

CITY CONTRACT .. 6111
COUNTY AGREEMENT # 131003-16
MASTER AGREEMENT
FOR
METROPOLITAN TRANSPORTATION PLANNING
BETWEEN THE
WYOMING DEPARTMENT OF TRANSPORTATION,
THE FEDERAL HIGHWAY ADMINISTRATION,
AND THE
CHEYENNE METROPOLITAN PLANNING ORGANIZATION

MPO Master Agreement
Cheyenne Metropolitan Planning Organization
Laramie County, Wyoming

1. **PARTIES.** This Master Agreement by and between the Wyoming Department of Transportation (WYDOT), whose address is 5300 Bishop Boulevard, Cheyenne, Wyoming 82009, the Cheyenne Metropolitan Planning Organization (Cheyenne MPO), whose address is 2101 O'Neil Avenue, Cheyenne, Wyoming 82001, and its participating jurisdictions consisting of the City of Cheyenne, whose address is 2101 O'Neil Avenue, Cheyenne, Wyoming 82001, and Laramie County Board of Commissioners, whose address is 310 West 19th Street Suite 300, Cheyenne, Wyoming 82001; as well as the Federal Highway Administration (FHWA), whose address is 2617 East Lincolnway, Suite D, Cheyenne, Wyoming 82001-3716.
2. **PURPOSE.** This Agreement is entered into in accordance with 23 U.S.C. §134 and 49 U.S.C. §5303 – 5306 to provide the structure and process for the continuing, cooperative and comprehensive consideration, development and implementation of transportation plans and programs for transportation in the Cheyenne Metropolitan Planning Area (MPA) of the State of Wyoming.
3. **LEGAL AUTHORITY**
 - A. **Federal Transportation Planning Statutes.** 23 U.S.C. §104(f), 23 U.S.C. §134 and 49 U.S.C. §5303 – 5306 provide funding and require designation of a metropolitan planning organization for urbanized areas of at least 50,000 population to carry out a transportation planning process and receive federal funding. Those statutes require the State and the local governments to coordinate the planning and construction of all urban transportation facilities with a continuing, cooperative, and comprehensive transportation planning process.
 - B. **Metropolitan Planning Organization Designation.** On October 27, 1981, the Governor of the State of Wyoming designated the Metropolitan Planning Organization (MPO) and identified the Cheyenne MPO Policy Committee as the policy body providing the direction of transportation planning in the MPO in

accordance with Federal law.

4. **DEFINED TERMS.** As used in this Agreement, the following words and phrases shall have the meanings ascribed unless the context clearly indicates otherwise:
- “Consolidated Planning Grant”, or CPG, is the funding mechanism between WYDOT and the MPO. The CPG consists of the Metropolitan Transportation Planning funds authorized by 23 U.S.C. §134 (“PL Funds”), and Section 5303 Federal Transit Administration planning funds.
 - “Consultation” means that one party confers with another in accordance with an established process and, prior to taking action(s), considers that parties views and periodically informs that party about action(s) taken. With development of the Metropolitan Transportation Plan, the MPO shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of the transportation plan. The consultation shall involve, as appropriate:
 - A. Comparison of transportation plans with State conservation plans or maps, if available; or
 - B. Comparison of transportation plans to inventories of natural or historic resources, if available.
 - “Cooperation” means that the parties involved in carrying out the planning, programming, and management systems processes work together to achieve a common goal or objective.
 - “Coordination” means the comparison of the transportation plans, programs, and schedules of one agency with related plans, programs, and schedules of another agencies or entities with legal standing, and adjustment of plans, programs, and schedules to achieve general consistency.
 - “FHWA” is the Federal Highway Administration, an operating agency of the United States Department of Transportation.
 - “Fiscal Agent” is the entity chosen by the Policy Committee to facilitate purchasing, payroll, and personnel guidance to MPO staff.
 - “FTA” is the Federal Transit Administration, an operating agency of the United States Department of Transportation.
 - “LRTP” refers to the Long Range Transportation Plan, which is the official, statewide, multimodal, transportation plan covering a period of no less than 20 years developed through the statewide transportation planning process.

- “Major Amendments” are significant changes in the Unified Planning Work Program or Transportation Improvement Program. One or more of the following will constitute a major amendment: (1) cumulative adjustments to the task budget amount that exceed 10 percent of the original approved project budget, (2) the addition of a project requiring an environmental assessment or an environmental impact statement (3) the deletion of a project.
- “Minor Amendments” are non-significant new projects or a non-significant change in an existing project in the Unified Planning Work Program or Transportation Improvement Program. Changes to programs in which no additional funding is required and no changes to scope of services typically constitute a minor amendment.
- “MPA” or “Metropolitan Planning Area” means the geographic area determined pursuant to 23 U.S.C. §134(c) in which the MPO carries out the development and implementation of transportation plans and programs under 23 U.S.C. §134 and the Federal Transit Act § 8, respectively (shown in Appendix A to this Agreement).
- “MPO” or “Metropolitan Planning Organization” is the cooperative transportation planning organization for the Metropolitan Planning Area.
- “MTP” refers to the Metropolitan Transportation Plan, which is the official multimodal transportation plan addressing no less than a 20-year planning horizon that is developed, adopted, and updated by the MPO through the metropolitan transportation planning process.
- “PL” is the Metropolitan Transportation Planning funds authorized by 23 U.S.C. §134.
- “Policy Committee” Policy Committee established in 5.C of this Agreement for the cooperative decision making in accordance with this Agreement.
- “Section 5303” – A Federal Transit Administration grant program fund designed to establish a cooperative, continuous, and comprehensive framework for making transportation investment decisions in metropolitan areas.
- “Selection Committee” is the consultant selection committee used for the determination of hiring consultants for projects within the UPWP.
- “STIP” is the Statewide Transportation Improvement Program, which is the State’s four year, statewide, financially constrained intermodal program of transportation projects. The STIP is consistent with the statewide LRTP, and incorporates the TIP. It is developed pursuant to 23 U.S.C. §135(f) and is approved by WYDOT, the Governor, FTA and FHWA.

