCI) survey as set forth in the Advisory Circular 150/5380-6, the frequency of inspections may be extended to three years.
 - b. Drive-By Inspection. A drive-by inspection must be performed a minimum of once per month to detect unexpected changes in the pavement condition. For drive-by inspections, the date of inspection and any maintenance performed must be recorded.
 - D. Record Keeping. Complete information on the findings of all detailed inspections and on the maintenance performed must be recorded and kept on file for a minimum of five years. The type of distress, location, and remedial action, scheduled or performed, must be documented. The minimum information is:
 1. inspection date;
 2. location;
 3. distress types; and
 4. maintenance scheduled or performed.
 - E. Information Retrieval System. The Sponsor must be able to retrieve the information and records produced by the pavement survey to provide a report to the FAA as may be required.

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The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

**UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION**



John P Bauer (May 27, 2020 06:13 MDT)

(Signature)

John P. Bauer

(Typed Name)

Manager, Denver Airports District Office

(Title of FAA Official)

PART II - ACCEPTANCE

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.¹

Dated

CITY OF CODY, WYOMING

(Name of Sponsor)

(Signature of Sponsor's Authorized Official)

By:

(Typed Name of Sponsor's Authorized Official)

Title:

(Title of Sponsor's Authorized Official)

CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Wyoming. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

Dated

By:

(Signature of Sponsor's Attorney)

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.²

Dated

**YELLOWSTONE REGIONAL AIRPORT JOINT
POWERS BOARD**

(Name of Sponsor)

(Signature of Sponsor's Authorized Official)

By:

(Typed Name of Sponsor's Authorized Official)

Title:

(Title of Sponsor's Authorized Official)

CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Wyoming. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

² Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

Dated

By:

(Signature of Sponsor's Attorney)



**FAA
Airports**

ASSURANCES AIRPORT SPONSORS

A. General.

- a. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
- b. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
- c. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

B. Duration and Applicability.

1. Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.

The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.

The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. Airport Planning Undertaken by a Sponsor.

Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 25, 30, 32, 33, and 34 in Section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements.

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act – 5 U.S.C. 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.^{1,2}
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).¹
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.¹
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.¹
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.¹
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.¹
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.¹
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.²
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

EXECUTIVE ORDERS

- a. Executive Order 11246 - Equal Employment Opportunity¹
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 –Flood Plain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction¹
- f. Executive Order 12898 - Environmental Justice
- g. Executive Order 13788 - Buy American and Hire American
- h. Executive Order 13858 – Strengthening Buy-American Preferences for Infrastructure Projects

FEDERAL REGULATIONS

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].^{4,5,6}
- c. 2 CFR Part 1200 – Non-procurement Suspension and Debarment
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- e. 14 CFR Part 150 - Airport noise compatibility planning.
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.³
- m. 49 CFR Part 20 - New restrictions on lobbying.

- n. 49 CFR Part 21 – Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.^{1,2}
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.¹
- s. 49 CFR Part 28 –Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- t. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- u. 49 CFR Part 32 –Government-wide Requirements for Drug-Free Workplace (Financial Assistance)
- v. 49 CFR Part 37 –Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

FOOTNOTES TO ASSURANCE C.1.

- ¹ These laws do not apply to airport planning sponsors.
- ² These laws do not apply to private sponsors.
- ³ 49 CFR Part 18 and 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- ⁴ On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.

- ⁵ Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- ⁶ Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

2. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. Subject to the FAA Act of 2018, Public Law 115-254, Section 163, it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the

Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.

- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where the project may be located.

8. Consultation with Users.

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. Public Hearings.

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. Metropolitan Planning Organization.

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. Pavement Preventive Maintenance.

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. Terminal Development Prerequisites.

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.

- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-
 - 1) Operating the airport's aeronautical facilities whenever required;
 - 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with

respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-
 - 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
 - a. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
 - b. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
 - c. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
 - d. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
 - e. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
 - f. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

- g. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 - 1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated

by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

- 2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
- 3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.
 - a. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
 - b. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 - 1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - 2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

- a. by gross weights of such aircraft) is in excess of five million pounds Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied).

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan of the airport showing:
 - 1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
 - 2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
 - 3) the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
 - 4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity

with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

- b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this grant.

- a. Using the definitions of activity, facility and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21, the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by, or pursuant to these assurances.
- b. Applicability
 - 1) Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
 - 2) Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
 - 3) Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

- 1) So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
- 2) So long as the sponsor retains ownership or possession of the property.

- d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this grant agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

“The (Name of Sponsor), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”

- e. Required Contract Provisions.

- 1) It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
 - 2) It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
 - 3) It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
 - 4) It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
 - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1)

reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.
- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

Engineering and Design Services. If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U. S. C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated April 18, 2019, and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.

35. Relocation and Real Property Acquisition.

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or

operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
 - 1) Describes the requests;
 - 2) Provides an explanation as to why the requests could not be accommodated; and
 - 3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.



**FAA
Airports**

Current FAA Advisory Circulars Required for Use in AIP Funded and PFC Approved Projects

Updated: 2/28/2020

View the most current versions of these ACs and any associated changes at:
http://www.faa.gov/airports/resources/advisory_circulars and
http://www.faa.gov/regulations_policies/advisory_circulars/

NUMBER	TITLE
70/7460-1L Changes 1 - 2	Obstruction Marking and Lighting
150/5000-9A	Announcement of Availability Report No. DOT/FAA/PP/92-5, Guidelines for the Sound Insulation of Residences Exposed to Aircraft Operations
150/5000-17	Critical Aircraft and Regular Use Determination
150/5020-1	Noise Control and Compatibility Planning for Airports
150/5070-6B Changes 1 - 2	Airport Master Plans
150/5070-7 Change 1	The Airport System Planning Process
150/5100-13C	Development of State Aviation Standards for Airport Pavement Construction
150/5200-28F	Notices to Airmen (NOTAMs) for Airport Operators
150/5200-30D Change 1	Airport Field Condition Assessments and Winter Operations Safety
150/5200-31C Changes 1 - 2	Airport Emergency Plan
150/5210-5D	Painting, Marking, and Lighting of Vehicles Used on an Airport
150/5210-7D	Aircraft Rescue and Fire Fighting Communications
150/5210-13C	Airport Water Rescue Plans and Equipment

NUMBER	TITLE
150/5210-14B	Aircraft Rescue Fire Fighting Equipment, Tools and Clothing
150/5210-15A	Aircraft Rescue and Firefighting Station Building Design
150/5210-18A	Systems for Interactive Training of Airport Personnel
150/5210-19A	Driver's Enhanced Vision System (DEVs)
150/5220-10E	Guide Specification for Aircraft Rescue and Fire Fighting (ARFF) Vehicles
150/5220-16E, Change 1	Automated Weather Observing Systems (AWOS) for Non-Federal Applications
150/5220-17B	Aircraft Rescue and Fire Fighting (ARFF) Training Facilities
150/5220-18A	Buildings for Storage and Maintenance of Airport Snow and Ice Control Equipment and Materials
150/5220-20A	Airport Snow and Ice Control Equipment
150/5220-21C	Aircraft Boarding Equipment
150/5220-22B	Engineered Materials Arresting Systems (EMAS) for Aircraft Overruns
150/5220-23	Frangible Connections
150/5220-24	Foreign Object Debris Detection Equipment
150/5220-25	Airport Avian Radar Systems
150/5220-26, Changes 1 - 2	Airport Ground Vehicle Automatic Dependent Surveillance - Broadcast (ADS-B) Out Squitter Equipment
150/5300-13A, Change 1	Airport Design
150/5300-14C	Design of Aircraft Deicing Facilities
150/5300-16B	General Guidance and Specifications for Aeronautical Surveys: Establishment of Geodetic Control and Submission to the National Geodetic Survey
150/5300-17C Change 1	Standards for Using Remote Sensing Technologies in Airport Surveys
150/5300-18B Change 1	General Guidance and Specifications for Submission of Aeronautical Surveys to NGS: Field Data Collection and Geographic Information System (GIS) Standards
150/5320-5D	Airport Drainage Design

NUMBER	TITLE
150/5320-6F	Airport Pavement Design and Evaluation
150/5320-12C, Changes 1 - 8	Measurement, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces
150/5320-15A	Management of Airport Industrial Waste
150/5325-4B	Runway Length Requirements for Airport Design
150/5335-5C	Standardized Method of Reporting Airport Pavement Strength - PCN
150/5340-1M	Standards for Airport Markings
150/5340-5D	Segmented Circle Airport Marker System
150/5340-18G	Standards for Airport Sign Systems
150/5340-26C	Maintenance of Airport Visual Aid Facilities
150/5340-30J	Design and Installation Details for Airport Visual Aids
150/5345-3G	Specification for L-821, Panels for the Control of Airport Lighting
150/5345-5B	Circuit Selector Switch
150/5345-7F	Specification for L-824 Underground Electrical Cable for Airport Lighting Circuits
150/5345-10H	Specification for Constant Current Regulators and Regulator Monitors
150/5345-12F	Specification for Airport and Heliport Beacons
150/5345-13B	Specification for L-841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits
150/5345-26D	FAA Specification For L-823 Plug and Receptacle, Cable Connectors
150/5345-27E	Specification for Wind Cone Assemblies
150/5345-28H	Precision Approach Path Indicator (PAPI) Systems
150/5345-39D	Specification for L-853, Runway and Taxiway Retroreflective Markers
150/5345-42J	Specification for Airport Light Bases, Transformer Housings, Junction Boxes, and Accessories
150/5345-43J	Specification for Obstruction Lighting Equipment

NUMBER	TITLE
150/5345-44K	Specification for Runway and Taxiway Signs
150/5345-45C	Low-Impact Resistant (LIR) Structures
150/5345-46E	Specification for Runway and Taxiway Light Fixtures
150/5345-47C	Specification for Series to Series Isolation Transformers for Airport Lighting Systems
150/5345-49D	Specification L-854, Radio Control Equipment
150/5345-50B	Specification for Portable Runway and Taxiway Lights
150/5345-51B	Specification for Discharge-Type Flashing Light Equipment
150/5345-52A	Generic Visual Glideslope Indicators (GVGI)
150/5345-53D	Airport Lighting Equipment Certification Program
150/5345-54B	Specification for L-884, Power and Control Unit for Land and Hold Short Lighting Systems
150/5345-55A	Specification for L-893, Lighted Visual Aid to Indicate Temporary Runway Closure
150/5345-56B	Specification for L-890 Airport Lighting Control and Monitoring System (ALCMS)
150/5360-12F	Airport Signing and Graphics
150/5360-13A	Airport Terminal Planning
150/5360-14A	Access to Airports By Individuals With Disabilities
150/5370-2G	Operational Safety on Airports During Construction
150/5370-10H	Standard Specifications for Construction of Airports
150/5370-11B	Use of Nondestructive Testing in the Evaluation of Airport Pavements
150/5370-13A	Off-Peak Construction of Airport Pavements Using Hot-Mix Asphalt
150/5370-15B	Airside Applications for Artificial Turf
150/5370-16	Rapid Construction of Rigid (Portland Cement Concrete) Airfield Pavements
150/5370-17	Airside Use of Heated Pavement Systems
150/5390-2C	Heliport Design
150/5395-1B	Seaplane Bases

THE FOLLOWING ADDITIONAL APPLY TO AIP PROJECTS ONLY

Updated: 3/22/2019

NUMBER	TITLE
150/5100-14E, Change 1	Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects
150/5100-17, Changes 1 - 7	Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects
150/5300-15A	Use of Value Engineering for Engineering and Design of Airport Grant Projects
150/5320-17A	Airfield Pavement Surface Evaluation and Rating Manuals
150/5370-12B	Quality Management for Federally Funded Airport Construction Projects
150/5380-6C	Guidelines and Procedures for Maintenance of Airport Pavements
150/5380-7B	Airport Pavement Management Program
150/5380-9	Guidelines and Procedures for Measuring Airfield Pavement Roughness

MEETING DATE June 2, 2020
DEPARTMENT: CODY POLICE
DEPARTMENT PREPARED BY: CHUCK
BAKER, CHIEF OF POLICE
DEPT. DIR. APPROVAL: _____
CITY ADM. APPROVAL: _____

AGENDA ITEM SUMMARY REPORT

2020 Street Closure Request for The Wild Bunch Gunfighters

BACKGROUND

The “Wild Bunch Gunfighters” are requesting permission to hold Western Re-Enactment Gunfighter Shows with receipt of their liability insurance but no later than June 15, 2020 through September 26, 2020 on 12th Street between Sheridan Avenue and the first alley south of Sheridan Avenue. The Wild Bunch Gunfighters will set up the street closure starting no sooner than 5:00 p.m. and will tear down for the street to reopen by 7:00 p.m. Allowing no parking signage to be placed in vacated parking spots starting at 4:30 p.m.

The City Council has approved similar requests in the past for a different gunfighter group.

This section of 12th Street is subject to closure requests for other events during the year.

SUMMARY

The purpose of this closure is to allow the “Wild Bunch Gunfighters” to entertain the general public and visitors of Cody. The Wild Bunch Gunfighters will provide a scripted theatrical type event that re-enacts old western days. These shows include the discharging of replica firearms that are incapable of expelling any projectiles by the action of an explosion using manufactured blank ammunitions

The Wild Bunch Gunfighter presentation will take place during the following time period:

June 15, 2020 (or upon receipt of insurance if prior to 6/15/20 through
September 26, 2020 -
Monday through Saturday, 5:00 PM through 7:00 PM.

No alcohol will be permitted in the street.

Due to COVID-19 - the Event Coordinators will be required to follow State Orders issued by the Governor and Park County Public Health. City Council approval of the street closure does not override any said orders issued.

REQUEST(S) OF EVENT ORGANIZER

Street Closure

The closure of 12th Street between Sheridan Avenue and the first alley south of Sheridan Avenue . Closure to start at 5:00 p.m. through 7:00 p.m., from June 15, 2020 or upon receipt of liability insurance through September 26, 2020

FISCAL IMPACT

There is no fiscal impact to the City of Cody.

The event organizers provide the barricades, signage, and personnel for set-up and tear-down.

The event organizers clean the street following each performance.

City of Cody City Council

ALTERNATIVES

The Wild Bunch Gunfighters would need to select a different public location and submit another closure request, or private property should the Council deny this request.

RECOMMENDATION

Staff recommendation is that this request be approved for the above time frame pursuant to the Wild Bunch Gunfighters agreement of the conditions to discharge the replica firearms as outlined by the Chief of Police. Require applicant to provide proof of liability insurance prior to the event, as well as, follow all Orders issued by the Governor and/or Park County Public Health relating to gatherings during the COVID-19 pandemic.

ATTACHMENTS

1. City of Cody Agenda Request From
2. Conditions to discharge firearms,
Health Safety Plan, Site Safety
Managers List, safety-rules, Roster
3. Insurance Quote

AGENDA & SUMMARY REPORT TO:

WILD BUNCH ENTERTAINERS, LLC

857 Belfry Hwy
Cody, WY 82414
codywildbunch@gmail.com

May 21, 2020

To: City of Cody
City Council
Mayor Matt Hall

RE: Nightly Gunfight during Summer 2020
Wild Bunch Entertainers

Ms. Baker,

Please find attached the below listed documents.

We have 2020 Safety Rules ready to go, but at this time Chief Baker is out for a family emergency until May 26.

We have also prepared a Health Safety Plan and submitted it to the county health officer for approval and/or follow-up guidance in obtaining approval. This department of the county is very busy during this time. Additionally, this office expects our entire Health Safety Plan to be null and void and need to be rewritten after the update that is expected June 1. However, we informed them that we were advised that we needed to write one based off of the current Order in order to be placed on the agenda for the June 2 meeting. We are currently working with the Park County Health Officer and his deputy.

We would request to be added to the City Council Agenda for June 2, 2020 with ability to submit the noted items in full upon completion.

Attached:

_____ **Agenda Request Form**

_____ Signed by Mr. Lanchbury - President of WBE, **Health Safety Plan** that has been proposed to the Park County Health Officer for approval and or revisions as he sees fit.

_____ Signed, by Mr. Lanchbury - President of WBE, **Conditions for Discharging Weapons in the City** for the Wild Bunch Entertainers Summer of 2020 Re-enactment Shows. We will request a meeting with Chief Baker upon his return from emergency leave and before June 2, 2020.

_____ **Site Safety Managers List**

_____ **Safety Rules** Adopted by Wild Bunch Entertainers

_____ **Roster of Wild Bunch Entertainers** members by position

_____ **Insurance Policy Quote** available for immediate issuance upon approval to begin show for the Summer 2020

_____ Notice about contact with **WYDOT**

Respectfully Signed,

Paul Lanchbury - President, WBE

REVISED



City of Cody Agenda Request Form



In order to fully prepare the Council for their meetings, individuals wishing to appear before the Council are asked to complete the following information prior to placement on the agenda. You will be notified of the date you have been scheduled to appear. You may also be contacted by City staff prior to the meeting to address concerns or provide additional information. Some requests may not require appearing before the Council for approval.

Please provide the following detailed information relating to your concern or request. **This form (and any relevant attachments) should be submitted in a timely manner, preferably at least 14 days prior to allow sufficient time for internal review. Untimely submission may result in the inability to be considered for approval.** Council packets are prepared in advance prior to Tuesday meetings. Meetings are held the first and third Tuesday of each month. Please complete the following information in full and return to City of Cody PO Box 2200 Cody, WY 82414 (Fax 307-527-6532),

Name of person to appear before the Council Paul Lanchbury

Organization Represented Wild Bunch Entertainers, LLC - re: Nightly Gun Fight Summer 2020

Date you wish to appear before the Council 06/02/2020

Email Address codywildbunch@gmail.com Telephone 307-272-3234

Names of all individuals who will speak on this topic Paul Lanchbury, Kenny Martin, Andy DiPiazza
Event Title (if applicable) Wild Bunch Nightly Gun Fights Wade & Carissa French any others present that council may wish to hear from.

Date(s) of Event (if applicable) No earlier than June 15, 2020 Nightly Monday-Saturday

Location of Event (if applicable) Corner of 12Street and Sheridan Avenue

Full description of topic to be discussed (include all relevant information including any street closures, times of event, any special requirements or request etc., attach additional sheet if necessary and map showing location of event where applicable) _____

We request the City of Cody through its City Council consider approval to resume the annual gun fight this Summer Season. The Wild Bunch Entertainers has worked hard to show the efforts we will implement regarding safety of all involved. This safety concern now goes beyond the initial safety standards we have shown since our first approval in 2017, but now extends to heightened concerns for an effective and proper response to health safety concern in light of Covid-19. We are working with the Park County Health Officer to ensure that we are following all laws, guidelines, and expectation regarding Covid-19 and other health concerns. We have modified our make-up as an LLC in that we no longer have a single President that makes all decisions unilaterally. We now have an elected Board that has increased our level of response and activity to ensuring that everything done is of the highest standard.

