



## Transportation Alternatives Program (TAP) Applicant Information

### Sponsor:

Name of Sponsor: Sheridan County		
Sponsor Type: Local Government		
Specify Other:		
DUNS: 033802372		
Mailing Address: 224 S. Main Street		
City: Sheridan	State: WY	Zip: 82801
Project Name: Brooks Street Greenspace		

Contact Person: Ken Muller		
Title: County Engineer		
Email: kmuller@sheridancounty.com		Phone: 307-674-2920
LPA Certified: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	LPA Certification Expiration: 4/2022	
LPA Certified Individual (if not Contact Person):		

### Joint Sponsor:

Joint Sponsor: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes - Joint Sponsor's Name:		
Mailing Address:		
City:	State:	Zip:

Contact Person:	
Title:	
Email:	Phone:

### Funding Request

20% Local Match	80% Federal (TAP Request)	Total Project Cost
\$20,000.00	\$80,000.00	\$100,000.00
Specify source of secured funding: Optional or Specific Purpose 1 cent sales tax		

### Sponsor Certification Statement

Read and check each statement below certifying:

- ☒ The Sponsor is familiar with the Transportation Alternatives Program eligibility criteria;
- ☒ The budget accurately reflects cost of proposed project;
- ☒ The information provided is true and correct to the best of the Sponsor's knowledge;
- ☒ The Sponsor understands this is a reimbursement-based award and if funded, the Sponsor must pay costs and will be reimbursed as invoices are submitted with documentation;
- ☒ The Sponsor will be responsible for ensuring future maintenance and ongoing upkeep of the completed project.

\_\_\_\_\_  
Sponsor Signature  
(Authorized Official)  
Nick Siddle, Board of County Commissioners, Chairman

\_\_\_\_\_  
7/7/2020  
Date



# TAP Attachment A: Project Description SHERIDAN COUNTY

## Nature of Project:

<input checked="" type="checkbox"/> Planning/Design
<input type="checkbox"/> Construction

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

Non-Motorized Transportation		
<input checked="" type="checkbox"/> ADA Upgrades	<input checked="" type="checkbox"/> ADA Transition Plan	
<input checked="" type="checkbox"/> Safe Routes for Non-Drivers	<input checked="" type="checkbox"/> Pedestrian and Bicycle Facilities	
<input type="checkbox"/> Conversion of Abandoned Railway Corridors to Trails		
Environmental Mitigation		
<input type="checkbox"/> Vegetation Management	<input type="checkbox"/> Storm Water Mitigation	<input type="checkbox"/> Wildlife Management
Historic/Scenic Transportation Activities		
<input type="checkbox"/> Scenic Turnouts and Overlooks		
<input type="checkbox"/> Outdoor Advertising Management <input type="checkbox"/> Archeological Activities		
<input type="checkbox"/> Historic Preservation and Rehabilitation of Historic Transportation Facilities		

## Project Location:

Describe the location of the project using any mileposts, landmarks, significant intersections, etc. Vacated right-of-way of Brooks Street between Whitney Street and Burkitt Street on the west side of the Sheridan County Courthouse in Sheridan, Wyoming.
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## Physical Description:

Pathway Type: Sidewalk	
Surface Type: Concrete	If Other, please specify:
Approximate Length: 450 <input type="checkbox"/> N/A	Approximate Width: 6-10' <input type="checkbox"/> N/A

## Project Timeline:

Completion of PS&E	Completion of Final Engineering/Bid Documents	Bid Advertisement	Begin Construction	Complete Project
Dec 2021	Jan 2022	Feb 2022	Mar 2022	Oct 2022

## Project Benefits:

Check the following connections that this project provides (Must be within ½ mile of the start/end of the proposed project):		
<input type="checkbox"/> Residential to Residential	<input checked="" type="checkbox"/> Residential to Retail/Dining	<input type="checkbox"/> Residential to Education
<input type="checkbox"/> Residential to Recreation	<input checked="" type="checkbox"/> Residential to Employment	<input type="checkbox"/> Employment to Retail/Dining
<input type="checkbox"/> Employment to Recreation	<input type="checkbox"/> Employment to Education	<input type="checkbox"/> Recreation to Retail/Dining



<input type="checkbox"/> N/A		
Does the project provide a new connection?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Does the project fill a sidewalk or pathway gap ("missing link")?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> N/A
Will the project induce non-motorized trips?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> N/A
Briefly describe the improvements to mobility outlined in the above <b>Project Benefits</b> section:		
<p>The roadway is permanently closed to motorized travel. Pedestrians and bicycle traffic is allowed, however it is not utilized due to the steep grade. Planned upgrades will provide for ADA upgrades that will promote better and safer pedestrian/bicycle travel in the area, thus, bridging the non-compliant ADA gap that currently exists.</p>		

**Safety:**

Does this project provide a safety improvement?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
If yes, check all parties benefitted by the safety improvement:	
<input checked="" type="checkbox"/> Bicyclists <input checked="" type="checkbox"/> Pedestrians <input type="checkbox"/> Children <input checked="" type="checkbox"/> Elderly <input checked="" type="checkbox"/> People with Disabilities <input type="checkbox"/> Other:	
Will the project enhance awareness of cyclists and pedestrians outside of the project limits?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Is the project within two (2) miles of a school and does it provide a safe connection between a residential community, the school, library, park, after-school activities, etc.?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Describe the details of the safety improvements outlined in the above <b>Safety</b> section:	
<p>Brook Street between Whitney and Burkitt streets has an approximate grade of 14% which was the determining factor to close this section of street to motorized traffic to improve both vehicle and pedestrian safety. The existing sidewalk does not meet ADA requirements and is very unsafe. Planned improvements will make this area safer for pedestrians and bicycles.</p>	

**Economic Opportunity:**

Does the project improve economic opportunity by bringing more people to businesses?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Does the project close a gap of existing walking/biking infrastructure to improve usability in a downtown, revitalization or business district?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Provide details that substantiate answers outlined in the above <b>Economic Opportunity</b> section:	
<p>The proposed project will promote safer year-around pedestrian travel to the Courthouse and the Sheridan Downtown business district.</p>	

**Project Administration:**

How will the project design and contract bidding documents be produced?
<input type="checkbox"/> Reimbursement for these activities will not be sought by the Sponsor.



- ☐ Sponsor Employed Engineer (Must be a full time employee of the Sponsor.)
- ☒ Consulting Engineer (To be selected after notification of project award and Notice to Proceed, as a result of a qualifications based selection.)

Who will review the project design and contract bid documents for the Sponsor?

- ☐ Reimbursement for these activities will not be sought by the Sponsor.
- ☒ Sponsor Employed Engineer (Must be a full time employee of the Sponsor.)
- ☐ Consulting Engineer (To be selected after notification of project award and Notice to Proceed, as a result of a qualifications based selection.)

Who will perform the construction management?

- ☐ Reimbursement for these activities will not be sought by the Sponsor.
- ☒ Sponsor Employed Engineer (Must be a full time employee of the Sponsor.)
- ☒ Consulting Engineer (To be selected after notification of project award and Notice to Proceed, as a result of a qualifications based selection.)

### **Brief Project Summary:**

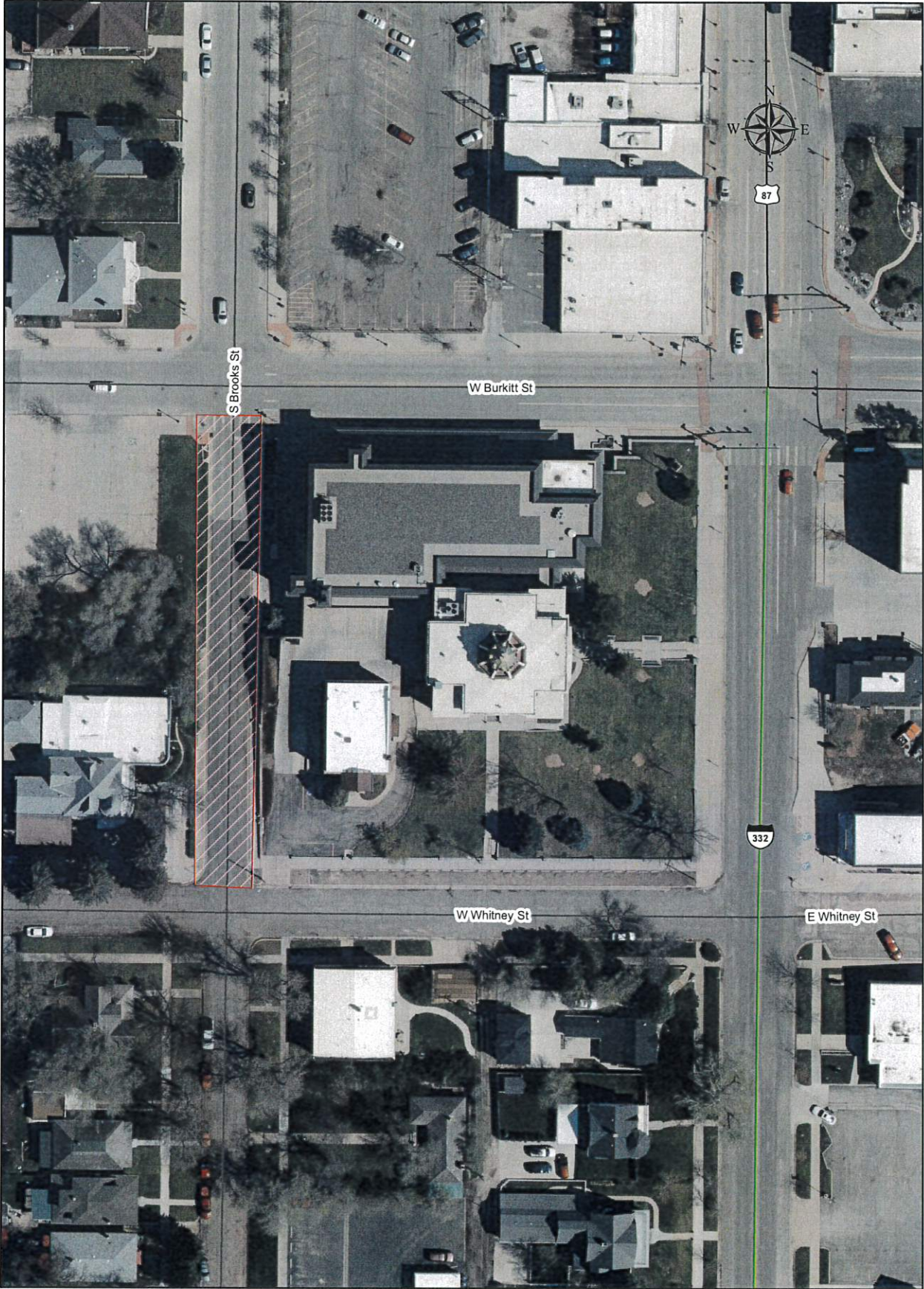
Outline the need for the project and the benefits of the project:

