

## Board of Directors Agenda | December 2020 Regular Meeting | By Zoom Webinar

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*All times are approximate and subject to change*

### Thursday, December 10

*Dress code is business attire*

#### **8:00 a.m. Convene Public Meeting – Vice Chair Kim DeVore**

- Pledge of Allegiance
- Roll call of Board Members
- **ACTION ITEM:** Consideration of approval of December 2020 Consent Agenda items:
  - Minutes from September 2020 Regular Meeting by Webinar (Page 3)
  - Minutes from October 16, 2020 Special Meeting by Webinar (Page 10)
  - Minutes from October 22, 2020 Special Meeting by Webinar (Page 12)
  - Minutes from November 12, 2020 Special Meeting by Webinar (Page 14)

#### **8:15 a.m. Welcome to Sundance – Northeast Regional Director Brandi Harlow**

- Virtual Community Tour, Q&A Session

#### **8:45 a.m. CEO Report – Chief Executive Officer Josh Dorrell**

#### **9:15 a.m. Personnel, Budget and Audit Standing Committee – Chairwoman Kathy Tomassi (Starts at Page 16)**

- **Quarterly Personnel Report, Cultural Assessment Update – HR Manager Chava Case**
- **Quarterly Financial Update – Accounting Manager Lyndsay Orr**
  - **ACTION ITEM:** Consideration of acceptance of quarterly financial report
- **Presentation of Preliminary FY20 Financial Audit Results – Chief Operating Officer Amy Grenfell, Accounting Manager Lyndsay Orr, Wayne Herr of audit firm MHP, LLP**

#### **10:00 a.m. Morning Break – All participants will be muted**

#### **10:15 a.m. Business Contract and Loan Standing Committee – Chairman Jason Kintzler (Starts at Page 20)**

- **Quarterly Challenge Loan Report – Economic Development Finance Manager Josh Keefe**
  - **ACTION ITEM:** Consideration of approval of quarterly Challenge Loan report
- **Brownfield Loan Request – Economic Development Finance Manager Josh Keefe**
  - **ACTION ITEM:** Consideration of staff recommendations
- **Amendment to the Contract with the University of Wyoming for the Business Resource Network (BRN) Programs – Chief Strategy Officer Sarah Fitz-Gerald, Strategic Partnerships Director Ron Gullberg**
  - **ACTION ITEM:** Consideration of staff recommendations

**11:00 a.m. Community Grant & Loan Standing Committee** – Chairwoman Erin Moore (Starts at Page 24)

- **Proposed amendments to Administrative Rules for the Business Ready Communities Program**  
– Investments Director Julie Kozlowski, Community Development Manager Noelle Reed
  - **ACTION ITEM:** Consideration of adoption of amended BRC program rules
- **Discussion of BRC Allocation Plan** – Investments Director Julie Kozlowski

**11:30 a.m. Broadband Advisory Council Update**

- **Consideration of Appointment to the Broadband Advisory Council** – COO Amy Grenfell
  - **ACTION ITEM:** Consideration of staff recommendations on appointment
- **ConnectWyoming Project Status Update** – Agency Services Manager Warren Appel, Broadband Manager Ryan Kudera

**11:45 a.m. Field Operations Report**

- Southeast Regional Director Heather Tupper
- South Central Regional Director Marcio Paes-Barreto
- West Regional Director Elaina Zempel
- Northwest Regional Director Amy Quick
- East Central Regional Director Kim Rightmer
- Northeast Regional Director Brandi Harlow

**12:45 p.m. Recognition of Outgoing Board Members** – CEO Josh Dorrell

- Mr. Mike Easley | 2015-2021 | 2020 Co-Chair
- Mr. Ron Harvey | 2015-2021
- Mr. Allen Hoopes | 2015-2021

**1:00 p.m. Other Board Matters**

- **Formation of Nominating Committee** for 2021 Board Officers
- **2021 Board Activities calendar pending** – to be released late December 2020

**1:10 p.m. Adjourn Public Meeting**

## REGULAR MEETING OF THE WYOMING BUSINESS COUNCIL BOARD OF DIRECTORS

Thursday, September 10, 2020 | 8:00 a.m. | by Zoom Webinar

**BOARD PRESENT:** Erick Arens, Chuck Brown III, John Coyne III, Kim DeVore, Mike Easley, Allen Hoopes, Cindy Johnson, Chuck Kenyon, Jason Kintzler, Alex Klein, Mark Law, Erin Moore, Pamela Thayer, Kathy Tomassi.

**STAFF PRESENT:** Warren Appel, Chava Case, Tom Dixon, Josh Dorrell, Karen Fate, Sarah Fitz-Gerald, Amy Grenfell, Ron Gullberg, Brandi Harlow, Sherry Hughes, Josh Keefe, Devin Kenney (AG Counsel), Julie Kozlowski, Ryan Kudera, Justin Mabie, Brandon Marshall, Brandi Monger (Deputy AG), Lyndsay Orr, Marcio Paes-Barreto, Ben Peterson, Amy Quick, Noelle Reed, Kim Rightmer, Jill Tregemba, Heather Tupper, John Wendling, Elaina Zempel

### CONVENE PUBLIC MEETING

Co-chair Mike Easley called the meeting to order at 8:00 a.m. and led the Board in the Pledge of Allegiance. Roll was called and quorum was established. The Board then heard welcome remarks from Kemmerer Mayor Anthony Tomassi.

- **ACTION ITEM:** Motion to approve September 2020 Consent Agenda items by Mr. Law, second by Ms. Tomassi, and no discussion or corrections. Motion carried unanimously.

### CEO REPORT

CEO Josh Dorrell spoke to the interesting times facing the WBC over the last several months, particularly the rollout of the Business Relief Programs and the dedication of the entire staff to this effort ultimately distributing many hundreds of millions of dollars through three relief programs and the ConnectWyoming broadband expansion program since June 8. Dorrell spoke to the various relief funds and the review/validation process utilized for all applications and provided a re-cap of the Interruption Fund which has since closed.

Dorrell also spoke to the lessons learned from these programs and applying them at an organizational level to ensure focus, meeting customer's needs and expectation, and being agile enough to quickly respond to changing situations. Ms. DeVore shared her thanks and congratulations to Josh and the staff for this week, comments echoed by Messrs. Law and Brown.

Mr. Easley asked about how the WBC is responding to criticisms related to cuts and recent layoffs. Dorrell responded that reductions and layoffs were made with long-term strategy and customer service delivery in mind, including the three new positions being actively recruited.

### STRATEGY DISCUSSION

Chief Strategy Officer Sarah Fitz-Gerald led the board on a discussion of the WBC's strategic plan and progress made on several key initiatives, including BRC alignment and improved relationships with partners and stakeholders. Fitz-Gerald spoke to the rapidly-changing challenges facing businesses since the onset of the pandemic and how this confluence of factors gives WBC the ability to get creative and focused about how we seek to create new opportunities for current and future Wyoming residents. This

includes a revision to the way we measure key indicators using a focused approach placing emphasis on things within WBC's sphere of influence. Board members spoke to the challenges faced by businesses in their communities, including limited workforce, lack of skilled/educated workforce, and affordable housing, as well as limited knowledge and capacity on the part of communities to market themselves and compete.

#### **BUSINESS CONTRACT AND LOAN STANDING COMMITTEE**

Economic Development Finance Manager Josh Keefe presented the Quarterly Challenge Loan Report for the quarter ending June 30, 2020. Keefe spoke to efforts to collect the delinquent loans to Weber Ag, LLC and Bret Weber, both of which are fully reserved. Keefe indicates early reports for beet growers this season are favorable. The fund has an available balance of \$5,675,758, 100 loans currently outstanding totaling some \$16.85 million. Ms. Tomassi asked if the two delinquent loans were given to the same entity/individual, to which Keefe responded they are not the same.

- **ACTION ITEM:** Motion to accept quarterly Challenge Loan report by Ms. DeVore, second by Ms. Thayer, and no discussion. Motion carried unanimously.

Strategic Partnerships Director Ron Gullberg presented the Board with a proposed Amendment Two to the contract with Warehouse Twenty One for ongoing communications support for the Business Relief Programs. This amendment adds \$49,250.00 to the contract bringing it to a total of \$145,000.00, and includes an updated scope of work to reflect changing needs with the new relief programs.

- **ACTION ITEM:** Motion to approve Amendment Two to the Warehouse Twenty One contract by Mr. Kenyon, second by Mr. Arens, and no discussion. Motion carried unanimously.

Business Development Director Brandon Marshall presented the proposed FY21 contract with the Wyoming Women's Business Center, which represents a 20% reduction in the contract compared to the previous year in keeping with overall budget reductions. Ms. Johnson asked about the impacts to federal match dollars and whether WBC can work to minimize those impacts, to which Marshall responded that WWBC has the ability to independently raise funds to support their operations from a match dollars standpoint. Marshall also spoke about discussions to rehome the Made in Wyoming program to the WWBC which was ultimately deemed too burdensome in the face of budget cuts since MIW's only funding came from program revenue. Marshall did specify this approval must be contingent on approval of the contract through the Budget Office's exception process for large contracts.

- **ACTION ITEM:** Motion to approve contract contingent upon exception approval from Budget Office by Ms. DeVore, second by Mr. Law, and no discussion. Motion carried unanimously.

University of Wyoming President Dr. Ed Seidel joined the meeting to discuss the forward vision for UW's economic development efforts and the potential impacts and reforms to Business Resource Network programs by strengthening partnerships, listening carefully to the private sector for skills and education gaps, and allocating resources to address shortfalls. Seidel indicated he looked forward to ongoing conversations with WBC staff and Board members to continue moving in the right direction, and CEO Dorrell indicated those conversations are happening and will be ongoing in the coming months.

Ms. Moore commended Dr. Seidel for the presentation and reiterated this Board's longstanding patience and frustration with UW as it pertains to the BRN and the very real sense of urgency felt in seeing lasting change and growth.

#### **PERSONNEL, BUDGET AND AUDIT STANDING COMMITTEE**

Chief Operating Officer presented the quarterly financial update for the quarter ending June 30, 2020, which not only represents the rollover to a new fiscal year but also into a new biennium as of July 1. Grenfell spoke to significant savings in the last quarter as a result of work-from-home and reduced travel by all staff, particularly the regional directors. Grenfell also pointed to a new addition to the report of the CARES Act funding and its utilization.

- **ACTION ITEM:** Motion to accept quarterly financials by Ms. Moore, second by Mr. Arens, and no discussion. Motion carried unanimously.

Grenfell reminded the Board of a recent change to the budget structure and how this will reflect on future financial reports.

Grenfell then presented the quarterly personnel report, specifically the rollout of a formal and permanent telecommute policy as a result of our successful pivot to work-from-home practices. This new policy makes a distinction between telecommuting and our usual remote workers and how the expectations for in-office time differ. Grenfell discussed how these changes to the way we work as well as budget reductions have resulted in our decision to close out of the Carey Avenue office building by the end of October 2020 and condense the entirety of our staff in the Becker Building. Grenfell said we have determined very clearly how telecommuting does work well for our team.

CEO Dorrell offered praise to the staff for the innovative ways we have found to uncover efficiencies and cost-savings in response to budget reductions by applying common sense and creativity.

Grenfell concluded with an update on the forthcoming annual financial audit of the WBC by MHP, LLP. Work has been ongoing in previous weeks to prepare and the audit will begin later in September.

#### **BEEF PROCESSING UPDATE**

Mr. Easley asked CEO Dorrell to provide the Board with an update on the recent beef processing incentivization program. Dorrell said this program is funded with CARES Act dollars and is being administered by the Department of Agriculture with heavy involvement and input by the WBC team, particular by Agribusiness Manager Jill Tregemba and the BRP Process Team in standing up a program that works efficiently. Tregemba will continue to be involved in those efforts.

#### **WYOMING MAIN STREET ADVISORY COUNCIL UPDATE**

Wyoming Main Street Project Coordinator Kayla Kler introduced Wyoming Main Street Advisory Board Chairman Matt Ashby for a presentation on the Main Street program accomplishments over the past year. Ashby thanked the Board for the opportunity to have this discussion and broaden collaboration with the WBC Board. The MSAB comprises five board members throughout the state with a variety of complementary backgrounds, and places an emphasis on revitalization as a means to spur economic growth. Main Street's contributions throughout Wyoming have resulted in 39 new small business and 141 net new jobs, leveraged more than 16,000 volunteer hours, and supported 215 building and

infrastructure projects totaling nearly \$22m in public and private investment in 2020 alone. Over ten years, this represents a return of \$3.51 for every dollar of investment.

