

INVITATION TO BID ADVERTISEMENT

The Board of County Commissioners, Weston County, will be accepting bids for CM22407 Congestion Mitigation and Air Quality Improvement project for four (4) road projects located in Weston County. Project #1 located approximately 1 mile South of Newcastle, WY off U.S. Highway 16, Kenwood Drive #71; Project #2 located approximately 2 miles East of Newcastle, WY off U.S. Highway 16, Salt Creek Road #23; Project #3 located approximately 29 miles North West of Newcastle, WY off U.S. Highway 16 or .1 miles North of Upton, WY off U.S. Highway 16, Barton Road #75; Project #4 located approximately .5 miles North of Newcastle, WY off U.S. Highway 85, Musser Road #46. Contractors can obtain the bid packets on the Weston County Road and Bridge website: <https://www.westongov.com/road-bridge/> or at the Weston County Road and Bridge office located at 23 County Shop Road, Newcastle, WY 82701. All bids are to be submitted to the Weston County Clerk's Office located at 1 West Main Street, Newcastle, WY by 3:30 p.m. (MDT) on Friday, June 17th, 2022. Bids received after the time and date above will not be considered. All bids will be publicly opened and read aloud at the Weston County Courthouse on June 20th, 2022 at 10:00 a.m. **It is mandatory that all Bidders attend the Bid Opening.** Questions can be answered by contacting the Weston County Road and Bridge office at (307)746-2642 or by email jhansen@westongov.com or mborgialli@westongov.com.

Advertised in: Weston County Gazette

May 26th, 2022

June 2nd, 2022

June 9th, 2022

INVITATION TO BID
WESTON COUNTY CM22407 DUST MITIGATION PROJECT(S)
WESTON COUNTY ROAD & BRIDGE DEPARTMENT

The Board of County Commissioners, Weston County, will be accepting bids for CM22407 Congestion Mitigation and Air Quality Improvement project for four (4) road projects located in Weston County. Project #1 located on Kenwood Drive #71 2.9 miles; Project#2 Salt Creek Road #23 4.3 miles; Project #3 Barton Road #75 3.8 miles; Project #4 Musser Road #46 1.4 miles.

Bids are due by 3:30 pm on Friday June 17th, 2022. Bids will be evaluated and awarded by the Weston County Commissioners with approval and review of the Wyoming Department of Transportation. Contractor must bid on all projects. Each bid shall be placed in a sealed envelope clearly marked on the outside with the name of the bidder and the words:

“Bid for Weston County CM22407 Project”

Bids must be submitted to:

Weston County Clerk
1 West Main Street,
Newcastle, WY 82701

Bid must be received on or before the date and time specified above. Bids received after the time and date listed above will not be considered. Weston County reserves the right to reject any or all bids or waive any formality or technicality in its interest.

Bid bond, Performance, and Payment Bonds are required.

Bids may not be withdrawn for a period of thirty (30) days after opening. It is to be understood that Weston County may reject any and all bids, make substitutions and waive any informalities and technicalities as will be in their best interest.

The Weston County Government is an Equal Opportunity Employer and does not discriminate on the basis of race, color, national origin, sex, religion, age and handicapped status in employment of the provision of services.

This project is funded through a grant from Wyoming Department of Transportation and therefore is subject to the rules and regulations set forth. Bidders shall be required to follow the rules set forth in the following documents contained herein.

Please contact Jim Hansen, Road & Bridge Superintendent, at (307)746-2642 or by email at jhansen@westongov.com or mborgialli@westongov.com for additional information.