- “Technical Committee” established in 5.D of this Agreement for the cooperative review and recommendation of transportation programs and projects to facilitate decision making by the Policy Committee in accordance with this Agreement.
- “TIP” or “MTIP” is the Metropolitan Transportation Improvement Program, which is the MPO four-year, financially constrained program of transportation projects consistent with the MTP for funding Metropolitan Planning Area transportation improvements, updated at least every four years and approved by the MPO Policy Committee and the Governor in accordance with this Agreement.
- “UPWP” is the Unified Planning Work Program, which is the annual operating program detailing funding and responsibilities for transportation planning work tasks within the Metropolitan Planning Area. The UPWP provides for a continuing and comprehensive transportation planning process carried out by MPO.
- “WYDOT” or “State” is the Wyoming Department of Transportation.

5. ORGANIZATION AND RESPONSIBILITIES

- A. **Metropolitan Planning Area (MPA) under 23 U.S.C. §134.** The Metropolitan Planning Area specified by 23 U.S.C. §134(c) shall be the geographical area shown on Appendix A to the Agreement incorporated hereto by reference. Provided such boundaries conform to the requirements of 23 U.S.C. §134(c), the MPO and WYDOT may mutually agree to change the boundaries of the Metropolitan Planning Area.
- B. **MPO.** The MPO should represent the cooperative, coordinated and comprehensive multimodal transportation planning process between the affected jurisdictions and State for the development of an MPO Transportation Plan (MTP), Transportation Improvement Program (TIP), and the Unified Planning Work Program (UPWP).

In order to receive and expend federal funding for transportation improvements there must be coordination between the State and the MPO as required by federal regulation. Therefore, the purpose of MPO is to provide the framework and mechanism for the MPO and the State to jointly develop and implement transportation plans and programs, which will assure compliance with State and Federal transportation planning requirements. The duties and responsibilities within MPO are further described in this section.

The MPO is responsible for the metropolitan transportation planning process within the MPA boundaries in accordance with the Unified Planning Work Program approved by the Policy Committee, the State, the FHWA, and the FTA.

For purposes of this Agreement, the MPO is an entity of the City of Cheyenne under the supervision of the Mayor of the City of Cheyenne, or his appointee, with direct oversight by the Policy Committee. The City of Cheyenne will provide office space for MPO employees. Personnel of the MPO are bound by the City of Cheyenne's personnel policies and regulations. The MPO is insured as to liability by the City of Cheyenne through the Wyoming Association of Risk Management.

C. MPO Policy Committee

1. **Membership.** The Cheyenne MPO Policy Committee, hereafter referred to as the "Policy Committee", shall have as members:
 - a. The District Engineer or State Planning Engineer of the State of Wyoming Department of Transportation,
 - b. One elected official or designated representative from the City of Cheyenne, and
 - c. One elected official or designated representative from Laramie County.
2. **Voting.** Each jurisdiction listed in Section 5.C.1 above shall have one vote.
3. **Duties.** The MPO Policy Committee shall have overall responsibility for the implementation of this Agreement, coordination of the MPO's efforts and responsibilities of the Technical and Citizens' Advisory Committees, and the ultimate development and adoption of the UPWP, TIP, and MTP. The MPO Policy Committee shall annually set, review and approve goals of the MPO Director and staff. The MPO Policy Committee may appoint other committees as necessary. The MPO Policy Committee shall designate a fiscal agent in accordance with the Contract Agent and Fiscal Manager Addendum, included as Appendix B to the Agreement and incorporated hereto by reference.

D. MPO Technical Committee

1. **Membership.** The committee shall be composed of transportation planners, engineers, and transit providers appointed by the Policy Committee.
2. **Duties.** The Technical Committee shall review and evaluate all MPO plans and documents from a technical standpoint, and make

recommendations to the Policy Committee based on technical sufficiency, accuracy and completeness of all plans and programs. All actions of the Technical Committee, including recommendations to the Policy Committee, shall be by a majority vote of the total authorized number of members. Voting membership shall be determined by Technical Committee Bylaws, but should fairly account for all governmental entities represented at the committee.

E. **Citizen's Advisory Committee**

1. **Membership.** The committee is comprised of individuals who have an interest in the overall transportation system for the Cheyenne Urban Area. Members may have a special interest in a particular mode or generally have a desire to assist the MPO in achieving its goals and objectives. Members are appointed by the Policy Committee and must live within the MPO Urban Planning Boundary.
2. **Duties.** The committee will serve as liaison between the Cheyenne MPO and the residents of the urbanized area. It will also convey to the MPO the goals and wishes of the citizens in the Cheyenne Metropolitan area regarding transportation issues.
3. **Voting.** Each member has one vote with a majority vote of the total membership recommending to the Policy Committee the adoption of plans and projects.

6. **KEY PLANS AND PROGRAMS**

- A. The MPO is responsible for developing the MTP, TIP, UPWP, Annual Obligation Report, Participation and Consultation Plan, Self-Certifications and Federal Certifications, and the performance based approach to metropolitan transportation planning.
 1. **MPO Transportation Plan.** The MPO, in cooperation with the State, is responsible for developing or updating a MTP.
 - A. The MPO shall follow the latest federal planning requirements for the MTP, as prescribed in 23 CFR §450 and 23 U.S.C. §134. The MPO should consider core elements for the development of key transportation plans and programs, as prescribed in 23 CFR §450.
 - B. The MTP shall be updated at least once every five years as required by 23 CFR §450, but may be updated more frequently.
 - C. The MTP shall include a description of the performance measures

and performance targets used in assessing the performance of the transportation system in accordance with 6.A.5.