Which City employee(s) have you spoken to about this issue? City - Chief Baker and Ms. Cindy Baker
Park County Health Officer Dr. Bilin and Deputy Crampton and WYDOT - Cody Beers

Signature Paul Lanchbury Date 5-27-20



Wild Bunch <codywildbunch@gmail.com>

Wild Bunch Gunfighter Show

1 message

Aaron Billin <aaronbillin@gmail.com>

Sat, May 23, 2020 at 10:56 AM

To: Matt Hall <mhall@cityofcody.com>

Cc: Wild Bunch <codywildbunch@gmail.com>, Bill Crampton <bcrampton@parkcounty.us>, Sam Wilde <swilde@parkcounty.us>

Mayor Hall,

On behalf of the Wild Bunch, Sara Struemke and Kay Lanchbury forwarded to me a request for an exception to State Public Health Order #2 that will allow the Wild Bunch Gunfighter Show to proceed this summer. Unfortunately, this request is for an exception to a State Public Health Order that will expire before the event is to take place. We anticipate modified State Public Health Orders to take effect on June 1, 2020 with an increase in the limit on the number of people that are allowed at a gathering (currently 25). The plan is to revisit this issue once the new State Public Health Orders are available. It will be determined at that time if an exception request is needed. If so, the Wild Bunch will proceed with the process outlined in the attached document. If not, I will write a letter stating that an exception request is not needed and that the Wild Bunch's plans comply with applicable State Public Health Orders.

I have reviewed the Wild Bunch's current exception request and it is a sincere effort to proceed in a responsible and safe fashion. I am confident that the Wild Bunch intends to proceed thoughtfully and responsibly through every step of this process.

*Aaron R. Billin, MD, MS, FAAFP, MFAWM
Medical Director Emergency Department, Powell Valley Healthcare, Powell Wyoming
Medical Director, Powell Valley Healthcare EMS
County Health Officer, Park County Wyoming
Park County Search & Rescue, Cody Wyoming*

 **COVID19_WDH Guidance for Public Officials_4.28.20 (5).pdf**
199K

POLICE DEPARTMENT
CITY OF CODY

To: Wild Bunch Gunfighters
Paul Lanchbury

From: Chuck Baker, Chief of Police

Date: May 16, 2020

Subject: Conditions for Discharging Weapons in the City for the Wild Bunch
Gunfighter Summer 2020 Re-Enactment Shows.

Pursuant to City of Cody Code, Section 5-4-1, the discharging of any firearms in city limits are prohibited, except by permission of the chief of police or city council. This memorandum outlines the conditions which the Wild Bunch Gunfighters must follow in order for the chief of police and city council to grant permission to the Wild Bunch Gunfighters or any participants in the Cody Wild Bunch Gunfighter Summer 2020 Re-Enactment Shows that will be discharging blank cartridge ammunitions. The chief of police or his designee retains the right to revoke the permission granted to discharge firearms at any time.

- The discharging or firing of blanks from replica firearms will only be permitted on the designated section of 12th Street subject to the closure request during the Wild Bunch Gunfighter Shows during the listed dates and times.
 - June 1, 2020 through September 26, 2020. Monday through Saturday, 5:30 PM through 7:00 PM.
- The Wild Bunch Gunfighters will use replica blank firearms incapable of expelling a projectile by the action of an explosion and will only use blank cartridge ammunitions produced by a reputable manufacturer. The manufacturer's recommended safety standards shall be followed.
- During the discharge of period firearms (shotgun only) using blank loads or blank cartridge ammunitions, all shotguns shall be elevated and aimed upward above building skyline to ensure spectator safety.
- Wild Bunch Gunfighters shall adopt a set of "Safety Rules" and all members shall be familiar with the rules and shall receive a copy of the rules. A copy of the 2020 Wild Bunch Gunfighter Safety Rules will be provided to the Chief of Police prior to June 1, 2020 and any revision to the rules will be reported to the Chief of Police prior to the next Wild Bunch Gunfighter show.

- An independent third party (not a participant of the re-enactment show) will be designated as the “Site Safety Manager”.
 - Site Safety Managers shall have experience working with the type of firearms being used, knowledge of their use, safe handling and safekeeping, and familiarity with the blank munitions utilized by the Wild Bunch Gunfighters.
 - Site Safety Managers will be responsible for ensuring the Safety Rules adopted by the Wild Bunch Gunfighters are strictly adhered to and enforced.
 - A Site Safety Manager will be on site at all times during the shows to monitor overall safety, and will not be involved in the actual show performances.
 - Site Safety Managers immediate contact information will be provided to the Police Department.
 - Site Safety Manager has final say of any safety issues. All firearms used during the events are under his/her direct control even when being held by an actor.
 - The Site Safety Manager will work with the Wild Bunch Gunfighter actors, set design and script writers to ensure site safety for both actors and visitors.

In addition to the conditions described herein, the Wild Bunch Gunfighters shall comply with any and all other conditions imposed by the Governing Body of the City of Cody, or the Park County Public Health Officer.

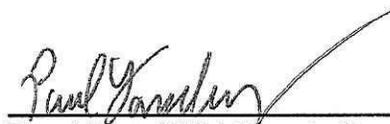
- A roster of all Wild Bunch Gunfighters will be provided to the Chief of Police prior to June 1, 2020 and any revisions to the list will be reported to the Chief of Police prior to the next Wild Bunch Gunfighter Show.
- Pursuant to Ordinance 5-4-1 the Chief of Police or their designee has the authority to immediately suspend the authority to discharge firearms in city limits.
- Any complaints received about the discharge of these weapons during the events or violations of the Wild Bunch Gunfighter Safety Rules will be forwarded to office of the Chief of Police as soon as practical.

- The Wild Bunch Gunfighters shall obtain and have in place prior to its first performance in 2020 a liability insurance policy covering property damage, injuries, and death arising in any way from the gun show, and any activities associated with or related to the gun show, or from the acts, errors or omissions of its participants and members in relation to the gun show. Such policy shall have limits of not less than \$1,000,000.00 (One Million) per occurrence, and \$2,000,000.00 (Two Million) in the aggregate.

IT SHALL BE THE RESPONSIBILITY OF THE WILD BUNCH GUNFIGHTERS AND THE PARTICIPANTS TO READ, UNDERSTAND AND COMPLY WITH THESE CONDITIONS, THE RULES ADOPTED BY THE WILD BUNCH GUNFIGHTERS, AND ANY OTHER CONDITIONS REQUIRED BY THE GOVERNING BODY OF THE CITY OF CODY. THE WILD BUNCH GUNFIGHTERS SHALL ENSURE THEY CONDUCT THE GUN SHOWS IN A SAFE AND PRUDENT MANNER THAT PROTECTS THE PARTICIPANTS, SPECTATORS AND PEOPLE IN THE AREA OF THE GUN SHOW. THE CITY OF CODY, THE CODY POLICE DEPARTMENT AND IT EMPLOYEES, AGENTS, REPRESENTATIVES AND OFFICIALS WILL NOT INSPECT, SUPERVISE OR OVERSEE THE FIREARMS, AMMUNITION, THE LOADING OF FIREARMS, OR ANY ASPECT OF THE PERFORMANCE OF THE GUN SHOW.

Charles A. Baker, Chief of Police

Date



Paul Yarnall
President, Wild Bunch Gunfighters
 (Or their Designee)

5-19-20
Date

Site Safety Manager(s)

THE WILD BUNCH ENTERTAINERS

Name	Lead Site Safety Manager
William Struemke	X
Michael Roberts	X
Paul Lanchbury	
Andy DiPiazza	
Kay Lanchbury	
Sara Struemke	
Kenny Martin	

Site Safety Managers shall receive a training prior to the collective member training in regards to the increased level of safety standards that they must maintain by taking on the responsibility of being a Site Safety Manager for the Wild Bunch Entertainers.

These site safety managers were adopted by the Board of the Wild Bunch Entertainers on this _____ day of May 2020

So Signed, 

Paul Lanchbury
President of the Board
Wild Bunch Entertainers, LLC

2020 Wild Bunch Entertainers Gunfighter Roster and Contact Information

Name	Phone Number	E-Mail	Position
Paul Lanchbury	307-272-5777	kilbury@hotmail.com	President, Site Safety Manager, Actor
Kay Lanchbury	307-272-3234	kilbury@hotmail.com	Treasurer, Site Safety Manager, Actor
Sara Struemke	307-712-0001	sstruemke@msn.com	Secretary, Site Safety Manager, Actor
William Struemke	307-712-0000	wstruemke@msn.com	Trustee, Site Safety Manager, Actor
Tami Aune	425-407-3324	tmaune2@aol.com	Co-Treasurer, Actor
Andy DiPiazza	307-250-4046	lthrsnop@gmail.com	Site Safety Manager, Actor
Michael Roberts	307-578-9467	mikehehelikesit@hotmail.com	Site Safety Manager, Actor
Bob Haitzma	307-250-9515	hait63@aol.com	Actor
Jacob Lanchbury	307-578-6855	kilbury@hotmail.com	Actor
Kurtis Struemke	307-712-0002	kstruemke@gmail.com	Actor
Jane Friday	940-300-0807	sugarbearzz1@yahoo.com	Actor
Kenny Martin	307-272-1192	No email on file	Site Safety Manager, Actor
Dan Rodriguez	858-531-4388	danlinrod@yahoo.com	Actor
Linda Rodriguez	858-361-4765	danlinrod@yahoo.com	Actor
Chuck Stapleton	307-250-3138	No email on file	Actor

To be signed by the Wild Bunch Entertainers President of the Board and returned to the Cody Police Department prior to the opening of the 2020 session. Any changes or additions during the session must be reported as soon as they occur.

Paul Lanchbury

Wild Bunch Entertainers, LLC - President of the Board - Paul Lanchbury

5-22-20

Date



May 6, 2020

<p>\$2,250 Premium \$250 Policy Fee \$79.38 Taxes \$2,579.38 Total Burns to file WY taxes</p>

Burns & Wilcox, Ltd.
 280 South 400 West, Suite 200
 Salt Lake City, UT 84101

Quote Summary

Based on the information provided, we are pleased to offer the following quote with Evanston Insurance Company. Evanston Insurance Company is a surplus lines insurer currently rated A XV by A.M. Best.

These terms are valid for thirty days from the date on this letter. Our quotation may differ from the terms requested in the submission. Please review our quotation carefully.

Named insured: THE WILD BUNCH ENTERTAINERS
 Mailing Address: PO Box 2534
 Cody, WY 82414
 Transaction number: 3748803

Company: Evanston Insurance Company
 Term quoted: 06/01/2020 to 09/20/2020 (These dates may be amended at time of binding.)

Premium Summary

Special Event General Liability	\$2,250
Total Premium without TRIA	\$2,250

Total amount due	\$2,250.00
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This quote is subject to the following:

- A completed, signed, and dated supplemental application is required. Applications from our competitors are acceptable if all questions from our application are included.
- 3-5 years loss experience for recurring events
- Applicant, as well as operators, must be licensed according to state and local regulations.
- A signed copy of the Terrorism disclosure, MKL Terr 4, is required to bind.

Binding may be restricted at the Company's discretion for specified areas due to a pending or active catastrophe pursuant to the Company's underwriting guidelines.



General Liability Coverage.

Limits of Insurance

General Aggregate Limit	\$2,000,000
Products/Completed Operations Aggregate Limit	Included
Personal/Advertising Limit	\$1,000,000
Each Occurrence Limit	\$1,000,000
Damage to Premises Rented to You Limit	\$100,000
Medical Expense Limit (Any one person)	\$1,000

Deductible \$500 BI / PD Combined Per claim

Event type: Play - Theatre, Theater Event
Event duration: 111 day(s)

Location schedule

Loc	State - Territory	Address
1	WY - 001	1117 12th Street, Cody, WY 82414

Classification and premium

Loc	Class Code	Description	Rating Basis	Exposure	Rate	Premium
1	43424	Exhibitions - outside - no stadiums or grandstands	Flat	n/a	n/a	\$2,250

Terrorism

The Terrorism Risk Insurance Act (TRIA), as amended, requires insurance companies to offer limited terrorism coverage. TRIA coverage will cost 3% of the GL premium, subject to a \$150 minimum.
If purchased, the CG 21 73 01 08 Exclusion of Certified Acts of Terrorism will be removed from your policy and the CG 21 70 01 08 Cap on Losses from Certified Acts of Terrorism will be added.

Total General Liability Premium (100% minimum earned) \$2,250 minimum and deposit



AN ACCIDENT INSURANCE PROPOSAL FOR:

The Wild Bunch Entertainers

PRESENTED TO:

Burns & Wilcox, LTD

UNDERWRITTEN BY:

Berkley Life and Health Insurance Company and/or StarNet Insurance Company

PROPOSAL DATE:

05/07/2020

THIS PROPOSAL IS VALID FOR 90 DAYS



New Business Proposal

Proposal Date: 05/07/2020

Proposed Term: 06/01/2020 - 09/20/2020

Name of Proposed Policyholder: The Wild Bunch Entertainers

Eligibility:

Class 1:

- All registered participants of the Policyholder.

ADMITTED

Covered Activities:

Class 1:

- While participating in the sponsored, scheduled and supervised show event activities of the Policyholder.

Premium:

Funding Option	
1. Fully Insured	Premium Amount: \$250.00 Premium Mode: Short Term

BENEFIT	LIMIT
Accidental Death and Dismemberment	Principal Sum: \$10,000
Aggregate Limit of Liability per Covered Accident	\$250,000
Accident Medical and Dental Expense	<p>Accident Medical Expense: \$25,000</p> <ul style="list-style-type: none"> • Co-Insurance 100% • Deductible \$500 Corridor • Terms of Payment Primary • Loss Period (first Covered Accident Expenses must be incurred within) 30 days after the date of the Covered Accident • Benefit Period 52 weeks



City of Cody Agenda Request Form



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Please provide the following detailed information relating to your concern or request. **This form (and any relevant attachments) should be submitted in a timely manner, preferably at least 14 days prior to allow sufficient time for internal review. Untimely submission may result in the inability to be considered for approval.** Council packets are prepared in advance prior to Tuesday meetings. Meetings are held the first and third Tuesday of each month. Please complete the following information in full and return to City of Cody PO Box 2200 Cody, WY 82414 (Fax 307-527-6532),

Name of person to appear before the Council Paul Lanchbury

Organization Represented Wild Bunch Entertainers, LLC - re: Nightly Gun Fight Summer 2020

Date you wish to appear before the Council 06/02/2020

Email Address codywildbunch@gmail.com Telephone 307-272-3234

Names of all individuals who will speak on this topic Paul Lanchbury, Kenny Martin, Andy DiPiazza

Event Title (if applicable) Wild Bunch Nightly Gun Fights

Date(s) of Event (if applicable) No earlier than June 15, 2020 Nightly Monday-Saturday

Location of Event (if applicable) Corner of 12Street and Sheridan Avenue

Full description of topic to be discussed (include all relevant information including any street closures, times of event, any special requirements or request etc., attach additional sheet if necessary and map showing location of event where applicable) _____

We request the City of Cody through its City Council consider approval to resume the annual gun fight this Summer Season. The Wild Bunch Entertainers has worked hard to show the efforts we will implement regarding safety of all involved. This safety concern now goes beyond the initial safety standards we have shown since our first approval in 2017, but now extends to heightened concerns for an effective and proper response to health safety concern in light of Covid-19. We are working with the Park County Health Officer to ensure that we are following all laws, guidelines, and expectation regarding Covid-19 and other health concerns. We have modified our make-up as an LLC in that we no longer have a single President that makes all decisions unilaterally. We now have an elected Board that has increased our level of response and activity to ensuring that everything done is of the highest standard.

Which City employee(s) have you spoken to about this issue? City - Chief Baker and Ms. Cindy Baker
Park County Health Officer Dr. Bilin and Deputy Crampton and WYDOT - Cody Beers

Signature Paul Lanchbury Date 5-27-20

The Wild Bunch Entertainers will create updated provisions to this Health Safety Plan throughout the season as new Orders are issued by the State of Wyoming, Park County, and/or the City of Cody. WBE is prepared to update our plan for the safety of the public and our own members and families. The WBE is prepared for the Season of 2020 and will adjust in either direction regarding the tightening and/or loosening of public health safety regulations. It is the intent of the WBE to work within any requested measures to ensure the safety and best health practices of our members and, most notably, our spectators.

With the above-listed provisions in sections 5 & 6 along with the paragraph immediately below the Wild Bunch Entertainers formally requests that the Park County Health Officer please grant an exemption to our group to be allowed to perform nightly while allowing more than 25 people to gather. It is in an outdoor setting on the city sidewalk for about 45 minutes per evening. This exception is appropriate to the guidelines laid out in paragraph 6 of the below-noted Order in conjunction with the provisions we have set forth according to the:

**FOURTH CONTINUATION, AND MODIFICATION, OF STATEWIDE PUBLIC HEALTH ORDER #2:
FORBIDDING GATHERINGS OF MORE THAN TWENTY-FIVE (25) PEOPLE**

Signed, 

President - Paul Lanchbury
The Cody Wild Bunch

WILD BUNCH ENTERTAINERS

RE: Call to WYDOT

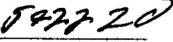
On 2/21/2020, I, Paul Lanchbury, President of the Board for the Wild Bunch Entertainers contacted Mr. Cody Beers of WYDOT upon request that I do so by Ms. Cindy Baker for the City of Cody. She asked we make sure our show opening venue was acceptable to WYDOT and/or what needed to be done with WYDOT with our nightly street closure and their construction in town.

Mr. Beers informed stated that WYDOT will be completed with all work along Sheridan Ave. in 10 days. He further stated that we wouldn't need to do anything with WYDOT should they not be done.

I hope that this resolves any questions about our request for nightly street closure on the corner of Sheridan Avenue and 12th Street.