Sheridan County wishes to convert the project area to a greenspace area to include sidewalks/pathways that allow safe pedestrian travel on the west side of the County Courthouse. This proposed public greenspace will be a great addition to the community. The County is seeking planning funds to hire professional services to determine what is feasible and practical for the converting this area to a pedestrian friendly greenspace area that meets all ADA requirements.



**TAP Attachment B: Map**  
*[INSERT UP TO TWO PAGES OF MAPS]*  
Sheridan County

# PROJECT LOCATION - BROOKS STREET GREENSPACE







# **TAP Attachment C: Public Involvement/ Planning and Design Integration**

Project Sponsor

**Is this project included in a planning document?**

☐ Yes ☒ No ☐ N/A

If Yes, provide the name and date of planning document:

If Yes, List the groups that were/are involved in the planning:

**Have you discussed this project with your WYDOT District Engineer?**

☒ Yes ☐ No ☐ N/A

If Yes, indicate the date of the discussion and what was discussed:

TAP Site visit conducted on May 12<sup>th</sup>, 2020 (See attachment F)

**Are there community concerns regarding this project?**

☐ Yes ☒ No ☐ N/A

If Yes, describe:

**Does the project conform to all local ordinances, rules and regulations?**

☒ Yes ☐ No ☐ N/A

**Are any variance approvals required?**

☐ Yes ☒ No ☐ N/A

**What design standards have been, or are planned to be incorporated in the project design?**

☐ AASHTO ☐ PROWAG ☐ Wyoming Public Works ☒ WYDOT

☒ Local ☒ Other (specify):ADA Requirements

**Provide a summary of the public involvement that has taken place previously for planning and design.**

Public involvement has been for closing Brooks Street to motorized traffic. Several public meetings was held and a petition circulated with signatures. Overwhelming majority supported closing Brooks Street to motorized vehicle travel for improved safety. County anticipates the public will be very in favor of a pedestrian greenspace area.



## **TAP Attachment D: Environmental Considerations**

Sheridan County

**Does this proposed project have any unusual environmental features associated with it?**

☐ Yes ☒ No

If Yes, please describe:

**Are there any registered historic structures or sites involved with the project?**

☐ Yes ☒ No

If Yes, please describe:

**Are there any live watercourses or bodies of water being encountered?**

☐ Yes ☒ No

If Yes, please describe:



**TAP: Project Estimating Worksheet (Infrastructure)**  
**Sheridan County****Project Sponsor :****Instructions:**

- \* Only input information in grey shaded areas below only.
- \* Enter 0 in the percentages column if not seeking federal participation.
- \* Only work performed after the execution of the State and Local agreement is eligible for federal reimbursement.
- \* All requests will be rounded up to the nearest hundred dollars

Proposed Funding Match Rates	Local	Federal
	20.00%	80.00%

Infrastructure Project			Local Portion		Federal Portion	
Description (Include amounts for federal-aid items only)	Percentages	Project Totals	Proposed Local Match Percentage	Local Cash Match	Proposed Federal Percentage	Federal Amount Requested
Preliminary Construction Estimate or Estimated Total Cost of Planning		\$100,000.00		\$20,000.00		\$80,000.00
Construction Contingency 5% to 10% of PCE (Quantity overruns, etc.)	0.00%	\$0.00	20.00%	\$0.00	80.00%	\$0.00
Construction Engineering (Consultant) 0% or 10% of PCE (Consultants shall be selected through established procedures)	0.00%	\$0.00		\$0.00		\$0.00
Preliminary Engineering (Consultant) 0% to 15% of PCE (Consultants shall be selected through established procedures)	0.00%	\$0.00		\$0.00		\$0.00
Total Estimate (Infrastructure):		\$100,000.00		\$20,000.00		\$80,000.00

Total Project Estimate	Total Local Match	Total Federal Match
\$100,000.00	\$20,000.00	\$80,000.00



## **TAP Attachment F: Site Visit Form**

*[INSERT SITE VISIT FORM]*

Sheridan County

## FY2021 TAP SITE VISIT CHECKLIST

Project Name: **Brooks Street Sidewalk Project**

Agency Type: **County**

Agency Name: **Sheridan County**

Contact Person: **Ken Muller**

Contact Phone: **307-675-2926**

Contact Email: **kmuller@sheridancounty.com**

Alternate Contact: **Renee Obermueller**

Agency Mailing Address: **224 S. Main Street, Sheridan, WY 82801**

Joint Sponsor:

Joint Sponsor Contact:

LPA Certified Individual: **Yes**

Name of LPA Certified Individual: **Ken Muller**

LPA Certification Expiration: **12/31/2022**

Project Location: **Sheridan County Courthouse Campus, 224 S. Main Street, Sheridan, WY 82801**

Project Limits: **NA**

County: **Sheridan**

Municipality: **City of Sheridan**

Project Length: **Approximately 60 feet of sidewalk**

Project Type: **ADA Compliance; ADA Upgrades; ADA Transition Plans, Safe Routes for Non-Drivers, Pedestrian & Bicycle Facilities, Storm Water Mitigation, Vegetation Management, N/A**

Is the project included in a planning document: **No**

WYDOT District Engineer aware of project: **No**

If you selected "Yes," explain:

Project Description: **The project entails the closure of a portion of a City Street adjacent to the Courthouse, and creating a green space in the vacated area, and extending sidewalks to connect to the existing system.**

Does the Sponsor Own the Land: **Yes**

Who owns the affected land?: **County**

Milestone Dates:

Environmental Clearance, Preliminary Engineering	Final Engineering and Bid Documents Completed by:	Project Bidding by:	Begin Construction by:	Construction Complete by:
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Completed by:				
<b>10/31/2020</b>	<b>12/31/2020</b>	<b>3/1/2021</b>	<b>5/1/2021</b>	<b>9/1/2021</b>

Potential delays in reaching milestones: **n/a**

Local Match Amount: **20%**  
 Source of Match: **General Funds**  
 TAP Requested Amount: **300000**  
 Total Cost: **360000**

Fiscal Year	Open Project
2016	<b>No</b>
2017	<b>No</b>
2018	<b>No</b>
2019	<b>No</b>

Open Project Numbers: **n/a**

Is the applicant an eligible sponsor?	X Yes	No
Has the applicant previously completed a federal aid project?	X Yes	No
Does the applicant acknowledge that receipt of funds requires compliance with several federal and state requirements, including but not limited to wage, equal opportunity, and environmental requirements?	X Yes	No

PEDESTRIAN/BICYCLE FACILITIES (IF APPLICABLE) N/A					
Facility description	Sidewalk	Sidewalk with curb and gutter	X Pathway		
	Shared use pathway	Sharrow	Striped bicycle lane		
	Widened shoulder	X ADA Upgrades	Other		
Width of pathway, bicycle lane, shoulder, etc.:			Length:		
Distance from curb (for pathways):					
Proposed Materials:	Asphalt	Concrete	Multi-Use Pathway	Single Track	Other
Number of curb ramps:					
Proposed Design Standards:	AASHTO	PROWAG	Wyoming Public Works		
	WYDOT	Local	Other:		
This project is:	Part of road widening		Part of an existing road	Away from roadways	
Are there any areas where the facility will narrow to accommodate trees, signs or other obstructions? If yes,					Yes No

explain:		
What is the plan for maintaining the facility after construction is complete?		
Does your community normally require sidewalks or other pedestrian/bicycle improvements as a condition of subdivision or site plan approval? Explain:		
Yes	No	
<b>RIGHT-OF-WAY</b>		
Does the sponsor possess the necessary right-of-way to construct the project? If not, explain how right-of-way will be acquired.		
X Yes	No	
Is there a rail line or railroad property near the proposed project?		
Yes	X No	
Does the sponsor hold necessary easements to construct the project? If not, explain how easements will be obtained.		
X Yes	No	
<b>ENVIRONMENTAL</b>		
Does it appear that the project will meet the environmental criteria for Categorical Exclusion?		
X Yes	No	
Does it appear that the proposed project will require extensive cultural clearance? N/A		
Yes	No	
Does it appear that supplemental environmental documentation will be required to support a Categorical Exclusion determination?		
Yes	No	
For example: Wetlands    Endangered Species    Other    N/A		
Does it appear that the project will cause an adverse effect to environmental resources? If yes, explain: N/A		
Yes	No	
Are there any permitting requirements for the project? If yes, explain: N/A		
Yes	No	
<b>UTILITIES N/A</b>		
Is it apparent that the project will have utility conflicts? If yes, explain and identify affected utilities and how conflicts will be mitigated.		
Yes	No	
<b>IRRIGATION N/A</b>		
Does it appear that the project will have crossings or conflicts with irrigation facilities? If yes, explain and identify affected irrigation facilities and how conflicts will be mitigated.		
Yes	No	

Comments:
There was a pedestrian accident in this area in Spring of 2019. Utilities are under the street. Recommended applying for a feasibility study of the proposed improvements on Brooks Street. The County agreed.