2. **Metropolitan Transportation Improvement Program.** The MPO, in cooperation with the State and public transportation operators, is responsible for developing or updating the TIP.
 - A. The MPO shall follow the latest federal planning requirements for the TIP, as prescribed in 23 CFR §450 and 23 U.S.C. §134. The TIP shall:
 - i. Contain projects consistent with the current metropolitan transportation plan.
 - ii. Reflect the investment priorities established in the current metropolitan transportation plan.
 - iii. Contain a financial plan meeting the requirements of 23 U.S.C. §134 and 23 CFR §450.
 - iv. Be fiscally constrained pursuant to 23 CFR §450.324 with project costs inflated to reflect the expected year of expenditure.
 - v. Once implemented, be designed to make progress toward achieving the performance targets established under 6.A.5.
 - vi. Include, to the maximum extent practicable, a description of the anticipated effect of the transportation improvement program toward achieving the performance targets established under 6.A.5.
 - B. The TIP shall be prepared in cooperation with WYDOT and any affected public transportation operator. WYDOT will provide a list of programmed state projects along with cost estimates and funding sources for the projects to the MPO within 30 days written notice. WYDOT shall also provide the MPO with a forecast of expected state and federal transportation revenues for the metropolitan planning area.
 - C. Once the TIP is compiled and adopted by the MPO Policy Committee, the MPO shall forward the TIP to the State for approval by the Governor. WYDOT shall incorporate the TIP into the STIP. Once complete, WYDOT will forward the STIP to FHWA and FTA for review and approval.

3. **Annual Obligation Report.** Within 90 days after the close of the fiscal year WYDOT and the MPO shall publish an Annual Obligation Report, in accordance with 23 CFR §450.332. The report will contain the projects within the MPO for which Federal highway or transit funds were obligated in the preceding fiscal year. It shall include all federally funded projects, TIP project description, implementing agency, amount of Federal funds requested in the TIP, the Federal funding that was obligated during the preceding year, and the Federal funding remaining and available for subsequent years. WYDOT shall provide the MPO with information necessary to compile the Annual Obligation Report.
4. **Unified Planning Work Program**
 - a. The MPO is responsible for developing or adjusting the MPO Unified Planning Work Program. The MPO shall:
 - i. Describe the planning priorities facing the MPA and all the transportation planning and administrative activities to be completed in a fiscal year.
 - ii. Indicate what agency will perform each task, the schedule for completing the work and the resulting products.
 - iii. Provide an estimated cost for all activities within the UPWP and sources of Federal, and matching funds.
 - iv. Ensure early coordination with WYDOT, FHWA and FTA.
 - v. Submit the draft UPWP no later than 15 days prior to the end of the current fiscal year.
 - b. WYDOT will submit to the MPO Director in writing the amount of estimated Federal PL and Section 5303 funds and required match ratios, to be made available to the MPO for the next fiscal year. The MPO staff shall develop and implement a UPWP public involvement program, and prepare the UPWP with cooperation of WYDOT and the MPO Technical Committee. Discussions between WYDOT and the MPO shall take place to determine how the proposed tasks can be accomplished in the most efficient and effective manner. The UPWP shall be reviewed by the Technical Committee, approved by the MPO Policy Committee, and forwarded to WYDOT for concurrence by FHWA and FTA *prior* to any work being performed. Total funds to be made available for the performance of UPWP work and services shall not exceed the

amount specified in the UPWP.

5. **Performance Based Planning.**

- a. The MPO is required to establish performance targets that address the United States Department of Transportation's established performance measures in the areas of Safety, Infrastructure Condition, System Reliability, Freight Movement and Economic Vitality, Environmental Sustainability, and Reduced Project Delivery Delays.
- b. The MPO must establish these performance targets not later than 180 days after the State or public transportation operator establishes its performance targets.
- c. Selection of performance targets by the MPO shall be coordinated with WYDOT and public transportation operators to ensure consistency, to the maximum extent practicable.
- d. The MPO is required to integrate into the metropolitan planning process, directly or by reference, the goals, objectives, performance measures, and targets established by the State and the public transportation operator.
- e. The MPO shall prepare system performance reports, as required by 23 U.S.C. §134, evaluating the condition and performance of the transportation system with respect to the performance targets.

6. **Participation and Consultation Plan.** The MPO shall develop and use a documented participation plan, as prescribed in 23 CFR §450.316. The Public Participation Plan shall provide reasonable opportunity for involvement by all interested parties in carrying out the MPO transportation planning and programming process, and providing reasonable opportunities for preliminary review and comment prior to key decision points.

7. **Self-Certifications and Federal Certifications.** Concurrent with the submittal of the TIP to the State, the MPO shall certify that the metropolitan transportation planning process is being carried out in accordance with all applicable Federal requirements outlined in 23 CFR §450.334.

B. **Changes/Amendments to Key Plans and Programs.** All changes to key plans and programs must follow WYDOT, FHWA, and MPO regulations and policies, including those for public participation.

1. **Major Amendment or Revision**

- a. **TIP.** The MPO Policy Committee shall approve major amendments to the Transportation Improvement Plan.
- b. **MTP.** The MPO Policy Committee shall approve major amendments to the MPO Transportation Plan.
- c. **UPWP.** Major changes consist of additional funds to the UPWP budget, or cumulative adjustments that exceed 10 percent of the original approved program budget, or individual changes of \$25,000 or more for a particular task budget, or significant scope changes. Such changes shall be approved by the MPO Policy Committee. The MPO shall be limited to three major amendments to the UPWP per fiscal year.

2. **Minor Amendment or Revision**

- a. **TIP.** The MPO Policy Committee may approve of minor amendments to the TIP either at the regular meeting or via e-mail. Notification of such amendments will be provided as information to WYDOT and FHWA. WYDOT, FHWA and FTA will be notified as soon as possible of these changes.
- b. **UPWP.** (No additional funding required and no changes to scope). The MPO Director may approve of a minor adjustment. The MPO Policy Committee, WYDOT, FHWA and FTA will be notified as soon as possible of these changes. Cumulative minor amendments to any contracted project within the UPWP shall not exceed MPO contracting authority.

7. **FEDERAL PLANNING FUNDING**

In accordance with 23 CFR Ch 1. §420.109, WYDOT will distribute FHWA planning funds (PL funds) either directly or via the Consolidated Planning Grant (CPG) for Metropolitan Transportation Planning within the State of Wyoming. The percent split shall be determined by the MPO Fund Distribution Agreement, which shall be memorialized in a Memorandum of Understanding between WYDOT and the fund recipients, with any such agreement or memorandum hereby incorporated into this Agreement by reference. The PL funding amount will be adjusted annually based on the federal funds obligation limitation. PL funding as part of the CPG shall carry a match requirement determined by current legislation.