Ms. DeVore asked about the amount of outside funding leveraged for the Main Street program, to which Ashby responded there are technical assistance funds – including federal funds – through the state through the national network, but Ashby indicated some communities may not be fully utilizing the various funding sources available directly to them. Efforts continue with outreach and technical support to help communities understand what is available and how to access grants. Ms. Thayer and Community Development Director Julie Kozlowski confirmed there are myriad sources for communities to help them accomplish revitalization goals.

#### **WYOMING COUNCIL FOR WOMEN UPDATE**

CSO Sarah Fitz-Gerald introduced current WCW Chairwoman Jennifer Wilmetti who shared her recent report to the Legislature with the Board on WCW's accomplishments, and thanked the Board for the opportunity to have the discussion. Wilmetti spoke to the history of WCW, its 13-member board, and its renewed focus on economic issues impacting women and recognizing those women making an impact in Wyoming. This includes an annual Entrepreneur of the Year Award, the Self-Sufficiency Standard and Calculator, and the completion of the survey conducted in cooperation with the National Association of Commissions for Women. Of note, the survey indicated access to affordable healthcare and insurance, access to affordable childcare, equal pay and affordable housing persist as common issues, as well as too few women in leadership roles, and balancing demands between work and family. Wilmetti said overwhelmingly, women do not know what services are available nor how to access them, and some are reluctant to ask for help if they do not know what it may cost. The data indicates education and outreach are key to closing those gaps. In response to this, WCW will be hosting its 2020 Summit later in September to hold those conversations and develop strategies to address barriers. WCW is also looking forward to the publication of the 2020 Status Report on Women in early November.

Mr. Law praised the self-sufficiency calculator as an easy to use and informative tool. Ms. Tomassi asked about the difference between WCW and the Wyoming Women's Foundation, to which Wilmetti responded that WWF is a community-focused group whereas WCW is a statutory board with members appointed by the Governor.

#### **WYOMING BROADBAND ADVISORY COUNCIL UPDATE**

COO Amy Grenfell spoke on the recruitment process for the two vacant seats on the Broadband Advisory Council. Mr. Easley shared the Executive Committee ultimately interviewed two candidates and is bringing a recommendation today to appoint Wally Wolksi with USDA Rural Development to the BBAC. Mr. Easley indicated the second vacancy will be readvertised for an additional application period, potentially with geographical parameters. Ms. Moore elaborated to specify the voice of rural communities is truly important in the continued work of the Broadband Council and the next round of recruitment efforts will target applicants with that experience.

- **ACTION ITEM:** Motion to accept committee recommendations to appoint Wally Wolksi to the Broadband Advisory Council and re-advertise vacant seat by Ms. Moore, second by Ms. DeVore, and no discussion. Motion carried unanimously.

Broadband Manager Ryan Kudera presented updates on the ConnectWyoming project, including necessary revisions to the approved amounts for applications submitted by Charter Communications for projects in Powell and Riverton. At its August 14 Special Meeting, this Board approved \$128,699.65 for Powell and \$967,498.88 for Riverton as a result of a clerical error whereas the correct amounts are \$337,319 and \$827,498.88, respectively. Staff recommends approval of these revisions.

Kudera also presented the Visionary Crook County fixed wireless project proposal as an alternative to the since-withdrawn Range Telephone proposal. The Visionary proposal was originally declined as technically inferior to the fiber-to-the-home installation proposed by Range, but was the only other project proposed for this area of the state. As staff identified portions of the original proposal as ineligible under ConnectWyoming guidelines, staff have worked closely with the Attorney General and the applicant to refine the scope of the original proposal. Staff recommends award of the revised proposal submitted by Visionary Communications in the amount of \$1,754,753.00, which is a reduction of approximately \$100,000.00 from the original proposal.

- **ACTION ITEM:** Motion to approve staff recommendations on revisions to Charter award contracts for Powell and Riverton by Ms. Moore, second by Mr. Kenyon, and no discussion. Motion carried unanimously with Mr. Hoopes recused due to a conflict of interest.
- **ACTION ITEM:** Motion to approve staff recommendations for the revised Visionary Crook County proposal by Ms. Moore, second by Ms. DeVore, and no discussion. Motion carried unanimously with Mr. Hoopes recused due to a conflict of interest.

#### **COMMUNITY GRANT AND LOAN STANDING COMMITTEE**

Community Development Director Julie Kozlowski spoke to potential updates to the Allocation Plan in response to WBC strategic plan alignment efforts. Kozlowski clarified that the Allocation Plan is not required by statute or rule, but is merely a prerogative of this Board to help guide the disbursement of funds over the two-year biennium according to priorities and historical usage, but should be used only as a guideline when making funding decisions as opposed to a rigid budget.

Ms. DeVore inquired whether there was adequate allocation to the “planning” category, which Kozlowski responded the allocation seems appropriate at this time based on historical usage, and is, in fact, capped by statute at no more than 2% of the total allocation.

Mr. Easley asked about overall utilization and whether funds are being fully-leveraged to avoid reversions. Kozlowski indicated the most ever carried forward was about \$18m and was a function of receiving fewer requests compared to other years, particularly in times of economic uncertainty for communities. Kozlowski spoke to the flexibility of the BRC program in responding to the actual need.

The Board discussed whether the allocation plan was useful or if it perhaps hindered vision as a relic of outdated policy or prevented the Board from seizing on an opportunity now in favor of the potential for a “superior” project later on. Kozlowski responded to the Board again that the Allocation Plan is entirely its own prerogative and has been maintained by staff merely as a customary approach, but the dawn of a new biennium offers opportunities to discuss how BRC funding is approached. Ms. Moore indicated this is a matter which can continue to be discussed in committee and refined as circumstances change,

and Ms. DeVore clarified with Kozlowski that no motion is necessary at this time since the allocation plan remains unchanged.

#### TOWN OF GREYBULL

Community Development Manager Noelle Reed presented a Readiness grant request in the amount of \$600,000 from the Town of Greybull to pave roads for the Phase II lots in the Greybull Business Park. The Greybull Business Park contains 73.66 acres of commercial property comprised of 72 individual lots. The town has sold 29 of 72 lots. Three lots are pending closing and the town may designate 9 lots as open space for recreational use (BMX track and archery range). Lots have been sold to 10 businesses, with 8 having already constructed buildings or begun construction. Lots 1-36 are shovel ready with electric, natural gas, and municipal water to the property lines. The streets around lots 1-36 are also paved.

Phase I of the Greybull Business Park has been successful; as of the date of the application, only 4 lots were available for sale (of 36). Furthermore, they have already sold 3 lots of the 36 that will be available for Phase II to a local manufacturer. This company has invested a significant amount of money on their property that abuts the town boundary. They also understand that the town will develop infrastructure as quickly as possible, with no promise of paving by any specific date. Comments from Greybull Town Administrator Paul Thur, Mayor Myles Foley, and Grow Greybull ED Jeff Thornton. Staff recommends funding of this project as requested.

#### SHERIDAN COUNTY

Reed continued with a presentation of an Enhancement grant request in the amount of \$500,000 from Sheridan County for Phase II of the Red Grade Trails Enhancement Project. The Red Grade Trails System is a collaborative project of Sheridan County and the Sheridan Community Land Trust (SCLT) to develop public recreation opportunities in the form of approximately 27 trail miles on State of Wyoming, United States Forest Service, and Bureau of Land Management owned property. Phase 2 will develop two parking facilities and construct eleven miles of nonmotorized, multi-use trails on the portion of the Red Grade Trails System that lies on property managed by the Bighorn National Forest.

Attendees from the community showing support and further explaining the project included Renee Obermueller, Sheridan Co. Grants Manager; Brad Bauer, Executive Director for Sheridan Community Land Trust; and Shawn Parker, Executive Director for Sheridan County Travel & Tourism. Staff recommends funding of this project as requested.

- **ACTION ITEM:** Motion to approve staff recommendations for the Town of Greybull project by Mr. Kenyon, second by Mr. Hoopes, and no discussion. Motion carried unanimously with Mr. Coyne recused for a conflict of interest.
- **ACTION ITEM:** Motion to approve staff recommendations for the Sheridan County project by Mr. Kintzler, second by Mr. Coyne, and no discussion. Motion carried unanimously.

Kozlowski concluded the committee report with a review of proposed amendments to BRC rules which simplify the program and requirements and make it more flexible and responsive to ever-changing needs and urgent priorities. Kozlowski indicated the team is accepting final feedback from Board members prior to routing these proposed changes to the AG and Secretary of State's office. No action is



required on these rules today, but they will be brought for consideration and adoption at a future meeting.

**OTHER BOARD MATTERS and ADJOURNMENT**

Mr. Easley reminded members of the upcoming standing committee meetings scheduled for the week of November 2, as well as the planned board meeting for December 9-10 at Cheyenne.

Mr. Law shared a historical anecdote regarding University of Wyoming history, noting today marks the anniversary of the opening of the University in 1887.

There being no further business before the Board, Mr. Easley adjourned the meeting at 2:53 p.m.

*Respectfully Submitted,*

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*Erin Moore, Secretary/Treasurer*

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*Warren R. Appel, Agency Services Manager*

## **SPECIAL MEETING of the WYOMING BUSINESS COUNCIL BOARD OF DIRECTORS**

**Friday, October 16, 2020 | 1:00 P.M. | by Zoom Webinar**

**BOARD PRESENT:** Erick Arens, John Coyne III, Kim DeVore, Mike Easley, Cindy Johnson, Chuck Kenyon, Jason Kintzler, Alex Klein, Mark Law, Erin Moore, Pam Thayer, Kathy Tomassi

**STAFF PRESENT:** Bert Adam, Sue Akey, Warren Appel, Chava Case, Josh Dorrell, Karen Fate, Sarah Fitzgerald, Ron Gullberg, Shaun Jones, Josh Keefe, Justin Mabie, Brandon Marshall, Brandi Monger (Deputy AG), Lyndsay Orr, Marcio Paes-Barreto, Amy Quick, Noelle Reed, Jill Tregemba

### **CONVENE PUBLIC MEETING**

Meeting called to order at 1:03 p.m. by Co-chair Mike Easley, followed by the Pledge of Allegiance. Roll was called and quorum was established. Agency Services Manager Warren Appel and Mr. Easley noted the action item regarding the Warehouse Twenty One contract is not ready for consideration at this meeting, though the Board will hear an update on this topic.

### **CONNECTWYOMING UPDATE**

Agency Services Manager Warren Appel led the Board on a re-cap of the ConnectWyoming program history to-date, including an overview of the 33 contracts for which work is already being performed. Appel then presented a proposal from Mountain West Technologies Corporation for a fixed wireless build in Casper and rural Natrona County. This proposal is reduced in scope from the original proposal submitted within the ConnectWyoming application window and touches 240 currently unserved/underserved census blocks in Natrona County, affecting some 1,060 homes and businesses. Staff recommends funding of the proposal in the amount of \$1,885,200.00.

- **ACTION ITEM:** Motion to approve staff recommendations by Ms. DeVore, second by Ms. Moore, and no discussion. Motion carried unanimously.

### **WAREHOUSE TWENTY ONE CONTRACT AMENDMENT**

CEO Josh Dorrell gave a preview of the pending third amendment to the contract with Warehouse Twenty One for continue outreach and marketing support for the Business Relief Programs, including the Agricultural Producer program launching in early November. Staff is working to secure the additional CARES Admin funds to support the amendment and are working on a revised scope of work for consideration at an upcoming Board meeting.

### **PROJECT AVALON PREVIEW**

Economic Development Finance Manager Josh Keefe and City of Evanston Community Development Director Rocco O'Neill provided the Board with a preview of the BRC-Business Committed project submitted by the City of Evanston. This project would construct a new facility in Evanston to be occupied by Avalon International Aluminum, an aluminum products manufacturer relocating to Wyoming from Oregon. This project would add to the growing manufacturing sector in Evanston and has strong alignment with the WBC's strategic objectives.

Keefe told the Board staff anticipates bringing this matter for consideration at a special meeting to be held during the week of October 19. Mr. Easley offered Thursday the 22<sup>nd</sup> at 1:00p.m. as a potential target for this special meeting and indicated staff would follow up for scheduling.

**OTHER BOARD MATTERS and ADJOURNMENT**

Mr. Easley reminded the Board of upcoming committee meetings to be held during the week of November 2 and encouraged prompt response to scheduling requests for a special meeting to be held next week. There being no further business before the Board, Mr. Easley adjourned the meeting at 1:46 p.m.