Statement of Intent Submitted by: **Renee' Obermueller, Administrative Director**

Date of Submission: **3/17/2020 12:09:48**

Site Visit Review Completed by:   Dave, Sara, Leanna & Scott Taylor  

Printed Name: \_\_\_\_\_

Date of Site Visit:   5-12-2020



## TAP Attachment H: Lobbying Certificate

### Lobbying Certification Statement

The undersigned Sheridan County certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq .)]
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Project Sponsor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Sponsor understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

Signature

Nick Siddle, Board of County Commissioners, Chairman

6/8/2020

Date





## **TAP Attachment G: Resolution RESOLUTION NO. Resolution #**

A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR FEDERAL FUNDING THROUGH THE TRANSPORTATION ALTERNATIVES PROGRAM ADMINISTERED BY THE WYOMING DEPARTMENT OF TRANSPORTATION FOR SHERIDAN COUNTY FOR THE PURPOSES OF THE BROOKS STREET GREENSPACE PROJECT.

### **WITNESSETH**

**WHEREAS**, the governing body for SHERIDAN COUNTY Sheridan County desires to participate in the Transportation Alternatives Program (TAP) to assist in funding this project;

**WHEREAS**, the governing body for Sheridan County recognizes the need for the project;

**WHEREAS**, TAP requires that federal funding criteria be met, and Sheridan County agrees to ensure satisfaction of all requirements;

**WHEREAS**, Sheridan County acknowledges that if funded, the TAP project shall be completed prior to December 31, 2023;

**WHEREAS**, the governing body for Sheridan County agrees to set aside a minimum of \$20,000 as a line item in its budget for the required twenty percent (20%) local cash match on the project;

**WHEREAS**, the governing body for Sheridan County acknowledges TAP is funded on a reimbursement basis and all invoices must be 100% paid by Sheridan County prior to reimbursement through TAP (80% Federal Reimbursement). Sheridan County acknowledges that failure to comply with this requirement may result in cancellation of the award and repayment by Sheridan County of all funds reimbursed.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY** for Sheridan County that a funding application requesting \$80,000.00 in federal TAP funding be submitted to the Wyoming Department of Transportation – TAP for consideration to assist in funding for the Sheridan County - Brooks Street Greenspace project.

**BE IT FURTHER RESOLVED, THAT** Ken Muller, County Engineer is hereby designated as the Project Administrator, of **Error! Reference source not found.** to act on behalf of the governing body on all matters relating to this funding application.

**PASSED, APPROVED AND ADOPTED THIS 7th DAY OF July, 2020.**

\_\_\_\_\_  
Signature

Nick Siddle, Board of County Commissioners, Chairman

**ATTEST:**

\_\_\_\_\_  
Signature

Eda Schunk Thompson, County Clerk



## TAP Attachment I: Right-of-Way Sheridan County

### Local Public Agency Right-of-Way & Utility Certificate

*Local Public Agencies (LPAs) are required to submit proof of the following to WYDOT.*

Sheridan County hereby certifies to the Wyoming Department of Transportation and the Federal Highway Administration that:

☒ The acquisition of Right-of-Way was not required. All work proposed is within Right-of-Way obtained or acquired prior to programming this project.

OR

☐ All necessary rights-of-way have been acquired including legal and physical possession in accordance with all applicable laws and regulations noted below. No persons of business have been or will be displaced by this project. All requirements of 23 CFR 635.309(b)(c)(g)&(h). Authorization, 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, and the Wyoming Relocation Assistance Act of 1973, Sections 16-7-101 through 16-7-121.

☐ Utility relocations/adjustments are not required for completion of this project.

OR

☒ Utility relocations/adjustments within the project limits of construction have been completed, or are incorporated in the contract plans as biddable work.

☒ There is no work involving railroad right-of-way for the completion of this project.

OR

☐ All necessary arrangements have been made for railroad work to be completed as required for proper coordination with the construction.

This undersigned certifies the above information is accurate as of the date below:

Signature

Nick Siddle, Board of County Commissioners, Chairman

6/8/2020

Date



## LPA Attachment J: Internal Review's Risk Assessment

Sheridan County

Have there been any key personnel Changes in the direct implementation and administration of grant awards during the previous year? (Key personnel include the project administrator, accounting, budget, or controller personnel) [2 CFR 200.331(a)(6)(3)]

☐ Yes

☒ No

Has the organization as a whole (Re: Personnel) remained unchanged during the previous year?

☒ Yes

☐ No

Has the accounting/financial system remained the same as last year?

☒ Yes

☐ No

If No, explain:

Does your entity receive federal grant money **directly** from any federal awarding agencies (FTA, FHWA, NHTSA, etc.)? These monies do not have any WYDOT involvement for applications, payments, etc. [2 CFR 200.331(a)(6)(4)].

☒ Yes

☐ No

Has a federal agency monitored, inquired or been directly involved in outstanding award(s)?

☒ Yes

☐ No

Has a federal agency ever performed a review or audit of outstanding award(s)?

☒ Yes

☐ No

If Yes, did the federal agency determine that there were no financial or compliance issues?

☒ Yes

☐ No

If No, provide a description of the financial and/or compliance issues as detailed by the federal agency:

Does your entity have written procedures for procurement transactions? [2 CFR 200.313-318]

☒ Yes

☐ No

Does the Sponsor anticipate requesting reimbursement through the project for Indirect Cost?

☐ Yes

☒ No

*(Indirect [F&A] costs means those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect [F&A] costs. Indirect [F&A] cost pools must be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.) [2 CFR 200.56]*

Does the Sponsor have an Approved Indirect Cost rate with WYDOT?

☐ Yes

☐ No

☒ N/A

If No, does the Sponsor propose using the de minimis rate of 10%?

☐ Yes

☐ No

☒ N/A



## Attachment K – Consultant Services Policy

Updated 09-20-17

### CONSULTANT SERVICES POLICY County of Sheridan 6-8-2020

#### SECTION I. INTRODUCTION

This policy establishes procedures of the County of Sheridan for the procurement, management, and administration of consultant services required for a project using federal or non-federal funds obtained through the Wyoming Department of Transportation (WYDOT). This policy and procedures will be followed when hiring consultants to supplement the County of Sheridan personnel or to provide other professional services that the County of Sheridan determines can be best completed by qualified private-sector firms.

*Consultant*, as used in this document, means engineering firms, architectural firms, survey firms, educational institutions, and other firms or individuals engaged in providing consulting or other professional services. *Subconsultant*, as used in this document, means an individual or firm contracted by the consultant to provide related services.

*Simplified Acquisition Threshold (SAT)*, as used in this document, means the dollar amount at or below which a government entity may purchase services using small agreement/purchase methods. The SAT is currently \$150,000, but this threshold is periodically adjusted for inflation. (48 CFR 2.101)

*Architectural and Engineering (A & E) services* are defined to mean:

1. Professional services of an architectural or engineering nature, as defined by state statute, which are required to or may logically or justifiably be performed or approved by a person licensed, registered, or certified to provide related services.
2. Professional services of an architectural or engineering nature, performed by consultant agreement, and associated with research, planning, development, design, construction, alteration, or repair of real property.
3. Professional services of an architectural or engineering nature, which a firm or individual within the engineering or architectural professions would perform, such as studies, investigations, survey and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.

*Architectural and Engineering services that directly lead to development of a construction project* are defined and limited to:

1. Preparation of roadway/bridge contract documents including preliminary through final design, contract plans, specifications, and incorporated engineering drawings, details, and estimates.
2. Completion of surveys and mapping necessary for preparation of roadway/bridge contract documents.
3. Completion of architectural services directly leading to facility construction.
4. Completion of feasibility studies when used for project planning leading to project construction.
5. Construction project management including contract administration and construction engineering.
6. Completion of consultant services not clearly within (1) thru (5) above, which must be performed or approved in accordance with state law by a registered professional (i.e. engineer, land surveyor, architect, geologist, etc.).
7. The final cost of these services, including the original agreement cost and subsequent agreement modifications, must exceed the SAT.

## **SECTION II. CONSULTANT PROCUREMENT – GENERAL**

Two methods for procuring consultant services are available for use depending on administrative controls which consider the estimated cost of the proposed services.

Consultant services with an estimated cost at or less than the SAT (Small Agreement) will be procured using a simplified procurement process presented in SECTION IV(A) – Small Agreement – Estimated Cost at or less than the SAT.

Consultant services with an estimated cost exceeding the SAT (Large Agreement) will be procured using a formal request for proposal (RFP) process as presented in SECTION IV(B) – Large Agreement – Cost greater than the SAT.