Paul Lanchbury - President of the Board
Wild Bunch Entertainers, LLC



Date

Site Safety Manager(s)

THE WILD BUNCH ENTERTAINERS

Name	Lead Site Safety Manager
William Struemke	X
Michael Roberts	X
Paul Lanchbury	
Andy DiPiazza	
Kay Lanchbury	
Sara Struemke	
Kenny Martin	

Site Safety Managers shall receive a training prior to the collective member training in regards to the increased level of safety standards that they must maintain by taking on the responsibility of being a Site Safety Manager for the Wild Bunch Entertainers.

These site safety managers were adopted by the Board of the Wild Bunch Entertainers on this _____ day of May 2020

So Signed,



Paul Lanchbury
President of the Board
Wild Bunch Entertainers, LLC

2020 Wild Bunch Entertainers Gunfighter Roster and Contact Information

Name	Phone Number	E-Mail	Position
Paul Lanchbury	307-272-5777	kilbury@hotmail.com	President, Site Safety Manager, Actor
Kay Lanchbury	307-272-3234	kilbury@hotmail.com	Treasurer, Site Safety Manager, Actor
Sara Struemke	307-712-0001	sstruemke@msn.com	Secretary, Site Safety Manager, Actor
William Struemke	307-712-0000	wstruemke@msn.com	Trustee, Site Safety Manager, Actor
Tami Aune	425-407-3324	tmaune2@aol.com	Co-Treasurer, Actor
Andy DiPiazza	307-250-4046	lthrsnop@gmail.com	Site Safety Manager, Actor
Michael Roberts	307-578-9467	mikehehelikesit@hotmail.com	Site Safety Manager, Actor
Bob Haitzma	307-250-9515	hait63@aol.com	Actor
Jacob Lanchbury	307-578-6855	kilbury@hotmail.com	Actor
Kurtis Struemke	307-712-0002	kstruemke@gmail.com	Actor
Jane Friday	940-300-0807	sugarbearzz1@yahoo.com	Actor
Kenny Martin	307-272-1192	No email on file	Site Safety Manager, Actor
Dan Rodriguez	858-531-4388	danlinrod@yahoo.com	Actor
Linda Rodriguez	858-361-4765	danlinrod@yahoo.com	Actor
Chuck Stapleton	307-250-3138	No email on file	Actor

To be signed by the Wild Bunch Entertainers President of the Board and returned to the Cody Police Department prior to the opening of the 2020 session. Any changes or additions during the session must be reported as soon as they occur.

Paul Lanchbury

Wild Bunch Entertainers, LLC - President of the Board - Paul Lanchbury

5-22-20

Date

AGENDA ITEM SUMMARY REPORT

Final Plat of the JCA LM Minor Subdivision

ACTIONS TO BE TAKEN

Approve the final plat of the JCA LM Minor Subdivision, a 2-lot subdivision, subject to conditions.

SUMMARY

The property is in a General Business (D-2) zoning district and located on the north side of Rumsey Avenue, about 100 feet west of 13th Street, immediately west of "The Thistle" building. The property measures 50 feet wide by 140 feet in depth and would be divided in half to produce two 25-foot wide lots of 3,509 square feet each. The property is currently vacant.



The Preliminary Plat was approved subject to the following conditions. The status is noted following each.

1. All existing utility services on Lot 20B (Now labeled Lot 2) that serve other properties must either be abandoned by their owners, or granted easements per the utility provider requirements, prior to the final plat being recorded.

Status: Partially completed. Sewer, power and natural gas have been relocated/removed. It appears that overhead phone, overhead cable/telecommunications, and perhaps a private irrigation line remain. The lines are outside of the proposed building area, as indicated on the site plan recently approved by Planning and Zoning.



2. If the existing approach at the southwest corner of Lot 20A (Now labeled Lot 1) will not be utilized by Lot 20A for vehicle access, the portion along the frontage of Lot 20A must be removed and the curb, gutter and sidewalk reconstructed per Public Works standards. The removal/reconstruction would need to occur no later than the time of development on the lot.

AGENDA ITEM NO. _____

Status: The application notes the intent to remove and reconstruct the curb, gutter and sidewalk as outlined.

- 3. With the final plat application, the applicant will need to provide confirmation from all utilities that the utility plans are acceptable. If Lot 20B does not use the sewer service that is being abandoned by the Thistle building owner, then it must be capped at the north property line or at the main.

Status: Met. The applicant has provided letters for gas and telecommunications. The site plan review provides additional details for water and sewer. The plans to serve the two lots, as conditioned in the site plan review, are acceptable.

- 4. Pay applicable utility fees prior to the mayor signing the final plat.

Status: Pending. The application notes payment will occur as required.

If there are any outstanding construction requirements at the time the final plat is to be recorded, a note to the following effect should be included on the final plat. "There are outstanding subdivision requirements pertaining to installation of utility services and frontage improvements that remain to be completed at the time this plat was recorded. The improvements must occur prior to, or in conjunction with, issuance of a building permit for the development on each lot."

In addition, the final plat document has been reviewed for content, as outlined in City of Cody Code, and needed corrections have already been made.

ATTACHMENTS:

- Final Plat
- Cover letter
- Utility letters

RECOMMENDATION:

The Planning and Zoning Board recommends that the City Council approve the Final Plat of the JCA LM Minor Subdivision subject to the following conditions:

- 1. The final plat must be recorded within 100 days of Council approval, as required by the subdivision ordinance.
- 2. All remaining subdivision improvements (utility services for the lots and frontage improvements) must occur prior to or in conjunction with issuance of a building permit for development of the lots.
- 3. If there are outstanding subdivision construction requirements at the time the final plat is to be recorded, include a note to the following effect on the final plat. "There are outstanding subdivision requirements pertaining to installation of utility services and frontage improvements that remain to be completed at the time this plat was recorded. The improvements must occur prior to, or in conjunction with issuance of a building permit for the development on each lot."
- 4. All existing utility services on Lot 2 that serve other properties must either be abandoned by their owners, or granted easements per the utility provider requirements, prior to the mayor

AGENDA ITEM NO. _____

signing the final plat. If an easement is granted on the final plat, the owner's certificate will also need dedication language added.

5. Pay applicable utility fees (3/4" water tap fee and electrical estimate) prior to the mayor signing the final plat. The utility details noted in the site plan review are incorporated as a condition of subdivision approval (i.e. reusing the existing water and sewer services is subject to verification of adequate materials and condition).

H:\PLANNING DEPARTMENT\FILE REVIEWS\MAJOR-MINOR SUBDIVISION\2020\SUB2020-01 1237 RUMSEY AVE - JCA, LLC\STAFF REPORTS\AGENDA SUMMARY JCA LM FINAL PLAT.DOCX



March 9, 2020

Todd Stowell, AICP
City Planner
City of Cody
1338 Rumsey Avenue
Cody, WY 82414

Subject: JCA-LM Minor Subdivision

Dear Todd:

Thank you for your review of the Preliminary Plat for the JCA-LM Minor Subdivision. Below are the solutions/responses to the recommendations of the Planning & Zoning Meeting on March 3rd, 2020

- 1. All Existing utility services on Lot 20B that serve other properties must be either abandoned by their owners, or granted easements per the utility provider requirements, prior to final plat being recorded.*
All utilities located on Lot 20B have been or will be relocated.
- 2. If the existing approach at the southwest corner of Lot 20A will not be utilized by Lot 20A for vehicle access, the portion along the frontage of Lot 20A must be removed and the curb, gutter and sidewalk reconstructed per Public Works standards. The removal/reconstruction would need to occur no later than the time of development on the lot.*
The existing approach to Lot 20A will not be utilized and therefore will be reconstructed during the time of development of the lot.
- 3. With the final plat application, the applicant will need to provide confirmation from all utilities that the utility plans are acceptable (existing and proposed). If Lot 20B does not use the sewer service that is being abandoned by the Thistle building owner, then it may be capped at the north property line or at the main.*
Confirmation letters from utilities to be utilized are attached.
- 4. Pay applicable utility fees (3/4" water tap fee) prior to the mayor signing the final plat.*
Water tap fees will be paid by owner prior to obtaining the mayor's signature.

Please let us know if there is anything else we can provide you.

Sincerely,

Tommi Williams





Josh Robinson
Utility Construction Planner
josh.robinson@blackhillscorp.com

2320 Mountain View Dr.
Cody, WY, 82414
O: 307-527-3975
F: 307-587-4563

March 17, 2020

(Tommi Williams)
2824 Big Horn Ave
Cody, WY 82414

Dear Tommi:

This is in response to the proposed Minor Subdivision located at 1237 Rumsey Ave. Black Hills Energy has sufficient Volume in our 2" main located in the Alley behind proposed location. We will run a individual service into each lot when requested at time of construction of any buildings on the property.

Please go to our website www.blackhillsenergy.com or contact our Customer Service Center at 1-888-890-5554 to start a new gas service. Once this is complete a BHE Technician will be in touch to obtain measurements and assist with an estimate for each individual lot. If you have further questions feel free to contact me at one of the numbers listed above.

Thanks,

Josh Robinson
Black Hills Energy



Basin Office

PO Box 310 - 405 S 4th St
Basin, WY 82410
307.568.3357

Billings Office

454 Moore Ln., Ste 4
Billings, MT 59101
406.248.4204

Cody Office (Corporate)

1601 S. Park Dr.
Cody, WY 82414
307.586.3800

Lovell Office

451 Shoshone Ave
Lovell, WY 82431
307.548.2275

Powell Office

401 S Bent St, #4
Powell, WY 82435
307.754.9160

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February 27, 2020

Sage Civil Engineering
Attn: Tommi Williams
2824 Big Horn Ave.
Cody, WY 82414

Re: Minor subdivision proposed at 1237 Rumsey Ave.

Dear Tommi,

This letter is in response to your email regarding available service to the proposed subdivision at 1237 Rumsey Ave., Cody. TCT has fiber optic cable in the area. The contractor or developer will be responsible for any charges associated with getting the fiber to the buildings. We can provide phone, internet, and TV services on our fiber optic network. Tenants desiring to connect to the fiber optic service will be responsible for any fees associated with connecting. Please let me know if you have any other questions.

Sincerely,

Stacy Southworth
Engineer Assistant

RESOLUTION NO. 2020-11

A RESOLUTION SUPPORTING AN OPTIONAL ONE PERCENT (5th CENT) SALES AND USE

WHEREAS, the Governing Body of the City of Cody recognizes the City's responsibility to provide and maintain critical infrastructure systems which are necessary for daily operations in the Cody community and surrounding area; and

WHEREAS, the Governing Body of the City/Town/County of Cody/Powell/Meeteetse/Park County recognizes current municipal/county revenue streams limit the City's/Town's/County's financial ability to repair and maintain substantial infrastructure needs, prolonging essential infrastructure maintenance and repairs; and

WHEREAS, local government revenue generated from Sales, Use, and Property Tax, funding from the State of Wyoming and Direct Distribution Appropriation, and other miscellaneous sources of income have been insufficient to meet the increasing demands of continuing essential services and are anticipated to decrease in the foreseeable future; and

WHEREAS, the costs of providing essential services and capital expenditure requirements are expected to increase; and

WHEREAS, even though revenues have decreased, and costs have increased, the City/Town/County of Cody/Powell/Meeteetse/Park County believe that the service provided to the public should be maintained to the highest degree possible; and

WHEREAS, the Governing Body of the City/Town/County of Cody/Powell/Meeteetse/Park County therefore supports the proposition of a one percent (1%) optional sales and use tax to be approved by the electors of Park County, as allowed by Wyoming State Statute 39-15-204(a)(i); and

WHEREAS, the Governing Bodies of the City of Cody, City of Powell, Town of Meeteetse and Park County intend to use the one percent optional sales and use tax for general revenue.

WHEREAS, the proposition shall be submitted at every other subsequent general election until the proposition is defeated.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF PARK COUNTY, that the County Clerk be directed to place the One Percent Optional Sales Tax Question before the voters of Park County at the General Election on November 3, 2020.

PASSED, APPROVED AND ADOPTED on this _____ day of _____, 2020.

CITY OF CODY/POWELL, TOWN OF MEETEETSE/ PARK COUNTY, WY

MAYOR, COMMISSIONER CHAIR

ATTEST:

CITY CLERK/TOWN CLERK/COUNTY CLERK

AGENDA ITEM SUMMARY REPORT

Resolution 2020-09 Tippy Taxi Program

ACTION TO BE TAKEN:

Approve Resolution 2020-09 establishing policies and procedures for participating taxicab companies and liquor establishments to ensure the continued success of the program.

SUMMARY OF INFORMATION:

In 2011 the City of Cody implemented the Tippy Taxi program to help reduce the number of impaired drivers on our streets and to enhance public safety. Since its inception through March 2020, the Tippy Taxi program has provided 6,840 rides at a cost of \$47,880. In the first few years this program paid for through donations from some of the local liquor establishments and wholesale distributors. Between 2011 and 2013 the City raised \$13,505 in contributions to fund this program. In 2013, the City Council authorized an increase in liquor license fees to continue to fund this program. The increased fees generate about \$13,850 per year.

An analysis of the program data back to 2018 shows there has been a marked increase in the number of rides provided. The number of rides provided increased by 113% from 2018 to 2019 and the numbers in 2020 through March were already at 44% of the total rides for the 2019 calendar year.

The intent of the Tippy Taxi program is to provide a participating liquor establishment employee a means to call for a safe ride home for a patron they have identified as being impaired. A ride can also be requested from the liquor establishment employee by an impaired patron. When the program was implemented the City did not establish any written policies or procedures for taxicab companies or liquor establishments to follow nor did the City establish any internal review processes for the program.

In reviewing similar programs sponsored by other cities and counties in the United States, I found that many discovered the need to re-evaluate their programs and update the guidelines to help ensure the program was utilized as it was intended.

The Tippy Taxi program is an important part of keeping the City safe and there is a fine line between running the program responsibly and over-managing it to the point that liquor establishments and cab companies won't use it. Resolution 2020-09 will establish the program's intent as well as reasonable policies and procedures to ensure continued success of the program.

FISCAL IMPACT

Unknown at this time

ATTACHMENTS

1. Resolution 2020-09

AGENDA ITEM NO. _____

RESOLUTION NO. 2020-09

A RESOLUTION OF THE CITY OF CODY, WYOMING ESTABLISHING POLICIES AND PROCEDURES FOR THE TIPSYP TAXI PROGRAM.

WHEREAS, the fundamental philosophy of the Tipsy Taxi Program is to develop a partnership between local law enforcement, liquor establishments, and the community to encourage individuals to avoid driving under the influence of alcohol; and

WHEREAS, this Program is intended to provide taxi rides to alcohol-impaired individuals, transporting them from a liquor establishment to their residence, in order to discourage them from driving under the influence. It is not intended to be used as a traditional taxi service or to shuttle individuals between liquor establishments; and

WHEREAS, the City of Cody implemented the Tipsy Taxi Program in 2011 to help reduce the number of impaired drivers on our streets; and

WHEREAS, the purpose of this Resolution is to establish policies and procedures for participating taxicab companies and liquor establishments to ensure the continued operation and success of the Program; and

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF CODY, PARK COUNTY, WYOMING hereby adopts the following policies and procedures for the Tipsy Taxi Program effective as of July 1, 2020:

1. Taxicab companies are eligible to participate in and receive reimbursements under the Tipsy Taxi Program when the following conditions are met:
 - a. The taxicab company must have a current taxi license issued by the City of Cody and must be registered with the City as a Tipsy Taxi service provider.
 - b. The taxicab company shall provide rides under the Tipsy Taxi Program only for impaired individuals meeting the eligibility criteria for a ride home.
 - c. The taxicab company shall provide rides under the Tipsy Taxi Program only from participating liquor establishments.
2. Liquor establishments are eligible to participate in the Tipsy Taxi program when the following conditions are met:
 - a. The liquor establishment must have a current liquor license issued by the City of Cody and must be registered with the City as a participating establishment in the Tipsy Taxi Program.
 - b. The liquor establishment shall only authorize rides under the Tipsy Taxi Program for impaired individuals meeting the eligibility criteria for a ride home.
3. Impaired individuals are eligible for a ride from a participating liquor establishment utilizing a participating taxicab company when the following criteria are met:
 - a. The individual is physically in the City limits at the time of the request.
 - b. The individual is requesting a ride from a participating liquor establishment directly to a place of residence or hotel, and this residence or hotel is also within City limits.
 - c. A representative of the participating liquor establishment identified the individual as being too impaired to drive and issues a valid Tipsy Taxi Voucher to the individual.
4. A City of Cody Tipsy Taxi Voucher shall be completed by the participating liquor establishment and the participating taxicab company on the actual date of service. Vouchers cannot be issued in advance of the actual service date for use on a later date. The reimbursable value of a valid Tipsy Taxi Voucher is \$7.00 (seven dollars and no cents).
5. Pre-numbered City of Cody Tipsy Taxi Voucher books shall be provided to all participating liquor establishments. As vouchers are issued, the participating liquor establishment shall complete the liquor establishment section on the voucher and provide the original top copy of the voucher to the impaired individual. The participating liquor establishment shall retain the

duplicate voucher copies in the book and the Topsy Taxi Voucher books shall be turned in to the City when all vouchers in the book have been issued. New Topsy Taxi Voucher books shall not be issued to participating liquor establishments until a completed book has been turned in to the City. Only participating liquor establishments are permitted to be in possession of a Topsy Taxi Voucher book.

6. Participating taxicab companies shall submit their original copies of all valid Topsy Taxi Vouchers for reimbursement by the 10th of the month for rides provided during the previous month. Invalid vouchers will not be reimbursed.
7. Requirements for submitting a valid Topsy Taxi Voucher for reimbursement
 - a. All information fields on the voucher must be completed in their entirety.
 - b. The voucher must be signed by the participating liquor establishment server.
 - c. The voucher must be signed by the taxicab company driver and countersigned by an authorized taxicab company representative as listed on the taxicab license issued by the City of Cody.
 - d. The taxicab driver listed on the voucher must be listed as an authorized driver on the taxicab license issued by the City of Cody.
 - e. The voucher submitted must be an original City of Cody Topsy Taxi Voucher.
 - f. The voucher must be submitted no more than 45 days after the service date listed on the voucher.
 - g. The voucher must be used on the date it was issued by the participating liquor establishment.
 - h. Vouchers that do not meet the requirements outlined in 7a through 7g above will not be reimbursed.
8. Non-compliance with the Topsy Taxi Program policies and procedures may result in the participating liquor establishment and/or participating taxicab company being suspended from the program.
9. The available funding for this program shall be determined during the annual budget process. Voucher reimbursements shall not exceed the program's approved budget amount in a Fiscal Year.

PASSED, APPROVED, AND ADOPTED this 2nd day of June, 2020.