Advertised in: Weston County Gazette

May 26th, June 2nd, and June 9th

INSTRUCTIONS TO THE BIDDERS

Article 1 – Identified Terms

1.01 Terms used in these Instructions to Bidders will have the meanings indicated below:

- A. Addenda- Written of graphic instruments issued prior to the openings of Bids which clarify, correct, or change the Bidding Requirements of the proposed Contract Documents.
- B. Agreement- The written instrument which is evidence of the agreement between Owner and Contractor covering the Work.
- C. Application for Payment- The form acceptable to Owner which is to be used by Contractor during the course of work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
- D. Bid- The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
- E. Bidder- The individual or entity who submits a Bid directly to Owner.
- F. Bidding Documents- The Bidding Requirements and the proposed Contract Documents (including all addenda).
- G. Change Order-A document recommended by Owner which is signed by Contractor in which Owner authorizes an addition, deletion, or revision in the Work or an adjustment in the price or contract time issued on or after the effective date of the agreement.
- H. Contract- The entire and integrated written agreement between the Owner and Contractor concerning the Work.
- I. Contract Documents- Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents.
- J. Contract Price- The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement.
- K. Contract Times- The number of days or the dates stated in the Agreement to (i) achieve milestones, (ii) achieve substantial completion, (iii) complete the work so that it is ready for final payment.
- L. Contractor- the individual or entity with whom the Owner entered into the Agreement.
- M. Effective Date of Agreement-The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
- N. Issuing Office—The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered.
- O. Notice of Award- The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the condition's precedent listed therein, Owner will sign and deliver the Agreement.
- P. Notice to Proceed- A written notice given by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work under the Contract Documents.

- Q. Owner- Weston County, Weston County Board of Commissioners
- R. Successful Bidder- The Bidder submitting a responsive Bid to whom Owner makes an award.
- S. Work- The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents.

Article 2—Copies of Bidding Documents

- 2.01 Complete sets of the Bidding Documents stated in the Advertisement for Bids may be obtained from the Issuing Office or on their webpage at <https://www.westongov.com/road-bridge/>.
- 2.02 Complete sets of Bidding Documents must be used in preparing Bids; Owner does not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.03 Owner in making copies of Bidding Documents available on the above terms do so only for the purpose of obtaining Bids for the Work and do not confer a license for any other use.

Article 3 – Qualification of Bidders

- 3.01 To demonstrate Bidder's qualifications to perform the Work, within five days of Owner's request, Bidder shall submit written evidence such as financial data, previous experience, present commitments, and such other data as may be called for below.

Article 4 – Bid Security

- 4.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of 10% of Bidders maximum Bid price and in the form of a certified check or Bid bond.
- 4.02 The Bid security of the Successful Bidder will be retained until such Bidder has executed the Contract Documents, furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within 30 days after the Notice of Award, Owner may annul the Notice of Award and the Bid security of that Bidder will be forfeited. The Bid security of the other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earliest of seven days after the Effective Date of the Agreement or 61 days after the Bid opening, whereupon security furnished by such Bidders will be returned.
- 4.03 Bid Security of other Bidders whom Owner believes do not have a reasonable chance of receiving the award will be returned within seven days after the Bid opening.

Article 5 – Interpretations and Addenda

- 5.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to Owner in writing. Interpretations or clarifications considered necessary by Owner in response to such questions will be delivered by Addenda, mailed, or delivered to all parties recoded by Owner as having received the Bidding Documents. Questions received less than five days prior to the date for opening of Bids may not be answered. Only questions answered by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 5.02 Addenda may be issued to clarify, correct, or change the Bidding Documents as deemed advisable by Owner.

Article 6 – Contract Times

- 6.01 The number of days within which, or dates by which, the Work is to be substantially completed and ready for final payment are set forth in the Agreement.

Article 7—Preparation of Bid

- 7.01 The Bid form is included with the Bidding Documents. Additional copies may be obtained from Owner.
- 7.02 All blanks on the Bid form shall be completed in ink and the Bid signed in ink. Erasures or alterations shall be initialed in ink by the person signing the Bid Form. A Bid price shall be indicated for each Bid item and unit price item listed therein, or the words “No Bid”, “No Change”, or “Not Applicable” entered.
- 7.03 A Bid by a corporation shall be executed in the corporate name by the president or a vice-president or other corporate officer accompanied by evidence or authority to sign. The corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be provided on the Bid Form.
- 7.04 A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership shall be provided on the Bid Form.
- 7.05 A Bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm shall be shown.
- 7.06 A Bid by an individual shall show the Bidder’s name and business address.