Should the full allocation of PL not be needed by the MPO, or the MPO is not able to match the total PL funding at the beginning of the fiscal year, WYDOT, after consultation with the affected MPO, will redistribute those funds to other MPO or statewide planning activities per 23 CFR Ch 1. §420.109.

Funds are allocated to any of the cooperating program members during the fiscal year (October 1 - September 30). After consultation with the affected MPO, any funds unexpended, unencumbered, or unobligated at the end of the fiscal year may be reprogrammed for WYDOT's use in the next fiscal year per 23 CFR Ch 1. §420.109.

Unexpended funds are defined as those funds which have not been spent at the end of the fiscal year. Unencumbered or unobligated funds are defined as those funds which have not been obligated by contract by the end of the fiscal year to complete all or part of a work activity or project listed in the UPWP.

8. DIVISION OF COST AND PAYMENT

- A. **Reimbursement.** The maximum amount of CPG funds available each year for reimbursement to the MPO shall not exceed the budget approved in the UPWP or as amended. WYDOT will make reimbursement within 30 days. Should any portion of the monthly invoice be deemed non-billable, WYDOT will return the invoice promptly for adjustment by the MPO.
- B. **Fiscal Year:** The Cheyenne UPWP fiscal year will be October 1 to September 30.
- C. **Non-Billable Activities.** A methodology should be established to charge non-MPO business directly to the City or County if applicable. Activities which should not be charged to metropolitan planning funds include, but are not limited to:
 - 1. Studies involving roadways functionally classified as "local roads". In compliance with 49 U.S.C. §5303(f) for the development of metropolitan plans; in identifying transportation facilities that should function as an integrated metropolitan planning system the metropolitan plan must emphasize those facilities that serve important national, regional and metropolitan transportation functions. 23 U.S.C. §134(g) requires emphasis to be primarily on facilities that serve important national and regional transportation functions. Therefore, any project or study primarily focusing on roadways functionally classified as local can only be addressed using PL funds when the local roadway data or study sustains the regional transportation planning process. Local roadway data collection efforts or studies shall be identified as such will be reviewed for eligibility at the time the Unified Annual Work Program is submitted.

2. Roadway maintenance or operation activities such as condition of signage, striping, signal poles, luminaires, etc. may not be charged to Metropolitan Planning funds. Such activities may be charged if such data is being collected on a metropolitan area-wide basis for direct development of the MPO transportation plan and improvement program or if it is necessary for actual implementation of a Safety Management System consistent with the provisions in 23 CFR §500.
3. Annexation-related activities shall not be charged to Metropolitan Planning funds except as those activities are directly related to transportation.
4. Parks and Recreation-related activities may not be charged to Metropolitan Planning funds except as those activities are directly related to transportation.
5. Zoning, Unified Development Code or development review-related activities shall not be charged to Metropolitan Planning funds except as those activities directly related to transportation.
6. The Cheyenne MPO shall charge separately and keep separate accounting for all city and county business activities not directly related to the function of the MPO. Such activities shall be considered non-reimbursable.

The MPO staff may participate in any of such activities, but reimbursement for staff time should be charged directly to the City or County and not MPO PL or 5303 planning funds.

9. CONSULTANT CONTRACTS

- A. **WYDOT Approval.** The MPO shall coordinate with WYDOT to review the final proposal, Scope of Services, project budget and project management plan. WYDOT will also have an opportunity to serve on the Selection Committee.
- B. **Work Products:** WYDOT will have adequate opportunity to review draft work products prior to review by the Technical and Policy Committees.
- C. **Contract Authority.** The Contract Agent and Fiscal Manager Addendum is included as Appendix B to this document and is hereby incorporated into this Agreement.

10. **AUDIT PROCEDURES.** The MPO shall maintain complete records of all manpower, materials and out-of-pocket expenses, and will accomplish all record keeping in

accordance with the following procedures:

- A. In addition to the requirements stated in “10. Audit Procedures”, requirements for audit as defined in 23 CFR §420 and 49 CFR §18 will be used as guidelines. With respect to contract cost principles and procedures, 48 CFR §31 will also be used as a guideline.
- B. If requested, the MPO shall furnish WYDOT copies of all certified payrolls which shall include the hourly rate for each employee working on the project during the reporting period.
- C. Time Sheets. Individual time sheets will be maintained reflecting the daily total amount of hours worked and amount of time spent on each task within the program. It is imperative that the hours be traceable to the task. If requested, the MPO shall furnish WYDOT copies of all applicable time sheets within a reasonable time frame.
- D. Materials. Copies of invoices shall support costs of any purchased materials for the MPO.
- E. Out-of-Pocket Expenses. Copies of receipts shall support all expenses.
- F. Record System. The record system will be such that all costs can be easily traceable from all billings through the ledgers to the source document. Each expenditure must be identified with the task within the current approved UPWP.
- G. Cost Overruns. When expenditures are anticipated to overrun in one UPWP work element, the procedures for budget changes as outlined in Sections 6.B. must be followed.
- H. Individual consultant contracts or professional services agreements may require a specific audit for that project or agreement. The award of any contract must be made in conformity with applicable Federal and WYDOT contracting procedures approved by WYDOT. This requirement is in addition to any agency-wide audit conducted pursuant to 49 CFR §18 and 19.
- I. The MPO Program shall be audited as needed by WYDOT Internal Review auditors to insure sound operating practices. The MPO and/or its policy committee agencies, as well as consultants under this Agreement shall maintain all records and accounts relating to its costs and expenditures for the work during any fiscal year for a minimum of three (3) years following receipt of the final payment, and shall make them available for audit by representatives of WYDOT, FHWA and FTA within a reasonable time frame.
- J. Any review, which does not meet Federal requirements, will be resolved between

the MPO and WYDOT. The financial records relating to a UPWP year may be closed out once FHWA accepts the audit, and final payment adjustments have been made.