Matt Hall, Mayor

ATTEST:

Cindy Baker, Administrative Services Officer

AGENDA ITEM SUMMARY REPORT

Ordinance 2020-08 Appointed Officer Salaries

ACTION TO BE TAKEN:

Approve Ordinance 2020-08 amending Title 1, Chapter 7, Section 1-7-1, Article 1-7C-5, Salaries of the City of Cody Code.

SUMMARY OF INFORMATION:

In 2016 the City Council passed Ordinance 2016-11 removing the jailable penalty from the City of Cody Code. This resulted in many offenses being cited into Circuit Court rather than Municipal Court as a cost-saving measure to reduce the amount of money spent on court appointed attorneys and jail reimbursement fees, which were often never recovered from the defendants. Over the four years since the change, the number of dockets processed in Municipal Court has decreased significantly. The Judge's current salary of \$36,000 has been in place for many years, with a temporary reduction in FY19-20 to \$34,000.

With the significant decrease in cases coming through Municipal Court the Judge's workload has also decreased so staff recommended to the Council in October 2019 a proposed reduction in the Municipal Court Judge's salary.

The following is a summary of Municipal Court cases that came before the Judge since 2015. Between 2015 and 2019 the caseload was reduced by 43%

<u>Year</u>	<u># Cases</u>
2015	634
2016	462
2017	399
2018	413
2019	356
2020	97 (through May 20th)

Based on the reduction in cases heard by the Judge, staff proposes a reduction of \$9,500 per year, for a revised annual salary of \$24,500 effective July 1, 2020. Mayor Hall discussed this issue recently with Judge Webster, who was agreeable to the salary reduction. During the budget work sessions in May, Council was informed that the figure of \$24,500 was included in the FY20-21 budget.

FISCAL IMPACT

An expense reduction in the General Fund of \$9,500 per year. If Council chooses not to change the Judge's salary we will need to add this amount back into the FY20-21 expense budget.

ATTACHMENTS

1. Ordinance 2020-08

AGENDA ITEM NO. _____

ORDINANCE NO. 2020-08

**AN ORDINANCE AMENDING TITLE 1 ADMINISTRATION,
CHAPTER 7 ADMINISTRATIVE PROVISIONS, SECTION 1-7-1
INTRODUCTION, ARTICLE C APPOINTED OFFICERS AND
EMPLOYEES, SECTION 1-7C-5 SALARIES, OF THE CITY OF
CODY CODE**

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

Title 1, Chapter 7, Section 1-7-1, Article 1-7C-5, of the City of Cody Code, shall be amended to provide as follows:

1-7C-5: SALARIES:

- A. The annual salary for the mayor shall be twenty-four thousand dollars (\$24,000.00) commencing January 1, 2009, and shall be paid in twenty-six (26) biweekly installments.

- B. Each governing body member shall be paid compensation quarterly in the sum of one hundred dollars (\$100.00) for actual attendance at each regular or special meeting of the governing body, or any committee meeting.

- C. The annual salary for the municipal court judge shall be ~~thirty-six thousand dollars (\$36,000.00)~~ **twenty-four thousand five hundred dollars (\$24,500)** and shall be paid in twenty four (24) installments. Alternate municipal court judges shall receive compensation at the rate of one hundred dollars (\$100.00) per hour for each hour, or proportion thereof, such alternate judge provides services to the city as a municipal court judge. (Ord. 2016-17, 1-3-2017)

PASSED ON FIRST READING: _____

PASSED ON SECOND READING: _____

PASSED ON THIRD READING: _____

MATT HALL, Mayor

ATTEST:

Cynthia D. Baker Administrative Services Director

MEETING DATE: JUNE 2, 2020

DEPARTMENT: LEGAL

PREPARED BY: SCOTT E. KOLPITCKE

PRESENTED BY: SCOTT E. KOLPITCKE

AGENDA ITEM SUMMARY REPORT

Ordinance 2020-09: Clerk and Treasurer

ACTION TO BE TAKEN:

Approve, modify or reject an ordinance to define the duties of the city clerk and treasurer.

SUMMARY OF INFORMATION:

Wyoming law (W.S. 15-3-204 and W.S. 15-3-209) provides for the appointment of a city treasurer to receive all money on behalf of the city. Wyoming law also requires the city clerk and treasurer to keep the books and records for the city. For the City of Cody, the role of the city treasurer has always been performed by the city's finance officer, and the clerk's role has been performed by the administrative services director. The City Code has never formally recognized the process for appointing a city clerk and treasurer, and has never described their respective duties.

This ordinance allows the City Administrator to appoint a city treasurer and a city clerk, and the ordinance describes the duties for each. State statute allows the Governing Body to appoint the clerk and treasurer, unless the ordinance provides otherwise. Since the City of Cody has adopted a charter ordinance which delegates personnel decisions to the City Administrator, this ordinance allows the City Administrator to appoint the city clerk and treasurer.

FISCAL IMPACT

There will be no fiscal impact. The ordinance does not add any new positions, and will formally recognize the roles and duties that are currently performed by the administrative services officer and finance officer.

ALTERNATIVES

The Governing Body can approve or reject this ordinance.

ATTACHMENTS

None.

AGENDA & SUMMARY REPORT TO:

AGENDA ITEM NO. _____

ORDINANCE NO. 2020 - 09

**AN ORDINANCE AMENNDING TITLE 1, CHAPTER 7,
ARTICLE C, OF THE CITY OF CODY CODE BY ADDING
SECTION 8: CLERK AND TREASURER**

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

Title 1, Chapter 7, Article C, of the City of Cody Code, shall be amended by adding Section 8, which shall provide as follows:

1-7C-8: CLERK AND TREASURER

The City Administrator shall appoint a city clerk and treasurer for the City of Cody.

- A. The duties of the city clerk shall be as follows:
 - 1. To keep safely the seal, papers, records and books of the city;
 - 2. To attend meetings of the governing body unless excused and record the minutes thereof;
 - 3. To preserve a consecutive record of all the resolutions and ordinances passed by the city council in a book kept for that purpose;
 - 4. To attest the signature of the mayor and affix the seal of the city to documents as necessary;
 - 5. To issue all licenses in accordance with the law;
- B. The duties of the city treasurer shall be as follows:
 - 1. To attest all warrants and orders upon the treasurer and keep an accurate record thereof;

2. To endorse or attach to every bond or other evidence of indebtedness issued by the city pursuant to the law, a certificate that the same is within the lawful debt limit of the city and is issued pursuant to law, and to sign such certificate in his or her official capacity;
3. To perform all of the duties of city treasurer as provided by the laws of the state, by resolution of the Governing Body, and as directed by the City Administrator;
4. To endorse the date of presentation across the back of any orders and warrants which are not paid for lack of funds, and the reason for nonpayment.

This Ordinance shall become effective at the final passage and publication in the Cody Enterprise as required by law.

PASSED ON FIRST READING:

PASSED ON SECOND READING:

PASSED ON THIRD READING:

ATTEST:

MATT HALL, Mayor

Cynthia D. Baker
Administrative Services Director

MEETING DATE: JUNE 2, 2020

DEPARTMENT: PUBLIC WORKS - SANITATION

PREPARED BY: PHILLIP BOWMAN, P.E.

PRESENTED BY: PHILLIP BOWMAN, P.E.

AGENDA ITEM SUMMARY REPORT

Ordinance 2020-10 Amending Title 4, Chapter 4, to Modify the Large Item Pick Up and Tree and Brush Removal Programs and Establish a Large Item Pick Up Charge

ACTION TO BE TAKEN

Consider Ordinance 2020-10 on First Reading to modify the City's Large Item Pick Up and Tree and Brush Removal programs, and establish and set a Large Item Pick Up charge.

SUMMARY OF INFORMATION

The City of Cody provides municipal solid waste collection and disposal, and recycling program services through the Solid Waste enterprise fund. Additional components of the municipal solid waste collection and disposal are (1) large item pick up and (2) tree limb and brush removal. Both of these components have historically been provided for only a portion of the year (November through March) and are discontinued during the remaining months of the year.

Through previous discussions with the City Council at work sessions and during the development of the FY2020-2021 Proposed Budget, changes to the large item pick up service are being proposed through Ordinance 2020-10. These changes are summarized as follows:

- A. Large item pick up service is modified to be available year round for residential customers
- B. The frequency of large item pick up and total number of large item pick up occurrences per calendar year are defined for each residential account
- C. Clarifications are made to the tree limb and brush removal service, which are generally minor and of a "housekeeping" nature
- D. A large item pick up charge of \$1.00 per month per residential account is established

The exact modifications to the amended City Code sections are highlighted with strikethrough text (~~text removed~~) and underlined text (text added) in Ordinance 2020-10 attached. The large item pick up charge is reflected as revenue in the FY2020-2021 Proposed Budget for the Solid Waste enterprise fund.

FISCAL IMPACT

With approval of Ordinance 2020-10 and the establishment of large item pick up charge in the FY2020-2021 Proposed Budget, the Solid Waste enterprise fund will have an increase of revenue of approximately \$46,800.

ALTERNATIVES

Approve, deny, or amend proposed Ordinance 2020-10.

RECOMMENDATION

It is recommended that Ordinance 2020-10 be approved on First Reading as presented.

ATTACHMENTS

Ordinance 2020-10

AGENDA ITEM NO. _____

ORDINANCE 2020 – 10

**AN ORDINANCE AMENDING TITLE 4, CHAPTER 4, ARTICLE I, SECTION 6,
OF THE CODY CITY CODE
TO MODIFY THE LARGE ITEM PICK UP AND TREE AND BRUSH
REMOVAL PROGRAMS**

Title 4, Chapter 4, Article I, Section 6, shall be hereby amended as follows effective July 1, 2020:

4-4-6: LARGE ITEM PICK UP AND TREE AND BRUSHREMOVAL:

At times designated by the mayor and approved by the governing body, a large item pick up and tree and brush removal program may be available for general clean up.

- A. Large Item Pick Up: Generally, the large item pick up will be available ~~between November and March each year~~ all year round excluding the weeks of city observed holidays. One large item pick up per month and a maximum of six (6) large item pick ups per calendar year will be allowed per residential customer paying for solid waste services within the city. Eligible items must be placed in the street next to the curb in front of the resident's dwelling. Items shall not be placed in such fashion that blocks other residents' driveways or impedes traffic. The administrative services director, or his/her designee, shall maintain a copy of the current program outlining those items that are eligible for pick up at city hall for citizens to view or receive a copy thereof.
- B. Trees And Brush: Generally, the tree and brush program will be available from November through March each year. One tree limb and brush pick up per month will be allowed per residential customer ~~for residential customers~~ paying for solid waste services within the city. Tree limbs must be less than ten inches (10") in diameter. Tree limbs and brush must be stacked in an orderly fashion and placed in the street next to the curb in front of the resident's dwelling. Tree limbs and brush shall not be placed in such fashion that blocks other residents' driveways or impedes traffic. The administrative services director, or his/her designee, shall maintain a copy of the current program outlining the details of the program.

The services outlined above will be ~~free of charge during the time periods stated, unless the governing body deems it in the best interest of the city to impose a fee~~ subject to fees and charges as outlined in section 4-4-13. Requests for services made outside of the time periods or limitations stated may be considered by the city, but will be subject to a fee equivalent to the current cost of personnel per hour per each request. (Ord. 2014-03, 5-6-2014, eff. 6-1-2014).

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

PASSED ON FIRST READING: _____
 PASSED ON SECOND READING: _____
 PASSED ON THIRD READING: _____

Matt Hall, Mayor

ATTEST:

Cynthia D. Baker, Administrative Services Officer

ORDINANCE 2020 – 13

AN ORDINANCE AMENDING TITLE 4, CHAPTER 4, ARTICLE III, SECTION 13 OF THE CODY CITY CODE TO ESTABLISH A LARGE ITEM PICK UP CHARGE

Title 4, Chapter 4, Article III, Section 13, shall be hereby amended as follows effective July 1, 2020:

4-4-13: FEE SCHEDULE:

There is hereby levied and assessed a service charge against persons and/or businesses in the city requiring garbage and debris disposal as outlined in section 4-4-3 of this chapter, for all bills generated after ~~June 1, 2016~~ July 1, 2020, as follows:

- A. Monthly Charge For Residences: For a residence, there shall be a basic monthly minimum charge as follows:

RESIDENTIAL RATES

	Monthly Solid Waste Fee	Monthly County Landfill Fee	Total Monthly Fee (1)
Dumpster	\$12.06	\$8.62	\$20.68
One (1) Roll-out container	\$12.06	\$8.62	\$20.68
Two (2) Roll-out containers	\$14.90	\$9.96	\$24.86
Three (3) Roll-out containers	\$20.00	\$14.30	\$34.30

Note 1 (for Total Monthly Fee)

- a. In addition, there shall be a basic monthly minimum charge of \$1.30 for recycling operations regardless of the user's production and usage of recycling services.

- b. In addition, there shall be a basic monthly minimum charge of \$1.00 for large item pick up as outlined in section 4-4-6, regardless of the actual usage of large item pick up services.

** END OF AMENDMENT **

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

PASSED ON FIRST READING: _____
PASSED ON SECOND READING: _____
PASSED ON THIRD READING: _____

Matt Hall, Mayor

ATTEST:

Cynthia D. Baker, Administrative Services Officer

AGENDA ITEM SUMMARY REPORT

Ordinance 2020-11 Annual Tax Levy

BACKGROUND

By State Statute the City is required to set the annual property tax mill levy for the upcoming fiscal year.

SUMMARY

The City levies 8 mills of property tax from Park County. Three of those mills are designated for the fire district and the remaining 5 are allocated to the City.

FISCAL IMPACT

Based on the County Assessor's valuation estimate for 2020, property tax revenues are expected to be \$706,490 for Fiscal Year 2020-2021.

ATTACHMENTS

1. Ordinance 20120-11

AGENDA & SUMMARY REPORT TO:

1. None

AGENDA ITEM NO. _____

ORDINANCE 2020-11

AN ORDINANCE PROVIDING FOR THE AMOUNT OF TAX LEVY FOR THE CITY OF CODY, WYOMING FOR THE FISCAL YEAR ENDING JUNE 30, 2021.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF CODY, WYOMING:

SECTION 1: That the amount of General Property Tax for the fiscal year ending June 30, 2021 necessary to meet the current expenses for the City of Cody, together with and including the necessary tax for interest and indebtedness for said year, and the same is hereby fixed and determined to be eight (8) mills upon all assessable property to be within the City of Cody, Wyoming.

SECTION 2. That said levy is hereby declared to be distributed as follows:

General Fund .008

SECTION 3. That said Ordinance shall be in full force and effect from and after its passage and publications as provided by law.

PASSED ON FIRST READING

PASSED ON SECOND READING:

PASSED, ADOPTED, AND ORDERED
PUBLISHED ON THIRD AND FINAL READING:

Matt Hall, Mayor

ATTEST:

Cynthia Baker
Administrative Services Officer

AGENDA ITEM SUMMARY REPORT

Ordinance 2020-12 Budget Appropriation

BACKGROUND

Per State Statues, the City must hold a public hearing to consider the annual budget not prior to the second Tuesday in June nor later than the third Tuesday in June. Within 24 hours of the conclusion of the public hearing the governing body shall, by resolution or ordinance, make the necessary appropriations to adopt the budget. The public hearing is scheduled for June 16, 2020.

SUMMARY

The City Council held budget work sessions on May 11th, May 12th, and May 13th, 2020 to review the proposed budget for FY20-21.

FISCAL IMPACT

The proposed Fiscal Year 2020-2021 budget includes the following available cash, revenue and expenses:

	FY19-20 Approved Budget	FY20-21 Proposed Budget	Budget Variance Over(Under)
Revenue	38,278,647	31,682,516	-17%
10. GENERAL FUND	9,439,178	8,777,089	-7%
33. VEHICLE REPLACEMENT FUND	623,242	664,515	7%
35. LODGING TAX FUND	126,945	-	-100%
36. CODY PUBLIC ART FUND	5,000	-	-100%
37. PASS THROUGH GRANTS FUND	4,832,626	-	-100%
39. SPECIFIC PURPOSE TAX FUND	351,760	224,257	-36%
52. SOLID WASTE FUND	2,264,905	2,292,781	1%
53. WATER FUND	4,695,221	4,820,919	3%
54. WASTEWATER FUND	3,445,790	2,487,437	-28%
55. ELECTRIC FUND	12,493,980	12,415,518	-1%
Expenses	43,420,547	36,384,183	-16%
10. GENERAL FUND	10,305,377	9,288,348	-10%
33. VEHICLE REPLACEMENT FUND	1,210,932	1,266,476	5%
35. LODGING TAX FUND	128,166	48,048	-63%
36. CODY PUBLIC ART FUND	880	450	-49%
37. PASS THROUGH GRANTS FUND	4,832,626	-	-100%
39. SPECIFIC PURPOSE TAX FUND	3,180,770	1,841,978	-42%
52. SOLID WASTE FUND	2,658,295	2,625,716	-1%
53. WATER FUND	5,149,201	5,531,046	7%
54. WASTEWATER FUND	3,665,334	3,224,628	-12%
55. ELECTRIC FUND	12,288,966	12,557,493	2%
Revenue Over(Under) Expenses	(5,141,900)	(4,701,667)	-9%

AGENDA ITEM NO. _____

The FY20-21 budget reflects a budgeted revenue loss of 17% City-wide. The most significant reductions in revenue are those that support General Fund operations including:

- Intergovernmental revenues which support the General Fund such as sales and use taxes, cigarette taxes, gasoline taxes, and lodging taxes are budgeted to be \$840,000 less than last fiscal year.
- Charges for services in the General Fund, which are mainly received from recreation center memberships and program registrations, are budgeted to be \$80,500 less than last fiscal year.

The FY20-21 budget reflects a 16% reduction in expenses for FY20-21. Reductions in the General Fund alone account for \$1.1 million of the change and include the following:

- Reduction in capital spending by deferring and rescheduling capital improvements and purchases.
- Reduction in personnel costs by not filling vacant positions and suspending the merit pay program for eligible employees.
- Reduction in outside agency assistance to Forward Cody, Yellowstone Regional Airport, and CYAIR.
- Deferment of scheduled maintenance and cancellation of ongoing maintenance contracts.
- Deferment of funding to the Vehicle Replacement Fund.
- Use of \$511,259 in General Fund reserves to balance the budget.