## **SECTION III. CONSULTANT NEED AND OTHER SUPPORTING INFORMATION**

The County of Sheridan will develop supporting information to establish the need for consultant services and identify the procurement method, selecting one of the procurement methods

outlined in SECTION IV – CONSULTANT PROCUREMENT PROCESSES. Supporting information should be tailored to the procurement method and include the following:

**A. Small Agreement – Estimated Cost at or less than the SAT**

Small agreements, developed consistent with SECTION IV(A) – Small Agreement – Estimated Cost at or less than the SAT, should include the following supporting information:

1. A statement supporting the use of a consultant to perform work due to unique capabilities not readily available within the County of Sheridan or that County of Sheridan personnel are not available to complete the necessary work or meet proposed schedules.
2. A preliminary scope of work for the proposed services.
3. A schedule for completion of work to be performed by the consultant.
4. A funding source for the required consultant services.
5. A preliminary cost estimate.
6. The agreement type to be used as the basis of compensation (See SECTION VI – AGREEMENT TYPE, BASIS FOR COMPENSATION, PAYMENT).

**B. Large Agreement – Cost greater than the SAT**

Large agreements, developed consistent with SECTION IV(B) – Large Agreement – Cost greater than the SAT, require that consultant services be procured through a request for proposal. The supporting information for these services should include the following:

1. A statement supporting the use of a consultant to perform work due to unique capabilities not readily available within the County of Sheridan or that County of Sheridan personnel are not available to complete the necessary work or meet proposed schedules.
2. A preliminary scope of work for the proposed services.
3. A schedule for completion of work to be performed by the consultant.
4. A funding source for the required consultant services.

5. A preliminary cost estimate. See SECTION IV(B) – Large Agreement – Cost greater than the SAT.
6. The agreement type to be used as the basis of compensation (See SECTION VI – AGREEMENT TYPE, BASIS FOR COMPENSATION, PAYMENT).
7. Consultant selection by the selection committee. Selection committee members should be identified by name and title.
8. A listing of evaluation factors and weighting factors for the ranking and selection of a qualified consultant firm. The use of evaluation factors and weighting factors should be tailored to the procurement process; the number of evaluation factors can be limited and the use of weighting factors can be limited or eliminated. The selected factors should assess the consultant's qualifications and competency, tailored to the proposed type/scope of work and any anticipated work types. Evaluation factors **may** consider:
  - a. Established expertise;
  - b. Related work experience in a responsible role;
  - c. Qualifications of the firm's personnel;
  - d. Previous performance on County of Sheridan projects;
  - e. Project understanding/knowledge, including proposed approach to completing project work;
  - f. Workload capacity;
  - g. Ability to meet project schedule;
  - h. Specialized expertise or product delivery requirements (such as computer hardware or software);
  - i. Other evaluation factors relating to the specific project may be used.

Evaluation factors that cannot be used on federal funded A & E services include:

- a. Cost components – consultant fee proposal, direct salaries/wages, other direct costs, or indirect cost rates;



- b. In-state or local preferences.

Cost, as one evaluation factor, may be used on federal funded non-A & E services.

The selection committee should note that two specific non-qualification-based evaluation factors may be used, if appropriate, but together cannot exceed 10% of the total weighted evaluation. These two factors, directed to an individual proposed project, are:

- a. A local presence, where that presence will add value to the quality or efficiency of project delivery, but will still allow for the consideration of a sufficient number of qualified firms;
- b. The participation of qualified and WYDOT-certified Disadvantaged Business Enterprise (DBE) consultants or subconsultants. The County of Sheridan should coordinate with the WYDOT Civil Rights Office to obtain a current listing of DBE consultants.

The need/use of a consultant firm in a management role for the County of Sheridan will require approval by WYDOT and FHWA before consultant solicitation. (23 CFR 172.7(b)(5))

#### **SECTION IV. CONSULTANT PROCUREMENT PROCESSES**

Two methods for procuring consultant services are available for the County of Sheridan use. The use of each method is limited depending on the estimated cost of the proposed services; these administrative controls are presented as an introductory paragraph to each procurement method/agreement type.

##### **A. Small Agreement – Estimated Cost at or less than the SAT**

The use by the County of Sheridan of a small agreement is limited to consultant services with an estimated cost at or less than the SAT, including the original agreement cost and subsequent agreement modifications. Small agreements can be used for non-federal and federal funded services, and for A & E and non-A & E services.

A preliminary cost estimate will be prepared for use as required in SECTION VIII – NEGOTIATING THE FINAL AGREEMENT AND COST PROPOSAL.

The County of Sheridan will make an informal consultant selection utilizing a consultant list obtained from WYDOT Engineering Services or a list generated by the County of Sheridan. A minimum of three consultants must be evaluated leading to a qualification-

based selection. The evaluation should use information available from the consultant's Statement of Interest, and if needed, that information can be supplemented with interviews, or written or oral discussion with each firm.

If less than three qualified consultants are available, the County of Sheridan will proceed with evaluation and selection when assured that the selected consultant has the minimum qualifications to complete the agreement type of services and has the experience necessary to satisfactorily perform the required services.

The basis for selection will be documented. The following items should always remain under consideration to conclude that a consultant firm has the minimum qualifications to complete the proposed project scope of work:

1. The consultant shall have an exemplary ethical and professional reputation.
2. The consultant's employees shall have levels of education, training, and experience necessary to perform the required services satisfactorily.
3. Professional services provided to the County of Sheridan require that the consultant employee overseeing the work and the consulting firm be licensed, if required by the applicable State Board.
4. The consultant shall be established in the area of expertise for which the firm is being considered, with recent work experience in a responsible role.

After the consultant selection, the County of Sheridan shall follow procedures outlined in SECTION V – APPROVAL OF CONSULTANT prior to proceeding with the process of negotiating the agreement with the selected consultant.

A detailed scope of work shall be prepared, often by the selected consultant. The consultant shall submit a fee proposal including proposed billing rates, estimated units of work, and the total proposed fee. The County of Sheridan will negotiate and prepare an agreement for execution.

Execution of the agreement will follow procedures outlined in SECTION X – EXECUTION OF THE AGREEMENT.

**B. Large Agreement – Cost greater than the SAT**

The use by the County of Sheridan of a large agreement is required for consultant services with an estimated cost greater than the SAT, including the original agreement

cost and subsequent agreement modifications. Large agreements can be used for non-federal and federal funded services, and for A & E and non-A & E services.

When the County of Sheridan requires consultant services and proposes to use this large agreement, the following requirements apply.

A preliminary cost estimate will be prepared for use as required in SECTION VIII – NEGOTIATING THE FINAL AGREEMENT AND COST PROPOSAL. For architectural and engineering services directly leading to construction, as defined in SECTION I – INTRODUCTION, the cost estimate must establish major elements of agreement costs: labor hours by work type and classifications of labor, direct salaries by labor classifications, other direct costs, anticipated indirect cost rates, and anticipated fixed fees (profit). This estimate will be used as the basis for negotiation. For all other services, the preliminary cost estimate can be less formal.

The County of Sheridan will direct the procurement process in coordination with the WYDOT Local Government Office and an appointed selection committee.

An early action will be to appoint participants to a selection committee. The committee should consist of at least three members, but generally not more than five members. The County of Sheridan should select committee members who can best evaluate consultant qualifications, but without previous experiences that could potentially influence their actions leading to a conflict of interest. Each committee member will ensure that he or she has no possible conflict of interest that may influence the evaluation, ranking, and selection process. If a conflict of interest may exist, the committee member will be excused from serving on the committee.

A pre-selection meeting will be conducted to establish the requirements of the RFP and the public announcement/advertisement to be used to assure that consultants have fair opportunity to be considered for award of the agreement.

The County of Sheridan may solicit project-specific letters of interest through a public announcement, public advertisement, or any other public forum or method (such as soliciting firms on a consultant list obtained from WYDOT Engineering Services) that assures qualified in-State and out-of-State consultants are given a fair opportunity to be considered. A minimum seven day announcement period is required.

The selection committee will determine a short list of firms from the respondents to the public announcement/advertisement to receive the RFP. If enough firms respond, a minimum of five firms should be short-listed.

Alternatively, the County of Sheridan may go directly to the RFP process and consider all the proposals submitted.

The RFP will include the following requirements and information to provide direction for the content of consultant proposals. The RFP requirements and information will not include any condition that would limit competition and the resulting number of proposals.

1. Detailed scope of work, including a preliminary project purpose and description.
2. Technical requirements: specific services; deliverables; applicable policies and guides; proposed standards, criteria, specifications, or contracting requirements; proposed schedule for completion of agreement work.
3. Evaluation and weighting factors to be used for the ranking and selection based on consultant competency and qualifications.
4. The anticipated schedule leading to consultant selection. The schedule should identify consultant submittal dates using a minimum of 14 calendar days from issuance of the RFP, but set to assure that interested firms have sufficient time to receive the RFP, and prepare and submit a proposal.
5. The type of agreement to be used and the basis for compensation.
6. Address potential discussions with interested firms after submittal of their proposal, if any, directed to clarification of technical requirements or approach, qualifications, or capability. Based on the size and complexity of the project, it may be beneficial to the selection committee to have one-on-one discussions with all or some of the qualified firms (minimum of three). The intent and structure of these discussions, if needed, should be outlined in the RFP.
7. Consultant proposal shall include additional submittals concerning proposed subconsultants.
8. Consultant cost proposals, if requested, should be included in a concealed format that is clearly separate from the technical proposal.