*Respectfully Submitted,*

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*Erin Moore, Secretary/Treasurer*

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*Warren R. Appel, Agency Services Manager*

## **SPECIAL MEETING of the WYOMING BUSINESS COUNCIL BOARD OF DIRECTORS**

**Thursday, October 22, 2020 | 1:00 P.M. | by Zoom Webinar**

**BOARD PRESENT:** Erick Arens, Kim DeVore, Mike Easley, Cindy Johnson, Chuck Kenyon, Alex Klein, Mark Law, Erin Moore, Kathy Tomassi

**STAFF PRESENT:** Sue Akey, Warren Appel, Josh Dorrell, Karen Fate, Sarah Fitz-Gerald, Ron Gullberg, Brandi Harlow, Sherry Hughes, Josh Keefe, Devin Kenney (AG Counsel), Julie Kozlowski, Lyndsay Orr, Marcio Paes-Barreto, Kim Porter, Amy Quick, Kim Rightmer, John Wendling, Elaina Zempel

### **CONVENE PUBLIC MEETING**

Meeting called to order at 1:03 p.m. by Co-Chair Mike Easley, followed by the Pledge of Allegiance. Roll was called and quorum was established.

### **COMMUNITY GRANT AND LOAN STANDING COMMITTEE**

Committee Chair Erin Moore requested Economic Development Finance Manager Josh Keefe provide an introduction of the application for consideration today. Keefe reminded the Board this project was previewed at the October 16 special meeting and is now ready for proper consideration by the Board. Keefe followed with a review of the current BRC Budget and Allocation Plan.

Economic Development Manager Noelle Reed presented the application from the City of Evanston for a \$3 million dollar grant and \$1,109,607 loan for the construction of a 60,000 square foot manufacturing plant for Avalon International Aluminum. This manufacturer is looking to relocate from its current home in Oregon and expanding into new product lines. The company anticipates creating 60 new jobs within 5 years at wages well-above the Uinta County median. Staff recommends funding as requested.

The Board heard comments from company representatives Rick and Baron Carleton, who said they anticipated 2020 revenues of nearly \$2.9m, higher than what is stated in the application. Representatives indicate a firm desire to locate in Wyoming and specifically Evanston for its access to the I-15 and I-80 corridors. City of Evanston representatives Rocco O'Neil and Mieke Madrid spoke of their relationship with this company and the value it brings to Uinta County in general, and Evanston in particular.

- **ACTION ITEM:** Motion to approve staff recommendations by Ms. DeVore, second by Ms. Tomassi, and no discussion, Motion carried unanimously.

### **BUSINESS RELIEF PROGRAMS MARKETING SERVICES CONTRACT AMENDMENT**

Chief Strategy Officer Sarah Fitz-Gerald presented the proposed third amendment to the contract with Warehouse Twenty One for ongoing support of marketing and communications for the Business Relief Programs. This amendment expands the scope of the agreement to allow for additional expenditures related to the upcoming "Program 4" relief programs, and also allows for contingencies of up to \$5,000.00 of the contract total for unforeseen additional expenses.

- **ACTION ITEM:** Motion to approve proposed amendment three by Mr. Klein, second by Mr. Kenyon, and no discussion. Motion carried unanimously.

**OTHER BOARD MATTERS and ADJOURNMENT**

Mr. Easley reminded the Board of upcoming committee meetings to be held during the week of November 2. There being no further business before the Board, Mr. Easley adjourned the meeting at 1:39 p.m.

*Respectfully Submitted,*

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*Erin Moore, Secretary/Treasurer*

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*Warren R. Appel, Agency Services Manager*

## **SPECIAL MEETING of the WYOMING BUSINESS COUNCIL BOARD OF DIRECTORS**

**Thursday, November 12, 2020 | 11:00 a.m. | via Zoom Webinar**

**BOARD PRESENT:** Chuck Brown III, Kim DeVore, Mike Easley, Ron Harvey, Cindy Johnson, Chuck Kenyon, Alex Klein, Mark Law, Erin Moore, Pamela Thayer, Kathy Tomassi

**STAFF PRESENT:** Bert Adam, Sue Akey, Warren Appel, Josh Dorrell, Amy Grenfell, Ron Gullberg, Brandi Harlow, Sherry Hughes, Shaun Jones, Josh Keefe, Julie Kozlowski, Wendy Lopez, Justin Mabie, Brandon Marshall, Brandi Monger (Deputy AG), Lyndsay Orr, Marcio Paes-Barreto, Ben Peterson, Amy Quick, Kim Rightmer, Heather Tupper, John Wendling, Elaina Zempel

### **CONVENE PUBLIC MEETING**

Meeting was called to order at 11:02 a.m. by Co-chair Mike Easley, followed by the Pledge of Allegiance. Roll was called and quorum was established.

### **BRP PROGRAM UPDATE and AUDITS**

CEO Josh Dorrell provided the Board with a recap of BRP programs to-date, as well as a snapshot of the current status of the Agriculture and Endurance Funds. Dorrell discussed application review processes and how the WBC balances speed with integrity in processing the applications, pointing to a 6% rejection rate in the first three relief programs. Dorrell spoke to the involvement and expertise of the State Auditor's Office, the Secretary of State's Office, the Attorney General's office, in the process of developing guidelines and helping to vet applicants. Dorrell shared that there will be third-party audits forthcoming and the WBC is providing a safe harbor for applicants who have received funds they do not need or were received due to misunderstanding to proactively return those funds.

Ms. DeVore thanked staff for their diligence in delivering and standing up these programs with speed and integrity and acknowledged the unrealistic expectation some members of the public may have about a perfect process absent of fraud. Ms. DeVore spoke to her personal experience as a banker looking at such information each day and how important the additional audits and oversight are in such a program, especially in the face of crushing volume and the expectation for fast delivery.

- **ACTION ITEM:** Motion to consider proposed contract with McGee, Hearne & Paiz, LLP for relief program awardee audits by Mr. Kenyon, second by Ms. Moore.

Mr. Easley requested a review of changes to the contract documents since they were last shared by the board. Agency Services Manager Warren Appel gave an overview of the recent revisions, specifically the clarification of the scope of the audit testing and the addition of a provision in the contract regarding conflicts of interest as it relates to the Contractor's existing clients. Appel noted the insurance provisions have been vetted by the Risk Management division, but the contract may yet be subject to revision as required by the Attorney General's office.

With no further discussion, the contract was approved unanimously.

Mr. Law asked about the timelines for completion of program audits, to which Dorrell responded that we are engaging right away and must have all work completed by December 30, 2020. In practice, the

process is anticipated to begin in earnest by early December. Mr. Law also inquired about the availability of returned funds to be used in future programs, to which Dorrell responded the answers are not yet clear but are being explored.

Mr. Kenyon asked about the size of the audit sample and how that is being determined. CEO Dorrell relayed that WBC is relying on the auditor to develop the final audit pool, to include submissions from the tip line. The selections will be based on audit industry-standard practices.

**ADJOURNMENT**

There being no further business before this Board, Mr. Easley adjourned the meeting at 11:37 a.m.

*Respectfully Submitted,*

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*Erin Moore, Secretary/Treasurer*

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*Warren R. Appel, Agency Services Manager*

# Personnel Report

November 4, 2020

## Farewells:

Terri Barr  
Tom Dixon  
Debbie Richardson  
Jason Reid

## New Hires & New Roles:

Marcio Paes-Barreto, Program and Services Innovator – January 2021  
TJ Croissant, Brand Strategist – November 2020

<b>Total Positions: 36</b>
<b>Filled Positions: 33</b>
<b>Vacancies</b>
Brand Strategist – To be filled by TJ Croissant, November 2020
Program and Services Innovator – To be filled by Marcio Paes-Barreto, January 2021
Development Finance Consultant – Currently re-evaluating position

## WBC Workforce:

In 2009, WBC had a headcount of 52 employees. Now, WBC plans to execute a robust strategic plan for diversifying Wyoming's economy on a lean team of 36 professionals. In a little over ten years, the human resources of the State's only economic development entity has been reduced by slightly more than 30%.

In recent budget reduction discussions, WBC took a hard look at personnel and made significant cuts in the first 10%. We reverted five positions, two of which were layoffs. In 2009, many WBC functions and programs had nearly two people to supply coverage and ensure stability. With precise, surgical cuts over a little more than a decade, the WBC now finds itself ideally staffed to address Wyoming's critical economic diversification needs while not unnecessarily extending an already strained budget. Each function at our agency is one person deep, meaning that any additional cuts will leave a hole in a program and limit our ability to lead the other economic development entities in the state, which during a time of lean budgets is a way for us to turn one position into five, and create a bigger economic development impact.

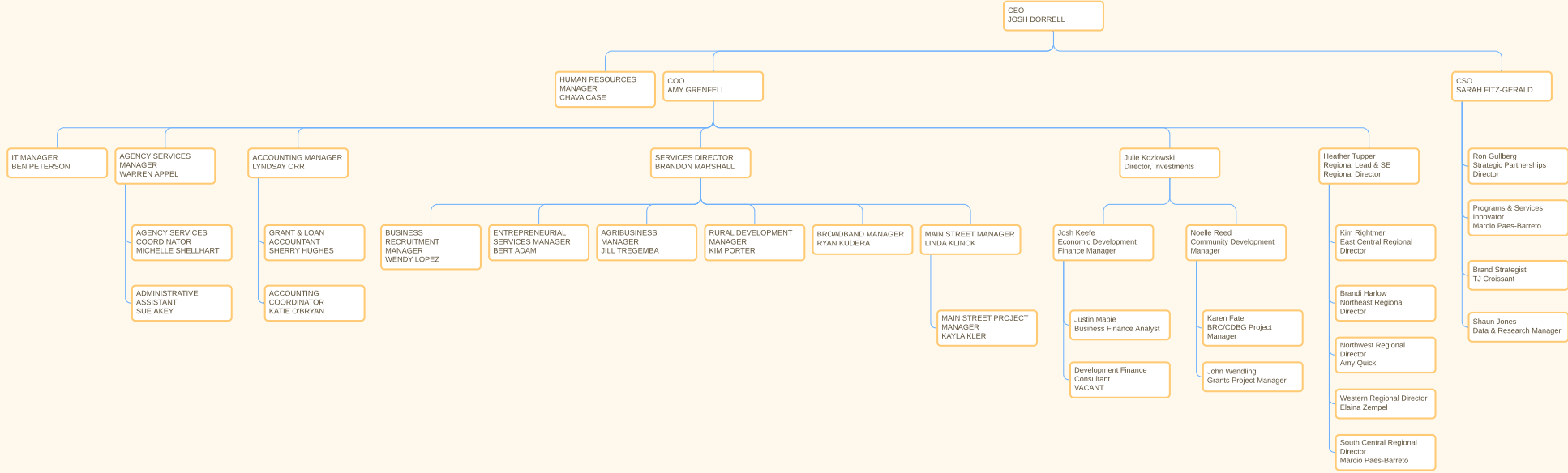
Beyond layoffs and position reversions, the WBC team has also been impacted by furloughs. Based on the established criteria for furlough days, 22 out of 33, or 67% of our team members are required to furlough.

And despite these circumstances, the team continues to really push forward with vigor working longer hours and even forfeiting vacation time. WBC offers a use it or lose it vacation plan that



provides employees up to 4 weeks of vacation. And while everyone is strongly encouraged to use their time, it just wasn't that easy this year. When our vacation year ended on September 30<sup>th</sup>, we had 30 of our 33-person team requesting the option to carry forward vacation time.

Despite overall cuts and increased and evolving expectations, the WBC team remains committed to our purpose with energy and passion. The team continues to build its resiliency muscle both collectively and on an individual level. In general, the atmosphere is positive and upbeat. Creativity flourishes through every work group and laughter is easy to come by. Although we all look forward to some quieter days, we all know that we couldn't be in this with a better bunch of hungry, humble and smart people.