11. **INSPECTION OF WORK.** WYDOT, as well as FHWA and FTA, shall at all times be accorded review and inspection of the work and shall at all reasonable times have access to the premises, to all data, notes, records, correspondence, and instruction memoranda or description which pertain to the work involved in the UPWP.

12. **PROGRAM REPORTING REQUIREMENTS**

Reporting UPWP. The MPO shall report regularly upon the status of planning and progress made on projects in the UPWP. Copies of all planning study reports from the UPWPs will be provided to the Policy and Technical Committees for their information. Reporting procedures shall include, but not be limited to, the following:

- A. **Quarterly Reports.** A quarterly financial statement and narrative progress report shall be submitted to WYDOT no later than 60 days following the last day of each UPWP fiscal quarter in order to meet the requirements of 49 CFR §18.40 as supplemented by 23 CFR §420.113. Within 30 days of receiving the report, WYDOT will review and approve the report or request modifications. After WYDOT's review and approval, the report will be forwarded to FHWA to meet the reporting requirements of 23 CFR §420.

For each task, the percentage complete shall be given as well as the estimated completion date. Explanatory information shall be provided if the estimated completion date differs from the date contained in the UPWP.

If WYDOT staff requests modifications, the MPO shall then convey a revised submittal to WYDOT no later than 30 days from the modification request.

1. A financial statement shall include task and program summary of CPG and local funds/in-kind expended to date and remaining.
 2. Narrative progress report shall include:
 - a. A description of work accomplished during the quarter
 - b. Significant events (i.e. travel, training, conferences)
 - c. Milestones reached in sufficient detail to justify the quarterly expenditures.
- B. **Annual Report.** The annual report for the UPWP fiscal year will summarize the pertinent development, activities, and accomplishments of the tasks outlined

within the UPWP of the past fiscal year. The annual report will be submitted within 90 days of the end of the fiscal year. The report will contain, as a minimum:

1. A complete comparison of actual performance with established goals.
2. Status of expenditures comparing budgeted (approved) amounts with actual costs incurred.
3. Identify overruns and underruns and all information being consistent with UPWP revisions.

For each task, the percentage complete shall be given as well as the estimated completion date. Explanatory information shall be provided if the estimated completion date differs from the date contained in the UPWP.

- C. **Significant Events.** Events that have significant impact on the work program shall be reported as soon as they become known. The types of events or conditions that require reporting include problems, delays or adverse conditions that materially affect the ability to attain program objectives. This disclosure shall be accompanied by a statement of the action taken or contemplated, and any state or federal assistance required resolving the situation.

13. PLANNING REPORTS

- A. **Publication.** Publication of reports or plans by any party to the Agreement shall give credit to other parties, FTA and FHWA. However, if any party, FTA or FHWA does not wish to subscribe to the findings or conclusion of the study, the following statement shall be added:

“The opinions, findings, and conclusions expressed in the publication are those of the authors and not necessarily those of WYDOT, FHWA, or the FTA”.

- B. **Copies.** One draft report will be submitted for review and two final reports (electronic or hard copy) will be submitted for approval to the following agencies:

City of Cheyenne
County of Laramie
WYDOT Planning
WYDOT District Engineer
Federal Highway Administration

WYDOT and the FHWA reserve a royalty-free, non-exclusive and irrevocable right to reproduce, publish, or otherwise use, and authorize others to use the work for government purposes.

14. COMPLIANCE WITH TITLE VI, CIVIL RIGHTS ACT OF 1964

The MPO Policy Committee hereby agrees as a condition to receiving any Federal financial assistance from the USDOT to comply with Title VI of the Civil Rights Act of 1964, (78 Statute 252, 42 U.S.C. §2000d – 2000d-4 hereinafter referred to as the “Act”) and all requirements imposed by or pursuant to Title 49 CFR, USDOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the USDOT, Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the “Regulations”), 49 CFR §26 Participation of Disadvantage Business Enterprises in Department of Transportation financial assistance programs, and the Americans with Disabilities Act and other pertinent directives to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall on the grounds of race, color, sex, or national origin be excluded from participation in, be denied the benefits of, or activity for which the MPO Policy Committee receives Federal financial assistance from the USDOT, including FHWA and FTA, and hereby gives assurance that it will promptly take any measure necessary to effectuate this Agreement. This Assurance is required by 49 CFR §21.7A (1).

15. DISADVANTAGED BUSINESS ENTERPRISES (DBE) PROGRAM REQUIREMENTS

Compliance. The parties, their agents and employees shall comply with the provisions of 49 CFR §26 and Title VI of the Civil Rights Act of 1964. 49 CFR §26 requires that all parties shall agree to abide by 49 CFR 26 and shall include these statements in the MPO Policy Committee USDOT financial assistance agreement and in all subsequent agreements between the MPO Policy Committee and any sub-grantees and any contractor.

16. GENERAL PROVISIONS

- A. **Amendments.** Either party may request changes to this Agreement. Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by and between the parties to this Agreement shall be incorporated by written instrument, executed and signed by all parties to this Agreement.
- B. **Americans with Disabilities Act.** The MPO shall not discriminate against a qualified individual with a disability and shall comply with the Americans with Disabilities Act, P.L. 101-336, 42 U.S.C. §12101, et seq., and/or any properly promulgated rules and regulations related thereto.
- C. **Applicable Law and Venue.** The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The courts of the State of Wyoming shall have jurisdiction over any action arising out

of this Agreement and over the parties, and the venue shall be the First Judicial District, Laramie County, Wyoming.