The RFP should provide an adequate number of consultant proposals. When three or more qualified firms respond, the County of Sheridan will proceed with consultant ranking and selection. If less than three firms respond, the County of Sheridan may proceed with ranking and selection of a qualified firm or may elect to re-distribute the RFP in an attempt to gain additional proposals. In the event the response to an RFP does not result in either qualified or competitive firms, the County of Sheridan may pursue

other contracting options, including non-competitive, to procure professional services. The County of Sheridan will coordinate with the WYDOT grant administrator prior to non-competitive selection of a consultant.

After receipt of consultant responses to the RFP, the final selection meeting will be held. The selection process will include a series of actions taken by the County of Sheridan.

1. Review RFP proposals to assure they are complete.
2. Distribute the supporting information outlined in SECTION III(B) – Large Agreement – Cost greater than the SAT, to include the RFP, all consultant proposals, and each consultant’s Letter of Interest, if applicable.
3. Assist the selection committee, as needed, to complete the evaluation, ranking, and selection process.
4. Notify, subsequent to consultant selection, all consultants responding to an RFP of the final ranking of the three most highly qualified consultants.
5. Properly dispose as necessary, subsequent to consultant selection, the concealed cost proposals of the unsuccessful consultant firms.
6. Retain documentation supporting the solicitation, RFP, proposals, evaluation, and selection of the consultant firm.

The selection committee completes the evaluation and selection process by using the supporting information for each evaluation factor and then developing an overall score and subsequent ranking. The committee must rank in order of preference at least the three most highly qualified firms, leading to final selection. If less than three qualified firms respond to the RFP and it is concluded that the responding firms represent those firms available to meet the requirements of the RFP, the evaluation and selection will be completed.

The selection committee may not use a consultant’s cost components – consultant fee proposal, direct salaries, direct costs, and indirect cost rates – as a factor in the evaluation, ranking, or selection process for federal funded A & E services. Federal funded non-A & E services may, or may not, use cost as an evaluation factor.

The following items should always remain under consideration to conclude that a consultant firm has the minimum qualifications to complete the proposed project scope of work:

1. The consultant shall have an exemplary ethical and professional reputation.
2. The consultant's and subconsultant's employees shall have levels of education, training, and experience necessary to perform the required services satisfactorily.
3. Professional services provided to the County of Sheridan require that the consultant employee overseeing the work and the consulting firm be licensed, if required by the applicable State Board.
4. The consultant shall be established in the area of expertise for which the firm is being considered, with recent work experience in a responsible role.

During this process, an unqualified consultant firm may be dismissed from further consideration.

After the consultant selection, the County of Sheridan shall follow procedures outlined in SECTION V – APPROVAL OF CONSULTANT prior to proceeding with the process of negotiating the agreement with the selected consultant.

The final scope of work may be refined through negotiations with the selected consultant. The consultant shall submit a fee proposal including proposed billing rates, estimated units of work, and the total proposed fee. The County of Sheridan will negotiate and prepare an agreement for execution.

Execution of the agreement will follow procedures outlined in SECTION X – EXECUTION OF THE AGREEMENT.

## **SECTION V. APPROVAL OF CONSULTANT**

After the selection committee or the County of Sheridan authorized representative has completed the procurement process, the County of Sheridan shall submit, in writing, the selected consultant's name to the WYDOT grant administrator for approval. The WYDOT grant administrator's approval authorizes the process of negotiating the agreement with the selected consultant.

The WYDOT grant administrator will initiate a pre-negotiation audit, if necessary (see SECTION VII – PRE-NEGOTIATION AUDIT EVALUATION).

The County of Sheridan will maintain a correspondence file for each consultant services agreement documenting all aspects of the selection and approval process.

## **SECTION VI. AGREEMENT TYPE, BASIS FOR COMPENSATION, PAYMENT**

Contractual requirements and the method of payment to direct and compensate the consultant will be established by agreement. An agreement type and basis for compensation will be selected as the need for consultant services is developed, as presented in SECTION III – CONSULTANT NEED AND OTHER SUPPORTING INFORMATION.

**A. Agreement Types.** An agreement type will be selected by the County of Sheridan.

1. **Project Specific.** This will be used with a defined scope of work and the related consultant services when these services are directed to one or more specific projects.
2. **Multi-Phase.** This can be used, similar to Project Specific, when the County of Sheridan determines that a consultant's services should be divided into defined phases to gain better definition of the scope of work and related consultant services. Each phase would require a separate cost estimate.

**B. Basis for Compensation.** The method of payment to compensate the consultant will be specified in the agreement. It may establish a single method for all work or may be better administered with different methods for different elements of work.

1. **Cost Plus Fixed Fee.** Cost reimbursement includes actual costs payable for direct labor and indirect labor (overhead) as established in the agreement, plus direct reimbursable expenses. Cost reimbursement also includes a negotiated fixed fee, established in the agreement, and is calculated to cover the consultant's profit. Billing rates established in the agreement shall be used for all billings and a maximum amount payable will be established.

Cost plus percentage of cost and percentage of construction cost cannot be used as a basis for compensation.

2. **Lump Sum.** May only be used when the scope of work and the duration of work can be accurately established, and an estimate of cost, including fixed fee, can be calculated with reasonable accuracy at the time of negotiation with the selected consultant.
3. **Unit of Work.** May be used when a unit cost of work can be determined in advance with reasonable accuracy, but the extent of work is indefinite. Quantities and characteristics of each unit should be uniform, and a maximum amount payable will be established.



4. **Specific Rates for Compensation.** The specific rates for compensation will provide for reimbursement on the basis of direct labor hours at specified fixed hourly rates, including direct labor costs, indirect costs, and profit, plus any other direct expenses or costs. This method of payment will be used for those types of services and agreements that establish a maximum amount payable and provide the County of Sheridan direct control of the number of consultant labor hours and resultant cost.

Specific Rates may also be used when a consultant's services are required to perform work that cannot be estimated for extent, duration, or cost.

Consistent with all consultant agreements, a County of Sheridan representative will monitor the consultant's performance of services to include labor hours, and classification/pay rate of consultant employees used to perform agreement services.

- C. **Consultant Payments and Retainage:** Periodic progress payments will be made for work satisfactorily completed based on invoice submittals to the County of Sheridan.

All agreements shall include provisions that require the consultant to make prompt payment to subconsultants within 30 calendar days from receipt of payment from the County of Sheridan (49 CFR 26.29). These provisions will advise the consultant to be prepared, if requested, to provide documentation that payment has been made for work satisfactorily completed by a subconsultant. These provisions will also notify the consultant that failure to make prompt payment may be addressed by the County of Sheridan as presented in the written procedures in ATTACHMENT 2 – BREACH OF AGREEMENT.

The County of Sheridan may withhold retainage from payments, including final payment, if specified in the agreement.

## **SECTION VII. PRE-NEGOTIATION AUDIT EVALUATION**

Pre-negotiation audits are generally performed on first-time consultants, consultants with outdated audits, or as required by WYDOT Internal Review Services. A risk assessment will be performed by WYDOT Internal Review Services to determine if an audit is required and, if so, the type of audit required. An audit report or comparable correspondence will be provided by WYDOT Internal Review Services to the County of Sheridan for use in negotiating the consultant agreement.

## **SECTION VIII. NEGOTIATING THE FINAL AGREEMENT AND COST PROPOSAL**

Approval of the selected consultant in accordance with SECTION V – APPROVAL OF CONSULTANT authorizes the process of negotiating the agreement and cost proposal with the selected consultant.

The County of Sheridan will work with the consultant to finalize the scope of work, if needed, and initiate negotiations with the consultant for a final cost proposal. A draft agreement, including the scope of work, is provided to the consultant with instructions for preparing the cost proposal. The consultant is advised at the beginning of negotiations that selection is subject to arriving at a satisfactory agreement for terms and fees, and that the County of Sheridan assumes no obligation to the consultant until the agreement is executed.

The consultant's use of subconsultants is allowed only with written approval from the County of Sheridan of the proposed subconsultants. The consultant shall describe the work to be done by the subconsultant in the fee proposal, assure incorporation of required agreement provisions into the subconsultant agreement (SECTION IX – AGREEMENT PROVISIONS) and include a cost for the subconsultant's proposed work. The County of Sheridan may request a detailed proposal for subconsultant work to include proposed labor rates and direct costs. The cost proposal and included rates will be evaluated for reasonableness. If the subconsultant has a WYDOT-approved audit or approved billing rates, those rates shall be used.

A consultant's fee proposal will be compared to the cost estimate done by the County of Sheridan, including careful attention to proposal details. The consultant's fixed fee (profit) will be negotiated separate from other negotiations.

The consultant's or subconsultant's proposed indirect cost rate shall be certified by each firm's chief executive or financial officer as being allowable in accordance with federal cost principles. Each firm's certification shall read as required by WYDOT Internal Review Services.

A consultant's schedule for completing the work, if different from the schedule proposed by the County of Sheridan, will be reviewed to assure that the established duration of the agreement permits completing the work in a time frame acceptable to the County of Sheridan. When the consultant's fee proposal and the duration of the agreement are acceptable, the agreement is finalized and executed.

If the consultant's proposed fee or schedule varies substantially from the estimate or schedule of the County of Sheridan, the items of variance are identified and discussed to resolution. After agreeing on the agreement terms and fees, the consultant submits a final cost proposal.

The County of Sheridan will maintain documentation of the negotiation process.

If the selected consultant and the County of Sheridan cannot reach a satisfactory agreement, the County of Sheridan will cease negotiations and notify the consultant and the WYDOT grant administrator. The County of Sheridan will then initiate negotiations with the next highest ranked consultant or, at its option, initiate a new procurement process.