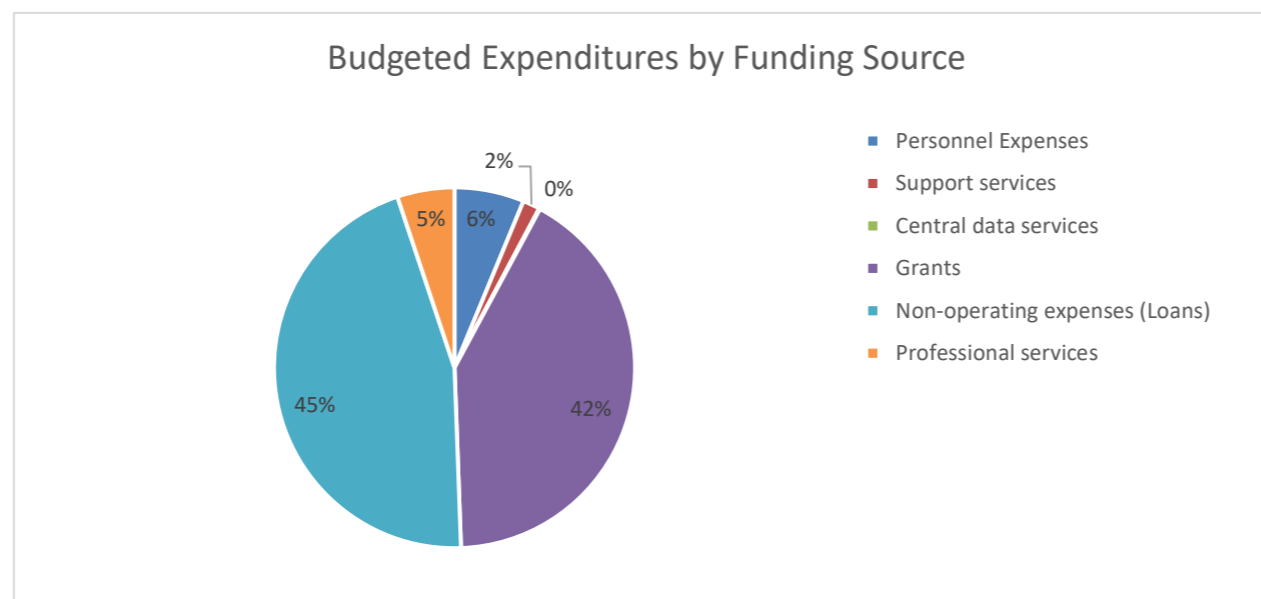


**Wyoming Business Council**  
**Quarter Ending September 30, 2020 (2021/2022 Biennium)**

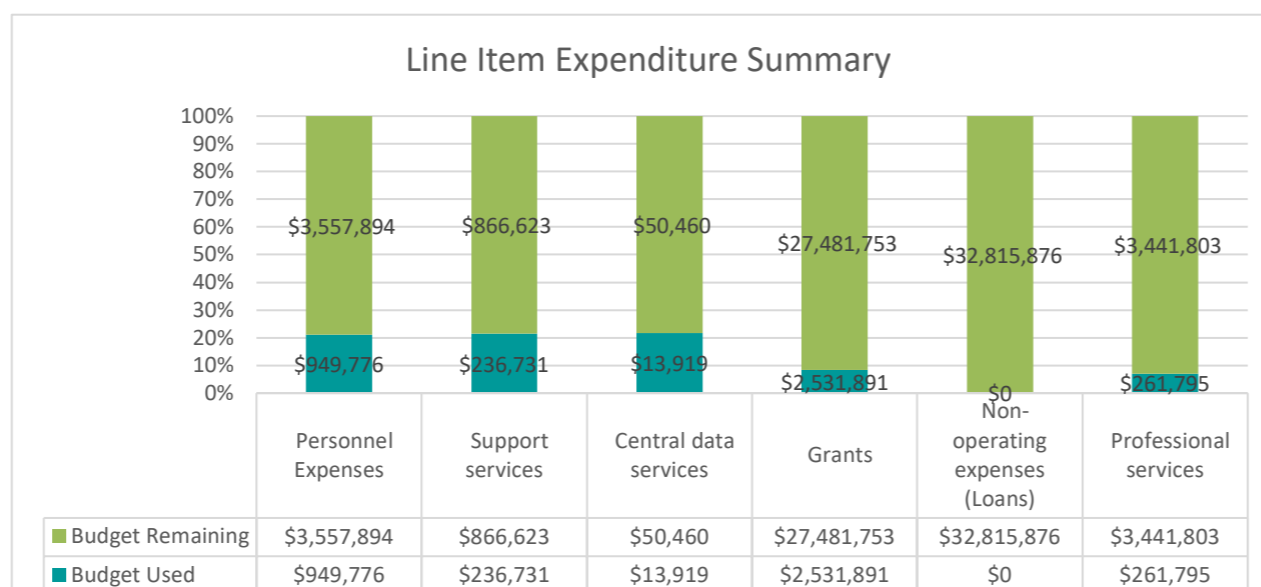
Optimum = 25%

BUDGET SUMMARY	BUDGET	EXPENDED	ENCUMBERED	BALANCE	%	Avail. Cash Balance	YTD Receipts
<b>Economic Diversification</b>							
<b>Investments</b>	<b>\$29,335,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$29,335,000</b>	<b>0.00%</b>		
General (BRC/CDBG)	\$25,000	\$0	\$0	\$25,000	0.00%		
Economic Loan	\$10,000	\$0	\$0	\$10,000	0.00%		
Business Ready Communities (includes MRG)	\$29,300,000	\$0	\$0	\$29,300,000	0.00%		
<b>Services</b>	<b>\$3,445,902</b>	<b>\$111,448</b>	<b>\$0</b>	<b>\$3,334,454</b>	<b>3.23%</b>		
General	\$2,316,310	\$103,483	\$0	\$2,212,827	4.47%		
Broadband Administration (fund 004)	\$213,692	\$0	\$0	\$213,692	0.00%		
Entrepreneurship	\$25,000	\$0	\$0	\$25,000	0.00%		
Main Street	\$235,000	\$1,477	\$0	\$233,523	0.63%		
Markets & Expansion	\$350,900	\$4,582	\$0	\$346,318	1.31%		
Recruitment	\$242,500	\$1,847	\$0	\$240,653	0.76%		
Rural Development	\$62,500	\$59	\$0	\$62,441	0.09%		
<b>Wyoming Business Council</b>							
<b>Operations</b>	<b>\$5,166,356</b>	<b>\$866,815</b>	<b>\$138,420</b>	<b>\$4,161,121</b>	<b>19.46%</b>		
Accounting	\$41,000	\$0	\$0	\$41,000	0.00%		
Agency Services	\$390,040	\$53,058	\$138,420	\$198,562	49.09%		
Board	\$29,050	\$98	\$0	\$28,952	0.34%		
Executive	\$14,250	\$658	\$0	\$13,592	4.62%		
HR (Non-Payroll)	\$119,250	\$2,391	\$0	\$116,859	2.01%		
HR (Payroll)	\$4,343,562	\$787,920	\$0	\$3,555,642	18.14%		
IT	\$229,204	\$22,690	\$0	\$206,514	9.90%		
<b>Regional Directors</b>	<b>\$90,000</b>	<b>\$232</b>	<b>\$0</b>	<b>\$89,768</b>	<b>0.26%</b>		
<b>Strategy</b>	<b>\$353,786</b>	<b>\$218</b>	<b>\$16,920</b>	<b>\$336,648</b>	<b>4.84%</b>		
Communications	\$44,000	\$218	\$0	\$43,782	0.50%		
Strategic Partnerships	\$309,786	\$0	\$16,920	\$292,866	5.46%		
<b>TOTAL GENERAL FUNDS</b>	<b>\$38,391,044</b>	<b>\$978,713</b>	<b>\$155,340</b>	<b>\$37,256,991</b>	<b>2.95%</b>		
<b>Federal Funds</b>							
Brownfield Revolving Loan Program	\$900,000	\$0	\$95,000	\$805,000	10.56%		
CDBG Program	\$6,379,851	\$2,118,180	\$554,871	\$3,706,800	41.90%		
Specialty Crop Block Grant	\$21,750	\$8,450	\$13,000	\$300	98.62%		
<b>TOTAL FEDERAL FUNDS</b>	<b>\$7,301,601</b>	<b>\$2,126,630</b>	<b>\$662,871</b>	<b>\$4,512,100</b>	<b>38.20%</b>		
<b>Agency Funds</b>							
Economic Loan Development (fund 039/089)*	\$26,140,876	\$1,149	\$56,801	\$26,082,926	0.22%	\$5,467,380	\$75,466
Rural Rehabilitation (fund 499)	\$300,000	\$12,500	\$0	\$287,500	4.17%	\$205,939	\$865
Wyoming Business Council (fund 085)	\$75,000	\$110	\$0	\$74,890	0.15%	\$4,642,274	\$8,435
<b>TOTAL AGENCY FUNDS</b>	<b>\$26,515,876</b>	<b>\$13,759</b>	<b>\$56,801</b>	<b>\$26,445,316</b>	<b>0.27%</b>		
<b>TOTAL BUDGET</b>	<b>\$72,208,521</b>	<b>\$3,119,102</b>	<b>\$875,012</b>	<b>\$68,214,407</b>	<b>5.53%</b>		
<b>CARES Act COVID-19 Relief</b>							
CARES Act Business Relief Program	\$325,000,000	\$299,659,874	\$0	\$25,340,126	92.20%		
CARES Act Connect Wyoming	\$100,000,000	\$253,962	\$54,429,163	\$45,316,875	54.68%		
CARES Act Administration Funds	\$300,000	\$164,907	\$55,250	\$79,843	73.39%		
<b>TOTAL CARES ACT</b>	<b>\$425,300,000</b>	<b>\$300,078,743</b>	<b>\$54,484,413</b>	<b>\$70,736,844</b>	<b>83.37%</b>		

\* \$25 million reserved for Large Loan Fund



Loan Type	Balance
Economic Disaster	8,476,600
Bridge	1,483,491
Amendment IV	6,314
Natural Gas Infrastructure	207,571
WyoTech	4,900,000
BRC	12,200,628
Unallocated Allowance	(85,079)
	<u>27,189,525</u>





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## Memorandum

**To:** Wyoming Business Council Board of Directors  
**From:** Josh Keefe  
**Subject:** Challenge Loan Reporting Requirements  
**Date:** December 10, 2020

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1. **Past Due Report.** Challenge Loan Policy requires quarterly reporting of all loans 30 days or more past due.
  - There were two past due payments on September 30, 2020:
    - **Weber Ag, LLC** (Economic Disaster Loan – 2017) was originated in July of 2017 as part of the Economic Disaster Loan declaration for the Wyoming Sugar Company. Lender has made multiple attempts in the past months to contact the Borrower to no avail. A demand letter was sent on January 13, 2020. The Borrower had until 5:00pm, February 14, 2020 to respond to the letter. No response was received. The Wyoming AG is in the process of filing a formal complaint against Weber Ag, LLC and Damon Weber. This loan is fully reserved and has a very high likelihood of being charged off (\$484,950.00).
    - **Bret Weber** (Economic Disaster Loan – 2017) was originated in August of 2017 as part of the Economic Disaster Loan declaration for the Wyoming Sugar Company. Both the Lender and Servicer have made multiple attempts to collect the payment. Mr. Weber is somewhat communicative, and it did take most of the year in 2019 to receive the payment that was due on January 1, 2019. This will more than likely be happening again. We will continue to communicate with Mr. Weber going forward. This loan is fully reserved as well (\$80,913.26).
2. **Loan Loss Reserve Analysis.** Challenge Loan Policy requires a review of all loans that are delinquent (over 30 days past due) and a specific reserve will be allocated if the review warrants. There will be an additional unallocated reserve of one-half of one percent of the total portfolio balance.
  - The unallocated reserve is adequate with a balance of **\$2,026,949**. The allocation includes a 10% loan loss reserve for the Economic Disaster Loans originated, plus

0.5% of the total loan portfolio. The reserve also includes a full reserve of Weber Ag, LLC (\$484,950) and Brett Weber (\$80,913.26).

- The resulting available fund balance in the Economic Development Fund is **\$5,467,380**.

**3. Charge off balances.**

- None to report at this time

**4. Other News.**

- Justin Mabie and Josh Keefe traveled to Powell on September 15<sup>th</sup> and 16<sup>th</sup> to get signatures for loan modifications to existing Economic Disaster Loans for Western Sugar beet producers. We were able to obtain 21 of the 23 required signatures and are in communication with the remaining two borrowers. These were completed in March, however, due to the COVID-19 pandemic, these modifications weren't able to be executed at that time.

**Staff Recommendation:**

- **Staff recommends acceptance of this report.**



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## Memorandum

**To:** Wyoming Business Council Board of Directors  
**From:** Justin Mabie, Business Finance Analyst  
**Subject:** Brownfield Revolving Loan Fund (RLF) Program  
**Date:** December 10, 2020

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### 1. About the Program

- The State of Wyoming received \$800,000 RLF grant from the EPA in 2018.
- The RLF provides low-interest loans and/or grants to eligible public and private sector entities to clean up Brownfields sites in Wyoming.
- RLF funds are designated for cleanup activities only at eligible Brownfields sites. Acceptable cleanup activities include (but may not be limited to) cleanup actions associated with removing, mitigating, or preventing the release or threat of a release of a hazardous substance, pollutant, or contaminant.
- The Wyoming Business Council and the Wyoming Department of Environmental Quality (DEQ) have an MOU for administration of the program. Both agencies will prepare the grant application and market loans to communities. The WBC serves as the lead fiscal agent and will service loans to communities. The DEQ will oversee project management (site clean-up, approval of local invoices, etc.)
- In early May, 2020, the WBC and DEQ gave a sub-grant to the Town of Dubois in the amount of \$95K for the purpose of remediating contaminants at the Wind River Meat building located at 106 West Ramshorn, Dubois, Wyoming.