The anticipated loss of revenue and corresponding reduction in expenses will have the following impacts on City services:

- The elimination of a Code Enforcement Position in the Police Department will cause delayed response to animal calls and nuisance complaints.
- The elimination of a Parks Maintenance Worker position in the Parks Department will cause less maintenance of the parks, infrequent mowing, reduced snow removal, reduction in the number of trees and flowers planted and maintained, and the closing of public restrooms in the parks.
- The reduction of the maintenance budget in Public Works will result in streets maintenance being limited to only critical repairs of streets, culvert, and storm sewers.
- The elimination of a Customer Service Specialist position at the Recreation Center will result in delays in customer service, increasing the wait times for patrons needing assistance.
- The replacement of pool pumps and exercise equipment at the Recreation Center has been delayed which will result in the failure of older equipment and possible downtime of the pool facilities.

Cutbacks of \$954,390 in capital spending City-wide include:

- City Hall industrial shredder
- Reduction in police portable radios
- Babe Ruth field lighting upgrade
- Stock Center irrigation upgrade
- Softball outfield fencing
- Dacken Park playground equipment replacement
- Senior Center roof replacement
- Auditorium fire suppression system
- 19th Street overlay
- Canyon Meadows storm sewer improvements

AGENDA ITEM NO. _____

- Verkada security system
- Reduction in roll out and dumpster replacements
- Newspaper recycling storage building and dock
- Mini-excavator
- Skid steer trailer

If revenues decline more than we have anticipated additional cutbacks will need to be considered which may include eliminating recreation programs, altering recreation center hours of operation, reduced parks services, and reduced public hours at City facilities.

ATTACHMENTS

1. Ordinance 2020-12
2. Proposed Budget FY20-21

AGENDA & SUMMARY REPORT TO:

1. None

ORDINANCE 2020-12

AN ORDINANCE PROVIDING FOR THE ANNUAL APPROPRIATION OF MONEY FOR THE MAINTENANCE OF THE CITY OF CODY, WYOMING FOR THE FISCAL YEAR ENDING JUNE 30, 2021.

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

SECTION 1. There is hereby appropriated for the purpose of operating the City of Cody, Wyoming, and paying all expenses thereof, the sum of \$36,384,183.

SECTION 2. The City anticipates having \$31,682,516 available in revenue and \$28,221,541 in cash reserves during the coming year from the following sources and it is appropriated from the funds of said City for the ensuing year the sum of \$36,384,183 or as much as may be necessary for the following purposes, to wit:

	Total Estimated	Total Estimated	Estimated Total	Estimated Total
	Cash Available	Revenue	Cash Plus	Requirements for
Fund	For Budget	Available	Revenues	Appropriation
General Fund	\$ 6,469,424	\$ 8,777,089	\$ 15,246,513	\$ 9,288,348
Vehicle Replacement Fund	\$ 3,161,263	\$ 664,515	\$ 3,825,778	\$ 1,266,476
Lodging Tax Fund	\$ 48,048	\$ -	\$ 48,048	\$ 48,048
Cody Public Arts Fund	\$ 4,792	\$ -	\$ 4,792	\$ -
Pass Through Grants Fund	\$ -	\$ -	\$ -	\$ 450
Specific Purpose Tax Fund	\$ 1,928,136	\$ 224,257	\$ 2,152,393	\$ 1,841,978
Solid Waste Fund	\$ 2,756,512	\$ 2,292,781	\$ 5,049,293	\$ 2,625,716
Water Fund	\$ 4,689,426	\$ 4,820,919	\$ 9,510,345	\$ 5,531,046
Wastewater Fund	\$ 3,424,334	\$ 2,487,437	\$ 5,911,771	\$ 3,224,628
Electric Fund	\$ 5,739,606	\$ 12,415,518	\$ 18,155,124	\$ 12,557,493
Total City Appropriation	\$ 28,221,541	\$ 31,682,516	\$ 59,904,057	\$ 36,384,183

PASSED ON FIRST READING: _____

PASSED ON SECOND READING: _____

PASSED, ADOPTED, AND ORDERED PUBLISHED
ON THIRD AND FINAL READING: _____

Matt Hall, Mayor

ATTEST:

Cynthia Baker, Administrative Services Officer

CITY OF CODY
FY20-21 Proposed Budget
Category Summary City-Wide

	2021 Total Next Year Budget
* Report Contains Filters	

Revenue

012. WASTEWATER TREATMENT FACILITY	-1,080,418
021. WATER TANK	-1,407,056
057. TRANSPORTATION ALTERNATIVES	-220,000
410. LOCAL TAXES	-1,104,329
420. INTERGOVERNMENTAL	-4,830,853
430. LICENSES & PERMITS	-278,150
440. FINES & ASSESSMENTS	-71,400
450. CHARGES FOR SERVICES	-20,528,874
460. MISCELLANEOUS REVENUE	-449,317
470. OPERATING GRANTS	-16,909
472. OPERATING CONTRIBUTIONS	-400,990
480. INTERFUND TRANSFERS	-1,294,220
Sub Total Revenue	-31,682,516

Expenditure

001. CHIP SEALING	350,000
001. VEHICLE REPLACEMENT SCHEDULE	1,266,376
002. ADA RAMPS	3,000
004. CITY HALL PRIMARY DOMAIN SERVE	6,000
005. CITY HALL SECONDARY SERVER	5,000
005. SCADA SYSTEM	13,000
006. CITY HALL DATABASE SERVER	6,500
010. POLICE FILE SERVER	6,500
012. PORTABLE RADIOS	17,500
012. WASTEWATER TREATMENT FACILITY	2,290,974
021. WATER TANK	2,099,991
030. YARD PAVING	12,325
049. SEWER CAMERA	160,592
053. LEC PARKING LOT CHIP SEAL	35,000
054. VALVE UPGRADES	24,350
056. WIRE TRAILER	72,000
057. TRANSPORTATION ALTERNATIVES	275,000
058. STEEL DUMPSTERS	47,000
059. RAW WATER CROSSING	79,850
059. ROLL OUT BINS	31,900
060. BELFRY HIGHWAY SEWER EXT	200,000
061. CONIFER LANE	48,430
061. DEMARIS ST OVERLAY	45,550

CITY OF CODY
FY20-21 Proposed Budget
Category Summary City-Wide

<p>* Report Contains Filters</p>	2021 Total Next Year Budget
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062. HIGH SCHOOL TIE LINE	57,518
063. CANYON MEADOWS ELEC LINE	150,000
064. BELFRY HIGHWAY	68,470
065. BUFFALO BLUFF	34,400
066. GAME & FISH BUILDING	33,500
067. THE LANDING SUBDIVISION	26,801
068. SHADOW MOUNTAIN PHASE 2	40,400
510. SALARIES	6,523,570
511. BENEFITS	2,651,100
512. PAYROLL TAXES	677,182
513. STAFF DEVELOPMENT	125,776
520. MAINTENANCE & REPAIRS	801,045
530. PURCHASED SERVICES	13,377,339
531. OUTSIDE AGENCY ASSISTANCE	108,643
540. RISK MANAGEMENT	201,555
550. MATERIALS & SUPPLIES	732,560
551. NON CAPITAL EQUIP & IMPROVMNTS	351,248
552. NON CAPITAL PROJECTS	40,620
560. DEBT SERVICE	218,792
570. OPERATING GRANTS	13,020
580. INTERFUND TRANSFERS	1,294,220
590. NON CASH EXPENSES	1,759,586
Sub Total Expenditure	36,384,183

Report Total :	4,701,667
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CITY OF CODY
 FY20-21 Proposed Budget
 Category Summary by Fund

2021
 Total
 Next
 Year
 Budget

* Report Contains Filters

10. GENERAL FUND

Revenue

410. LOCAL TAXES	-1,104,329
420. INTERGOVERNMENTAL	-4,830,853
430. LICENSES & PERMITS	-278,150
440. FINES & ASSESSMENTS	-71,400
450. CHARGES FOR SERVICES	-1,188,199
460. MISCELLANEOUS REVENUE	-302,963
470. OPERATING GRANTS	-16,909
472. OPERATING CONTRIBUTIONS	-321,238
480. INTERFUND TRANSFERS	-663,048
Sub Total Revenue	-8,777,089

Expenditure

004. CITY HALL PRIMARY DOMAIN SERVE	6,000
005. CITY HALL SECONDARY SERVER	5,000
006. CITY HALL DATABASE SERVER	6,500
010. POLICE FILE SERVER	6,500
012. PORTABLE RADIOS	17,500
510. SALARIES	4,341,553
511. BENEFITS	1,742,541
512. PAYROLL TAXES	449,362
513. STAFF DEVELOPMENT	92,248
520. MAINTENANCE & REPAIRS	438,075
530. PURCHASED SERVICES	1,248,727
531. OUTSIDE AGENCY ASSISTANCE	108,643
540. RISK MANAGEMENT	85,019
550. MATERIALS & SUPPLIES	464,489
551. NON CAPITAL EQUIP & IMPROVMNTS	66,805
570. OPERATING GRANTS	13,020
580. INTERFUND TRANSFERS	149,580
590. NON CASH EXPENSES	46,786
Sub Total Expenditure	9,288,348

Sub Total 10. GENERAL FUND

511,259

33. VEHICLE REPLACEMENT FUND

Revenue

CITY OF CODY
 FY20-21 Proposed Budget
 Category Summary by Fund

	2021 Total Next Year Budget
* Report Contains Filters	

460. MISCELLANEOUS REVENUE	-33,343
480. INTERFUND TRANSFERS	-631,172
Sub Total Revenue	-664,515
Expenditure	
001. VEHICLE REPLACEMENT SCHEDULE	1,266,376
530. PURCHASED SERVICES	100
Sub Total Expenditure	1,266,476
Sub Total 33. VEHICLE REPLACEMENT FUND	601,961
35. LODGING TAX FUND	
Expenditure	
580. INTERFUND TRANSFERS	48,048
Sub Total Expenditure	48,048
Sub Total 35. LODGING TAX FUND	48,048
36. CODY PUBLIC ART FUND	
Expenditure	
520. MAINTENANCE & REPAIRS	100
540. RISK MANAGEMENT	350
Sub Total Expenditure	450
Sub Total 36. CODY PUBLIC ART FUND	450
39. SPECIFIC PURPOSE TAX FUND	
Revenue	
057. TRANSPORTATION ALTERNATIVES	-220,000
460. MISCELLANEOUS REVENUE	-4,257
Sub Total Revenue	-224,257
Expenditure	
001. CHIP SEALING	350,000
002. ADA RAMPS	3,000
012. WASTEWATER TREATMENT FACILITY	1,133,428
053. LEC PARKING LOT CHIP SEAL	35,000
057. TRANSPORTATION ALTERNATIVES	275,000
061. DEMARIS ST OVERLAY	45,550

CITY OF CODY
 FY20-21 Proposed Budget
 Category Summary by Fund

	2021 Total Next Year Budget
* Report Contains Filters	

Sub Total Expenditure	1,841,978
Sub Total 39. SPECIFIC PURPOSE TAX FUND	1,617,721

52. SOLID WASTE FUND

Revenue	
450. CHARGES FOR SERVICES	-2,269,880
460. MISCELLANEOUS REVENUE	-22,901
Sub Total Revenue	-2,292,781

Expenditure	
030. YARD PAVING	12,325
058. STEEL DUMPSTERS	47,000
059. ROLL OUT BINS	31,900
510. SALARIES	603,202
511. BENEFITS	264,046
512. PAYROLL TAXES	63,481
513. STAFF DEVELOPMENT	3,561
520. MAINTENANCE & REPAIRS	100,800
530. PURCHASED SERVICES	932,816
540. RISK MANAGEMENT	6,962
550. MATERIALS & SUPPLIES	103,157
551. NON CAPITAL EQUIP & IMPROVMNTS	12,250
580. INTERFUND TRANSFERS	288,714
590. NON CASH EXPENSES	155,502
Sub Total Expenditure	2,625,716
Sub Total 52. SOLID WASTE FUND	332,935

53. WATER FUND

Revenue	
021. WATER TANK	-1,407,056
450. CHARGES FOR SERVICES	-3,388,581
460. MISCELLANEOUS REVENUE	-25,282
Sub Total Revenue	-4,820,919

Expenditure	
005. SCADA SYSTEM	13,000
021. WATER TANK	2,099,991

CITY OF CODY
 FY20-21 Proposed Budget
 Category Summary by Fund

	2021 Total Next Year Budget
* Report Contains Filters	

054. VALVE UPGRADES	24,350
059. RAW WATER CROSSING	79,850
510. SALARIES	470,688
511. BENEFITS	197,019
512. PAYROLL TAXES	49,031
513. STAFF DEVELOPMENT	7,170
520. MAINTENANCE & REPAIRS	123,300
530. PURCHASED SERVICES	1,857,587
540. RISK MANAGEMENT	50,747
550. MATERIALS & SUPPLIES	30,249
551. NON CAPITAL EQUIP & IMPROVMNTS	72,950
580. INTERFUND TRANSFERS	24,681
590. NON CASH EXPENSES	430,433
Sub Total Expenditure	5,531,046
Sub Total 53. WATER FUND	710,127

54. WASTEWATER FUND

Revenue

012. WASTEWATER TREATMENT FACILITY	-1,080,418
450. CHARGES FOR SERVICES	-1,392,010
460. MISCELLANEOUS REVENUE	-15,009
Sub Total Revenue	-2,487,437

Expenditure

012. WASTEWATER TREATMENT FACILITY	1,157,546
049. SEWER CAMERA	160,592
060. BELFRY HIGHWAY SEWER EXT	200,000
510. SALARIES	247,263
511. BENEFITS	100,157
512. PAYROLL TAXES	25,072
513. STAFF DEVELOPMENT	7,024
520. MAINTENANCE & REPAIRS	57,300
530. PURCHASED SERVICES	222,563
540. RISK MANAGEMENT	8,031
550. MATERIALS & SUPPLIES	57,458
551. NON CAPITAL EQUIP & IMPROVMNTS	48,000
560. DEBT SERVICE	218,792
580. INTERFUND TRANSFERS	71,018

CITY OF CODY
 FY20-21 Proposed Budget
 Category Summary by Fund

	2021 Total Next Year Budget
* Report Contains Filters	

590. NON CASH EXPENSES	643,812
Sub Total Expenditure	3,224,628
Sub Total 54. WASTEWATER FUND	737,191

55. ELECTRIC FUND

Revenue

450. CHARGES FOR SERVICES	-12,290,204
460. MISCELLANEOUS REVENUE	-45,562
472. OPERATING CONTRIBUTIONS	-79,752
Sub Total Revenue	-12,415,518

Expenditure

056. WIRE TRAILER	72,000
061. CONIFER LANE	48,430
062. HIGH SCHOOL TIE LINE	57,518
063. CANYON MEADOWS ELEC LINE	150,000
064. BELFRY HIGHWAY	68,470
065. BUFFALO BLUFF	34,400
066. GAME & FISH BUILDING	33,500
067. THE LANDING SUBDIVISION	26,801
068. SHADOW MOUNTAIN PHASE 2	40,400
510. SALARIES	860,864
511. BENEFITS	347,337
512. PAYROLL TAXES	90,236
513. STAFF DEVELOPMENT	15,773
520. MAINTENANCE & REPAIRS	81,470
530. PURCHASED SERVICES	9,115,546
540. RISK MANAGEMENT	50,446
550. MATERIALS & SUPPLIES	77,207
551. NON CAPITAL EQUIP & IMPROVMNTS	151,243
552. NON CAPITAL PROJECTS	40,620
580. INTERFUND TRANSFERS	712,179
590. NON CASH EXPENSES	483,053
Sub Total Expenditure	12,557,493
Sub Total 55. ELECTRIC FUND	141,975

Report Total :	4,701,667
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ORDINANCE 2020-06

AN ORDINANCE RELATING TO THE ANNEXATION TO THE CITY OF CODY, WYOMING OF LANDS OWNED BY RONALD AND KELLY HUNT LOCATED AT 137 BELFRY HIGHWAY

WHEREAS, notice of a public hearing to consider the annexation and zoning of the subject property was published in the Cody Enterprise on March 26 and April 2, 2020, and mailed to owners of properties within 140 feet of the subject property on March 16, 2020, as required;

WHEREAS, the Cody Planning and Zoning Board reviewed the annexation and accompanying zoning request at their April 14, 2020 regular meeting and recommend approval as requested;

WHEREAS, the City of Cody does not exercise authority granted under Wyoming Statue 15-3-202(b)(ii);

WHEREAS, a public hearing was held on April 21, 2020 before the City Council at their regular meeting, as advertised, at which meeting the City Council heard comments from all persons wishing to speak for or against the proposed ordinance;

WHEREAS, the Cody City Council makes the following findings in accordance with Section 402(a) of Article 4 of Chapter 1 of Title 15, Wyoming Statutes, for the reasons noted in the agenda summary:

- (i) An annexation of the area is for the protection of the health, safety and welfare of the persons residing in the area and in the city or town;
- (ii) The urban development of the area sought to be annexed would constitute a natural, geographical, economical and social part of the annexing city or town;
- (iii) The area sought to be annexed is a logical and feasible addition to the annexing city or town and the extension of basic and other services customarily available to residents of the city or town shall, within reason, be available to the area proposed to be annexed (Making note that no utility services are needed or proposed for the annexed land);
- (iv) The area sought to be annexed is contiguous with or adjacent to the annexing city or town, or the area meets the requirements of W.S. 15-1-407;
- (v) If the city or town does not own or operate its own electric utility, its governing body is prepared to issue one (1) or more franchises as necessary to serve the annexed area pursuant to W.S. 15-1-410 (Not Applicable); and,
- (vi) The annexing city or town, not less than twenty (20) business days prior to the public hearing required by W.S. 15-1-405(a), has sent by certified mail to all landowners and affected public utilities within the territory a summary of the proposed annexation report as required under subsection (c) of this section and notice of the time, date and location of the public hearing required by W.S. 15-1-405(a).

WHEREAS, the Cody City Council has thoroughly reviewed the matter and deems that it is in the best interest of the public and the City of Cody to approve the proposed ordinance;

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

Section 1. The following described territory is hereby annexed to the City of Cody, Wyoming:

That property described in Exhibit A, as attached, and as found in the deed filed April 12, 2019 in Book 2019, Page 1651, records of Park County, WY.

Section 2. The territory described in Section 1 of this ordinance is hereby made a part of Ward Number 1 of the City of Cody, Wyoming.

Section 3. The survey map of the annexation shall be provided pursuant to W.S. 15-1-413, and shall be filed pursuant to said statute.

This ordinance shall become effective after final passage and publication in the Cody Enterprise.