## **SECTION IX. AGREEMENT PROVISIONS**

The County of Sheridan will determine the consultant agreement type, the basis for compensation, terms of the agreement, and the required provisions, clauses, assurances, and/or certifications to ensure compliance with state and federal laws, regulations and requirements.

Each agreement will:

1. Name the authorized representative of the County of Sheridan.
2. Outline the representative's administrative responsibilities.
3. Identify the project location.
4. Present the scope of work and consultant deliverables.
5. Provide for applicable plans and specifications.
6. Authorize commencement of work.
7. Specify fees and payments based on consultant's progress reports.
8. Specify completion of work by number of calendar days or the calendar date by which all required services shall be completed.

Each agreement will outline data, services, and obligations of the County of Sheridan as related to the consultant's performance of required services.

Federal General Provisions will be physically incorporated or incorporated by reference into consultant agreements funded with federal funds. These Provisions will apply to the consultant and all subconsultants engaged by the consultant. ATTACHMENT 1 – FEDERAL GENERAL PROVISIONS presents applicable Federal General Provisions and administrative procedures.

ATTACHMENT 2 – BREACH OF AGREEMENT presents written procedures to administer breach of the agreement.

The County of Sheridan reserves the right to terminate any agreement, as described in the agreement. In this event, compensation is made to the consultant based upon the progress of the work performed prior to termination. Work performed shall be defined as the deliverables specified in the agreement and accepted by the County of Sheridan, and not the labor hours billed. The County of Sheridan will notify the consultant, in writing, of agreement termination.

## **SECTION X. EXECUTION OF THE AGREEMENT**

The County of Sheridan will prepare the final agreement for execution by all parties.

Agreements will conform to the state contract requirements as published by the Wyoming Attorney General's office, or as directed by the senior assistant attorney general assigned to WYDOT.

All agreements shall be forwarded to the WYDOT grant administrator for approval before execution.

Agreements subsidized with federal funds will be made available to the appropriate federal agency upon request. The Federal Highway Administration (FHWA) and the Federal Aviation Administration (FAA) have currently delegated their approval authority to WYDOT.

Agreements shall be executed by the consultant and the County of Sheridan.

## **SECTION XI. AUTHORIZATION TO PROCEED**

Once the consultant agreement is finalized and executed, the County of Sheridan will notify the consultant using a written "Authorization to Proceed" to commence work.

Consultant services cannot proceed before the "Authorization to Proceed" is issued.

## **SECTION XII. AGREEMENT MODIFICATIONS**

The County of Sheridan or the consultant may, during performance of the agreement, propose agreement modifications within the type of services under which the original agreement was procured. Changes in the scope, complexity or quantity of the work, or if changes causing an increase or decrease in agreement fees or time for performance are required, an equitable adjustment in fees and/or contract time will be negotiated with the consultant. Any additional services outside of the original agreement type of work will be procured under a new procurement process.

If changes are required in the agreement, a written request shall be made by the consultant to the County of Sheridan and negotiated between the consultant and the County of Sheridan. The

agreement will then be amended using documentation issued by the County of Sheridan. Agreement modifications must define and document the changes made to the agreement, establish any adjustment in agreement fees and payment, establish any adjustment in completion date, and be in compliance with terms and conditions of the original agreement. An adjustment in agreement fees and payments will be negotiated, as outlined in SECTION VIII – NEGOTIATING THE FINAL AGREEMENT AND COST PROPOSAL, including the fixed fee, if warranted.

If the consultant is unable to complete the work within the number of calendar days or the calendar date required by the agreement, the County of Sheridan may authorize a schedule modification after receiving the consultant's written request showing sufficient justification for an extension in time to complete agreement required services. In some cases, the County of Sheridan may initiate the schedule modification, especially when the County of Sheridan has delayed progress. If the schedule modification is significant, the agreement will then be amended to specify an additional number of days or revised calendar date, and the County of Sheridan will document the approval action with a formal change order. Minor changes in schedule, without adjustment in agreement cost, can be accepted by the County of Sheridan with informal documentation.

All agreement modifications shall be forwarded to the WYDOT grant administrator for approval before execution.

Consultant work shall not begin on any change in services until the agreement modification describing those services and fee has been executed. Services performed without prior request and authorization are deemed to be covered in the compensation and time provided in the original agreement and previously executed change orders.

For those agreements processed consistent with SECTION IV(A) – Small Agreement – Estimated Cost at or less than the SAT, in no case will subsequent change orders be permitted to cause the total fee to exceed the SAT if federal funds are involved. Exceeding the SAT limitation may jeopardize federal participation in the change order or the entire agreement amount. If federal funds are not involved, the County of Sheridan should contact the WYDOT grant administrator, and they will review the circumstances and make a determination regarding escalation of the agreement above the SAT.

### **SECTION XIII. AGREEMENT ADMINISTRATION**

The agreement for consultant services will identify the representative for the County of Sheridan as the primary contact through which the consultant will coordinate all phases of agreement work, terms and conditions. The County of Sheridan representative will:

1. Monitor the consultant's work and acceptability of work, in compliance with the agreement.
2. Monitor the consultant's work progress – work performed versus agreement completion date – in compliance with the agreement.
3. Ensure the consultant's labor hours and fees are in accordance with the agreement and the percent of the contract total being invoiced is commensurate with the progress of the work.
4. Address consultant correspondence and resolve administrative issues.
5. Monitor the consultant and subconsultant(s) for compliance with ATTACHMENT 1 – FEDERAL GENERAL PROVISIONS, if required by the Agreement.
6. Administer breach of agreement, when required, consistent with procedures presented in ATTACHMENT 2 – BREACH OF AGREEMENT. Consult with the WYDOT grant administrator before initiating procedures leading to breach of agreement.
7. Close-out agreement when all work deliverables have been accepted and all consultant billings have been accepted.

The County of Sheridan will maintain a correspondence file for each consultant services agreement, documenting all aspects of the selection, negotiation, and administration processes. The County of Sheridan will retain such records for at least three (3) years following agreement completion or termination.

#### **SECTION XIV. FINAL PERFORMANCE EVALUATION**

When the consultant services specified in the agreement are completed and accepted, the County of Sheridan will evaluate the consultant's performance. This evaluation should consider such factors as the consultant's performance on specific elements of work, promptness in meeting schedules and deadlines, cooperation with the County of Sheridan, and overall performance in delivery of the agreement terms and conditions. Documentation will be prepared and provided to the consultant, and request consultant comments on the evaluation. Subsequently, a copy of the final evaluation documentation will be provided to the WYDOT grant administrator.

#### **SECTION XV. ADMINISTRATION, COST PRINCIPLES, AUDIT REQUIREMENTS**

The administrative policies and procedures of the County of Sheridan for the consultant selection process are presented throughout this document. The County of Sheridan is responsible for the

oversight and administration of these policies and procedures. The WYDOT Internal Review Services program is responsible for the audit requirements.



References:

- 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- 23 CFR 172, Procurement, Management, and Administration of Engineering and Design Related Services.
- 23 USC 112(b)(2), Contracting for Engineering and Design Services.
- 40 USC 11, Sections 1101-1104, Selection of Architects and Engineers.
- 48 CFR 2.101, Federal Acquisition Regulations System, Definitions of Words and Terms, Definitions.

## **ATTACHMENT 1**

### **FEDERAL GENERAL PROVISIONS**

The below General Provisions shall also apply to all subconsultants engaged by the Consultant.

#### **SECTION A. ASSUMPTION OF RISK**

The Consultant shall assume the risk of any loss of state or federal funding, either administrative or program dollars, due to its failure to comply with state or federal requirements. The County of Sheridan will notify the Consultant of any state or federal determination of noncompliance.

#### **SECTION B. AUDITING AND ACCOUNTING**

The Consultant shall make available to the County of Sheridan their accounting records for progress and post-performance audits when deemed necessary by the County of Sheridan.

#### **SECTION C. BREACH OF AGREEMENT**

The Consultant agrees to provide all professional services as required by the terms, conditions, provisions, and obligations of this Agreement. Failure by the Consultant to perform as required by the terms, conditions, provisions, or obligations of this Agreement shall constitute a breach of agreement. The County of Sheridan will consider a Consultant's failure to perform as a material breach of agreement when it can be determined that the terms, conditions, provisions, or obligations of the Agreement cannot be completed and the County of Sheridan will incur additional cost, lost opportunity, or additional time to obtain the same or equal Agreement deliverables. A material breach may result in remedies as the County of Sheridan deems appropriate, which may include, but are not limited to:

1. Termination as provided in SECTION T – TERMINATION OF AGREEMENT;
2. Withholding monthly progress payments;
3. Assessing damages/sanctions;
4. Disqualifying the Consultant from future solicitations; and/or
5. Legal remedy.

#### **SECTION D. CERTIFICATION FOR LIMITATIONS ON LOBBYING ACTIVITIES**

This provision is applicable to all Agreements exceeding One Hundred Thousand dollars (\$100,000). By signing this Agreement, the Consultant certifies and agrees that, to the best of their knowledge:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of

the Consultant, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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

This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Failure by the Consultant to carry out these requirements may be a material breach of this Agreement, which may result in remedies as provided in SECTION C – BREACH OF AGREEMENT.

#### SECTION E. COMPLIANCE WITH LAWS

The Consultant shall keep informed of and comply with all applicable federal, state, and local laws and regulations in the performance of this Agreement.

#### SECTION F. CONFLICTS OF INTEREST

The Consultant shall not engage in providing consultation or representation of clients, agencies, or firms which may constitute a conflict of interest which results in a disadvantage to the County of Sheridan, or a disclosure which would adversely affect the interests of the County of Sheridan. This does not prohibit or affect the Consultant's ability to engage in consultations, evaluations or representation under agreement with other agencies, firms, facilities, or attorneys so long as no conflict exists.

