

**HIGHWAY SAFETY PROGRAM FFY2023 SUB-AWARD AGREEMENT BETWEEN
THE WYOMING DEPARTMENT OF TRANSPORTATION HIGHWAY SAFETY
PROGRAM AND LARAMIE COUNTY SHERIFF'S OFFICE**

I. Sub-Recipient Contact Information	
Sub-Recipient: Laramie County Sheriff's Office Mailing Address: 310 W. 19th Street Sub-Recipient Unique Entity Identifier: E9DLIC1HGNQ8 Sub-Recipient Expenditure Amount: \$6,000.00	Sub Award Title: Radar's City, State, Zip: Cheyenne WY 82001-4449 Budget Period: October 1, 2022 – September 30, 2023 Sub-Recipient Indirect Rate: 0%
II. Highway Safety Program Contact Information	
Program Manager Name: Karson James Telephone: 307-777-4200 Email: karson.james@wyo.gov	Grant Manager Name: Stephanie Lucero Telephone: 307-777-4198 Email: stephanie.lucero@wyo.gov
III. Highway Safety Program Award Information	
HSP Project Number: PT-2023-BI-PT-01 WYDOT Project Number: HS40223 Funding Source: 402 Is Award for Research or Development? No Total Expenditure Amount: \$6,000.00 Total Approved Funds: \$6,660.00	Program Area: Police Traffic Services WYDOT Activity Number: HSRD Federal Percent: 90.49% Performance Period: October 1, 2022 – December 31, 2023 WYDOT Indirect Rate: 11% Local Benefit: \$6,026.63
IV. Federal Award Information	
NHTSA Region 8 Program Administrator Name: Gina Espinosa-Salcedo Telephone: 720-963-3100 Email: NHTSA.region8@dot.gov	
Assistance Listing Number: 20.600 Federal Awarding Agency: National Traffic Highway Safety Administration (NHTSA) FAIN: 69A37522300004020WY0 Amount of Federal Funds Obligated by Action: \$45,245.00 Total Federal Award: \$1,990,518.91	Assistance Listing Number Title: State and Community Highway Safety Federal Award Name: Highway Safety Behavioral Program (HSO) Federal Award Date: 5/16/2022 Total Amount of Funds Obligated: \$55,500.00

1. **Parties.** This is a Sub-Award Agreement (Agreement) of federal financial assistance from the Wyoming Department of Transportation Highway Safety Program (WYDOT), whose address is 5300 Bishop Blvd., Cheyenne, Wyoming 82009, to Laramie County Sheriff's Office (Sub-Recipient), whose address is 310 W. 19th Street, Cheyenne WY 82001-4449.
2. **Purpose.** The purpose of this Agreement is to set forth the respective relationships and responsibilities of the Sub-Recipient and WYDOT in the administration of the Highway Safety Behavioral Program. This Agreement establishes a responsibility of the Sub-Recipient to WYDOT and that the Sub-Recipient will follow all grant requirements as outlined by WYDOT and all applicable State and Federal regulations.
3. **Term of Agreement.** This Agreement is effective when all parties have executed it (Effective Date). The term of this Agreement is from October 1, 2022 or the Effective Date, whichever is later (Term Start Date), through December 31, 2023. The Sub-Recipient's Budget Period is from the Term Start Date, through September 30, 2023. WYDOT's Performance Period is from the Term Start Date through December 31, 2023.
4. **Problem Statement.** Occupant protection usage, speeding and impaired driving continues to be a major problem in Wyoming despite enforcement and prevention efforts. The data shows there is much work to be done to reduce unbelted injuries on Wyoming roads. Wyoming's 2021 Observed Seat Belt use at 80.2% which is well below the national observed seat belt use rate at 90.4%. The Wyoming Electronic Crash Records System (WECRS) shows that in 2021 there were thirteen thousand eight hundred eighty-five (13,885) traffic crashes with one hundred eleven (111) fatalities of which forty-six (46) were unbelted fatalities and forty-eight (48) were related to unsafe speeds.

WECRS shows that in 2021, Laramie County had 2,111 (two thousand one hundred eleven) traffic crashes of which 125 (one hundred twenty-five) were alcohol related, 46 (forty-six) speed related and 21 (twenty-one) unbelted vehicle occupant crashes. Laramie County has an observed seat belt use rate of 69.7% which ranks below/above the statewide average of 82.5%. Note that speed can be used as a trigger offense to enforce Wyoming's Secondary Seat Belt law to assist in the decrease of traffic fatalities.
5. **Scope of Work.** This project will purchase a new radar(s) and accessories based on the following criteria:
 - A. Sub-Recipient has not received equipment in the previous three (3) WYDOT grant cycles.
 - B. Sub-Recipient was within a top ten (10) city or county for 2021 total or fatal crashes.
 - C. Sub-Recipient must have participated in and completed all required national campaigns for fiscal years (FY) FY2020 and FY2021.
 - D. Sub-Recipient must have a Traffic Safety Enforcement Plan (TSEP) in place prior to purchase.