PASSED ON FIRST READING 5/19/2020
PASSED ON SECOND READING
PASSED ON THIRD READING

Matt Hall, Mayor

Attest:

Cynthia Baker, Administrative Services Director

ORDINANCE 2020-07

**AN ORDINANCE
REZONING LANDS OWNED BY RONALD AND KELLY HUNT LOCATED
AT 137 BELFRY HIGHWAY TO GENERAL BUSINESS (D-2) WITH THE
ENTRY CORRIDOR OVERLAY**

WHEREAS, notice of a public hearing to consider the zoning of the subject property was published in the Cody Enterprise on March 26 and April 2, 2020, and mailed to owners of properties within 140 feet of the subject property on March 16, 2020, as required;

WHEREAS, the Cody Planning and Zoning Board reviewed the zoning request at their April 14, 2020 regular meeting and recommended approval as requested;

WHEREAS, a public hearing was held on April 21, 2020 before the City Council at their regular meeting, as advertised, at which meeting the City Council heard comments from all persons wishing to speak for or against the proposed ordinance;

WHEREAS, the governing body of the City of Cody has reviewed the recommendation and public comments and finds that it is in the best interest of the public to rezone the area requested to General Business (D-2) with the entry corridor overlay.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CODY, WYOMING:

Section 1: That property the described in Exhibit A, as attached, and as found in the deed filed April 12, 2019 in Book 2019, Page 1651, records of Park County, WY, shall be and the same is hereby rezoned to General Business (D-2) with the entry corridor overlay, as set forth in City of Cody Code Title 10.
(A.K.A. 137 Belfry Highway)

Section 2: That the official zoning map of the City of Cody is amended to show the foregoing zone change.

Section 3: That commercial development of the subject property shall be subject to site plan review by the Planning and Zoning Board.

Effective Date. This Ordinance shall become effective after final passage and publication in the Cody Enterprise.

PASSED ON FIRST READING: 5/19/2020 _____

PASSED ON SECOND READING:

PASSED, ADOPTED AND APPROVED
ON THIRD AND FINAL READING:

Matt Hall, Mayor

ATTEST:

Cynthia Baker, Administrative Services Officer

ORDINANCE 2020-05_

AN ORDINANCE TO ENTER INTO A CABLE FRANCHISE AGREEMENT WITH TRI COUNTY TELEPHONE ASSOCIATION, INC., TCT WEST, INC., AND TRI TEL, INC.

This Cable Franchise Agreement (“Franchise”) is between the City of Cody, Wyoming, a municipal corporation organized under the laws of the State of Wyoming (“City” or “Franchising Authority”), and Tri County Telephone Association, Inc., TCT WEST, INC., and TRI TEL, INC. (all hereinafter “Grantee”).

The Franchising Authority, having determined that the financial, legal and technical ability of the Grantee is reasonably sufficient to provide services, facilities and equipment necessary to meet the future cable-related needs of the community, and having afforded the public adequate notice and opportunity for comment, desires to enter into this Franchise with the Grantee for the construction and operation of a Cable System on the following terms.

SECTION 1
Definitions

1.1 Definitions. For the purpose of this Franchise, the following terms, phrases, words and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

A. “Access” means the distribution of noncommercial video services and other services and signals as permitted under applicable law by the City and schools in the community using the Access Channel including, but not limited to:

1. “Educational Access” means Access where schools are the primary users having editorial control over programming and services. For purposes of this definition, “school” means any State-accredited educational institution, public or private, including, for example, primary and secondary schools, colleges and universities.

2. “Government Access” means Access where governmental institutions or their designees are the primary users having editorial control over programming and services.

B. “Access Channel” means a downstream signaling path provided on the Cable System to transmit Access programming or services to Subscribers.

C. “Affiliate” when used in relation to Grantee means another person who owns or controls, is owned or controlled by, or is under common ownership or control with Grantee.

D. “Basic Cable Service” means the lowest Tier of Cable Service that includes, at a minimum, the retransmission of local television broadcast signals and Access programming.

E. “Cable Act” collectively means the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, and any amendments thereto.

F. “Cable Operator” means any person or group of persons who provides Cable Service over a Cable System and directly or through one or more Affiliates owns a significant interest in a Cable System, or who otherwise controls or is responsible for, through any arrangement, the management and operation of a Cable System.

G. “Cable Service” means (1) the one-way transmission to Subscribers of (a) video programming service or, (b) other programming services and (2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

H. “Cable System” means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment designed to provide Cable Service, including video programming, and which is provided to multiple Subscribers within a community. Cable System does not include (1) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (2) a facility that serves Subscribers without using any Public Way; (3) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, except that the facility shall be considered a Cable System (other than for purposes of Section 621(c)) to the extent it is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (4) an open video system that complies with Section 653 of Title VI of the Communications Act of 1934; or (5) any facilities of any electric utility used solely for operating its electric utility system.

I. “City Council” means the City Council, the governing body of the City, or its successors.

J. “Expanded Basic Service” means cable programming services not included in the Basic Service and excluding, for example, premium or pay-per-view services.

K. “FCC” means the Federal Communications Commission, or successor governmental entity.

L. “Franchise” means this document, a contractual agreement, and any amendments and modifications thereto executed between the Franchising Authority and Grantee, containing the specific provisions of the authorization granted to operate a Cable System in the City.

M. “Franchise Area” means the area within the jurisdictional boundaries of the City.

N. “Gross Revenues” means any and all revenue in whatever form, from any source, directly received by the Grantee or Affiliate of the Grantee that would constitute a Cable Operator of the Cable System under the Cable Act, derived from the operation of the Cable System to provide Cable Services in any manner that requires use of the Public Ways in the Service Area. Gross

Revenues include, but are not limited to, basic, expanded basic and pay service revenues, revenues from installation, rental of converters, franchise fees, the applicable percentage of the sale of local, regional or national advertising time on video programming channels, and any leased access revenues. Advertising commissions paid to third parties shall not be netted against advertising revenues included in Gross Revenues.

Gross Revenues do not include any taxes which are imposed directly or indirectly on any Subscriber by any governmental unit or agency, and which are collected by the Grantee on behalf of a governmental unit or agency. Franchise fees are not such a tax and are therefore included in Gross Revenues. Gross Revenues do not include revenue which cannot be collected by the Grantee and are identified as bad debt; provided that if revenue previously representing bad debt is collected, this revenue shall be included in Gross Revenues for the collection period. Gross Revenues also do not include (i) refunds, rebates or discounts made to Subscribers or other third parties; (ii) any revenues classified as non-Cable Services revenue under federal or State law; (iii) revenues from the sale of capital assets or sales of surplus equipment or program launch fees, i.e., reimbursement by programmers to Grantee of marketing costs incurred by Grantee for the introduction of new programming; or (iv) directory or Internet advertising revenues including, but not limited to, Yellow Page, White Page, banner advertisement and electronic publishing.

O. “Institutional Network” means a communication network which is constructed or operated by the Cable Operator and which is generally available only to the City.

P. “Normal Business Hours” means hours during which most similar businesses in the community are open to serve Subscribers. In all cases, Normal Business Hours shall include some evening hours at least one night per week and/or some weekend hours. The Grantee will notify its Subscribers and the Franchising Authority of its Normal Business Hours.

Q. “Normal Operating Conditions” means service conditions which are within the control of the Grantee. Conditions which are not within the control of the Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages (unless caused by Grantee or its affiliates), utility company work on poles, severing of cable system plant by third persons, labor strikes, vandalism, accidents and severe or unusual weather conditions. Conditions which are ordinarily within the control of the Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.

R. “Person” means an individual, partnership, association, joint stock company, trust, corporation, governmental entity (but shall not mean the Franchising Authority) or other entity.

S. “Public Way” means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, lane, drive, or circle, and including, but not limited to, public utility easements, dedicated utility strips or rights-of-way dedicated for compatible uses which shall entitle the Grantee to install, operate, repair and maintain the Cable System.

T. “Service Area” means the present municipal boundaries of the Franchising Authority, and includes any additions thereto by annexation or other legal means.

U. “Service Interruption” means the loss of picture or sound on one or more channels.

V. “State” means the State of Wyoming.

W. “Subscriber” means a person who lawfully receives cable services of the Cable System with the Grantee’s express permission.

X. “Tier” means a group of channels for which a periodic subscription fee is charged.

SECTION 2
Grant of Franchise

2.1 Grant. The Franchising Authority grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to make reasonable and lawful use of the Public Way in the City to construct, operate, maintain, reconstruct, rebuild and upgrade a Cable System for the purpose of providing cable service and any electronic or optical signal permitted by law subject to the terms and conditions set forth in this Franchise and in any prior utility or use agreement entered into concerning individual property.

A. Nothing in this Franchise shall be deemed to waive the lawful requirements of any generally applicable City ordinances existing as of the effective date of this Franchise.

B. Each and every term, provision or condition herein is subject to the provisions of state law, federal law, the City Code, and ordinances and regulations. The City Code and all subsequent amendments are expressly incorporated in this Franchise. However, the Franchising Authority may not unilaterally alter the material rights and obligations of Grantee under this Franchise. Notwithstanding the foregoing, neither party waives its rights to avail itself of federal or State preemption regarding the provisions of this Franchise.

C. This Franchise is intended to convey limited rights and interests only as to those Rights-of-Way in which the City has an actual interest. It is not a warranty of title or interest in any Right-of-Way; it does not provide Grantee with any interest in any particular location within the Right-of-Way; and it does not confer rights other than as expressly provided in the grant hereof.

D. The Grantee promises and guarantees, as a condition of exercising the privileges granted by this Franchise, that any Affiliate of the Grantee directly involved in the offering of Cable Service in the Service Area, or directly involved in the management or operation of the Cable System in the Service Area, will also comply with the terms and conditions of this Franchise.

E. This Franchise shall not include or be a substitute for:

1. Any permit or authorization required for the privilege of transacting and carrying on a business within the City that may be required by the ordinances and laws of the City;

2. Any permit, agreement or authorization required by the Franchising Authority for Public Way users generally in connection with operations on or in the Public Way or public property including, by way of example and not limitation, street cut or construction permits; or

3. Any permits or agreements for occupying any other property of the Franchising Authority or private entities to which access is not specifically granted by this Franchise including, without limitation, permits and agreements for placing devices on poles, in conduits or in or on other structures.

2.2 Term.

A. The Franchise shall be for a term of ten (10) years commencing on the effective date of the Franchise as set forth below, unless otherwise lawfully terminated in accordance with the terms of this Franchise.

B. This Franchise and the rights, privileges and authority granted hereunder shall take effect on _____, and shall terminate on _____, unless terminated sooner.

2.3 Other Ordinances. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinances, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. Grantee reserves the right to challenge provisions of any ordinance which conflict with its contractual rights, either now or in the future. The Grantee agrees that it is subject to the lawful exercise of the police power of the Franchising Authority.

2.4 Use of Public Way.

A. Subject to the Franchising Authority's supervision and control, Grantee may erect, install, construct, operate, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the Public Way within the City such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, pedestals, attachments and other property and equipment as are necessary or useful and appurtenant to the operation of a Cable System within the City for the origination and distribution of television and radio signals and any electronic or optical signal permitted by law. Grantee, through this Franchise, is granted extensive and valuable rights to operate its Cable System for profit using the Franchising Authority's Public Way in compliance with all applicable City construction codes and procedures. As trustee for the public, the Franchising Authority is entitled to fair compensation to be paid for these valuable rights throughout the term of the Franchise, as outlined herein.

B. Grantee must follow Franchising Authority established requirements for placement of Cable System facilities in the Public Way, including the specific location of facilities in the Public Way, and must in any event install Cable System facilities in a manner that minimizes interference with the use of the Public Way by others, including others that may be installing communications facilities. Within limits reasonably related to the Franchising Authority's role in protecting public health, safety and welfare, the Franchising Authority may require that Cable System facilities be installed at a particular time, at a specific place or in a particular manner as a condition of access to a particular Public Way; may deny access if Grantee is not willing to comply with the Franchising Authority's requirements; and may remove, or require removal of, any facility that is not installed in compliance with the requirements established by the Franchising Authority, or which is installed without prior Franchising Authority approval of the time, place or manner of installation, and charge Grantee for all the reasonable costs associated with removal; and may require Grantee to reasonably cooperate with others to minimize adverse impacts on the Public Way through joint trenching and other arrangements.

C. Grantee agrees to use and subscribe to the same underground utility locator service as the majority of utility providers within the Service Area, if these services are made available at a charge deemed reasonable by Grantee.

2.5 Police Powers.

A. Grantee's rights are subject to the police powers of the Franchising Authority to adopt and enforce ordinances necessary to the safety, health and welfare of the public, and Grantee agrees to comply with all laws and ordinances of general applicability enacted, or hereafter enacted, by the Franchising Authority or any other legally constituted governmental unit having lawful jurisdiction over the subject matter. The Franchising Authority shall have the right to adopt, from time to time, ordinances as may be deemed necessary in the exercise of its police power.

B. The right is hereby reserved to the Franchising Authority to adopt, in addition to the provisions contained herein, such additional regulations as it shall find necessary in the exercise of the police power; provided that such regulation, by ordinance or otherwise, shall be reasonable and not in conflict with the rights and obligations herein granted.

2.6 Franchise Nonexclusive. This Franchise shall be nonexclusive, and subject to all prior rights, interests, easements, permits or licenses granted by the Franchising Authority to any Person to use any property for any purpose whatsoever, including the right of the Franchising Authority to use the same for any purpose it deems fit, including the same or similar purposes allowed Grantee hereunder. The Franchising Authority may at any time grant authorization to use the Public Ways for any purpose not incompatible with Grantee's authority under this Franchise and for such additional franchises for cable systems as the Franchising Authority deems appropriate.

2.7 Effect of Acceptance. By accepting the Franchise, the Grantee:

A. Acknowledges and accepts the Franchising Authority's legal right to issue and enforce the Franchise;

B. Accepts and agrees to comply with each provision of this Franchise subject to applicable law; and

C. Agrees that the Franchise was granted pursuant to processes and procedures consistent with applicable law, and that it will not raise any claim to the contrary.

2.8 Permits Required for Construction. Prior to doing any work in the Public Way or other public property, Grantee shall apply for, and obtain, appropriate permits from the Franchising Authority. As part of the permitting process, the Franchising Authority may impose any conditions and regulations as are necessary for the purpose of protecting any structures in such Public Way, proper restoration of Public Way and structures, the protection of the public, and the continuity of pedestrian or vehicular traffic and explore with Grantee opportunities for joint trenching and placement of the Franchising Authority's conduit and fiber optic cable. Conditions may also include the provision of a construction schedule and maps showing the location of the facilities to be installed in the Public Way. Grantee shall pay all non-discriminatory and generally applicable fees for the requisite Franchising Authority permits received by the Grantee.

2.9 Maps Required. Grantee shall at all times maintain a complete set of GIS and as-built maps showing the exact location of all Cable System equipment and facilities in the Right-of-Way, but excluding detail on proprietary electronics contained therein and Subscriber drops. Upon advance written notice to Grantee, the City's authorized representative(s) or agent(s) shall have the right to inspect such maps at Grantee's local office at a time mutually agreeable to the City and Grantee. Due to confidentiality and safety concerns, the City shall not be allowed to make copies of or take possession of any of Grantee's maps.

2.10 Compliance with Applicable Codes.

A. Franchising Authority Construction Codes. Grantee shall comply with all applicable Franchising Authority construction codes, including, without limitation, building codes and zoning codes and regulations.

B. Tower Specifications. Antenna supporting structures or towers shall be designed for the proper loading as specified by a licensed engineer in Wyoming. Antenna supporting structures or towers shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable federal, state, and local codes or regulations.

C. Safety Codes. Grantee shall comply with all federal, state and local safety requirements, rules, regulations, laws and practices, and employ all necessary devices as required by applicable law during construction, operation and repair of its Cable System. By way of illustration and not limitation, Grantee shall comply with the National Electrical Code, National Electrical Safety Code and Occupational Safety and Health Administration standards.

2.11 Minimal Interference. Work in the Public Way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Grantee's Cable System shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of the Franchising Authority, or with any other pipes, wires, conduits, pedestals, structures, or other facilities that may have been laid in the Public Way by, or under, the City's authority. The Grantee's Cable System shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or to interfere with new improvements the Franchising Authority may deem proper to make or to unnecessarily hinder or obstruct the free use of the Public Way or other public property, and shall not interfere with the travel and use of public places by the public during the construction, repair, operation or removal thereof, and shall not obstruct or impede traffic. In the event of interference, the Franchising Authority may require the removal or relocation of Grantee's lines, cables, equipment and other appurtenances at Grantee's expense. Grantee shall notify affected and/or adjoining property owners, in advance, by written notice and/or personal contact, of Grantee's presence and construction, repair, operation or removal prior to beginning any such work.

SECTION 3 **Standards of Service**

3.1 Construction Standards and Requirements. The Cable System shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices performed by experienced maintenance and construction personnel.

3.2 General Conditions. Grantee shall have the right to utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits, or other facilities on public property provided Grantee is able to access existing poles, conduits, or other facilities on commercially reasonable terms and conditions acceptable to Grantee.

3.3 Discontinuing Use.

A. Whenever Grantee intends to abandon a material above-ground facility or portion of the Cable System within the Public Way, Grantee shall submit for the City's approval a complete description of the facility and the date on which Grantee intends to discontinue using the facility. Grantee may remove the facility or request that the City permit it to remain in place. Notwithstanding Grantee's request that any such facility remain in place, the City may require Grantee to remove the facility from the Right-of-Way or modify the facility to protect the public health, welfare, safety, and convenience, or otherwise serve the public interest. The City may require Grantee to perform a combination of modification and removal of the facility. Grantee shall complete such removal or modification in accordance with a reasonable schedule set by the City. Until such time as Grantee removes or modifies the facility as directed by the City, or until the rights to and responsibility for the facility are accepted by another Person having authority to construct and maintain such facility, Grantee shall be responsible for all necessary repairs and relocations of the

facility, as well as maintenance of the Public Way, in the same manner and degree as if the facility were in active use, and Grantee shall retain all liability for such facility. If Grantee is not willing to comply with the foregoing requirements, the City may remove or require removal of the facility at issue and charge Grantee for all the reasonable costs and attorneys' fees associated with such removal.

B. Grantee shall not have any obligation to comply with subsection 3.3 A. unless it is a generally applicable and non-discriminatory requirement of the City for other users of the Public Way.