A conflict of interest may be considered a material breach of this Agreement. A material breach under this section may result in remedies as provided in SECTION C – BREACH OF AGREEMENT. In the event the Agreement is terminated under this provision, the Consultant shall take steps to insure that the file, evidence, evaluation and data are provided to the County of Sheridan or its designee.

The Consultant shall disclose, in writing, any potential or actual conflict of interest to the County of Sheridan, including financial or other personal interests.

#### SECTION G. DETERMINATION OF ALLOWABLE COSTS

The Consultant shall assure, prior to submittal of periodic progress payments, that all costs are in accordance with federal cost principals as provided in 48 CFR 31. Failure by the Consultant to carry out these requirements may be a material breach of this Agreement, which may result in remedies as provided in SECTION C – BREACH OF AGREEMENT.

#### SECTION H. DISADVANTAGED BUSINESS ENTERPRISE ASSURANCE

The Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Consultant shall carry out applicable requirements of 49 CFR 26 in all subconsultant contract documents.

Failure by the Consultant to carry out these requirements may be a material breach of this Agreement, which may result in remedies as provided in SECTION C – BREACH OF AGREEMENT.

#### SECTION I. ENVIRONMENTAL POLICY ACTS

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

#### SECTION J. ERRORS AND OMISSIONS

The Consultant shall be responsible for assuring that professional services provided under this Agreement are accurate and without mistakes or omissions. The Consultant shall endeavor to perform services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances (Standard/Duty of Care). The County of Sheridan will notify the Consultant at the earliest possible time of the professional services which require corrective action and the Consultant, by mutual agreement with the County of Sheridan and without additional compensation, shall correct those services. Failure by the Consultant to carry out these requirements may be a material breach of this Agreement, which may result in remedies as provided in SECTION C – BREACH OF AGREEMENT.

#### SECTION K. HUMAN TRAFFICKING

As required by 22 USC 7104(g), 2 CFR 175, and 48 CFR 52.222-50 (Amended March 2015), severe forms of human trafficking, procurement of commercial sex acts, and the use of forced labor are prohibited. The March 2015 amendments expand the original requirements and introduce a list of specific types of conduct that are prohibited. The amendments modify mandatory disclosure obligations and specify the minimum level of cooperation required of consultants responding to a trafficking investigation. Failure by the Consultant to carry out these requirements may be a material breach of this Agreement, which may result in remedies as provided in SECTION C – BREACH OF AGREEMENT.

#### SECTION L. KICKBACKS

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

#### SECTION M. MANDATORY DISCLOSURES

The Consultant shall disclose, in a timely manner, in writing, to the County of Sheridan all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting this award. Failure to make required disclosures can result in remedies for non-compliance including suspension or debarment.

#### SECTION N. MONITORING ACTIVITIES

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

#### SECTION O. OWNERSHIP OF DOCUMENTS/WORK PRODUCT

All documents, reports, records, field notes, materials and data of any kind resulting from performance of this Agreement are at all times the property of the County of Sheridan. Said documents and/or work products shall be delivered to the County of Sheridan upon suspension, termination or completion of the services by the Consultant.

#### SECTION P. PATENT OR COPYRIGHT PROTECTION, AND RIGHTS IN DATA

The Consultant recognizes that certain proprietary matters or techniques may be subject to patent, trademark, copyright, license, or other similar restrictions, and warrants that no work performed by the Consultant or its subconsultants shall violate any such restriction. The Consultant shall defend and indemnify the County of Sheridan for any violation or alleged violation of such patent, trademark, copyright, license, or other restrictions.

Copyrighting or other exclusions placed on any documents or materials developed by the Consultant, its sublets, agents or assigns under this Agreement are prohibited.

Data produced, furnished, acquired, or used in meeting the terms and conditions of this Agreement are available to the County of Sheridan, WYDOT and/or the federal funding agency with unlimited rights. Data means all recorded information, regardless of form, to include both technical – scientific or technical nature - and computer software information. It does not include information related to administration of the Agreement such as financial, cost or pricing, or management information. Unlimited rights means that the County of Sheridan, State or federal agency has the right to use, disclose, reproduce, and distribute the data in any manner and for any purpose, and to permit others to also have unlimited rights. Meanings and uses described in this General Provision are superseded and/or supplemented by 48 CFR 52.227-14.

#### SECTION Q. PROFESSIONAL REGISTRATION

The Consultant shall endorse, if required by law, plans and reports prepared under this Agreement, and shall affix thereto his or her seal of professional registration, showing that he or she is licensed to practice in the State of Wyoming.

#### SECTION R. PUBLICITY

Any publicity given to the program or services provided herein, including, but not limited to, notices, information, pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Consultant and related to the services and work to be performed under this Agreement, shall identify the County of Sheridan, WYDOT and the federal funding agency as the sponsoring agencies and shall not be released without prior written approval of the County of Sheridan.

#### SECTION S. SUSPENSION AND DEBARMENT

By signing this Agreement, the Consultant certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction nor from federal financial or non-financial assistance, nor are any of the participants involved in the execution of this Agreement suspended, debarred, or

voluntarily excluded by any federal department or agency in accordance with the Office of Management and Budget guidelines at 2 CFR 180 and supplemented by 2 CFR 1200, or are on the disbarred vendors list at [www.sam.gov/portal/public/SAM/](http://www.sam.gov/portal/public/SAM/). Further, the Consultant agrees to notify the County of Sheridan by certified mail should it or any of its agents become debarred, suspended, or voluntarily excluded during the term of this Agreement. Failure by the Consultant to carry out these requirements may be a material breach of this Agreement, which may result in remedies as provided in SECTION C – BREACH OF AGREEMENT.

#### SECTION T. TERMINATION OF AGREEMENT

The County of Sheridan may at any time, by written notice, terminate all or part of the Agreement when the County of Sheridan determines that the Consultant has failed to perform as required by the terms, conditions, provisions, or obligations of the Agreement – Termination for Cause or Breach – or the County of Sheridan determines that termination is in the public’s best interest – Termination on Public’s Behalf/Convenience. In this event, compensation will be made to the Consultant based upon the progress of the work performed prior to termination. Work performed shall be defined as the deliverables specified in the Agreement and accepted by the County of Sheridan, and not the labor hours billed. The County of Sheridan will notify the Consultant, in writing, of Agreement termination.

#### SECTION U. TITLE VI ASSURANCES FOR NON-DISCRIMINATION

The Consultant agrees to comply with the requirements of the nondiscrimination clauses as described in the U.S. Department of Transportation (DOT) Order 1050.2.

*(In addition to the Federal General Provisions listed above, additional provisions available from WYDOT shall be used in all consultant contracts which utilize Federal Transit Administration funding.)*

## **ATTACHMENT 2**

### **BREACH OF AGREEMENT** (Administrative Written Procedures)

Consultant agreements will incorporate Federal General Provisions regarding breach of agreement consistent with 23 CFR 172 and 2 CFR 200. These Regulations require written procedures to address contractual, legal, and administrative remedies including sanctions and penalties where consultants breach agreement terms, conditions, provisions, or obligations. For purposes of these written procedures, the Agreement terms, conditions, provisions, or obligations will be referred to as Agreement Services.

Numerous Federal General Provisions will be administered using these written procedures. For purposes of administering consultant agreements, breach of agreement may result when analyzing a consultant's professional services under any of the following Federal General Provisions:

#### ATTACHMENT 1, FEDERAL GENERAL PROVISIONS

SECTION C. BREACH OF AGREEMENT

SECTION D. CERTIFICATION FOR LIMITATIONS ON LOBBYING ACTIVITIES

SECTION F. CONFLICTS OF INTEREST

SECTION G. DETERMINATION OF ALLOWABLE COSTS

SECTION H. DISADVANTAGED BUSINESS ENTERPRISE ASSURANCE

SECTION J. ERRORS AND OMISSIONS

SECTION K. HUMAN TRAFFICKING

SECTION S. SUSPENSION AND DEBARMENT

The consultant's responsibility to make prompt payment to subconsultants will be administered through these written procedures, as required by SECTION VI(C) – Consultant Payments and Retainage and the consultant agreement.

#### Contractual Remedy

Contractual remedy is provided when the above provisions are physically incorporated, or incorporated by reference, into an executed Agreement. Additionally, contractual remedy requires the physical incorporation of ATTACHMENT 1, FEDERAL GENERAL PROVISIONS, SECTION T – TERMINATION OF AGREEMENT.



### Legal Remedy

Legal remedy is provided by the physical incorporation of ATTACHMENT 1, FEDERAL GENERAL PROVISIONS, SECTION E – COMPLIANCE WITH LAWS and enforcement of the Agreement as governed by the laws of the State of Wyoming.

### Administrative Procedures, Sanctions, and Penalties

County of Sheridan concerns with consultant performance and/or adherence to Agreement Services will most often be resolved through the coordination and resolution efforts as outline in SECTION XIII – AGREEMENT ADMINISTRATION of this document. The authorized representative/ primary contact of the County of Sheridan should document all administrative issues and subsequent resolutions, from start to completion of the Agreement.