6. **Performance Measures.** The Safety Management System (SMS) Committee analyzes the five (5) and ten (10) year running averages along with recent trends to determine the new performance targets. Section Seven (7) and Section Eight (8) will assist WYDOT in reaching statewide performance targets listed below:
 - A. C-1 Number of Traffic Fatalities ((Fatality Analysis Reporting System (FARS), Federal Highway Administration (FHWA))
FY2023 Target: one hundred twenty-eight (128).
 - B. C-2 Number of Serious Injuries in Traffic Crashes (FARS, FHWA)
FY2023 Target: Four hundred and fifty (450).
 - C. C-4 Number of Unrestrained Passenger Vehicle Occupant Fatalities, All Seat Positions (FARS)
FY2023 Target: Forty-two (42).
 - D. C-6 Number of Speeding Related Fatalities (FARS)
FY2023 Target: Forty-four (44).
7. **Goals.** Utilize local law enforcement to effectively deploy resources to assist in reducing unbelted fatalities and injuries through enforcement of Wyoming's Occupant Protection laws.
8. **Deliverables.** The Sub-Recipient agrees to:
 - A. Submit all sub-award documentation via the Highway Safety Office Project Site. A link will be provided upon execution of sub-award.
 - B. Provide WYDOT a Traffic Safety Enforcement Plan (TSEP) prior to purchase of radar equipment and accessories. Evidence-based TSEP must address sustained enforcement of statutes addressing impaired driving, occupant protection and driving in excess of posted speed limits through:
 - (i) An analysis of crashes, crash fatalities, and injuries in areas of highest risk.
 - (ii) An explanation of the deployment of resources based on that analysis.
 - C. Purchase new in car radar(s) and accessories by May 31, 2023.
 - D. Acknowledge that the maximum reimbursement of radar(s) equipment purchased is six thousand dollars (\$6,000.00) with maximum per unit cost not exceeding four thousand nine hundred ninety-nine dollars and ninety-nine cents (\$4,999.99).
 - E. Submit an Invoice, Attachment B, Grant Claim for Reimbursement, and Attachment C, Non-major Equipment Record Form, both of which are attached to and incorporated into this Agreement by this reference when requesting payment.

- F. Participate in federal grant funded High Visibility Overtime grants for two (2) years after receiving equipment.
- G. Notify WYDOT immediately if unable to fulfill the stated activities, for any reason, to discuss alternate plans.

9. **Project Budget.** WYDOT agrees to pay the Sub-Recipient the cost-not-to-exceed, Grant Expenditure Amount specified below:

A. **Cost Summary.**

Radar(s)		\$6,000.00
Indirect Cost (0%)		<u>\$0.00</u>
	Grant Expenditure Amount	\$6,000.00
WYDOT ICAP (11%)		<u>\$660.00</u>
	Total	\$6,660.00

B. **NOTES.**

- (i) The Sub-Recipient shall submit all requests for reimbursement to WYDOT no later than October 15, 2023.
- (ii) Any cost modification of the budget must be approved by WYDOT.
- (iii) In accordance with 23 CFR Part 1300 Appendix C, the accepting agency, as a representative of its political subdivision, requests the benefit of WYDOT coordination of paid media and marketing to capitalize on the high visibility enforcement and education model necessary to change driver behavior. WYDOT will coordinate paid and earned media statewide to complement the enforcement initiative outlined in this project agreement. The outreach may include the following: TV spots, radio spots, online ads, billboards, print ads, press releases, posters, flyers, and/or outreach events. These efforts will include local jurisdictions and will be coordinated statewide. By signing below, the project director signifies his/her understanding of the outreach component of the mobilization and approves the use of these educational techniques within his/her jurisdiction.

10. **Project Evaluation/Reporting.**

- A. **Annual Report.** WYDOT shall provide the Sub-Recipient an Annual Report summarizing all fiscal year project activities and will be required, at minimum, to sign the report acknowledging its accuracy, and may comment on project successes or challenges.

11. **Seat Belt Policy.** The Sub-Recipient shall have a seat belt usage policy and require any of its sub-recipients, contractors, subcontractors, and consultants to comply.

12. **Federal Certifications and Assurances.** Sub-Recipient shall comply with all the requirements in Attachment A, Federal Certifications and Assurances, which is attached to and incorporated into this Agreement by this reference.
13. **State Special Provisions for Federal Dollars.**
- A. **Assumption of Risk.** The Sub-Recipient shall assume the risk of any loss of state or federal funding, either administrative or program dollars, due to the Sub-Recipient's failure to comply with state or federal requirements. WYDOT shall notify the Sub-Recipient of any state or federal determination of noncompliance.
 - B. **Environmental Policy Acts.** The Sub-Recipient agrees all activities under this Agreement will comply with the Clean Air Act, the Clean Water Act, the National Environmental Policy Act, and other related provisions of federal environmental protection laws, rules or regulations.
 - C. **Human Trafficking.** As required by 22 U.S.C. § 7104(g) and 2 CFR Part 175, this Agreement may be terminated without penalty if a private entity that receives funds under this Agreement:
 - (i) Engages in severe forms of trafficking in persons during the period of time that the award is in effect;
 - (ii) Procures a commercial sex act during the period of time that the award is in effect; or
 - (iii) Uses forced labor in the performance of the award or subawards under the award.
 - D. **Kickbacks.** Sub-Recipient 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 Sub-Recipient breaches or violates this warranty, WYDOT may, at its discretion, terminate this Agreement without liability to WYDOT, or deduct from the agreed upon price or consideration, or otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee.
 - E. **Limitations on Lobbying Activities.** By signing this Agreement, Sub-Recipient certifies and agrees that, in accordance with P.L. 101-121, payments made from a federal grant shall not be utilized by Sub-Recipient or its subcontractors in connection with lobbying member(s) of Congress, or any federal agency in connection with the award of a federal grant, agreement, cooperative agreement, or loan.
 - F. **Monitoring Activities.** WYDOT shall have the right to monitor all activities related to this Agreement that are performed by Sub-Recipient or its subcontractors. This shall include, but not be limited to, the right to make site inspections at any time and with reasonable notice; to bring experts and consultants on site to examine

or evaluate completed work or work in progress; to examine the books, ledgers, documents, papers, and records pertinent to this Agreement; and to observe personnel in every phase of performance of Agreement related work.