- D. **Assignment/Agreement Not Used as Collateral.** No party shall assign nor otherwise transfer any of the rights or delegate any of the duties set forth in this Agreement without the prior written consent of the other parties. The MPO shall not use this Agreement, or any portion thereof, for collateral for any financial obligation without the prior written permission of WYDOT.
- E. **Assumption of Risk.** The MPO 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. WYDOT will notify the MPO of any state or federal determination of noncompliance.
- F. **Audit/Access to Records.** The MPO may be subject to monitoring activities by WYDOT including on-site visits, review of supporting documents, and limited scope audits. The MPO shall permit independent auditors, Federal personnel and WYDOT auditors, access to any pertinent books, documents, papers, and records necessary to perform monitoring of activities. The MPO shall keep audit reports and audit documents on file for three years after the project is complete.
- G. **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. If funds are not allocated and available for the continuance of the services performed by the MPO, this Agreement may be terminated by WYDOT at the end of the period for which the funds are available. WYDOT will notify the MPO 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 will not be obligated or liable for any future payments due or for any damages as a result of termination under this section. This provision shall not be construed to permit WYDOT to terminate this Agreement in order to acquire similar services from another party.
- H. **Compliance with Law.** The MPO shall keep informed of and comply with all applicable, Federal, State and local laws and regulations in the performance of this Agreement.
- I. **Entirety of this Agreement.** This Agreement, consisting of 22 pages, Appendix A, consisting of one page, Appendix B, consisting of three pages, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral. In particular, this Agreement supersedes and replaces City Contract # 6080 & 6081/County Agreement # 1311005-15 & 131105-16.

- J. **Human Trafficking.** If required 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.
- K. **Indemnification.** Each party to this Agreement shall be responsible for any liability arising from its own conduct. Neither party agrees to insure, defend or indemnify the other.
- L. **Kickbacks**
- i. The MPO shall comply with the Copeland “Anti-Kickback” Act (18 U.S.C. §874) as supplemented in the Department of Labor Regulations (29 CFR, Part 3). This Act provides that the MPO is prohibited from inducing by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled.
 - ii. The MPO 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.
 - iii. No staff member of the MPO shall engage in any contract or activity which would constitute a conflict of interest as related to this Agreement.
 - iv. If the MPO breaches or violates this warranty, WYDOT may, at its discretion, terminate this Agreement without liability to WYDOT, or deduct from the agreement price or consideration, or otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee.
- M. **Lobbying.** The MPO and all MPO contractors receiving Federal funds shall comply with 49 CFR §20, New Restrictions On Lobbying. No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay 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 any of the

following covered Federal actions: 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.

- N. **Nondiscrimination.** The MPO 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. The MPO shall not discriminate against any individual on the grounds of age, sex, creed, color, race, religion, national origin, ancestry, pregnancy or qualifying disability in connection with the performance of this Agreement. In reference to Title VI Policy, WYDOT's Civil Rights Program is responsible for initiating and monitoring Title VI activities, preparing required reports and other WYDOT responsibilities as required by 23 CFR §200 and 49 CFR §21. The MPO shall comply with Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations and the U.S. Department of Transportation (DOT) Order on Environmental Justice to Address Environmental Justice in Minority Populations and Low-Income Populations (DOT Order 5610.2).
- O. **Notices.** All notices arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either delivered by hand or certified mail.
- P. **Prior Approval.** This Agreement shall not be binding upon either party unless this Agreement has been reduced to writing before performance begins as described under the terms of this Agreement, and unless this Agreement is approved as to form by the Attorney General or his representative.
- Q. **Publicity.** Publicity given to the project or services provided herein, including notices, information, pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the MPO and related to the services and work to be performed under this Agreement, shall identify WYDOT as the sponsoring agency and shall provide a copy of what was shared with WYDOT.
- R. **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 either party may renegotiate the terms affected by the severance.
- S. **Governmental and Sovereign Immunity.** The State of Wyoming, WYDOT, the City of Cheyenne, and Laramie County, along with their officials and employees, do not waive their governmental or sovereign immunity by entering into this Agreement, and the MPO does not waive governmental immunity, except to the

extent necessary for the parties to pursue a contract action to clarify or enforce the written terms of the agreement, and each 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 state law. Designations of venue, choice of law, enforcement actions, and similar provisions should not be constructed as a waiver of governmental or 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 governmental or sovereign immunity shall be construed in favor of governmental or sovereign immunity. The State of Wyoming, WYDOT, the City of Cheyenne, Laramie County, and the MPO reserves all immunities and defenses available under the Wyoming Governmental Claims Act, W.S. Stat. §1-39-101 et. seq .

- T. **Suspension and Debarment.** By signing this Agreement, the MPO 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 Executive Order 12549 (Debarment and Suspension) and CFR 44 Part 17, or are on the disbarred vendors list at www.sam.gov. Further, the MPO agrees to notify WYDOT by certified mail should it or any of its agents become debarred, suspended, or voluntarily excluded during the term 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. The terms of this Agreement, and any amendments thereto, shall be binding upon and inure to the parties hereto, their administrators and successors.

17. GRANT RECIPIENT INFORMATION

- A. **Award Name, Federal Agency, and Catalog of Federal Domestic Assistance Identification.** The Award Name for all federal funding under this Agreement shall be the "Cheyenne MPO Consolidated Planning Grant". All work under this Master Agreement shall be administered by the following federal grantors and cataloged by the following Catalog of Federal Domestic Assistance (CFDA) numbers:
1. Federal Highway Administration, CFDA number 20.205

2. Federal Transit Administration, CFDA number 20.509

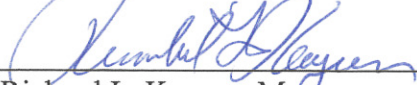
SIGNATURES: In witness whereof, the parties to this Agreement, either personally or through their duly authorized representatives, have executed this Agreement on the day and date set out below and certify that they have read, understood, and agreed to the terms and conditions of this Agreement. This Agreement may be executed in more than one copy, however, each copy shall constitute but one and the same Agreement

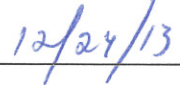
The effective date of this Agreement is the day and date last signed and executed by the duly authorized representatives of the parties to this Agreement shown below.