C. If Grantee abandons its facilities, the City may choose to use such facilities for any purpose whatsoever including, but not limited to, Access purposes.

3.4 Inspection of Construction and Facilities. The City may inspect any of Grantee's facilities, equipment or construction at any time upon at least forty-eight (48) hours' notice, or, in case of emergency, upon demand without prior notice. The City shall have the right to charge generally applicable inspection fees for necessary inspections.

3.5 Work of Contractors and Subcontractors. Grantee's contractors and subcontractors shall be licensed and bonded in accordance with the City's generally applicable ordinances, regulations and requirements. Work by contractors and subcontractors is subject to the same restrictions, limitations and conditions as if the work were performed by Grantee. Grantee shall be responsible for all work performed by its contractors and subcontractors.

3.6 Restoration of Public Ways. If during the course of the Grantee's construction, operation or maintenance of the Cable System there occurs a disturbance of any Public Way by the Grantee, it shall, at its expense, replace and restore the Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance.

3.7 Relocation at Request of the Franchising Authority. Upon its receipt of reasonable advance notice, not to be less than thirty (30) days, the Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the Public Way, or remove from the Public Way, any property of the Grantee when lawfully required by the Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the Franchising Authority. The Grantee shall have the right to abandon its underground property, but not its aboveground property without first removing same, if requested by the Franchising Authority. If funds are generally available to users of the Public Way for such relocation, Grantee shall be entitled to its *pro rata* share of such funds.

3.8 Relocation at Request of Third Party. The Grantee shall, on the request of any person holding a building moving permit issued by the Franchising Authority, temporarily raise or lower its wires to permit the moving of such building, provided: (A) the expense of temporary raising or lowering of wires is paid by the permit holder, including, if required by the Grantee, making

payment in advance; and (B) the Grantee is given not less than ten (10) business days advance written notice to arrange for temporary wire changes.

3.9 Trimming of Trees and Shrubbery. The Grantee may trim trees or other natural growth overhanging any of its Cable System in the Service Area to prevent branches from coming in contact with the Grantee's wires, cables or other equipment. The Grantee shall reasonably compensate the Franchising Authority or private property owner for any damages caused by such trimming, or shall, in its sole discretion and at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction of the Cable System undertaken by the Grantee. Replacement shall satisfy any and all obligations the Grantee may have to the Franchising Authority pursuant to the terms of this section.

3.10 Safety Requirements. Construction, installation and maintenance of the Cable System must be performed in an orderly and workmanlike manner. All work must be performed in accordance with applicable FCC or other federal, state and local regulations. The Cable System shall not endanger or interfere with the safety of persons or property in the Service Area.

3.11 Technical Standards. The Grantee is responsible for ensuring that the Cable System is designed, installed and operated in a manner that fully complies with federal regulations as revised or amended from time to time. As provided in these rules, the Franchising Authority shall have, upon request, the right to obtain a copy of tests and records required in accordance with appropriate rules.

3.12 Aerial and Underground Construction. In the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services and cable and other communications services plant are already underground, the Grantee shall construct, operate, and maintain all of its transmission and distribution facilities underground to the extent that existing technology reasonably enables Grantee to do so. In areas where the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services or cable and other communications services plant are both aerial and underground, the Grantee and Franchising Authority shall mutually agree as to the placement of Grantee's transmission or distribution facilities, or any part, aerially or underground. Nothing contained in this section will require the Grantee to construct, operate, and maintain underground any ground-mounted appurtenances such as Subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals or other related equipment. Notwithstanding anything to the contrary contained in this section, in the event that all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services and cable and other communications services plant are placed underground after the effective date of this Franchise, the Grantee shall be required to construct, operate, and maintain all of its transmission and distribution facilities underground if it is given not less than one hundred and twenty (120) days notice and access to the public utilities' facilities at the time that they are placed underground, to the extent that existing technology reasonably enables Grantee to do so. In the event that discussions between the City and any company concerning placing facilities underground commence, the City shall promptly inform the Grantee of those discussions and invite the Grantee to participate in them.

A. New Developments. The Franchising Authority shall use reasonable diligence to provide the Grantee with written notice of the issuance of building or development permits for planned commercial/residential developments within the Service Area requiring undergrounding of cable facilities.

B. Local Improvement District. If an ordinance is passed creating a local improvement district which involves placing certain utilities underground including those of the Grantee which are located overhead, the Grantee will participate in the underground project after reasonable notice from the City and shall remove poles, cables and wires from the surface of the streets within the district and shall place them underground in conformity with the requirements of the Franchising Authority to the extent that existing technology reasonably enables Grantee to do so and within a reasonable amount of time. The Grantee may include its costs of relocating facilities associated with the undergrounding project in a local improvement district if allowed under applicable law.

3.13 Required Extensions of Service. Unless cable service is already available from another cable system operator, whenever Grantee's Cable System passes at least twenty-five (25) residences within 5,280 cable-bearing strand feet (one cable mile) of its trunk or distribution cable, and such residences are within 1,320 cable-bearing strand feet (one-quarter cable mile) of its active trunk or feeder line, it will extend its Cable System to Subscribers at no cost, other than the usual connection fees for all Subscribers. If, as a result of new construction, an area within the City meets the requirements of this Section, Grantee shall provide Cable Service to such area within twelve (12) months of receiving notice from the City that such requirements have been met.

3.14 Subscriber Charges for Extensions of Service. No Subscriber shall be refused service arbitrarily. However, for unusual circumstances, such as a Subscriber's request to locate his cable drop underground, existence of more than one hundred fifty (150) feet from distribution cable to connection of service to Subscribers, or a density of less than twenty-five (25) residences per 5,280 cable-bearing strand feet of trunk or distribution cable, service may be made available at a connection charge not to exceed that permitted by applicable law.

3.15 Annexation. The City shall promptly provide written notice to Grantee of its annexation of any territory which is being provided Cable Service by Grantee or its affiliates. Such annexed area will be subject to the provisions of this Franchise upon sixty (60) days' written notice from the City, subject to the conditions set forth below. The City shall also notify Grantee in writing of all new street address assignments or changes within the Franchise Area. Grantee shall within ninety (90) days after receipt of the annexation notice, pay the City franchise fees on revenue received from the operation of the Cable System to provide Cable Services in any area annexed by the City if the City has provided a written annexation notice that includes the addresses that will be moved into the Franchise Area in an Excel format or in a format that will allow Grantee to add the addresses to its billing system. If the annexation notice does not include the addresses that will be moved into the Franchise Area, Grantee shall pay franchise fees within ninety (90) days after it receives the annexed addresses as set forth above. In any audit of franchise fees due under this Franchise, Grantee shall not be liable for franchise fees on annexed areas unless and until Grantee has received notification and information that meets the standards set forth in this subsection.

3.16 Service to Public Buildings. The Grantee shall, upon request of the Franchising Authority, provide one (1) outlet of Basic and Expanded Basic Cable Services (and, if necessary the equipment required to receive the cable signals) to the Franchising Authority offices and facilities including fire station(s) and police station(s), libraries, Access facilities and public school building(s) that are passed by its Cable System. The outlets of Basic and Expanded Basic Service shall not be used to sell services. The Franchising Authority shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in the inappropriate use or any loss or damage to the Cable System. Users of outlets agree to hold the Grantee harmless from any and all liability or claims arising out of their use of outlets, including, but not limited to, those arising from copyright violation, provided that Grantee is in compliance with all of its programming agreements. The Grantee shall not be required to provide an outlet to previously unserved buildings where the drop line from the feeder cable to the buildings or premises exceeds or unless the appropriate governmental entity agrees to pay the incremental cost of such drop line in excess of one hundred fifty (150) cable feet. If additional outlets of Basic or Expanded Basic Cable Service are provided to any buildings, the building owner must pay the usual installation fees, including, but not limited to, labor and materials.

3.17 Emergency Use.

A. In accordance with and at the time required by the provisions of federal laws and regulations, the Grantee shall install and maintain an Emergency Alert System (EAS).

B. The Franchising Authority shall permit only appropriately trained and authorized persons to use the EAS equipment and take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in inappropriate use, or any loss or damage to the Cable System. Except to the extent expressly prohibited by law, the Franchising Authority agrees to hold the Grantee, its employees, officers and assigns harmless from any claims arising out of the emergency use of its facilities by the Franchising Authority, including, but not limited to, reasonable attorneys' fees and costs.

3.18 Customer Service Standards. The following Customer Service standards shall only apply to the provision of Cable Service in the Service Area.

A. Cable System office hours and telephone availability.

1. The Grantee will maintain a local, toll-free or collect call telephone access line which will be available to Subscribers twenty-four (24) hours a day, seven (7) days a week.

a. Trained representatives of the Grantee will be available to respond to Subscriber telephone inquiries during Normal Business Hours.

b. After Normal Business Hours, an access line will be available to be answered by a service or an automated response system, including a phone

answering system. Inquiries received after Normal Business Hours must be responded to by a trained representative of the Grantee on the next business day.

2. Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, will not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time will not exceed thirty (30) seconds. These standards will be met no less than ninety percent (90%) of the time under Normal Operating Conditions, as measured on a quarterly basis.

3. The Grantee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards set forth above unless a historical record of complaints indicates a clear failure to comply with the standards.

4. Under Normal Operating Conditions, the Subscriber will receive a busy signal less than three percent (3%) of the time.

5. Customer service center and bill payment locations, if any, will be open during Normal Business Hours and will be conveniently located.

B. Installations and service calls. Under Normal Operating Conditions, each of the following four (4) standards will be met no less than ninety-five percent (95%) of the time, as measured on a quarterly basis:

1. Standard installations will be performed within seven (7) business days after an order has been placed unless scheduled at a later time by customer request. Standard installations are those that are located up to one hundred fifty (150) feet from the existing distribution system.

2. Excluding conditions beyond its control, the Grantee will begin working on Service Interruptions promptly and in no event later than twenty-four (24) hours after the interruption becomes known. The Grantee will begin actions to correct other service problems the next business day after notification of the service problem.

3. The Grantee will provide “appointment window” alternatives for installations, service calls and other installation activities, which will be either a specific time, or at a maximum, a four-hour time block during Normal Business Hours. (The Grantee may schedule service calls and other installation activities outside of Normal Business Hours for the express convenience of the customer.)

4. The Grantee shall not cancel an appointment with a Subscriber after the close of business on the business day prior to the scheduled appointment.

If a representative of the Grantee is running late for an appointment with a Subscriber and will not be able to keep the appointment as scheduled, the Subscriber will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the Subscriber.

C. Communications between the Grantee and Subscribers.

1. Notifications to Subscribers:

a. The Grantee shall provide written information on each of the following areas at the time of installation of service, at least annually to all Subscribers, and at any time upon request:

- i. Products and services offered;
- ii. Prices and options for services and conditions of subscription to programming and other services;
- iii. Installation and service maintenance policies;
- iv. Instructions on how to use the service;
- v. Channel positions of programming carried on the Cable System; and
- vi. Billing and complaint procedures, including the address and telephone number of the local Franchising Authority's office.

b. Subscribers will be notified of any changes in rates, programming services or channel positions as soon as possible through announcements on the Cable System or otherwise as required or permitted by the FCC. Notice will be given to Subscribers a minimum of thirty (30) days in advance if the change is within the control of the Grantee. In addition, the Grantee shall notify Subscribers thirty (30) days in advance of any significant changes in the other information required by the preceding paragraph.

2. Billing:

a. Bills will be clear, concise and understandable. Bills will be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly describe all activity during the billing period, including optional charges, rebates and credits.

b. In case of a billing dispute, the Grantee will respond to a written complaint from a Subscriber within thirty days from receipt of the complaint.

3. Refund checks will be issued promptly, but no later than either (a) the Subscriber's next billing cycle following resolution of the request or thirty (30) days,

whichever is earlier, or (b) the return of the equipment supplied by the Grantee if service is terminated.

4. Credits for service will be issued no later than the Subscriber's next billing cycle following the determination that a credit is warranted.

3.19 Educational and Government Access Channel(s).

A. The Grantee shall make available one channel to be used for educational and governmental cablecast programming. When first-run programming on the first access channel occupies fifty percent (50%) of the hours between 11:00 a.m. and 11:00 p.m., for any twelve (12) consecutive weeks, the Franchising Authority may request the use of one (1) additional channel for the same purpose. The additional channel must maintain programming twenty-five percent (25%) of the hours between 11:00 a.m. and 11:00 p.m. for twelve (12) consecutive weeks. If this level of programming is not maintained, the channel will return to the Grantee for its use. The Grantee also reserves the right to program the designated educational and governmental channels during the hours not used by the Franchising Authority or other governmental entities.

B. When all of the following conditions are satisfied, and upon written request by the City, Grantee shall convert the Access Channel(s) into high definition format ("HD") no more than six (6) months following Grantee's receipt of such request from the City which shall include the City's written commitment to the following ("HD Upgrade"):

1. Grantee utilizes switched digital video to provide Cable Service in the Franchise Area;

2. The City has the ability to produce substantially all of its Access programming in HD, commits to produce, and upon the availability of an HD Access Channel does produce, at least five (5) hours per week of Access programming in HD for such Access Channel. The calculation of at least five (5) hours per week may include an original showing of any Access program plus one repeat per week. All equipment necessary to produce and transmit any Access Channel programming from inside City Hall in HD to Subscribers shall be at the City's cost.

3. Grantee agrees to work cooperatively with the City to ensure the necessary Access transport equipment complies with Grantee's Cable System requirements. The City shall be responsible for the costs, of all transmission equipment, including HD modulator and demodulator, and encoder or decoder equipment, and multiplex equipment, required for Grantee to receive and distribute the City's HD Access Channel signal, including any resulting upgrades to any return line.

4. The HD Access Channel provided under this subsection will replace the existing Access Channel.

C. The Access Channel shall be placed on Basic Service if in standard definition format, and on the lowest Tier of Cable Service available to Subscribers in HD if the Access Channel is converted to an HD Access Channel under subsection B.

3.20 Relocation of the Access Channel. Grantee shall provide the City and all Subscribers with as much prior written notice of any relocation of the Access Channel as reasonably possible, but in no event less than thirty (30) days.

3.21 Return Line. Grantee shall maintain a Cable System return line from City Hall to the Cable System headend (the "Return Line"). Grantee shall select the materials and technology to be used for the Return Line, provided that the Return Line shall be able to send video programming signals from City Hall to the Cable System headend in the same format in which such signals are uploaded to the Return Line and that such Return Line is in compliance with all applicable FCC regulations.

3.22 Technical Quality. Grantee shall maintain the Access Channel and Return Line in compliance with FCC regulations regarding signal quality. With respect to signal quality, Grantee shall not be required to carry the Access Channel in a higher quality format than that delivered to Grantee, but Grantee shall distribute the Access Channel in accordance with FCC technical standards.

3.23 Institutional Network. Upon written request of the Franchising Authority, the Grantee agrees to assist the Franchising Authority in the evaluation of the creation of an Institutional Network that would interconnect public buildings for the transmission and receipt of communications between specific points in the network within the Service Area.

SECTION 4 **Regulation by the Franchising Authority**

4.1 Franchise Fee. As compensation for the use of valuable Public Ways, Grantee shall pay the Franchising Authority five percent (5%) of Grantee's Gross Revenues except that the Franchising Authority may, from time-to-time authorize the Grantee by resolution, to pay a lower amount for a specified period. If the Franchising Authority so reduces the franchise fee percentage, the reduction shall be passed-through to Subscribers. Prior to any reduction or implementation of any increase in the franchise fee percentage, the Grantee may request, and will be granted a public hearing by the Franchising Authority to discuss the proposed change.

4.2 Payments. The Grantee's franchise fee payments to the Franchising Authority shall be computed quarterly for the preceding calendar quarter ending March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than forty-five (45) days after said dates.

4.3 Acceptance of Payment and Recomputation. No acceptance of any payment shall be construed as an accord and satisfaction by the Franchising Authority that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim the

Franchising Authority may have for further or additional sums payable or for the performance of any other obligation of Grantee.

4.4 Quarterly Franchise Fee Reports. Each payment shall be accompanied by a written report to the Franchising Authority, verified by an authorized representative of the Grantee, containing an accurate statement in summarized form, as well as in reasonable and customary detail, of the Grantee's Gross Revenues and the computation of the payment amount. Such reports shall detail all Gross Revenues of the Cable System.

4.5 Annual Franchise Fee Reports. Grantee shall, within sixty (60) days after the end of each year, furnish to the Franchising Authority a statement of the total amount of Gross Revenues for the year and all payments, deductions and computations for the period. The statement shall be audited by a certified public accountant, who may also be the chief financial officer or controller of Grantee, prior to submission to the Franchising Authority.

4.6 Audits. On an annual basis, upon thirty (30) days prior written notice, the Franchising Authority shall have the right to conduct an independent audit of the Grantee's records reasonably related to the administration or enforcement of this Franchise, in accordance with GAAP, and conducted by an independent certified public accounting firm of national or regional reputation. The complete audit report, including the results of such audit, shall be shared with the Grantee promptly after the audit results are provided to the Franchising Authority (the "Audit Information") and the Grantee shall be provided with an opportunity to discuss the auditor's finding with the auditor and to dispute the audit results. Any undisputed amounts due to the Franchising Authority as a result of the audit shall be paid within sixty (60) days following the later of the delivery of the written notice to the Grantee by the Franchising Authority, or the delivery to the Grantee of the Audit Information. If the audit shows that franchise fee payments have been underpaid by five percent (5%) or more, Grantee shall pay the total cost of the audit, such cost not to exceed seven thousand five hundred dollars (\$7,500) for each year of the audit period during the first five (5) years of this Franchise and ten thousand dollars (\$10,000) for each year of the audit period during the next five (5) years of this Franchise. The Franchising Authority's right to audit and the Grantee's obligation to retain records related to a franchise fee audit for any year shall expire three (3) years after the end of that year.

4.7 Late Payments. In the event any payment due quarterly is not received within forty-five (45) days from the end of the calendar quarter, the Grantee shall pay, in addition to the amount due, interest on the amount due, at the rate of one percent (1%) per month, compounded daily, calculated from the date the payment was originally due until the date the Franchising Authority receives the payment. Notwithstanding anything herein to the contrary, the requirements of this subsection do not apply to amounts incorrectly omitted from a timely made payment, which were subsequently corrected and submitted to the Franchising Authority.