- G. Nondiscrimination.** The Sub-Recipient shall comply with the Civil Rights Act of 1964, the Wyoming Fair Employment Practices Act (Wyo. Stat. § 27-9-105, *et seq.*), the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, *et seq.*, and the Age Discrimination Act of 1975 and any properly promulgated rules and regulations thereto and shall not discriminate against any individual on the grounds of age, sex, color, race, religion, national origin, or disability in connection with the performance under this Agreement.
- H. No Finder's Fees:** No finder's fee, employment agency fee, or other such fee related to the procurement of this Agreement, shall be paid by either party.
- I. Suspension and Debarment.** By signing this Agreement, Sub-Recipient certifies that neither it nor its principals/agents are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction or from receiving federal financial or nonfinancial assistance, nor are any of the participants involved in the execution of this Agreement suspended, debarred, or voluntarily excluded by any federal department or agency in accordance with Executive Order 12549 (Debarment and Suspension), 44 CFR Part 17, or 2 CFR Part 180, or are on the debarred, or otherwise ineligible, vendors lists maintained by the federal government. Further, Sub-Recipient agrees to notify WYDOT by certified mail should it or any of its principals/agents become ineligible for payment, debarred, suspended, or voluntarily excluded from receiving federal funds during the term of this Agreement.
- J. Administration of Federal Funds.** Sub-Recipient agrees its use of the funds awarded herein is subject to the Uniform Administrative Requirements of 2 C.F.R. Part 200, *et seq.*; any additional requirements set forth by the federal funding agency; all applicable regulations published in the Code of Federal Regulations; and other program guidance as provided to it by WYDOT.
- K. Federal Audit Requirements.** Sub-Recipient agrees that if it expends an aggregate amount of seven hundred fifty thousand dollars (\$750,000.00) or more in federal funds during its fiscal year, it must undergo an organization-wide financial and compliance single audit. Sub-recipient agrees to comply with the audit requirements of the U.S. General Accounting Office Government Auditing Standards and Audit Requirements of 2 C.F.R. Part 200, Subpart F. If findings are made which cover any part of this Agreement, Sub-Recipient shall provide one (1) copy of the audit report to WYDOT and require the release of the audit report by its auditor be held until adjusting entries are disclosed and made to WYDOT's records.
- L. Non-Supplanting Certification.** Sub-Recipient hereby affirms that federal grant funds shall be used to supplement existing funds, and shall not replace (supplant) funds that have been appropriated for the same purpose. Sub-Recipient should be

able to document that any reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds under this Agreement.

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

14. **State General Provisions for Federal Dollars.**

- A. **Amendments.** Any changes, modifications, revisions, or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed by all parties to this Agreement.
- B. **Applicable Law, Rules of Construction, and Venue.** The construction, interpretation, and enforcement of this Agreement shall be governed by the laws of the State of Wyoming, without regard to conflicts of law principles. The terms “hereof,” “hereunder,” “herein,” and words of similar import, are intended to refer to this Agreement as a whole and not to any particular provision or part. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the parties. The venue shall be the First Judicial District, Laramie County, Wyoming.
- C. **Assignment Prohibited and Agreement Shall Not be Used as Collateral.** Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set out in this Agreement without the prior written consent of the other party. The Sub-Recipient shall not use this Agreement, or any portion thereof, for collateral for any financial obligation without the prior written permission of WYDOT.
- D. **Audit and Access to Records.** WYDOT and its representatives shall have access to any books, documents, papers, electronic data, and records of the Sub-Recipient which are pertinent to this Agreement. The Sub-Recipient shall immediately, upon receiving written instruction from WYDOT, provide to any independent auditor or accountant all books, documents, papers, electronic data, and records of the Sub-Recipient which are pertinent to this Agreement. The Sub-Recipient shall cooperate fully with any such independent auditor or accountant during the entire course of any audit authorized by WYDOT.
- E. **Availability of Funds.** Each payment obligation of WYDOT is conditioned upon the availability of government funds which are appropriated or allocated for the payment of this obligation and which may be limited for any reason including, but not limited to, congressional, legislative, gubernatorial, or administrative action. If funds are not allocated and available for continued performance of the Agreement, the Agreement may be terminated by WYDOT at the end of the period for which the funds are available. WYDOT shall notify the Sub-Recipient at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to WYDOT in the event this provision is exercised, and

WYDOT shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section.

- F. Award of Related Agreements.** WYDOT may award supplemental or successor contracts for work related to this Agreement or may award contracts to other Sub-Recipients for work related to this Agreement. The Sub-Recipient shall cooperate fully with other Sub-recipients and WYDOT in all such cases.
- G. Compliance with Laws.** The Sub-Recipient shall keep informed of and comply with all applicable federal, state, and local laws and regulations, and all federal grant requirements and executive orders in the performance of this Agreement.
- H. Entirety of Agreement.** This Agreement, consisting of twelve (12) pages; Attachment A, Federal Certifications and Assurances, consisting of twenty-one (21) pages, Attachment B, Grant Claim for Reimbursement, consisting of one (1) page, Attachment C, Non-Major Equipment Records Forms, consisting of two (2) pages, represent the entire and integrated Agreement between the parties and supersede all prior negotiations, representations, and agreements, whether written or oral. In the event of a conflict or inconsistency between the language of this Agreement and the language of any attachment or document incorporated by reference, the language of this Agreement shall control.
- I. Ethics.** Sub-Recipient shall keep informed of and comply with the Wyoming Ethics and Disclosure Act (Wyo. Stat. § 9-13-101, *et seq.*) and any and all ethical standards governing Sub-Recipient's profession.
- J. Extensions.** Nothing in this Agreement shall be interpreted or deemed to create an expectation that this Agreement will be extended beyond the term described herein. Any extension of this Agreement shall be initiated by WYDOT and shall be accomplished through a written amendment between the parties entered into before the expiration of the original Agreement or any valid amendment thereto, and shall be effective only after it is reduced to writing and executed by all parties to the Agreement.
- K. Force Majeure.** Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays.
- L. Indemnification.** Each party to this Agreement shall assume the risk of any liability arising from its own conduct. Neither party agrees to insure, defend, or indemnify the other.