### 2. Spring Hill Apartments, LLC. Multi Family Affordable Housing - Asbestos Abatement.

- The proposed project is a rehabilitation of Spring Hill Apartments built in 1974 and 1975, which contains 13 buildings containing the business office, 31 one-bedroom units, 95 two-bedroom units, and 1 three-bedroom unit. The property is in a desirable location in Casper, Wyoming near many amenities and on a public transportation location.
- Rehabilitation will focus on the repairs and replacements of floor coverings, exterior stucco repairs, stair replacements, civil and grading work, bathroom updates, appliances as needed, painting, asbestos abatement, and bringing the property up to code with ADA requirements by creating 7 ADA units.

- Early testing confirmed asbestos present in the residential units, this hazard will be reduced using the funds provided by this application.
- Safetech, Inc who specializes in asbestos, mold, and lead abatement quoted the asbestos removal at just under \$398K. The quote includes the following:
  - Mobilize to project site in Casper, WY
  - Install all necessary barriers utilizing 6mil poly
  - Install HEPA filtered negative air machines
  - Install 3 stage decontamination unit
  - Removal of drywall from ceilings and additional drywall removal in the 1- and 2-bedroom units.
  - Final clean of containment areas.
  - Disposal of all materials.
- The property will remain Multi Family Affordable housing when the rehabilitation is complete.

### 3. Grant and Loan Details

- Up to \$225,000 sub-grant, and up to \$275,000 loan for a total of \$500,000. Up to language was included to account for unforeseen additional asbestos abatement if uncovered during the process.
- \$275,000 loan will be unsecured with a rate of 1 percent for 20 years. Payments will be collected annually and total \$15,239.21 per year.
- Spring Hill Apartments has the capacity to cover this annual payment. Additionally, Wyoming Housing Network has other properties that can be utilized as a secondary source of repayment if needed.

#### **Staff Recommendation:**

- **Staff recommends an encumbrance of \$500,000 with grant money to be utilized first and loan money to be utilized next upon grant funds being expended.**

## Chapter 1

### GENERAL PROVISIONS

#### \_\_\_\_ Section 1. Purpose. \_\_\_\_

\_\_\_\_ (a) \_\_\_\_ The purpose of the program is to promote economic development at the city, town, ~~and county~~ and regional levels in order to improve economic health and a stronger state economy. These rules are adopted in order to implement W.S. 9-12-602 through 9-12-603, which provide for the making of grants and loans to eligible applicants for economic or educational development infrastructure. The rules provide for a method of application, review and recommendation, the establishment of terms and conditions of awards and a hearing process.

\_\_\_\_ (b) \_\_\_\_ ~~Guiding Principles of the Business Ready Community Grant and Loan Program:~~

\_\_\_\_ (i) \_\_\_\_ ~~Support to Wyoming's communities that are diverse in size, resources and economies.~~

\_\_\_\_ (ii) \_\_\_\_ ~~Focus Business Ready Community funding on projects that will lead to sustainability of the program and local economic development efforts.~~

\_\_\_\_ (iii) \_\_\_\_ ~~Support projects that will help people, families and communities thrive.~~

\_\_\_\_ (iv) \_\_\_\_ ~~Increase the capacity of community and economic development partnerships and cooperative efforts between the private and public sectors recognizing that each has its own responsibilities.~~

\_\_\_\_ (v) \_\_\_\_ ~~Support and encourage communities that develop innovative responses to their economic challenges through a flexible review and recommendation process.~~

#### \_\_\_\_ Section 2. Authority.

\_\_\_\_ (a) \_\_\_\_ Rulemaking for this ~~program~~ is ~~the responsibility of the Wyoming Business Council as authorized by W.S. 9-12-104(a)(iv) and W.S. 9-12- 601.~~

#### \_\_\_\_ Section 3. Definitions.

(a) “Applicant” means a county, incorporated city or town, or joint powers board who applies for funding under the Business Ready Community Grant and Loan Program (BRC).



(b) “Award recipient” means a county, incorporated city or town, or joint powers board who has been awarded funds under the BRC.

(c) “Board” means the Wyoming State Loan and Investment Board.

(d) “Cash match” means cash contributed to the total eligible project cost. Real estate owned by the applicant or community development organization may be used as cash if the property in question was not purchased or developed by BRC funds and the value of the real estate is supported by an appraisal. Engineering and design work completed within six months of the date a project application is received by the Wyoming Business Council may be counted as cash match.

(e) “Community Development Organization” means a business entity organized to provide services as an agent of the applicant for the exclusive mission of helping to develop and support economic development within a specified city, county or region or state by providing necessary resources and assistance.

(f) “Council” means the Wyoming Business Council Board of Directors.

(g) “Council staff” means the staff of the Wyoming Business Council assigned to administer the program.

(h) “Economic Development” means creating additional economic health and a stronger state economy.

(i) “Eligible project costs” means total project cost, less ineligible project costs. Examples of ineligible costs include appliances, equipment, furnishings and other features of the facility which are not physically attached.

~~(f) “Cash match” means cash contributed to the total eligible project cost. Real estate owned by the applicant or community development organization may be used as cash if the property in question was not purchased or developed by BRC funds and the value of the real estate is supported by an appraisal. Engineering and design work completed within six months of the date a project application is received by the Wyoming Business Council may be counted as cash match.~~

(j) “Ineligible project costs” means project costs that are not eligible for BRC funding and include appliances, equipment, furnishings and other features of the facility which are not physically attached, and any other items identified by Council staff.

(k) “Infrastructure” means the purchase of land, buildings, facilities, telecommunications infrastructure, rights of way, airports, sewer and water projects, roads, landscaping, recreational and convention facilities or other infrastructure determined by Council staff. It does not include rehabilitation or expansion of existing infrastructure unless Council staff determines the rehabilitation or expansion is necessary to meet the purposes of this program.

(gl) “In-kind match” are contributions with value and must be applicable to the period to which the matching requirement applies and must be necessary for the project. Examples of in-kind contributions include labor, materials and real estate. In-kind contributions must be verifiable from the records showing how the value placed on in-kind contributions was derived. Labor services will be reported using rates consistent with those ordinarily paid by the applicant or other employers for similar work in the same labor market. Donated materials will be valued at market value at the time of donation. The value of donated buildings or land will be established using a market value or appraisal set by an independent appraiser or a market analysis prepared by a licensed realtor.

(m) “Managed Data Center” means a center whose primary purpose is the centralized repository for storage, management and dissemination of data and information for multiple businesses. This definition does not include spaces primarily for housing office computers, including individual workstations, servers associated with workstations or small server rooms.

(hn) “Multi-year project” means a large scale, stand-alone project which will be constructed over separate calendar years and which cannot be separated into smaller, independently operational phases.

(o) “Net Revenue” means income generated by the lease or sale of a BRC funded asset, less expenses associated with maintaining the asset. Deductible expenses must be paid by owner and can include utility costs, insurance, property taxes, pest control, repairs, property association fees and property maintenance.

(p) “Non-recourse loan” is a loan that is secured by a pledge of collateral, typically real property.

~~(iq) “Phased projects” means a project in which parts (“phases”) are completed and fully functional before the entire project is built-out. For example, a business park that will eventually have twenty lots may be phased such that infrastructure will open up five lots at a time over four different phases. The first five lots can be occupied immediately upon completion of the infrastructure and do not require completion of the remaining three phases. Receipt of funding for a phased project does not guarantee additional funding for future phases.~~

(jr) “Political subdivision” means a division of the state that exists primarily to discharge some function of local government.~~is an entity, serving as an agent for the applicant that meets two of the three following criteria:~~

~~\_\_\_\_\_ (i) A governmental function with a local purpose;~~

~~\_\_\_\_\_ (ii) Officers elected by the district’s inhabitants;~~

~~(iii) Provisions for assessment of taxes for finance purposes.~~

(ks) “Primary jobs” are jobs created or retained by a business(es) that provide(s) goods and services that are primarily exported out of the state, that gain market share from imports to the state, ~~or~~ that meet an unmet need in the market area and result in the creation of new wealth or economic diversification. An additional consideration will be wages and benefits.

(lt) “Revenue generating project” means real property developed with ~~Business Ready Community~~ BRC grants or loans that can generate revenue from; lease payments or the proceeds from the sale of real property.

~~(i) “Net Revenue” means income generated by the lease or sale of a BRC funded asset, less expenses associated with maintaining the asset. Deductible expenses must be paid by owner and can include utility costs, insurance, property taxes, pest control, repairs, property association fees and property maintenance.~~

(mu) “State Development Organization” means a corporation organized under W.S. 17-11-101 through 17-11-120 with the authority to provide financing for new, existing or expanding businesses and to fulfill other economic or community development purposes throughout the state of Wyoming and which may take equity positions and shall take security positions in its borrowers’ businesses and appropriate personal guarantees from the owners thereof.

#### Section 4. Eligible Applicants.

(a) A county, an incorporated city or town, ~~and~~ joint powers board, or some combination thereof may apply for BRC funding. A joint powers board may apply with the approval of all participating agencies to the joint powers agreement. Two or more eligible applicants may apply for a joint project via one application.

(b) The Council may enter into a contract/cooperative agreement with the Eastern Shoshone or the Northern Arapahoe Tribe in order to promote the purpose of this program.

(c) An applicant may contract with a Community Development Organization, State Development Organization or political subdivision to use BRC funds.

#### Section 5. Type of Projects. ~~A grant or loan may be used for the following types of projects:~~

(a) A Business Committed Project is a project in which an applicant has a business committed to start-up, expand, locate or retain jobs in the community. The applicant must demonstrate that new primary jobs will be created or retained by the business ~~and that the new jobs will be created at or above the county mean and/or median wages and/or improve community and economic capacity.~~ In addition to assisting a

particular business, a Business Committed Project may also fulfill the purpose of a Community Readiness Project. The maximum grant amount is three million dollars (\$3,000,000). Funding in excess of the maximum grant amount may be applied for as a BRC loan.

(b) A Community Readiness Project is a project which has no specific business committed to expand or locate in a community. The community wants to build infrastructure to ready itself for new business development under a specific strategy or plan of action; ~~for example, development of a business or industrial park, a downtown development project or facilities for labor force or entrepreneurial training.~~ The applicant must demonstrate potential exists for creation of new primary jobs. The maximum grant amount is three million dollars (\$3,000,000). Funding in excess of the maximum grant amount may be applied for as a BRC loan.

(c) A Community ~~Enhancement~~ Project is a project in which an applicant wants to improve the community's aesthetic character or quality of life in order to make itself more attractive for business development or workforce attraction and/or retention under a specific strategy or plan of action; ~~for example, landscaping, recreational, convention facilities, community centers, senior care or child care infrastructure.~~ Landscaping and streetscaping enhancements must be located in commercial districts, sites of business activity or high visibility areas. Recreation, convention or cultural centers must have a draw greater than the jurisdictional boundaries of the applicant. The maximum grant amount for Category 1 applicants is five hundred thousand (\$500,000) and the maximum grant amount for Category 2 applicants is seven hundred fifty thousand (\$750,000). Funding in excess of the maximum grant amount may be applied for as a BRC loan.

(d) A planning project is a project in which an applicant creates or further develops a community's economic development strategy and outlines an implementation plan.

(i) An economic development plan assesses the community as a whole and identifies potential future economic development opportunities. This may includes regional targeted industry plans. The maximum award is fifty thousand (\$50,000).

(ii) A feasibility study is a site specific or industry specific plan to determine the feasibility of a project to meet economic development objectives. The maximum award is twenty-five thousand (\$25,000).

(iii) A promotional plan addresses marketing of a community's assets that promotes business and/or workforce retention and attraction. The maximum award is twenty-five thousand (\$25,000).

(iv) A tourism plan addresses economic development opportunities for a defined region or community related to tourism and visitor attraction. The maximum award is twenty-five thousand (\$25,000).

**Section 6. Eligible Activities.**

(a) The following are eligible activities:

(i) Grant and loan funds may be used for economic or educational development infrastructure projects which may include, but are not limited to, water, sewer, streets and roads, telecommunications, airports, purchase of rights of way, purchase of land, buildings, facilities, industrial and business parks, industrial site or business district development, amenities within a business or industrial park, landscaping, recreational and convention facilities and other physical projects;

(ii) Grant and loan funds may not be used for the rehabilitation or expansion of existing infrastructure unless the Council determines the rehabilitation or expansion is necessary to meet the purpose of the program;

(iii) Grant and loan funds may be used for the expansion of infrastructure previously funded under this program for phased projects.