- 7.07 A Bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid form. The official address of the joint venture must be provided on the Bid form.
- 7.08 All names shall be printed in ink below the signatures.
- 7.09 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers and dates of which shall be filled in on the Bid form.
- 7.10 The postal and email addresses and telephone number for communication regarding the Bid shall be shown.
- 7.11 The Bid shall contain evidence of Bidder's authority and qualifications to do business in the state or locality where the project is located or Bidder shall covenant in writing to obtain such qualification prior to award the Contract and attach such covenant to the Bid. Bidder's state contractor license number, if any, shall also be shown on the Bid Form.

Article 8 – Basis of Bid, Comparison of Bids

8.01 Unit Price

- A. Bidders shall submit a Bid on a unit price basis for each item of Work listed in the Bid schedule.
- B. The total of all bid prices will be the sum of the products of the estimated quantity of each item and the corresponding unit price.
- C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the words.

Article 9—Submittal of Bid

- 9.01 A Bid shall be submitted no later than the date and time prescribed and at the place indicated in the Advertisement for Bids and shall be enclosed in an envelope plainly marked with the project title, name and address of Bidder, and shall be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate envelope plainly marked on the outside with the notation "BID ENCLOSED". When using the mail or other delivery system, the Bidder is totally responsible for the mail or other delivery system delivering the Bid at the place and prior to the time indicated in the Advertisement for Bid. A mailed Bid shall be addressed to Owner at address:

Weston County Commissioners
1 W. Main Street
Newcastle, WY 82701

Article 10 – Modifications and Withdrawal of Bid

- 10.01 A Bid may be modified or withdrawn by an appropriate document duly executed in the manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids.
- 10.02 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of the Bid, that Bidder may withdraw its Bid, and the Bid security will be returned. Thereafter, if the work is rebid or negotiated, that Bidder may withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid or negotiated, that Bidder will be disqualified from further bidding on the Work. This provision to withdraw a Bid without forfeiting the Bid security does not apply to Bidder's errors in judgment in preparing the Bid.

Article 11 – Opening of Bids

- 11.01 Bids will be opened at the time and place indicated in the Advertisement for Bids and read aloud publicly. An abstract of the amounts of the Bids and major alternates, if any, will be made available to Bidders after the opening of Bids.

Article 12 – Bids to Remain Subject to Acceptance

- 12.01 All Bids will remain subject to acceptance based on review from the Wyoming Department of Transportation. Weston County must receive Notice to Proceed with Contractor from Wyoming Department of Transportation before awarding Successful Bidder.

Article 13 – Evaluations of Bids and Award of Contract

- 13.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to be non-responsible. Owner also reserves the right to waive all informalities not involving price, time, or changes in the Work and to negotiate contract terms with the Successful Bidder.
- 13.02 More than one Bid for the same Work from an individual or entity under the same of different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Work may be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.
- 13.03 In evaluating Bids, Owner will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.

- 13.04 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, individuals, or entities to perform the Work in accordance with the Contract Documents.
- 13.05 If the Contract is to be awarded, Owner will award the Contract to the responsible Bidder whose Bid, conforming with all the material terms and conditions of the Instruction of Bidders, is lowest, price and other factors considered. If detailed in the bid form, factors such as discounts, transportation costs, and life cycle costs may be used to determine which bidder, if any, is to be offered the award.

Article 14 – Concurrence by WYDOT

- 14.01 Concurrence by WYDOT in the award of the Bid is required before the contract is effective.

Bid Form

Project Identification: CM22407 Congestion Mitigation and Air Quality Improvement Project

This Bid Is Submitted To: Weston County Clerk's Office at 1 West Main Street, Newcastle, WY 82701.

1. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in the Bid and in accordance with the other terms and conditions of the Bidding Documents.
2. Bidder accepts all the terms and conditions of the Advertisement and Instructions to Bidders, including without limitations those dealing with the dispositions of Bid security. The Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner. Acceptance of bidder must be approved by the Wyoming Department of Transportation.
3. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following addenda, receipt of which is hereby acknowledged.

Addendum No.