- M. Independent Contractor.** The Sub-Recipient shall function as an independent contractor for the purposes of this Agreement and shall not be considered an employee of the State of Wyoming for any purpose. Consistent with the express terms of this Agreement, the Sub-Recipient shall be free from control or direction over the details of the performance of services under this Agreement. The Sub-Recipient shall assume sole responsibility for any debts or liabilities that may be incurred by the Sub-Recipient in fulfilling the terms of this Agreement and shall be solely responsible for the payment of all federal, state, and local taxes which may accrue because of this Agreement. Nothing in this Agreement shall be interpreted as authorizing the Sub-Recipient or its agents or employees to act as an agent or representative for or on behalf of the State of Wyoming or WYDOT or to incur any obligation of any kind on behalf of the State of Wyoming or WYDOT. The Sub-Recipient agrees that no health or hospitalization benefits, workers' compensation, unemployment insurance, or similar benefits available to State of Wyoming employees will inure to the benefit of the Sub-Recipient or the Sub-Recipient's agents or employees as a result of this Agreement.
- N. Notices.** All notices arising out of, or from, the provisions of this Agreement shall be in writing either by regular mail or delivery in person at the addresses provided under this Agreement.
- O. Ownership and Return of Documents and Information.** WYDOT is the official custodian and owns all documents, data compilations, reports, computer programs, photographs, data, and other work provided to or produced by the Sub-Recipient in the performance of this Agreement. Upon termination of services, for any reason, Sub-Recipient agrees to return all such original and derivative information and documents to WYDOT in a useable format. In the case of electronic transmission, such transmission shall be secured. The return of information by any other means shall be by a parcel service that utilizes tracking numbers.
- P. Prior Approval.** This Agreement shall not be binding upon either party, no services shall be performed, and the Wyoming State Auditor shall not draw warrants for payment, until this Agreement has been fully executed, approved as to form by the Office of the Attorney General, filed with and approved by A&I Procurement, and approved by the Governor of the State of Wyoming, or his designee, if required by Wyo. Stat. § 9-2-3204(b)(iv).
- Q. Severability.** Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of the Agreement shall continue in full force and effect, and the parties may renegotiate the terms affected by the severance.
- R. Sovereign Immunity and Limitations.** Pursuant to Wyo. Stat. § 1-39-104(a), the State of Wyoming and WYDOT expressly reserve sovereign immunity by entering into this Agreement and the Sub-Recipient expressly reserves governmental immunity. Each of them specifically retains all immunities and defenses available to them as sovereigns or governmental entities pursuant to Wyo. Stat. § 1-39-101,

et seq., and all other applicable law. The parties acknowledge that the State of Wyoming has sovereign immunity and only the Wyoming Legislature has the power to waive sovereign immunity. Designations of venue, choice of law, enforcement actions, and similar provisions shall not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Agreement shall not be strictly construed, either against or for either party, except that any ambiguity as to immunity shall be construed in favor of immunity.

- S. Taxes.** The Sub-Recipient shall pay all taxes and other such amounts required by federal, state, and local law, including, but not limited to, federal and social security taxes, workers' compensation, unemployment insurance, and sales taxes.
- T. Termination of Agreement.** This Agreement may be terminated, without cause, by WYDOT upon thirty (30) days written notice. This Agreement may be terminated by WYDOT immediately for cause if the Sub-Recipient fails to perform in accordance with the terms of this Agreement.
- U. Third-Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of third-party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties, and obligations contained in this Agreement shall operate only between the parties to this Agreement and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement.
- V. Time is of the Essence.** Time is of the essence in all provisions of this Agreement.
- W. Titles Not Controlling.** Titles of sections and subsections are for reference only and shall not be used to construe the language in this Agreement.
- X. Waiver.** The waiver of any breach of any term or condition in this Agreement shall not be deemed a waiver of any prior or subsequent breach. Failure to object to a breach shall not constitute a waiver.
- Y. Counterparts.** This Agreement may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute one and the same Agreement. Delivery by the Sub-Recipient of an originally signed counterpart of this Agreement by facsimile or PDF shall be followed up immediately by delivery of the originally signed counterpart to WYDOT.
- Z. Insurance Requirements.** Sub-Recipient is protected by the Wyoming Governmental Claims Act, Wyo. Stat. § 1-39-101, et seq., and certifies that it is a member of the Wyoming Association of Risk Management (WARM) pool or the Local Government Liability Pool (LGLP), Wyo. Stat. § 1-42-201, et seq., and shall provide a letter verifying its participation in the WARM or LGLP to WYDOT.

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

<p>SUB-RECIPIENT:</p> <p>PROJECT DIRECTOR</p> <p>NAME: Sandra Newland TITLE: Grants Manager PHONE: 307-633-4201 EMAIL: snewland@laramiecounty.com</p> <p>SIGNATURE: </p> <p>DATE: 9/30/22</p>	<p>SUB-RECIPIENT:</p> <p>AUTHORIZING OFFICIAL</p> <p>NAME: Gunnar Malm Troy Thompson TITLE: Chairman PHONE: 307-633-4260 EMAIL: commissioners@laramiecounty.com</p> <p>SIGNATURE:</p> <p>DATE:</p>
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HIGHWAY SAFETY PROGRAM APPROVAL	
SIGNATURE:	DATE:
WYDOT APPROVAL	
SIGNATURE:	DATE:

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

 # 22 5234

Alysia Goldman, Assistant Attorney General

8/22/22
 Date

**RECEIVED AND APPROVED AS
 TO FORM ONLY BY THE
 DEPUTY LARAMIE COUNTY
 ATTORNEY** 

ATTACHMENT A

It is hereby understood that the Agreement, when approved and signed by all concerned parties, shall constitute an agreement by and between the applicant organization to perform in accordance with the terms of this attachment, taken as a whole. The Agreement is based on WYDOT procedures and Federal guidelines found in 2 CFR 200.