ATTEST:

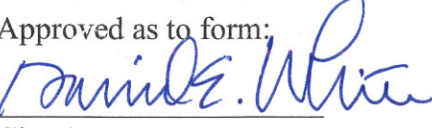

Carol Intlekofer, City Clerk

CITY OF CHEYENNE, WYOMING


Richard L. Kaysen, Mayor


Date

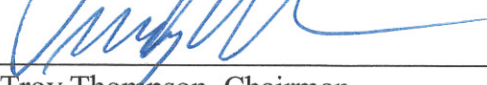
Approved as to form:

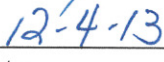

City Attorney

ATTEST:

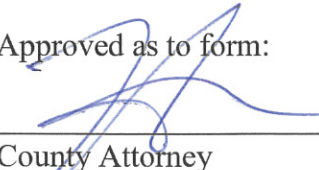

Debra Lathrop, County Clerk

LARAMIE COUNTY BOARD OF
COMMISSIONERS


Troy Thompson, Chairman


Date

Approved as to form:


County Attorney

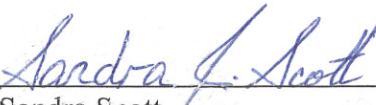
RECEIVED AND APPROVED AS
TO FORM ONLY BY THE
DEPUTY LARAMIE COUNTY
ATTORNEY

FEDERAL HIGHWAY ADMINISTRATION:



Joseph Dailey, Division Administrator

1/2/14
Date

ATTEST:

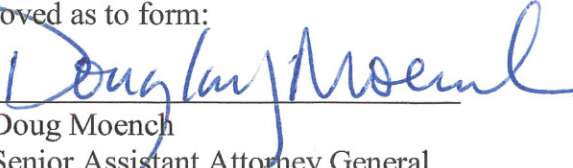

Sandra Scott
Transportation Commission Secretary

WYOMING DEPARTMENT OF
TRANSPORTATION:


Del McOmie, P.E., Chief Engineer

1/8/14
Date

Approved as to form:

By: 
Doug Moench
Senior Assistant Attorney General
State of Wyoming

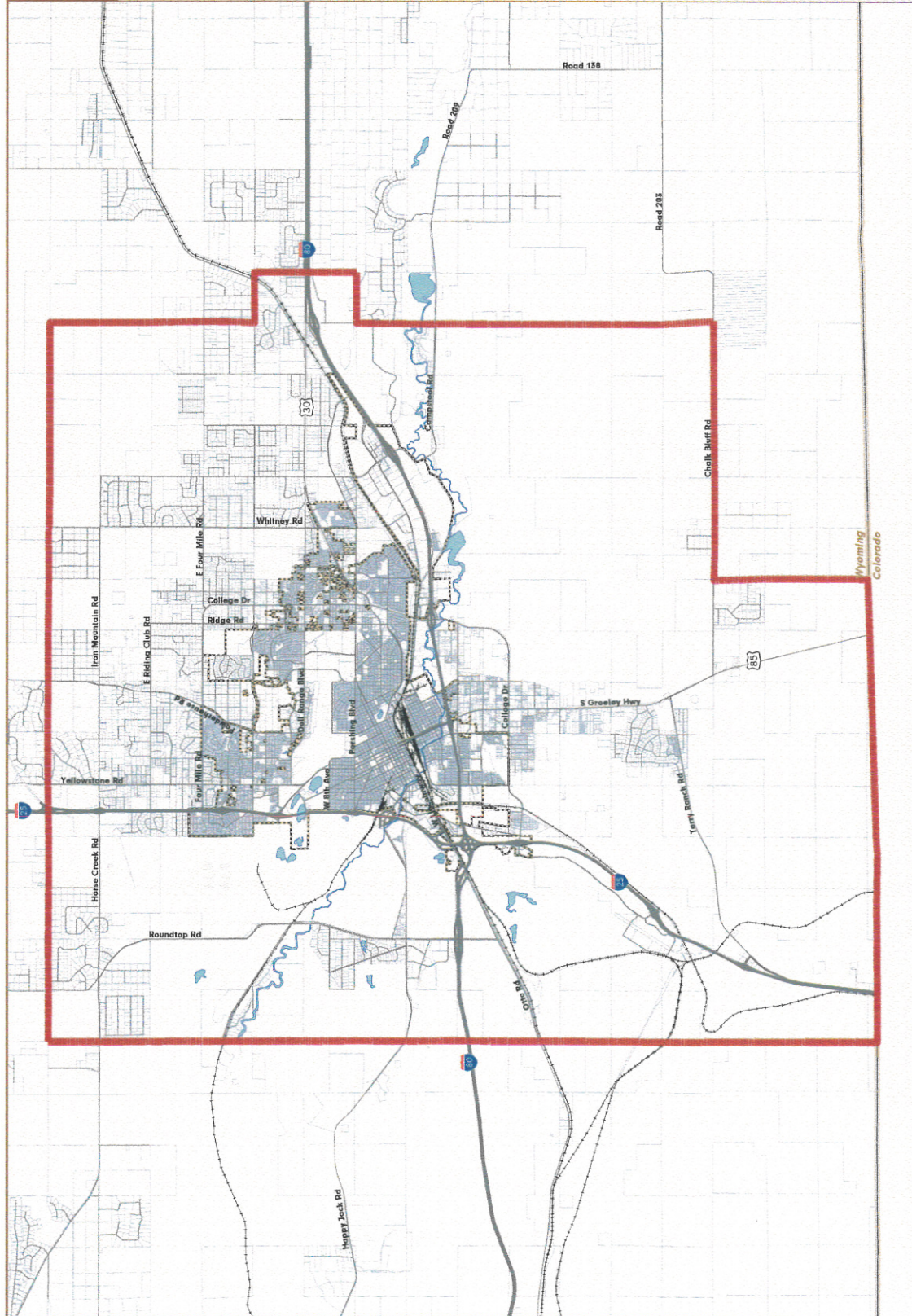
Date prepared: November 25, 2013



FIGURE 1: PLANNING AREA

- Legend
- Planning Boundary
 - City Boundary
 - State Boundary
 - Creeks and Lakes

APPENDIX A



December 2011



CLARION • FEHR & PEERS • EPS • AVI • URBAN INTERACTIVE

PLANNING AREA

Cheyenne Area Master Plan

APPENDIX B

CONTRACT AGENT AND FISCAL MANAGER ADDENDUM

This Contract Agent and Fiscal Manager Addendum by and between the Cheyenne Area Metropolitan Planning Organization (the "MPO") and its participating jurisdiction members, including the City of Cheyenne, Wyoming (the "City"), Laramie County, Wyoming, the Federal Highway Administration, and the Wyoming Department of Transportation (all entities, collectively, the "Parties").