(ba) Grants for planning projects may only be used for the creation of the planning document(s). Funds may not be used for salary costs of the applicant or local organizations, travel costs for anyone other than the planning consultant(s) or reproduction of any promotional materials.

(b) Grant and loan funds may be used for the expansion of infrastructure previously funded under this program for phased projects.

(c) Grant and loan funds may not be used for the rehabilitation or expansion of existing infrastructure unless the Council determines the rehabilitation or expansion is necessary to meet the purpose of the program.

**Section 7. Ownership of Infrastructure**

(a) The infrastructure funded by this program shall be owned by the applicant or an agent of the applicant, such as a community development organization, state development organization or political subdivision acting in the role of agent of the applicant.

(b) Unless the project is owned by ~~an~~ the applicant, there shall be documentation that in the event of dissolution of the owner, the BRC-funded infrastructure ~~must~~ shall revert to the sponsoring applicant or a related city, town, county, joint powers board or tribe acting as agent of the applicant. This requirement may be satisfied by either specific language within articles of incorporation or a filing of the real estate record with the county of record.

(c) The infrastructure or facility can be sold to a private entity without advertising the sale or calling for bids, provided that the ~~grantee and/or borrower~~ award

recipient makes a determination that the sale will benefit the economic development of the community and holds the sale in accordance with W.S. 15-1-112(b) and any other applicable statute. a public hearing, notice of which shall include the appraised value of all real properties, at least once each week for three (3) consecutive weeks in a newspaper of general circulation in the county in which the grantee and/or borrower is located. All sales must be done in accordance with all applicable statutes.

(d) If the owner of any infrastructure or facility built with BRC funds sells the infrastructure or facility to a private entity prior to the end of the project reporting requirements, the new owner shall fulfill the requirements of the grant agreement.

## Section 8. Revenue Generating Projects.

(a) Revenue generated by the applicant- or an owner described in Section 7 of this Chapter must be recaptured at a negotiated rate commensurate with the public investment. A minimum of twenty-five percent (25%) of net revenue generated must be reimbursed to the BRC fund up to the original grant amount of the project. Revenue recapture requirements may be satisfied by repayment of a BRC loan or via revenue recapture payments unless otherwise prohibited by governmental rules or regulations.

(b) Revenue recaptured to the BRC fund must comply with the following requirements:

(i) If the total net revenue generated is less than the BRC grant amount, then no less than twenty-five percent (25%) of net revenue must be recaptured to the BRC fund; or

(ii) If the total net revenue generated is equal to or more than the BRC grant amount, then no less than twenty-five percent (25%) of the BRC award must be recaptured to the BRC fund.

(c) Revenue paid to the BRC fund will not exceed the original grant amount of the project.

(d) Revenue recapture requirements may be satisfied by repayment of a BRC loan or via revenue recapture payments unless otherwise prohibited by applicable statutes, rules or regulations.

(ae) All funds recaptured at the local level shall be placed in a segregated economic development account or separate line item within a budget.

(bf) No more than fifty percent (50%) of local recapture may be used for operational expenses of the agent of the applicant such as a local economic, community, or state organization if matched dollar-for-dollar by local funds. The Council staff may, at its expense, conduct an audit of records of the agent for the applicant.

(eg) Revenue recapture must be repaid to the BRC fund annually or according to a schedule agreeable to Council staff.

**Section 9. Projects Involving a Private Developer.**

(a) Projects involving a private developer ~~must~~ shall demonstrate that adequate consideration exists by showing that the expected benefit to the State is the projected economic impacts are at least as great as the BRC assistance, and may be demonstrated through Such projects shall meet at least two of the following four criteria:

(i) ~~Repayment of BRC funds;~~ as described in Section 8;

(ii) ~~Direct, permanent jobs created as a result of the project;~~

(iii) ~~Projected tax benefits;~~ and/or

(iv) ~~Donation of real estate that is not otherwise necessary for the project to the applicant or an agent of the applicant. The value of all real estate donations must be verified by a certified appraisal or market analysis as determined by Council staff.~~

**Section 10. Local Public Hearing and Approval.**

(a) An applicant is required to inform and educate the public and business community to the greatest extent possible about the proposed economic development project (including, but not limited to the economic development opportunity, possible funding sources and alternative solutions) utilizing a variety of techniques and media. The applicant must make readily available to the public access to the application and associated materials, exclusive of business plans or business financial information. An applicant shall actively solicit citizen input that can be submitted via writing, electronically or in person at a public hearing. A minimum of one public hearing is required before submission of an application. For the purposes of this program, seven (7) days is the minimum period for notification of a hearing date. Public notice shall be published in an official medium such as local newspapers, public fora, local governmental social media pages of general circulation within the boundaries of the applicant or another venue as approved by the Council staff. If the project facility is to be located outside the geographical boundaries of the applicant, the applicant shall hold an additional public hearing near the location of the proposed project facility. The notice shall contain a concise description of the proposed project and state that time will be set aside at the public hearing to take testimony from citizens about the project.

(i) To inform the public and gather information, any public hearing should shall at a minimum:

(A) Identify the economic development opportunity or opportunity(ies);

(B) Explore all known possible funding sources and alternative solutions to the opportunity or opportunity(ies);

(C) ~~Contain~~ Be advertised with a comprehensive description of the proposed project;

(D) Solicit testimony from citizens who may feel that the proposed project might compete with an existing business;

(E) Conduct specific outreach to any affected industry or industries and any competitors within that industry.

(ii) An applicant must use its best efforts to notify all providers of similar services in the market area about the public hearing at least seven (7) days in advance of the public hearing.

(b) An application must be accompanied by a description of the applicant's public engagement process, written comments received by the applicant, evidence of the public hearing notification, minutes from the public hearing and a signed resolution passed by the applicant or participating agencies to a joint powers board after the public hearing is held and public comments are considered.

#### Section 11. Application Procedures.

(a) The applicant must schedule a consultation with a Wyoming Business Council Regional Director to discuss the project.

~~(i) Each Wyoming Business Council Regional Director is available to assist applicants with the development of projects and preparation of applications. The Regional Director will use resources available such as the Department of Workforce Services and Wyoming's Community Colleges to define available workforce training programs that could be used in conjunction with educational development infrastructure and/or the labor market/workforce portion of the application.~~

~~(ii) Final ~~D~~draft applications and final draft application materials must be provided to the Regional Director no less than two weeks prior to submission.~~

~~(i) The applicant must schedule a consultation with a Wyoming Business Council Regional Director to discuss the project. The Wyoming Business Council Regional Director will submit preliminary comments and concerns along with the application. A copy of the draft application and draft application materials must be submitted to the Wyoming Business Council Regional Director at least two weeks before the application submission deadline;~~

(b) ~~An~~ Each application shall be reviewed by the ~~e~~ Council staff to determine eligibility and completeness.



~~\_\_\_\_\_ (c) \_\_\_\_\_ All grant and loan applications shall be reviewed by the office of the Attorney General for project structure, including recapture provisions, in advance of Council consideration.~~

~~(dc) A complete application shall be forwarded by the Council staff with a recommendation to the Council for review. Incomplete applications will be either tabled or sent back to the applicant for resubmittal at a different time. If Council staff determine that an application that is determined by the Council staff to be incomplete, the applicant shall be provided an explanation of the findings and recommendations in writing within thirty (30) working days of its receipt where practical.~~

~~(ed) The Council staff shall provide publish statewide notice of Council and Board meetings at which Business Ready Grant and Loan Program BRC applications will be discussed.~~

~~(fe) The Council staff shall provide the Council with a summary of each application with a recommendation as to that application, consider each application, allow for comments from the public, the applicant and the Council staff and refer to the Board the application with a recommendation.~~

~~(gf) Under extraordinary circumstances, the Council may recommend a waiver of rule requirements if the Council determines the waiver is consistent with the purpose of the Business Ready Community Grant and Loan Program BRC.~~

~~\_\_\_\_\_ (g) \_\_\_\_\_ The Council staff shall provide the Board with a summary of each application including the Council's recommendation.~~

## ~~\_\_\_\_\_ Section 12. Application Submittal Requirements.~~

~~(a) Application Submittal Requirements. An Each applicant shall submit the required application form and any supplemental documentation as required by Council staff.~~

~~\_\_\_\_\_ (b) \_\_\_\_\_ Other information as requested by Council staff.~~

~~(eb) Recipient of Previous Applicant Awards. An applicant must show shall demonstrate that satisfactory performance has been demonstrated under previous grants and/or loans awarded through this program.~~

## ~~\_\_\_\_\_ Section 13. Allocation Plan and Funding Cycles~~

~~(a) The Council may adopt a funding allocation plan for BRC projects and prioritize project types.~~

(b) Applications will be accepted according to an annual deadline schedule posted by the Council.

(c) BRC awards per applicant are limited as follows:

Business Committed	No Limit
Managed Data Center Cost Reduction	No Limit
Community Readiness	One per calendar year
Community Enhancement Project	One per calendar year
Planning	One per calendar year

(d) An applicant may request, with a single application, grant or loan funds up to the annual maximum amount for a multi-year project for a period not to exceed three (3) fiscal years. The applicant must demonstrate how the project meets the definition of a multi-year project.

~~Section 14. Application Evaluation. In addition to the Guiding Principles for the Business Ready Community Grant and Loan Program the Council staff shall utilize a scoring matrix to may evaluate a grant and/or loan application, utilizing one or more of the following criteria and measures:~~

- ~~(a) The extent to which the project will increase the number of primary jobs;~~
- ~~(b) The extent to which the project will create jobs at or above the county mean and/or median wages;~~
- ~~(c) The extent to which the project will create sustainable jobs or jobs with benefits such as health insurance and retirement;~~
- ~~(d) The extent to which the demand for those services outpaces the existing supply of services causing a detriment to the ability of the applicant to develop its workforce, community needs and economy;~~
- ~~(e) The extent of private investment in capital equipment and/or facilities for a new or existing business. Preference is given to projects leveraging private investment;~~
- ~~(f) The extent to which the project aligns with targeted industries identified by the local and regional community as well as the Council;~~
- ~~(g) The extent to which the total revenue for an existing business is increased;~~
- ~~(h) The extent to which the market share increases for an existing business as measured by units sold or some other measure that competitors in the market generally recognize as valid;~~
- ~~(i) The viability and thoroughness of a business plan which includes, at a minimum, a business description, management qualifications, market investigation, balance sheet, profit and loss for the previous three (3) years or tax returns for the previous three (3) years and cash flow~~

projections for the next three (3) years;

\_\_\_\_\_ (j) \_\_\_\_\_ The extent to which the project helps an applicant attract new businesses and/or expand and retain existing business(es);

\_\_\_\_\_ (k) \_\_\_\_\_ The extent to which the project helps an applicant fulfill community development goals related to economic development;

\_\_\_\_\_ (l) \_\_\_\_\_ The extent to which the project helps an applicant diversify its economy;

\_\_\_\_\_ (m) \_\_\_\_\_ The extent to which the project builds upon an applicant's unique assets and characteristics to develop momentum in market niches;

\_\_\_\_\_ (n) \_\_\_\_\_ The extent to which the project is ready to begin construction and/or implementation. For example, projects have secured financing, permits and licensing, zoning classifications, annexation, appraisals and purchase agreements necessary to complete the project;

\_\_\_\_\_ (o) \_\_\_\_\_ The extent to which the project helps the applicant grow the local workforce;

\_\_\_\_\_ (p) \_\_\_\_\_ The extent to which the project helps the applicant expand entrepreneurial and/or workforce training;

\_\_\_\_\_ (q) \_\_\_\_\_ The viability and thoroughness of the recapture plan for revenue generating projects that will anticipate revenue streams and prioritize economic development initiatives to be paid for with the revenue while allowing the applicant flexibility to respond to opportunities;

\_\_\_\_\_ (r) \_\_\_\_\_ The extent to which the project involves the use of a Business Ready Community loan;

\_\_\_\_\_ (s) \_\_\_\_\_ The extent to which the project leverages additional private investment.