1. **Non Discrimination.** The Sub-Recipient will comply with all Federal statutes and implementing regulations relating to nondiscrimination (“Federal Nondiscrimination Authorities”). These include but are not limited to:
 - A. 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;
 - B. 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);
 - C. FEDERAL-AID HIGHWAY ACT OF 1973, (23 U.S.C. 324 *et seq.*), AND TITLE IX OF THE EDUCATION AMENDMENTS OF 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex);
 - D. 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;
 - E. THE AGE DISCRIMINATION ACT OF 1975, as amended, (42 U.S.C. 6101 *et seq.*), (prohibits discrimination on the basis of age);
 - F. THE CIVIL RIGHTS RESTORATION ACT OF 1987, (Pub. L. 100-209), (broadens 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);
 - G. TITLES II AND III OF THE AMERICANS WITH DISABILITIES ACT (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;
 - H. EXECUTIVE ORDER 12898, FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY POPULATIONS AND LOW-INCOME POPULATIONS (prevents 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); and

- I.** EXECUTIVE ORDER 13166, IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access to programs (70 FR 74087-74100).

The Sub-Recipient –

- J.** Will take all measures necessary to ensure that no person in the United States shall, on the grounds of race, color, national origin, disability, sex, age, limited English proficiency, or membership in any other class protected by Federal Nondiscrimination Authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of its programs or activities, so long as any portion of the program is Federally-assisted.
- K.** Will administer the program in a manner that reasonably ensures that any of its Sub-Recipients, contractors, subcontractors, and consultants receiving Federal financial assistance under this program will comply with all requirements of the Non-Discrimination Authorities identified in this Assurance;
- L.** Agrees to comply (and require any of its Sub-Recipients, contractors, subcontractors, and consultants to comply) with all applicable provisions of law or regulation governing US DOT's or NHTSA's access to records, accounts, documents, information, facilities, and staff, and to cooperate and comply with any program or compliance reviews, and/or complaint investigations conducted by US DOT or NHTSA under any Federal Nondiscrimination Authority;
- M.** Acknowledges that the United States has a right to seek judicial enforcement with regard to any matter arising under these Non-Discrimination Authorities and this Assurance;
- N.** Insert in all contracts and funding agreements with other State or private entities the following clause:

“During the performance of this contract/funding agreement, the contractor/funding recipient agrees—

- (i)** To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;
- (ii)** Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in appendix B of 49 CFR part 21 and herein;

- (iii) To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;
- (iv) That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part; and
- (v) To insert this clause, including paragraphs a through e, in every subcontract and sub-agreement and in every solicitation for a subcontract or sub-agreement, that receives Federal funds under this program.

2. **Certification – Drug Free Workplace.** This certification is required by the Corporation’s regulations implementing sections 5150-5160 of the Drug-Free Workplace Act of 1988 (P.L. 100-690), 45 CFR Part 2545, Subpart B. The regulations require certification by grantees, prior to award, that they will make a good faith effort, on a continuing basis, to maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the agency determines to award the grant. False certification or violation of the certification may be grounds for suspension of payments, suspension or termination of grants, or government-wide suspension or debarment (see 2 CFR Part 180, Subparts G and H).

As the duly authorized representative of the grantee, I certify, to the best of my knowledge and belief, that the grantee will provide a drug-free workplace by:

- A. Publishing a drug-free workplace statement that:
 - (i) Notifies employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee’s workplace;
 - (ii) Specifies the actions that the grantee will take against employees for violating that prohibition; and
 - (iii) Informs employees that, as a condition of employment under any award, each employee will abide by the terms of the statement and notify the grantee in writing if the employee is convicted for a violation of a criminal drug statute occurring in the workplace within five days of the conviction;
- B. Requiring that a copy of the statement described in paragraph (A) be given to each employee who will be engaged in the performance of any Federal award;

- C. Establishing a drug-free awareness program to inform employees about:
 - (i) The dangers of drug abuse in the workplace;
 - (ii) The grantee's policy of maintaining a drug-free workplace;
 - (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that the grantee may impose upon them for drug abuse violations occurring in the workplace;

- D. Providing us, as well as any other Federal agency on whose award the convicted employee was working, with written notification within 10 calendar days of learning that an employee has been convicted of a drug violation in the workplace;

- E. Taking one of the following actions within 30 calendar days of learning that an employee has been convicted of a drug violation in the workplace:
 - (i) Taking appropriate personnel action against the employee, up to and including termination; or
 - (ii) Requiring that the employee participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

- F. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A) through (E).

- 3. **Political Activities (Hatch Act)**. The Sub-Recipient will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

- 4. **Certification Regarding Federal Lobbying**. The undersigned certifies, to the best of his or her knowledge and belief, that:
 - A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

 - B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any 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.

- C. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, sub-grants, and contracts under grant, loans, and cooperative agreements) and that all Sub-Recipients 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 section 1352, title 31, U.S. Code. 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.

- 5. **Restriction on State Lobbying.** None of the funds under this program shall be used for any activity specifically designed to urge or influence a state or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any state or local legislative body. Such activities include both direct and indirect e.g., "grassroots" lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with state or local legislative officials, in accordance with customary state practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

6. **Debarment and Suspension.**

- A. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1300.
- B. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
- C. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies

available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.