4.8 Equivalent Franchise Fee Obligation. The City shall impose an equivalent Franchise Fee obligation to the obligations contained in this Section on all new and renewed providers of Cable Service in the City. In the event any new or renewed franchise agreement contains Franchise Fee obligations that are lesser in percentage amount than the obligations imposed in this Section,

Grantee's obligations under this Section shall thereafter be automatically reduced to an equivalent percentage amount.

4.9 Underpayments. If a franchise fee underpayment is discovered as the result of an audit, Grantee shall pay, in addition to the amount due, interest on the amount due at the rate of one percent (1%) per month calculated from the date the underpayment was originally due until the date the Franchising Authority receives the payment.

4.10 Tax Liability. The franchise fees shall be in addition to any and all taxes or other levies or assessments which are now or will be required to be paid by the Franchising Authority, the State or the United States including, without limitation, sales, use or other taxes, business license fees or other payments. Payment of the franchise fees under this Franchise will not exempt the Grantee from the payment of any other license fee, permit fee, tax or charge on the business, occupation, property or income of the Grantee that may be lawfully imposed.

4.11 Alternative Compensation. In the event the obligation of Grantee to compensate the City through franchise fees is eliminated by State or federal law, and provided that such change in law contemplates that the City may be lawfully compensated by a Cable Operator for use of the Rights-of-Way in some other manner, then the Grantee shall provide such alternative compensation to the City, provided that in any event such alternative compensation does not exceed five percent (5%) of Grantee's Gross Revenues.

4.12 Financial Records. The Grantee agrees to meet with a representative of the Franchising Authority upon request to review the Grantee's methodology of record-keeping, financial reporting, the computing of franchise fee obligations and other procedures, the understanding of which the Franchising Authority deems necessary for reviewing reports and records relevant to the enforcement of this Franchise.

4.13 Filing on Termination. If this Franchise terminates for any reason, the Grantee shall file with the Franchising Authority, within ninety (90) calendar days of the date of the termination, a financial statement, certified by an independent certified public accountant, showing the Gross Revenues received by the Grantee since the end of the previous fiscal year.

4.14 Authority and Changes in the Law. The Franchising Authority shall be vested with the power and right to administer and enforce the requirements of this Franchise and the regulations and requirements of applicable law, including the Cable Act, or to delegate that power and right, or any part thereof, to the extent permitted under law, to any agent in the sole discretion of the Franchising Authority. The Grantee and Franchising Authority shall be entitled to all rights and be bound by all changes in local, State and federal law that occur subsequent to the effective date of this Franchise. The Grantee and Franchising Authority acknowledge that their rights and obligations under this Franchise are explicitly subject to all such changes.

4.15 Rates and Charges. All of Grantee's rates and charges related to or regarding Cable Services shall be subject to regulation by the Franchising Authority to the full extent authorized by applicable federal and State laws.

4.16 Renewal of Franchise.

A. The Franchising Authority and Grantee agree that renewal of the Grantee's Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, as amended, unless the procedures and substantive protections have been preempted and superseded by the provisions of any subsequent provision of federal, state or local law.

B. In addition to the procedures set forth in Section 626(a) of the Cable Act, the Franchising Authority agrees to notify the Grantee of all of its assessments regarding the identification of future cable-related community needs and interests, as well as the past performance of the Grantee under the current Franchise term. The Franchising Authority further agrees that preliminary assessments shall be provided to the Grantee promptly so that the Grantee has adequate time to submit a proposal under Section 626(b) of the Cable Act and seek renewal of the Franchise prior to expiration of its term. Notwithstanding anything to the contrary set forth in this section, the Grantee and Franchising Authority agree that at any time during the term of the current Franchise, while affording the public appropriate notice and opportunity to comment, the Franchising Authority and Grantee may agree to undertake and finalize informal negotiations regarding renewal of the current Franchise and the Franchising Authority may grant a renewal. The Grantee and Franchising Authority consider the terms set forth in this section to be consistent with the express provisions of Section 626 of the Cable Act.

4.17 Conditions of Sale. If a renewal or extension of the Grantee's Franchise is denied or the Franchise is lawfully terminated, and the Franchising Authority either lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be pursuant to the provisions set forth in Section 627 of the Cable Act.

4.18 Transfer of Franchise. The Grantee's right, title or interest in the Franchise shall not be sold, transferred, assigned or otherwise encumbered, other than to an entity controlling, controlled by or under common control with the Grantee, without the prior written consent of the Franchising Authority, such consent not to be unreasonably withheld, conditioned or delayed. However, no consent shall be required for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any right, title or interest of the Grantee in the Franchise or Cable System in order to secure indebtedness. The Franchising Authority shall, in accordance with FCC rules and regulations, notify the Grantee in writing of the information it requires to determine the legal, financial and technical qualifications of the transferee. If the Franchising Authority has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request and all required documents, consent shall be deemed granted by the Franchising Authority.

SECTION 5 **Books and Records**

The Grantee agrees that the Franchising Authority, upon reasonable notice to the Grantee, may review its books and records at the Grantee's business office, during Normal Business Hours and on

a nondisruptive basis, to ensure compliance with the terms of this Franchise. Grantee agrees to provide to the Franchising Authority, for its review of Grantee's books and records, adequate space within which to conduct said review in a nondisruptive, clean and reasonably comfortable location. Notice shall specifically reference the section of the Franchise which is under review, so that the Grantee may organize the necessary books and records for easy access by the Franchising Authority. Records include, but are not limited to, any public records required to be kept by the Grantee pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth in this Franchise, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives, and agents that have a need to know, or in order to enforce the provisions hereof subject to public disclosure requirements. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act.

SECTION 6 **Insurance and Indemnification**

6.1 Insurance Requirements.

A. Grantee shall maintain in full force and effect at its own cost and expense each of the following policies of insurance:

1. Commercial General Liability insurance with limits of no less than two million dollars (\$2,000,000) per occurrence and two million dollars (\$2,000,000) general aggregate. Such insurance shall name the City as an additional insured.
2. Commercial Automobile Liability insurance with minimum combined single limits of two million dollars (\$2,000,000) each occurrence with respect to each of Grantee's owned, hired and non-owned vehicles assigned to or used in the operation of the Cable System.
3. Umbrella liability insurance in the amount of five million dollars (\$5,000,000).

B. The Grantee shall provide a Certificate of Insurance designating the Franchising Authority as an additional insured. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the Franchising Authority.

C. Deductibles / Endorsements

1. Any deductible of the policies shall not in any way limit Grantee's liability to the City.
2. Endorsements. All policies shall contain, or shall be endorsed so that:

a. Grantee's insurance coverage shall be primary insurance with respect to the City. Any insurance or self-insurance maintained by the City shall be in excess of Grantee's insurance and shall not contribute to it; and

b. Grantee's insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought, except with respect to the limits of the insurer's liability.

3. Acceptability of Insurers. The insurance obtained by Grantee shall be placed with insurers with a Best's rating of no less than "A VII."

6.2 Indemnification. Grantee shall indemnify, defend and hold the City, its officers, officials, City Council, boards, agents and employees, harmless from any action or claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees and expenses, arising from any casualty or accident to Person or property, including, without limitation, copyright infringement, defamation, and all other damages in any way arising out of, or by reason of, any construction, excavation, operation, maintenance, reconstruction, relocation, repair or removal or any other act done under this Franchise by or for Grantee (including by its agents or its employees), or by reason of any neglect or omission of Grantee, its agents or employees. Grantee shall consult and cooperate with the City while conducting its defense of the City.

SECTION 7 **Performance Bond**

As a condition of the Franchise being awarded, and throughout the term of the Franchise, if Grantee fails to perform a material obligation of this Franchise and does not cure the non-performance within thirty (30) days after written notice by the City, Grantee shall provide and maintain a performance bond in the amount of twenty thousand dollars (\$20,000). The performance bond may be drawn upon by the Franchising Authority to ensure the Grantee's faithful performance of each term and condition of the Franchise. The Franchising Authority agrees to either return the original bond or sign the necessary documentation to release the bond promptly upon transfer of the Franchise.

SECTION 8 **Enforcement and Termination of Franchise**

8.1 Notice of Violation. In the event the Franchising Authority believes that Grantee has not complied with the terms of the Franchise, it shall notify the Grantee in writing of the exact nature of the alleged noncompliance.

8.2 Grantee's Right to Cure or Respond. The Grantee has thirty (30) days from receipt of the notice described in Section 8.1:

A. To respond to the Franchising Authority, contesting the assertion of noncompliance, or requesting further information to evaluate the alleged violation;

B. To cure such default; or

C. In the event that default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default as expeditiously as reasonably possible and notify the Franchising Authority of the steps being taken and the projected date that the default will be cured.

8.3 No Monetary Recourse Against the City. Grantee shall not have any monetary recourse against the City or its officers, officials, City Council, boards, agents or employees for any loss, costs, expenses or damages arising out of any provision or requirement of this Franchise or the enforcement thereof, in accordance with the provisions of applicable federal, State and local law. The rights of the City under this Franchise are in addition to, and shall not be read to limit, any immunities the City may enjoy under federal, State or local law.

8.4 Alternative Remedies. No provision of this Franchise shall be deemed to bar the right of the City to seek or obtain judicial relief from a violation of any provision of the Franchise or any rule, regulation, requirement or directive promulgated thereunder. Neither the existence of other remedies identified in this Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of the City to recover monetary damages for such violations by Grantee, or to seek and obtain enforcement of Grantee's obligations by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity.

8.5 Public Hearing. In the event that the Grantee fails to respond to the notice described in subsection 8.1 pursuant to the procedures set forth in subsection 8.2, or in the event that the alleged default is not remedied within thirty (30) days or the date projected pursuant to subsection 8.2 C. above, the Franchising Authority shall schedule a public hearing to investigate the default. The public hearing shall be held at the next regularly scheduled meeting of the Franchising Authority. The Franchising Authority shall notify the Grantee in writing of the time and place of such meeting and provide the Grantee with an opportunity to be heard. Written notice will be provided at least five (5) business days in advance of the hearing.

8.6 Enforcement. Subject to applicable federal, state and local law, in the event the Franchising Authority, after such meeting, determines that the Grantee is in default of any provision of the Franchise, the Franchising Authority may seek any or all of the following remedies:

A. Seek specific performance of any provision, which reasonably lends itself to that remedy, as an alternative to damages or seek other equitable relief;

B. Commence an action at law for monetary damages; or

C. In the case of a substantial default of a material provision of the Franchise, declare the Franchise to be revoked, subject to the provisions of subsection 8.7 below.

8.7 Revocation.

A. If the Franchising Authority seeks to revoke the Franchise after following the procedures set forth above, the Franchising Authority shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee has thirty (30) days from the notice to object in writing and to state its reasons for the objection. In the event the Franchising Authority has not received a satisfactory response from the Grantee, it may seek termination of the Franchise at a public meeting. The Franchising Authority shall cause to be served upon the Grantee, at least ten (10) days prior to a public meeting, a written notice specifying the time and place of the meeting and stating its intent to request the termination.

B. At the designated meeting, the Franchising Authority shall give the Grantee an opportunity to state its position on the matter, introduce evidence and examine and cross-examine witnesses, after which the Franchising Authority shall determine whether or not the Franchise shall be revoked. Revocation shall require a written and published decision which explains the reasons for revocation and adequately addresses the Grantee's defenses and reasons raised against revocation. The Grantee may appeal such determination to an appropriate court, which has the power to review the decision of the Franchising Authority as provided by law.

C. In the event of said revocation the Grantee shall have one year from the date on which it ceases operations to remove, at its own expense, all portions of its Cable System from all streets within the City, and shall restore said streets to a condition reasonably satisfactory to the City within such period of time.

D. The Franchising Authority may, at its sole discretion, take any lawful action which it deems appropriate to enforce the Franchising Authority's rights under the Franchise in lieu of revocation of the Franchise.

8.8 Assessment of Liquidated Damages.

A. Because it may be difficult to calculate the harm to the Franchising Authority in the event of a breach of this Franchise by Grantee, the parties agree to liquidated damages as a reasonable estimation of the actual damages. To the extent that the Franchising Authority elects to assess liquidated damages as provided in this Franchise, such damages shall be the Franchising Authority's sole and exclusive remedy for such breach or violation and shall not exceed a time period of one hundred eighty (180) days. Nothing in this subsection is intended to preclude the Franchising Authority from exercising any other right or remedy with respect to a breach that continues past the time the Franchising Authority stops assessing liquidated damages for such breach.

B. Prior to assessing any liquidated damages, the Franchising Authority shall follow the enforcement procedures of this Franchise that provide the Grantee proper written notice, a right to be heard and a right to cure.

C. The first day for which liquidated damages may be assessed, if there has been no cure, shall be the day of the Franchising Authority's written notice to Grantee, as such notice is required by subsection 8.1.

D. Grantee may appeal (by pursuing judicial relief) any assessment of liquidated damages within thirty (30) days of paying the assessment.

E. Liquidated damages shall not exceed the following amounts: fifty dollars (\$50.00) per day for material departure from the FCC technical performance standards; fifty dollars (\$50.00) per day for failure to provide the Access Channel(s); fifty dollars (\$50.00) per day for each material violation of the Customer Service Standards; and fifty dollars (\$50.00) per day for any material breaches or defaults not previously listed.

8.9 Force Majeure. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement, damages or fine relating to noncompliance or default (including termination, cancellation or revocation of the Franchise), where noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, unusually severe rain or snow storm, tornado or other catastrophic act of nature, labor disputes or other event that is reasonably beyond the Grantee's ability to anticipate and control. This provision also covers work delays caused by waiting for utility providers to service or monitor their own utility poles on which the Grantee's cable and equipment are attached, as well as unavailability of materials or qualified labor to perform the work necessary that is reasonably beyond the Grantee's ability to anticipate and control.

8.10 Technical Violations. The parties agree that it is not the Franchising Authority's intention to subject the Grantee to fines, forfeitures or revocation of the Franchise for so-called "technical" breaches or violations of the Franchise, which shall include, but are not limited to, the following:

A. In instances or for matters where a violation or a breach by the Grantee of the Franchise was a good faith error that resulted in no or minimal negative impact on the customers within the Service Area; or

B. Where circumstances reasonably beyond the control of the Grantee precipitated a violation by the Grantee of the Franchise or prevented the Grantee from complying with a term or condition of the Franchise.

8.11 False Statements. Any false or misleading statement or representation in any report required by this Franchise, not including clerical errors or errors made in good faith, may be deemed a material breach of this Franchise and may subject the Grantee to all remedies, legal or equitable, which are available to the Franchising Authority under this Franchise.

SECTION 9 **Miscellaneous Provisions**

9.1 Actions of Parties. In any action, by the Franchising Authority or Grantee that is mandated or permitted under the terms of this Franchise, the party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, approval or consent shall not be unreasonably withheld.

9.2 Uniform Treatment. If during the term of this Franchise or any extension, the Franchising Authority grants a materially similar franchise or right to another Cable Operator containing a term or terms more favorable or less burdensome than those granted to the Grantee in this Franchise, this Franchise shall be deemed modified to incorporate the more favorable or less burdensome terms at the written request of the Grantee.

9.3 Notices. Every notice or response required by this Franchise to be served upon the Franchising Authority or Grantee shall be in writing, and shall be deemed to have been duly given to the required party when hand delivered or five (5) business days after having been posted in a properly sealed and correctly addressed envelope when sent by certified or registered mail, postage prepaid.

The notices or responses to the Franchising Authority shall be addressed as follows:

City of Cody
P.O. Box 2200
1338 Rumsey Avenue
Cody, Wyoming 82414
Attention: City Administrator

The notices or responses to the Grantee shall be addressed as follows:

Tri County Telephone Association, Inc., TCT West, Inc., and TRI TEL, INC.
405 S. 4th Street
Basin, WY 82410
Attention: General Manager

The Franchising Authority and the Grantee may designate another address or addresses from time to time by giving notice to the other.

9.4 Descriptive Headings. The captions to sections are intended solely to facilitate the reading thereof. They shall not affect the meaning or interpretation of the text herein.

9.5 Entire Agreement. This Franchise constitutes the entire agreement between the Grantee and Franchising Authority relating to the subject matter hereof and supersedes all prior oral and written negotiations between the parties.

9.6 Amendments. Any changes, modifications or amendments to this Franchise must be made in writing, signed by the City and Grantee.

9.7 De Novo Review. Any determination by the City regarding the interpretation or enforcement of this Franchise shall be subject to de novo judicial review.

9.8 No Third Party Beneficiaries. Nothing in this Franchise is intended to confer third-party beneficiary status on any person to enforce the terms of this Franchise.

9.9 Severability. If any section, subsection, sentence, paragraph or provision hereof is determined to be illegal, invalid or unconstitutional by any court or agency of competent jurisdiction, such determination shall have no effect on the validity of any other section, subsection, sentence, paragraph or provision hereof, all of which will remain in full force and effect for the term of the Franchise, or any renewal or renewals thereof.

9.10 Publication Costs. Grantee shall pay the City for the cost incurred by the City for publication of this ordinance.

9.11 Binding Effect. This Franchise shall be binding upon the parties hereto, their permitted successors and assigns.

9.12 No Joint Venture. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third persons or the public in any manner which would indicate any such relationship with the other.

9.13 Waiver. The failure of the City at any time to require performance by Grantee of any provision hereof shall in no way affect the right of the City hereafter to enforce the same. Nor shall the waiver by the City of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

9.14 Venue and Governing Law. Venue for any judicial dispute between the City and Grantee arising under or out of this Franchise shall be in the District Court, Park County, Wyoming, or in the United States District Court for the District of Wyoming in Casper. This Franchise shall be governed, construed and enforced in accordance with local, State and federal law.

9.15: Wyoming Government Immunity: The Franchising Authority does not waive its governmental immunity and its defenses as provided by the Wyoming Constitution and the Wyoming Governmental Claims Act.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CODY, WYOMING:

That this Franchise shall become effective upon final passage and publication in the Cody Enterprise and signature by the Mayor of the City of Cody.

PASSED ON FIRST READING: 5/19/2020 _____

PASSED ON SECOND READING:

PASSED, ADOPTED AND APPROVED ON
THIRD AND FINAL READING:

Mayor

ATTEST:

City Clerk

IN WITNESS WHEREOF, the parties hereto have entered into this Franchise on the _____ day of _____, 2020.

CITY OF CODY

Mayor

(SEAL)

Attest:

City Clerk

TRI COUNTY TELEPHONE ASSOCIATION, INC.

Title: _____

Attest:

Secretary

TCT WEST, INC.

Title: _____

Attest:

Secretary

TRI TEL, INC.

Title: _____

Attest:

Secretary