There may be an occurrence when a cooperative and acceptable resolution cannot be reached between the County of Sheridan and the Consultant. At those occurrences, the County of Sheridan will typically make the determination that the Consultant has failed to perform Agreement-required acceptable work, has failed to progress in the performance of Agreement Services, or has not and will not comply with General Provisions. When that determination concludes that the Agreement Services cannot be completed and the County of Sheridan will incur additional cost, lost opportunity, or additional time to obtain the same or equal Agreement deliverables, the threshold for a material breach of agreement has been reached and will invoke ATTACHMENT 1, FEDERAL GENERAL PROVISIONS, SECTION C – BREACH OF AGREEMENT and the resultant remedies, including ATTACHMENT 1, FEDERAL GENERAL PROVISIONS, SECTION T – TERMINATION OF AGREEMENT.

A County of Sheridan determination that the Consultant has failed to perform Agreement-required acceptable work, has failed to progress in the performance of Agreement Services, or has not and will not comply with General Provisions will need to be supported by the County of Sheridan documentation of monitoring activities as allowed by ATTACHMENT 1, FEDERAL GENERAL PROVISIONS, SECTION N – MONITORING ACTIVITIES. Issues concerning the Consultant's billing of allowable costs should be evaluated in accordance with ATTACHMENT 1, FEDERAL GENERAL PROVISIONS, SECTION B – AUDITING AND ACCOUNTING.

The threshold for a material breach of agreement requires that the Consultant has failed to perform Agreement Services and that the County of Sheridan has or will incur additional cost, lost opportunity, or additional time to obtain the same or equal Agreement deliverables. Both represent a high threshold to assure an acceptable outcome and, as a result, the County of Sheridan representative through monitoring activities must identify and document unresolved issues early in the Agreement, before either the Consultant or the County of Sheridan has incurred substantial cost or time. All unresolved issues should be promptly addressed, either reaching resolution, arriving at reasonable penalties/sanctions, or concluding breach of

agreement with the resultant remedies, including ATTACHMENT 1, FEDERAL GENERAL PROVISIONS, SECTION T – TERMINATION OF AGREEMENT.

Penalties and/or sanctions typically available to the County of Sheridan would be structured as 1) compensatory damages, 2) specific performance, or 3) termination.

Damages, based on additional cost or time incurred by the County of Sheridan, could be quantified and pursued. Damages, based on lost opportunity incurred by the County of Sheridan, may be more difficult to quantify. Lost opportunity could include County of Sheridan delays in the delivery of supplemental work or successor agreements for work, or delay in the year of project construction and the related increased construction costs. Other lost opportunities may be identified and quantified.

Specific performance would require the Consultant to pursue Agreement Services, with adjustment to allowable costs. Specific performance would be used as a remedy, either prior to or for breach of agreement, if the work required by the Agreement required special expertise, is an emergency, or is only available from a single or restricted number of firms. In those cases, damages would not suffice to place the County of Sheridan in as good a position as it would have been had the breach not occurred.

Termination of the Agreement is presented in ATTACHMENT 1, FEDERAL GENERAL PROVISIONS, SECTION T – TERMINATION OF AGREEMENT. The County of Sheridan may terminate the Agreement, and either pursue restitution or not pursue restitution. Restitution, as a remedy, means that the County of Sheridan is put back in the position it was in prior to the breach; without restitution, the Agreement is terminated with both the Consultant and the County of Sheridan no longer under any Agreement obligation.

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Signature

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Date



## **TAP Attachment L: Title VI**

*[INSERT TITLE VI FORM]*

Sheridan County

## IDENTIFICATION OF TITLE VI / EEO COORDINATOR

Funding Recipient/Contractor Name:	County of Sheridan
WYDOT Project #:	TBD
Project Location:	Brook Street Greenspace
Phone #:	(307) 674-2920

### TITLE VI/EEO IDENTIFICATION REQUIREMENTS

Has the Title VI/EEO Coordinator attended the Local Public Agency training from the Wyoming Department of Transportation? <i>(Project Sponsor Only – Contractors need not respond)</i>	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
Has the Coordinator changed since the last submitted Identification form?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Is the Coordinator clearly identified within the organization as the individual who will process and/or notify required staff of Title VI/EEO identified issues?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>

### TITLE VI/EEO COORDINATOR IDENTIFICATION

As required in the Equal Employment Opportunity Special Provisions included in federally funded highway construction contracts/agreements, this form acts as official identification of the Title VI/EEO Coordinator (and/or update) to the Wyoming Department of Transportation and the U.S. Federal Highway Administration (FHWA).

The aforementioned Funding Recipient/Contractor understands that additional information regarding the Coordinator, the Title VI/EEO policy and other aspects of the construction contract compliance program may be requested and/or reviewed at the request of the funding agency.

Title VI/EEO Coordinator: Ken Muller	Signature:	Date: 06-08-20
Title VI/EEO Coordinator Work Title: County Engineer	Email Address: kmuller@sheridancounty.com	Phone #: 674-2920

### APPOINTING OFFICIAL'S ACKNOWLEDGEMENT

Appointing Official's Name: Nick Siddle	Signature:
Appointing Official's Work Title: BOCC Chairman	Date: 06-08-20

For questions regarding this form, contact WYDOT's Office of Civil Rights Program Manager, Lisa Fresquez at 307.777.4457 or [lisa.fresquez@wyo.gov](mailto:lisa.fresquez@wyo.gov).

# **The United States Department of Transportation**

## **Standard Title VI Assurances/Non-Discrimination Provisions**

### **DOT Order No. 1050.2A**

**County of Sheridan**

(herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the United States Department of Transportation (DOT), through the Federal Highway Administration (FHWA), is subject to and will comply with the following:

#### **Statutory/Regulatory Authorities**

- 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);
- 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

***Modal Operating Administration may include additional Statutory/Regulatory Authorities here.***

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

#### **General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from DOT, including the FHWA."*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973) by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally-assisted.

***Modal Operating Administration may include additional General Assurances in this section, or reference an addendum here.***

#### **Specific Assurances**

More specifically, and without limiting the above general Assurances, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FHWA Program:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations;
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal Highway Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

“ **County of Sheridan** \_\_\_\_\_, 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 will be afforded full 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.”;

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations;
4. The Recipient will insert the clauses of Appendix B of this Assurance, 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 Recipient;
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith;
6. That where the Recipient receives Federal financial assistance in the form, 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;
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient 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.
8. That this Assurance obligates the Recipient 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 Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.

9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority 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.
10. The Recipient 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.

***Modal Operating Administration may include additional Specific Assurances in this section.***

By signing this ASSURANCE, County of Sheridan also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the **FHWA** access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the **FHWA**. You must keep records, reports, and submit the material for review upon request to **FHWA**, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

County of Sheridan gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the Department of Transportation under the **FHWA Program**. This ASSURANCE is binding on [insert State], other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the **FHWA Program**. The person (s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

County of Sheridan

By: \_\_\_\_\_  
(Signature of Authorized Official)

DATE: Ken Muller Digitally signed by Ken Muller  
Date: 2019.08.02 11:56:47 -06'00'

## APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, **Federal Highway Administration (FHWA)**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the **FHWA** to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the **FHWA**, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the **FHWA** may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the **FHWA** may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.



## CLAUSES FOR DEEDS TRANSFERING UNITED STATES PROPERTY

### APPENDIX B

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

**NOW, THEREFORE**, the Department of Transportation as authorized by law and upon the condition that \_\_\_\_\_ County of Sheridan \_\_\_\_\_ will accept title to the lands and maintain the project constructed thereon in accordance with Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21), the Regulations for the Administration of Federal Highway Administration (FHWA) Program, and the policies and procedures prescribed by the FHWA of the Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto \_\_\_\_\_ County of Sheridan \_\_\_\_\_ all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "A" (if applicable) attached hereto and made a part hereof.

### (HABENDUM CLAUSE)

**TO HAVE AND TO HOLD** said lands and interests therein unto \_\_\_\_\_ County of Sheridan \_\_\_\_\_ and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on \_\_\_\_\_ County of Sheridan \_\_\_\_\_, its successors and assigns.

\_\_\_\_\_, \_\_\_\_\_ County of Sheridan \_\_\_\_\_, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that \_\_\_\_\_ County of Sheridan \_\_\_\_\_ will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will there on revert to and vest in

and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI.)

**CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER  
THE ACTIVITY, FACILITY OR PROGRAM**

**APPENDIX C**

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by \_\_\_\_\_ County of Sheridan \_\_\_\_\_ pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, \_\_\_\_\_ County of Sheridan \_\_\_\_\_ will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the \_\_\_\_\_ County of Sheridan \_\_\_\_\_ will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the \_\_\_\_\_ County of Sheridan \_\_\_\_\_ and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate the purpose of Title VI.)

**CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED  
UNDER THE ACTIVITY, FACILITY OR PROGRAM**

**APPENDIX D**

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by \_\_\_\_\_ County of Sheridan \_\_\_\_\_ pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, the \_\_\_\_\_ County of Sheridan \_\_\_\_\_ will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the \_\_\_\_\_ County of Sheridan \_\_\_\_\_ will there upon revert to and vest in and become the absolute property of \_\_\_\_\_ County of Sheridan \_\_\_\_\_ and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate the purpose of Title VI.)

## APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- 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); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).



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Sheridan County

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SHERIDAN, COUNTY OF

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SHERIDAN, COUNTY OF

Registration Status: **ACTIVE**

If your business is still pursuing new federal opportunities, the federal registration must be renewed on or before **08-31-2020**. This date is 60 days before your true expiration date of 10-30-2020.

[Renew Registration](#)

DUNS: 033802372

Cage: 5H0N4

Address: 224 S MAIN  
SHERIDAN, WY , USA

Public Business Name: Yes

Delinquent Federal Debt: No

#### NAICS Codes

Primary: None

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