- D.** The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- E.** The terms *covered transaction, debarment, suspension, ineligible, lower tier, participant, person, primary tier, principal, and voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and coverage sections of 2 CFR part 180. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
- F.** The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.
- G.** The prospective primary participant further agrees by submitting this proposal that it will include the clause titled “Instructions for Lower Tier Certification” including the “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction,” provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1300.
- H.** A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of Parties Excluded from Federal Procurement and Non-procurement Programs.
- I.** Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- J.** Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered

transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

***Certification Regarding Debarment, Suspension, and Other Responsibility Matters—
Primary Covered Transactions***

- K.** The prospective primary participant certifies to the best of its knowledge and belief, that its principals:
- (i)** Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
 - (ii)** Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property;
 - (iii)** Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (iv)** Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
- L.** Where the prospective primary participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Certification

- M.** By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1300.
- N.** The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

- O.** The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- P.** The terms covered transaction, debarment, suspension, ineligible, lower tier, participant, person, primary tier, principal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definition and Coverage sections of 2 CFR part 180. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
- Q.** The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.
- R.** The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled “Instructions for Lower Tier Certification” including the “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1300.
- S.** A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
- T.** Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- U.** Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered

transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency with which this transaction originated may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

- V. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- W. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

This agreement is required to comply with the Federal Funding Accountability and Transparency Act (FFATA) of 2006. As the prime recipient of these funds, WYDOT will report the required information to the Federal Funding Accountability and Transparency Act Sub-award Reporting System (FSRS). The FFATA requires any person or entity receiving contract or grant funds directly from the federal government to report certain information regarding those funds through a centralized website, www.fsrs.gov. The law requires that you provide your Data Universal Numbering System (DUNS) number to WYDOT. This requirement means you need to be registered with DUN and Bradstreet. Instructions for this process can be found at www.dnb.com. Additional information regarding this Act may be found at the following sites:

<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>

<http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>

- 7. **Buy American Act.** The State and each Sub-Recipient will comply with the Buy America requirement (Executive order dated April 18, 2017) when purchasing items using Federal funds. Buy America requires a State, or Sub-Recipient, to purchase only steel, iron and manufactured products produced in the United States with Federal funds, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification to and approved by the Secretary of Transportation.
- 8. **Prohibition on Using Grant Funds to Check for Helmet Usage.** The State and each Sub-Recipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

9. **Policy on Seat Belt Use.** In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the Grantee is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information on how to implement such a program, or statistics on the potential benefits and cost-savings to your company or organization, please visit the Buckle Up America section on NHTSA's Web site at www.nhtsa.dot.gov. Additional resources are available from the Network of Employers for Traffic Safety (NETS), a public-private partnership headquartered in the Washington, DC metropolitan area, and dedicated to improving the traffic safety practices of employers and employees. NETS is prepared to provide technical assistance, a simple, user-friendly program kit, and an award for achieving the President's goal of 90 percent seat belt use. NETS can be contacted at 1 (888) 221-0045 or visit its Web site at www.trafficsafety.org.
10. **Policy on Banning Text Messaging while Driving.** In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or -rented vehicles, Government-owned, leased or rented vehicles, or privately-owned when on official Government business or when performing any work on or behalf of the Government. States are also encouraged to conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
11. **Records Retention.** Sub-Recipient must maintain financial records, supporting documents, statistical records, and all other records pertinent to the federal award for a period of three years from the date of submission of the final expenditure report. If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.
12. **Access to Records.** The Federal awarding agency, Inspector General, the Comptroller General of the United States, and WYDOT, or any of their authorized representatives, must have the right of access to any documents, papers, or other records which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the Sub-Recipient's personnel for the purpose of interview and discussion related to such documents.
13. **Funding.** The Sub-Recipient will utilize funds provided to supplement and not to supplant state and local funds otherwise available for these purposes. Funds are to be expended only for purposes and activities approved in the project agreement. Reimbursement will be made

periodically by WYDOT based on approved requests for reimbursement. If matching funds are required, the Sub-Recipient will expend them from nonfederal sources, which must be spent no later than 30 days following the completion of the project.

14. **Cost Principles and Grant Management.** The eligibility of costs incurred and the management of this project shall be determined in accordance with 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
15. **Obligation Funds.** Federal funds may not be obligated prior to the effective date or subsequent to the termination date of the project period. Requests for reimbursement outstanding at the termination date of the project must be made within 30 days or those funds may not be paid.
16. **Changes.** The Sub-Recipient must obtain prior written approval from WYDOT for major project changes, including: changes of substance in project objectives, evaluation, activities, the project manager, key personnel, project budget or transfer of funds from one category in the budget to another. The period of performance of the project, however, cannot be changed.
17. **Program Income.** WYDOT safety programs encourage Sub-Recipients to earn income to help defray program costs, but there are federal regulations that must be followed. Program income is defined as gross income received by the State and/or Sub-Recipient directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. Income earned by the Sub-Recipient with respect to the conduct of the project (sale of publications, registration fees, service charges, donations for child safety seats, etc.) must be accounted and income applied to project purposes, used to reduce project costs, or be used to meet cost agency matching requirements. The Sub-Recipient is responsible for reporting all program income according to federal and state requirements.
18. **Purchases.** Sub-Recipients shall follow such policies and procedures allowed by WYDOT when procuring property and services under a Federal award.
19. **Property Insurance.** The Sub-Recipient must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by the Sub-Recipient.
20. **Third Party Participants.** No contracts or agreements may be entered into by the Sub-Recipient related to this project which are not incorporated into the project agreement and approved in advance by WYDOT. The Sub-Recipient will retain ultimate control and responsibility for the project. WYDOT shall be provided with a copy of all contracts and agreements entered into by Sub-Recipients. Any contract or agreement must allow for the greatest competition practicable and evidence of such competition or justification for a negotiated contract or agreement shall be provided to WYDOT.