\_\_\_\_\_ (t) \_\_\_\_\_ The extent to which the project assists the applicant's Main Street Program efforts;

\_\_\_\_\_ (u) \_\_\_\_\_ The extent to which the Community Enhancement project provides a listing of proposed community enhancement projects and site related to economic development along with preliminary cost estimates;

\_\_\_\_\_ (v) \_\_\_\_\_ The extent to which the planning project will create or further develop an applicant's specific economic development strategy;

\_\_\_\_\_ (w) \_\_\_\_\_ The extent to which the planning project will potentially lead to job creation or retention;

\_\_\_\_\_ (x) \_\_\_\_\_ The extent to which the planning project will address methods of funding to implement the plan;

\_\_\_\_\_ (y) \_\_\_\_\_ The extent to which the tourism planning project will increase overnight visitors, local sales tax revenue, local lodging tax revenue and local employment opportunities and earnings;

- ~~\_\_\_\_\_ (z) Satisfactory performance under previous grants awarded through this program;~~
- ~~\_\_\_\_\_ (aa) The extent to which the project will provide for information technology services to the state or to the applicant at a price discounted from the fair market value of the services;~~
- ~~\_\_\_\_\_ (bb) The extent to which the project will provide information technology services to technology related businesses in the state, at a price discounted from the fair market value of the services;~~
- ~~\_\_\_\_\_ (cc) The extent to which the project will facilitate the expansion or retention of a business developed at the University of Wyoming Business Technology Center;~~
- ~~\_\_\_\_\_ (dd) In order to determine compliance with Article 16, Section 6 of the Wyoming Constitution, the Council staff will consult with the Attorney General when evaluating a request to fund a “Business Committed” project, project involving a private developer or a “Managed Data Center Cost Reduction” project. The application and the Council recommendation will be reviewed by the Attorney General using the following criteria:~~
  - ~~\_\_\_\_\_ (i) A public purpose must exist;~~
  - ~~\_\_\_\_\_ (ii) Adequate consideration must be exchanged;~~
  - ~~\_\_\_\_\_ (iii) Statutory authority must exist.~~

~~**Section 15. Grant Match Requirements for Projects Other than Managed Data Center Cost Reduction grants.**~~

- ~~(a) BRC loans do not require a match.~~
- ~~(b) A BRC loan can be used to satisfy the grant match requirement.~~
- ~~(c) A grant for a “Planning” project shall require a minimum match of twenty-five percent (25%) of total eligible project activities. Community Development Block Grant funds cannot be used for a match.~~
- ~~(d) The total required Mmatch is based on total eligible project costs.~~
- ~~(e) Applicants must provide five percent (5%) of the required match for the project.~~
  - ~~(i) Eligible in-kind sources of match funds include property, building(s) and other funds as determined by Council staff.~~
  - ~~(ii) Ineligible in-kind sources of match funds include operations, maintenance, grant writing, grant administration and other as determined by Council staff.~~

(df) Following is a breakdown:

<b>BRC Required Match</b>			
	Category 1 Applicant	Category 2 Applicant	Notes
Business Committed	10%	5%	Half of match must be cash
Community Readiness	10%	5%	Half of match must be cash
Community Enhancement Project	25%	21%	Half of match must be cash
Planning	25%	25%	Half of Match must be all-cash
All matches are calculated as a percentage of total project cost.			

~~(e) A grant for a “Planning” project shall require a minimum cash match of twenty five percent (25%) of total eligible project activities. Community Development Block Grant funds cannot be used for a match.~~

(fg) Applicants for all other projects are categorized based on population and local government share of state sales and use tax per capita. Categories determine the required match. Sales and use tax figures are updated annually by the Wyoming Department of Revenue and population figures are updated every five years by the U.S. Census Bureau. Sales and use tax figures used for category determinations will be an average of the three most recent years’ data available. A schedule of categories will be regularly updated and posted on the Wyoming Business Council website.

(i) Category One applicants are those municipalities with a population greater than 1,300 or are located in a county where the three-year average of the local government share of state sales and use tax per capita is more than seventy percent (70%) of the statewide average.

(ii) Category Two applicants are those municipalities with a population under 1,300 or are located in a county where the three-year average of the local government share of state sales and use tax per capita is less than seventy percent (70%) of the statewide average.

(iii) In the even the applicant is ~~case of~~ a joint powers board, the project’s location will determine its categorization.

**Section 16. Fund Disbursement, Project Monitoring, Performance Measures and Revenue Recapture Reporting.**

(a) Procurement Standards. Applicants must follow state procurement regulations for cities and towns and the Wyoming Preference Act. If a non-municipal applicant has a procurement policy, Council staff or qualified consultants reserve the right to review that policy prior to fund disbursements and to disburse funds in accordance with that policy to the extent it is consistent with State law.

(b) Fund Disbursement. Funds shall be disbursed to the applicant only as needed to discharge obligations incurred in accordance with the Board approved eligible project costs. Request for disbursement shall be made via the online grant management system, access to which shall be provided by Council staff. Requests for fund disbursement must be supported by adequate proof that such an obligation has been incurred for the project purpose and is due and owing.

(c) Fund Reversion.

(i) If the Council staff determines that a project has not been completed within a reasonable time, Council staff shall notify the applicant in writing at least thirty (30) days prior to presenting the matter for Council review.

(ii) If the Council staff determines that the project is complete, but the full amount of the grant or loan has not been expended, ~~the~~ Council staff shall notify ~~grantee~~ the award recipient of this determination. Thirty (30) days following the notification, the unused portion of the grant or loan shall revert to the BRC Fund.

(iii) For projects that have not been started within one year: Council staff ~~will~~ shall notify a ~~grantee/borrower~~ award recipient of a pending expiration prior to the one-year anniversary of the grant/loan approval. The ~~grantee/borrower~~ award recipient ~~may~~ can submit a written request to continue the project. Council staff may request new ~~and/or~~ updated information and documentation. Council staff may recommend, and the Council may grant an extension of time in which to start ~~the project~~ or terminate the project.

(iv) For projects with contingencies, Council staff may request a monthly update on the status of ~~the any project contingencies~~. The ~~grantee/borrower~~ award recipient has the option to submit a new application or may request an extension or modification of the contingency terms through the Council staff. Council staff may recommend and the Council may grant an extension of time or grant a modification to the contingencies terms.

(d) Project Monitoring.

(i) Reports. Within fifteen (15) calendar days of the conclusion of each calendar quarter during the term of the ~~grant or loan~~ award contract, the applicant shall ~~supply~~ provide Council staff with a progress report. Each progress report shall set forth, in narrative form, the work accomplished under the grant or loan during the quarter and shall include a financial status report. At the end of the project, the applicant shall ~~furnish~~ provide Council staff with a comprehensive report of the project. ~~The applicant shall likewise furnish the Council staff with and a cumulative financial statement, that reflects~~ ing the total fund expenditure pursuant to this grant agreement the award contract.

(ii) Audits and inspections. The Council staff may, at its expense, conduct an audit of the records of the applicant and inspect the construction and operation

of the project.

(iii) Record retention. ~~Grantee~~Award recipients shall agrees to retain all records related to the project for five (5) years following the Council staff's date of notice to ~~grantee~~award recipient of closeout of the grant.

(e) Project Evaluation.

(i) Reports. Upon project construction, the ~~grantee/borrower~~award recipient shall submit annual reports for five years to evaluate project outcomes against established measures on an annual basis. Council staff shall tailor reports to the specific nature of each grant or loan, in agreements between the Council and ~~grantee~~award recipient. This requirement shall transfer with the transfer of any ownership interest in the infrastructure or building constructed with BRC funds.

(ii) Evaluation results. The Council shall use the evaluation report information to measure program outcomes, to promote learning from experience and to improve program performance. Evaluation results ~~will~~shall be available to other ~~grantees~~award recipients.

(iii) Project outcomes reported shall be substantiated by the applicant.

~~(iii)~~ (iv) At the end of the term of a BRC project, the ~~Grantee/Borrower~~award recipient shall provide a comprehensive report to the Council staff, in a format prescribed by the Council staff that is a cumulative financial and performance report of the project. This report shall, at a minimum, include a detailed accounting of project expenditures that were paid for with BRC grant or loan funds; the match contributed and the source of the match monies; recapture revenue(s) received, including an account of how recaptured revenues were or will be used, how recaptured revenue use complies with the rules of the BRC program and the project grant/loan agreement; and ~~a list of~~ the accomplishments that resulted from the grant or loan. An authorized official of the ~~Grantee/Borrower~~award recipient shall certify, under penalty of false swearing, that the information in the report is true. The Council staff reserves the right to require a BRC project audit to be conducted by the director of the department of audit or his designee. The award recipient ~~cost of this audit shall be~~ responsible for the cost of this audit~~the responsibility of the Grantee/Borrower~~.

~~(iv) A grant/loan recipient shall keep recapture funds in a segregated account and report on such to council staff for the term of the revenue recapture agreement.~~

## Chapter 3

### BUSINESS READY COMMUNITY LOAN INFORMATION

Section 1. Authority. Rulemaking for this program is the responsibility of the Wyoming Business Council as authorized by W.S. 9-12-104(a)(iv) and W.S. 9-12-601.

~~Section 1. Definitions. (a) “Non-recourse loan” is a loan that is secured by a pledge of collateral, typically real property. If the borrower defaults, the Council can seize collateral, but will not seek any further compensation from the borrower.~~

Section 2. General Policy.

(a) A BRC loan may be made to fund all or a portion of any project that is an eligible activity. A BRC loan ~~can~~ may be used in conjunction with a BRC grant. In no event shall a loan be made to pay off or refinance existing debt.

Section 3. Application Submittal Requirements.

(a) In addition to the application requirements in Chapter 1, the following items are required:

(i) A copy of the signed resolution of support from the applicant or the member agencies if the applicant is a joint powers board that includes source of repayment of the loan and the proposed security for the loan;

(ii) If applicable, documentation of any environmental remediation or review requirements to be undertaken or that have been or will be undertaken ~~(at the expense of the borrower)~~ applicant. Council staff ~~will~~ shall determine the level of environmental review required and, if after consultation with the Attorney General’s Office, Council staff determine that further review or remediation is required, the applicant shall undertake that review or remediation at its own expense;

(iii) If applicable, determination ~~if whether the real property is subject to~~ federal flood regulations. An applicant must include a federal floodplain map and identify location of proposed collateral. If necessary, flood and hazard insurance will be required at the expense of the ~~borrower~~ applicant;

(iv) If applicable, an applicant ~~must~~ shall include guarantees, letters of credit and any other proposed security for the loan;

(v) A letter from the applicant’s attorney addressing the following in detail:



- (A) The applicant’s authority to enter into the loan;
- (B) The applicant’s current indebtedness and borrowing capacity;
- (C) Whether or not theis loan will require an election;
- (D) The proposed mMethod of repayment and identified revenue sources for that repayment; and
- (E) An affirmation that the Wyoming State Constitution debt provisions and all other applicable statutes statutory duties of the applicant will be followed.

(vi) In order for the Council to determine the ability of the applicant to repay a loan and to aid the Attorney General in evaluating the legality of the proposed indebtedness, ~~an each~~ applicant shall provide an annual budget for the preceding and current fiscal years and a completed financial statement provided on a “General Financial Information” form provided by the Council staff, that includes, but is not limited to the following information:

- (A) Assessed valuation for the current and two (2) preceding fiscal years;
- (B) Total bonded and non-bonded indebtedness, including outstanding principal balance, interest rate and remaining term;
- (C) Total mills levied within the jurisdiction of the applicant for the current and two (2) preceding years: and; a breakdown of the mill levy for the current fiscal year;
- (D) Sales and use tax imposed within the jurisdiction of the applicant; and
- (E) A summary of the applicant’s total investments and cash balances for the three (3) preceding fiscal years.

(vii) Council staff may require additional information in accordance with Council loan policies.

~~\_\_\_\_\_ (viii) Other applicable information as requested by the Council staff.~~

\_\_\_\_\_ Section 4. **Maximum Loan Amount.**\_\_\_\_\_

~~\_\_\_\_\_ (a)\_\_\_\_\_~~The maximum loan amount is three million dollars (\$3,000,000) per application.

\_\_\_\_\_ Section 5. **Interest Rate and Term.**

\_\_\_\_\_ (a) A Business Ready Community Loan shall be made at the following interest rates as recommended by the Council and established by the Board and reflective of market rates.

\_\_\_\_\_ (ai) A floor of zero percent (0%) for non-revenue generating projects.

\_\_\_\_\_ (bii) A floor of one percent (1%) for revenue generating projects.

\_\_\_\_\_ (eiii) Loans may have a one-time servicing fee of one-half of one percent (0.5%) not to exceed five thousand dollars (\$5,000) and will be serviced through a third-party contract.

\_\_\_\_\_ (div) Fees such as origination, documentation, filing appraisal and any additional fees will be paid by the applicant.

\_\_\_\_\_ (ev) The term of the loan will be based upon the useful life of the asset not to exceed thirty (30) years.

#### \_\_\_\_\_ **Section 6. Security Interest.**

(a) A loan shall be adequately collateralized as recommended by the Council and determined by the Board. The Council may recommend, and the Board may require a first position security interest in the revenue generating facility and the related user fees or assessments. Other security may be required as determined by the Council and approved by the Board. A borrower ~~will~~ shall be required to maintain adequate insurance on the proposed infrastructure, pay applicable taxes and assessments when due and maintain the infrastructure in good condition. An applicant ~~will~~ shall be required to provide a complete appraisal on the collateral. The Council reserves the right to review and accept the appraisal or assign the appraisal to a third party to hire a third party to perform an appraisal at the cost of the applicant. An appraisal may be waived in the event Council staff determines the project has sufficient equity coverage without considering the value of the collateral.