RECITALS

WHEREAS, the Parties entered into a Master Agreement, (the "Master Agreement"), to provide for the cooperative, comprehensive, and continuing (3-C) transportation planning for the area of Cheyenne, Wyoming and its environs, said Master Agreement being incorporated herein at this point as if fully set forth; and

WHEREAS, The MPO carries out the cooperative, comprehensive, and continuing transportations systems planning process in a manner consistent with appropriate federal guidelines and distributes Federal Aid Planning Funds as set forth and described in the Master Agreement; and

WHEREAS, the MPO, from time to time, needs to enter into contracts and agreements for carrying out its functions and the distribution of funds thereof; and

WHEREAS, the City has in the past served as contract agent and fiscal manager for and on behalf of the MPO, to custody and dispense the MPO's funds and on a case-by-case basis, enter into contracts for and on behalf of the MPO in order to carry out its functions; and

WHEREAS, the Parties desire to appoint the City as contract agent and fiscal manager for and on behalf of the MPO, to custody and dispense the MPO's funds and on a case-by-case basis, enter into contracts for and on behalf of the MPO in order to carry out its functions, as hereinafter provided; and

WHEREAS, the Parties desire to incorporate this Addendum in its entirety by reference into the Master Agreement.

NOW, THEREFORE, the Parties, effective as of the day first written above, in consideration of the mutual promises and covenants herein contained, agree by and between them as follows:

I. INCORPORATION OF RECITALS

The recitals set forth above are hereby incorporated herein as if fully set forth as part of this Addendum.

II. APPOINTMENT OF THE CITY TO ACT AS THE CONTRACT AGENT AND FISCAL MANAGER FOR AND ON BEHALF OF THE MPO

The Parties hereby appoint the City to enter into contracts for and on behalf of the MPO and to further act as the MPO's Fiscal Manager under the following conditions:

1. That any contract to be entered into on behalf of the MPO by the City, which exceeds \$20,000 in total, is approved in writing by a majority of the voting members of the MPO Policy Committee prior to its execution by the City in accordance with City policies, ordinances and state statutes.
2. That any contract for professional services which is \$20,000 or less in total may be entered into on behalf of the MPO by the City, so long as written approval is granted by the MPO Director prior to contract execution by the City in accordance with City policies, ordinances and state statutes.
3. That the City, in its capacity as the Fiscal Manager for and on behalf of the MPO shall not disburse funds for payment of consulting and professional services contracts or for expenditures not otherwise authorized by the MPO in an approved budget (Unified Planning Work Program), unless authorized in writing by a majority of voting members of the Policy Committee of the MPO.
4. That the City, in entering into any contract or disbursing funds on behalf of the MPO under this Addendum, shall act solely as an agent of the MPO, in accordance with the policies and objectives of the MPO, as determined by the Policy Committee of the MPO.
5. That the City, in determining whether it is appropriate to enter into any contract or to disburse funds on behalf of the MPO under this Addendum, shall restrict the scope of its determination to and shall only consider information relevant to whether the proposed contract or disbursement (i) satisfies the requirements of the Master Agreement; (ii) satisfies the requirements of the Addendum; and (iii) satisfies relevant Federal Transportation Planning Statutes and related rules and regulation, including but not limited to 23 U.S.C. 104(f), 23 U.S.C. 134, 49 U.S.C. 5303-5306, 23 C.F.R. Part 420, 23 C.F.R. Part 450, 23 C.F.R. Part 500, 48 C.F.R. Part 31, and 49 C.F.R. Parts 18-19.

6. In the event that the MPO Policy Committee, in accordance with MPO policies and procedures, has properly approved and recommended that the MPO enter into a contract or disburse funds, and the City has determined that the conditions set forth in Paragraph 5, above, have been fully satisfied, the contract or disbursement of funds is in the best interest of the Parties.
7. Upon the City entering into an approved contract, transaction or disbursement of funds, the City shall have all lawful authority to enforce any such contract, and to further make any such authorized disbursements for and on behalf of the MPO, in accordance with City policies, ordinances and state statutes.
8. The MPO staff will be subject to City Personnel Rules and Regulations. Notwithstanding the foregoing, personnel decisions including, but not limited to, employee evaluations, wages, benefits, and supervision, will be conducted by the Mayor or his designee, with direct oversight by the MPO Policy Committee.

III. RATIFICATION OF PRIOR AGREEMENTS

The prior Agreements between the Parties dated respectively November 23, 1981, as amended by the Agreements dated June 15, 1982, and November 9, 1987 and September 26, 2005, are hereby ratified as amended hereby.

IV. AGENCY ACCEPTANCE

The City hereby accepts and agrees to act as the agent of the MPO for approved contracts, transactions or disbursement of funds and as its Fiscal Manager as set forth herein. Each of the Parties reserves the right to terminate this agency appointment of the City as established in this Addendum upon thirty (30) days written notice to the other Parties. In the case of the City, the termination notice shall be addressed to "the Attention of the City Mayor, City of Cheyenne, 2101 O'Neil Ave., Cheyenne, WY 82001"; in the case of Laramie County, Wyoming, the termination notice shall be addressed to "the Attention of the Chairman, Laramie County Board of Commissioners, 310 West 19th Street Suite 300, Cheyenne, WY 82001"; in the case of the Federal Highway Administration, the termination notice shall be addressed to "the Attention of the Division Administrator, Federal Highway Administration, 2617 East Lincolnway, Suite D, Cheyenne, WY 82001-3716; in the case of the Wyoming Department of Transportation, the termination notice shall be addressed to "the Attention of the Chief Engineer, Wyoming Department of Transportation, 5300 Bishop Boulevard, Cheyenne, WY 82009"; and in the case of the MPO, said notice shall be addressed to the voting members of the MPO Policy Committee through the MPO at 2101 O'Neil Avenue, Cheyenne, WY 82001.