21. **Participation by Disadvantaged Business Enterprises.** The Sub-Recipient agrees to take all necessary and reasonable steps in accordance with Title 49, CFR, Subtitle A, Part 26 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Sub-Recipients shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any subcontracts financed in whole or in part with federal funds.
22. **Single Audit.** Sub-Recipients that expend \$750,000 or more during their fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with 2 CFR Part 200 Subpart F.
23. **Wyoming Standard Field Sobriety Testing.** All law enforcement officers who are performing impaired driving enforcement activities with funding from WYDOT must be in compliance with the current Wyoming Standards for Field Sobriety Testing Standards.
24. **Central Sub-Recipient Registration (CCR) and Universal Identifier Requirements.** Requires that the Sub-Recipient be registered in the CCR prior to submitting an application or plan; and maintain an active CCR registration with current information at all times during which it has an active Federal award or an application or plan under consideration by an agency.
25. **Conflict of Interest.** The Sub-Recipient/LPA/Sponsor must disclose in writing any potential conflict of interest to WYDOT including financial or other personal interests.
26. **Mandatory Disclosures.** The Sub-Recipient/LPA/Sponsor must disclose, in a timely manner, in writing to WYDOT all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting this award. Failure to make required disclosures can result in remedies for noncompliance including suspension or debarment.
27. **Procurements by States.** When procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will comply with §§200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by §200.327. All other non-Federal entities, including Sub-Recipients of a State, must follow the procurement standards in §§200.318 through 200.327.
28. **Contracting with small and minority businesses, women’s business enterprises, and labor surplus area firms.**
 - A. The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.
 - B. Affirmative steps must include:

- (i) Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
- (ii) Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;
- (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;
- (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises;
- (v) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

29. Domestic preferences for procurements.

- A. As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- B. For purposes of this section:
 - (i) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - (ii) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

30. Monitoring and reporting program performance.

- A.** Monitoring by the non-Federal entity. The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also §200.332.
- B.** Reporting program performance. The Federal awarding agency must use OMB-approved common information collections, as applicable, when providing financial and performance reporting information. As appropriate and in accordance with above mentioned information collections, the Federal awarding agency must require the recipient to relate financial data and accomplishments to performance goals and objectives of the Federal award. Also, in accordance with above mentioned common information collections, and when required by the terms and conditions of the Federal award, recipients must provide cost information to demonstrate cost effective practices (e.g., through unit cost data). In some instances (e.g., discretionary research awards), this will be limited to the requirement to submit technical performance reports (to be evaluated in accordance with Federal awarding agency policy). Reporting requirements must be clearly articulated such that, where appropriate, performance during the execution of the Federal award has a standard against which non-Federal entity performance can be measured.
- C.** Non-construction performance reports. The Federal awarding agency must use standard, government wide OMB-approved data elements for collection of performance information including performance progress reports, Research Performance Progress Reports.

 - (i)** The non-Federal entity must submit performance reports at the interval required by the Federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes. Reports submitted annually by the non-Federal entity and/or pass-through entity must be due no later than 90 calendar days after the reporting period. Reports submitted quarterly or semiannually must be due no later than 30 calendar days after the reporting period. Alternatively, the Federal awarding agency or pass-through entity may require annual reports before the anniversary dates of multiple year Federal awards. The final performance report submitted by the non-Federal entity and/or pass-through entity must be due no later than 120 calendar days after the period of performance end date. A Sub-Recipient must submit to the pass-through entity, no later than 90 calendar days after the period of performance end date, all final performance reports as required by the terms

and conditions of the Federal award. See also §200.344. If a justified request is submitted by a non-Federal entity, the Federal agency may extend the due date for any performance report.

(ii) As appropriate in accordance with above mentioned performance reporting, these reports will contain, for each Federal award, brief information on the following unless other data elements are approved by OMB in the agency information collection request:

(a) A comparison of actual accomplishments to the objectives of the Federal award established for the period. Where the accomplishments of the Federal award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful. Where performance trend data and analysis would be informative to the Federal awarding agency program, the Federal awarding agency should include this as a performance reporting requirement.

(b) The reasons why established goals were not met, if appropriate.

(c) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

D. Construction performance reports. For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by Federal awarding agencies and pass-through entities to monitor progress under Federal awards and subawards for construction. The Federal awarding agency may require additional performance reports only when considered necessary.

E. Significant developments. Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the non-Federal entity must inform the Federal awarding agency or pass-through entity as soon as the following types of conditions become known:

(i) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(ii) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

F. Site visits. The Federal awarding agency may make site visits as warranted by program needs.

- G. Performance report requirement waiver. The Federal awarding agency may waive any performance report required by this part if not needed.

31. Requirements for pass-through entities.

- A. All pass-through entities must:

- (i) Ensure that every subaward is clearly identified to the Sub-Recipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

- (a) Federal award identification.

- (1) Sub-Recipient name (which must match the name associated with its unique entity identifier);
- (2) Sub-Recipient's unique entity identifier;
- (3) Federal Award Identification Number (FAIN);
- (4) Federal Award Date (see the definition of Federal award date in §200.1 of this part) of award to the recipient by the Federal agency;
- (5) Subaward Period of Performance Start and End Date;
- (6) Subaward Budget Period Start and End Date;
- (7) Amount of Federal Funds Obligated by this action by the pass-through entity to the Sub-Recipient;
- (8) Total Amount of Federal Funds Obligated to the Sub-Recipient by the pass-through entity including the current financial obligation;
- (9) Total Amount of the Federal Award committed to the Sub-Recipient by the pass-through entity;
- (10) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);