Addendum Date

4. This Bid is genuine and not made in the interest of or on the behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation.
5. Bidder will complete the Work in accordance with Bid Schedule A and Bid Schedule B below.
6. Attachments to this bid include:
 - a. Required Bid Security in the form of a Bid Bond (EJCDC No. C-430) Or Certified Check (circle type of security provided;)
7. This project is funded through a grant from Wyoming Department of Transportation and therefore is subject to the rules and regulations set forth. **Bidders shall be required to follow the rules set forth in the following documents contained herein.**

The following documents are attached to or made a condition of the Bid:

- a. FHWA 1273
- b. Supplemental Information to FHWA 1273
- c. Disadvantaged Business Enterprise (DBE)
- d. Disadvantaged Business Enterprise (DBE) Certification
- e. Changed Condition Clause
- f. Bidder Preference

- g. Federal Wage Rate Determination
- h. Title VI/EEO Requirements
- i. Contractor's Required Participation (Subcontracting)
- j. Acceptance of Contract Work Materials
- k. Competitive Bidding Reserved to Private Contractors
- l. Contract Provided Labor, Materials and Equipment
- m. Job Site Posters
- n. Buy America
- o. Specific Equal Employment Opportunity Responsibility
- p. Non-Collusion Statement
- q. Lobbying Certification
- r. Suspension and Debarment Certification
- s. Prompt Payment for Satisfactory Performance of Work and Retainage
- t. Bid Rigging
- u. Registration with the Secretary of State
- v. Wage Compliance Statement
- w. Bidder Certification
- x. Traffic Control

BID SCHEDULE A
 KENWOOD DRIVE #71
 2.9 Miles

	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	TOTAL PRICE
1	Mobilization/Demobilization	1	Lump Sum		
2	Bonds/Insurance	1	Lump Sum		
3	Motor Grader Compactor	10	Hours		
4	Water Truck/Water	75,000	Gallons		
5	Undiluted Magnesium Chloride	116	Tons		
6	Traffic Control	1	Lump Sum		
BID TOTAL					

BID SCHEDULE B
SALT CREEK ROAD #23
4.3 Miles

	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	TOTAL PRICE
1	Mobilization/Demobilization	1	Lump Sum		
2	Bonds/Insurance	1	Lump Sum		
3	Motor Grader Compactor	20	Hours		
4	Water Truck/Water	110,000	Gallons		
5	Undiluted Magnesium Chloride	172	Tons		
6	Traffic Control	1	Lump Sum		
BID TOTAL					

BID SCHEDULE C
BARTON ROAD #75
3.8 Miles

	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	TOTAL PRICE
1	Mobilization/Demobilization	1	Lump Sum		
2	Bonds/Insurance	1	Lump Sum		
3	Motor Grader Compactor	20	Hours		
4	Water Truck/Water	95,000	Gallons		
5	Undiluted Magnesium Chloride	152	Tons		
6	Traffic Control	1	Lump Sum		
BID TOTAL					

BID SCHEDULE D

MUSSER ROAD #46

1.4 Miles

	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	TOTAL PRICE
1	Mobilization/Demobilization	1	Lump Sum		
2	Bonds/Insurance	1	Lump Sum		
3	Motor Grader Compactor	10	Hours		
4	Water Truck/Water	35,000	Gallons		
5	Undiluted Magnesium Chloride	56	Tons		
6	Traffic Control	1	Lump Sum		
BID TOTAL					

BID SCHEDULE A _____

BID SCHEDULE B _____

BID SCHEDULE C _____

BID SCHEDULE D _____

TOTAL _____

DEDUCTION OR ADDITION FOR AWARD OF ALL BID SCHEDULES

SCOPE OF WORK

WORK SUMMARY

This project consists generally of watering, grading and compacting portions of four existing county roads and applying magnesium chloride solution to the roads.

Kenwood Drive #71

Kenwood Drive #71 project includes applying magnesium chloride to be sprayed at 0.25 ratio to 2.9 miles of Kenwood Drive #71. There will be two applications of magnesium chloride at this spray ratio.