(b) Loans may be made as non-recourse loans. If the borrower defaults, the Council can seize collateral but will not seek any further compensation from the borrower.

#### \_\_\_\_\_ **Section 7. Attorney General Opinion.**

\_\_\_\_\_ (a) No loan shall be made without the written opinion of the Attorney General certifying the legality of the transaction and all loan documents.

\_\_\_\_\_ (b) An election approving the project and borrowing for the project by the qualified electors of the borrowing entity shall be required only if the Attorney General or the applicant's attorney determines such an election is ~~otherwise~~ required by law.

#### \_\_\_\_\_ **Section 8. Loan Evaluation.**

\_\_\_\_\_ (a) In addition to Application Evaluation criteria in Chapter 1, ~~e~~Council staff shall evaluate a loan application utilizing the following criteria:

\_\_\_\_\_ (ai) Whether the user fees or assessments generated by the project will be sufficient so that the loan may be considered a reasonable and prudent investment of state funds; and

\_\_\_\_\_ (bii) ~~If applicable, w~~Whether the applicant is current on repayment obligations to the ~~Business Ready Community~~ BRC account or other state loan accounts on any other existing loans.

\_\_\_\_\_ **Section 9. Council Consideration.** The Council shall consider each application; allow for comments from the public, the applicant and the Council staff; and refer to the Board a recommendation including the amount of the loan, the term of the loan and the type of security required to secure the loan.

\_\_\_\_\_ **Section 10. Disbursement of Loan Proceeds.** Funds shall be disbursed to the applicant as needed to discharge obligations incurred in accordance with the Board approved eligible project costs. Requests for disbursement shall be made via the online grant and loan management system access to which shall be provided by the Council staff. Disbursement requests shall be supported by adequate proof that such an obligation has been incurred for the project purpose and is due and owing.

## Chapter 4

### BUSINESS READY COMMUNITY MANAGED DATA CENTER COST REDUCTION FUNDING

Section 1. Authority. Rulemaking for this program is the responsibility of the Wyoming Business Council as authorized by W.S. 9-12-104(a)(iv) and W.S. 9-12-601. Definitions.

(a) “Managed Data Center” means a center whose primary purpose is the centralized repository for storage, management and dissemination of data and information for multiple businesses. This definition does not include spaces primarily for housing office computers, including individual work stations, servers associated with workstations or small server rooms. For the purposes of these rules, the Council has adopted the Uptime Institute, Inc.’s four tiered classification approach to site power infrastructure. Projects must be similar and align with the characteristics of the tier classifications or another widely accepted metric for evaluating data centers.

(i) Tier IV data centers support companies with an international market presence delivering around the clock, year round services in a highly competitive market. Tier IV businesses are based on E-commerce, market transactions or financial settlement processes. The businesses tend to be large, global companies spanning multiple time zones.

(ii) Tier III data centers support internal and external clients around the clock, year round such as service centers and help desks, but can schedule short periods when limited service is acceptable.

(iii) Tier II data centers are typically internet based companies without serious financial penalties for quality of service commitments and small businesses whose information technology requirements are mostly limited to traditional normal business hours, allowing system shutdown during “off hours”.

(iv) Tier I data centers are small businesses where information technology primarily enhances internal business process and whose web presence is as a passive marketing tool. For example, internet based startup companies without quality of service commitments.

Section 2. Maximum Amount and Match.

(a) The maximum grant amount for a Managed Data Center Cost Reduction project is two million two hundred fifty thousand (\$2,250,000). The grant amount will be determined by the business’s match amount.

(b) The grant shall require a minimum private investment match that is at least one hundred twenty-five percent (125%) greater than the “Managed Data Center Data”

Center-Cost Reduction” grant. No less than fifty percent (50%) of the match shall be calculated by the net wages of those employees earning one hundred fifty percent (150%) of the median wage for all occupations in all industries within the county in which the project will take place. Nor more than fifty percent (50%) of the match shall be calculated by the private capital investments in taxable items. The following table shows three (3) examples of grant amounts and the required match. The match can be realized up to five (5) years. ~~The following table shows three (3) examples of grant amounts and the required match.~~

Total Grant Amount	Percent of Minimum Consideration	Minimum Required Match (Realized over 5 years)	Minimum Percent of Required Consideration Comprised of Wages (100% of which are 150% of the County Median)	Minimum Required Wages (100% of which are 150% above County Median)	Maximum Private Capital Investment in Taxable Items Allowable as Consideration
\$ 2,250,000	125%	\$ 2,812,500	50%	\$ 1,406,250	\$ 1,406,250
\$ 1,500,000	125%	\$ 1,875,000	50%	\$ 937,500	\$ 937,500
\$ 750,000	125%	\$ 937,500	50%	\$ 468,750	\$ 468,750

**Section 3. Eligible Project Activities.**

(a) Grants for Managed Data Center Cost Reduction projects may be used for the reduction of the costs of electrical power, broadband or both for Managed Data Centers.

**Section 4. Fund Disbursement, Project Monitoring and Project Evaluation.**

(a) Managed Data Center Cost Reduction projects are subject to all requirements listed in Chapter 1, Section 165 and the following:

(ai) Funds ~~will~~shall only be disbursed for businesses that are in operation in the jurisdiction of the applicant. Funds may be disbursed over five (5) years if the applicant realizes/achieves the match requirement. Annual grant disbursements may total no more than one-third (1/3) the total amount in addition to the unused balance available from previous grant years.

(bii) If the Council staff determines that a business participating in a “Managed Data Center Cost Reduction” project is not operating within one (1) year from the time the grant is approved, the grant will automatically expire. Based on information supplied by the ~~grantee~~ award recipient, Council staff may grant an extension of time in which the business must start operations.

(eiii) If the Council staff determines that five (5) years has elapsed since the commencement of operations of a business participating in a “Managed Data Center Cost Reduction” project and the match requirement has not been met, then the full or partial amount of grant disbursed to the applicant may be reimbursed to the BRC account.

**Section 5. Application Evaluation.** Council staff shall utilize a scoring matrix to evaluate an application. ~~In addition to other application evaluation criteria in Chapter 1, Managed Data Center Cost Reduction requests will be evaluated on the extent to~~

~~which the project will provide for the growth or recruitment of managed data centers at Tier II, Tier III and Tier IV levels or similar levels. Preference will be given to Tier III or Tier IV level or similar level managed data centers.~~

        **Section 6.    Application Submittal Requirements**

(a) ~~Each~~ Applicant under this Chapter shall ~~must follow~~ the application requirements in Chapter 1.

(b) In addition to other requirements listed for a development agreement in Chapter 1, the following ~~must~~ shall be included:

(i) An agreement that the business will repay all grant funds expended at a reasonable rate of return as negotiated with the applicant and approved by the Council if the business relocates from the political subdivision within five (5) years from first receiving funds;

(ii) An agreement that the business will repay all grant funds expended at a reasonable rate of return as negotiated with the applicant and approved by the Council if the business does not meet its match requirements within five (5) years from first receiving funds;

(iii) An understanding of the required match and job creation requirements;

(iv) The terms of the fund disbursements and a statement of which utility costs will be reduced using the grant funds and in what amount;

(v) ~~An understanding of the~~ written timeline for the business to become operational and a signed commitment to meet the milestones within that timeline;

(vi) An offer by the business and an acceptance or ~~declination~~ rejection by the applicant to provide a stated amount of information technology storage services to the applicant at a price discounted from the fair market value of the services;

(vii) ~~The signed contingency may also include a commitment by the business to offer a stated amount of information technology services to the state or a Wyoming based technology related business at a price discounted from the fair market value of the services;~~

~~(viii) (If applicable) A a signed lease agreement or memorandum committing the applicant and business to follow the terms of agreement with regards to the terms of a lease agreement;~~

~~(ix) (If applicable) Evidence that there is or will be infrastructure, architecture and services necessary for the support of a data center at a Tier II, Tier III or~~

~~Tier IV level or similar level.~~

(c) The signed development agreement may also include a commitment by the business to offer a stated amount of information technology services to the state or a Wyoming based technology related business at a price discounted from the fair market value of the services.

(d) At the applicant's expense, the Council staff may request a disinterested third party to validate a data center's Tier level, review the applicant's business plan or examine other aspects of an application made under this Chapter. Selection of the disinterested third party is at the sole discretion of Council staff. ~~must approve the third party.~~

DRAFT

**To:** Wyoming Business Council Board of Directors  
**From:** Julie Kozlowski, Investments Director  
**Date:** December 10, 2020  
**Re:** Business Ready Community (BRC) Program Allocation Plan

At the September 2020 Board meeting, staff asked the board to revisit the allocation plan as the meeting was the first of the new biennium. See attached memo from September. At that meeting, staff was directed to have additional discussions with the Grant and Loan Committee regarding the allocation plan. Following that discussion, the Grant and Loan Committee recommends:

- The Allocation Plan title be revised to Allocation Target
- Abandon the consideration that funds may be pulled up from lower categories but not the other way around
- Remaining project prioritizations, percentages of funding and other considerations remain the same
- Use as one tool in considering funding decisions



**To:** Wyoming Business Council Board of Directors  
**From:** Julie Kozlowski, Community Development Director  
**Date:** September 10, 2020  
**Re:** Business Ready Community (BRC) Program Allocation Plan

**Background**

The Wyoming Business Council established an allocation plan May 2016 to guide the disbursement of funds from the Business Ready Community (BRC) program. An allocation plan is not required by statute or rule but is the prerogative of the board. The allocation plan was created due to a significant reduction in funding for the BFY17/18 as a way to address projects and program priorities while retaining funding for future opportunities. The plan also allows the WBC Board to set and communicate priorities for funding specific project types.

**Considerations**

- Flexibility over rigidity
- Use as a guideline and not a hard-and-fast rule
- May be revisited regularly by the WBC Board
- Prioritizing funding
- Higher priority projects may “pull” money from lower priority allocations, but not the other way around
- WBC Board makes allocations quarterly and adjusts funding quarterly
- Budgets will change based on actual awards, carry-over funds, de-obligations, loan repayments and revenue recapture.

**Business Ready Community Funding by Biennial Fiscal Years**

Biennial Fiscal Year	Allocation
03/04	\$8,400,000
05/06	\$31,350,000
07/08	\$79,250,000
09/10	\$68,131,255
11/12	\$50,000,000
13/14*	\$50,000,000
15/16*	\$74,130,000
17/18	\$38,588,050
19/20	\$38,588,050
21/22	\$29,300,000

*\* includes funding for large infrastructure projects (\$15,000,000 in BFY 13/14 and \$10,000,000 in BFY 15/16)*

Using the current guidelines and priorities/percentages, the allocation for FY21 is:

- Business Committed 45%
- Community Development 54% (includes readiness and enhancement)
- Planning 1%

The BFY21/22 BRC budget is as follows:

\$21,300,000 - General Fund

\$8,000,000 - Other Funds (Mineral Royalty Grant)

\$29,300,000

-\$2,478,457 - Due to budget reductions as recommended by Governor on 8/26/20 leaving a balance of **\$26,821,543**

As of June 30, 2020 the BRC balance from previous fiscal years was \$18,008,159. Therefore, total funds available equals \$44,829,702.

2021-2022 BRC BIENNIUM ALLOCATION PLAN			
BRC Project Types	Priorities	% of Allocation	Biennium Allocation
Business Committed	High	45%	\$20,173,366
Community Development	Medium	54%	\$24,208,039
Planning	Low	1%	\$448,297
		<b>100%</b>	<b>\$44,829,702</b>

FY21 ALLOCATION PLAN			
BRC Project Types	Priorities	% of Allocation	Biennium Allocation
Business Committed	High	45%	\$10,086,682
Community Development	Medium	54%	\$12,104,020
Planning	Low	1%	\$224,149
<b>Totals</b>		<b>100%</b>	<b>\$22,414,851</b>

FY21 - Q1 ALLOCATION			
BRC Project Types	Priorities	% of Allocation	Available Funding
Business Committed	High	45%	\$2,521,671
Community Development	Medium	54%	\$3,026,005
Planning	Low	1%	\$56,037
<b>Totals</b>		<b>100%</b>	<b>\$5,603,713</b>

Should additional budget reductions be necessary, the allocation plan can be recalculated to consider that reduction in funding.

Staff requests the board's guidance on the project types, priorities, percentage of allocation and intervals at which balances will be revisited.