- (11) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;
 - (12) Assistance Listings number and Title; the pass-through entity must identify the dollar amount made available under each Federal award and the Assistance Listings Number at time of disbursement;
 - (13) Identification of whether the award is R&D; and
 - (14) Indirect cost rate for the Federal award (including if the de minimis rate is charged) per §200.414.
- B.** All requirements imposed by the pass-through entity on the Sub-Recipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award;
- C.** Any additional requirements that the pass-through entity imposes on the Sub-Recipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports;
- D.** An approved federally recognized indirect cost rate negotiated between the Sub-Recipient and the Federal Government. If no approved rate exists, the pass-through entity must determine the appropriate rate in collaboration with the Sub-Recipient, which is either:
- (i) The negotiated indirect cost rate between the pass-through entity and the Sub-Recipient; which can be based on a prior negotiated rate between a different PTE and the same Sub-Recipient. If basing the rate on a previously negotiated rate, the pass-through entity is not required to collect information justifying this rate, but may elect to do so;
 - (ii) The de minimis indirect cost rate.
 - (a) The pass-through entity must not require use of a de minimis indirect cost rate if the Sub-Recipient has a Federally approved rate. Sub-Recipients can elect to use the cost allocation method to account for indirect costs in accordance with §200.405(d).
- E.** A requirement that the Sub-Recipient permit the pass-through entity and auditors to have access to the Sub-Recipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this part; and

- F.** Appropriate terms and conditions concerning closeout of the subaward.
- (i)** Evaluate each Sub-Recipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate Sub-Recipient monitoring described in paragraphs (d) and (e) of this section, which may include consideration of such factors as:
 - (ii)** The Sub-Recipient's prior experience with the same or similar subawards;
 - (iii)** The results of previous audits including whether or not the Sub-Recipient receives a Single Audit in accordance with Subpart F of this part, and the extent to which the same or similar subaward has been audited as a major program;
 - (iv)** Whether the Sub-Recipient has new personnel or new or substantially changed systems; and
 - (v)** The extent and results of Federal awarding agency monitoring (e.g., if the Sub-Recipient also receives Federal awards directly from a Federal awarding agency).
- G.** Consider imposing specific subaward conditions upon a Sub-Recipient if appropriate as described in §200.208.
- H.** Monitor the activities of the Sub-Recipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the Sub-Recipient must include:
- (i)** Reviewing financial and performance reports required by the pass-through entity.
 - (ii)** Following-up and ensuring that the Sub-Recipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the Sub-Recipient from the pass-through entity detected through audits, on-site reviews, and written confirmation from the Sub-Recipient, highlighting the status of actions planned or taken to address Single Audit findings related to the particular subaward.
 - (iii)** Issuing a management decision for applicable audit findings pertaining only to the Federal award provided to the Sub-Recipient from the pass-through entity as required by §200.521.
 - (iv)** The pass-through entity is responsible for resolving audit findings specifically related to the subaward and not responsible for resolving

crosscutting findings. If a Sub-Recipient has a current Single Audit report posted in the Federal Audit Clearinghouse and has not otherwise been excluded from receipt of Federal funding (e.g., has been debarred or suspended), the pass-through entity may rely on the Sub-Recipient's cognizant audit agency or cognizant oversight agency to perform audit follow-up and make management decisions related to cross-cutting findings in accordance with section §200.513(a)(3)(vii). Such reliance does not eliminate the responsibility of the pass-through entity to issue subawards that conform to agency and award-specific requirements, to manage risk through ongoing subaward monitoring, and to monitor the status of the findings that are specifically related to the subaward.

- I. Depending upon the pass-through entity's assessment of risk posed by the Sub-Recipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:
 - (i) Providing Sub-Recipients with training and technical assistance on program-related matters; and
 - (ii) Performing on-site reviews of the Sub-Recipient's program operations;
 - (iii) Arranging for agreed-upon-procedures engagements as described in §200.425.
- J. Verify that every Sub-Recipient is audited as required by Subpart F of this part when it is expected that the Sub-Recipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501.
- K. Consider whether the results of the Sub-Recipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.
- L. Consider taking enforcement action against noncompliant Sub-Recipients as described in §200.339 of this part and in program regulations.

32. Termination.

- A. The Federal award may be terminated in whole or in part as follows:
 - (i) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;
- B. By the Federal awarding agency or pass-through entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;

- C. By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
- D. By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety; or
- E. By the Federal awarding agency or pass-through entity pursuant to termination provisions included in the Federal award.
 - (i) A Federal awarding agency should clearly and unambiguously specify termination provisions applicable to each Federal award, in applicable regulations or in the award, consistent with this section.
 - (ii) When a Federal awarding agency terminates a Federal award prior to the end of the period of performance due to the non-Federal entity's material failure to comply with the Federal award terms and conditions, the Federal awarding agency must report the termination to the OMB-designated integrity and performance system accessible through SAM (currently FAPIIS).
 - (a) The information required under paragraph (c) of this section is not to be reported to designated integrity and performance system until the non-Federal entity either—
 - (1) Has exhausted its opportunities to object or challenge the decision, see §200.342; or
 - (2) Has not, within 30 calendar days after being notified of the termination, informed the Federal awarding agency that it intends to appeal the Federal awarding agency's decision to terminate.
- F. If a Federal awarding agency, after entering information into the designated integrity and performance system about a termination, subsequently:

- (i) Learns that any of that information is erroneous, the Federal awarding agency must correct the information in the system within three business days;
 - (ii) Obtains an update to that information that could be helpful to other Federal awarding agencies, the Federal awarding agency is strongly encouraged to amend the information in the system to incorporate the update in a timely way.
- G. Federal awarding agencies, must not post any information that will be made publicly available in the non-public segment of designated integrity and performance system that is covered by a disclosure exemption under the Freedom of Information Act. If the non-Federal entity asserts within seven calendar days to the Federal awarding agency who posted the information, that some of the information made publicly available is covered by a disclosure exemption under the Freedom of Information Act, the Federal awarding agency who posted the information must remove the posting within seven calendar days of receiving the assertion. Prior to reposting the releasable information, the Federal agency must resolve the issue in accordance with the agency's Freedom of Information Act procedures.
- H. When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the non-Federal entity remain responsible for compliance with the requirements in §§200.344 and 200.345.