Salt Creek Road #23

Salt Creek Road #23 project includes applying magnesium chloride to be sprayed at 0.25 ratio to 4.3 miles of Salt Creek Road #23. There will be two applications of magnesium chloride at this spray ratio.

Barton Road #75

Barton Road #75 project includes applying magnesium chloride to be sprayed at 0.25 ratio to 3.8 miles of Barton Road #75. There will be two applications of magnesium chloride at this spray ratio.

Musser Road #46

Musser Road #46 project includes applying magnesium chloride to be sprayed at 0.25 ratio to 1.4 miles of Musser Road #46. There will be two applications of magnesium chloride at this spray ratio.

BID SUBMITTAL

This Bid is submitted by:

If a Bidder is:

An Individual

Name (typed or printed): _____

By: _____

(Individuals Signature)

Doing business as: _____

A Partnership

Partnership Name: _____

By: _____

(Signature of general partner – attach evidence of authority to sign)

Name (typed or printed): _____

A Corporation

Corporation Name: _____

Type (General Business, Profession, Service, Limited Liability): _____

By: _____

(Signature – attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Attest: _____

Bidder's Business Address: _____

Business Phone: _____

Business email: _____

State Contractor License No. _____ (If applicable)

Employer's Tax ID No. _____

Phone number and email address for receipt of official communications, if different from
Business contact information:

Bid Submitted on _____, 20____.

Insert bid bond papers

**AGREEMENT
BETWEEN OWNER AND CONTRACTOR**

THIS AGREEMENT is made between Weston County, Wyoming (hereinafter referred to as the OWNER) and _____(hereinafter referred to as the CONTRACTOR).

WHEREAS, OWNER desires to complete the CM22407 Congestion Mitigation and Air Quality Improvement Project.

WHEREAS, CONTRACTOR is awarded the contract bid and is able and willing to provide the Work specified within the Bid Documents.

THEREFORE, it is hereby agreed as follows:

1. WORK

CONTRACTOR shall perform all work as specified or indicated in the bid document. The work is generally described as follows:

Kenwood Drive #71

Kenwood Drive #71 project includes applying magnesium chloride to be sprayed at 0.25 ratio to 2.9 miles of Kenwood Drive #71. There will be two applications of magnesium chloride at this spray ratio.

Salt Creek Road #23

Salt Creek Road #23 project includes applying magnesium chloride to be sprayed at 0.25 ratio to 4.3 miles of Salt Creek Road #23. There will be two applications of magnesium chloride at this spray ratio.

Barton Road #75

Barton Road #75 project includes applying magnesium chloride to be sprayed at 0.25 ratio to 3.8 miles of Barton Road #75. There will be two applications of magnesium chloride at this spray ratio.

Musser Road #46

Musser Road #46 project includes applying magnesium chloride to be sprayed at 0.25 ratio to 1.4 miles of Musser Road #46. There will be two applications of magnesium chloride at this spray ratio.

2. PROJECT COORDINATOR

The Project has been coordinated by:

Weston County Road and Bridge
Jim Hansen, Superintendent
23 County Shop Road
Newcastle, WY 82701

Hereinafter referred to as SUPERINTENDENT and who is to act as OWNER's representative.

3. CONTRACT TIMES

The work shall meet the definition of Substantial Completion for final payment within **180** calendar days of this signed agreement.

Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by OWNER if the WORK is not completed on time.

Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER one hundred and fifty dollars (\$150) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Complete any remaining adjustments, clean-up and/or replacement of non-performing equipment, if CONTRACTOR shall neglect, refuse, or fail to complete the project and have the entire project completed and ready for final payment on or before the date identified in Paragraph 3.1, or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER Eight Hundred Dollars (\$800.00) for each week that expires after that date. It is further agreed that such liquidated damages are not a penalty, but represent the parties' best estimate of actual damages.

4. CONTRACT PRICE

In consideration of the performance of the work, OWNER shall pay CONTRACTOR in current funds a not-to-exceed total contract price of \$_____ subject to additions and deductions by Change Order approved by OWNER. This fee is based upon the CONTRACTOR's cost for materials and services provided based on its bid form and itemized bid schedule, provided to OWNER.

5. PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment and a signed Weston County Voucher by or before the 20th day of each month. Applications for Payment and a Weston County

Voucher may be mailed to Weston County Road and Bridge, 23 County Shop Road, Newcastle, WY 82701.

5.1 **RETAINAGE:** After CONTRACTOR receives payment from OWNER for 50% of the total contract price, CONTRACTOR may request IN WRITING that the retainage withheld be reduced to five percent (5%) of the total contract price. OWNER may reduce retainage conditional upon the successful completion of the Work on the project to date as recommended by the SUPERINTENDENT and approved by the OWNER.

5.2 In the event the CONTRACTOR makes only one application for payment upon substantially completing the Work, progress payment will be made in an amount equal to 90% of the Work completed. OWNER shall withhold ten percent (10%) of the Work completed as retainage, said retainage to be paid in accordance with the provisions of Paragraph 5.2, Final Payment

5.3 **Final Payment.** Upon final completion and acceptance of the work, SUPERINTENDENT shall recommend payment and present CONTRACTOR's Final Application for Payment to the OWNER. Final payment cannot be made until forty-one (41) days after publication of the first Notice of Completion.

5.4 Section five (5) is in accordance with Wyoming Statute §16-6-702.

6. WITHHELD FUNDS

Pursuant to Wyoming Statutes §16-6-701 *et seq.*, withheld percentages for Contracts exceeding \$25,000.00 will be retained in an account in the name of the CONTRACTOR (except when specifically waived in writing by CONTRACTOR) and assigned to the OWNER until the Contract is completely, satisfactorily, and finally accepted by the OWNER. Unless a depository is designated by the CONTRACTOR in a written attachment hereto, the CONTRACTOR'S signature within this document shall act as authority for the OWNER to designate a retainage depository on behalf of the CONTRACTOR, for the purposes specified in Wyoming Statutes §16-6-704. The CONTRACTOR'S signature herein shall act as an assignment of the depository account to the OWNER, as provided by Wyoming Statutes §16-6-701 *et seq.*, whether the depository is designated by the CONTRACTOR or by the OWNER.

7. CONTRACTOR'S REPRESENTATIONS

In order to induce the OWNER to enter into this Agreement the CONTRACTOR makes the following representations:

7.1. CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and federal, state, and local Laws and Regulations that in any manner may affect cost, progress, or performance of the Work.

7.2. CONTRACTOR has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress, or performance of the work which were relied upon by SUPERINTENDENT in the preparation of the Drawings and Specifications and which have been identified in Attachment A.

7.3. CONTRACTOR has made or caused to be made examinations, investigations, and tests and studies as he deems necessary for the performance of the Work at the Contract Price, within the Contract Time, and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports, or similar data are or will be required by CONTRACTOR for such purposes.

7.4. CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports, and data with the terms and conditions of the Contract Documents.

7.5. CONTRACTOR has given SUPERINTENDENT written notice of all conflicts, errors, ambiguities or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by SUPERINTENDENT is acceptable to CONTRACTOR, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the work.

8. GOVERNMENTAL CLAIMS ACT

The OWNER does not waive any right or rights it may have pursuant to the Wyoming Governmental Claims Act, Wyoming Statutes §1-39-101 *et seq.* OWNER specifically reserves the right to assert any and all immunities, rights, and defenses it may have pursuant to the Wyoming Governmental Claims Act.

9. CONSTRUCTION, GOOD FAITH AND FAIR DEALING

The parties agree that the construction, interpretation and enforcement of this contract shall be governed by the laws of the State of Wyoming; that the rule of construction that ambiguities in documents will be construed against the party drafting them shall not apply to this Agreement; that construction of this Agreement, or any part thereof, shall seek to express the actual intent of the parties; and that the covenant of good faith and fair dealing is an express term of this agreement.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in triplicate. One counterpart each has been delivered to OWNER and CONTRACTOR.

This Agreement will be effective on _____.

_____	<i>Attest:</i> _____
Chairman of Weston County Commission	Weston County Clerk

_____	_____
Jim Hansen, Road & Bridge Superintendent	CONTRACTOR

Witness:

Witness: