



## **Board of Directors Agenda**

Gillette, Wyoming – May 2-3, 2023

At the Gillette College Pronghorn Center

*Leading Economic Growth | Building Resilient Communities | Creating Opportunities*

**3807 College Dr. Gillette, Pronghorn Center, Gillette, WY**

### **Virtual Attendance Option**

Join the Zoom webinar at: <https://us02web.zoom.us/j/295704768>

-OR-

**Join by phone** at 1-669-900-6833, enter the 9-digit Meeting ID 295-704-768 (no PIN is required, please press # when prompted); if joining by phone please note your ability to interact with the panelists may be limited due to system limitations.

## **Tuesday, May 2, 2023**

*(Times and order of agenda items are tentative and subject to change without notice)*

Tuesday dress code is business casual – please wear your WBC name tag

**9:00 a.m.** Gillette business and industry bus tour for Board members and WBC team members

**12:30-1:30 p.m.** Lunch (Pronghorn Center)

**1:30 p.m.** WBC Board of Directors Work Session at Gillette College Pronghorn Center

---

## **Wednesday, May 3, 2023**

*(Times and order of agenda items are tentative and subject to change without notice)*

Wednesday dress code is business attire - please wear your WBC name tag

**CONSENT AGENDA:** *All agenda items listed with the designation of [CA] are considered routine items and will be enacted by one motion. There will be no separate discussion on these items unless a board member requests. A board member can request to have one or more items to be removed from the consent agenda.*

**8:00 a.m.** **Convene Public Meeting** – Co-Chair Kathy Tomassi

- Pledge of Allegiance (all remote participants will be muted)
- Welcome and Roll Call of Board Members
- Consent Agenda
  - [CA] Meeting Minutes for the February 22, 2023 Regular Meeting by Zoom Webinar (Page 5)
  - [CA] Quarterly People and Performance Report – Human Resources Manager Chava Case (Page 10)



## **Board of Directors Agenda**

Gillette, Wyoming – May 2-3, 2023

At the Gillette College Pronghorn Center

*Leading Economic Growth | Building Resilient Communities | Creating Opportunities*

- [CA] Quarterly Challenge Loan Report - Investments Director Bert Adam *(Page 16)*
- [CA] SBIR Quarterly Update – Entrepreneur Development Manager Taylor Vignaroli *(Page 18)*

**ACTION ITEM:** Consideration of approval of items included on Consent Agenda

**8:10 a.m. Welcome** – Mayor of Gillette Shay Lundvall

**8:20 a.m. CEO Report** - Chief Executive Officer Josh Dorrell

**8:50 a.m. Regional Director Reports**

- **Heather Tupper** - Southeast Regional Director
- **Drew Dietrich** – East Central Regional Director
- **Kristin Fong** - Northwest Regional Director
- **Patrick Edwards** – West Central Director
- **Kiley Ingersoll** – Southwest Regional Director
- **Brandi Harlow** – Northeast Regional Director

**9:30 a.m. Operations Standing Committee** – Committee Chair Derek Smith *(Page 22)*

- **Q3FY23 Financial Report** – Accounting Manager Lyndsay Orr, CPA
  - **ACTION ITEM:** Consideration of acceptance of quarterly financial report
- **Audit Services RFP and Contract with McGee, Hearne & Paiz, LLC for Auditing Services** – Accounting Manager, Lyndsay Orr, CPA
  - **ACTION ITEM:** Consideration of board recommendation
- **By-Laws Amendment** (Requires a two-third majority vote)– Chief Operating Officer Amy Grenfell
  - **ACTION ITEM:** Consideration of staff recommendation

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

**10:15 a.m. Services Standing Committee** – Committee Chair Mark Law *(Page 46)*

- **Administrative Rules for Small Business Innovation Research Matching Program Rules (SBIR)**– Entrepreneur Development Manager Taylor Vignaroli
  - **ACTION ITEM:** Consideration of staff recommendation to amend the rules
- **Administrative Rules for Kickstart: Wyoming Rules-** Entrepreneur Development Manager Taylor Vignaroli
  - **ACTION ITEM:** Consideration of staff recommendation to amend the rules
- **SBIR Disbursement Authorization Request** – Services Director Brandon Marshall



## **Board of Directors Agenda**

Gillette, Wyoming – May 2-3, 2023

At the Gillette College Pronghorn Center

*Leading Economic Growth | Building Resilient Communities | Creating Opportunities*

- ACTION ITEM: Consideration of staff recommendation to authorize investment and disbursement of funds allocated to the SBIR Matching Grant Program.
- **Broadband Office Update** – Broadband Manager Elaina Zempel

**11:15 a.m.      Strategy Execution Standing Committee** – Committee Chair Erick Arens (*Page 66*)

- **Strategy Report** – Chief Strategy Officer Sarah Fitz-Gerald
- **Pathways to Prosperity Project Update** - Chief Strategy Officer Sarah Fitz-Gerald and Pathways to Prosperity Project Team

**12:00 p.m.      Lunch Break** – *All virtual participants will be muted; please disable your webcam.*

*Lunch will be provided onsite for Board members in the Pronghorn Center and WBC team members. Members of the public are encouraged to visit a local restaurant.*

**12:45 p.m.      Resume Board Meeting**

**12:45 p.m.      Investments Standing Committee** – Committee Chair Alex Klein (*Page 67*)

- **Challenge Loan Program** – Loan Portfolio Manager John Wendling
  - Mine-Rite Technologies 50/50 Loan
    - **ACTION ITEM:** Consideration of staff recommendation
  - Chemical Consultants Succession Loan
    - **ACTION ITEM:** Consideration of staff recommendation
- **Business Ready Community (BRC) Program Updates** – Grants Portfolio Manager Noelle Reed & Loan Portfolio Manager John Wendling
  - **Sheridan Manufacturing Snapshot**
  - **BRC Loan Refinancing Package**
    - **ACTION ITEM:** Consideration of staff recommendation
  - **Administrative Rules for BRC**
    - **ACTION ITEM:** Consideration of staff recommendation for amended BRC Regular Rules
- **SSBCI Program/WYVC Fund Update** – Investments Director Bert Adam
  - **WYVC Memo**
    - **ACTION ITEM:** Consideration of staff recommendation

**3:00 p.m.      Other Board Matters and Adjournment**

- **Next Meeting of SLIB:** Thursday, June 1 @ 8:00 a.m. **NOTE:** *With no BRC projects on the May WBC agenda, the WBC will not be presenting at SLIB on June 1, 2023.*
- **Standing Committees** will meet this quarter during the week of August 21, 2023 (invites via Google Calendar):



## **Board of Directors Agenda**

Gillette, Wyoming – May 2-3, 2023

At the Gillette College Pronghorn Center

*Leading Economic Growth | Building Resilient Communities | Creating Opportunities*

- **Operations Standing Committee** - Tuesday, August 22, 2023 @ 10 a.m.
- **Strategy Execution Standing Committee** - Tuesday, August 22, 2023 @ 2 p.m.
- **Investments Standing Committee** - Wednesday, August 23, 2023 @ 10 a.m.
- **Services Standing Committee** - Thursday, August 24, 2023 @ 10 a.m.
- **Next Regular Meetings of this Board:**
  - September 6-7, 2023 – Evanston
  - December 12-13, 2023 – Virtual
  - February 27-28, 2024 – Cheyenne
  - May 7-8, 2024 - Casper

## Wyoming Business Council Board of Directors Meeting

**Wednesday, February 22, 2023 8:00 a.m. via Zoom Webinar**

**Board Present Board Meeting:** Erick Arens, Chuck Brown III, Cindy Johnson, Chuck Kenyon, Alex Klein, Mark Law, Erin Moore, Derek Smith, Pam Thayer, and Kathy Tomassi. Kim Devore joined board meeting at 11:30am and left at 3:26pm.

**Staff Present:** Kayla Kler, Amy Grenfell, Kari Kivisto, Ben Peterson, Bert Adam, Kiley Ingersoll, Heather Tupper, Sarah Fitz-Gerald, Amy Quick, Noelle Reed, Lyndsay Orr, Brandon Marshall, Chance Price, Brandi Harlow, Kristin Fong, Josh Dorrell, Chava Case, John Jenks, Elaina Zempel, Angie Buchanan, Jill Tregemba, Patrick Edwards, Wendy Lopez, Ryan Kilpatrick, Sue Akey, Zach Valerio, Amber Power, Gordon Finnegan, Katie O'Bryan, Kaley Holyfield, Ron Gullberg, John Wendling, and Ryan O'Bryan.

### **Convene Public Meeting – Co-Chair Erin Moore**

Board Co-Chair Erin Moore called the meeting to order at 8:00am, followed by the Pledge of Allegiance. Roll was called and quorum was established.

Ms. Moore asked for a motion to approve consent agenda.

#### **Consent Agenda**

- [CA] Meeting Minutes for the December 15, 2022, Regular Meeting by Zoom Webinar
- [CA] Meeting Minutes for the Special Board Meeting, January 20, 2023
- [CA] Quarterly People and Performance Report – Human Resources Manager, Chava Case
- [CA] Quarterly Challenge Loan Report: Investments Director, Bert Adam
- **ACTION ITEM:** Consideration of approval for Consent Agenda Items. Chuck Brown III made a motion to approve, and Pam Thayer seconded with no further discussion. Motion carried unanimously.

The Mayor of the City of Cheyenne, Patrick Collins gave a welcome to the board members. Mr. Collins said he does not envy the situation the Wyoming Business Council is in and all the challenges we face with economic development. He mentioned that we are having an issue with water and that the City is lacking. Electricity is also another situation the city is facing.

Derek Smith gave the report on the 2023 Officers Nominating Committee Report. Mr. Smith stated that the committee is submitting Kathy Tomassi as Co-Chair, Alex Klein as Vice Chair, and Erik Arens as Secretary/Treasurer for the 23/24 board year.

- **ACTION ITEM:** Consideration of approval for committee recommendations. Mark Law made a motion to approve, and Chuck Kenyon seconded with no further discussion. Motion carried unanimously.

Chief Executive Officer Josh Dorrell discussed a theme of things that are easy to say but are hard to do. Mr. Dorrell gave the example that in our organization it is people and performance management. Developing a team that has the right approach and attitude to tackle a job and it is hard to do. He stated that it is really hard to hire with the greater challenge of hiring the right people. We care about the person, and we hire rather a filling a spot. We also hire people that are humble, hungry, and smart. Mr. Dorrell

mentions that the WBC is on the hot seat a lot and we need the right team to get those jobs done. We have continued to analyze projects and the return on investment; we will focus on building capacity at a local level and other criteria. He shared the WBC's strategy. He stated that there are many factors that we look at and not just one factor qualifies a project. He thanked everyone for all the work we have done and what we continue to do in the future. Mr. Dorrell acknowledged and thanked Co-Chair Erin Moore for the work she has done as she has fulfilled the co-chair role. Other board members expressed their appreciation for Ms. Moore. Mr. Dorrell announced Lyndsay Orr's 5-year anniversary with the WBC. He referred to Chava Case to mention the new team members that are coming on board in the next few weeks. She stated that we have three new hires and reiterated that it took time to fill these important roles. Our own John Wendling is the new Loan Portfolio Manager. The Equity Portfolio Manager role has been offered to Gordon Finnegan, and the East Central Regional Director role was offered to Drew Dietrich.

Leadership Wyoming Executive Director, Mandy Fabel gave an update on The Wyoming Academy. Ms. Fabel shared the goal for the Academy-to learn and apply lessons in economic development while growing the capacity within Wyoming individuals, businesses, and entire communities. Ms. Fabel shared some of the outcomes and topics they are hoping to cover and achieve. The Academy will be held in four sessions held in four different communities.

Southeast Regional Director Heather Tupper reported that Cheyenne and Laramie County voters have been generous in voting on a fifth penny tax. She highlighted that the sixth penny tax was voted in for a total of \$35 million dollars. They estimate that the tax will be collected in about 38 months.

Northwest Regional Director Kristin Fong reported that capacity building is one of the top conversations. She stated that putting all of the pieces together for any project are important. She shared that we have all these layers building up and have conversations about what projects are viable and impactful.

West Central Director Patrick Edwards shared that there have been a lot of difficult conversations around economic development, and how do we do that. He said they have been productive conversations and building momentum moving forward. He has spent time talking with businesses about what resources are available, he mentions workforce grants.

Southwest Regional Director Kiley Ingersoll reported on all the energy projects that are continuing to grow in her area. She stated that according to SBA's website 98 percent of businesses in Wyoming are considered small businesses. She highlighted that the City of Evanston has businesses and organizations that are working together to help increase economic entrepreneurship, it is called Jumpstart Evanston.

Northeast Regional Director Brandi Harlow shared exciting news in Campbell County. Ms. Harlow said she has been part of this project for five years. In 2022 the EDA awarded \$580,00 dollars to the Gillette College foundation for two positions that can focus on economic development projects and have boots on the ground.

Committee Chair Erick Arens presented the Operations Standing Committee. Mr. Arens introduced Lyndsay Orr, Accounting Manager, to present the Q2FY23 Financial Report and the FY22 Audit Report.

Ms. Orr presented the financial report and stated that we are halfway through the budget year. We are at 44 percent, which is where we need to be for our general fund budget. Ms. Orr discussed that we have a 58-million-dollar Business Ready Community Budget. We were able to encumber several contracts that helped for this budget year. She explains in more detail how BRC projects are broken down. She shared information on a new Federal Grant and the breakdown of our federal budget.

- **ACTION ITEM:** Consideration of acceptance of Q2FY23 Financial Report. Alex Klein made a motion to approve, and Derek Smith seconded with no further discussion. Motion carried unanimously.

Mr. Arens introduced Robert Dahill, Partner, McGee Hearne & Paiz to present the FY22 Audit Report. Mr. Dahill thanked everyone for the opportunity to present. He stated that when they do the audit for the WBC there are two areas that they look at. The first is the financial statements and perform an audit. They confirm that they are prepared in accordance with Government auditing standards. They also confirm that the statements are not misleading, and information is properly disclosed. Mr. Dahill stated that they have given the highest assurance of a clean opinion. This is consistent with prior years. The second piece is the Federal awards, any organization that received \$750, 000 in federal awards needs to be audited. Within their process they found nothing that would rise to the level of a material weakness and issued a clean opinion. He stated that the audit went very well and thanked Lyndsay Orr for having everything available.

- **FY22 Audit Report** – McGee Hearne & Paiz, LLP, Partner, Robert Dahill

- **ACTION ITEM:** Consideration of acceptance of FY22 Audit Report. Kathy Tomassi made a motion to approve, and Alex Klein seconded with no further discussion. Motion carried unanimously.

Ms. Moore introduced Interim Committee Chair Derek Smith for the Services Standing Committee. Mr. Smith introduced Brandon Marshall, Services Director, to present project updates. Brandon had each of his Service team members report on their individual projects and each shared slides and information with the board.

Mr. Marshall reviewed the SBIR Matching Grant Quarterly Report. He stated that the SBIR matching grant program has been an extremely strong program in the time that we have had it. We are continuing to see this program being taken advantage of by businesses at a record pace. In 2022 we saw a 40% increase in funded applications from our previous best year, totaling ten funded applications. Currently we have committed 75% of our \$2 million biennium budget for the program. The SBIR Grant Applications have increased each year.

- **ACTION ITEM:** Consideration of acceptance of staff recommendation for the SBIR Matching Grant Quarterly Report. Kathy Tomassi made a motion to approve, and Mark Law seconded with no further discussion. Motion carried unanimously.

Ms. Moore asked for a motion to convene to the Executive Session for discussion of personnel matters.

- Chuck Kenyon made a motion to convene to the Executive session, and Pam Thayer seconded with no further discussion. Motion carried unanimously.

Board Meeting Reconvened at 12:45pm and roll call was completed for board members. A full board was recorded.

- **ACTION ITEM:** Consideration of acceptance for recommendation during Executive Session. Mark Law made a motion to approve, and Pam Thayer seconded with no further discussion. Motion carried unanimously.

Kathy Tomassi introduced Chief Strategy Officer, Sarah Fitz-Gerald. Ms. Fitz-Gerald introduced Chief Economist for Economic Analysis Division, Wenlin Liu to present the Economic update.

Mr. Liu shared a presentation including employment history for Wyoming with the ranking of the #1 industries compared to the rest of the US. Mr. Liu showed that Wyoming's economy does not mirror that of the nation. In terms of economic diversity and specialization, Wyoming is one of the least diversified states in the nation when measuring employment and GDP distribution across industries in comparison with the US.

Ms. Fitz-Gerald talked about resilience and how it is the ability of a system to maintain certain functions, processes, or populations after experiencing a disturbance, and working together. Working together can be a complex and intricate network of connections. She stated that we have a new Code of the West Campaign that they are launching. Ms. Fitz-Gerald also shared the Direct Air Capture DOE Opportunity and the Pathways to Prosperity Workstreams. Pathways to Prosperity workstreams that are being focused on are workforce, housing, federal grants, and energy. She announced that we will have a new Markets and Industry Manager soon.

Ms. Fitz-Gerald introduced Senior Fellow Harvard Growth Lab, Eric to update on Pathways to Prosperity. He stated that for the first couple of months they really focused on the question does WY have a growth problem, and if so what is it. He stated that they learned Wyoming's economic composition is not positioned to sustain a high quality of life for all parts of the State going forward. The ultimate goal is what actions the State of Wyoming can take to make sure we can move the needle in the right direction. They are focusing on some workstreams, the housing system, energy opportunities, fiscal system, workforce development and additional constraints that could then become workstreams.

Co-Chair Ms. Moore introduced Investments Standing Committee Chair Alex Klein. Mr. Klein stated that we have three BRC projects that are going to be presented. He introduced Grants Portfolio Manager, Noelle Reed.

Ms. Reed presented the first BRC project from Campbell County for the City of Gillette. They requested a \$2.6-million-dollar community readiness grant to construct the sewer system build-out for the Pronghorn Industrial Complex. To make this property ready for industrial development, the following infrastructure is needed: extension to the access road, water, telecommunications, electrical, and sewer system. After review, the staff recommendation is to fund as requested. There was discussion from Campbell County and board members on the project.

- **ACTION ITEM:** Consideration of staff recommendation to fund the BRC project. Erik Arens made a motion to approve, and Kathy Tomassi seconded with no further discussion. Motion carried unanimously. (Kim Devore not present for voting)

Ms. Reed presented the second BRC project from the Town of Sundance. They requested a 2.8-million-dollar Community Readiness Grant for the final phase of full restoration of the historic Old Stoney Building. In 2017 the City of Sundance applied to the WBC for a Community Readiness grant. The original request was for the full renovation of the building, but the project was broken into two phases. A grant for Phase one was funded at 2.4 million dollars. Phase one included full renovation of the basement, subbasement, and first floor. After review, the staff recommendation is to not fund the request. There was discussion from members of the Town of Sundance and board members on the project.

- **ACTION ITEM:** Consideration of staff recommendation not to fund the BRC project. Erin Moore made a motion to approve, and Cindy Johnson seconded with no further discussion. Motion carried unanimously. (Kim Devore not present for voting)

Ms. Reed presented the third BRC project from the Casper/Natrona County Economic Development Joint Powers Board (EDJPB). They requested a \$600,000 grant for the acquisition of a manufacturing plant to allow for Phoslock Environmental Technologies relocation out of China with intentions of exporting Wyoming made products within the United States and across the globe. After review the staff recommendation is to fund the project. There was discussion from members of the EDJPB and board members on the project.

- **ACTION ITEM:** Consideration of staff recommendation to fund the BRC project. Kathy Tomassi made a motion to approve, and Derek Smith seconded with no further discussion. Motion carried unanimously. (Kim Devore not present for voting)

Co-Chair Ms. Moore reviewed the future calendar of events and board matters.

**3:00 p.m.      Other Board Matters and Adjournment**

**Next Meeting of SLIB:** Thursday, April 6, 2023 @ 8:00 a.m.

**Standing Committees** will meet this quarter during the week of April 17 (invites via Google Calendar):

- **Operations Standing Committee** – Tuesday, April 18 @ 10:00 a.m.
- **Investments Standing Committee** – Wednesday, April 19 @ 10:00 a.m.
- **Services Standing Committee** – Thursday, April 20 @ 10:00 a.m.
- **Strategy Execution Standing Committee** – Thursday, April 20 @ 2:00 p.m.

**Next Regular Meeting of this Board:** May 3, 2023 in Gillette

Alex Klein made a motion to adjourn the meeting, Kathy Tomassi seconded.

*Respectfully Submitted*

---

*Kari Kivisto, Agency Services Manager*

---

*Derek Smith, Operations Committee Chair*



# PEOPLE AND PERFORMANCE

WBC BOARD OF DIRECTORS UPDATE

**APRIL 2023**



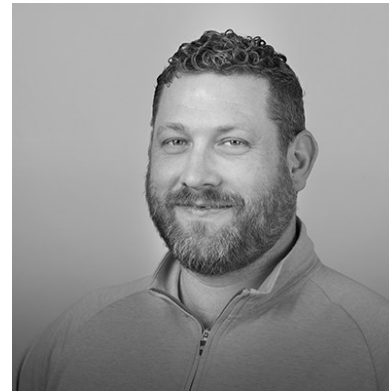
# PEOPLE

## NEW ARRIVALS

**DREW DIETRICH**  
**EAST CENTRAL REGIONAL DIRECTOR**  
**FEBRUARY 27, 2023**



**DAVID CARPENTER**  
**MARKETS & INDUSTRY MANAGER**  
**MARCH 13, 2023**





# PEOPLE

## RECRUITMENTS



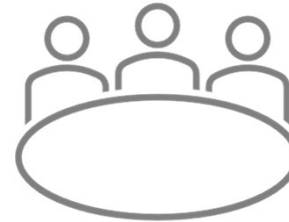
### **Internships:**

#### *Marketing & Communications*

Support to drive strategic marketing and outreach efforts. Create and launch digital marketing efforts, website updates, and analytics.

#### *People and Performance*

Support to drive talent development activities. Create, implement, and support recruitment processes, compensation design, performance management practices, and talent development activities.

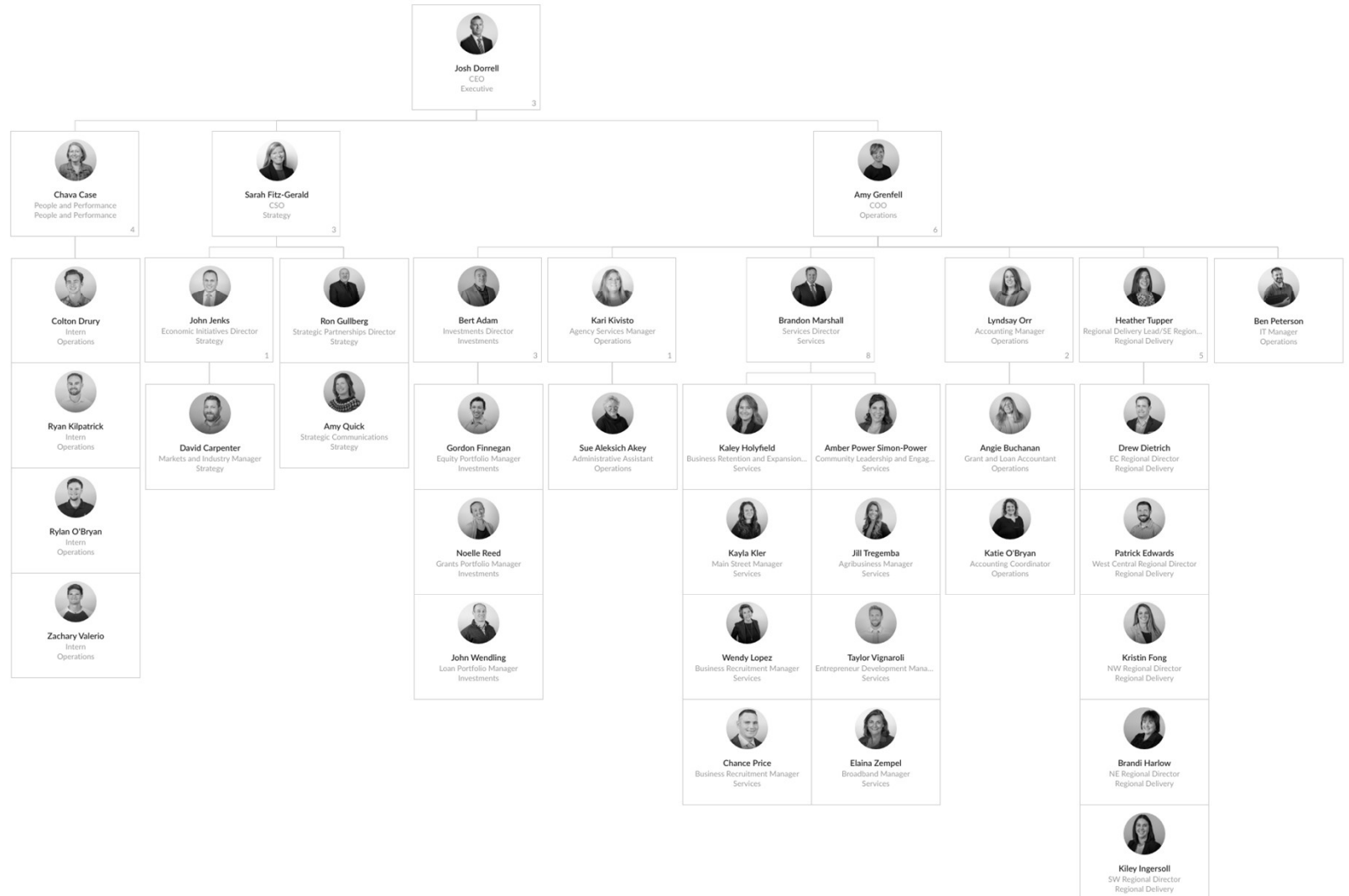


### **COMING SOON . . .**

#### **Project Manager:**

Dedicated team member to focus on aligning and managing various projects and programs in the interest of achieving organizational goals. Focused efforts toward comprehensive initiation, planning, execution, and monitoring and control.

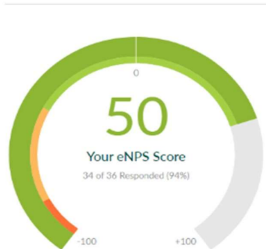
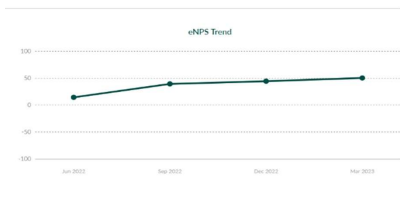
# WBC TEAM





# PERFORMANCE

## ORGANIZATIONAL LEADERSHIP



## PERSONAL LEADERSHIP



## PERSONAL PERFORMANCE



## TALENT DEVELOPMENT





# THANK YOU

Chava Case, People and  
Performance

[chava.case@wyo.gov](mailto:chava.case@wyo.gov)

307.287.8033



214 W. 15<sup>th</sup> Street  
Cheyenne, WY 82002  
Tel: (307) 777-2800 Fax: (307) 777-2838  
[www.wyomingbusiness.org](http://www.wyomingbusiness.org)

---

### Memorandum

**To:** Wyoming Business Council Board of Directors  
**From:** Investments Team  
**Subject:** Challenge Loan Reporting Requirements  
**Date:** May 3, 2023

---

1. **Past Due Report.** Challenge Loan Policy requires quarterly reporting of all loans 30 days or more past due.

There are five (5) past due payments as of March 31, 2023:

#### **Hay Growers:**

- **Ryan Riggs** – No new information to report since last quarter. The team will continue to keep in contact with Mr. Riggs and try to figure out a way to get payment. The loan originated on March 3, 2020. Mr. Riggs has yet to make any kind of payment towards the principal on the loan. The amount past due is \$61,151.17 (three annual payments plus a \$3,057.56 late charge); loan balance is \$140,000.00.
- **David Walker** – This is the first time Mr. Walker is now on the past due list. Late notice was sent and contact by phone has been made and a letter will be sent out by Markee. We will continue to monitor and make attempts to contact Mr. Walker. The amount past due as of January 1, 2023 is \$4,859.13 (Annual payment plus \$231.39 late charge). The loan originated on February 20, 2020 for \$34,408.80.

#### **Beet Growers:**

- **Cody Easum** – No new information to report since the last quarter. The WBC team and Mr. Sherman at Markee continue to make attempts to get ahold of Mr. Easum with no success. The loan originated on November 16, 2017 for \$68,500.00. Mr. Easum did make an interest-only payment and one principal and interest payment towards the loan. The last payment received was on January 1, 2020. The amount past due is \$31,433.64 (three annual payments plus a \$1,571.68 late charge); loan balance is \$64,067.44

- **Eden Farms** – The borrower has deceased, but his wife is working with the WBC. Ms. Eden did make a \$20,000 payment that was received on February 6, 2023. However, the payment wasn't quite enough to make everything current. The Loan balance as of March 31, 2023 is \$104,890.83. The loan originated on January 9, 2018 (\$135,300.00).
  - **Brandy Pettet** – Mr. Sherman at Markee sent out his third late notice in June, but we have not heard anything from him to date. We will continue to monitor and attempt to contact Mr. Pettet in the future. The amount past due is \$8,001.97 (2 annual payments plus \$381.05 late charge); loan balance is \$20,438.26. Mr. Pettet was late last year as well but did make the payment. The loan originated on November 16, 2017 for \$25,000.00. The last payment was received on March 1, 2021.
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 reserve is adequate with a balance of **\$1,208,623**. The allocation includes a 10% loan loss reserve for the Economic Disaster Loans originated, plus 0.5% of the total loan portfolio. The reserve does include a full allowance for Cody Easum (\$64,067.44), Ryan Riggs (\$140,000.00), Eden Farms (\$114,890.83), Brandy Pettet (\$20,438.26), and David Walker (\$31,191.35).
  - The resulting available fund balance in the Economic Development Fund is **\$11,820,977**
3. **Charge off balances.**
- No charge offs this quarter.
4. **Other News.**
- Converse County Bank Succession Loan approved in September 2022 has been withdrawn.
  - **There are currently 87 active loans totaling \$11,942,041.**

**Staff Recommendation:**

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



---

# **SBIR Quarterly Report**

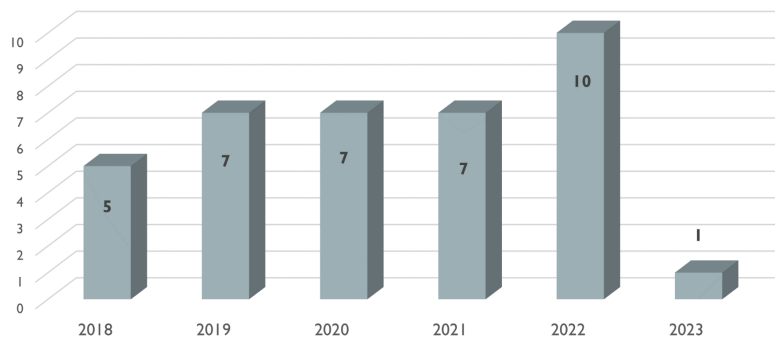
Q4-FY23

The SBIR matching grant program through the Wyoming Business Council remains a potent avenue for non-dilutive catalytic funding for small research-based companies throughout the state. As we advance the growth and support of Wyoming's startup ecosystem, the essential requirement for small businesses is a diverse range of funding mechanisms, and this matching grant serves an important role in enabling companies to flourish and expand in Wyoming. As a result of how this program fits into the needs of the startup financing landscape, we continue to see this program successful both in terms of its increasing popularity and the accomplishments of the companies utilizing the grant. As fiscal year 2023 nears its end, we have seen applications cool off relative to the previous hike in applications in the 2022 calendar year. While there have been no new applications approved in this final fiscal quarter to date, there are two that are currently under review and are emerging to be favorable candidates. At present, we have committed ~75% of our \$2M biennium budget for the program and anticipate having ~90% committed prior to fiscal year-end.

## SBIR Grant Applications to Date

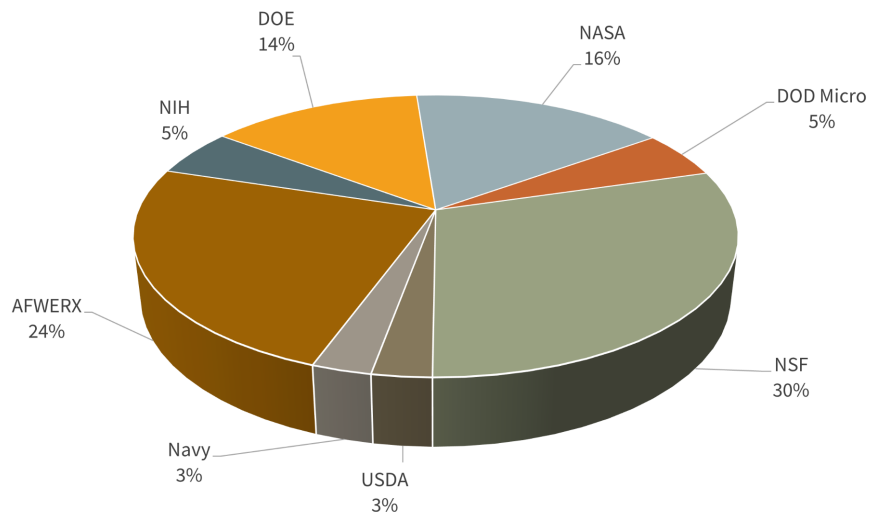
In our recent update, we highlighted a marked hike in applications in the 2022 calendar year. The graphs below represent the current grant awards and application submissions from the start of the matching program in 2018 to today.

SBIR Matching Grants:  
Funded Applications by Calendar Year



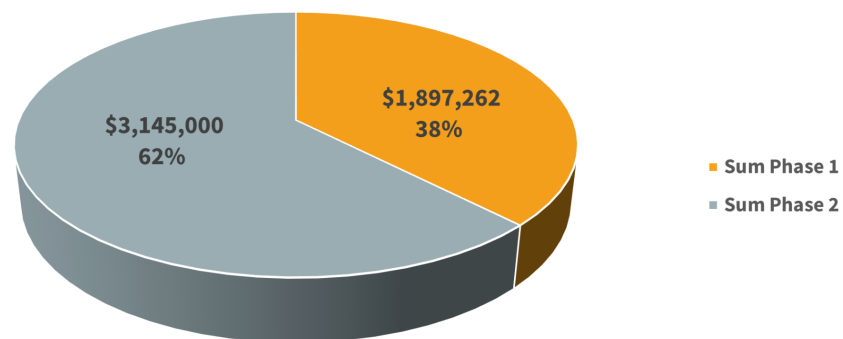
As for the federal side of our SBIR matching grants, we continue to see a substantial proportion of our grants in Wyoming being designated for collaborations with AFWERX, NSF, and NASA, which are presently the most sought-after federal grant providers.

SBIR Matching Grants:  
by Federal Granting Agency Over Program Life



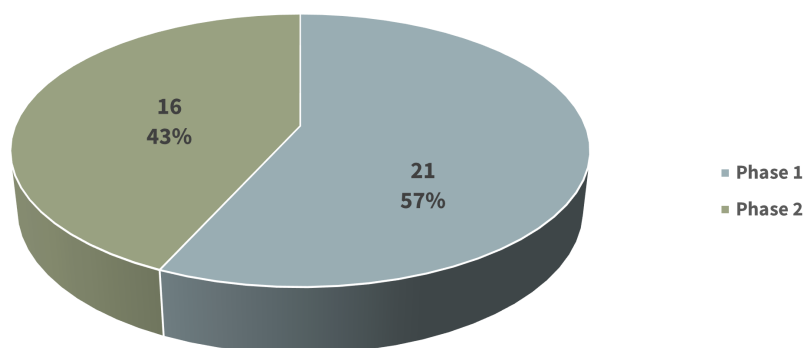
Thus far, the majority of our grant funding has been allotted to Phase II initiatives, with a total of 62% of the program's invested funds being directed towards Phase II grants. This distribution of funds by phase is considerably influenced by the program's provision of matching funds up to \$100K for Phase I awardees and up to \$200K for Phase II awardees.

**SBIR Awards By Phase:  
Lifetime of Wyoming Matching Grant**



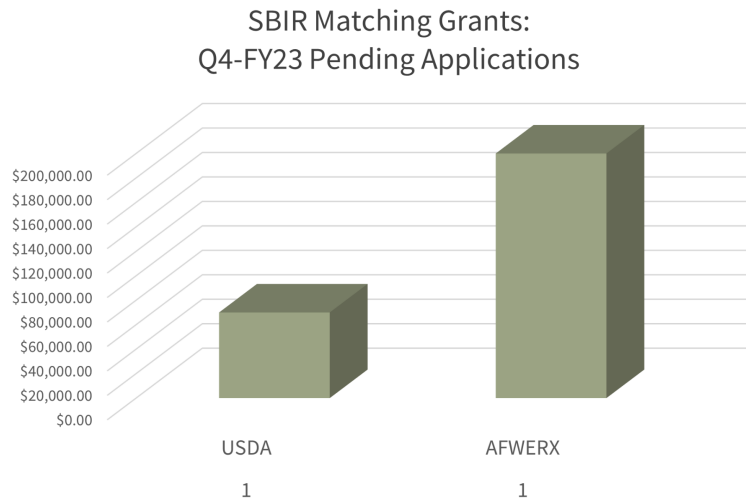
Although the vast majority of SBIR applications have traditionally comprised Phase I projects, we have observed a shift in trend towards a more even distribution of Phase I to Phase II applications. – this is likely a dynamic of early-stage companies moving through the SBIR pipeline from Phase I to Phase II. Since the program's inception, 57% of awarded applications have been Phase I grants.

**SBIR Award Count:  
Lifetime of Wyoming Matching Grant**

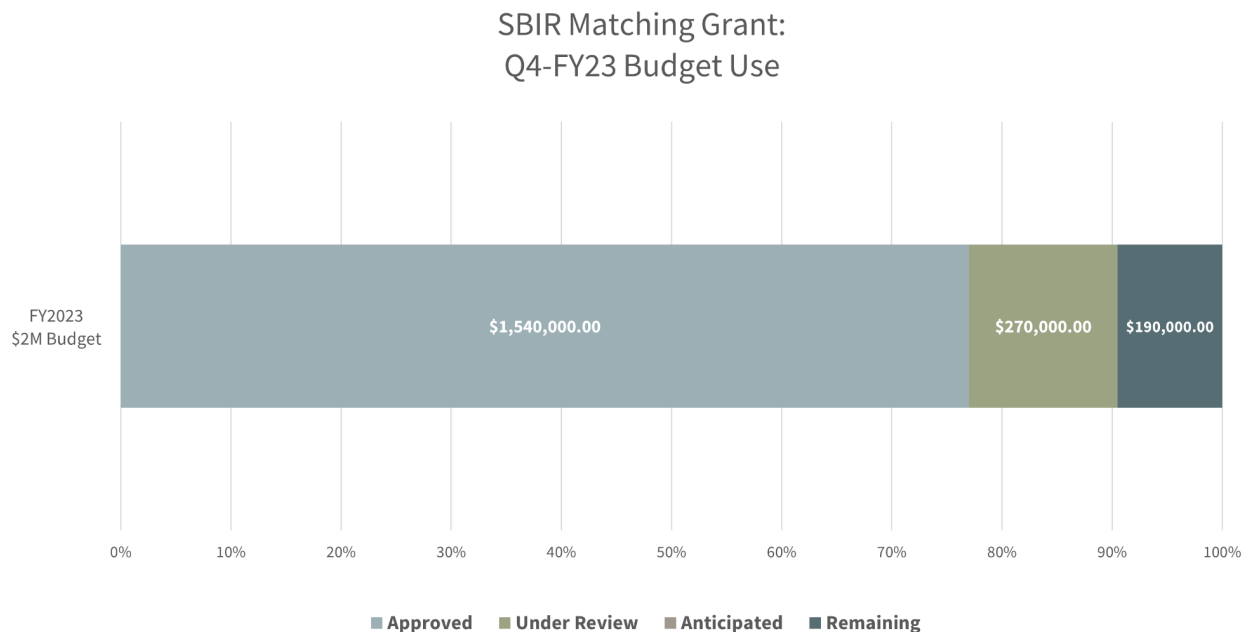


## Grant Applications Q4FY23

Our current pending applications are coming from the AFWERX and USDA federal granting agencies. There is an equal distribution of Phase I and Phase II applications that are currently in this review process.



Although we have not disbursed any funds since our last update, we are on the verge of allocating an extra \$270,000 to the ongoing applications under review, thereby utilizing nearly 90% of the remaining biennium budget for the year. This is an encouraging way to see that we are able to support innovative, high-growth-oriented companies, ultimately, highlighting the meaningful impact we are able to have here in Wyoming.





# OPERATIONS COMMITTEE REPORT

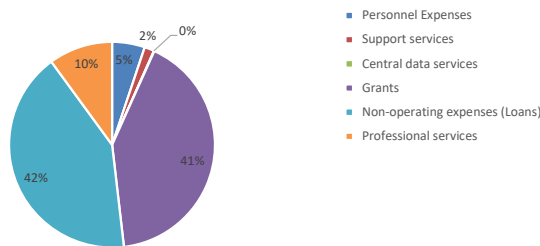
**Wyoming Business Council**  
**Quarter Ending March 31, 2023 (2023/2024 Biennium)**

Optimum = 75%

BUDGET SUMMARY	BUDGET	EXPENDED	ENCUMBERED	BALANCE	%	Avail. Cash Balance	YTD Receipts
<b>Economic Diversification</b>							
<b>Investments</b>	<b>\$58,042,037</b>	<b>\$5,220</b>	<b>\$25,176,288</b>	<b>\$32,860,529</b>	<b>43.38%</b>		
Investments (BRC/CDBG)	\$25,000	\$4,775	\$0	\$20,225	19.10%		
Finance	\$10,000	\$445	\$0	\$9,555	4.45%		
Business Ready Communities (Includes MRG)	\$58,007,037	\$0	\$25,176,288	\$32,830,749	43.40%		
<b>Services</b>	<b>\$5,878,706</b>	<b>\$1,238,929</b>	<b>\$2,406,736</b>	<b>\$2,233,041</b>	<b>62.01%</b>		
Services	\$2,219,704	\$92,705	\$1,624,961	\$502,038	77.38%		
Broadband Administration (fund 004)	\$200,603	\$68,802	\$20,000	\$111,801	44.27%		
Entrepreneurship	\$2,025,000	\$558,200	\$617,500	\$849,300	58.06%		
Main Street	\$235,000	\$64,051	\$500	\$170,449	27.47%		
Markets & Expansion	\$350,899	\$183,363	\$35,570	\$131,966	62.39%		
Recruitment	\$585,000	\$142,527	\$32,500	\$409,973	29.92%		
Community Development	\$62,500	\$4,986	\$0	\$57,514	7.98%		
Asia Pacific Trade Office	\$200,000	\$124,295	\$75,705	\$0	100.00%		
<b>Wyoming Business Council</b>							
<b>Operations</b>	<b>\$5,904,535</b>	<b>\$3,196,083</b>	<b>\$3,600</b>	<b>\$2,704,852</b>	<b>54.19%</b>		
Accounting	\$45,000	\$979	\$0	\$44,021	2.18%		
Agency Services	\$387,540	\$75,876	\$3,600	\$308,064	20.51%		
Board	\$34,050	\$16,343	\$0	\$17,707	48.00%		
Executive	\$14,250	\$10,337	\$0	\$3,913	72.54%		
HR (Non-Payroll)	\$209,100	\$32,631	\$0	\$176,469	15.61%		
HR (Payroll)	\$4,971,086	\$2,982,195	\$0	\$1,988,891	59.99%		
IT	\$243,509	\$77,722	\$0	\$165,787	31.92%		
<b>Regional Directors</b>	<b>\$90,000</b>	<b>\$34,327</b>	<b>\$0</b>	<b>\$55,673</b>	<b>38.14%</b>		
<b>Strategy</b>	<b>\$326,468</b>	<b>\$53,570</b>	<b>\$5,375</b>	<b>\$267,523</b>	<b>18.06%</b>		
General Strategy	\$105,000	\$9,134	\$5,375	\$90,491	13.82%		
Communications	\$138,448	\$2,647	\$0	\$135,801	1.91%		
Strategic Partnerships	\$83,020	\$41,789	\$0	\$41,231	50.34%		
<b>TOTAL GENERAL FUNDS</b>	<b>\$70,241,746</b>	<b>\$4,528,129</b>	<b>\$27,591,999</b>	<b>\$38,121,618</b>	<b>45.73%</b>		
<b>Federal Funds</b>							
Brownfield Revolving Loan Program	\$744,406	\$0	500,000	\$244,406	67.17%		
CDBG Program	\$3,120,026	\$891,580	693,292	\$1,535,154	50.80%		
ARPA State Planning	\$1,000,000	\$378,493	621,507	\$0	100.00%		
State Small Business Credit Initiative	\$951,455	\$17,784	\$0	\$933,671	1.87%	\$19,052,538	\$41,272
State Trade and Export Program (STEP)	\$145,125	\$21,098	15,000	\$109,027	24.87%		
Digital Equity/Access	\$530,006	\$0	\$0	\$530,006	0.00%		
Broadband Equity, Access, & Deployment (BEAD)	\$4,899,999	\$0	\$0	\$4,899,999	0.00%		
<b>TOTAL FEDERAL FUNDS</b>	<b>\$11,391,017</b>	<b>\$1,308,955</b>	<b>\$1,829,799</b>	<b>\$8,252,263</b>	<b>27.55%</b>		
<b>Agency Funds</b>							
Economic Loan Development (fund 039/089)*	\$26,140,876	\$34,033	\$80,967	\$26,025,876	0.44%	\$11,820,977	\$1,985,781
Rural Rehabilitation (fund 499)	\$300,000	\$17,500	\$0	\$282,500	5.83%	\$4,700,568	\$54,051
Wyoming Business Council (fund 085)	\$75,000	\$880	\$0	\$74,120	1.17%	\$212,033	\$4,383
<b>TOTAL AGENCY FUNDS</b>	<b>\$26,515,876</b>	<b>\$52,413</b>	<b>\$80,967</b>	<b>\$26,382,496</b>	<b>0.50%</b>		
<b>TOTAL BUDGET</b>	<b>\$108,148,639</b>	<b>\$5,889,497</b>	<b>\$29,502,765</b>	<b>\$72,756,377</b>	<b>32.73%</b>		
<b>American Rescue Plan Act</b>							
ARPA Connect Wyoming	250,000	250,000	-	-	100.00%		
Pathways to Prosperity	2,900,000	865,127	1,018,631	1,016,242	64.96%		
Capital Projects Fund - Broadband	\$73,400,000	\$258,975	\$66,025	\$73,075,000	0.44%		
<b>TOTAL ARPA</b>	<b>76,550,000</b>	<b>1,374,102</b>	<b>1,084,656</b>	<b>74,091,242</b>	<b>3.21%</b>		

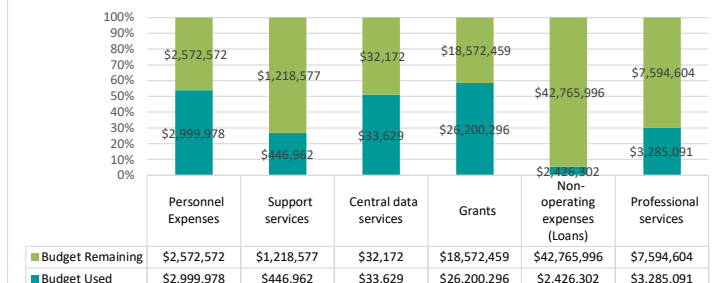
\* \$27.26 million reserved for Large Loan Fund

Budgeted Expenditures by Funding Source



Loan Type	Balance
Economic Disaster	5,247,105
Bridge	1,108,250
Amendment IV	-
Natural Gas Infrastructure	178,795
WyoTech	4,250,101
BRC	14,016,607
Unallocated Allowance	(50,834)
	<b>24,750,023</b>

Line Item Expenditure Summary



# **WYOMING BUSINESS COUNCIL**

## **QUARTER 3 FISCAL YEAR 2023 FINANCIAL REPORT**

### **BUDGET REPORT**

#### **General Funds**

- March 31, 2023 budget utilization came in at 45.73% compared to the 75% budget utilization for the third quarter. This is up from 7.58% utilization as of December 31, with the increase primarily due to the \$25 million BRC encumbrances.
- WBC and Economic Diversification budgets (budgets that revert) are at 56.96% utilization.
- Overall utilization compared to our optimum is due to encumbrances that were made under the previous 2021/2022 budget.

#### **Federal Funds**

- Total expenditures on our federal programs for the first half of fiscal year 2023 were approximately \$1.31 million.
- There are three new federal programs for this quarter.
  - State Small Business Credit Initiative (SSBCI): Received \$19,029,100 in January for the program. This money is being kept in its own fund, that so far has earned \$41,272 in interest revenue. The budget of \$951,455 is for the administration funds for us to run the program. Current available cash is \$19.05 million. When investments start to be made, it will be through balance sheet transactions, rather than expenditures.
  - The Broadband Equity, Access, and Deployment (BEAD) and Digital Access grants are funded by the Investment in Infrastructure and Jobs Act and are for broadband. The budgets shown here are also for administration funds. The contract with CTC will be funded by these programs.

#### **Agency Funds**

- As of December 31, the Economic Loan Development fund had an available budget of \$26 million. Of this, \$25 million budget is for large loan projects. Total cash as of 3/31 is \$39 million, however \$27.26 million is reserved for large loans, leaving \$11.82 million available for Challenge loans. The fund has received nearly \$2 million in loan principal and interest payments and investment income on the cash held in the fund.
- As of March 31, the Rural Rehabilitation fund had an available budget of \$283k, and \$4.7 million in available cash. The fund has earned \$54,051 in investment income.
- As of March 31, the Wyoming Business Council fund had an available budget of \$74k, and \$212k in available cash. It has earned \$4,383 in investment income.

#### **American Rescue Plan Act (ARPA) Funds**

- In addition to the \$3.15 million in State and Local Fiscal Recovery funds from the State, we have also been awarded \$73.40 million in Capital Projects Funds to continue the Connect Wyoming program.

### **BUDGETED EXPENDITURES**

- Our new federal programs primarily increased our professional services budget line-item, increasing the percentage to 10% of the budget from 5%. This caused our loan budget, and grant budget to decrease slightly. The loan budget makes up 42% of our overall budget, and grants make up 41%.

### **LINE-ITEM EXPENDITURE SUMMARY**

- The loan line-item is below 10% utilization, due to the \$25 million loan budget for large loans.
- The professional services line-item increased \$5.63 million due to the federal administration funds, which drove our professional services budget utilization down to 30%. In previous quarters, this line-item was trending higher than the budget optimum.

### **LOANS RECEIVABLE**

- The net loans receivable balance as of March 31 is \$24.75 million.
- Total principal and interest payments on loans received since July 1 is \$2.44 million.

**CONTRACT BETWEEN  
WYOMING BUSINESS COUNCIL  
AND  
MCGEE, HEARNE & PAIZ, LLP**

1. **Parties.** The parties to this Contract are Wyoming Business Council (Council), whose address is: 214 W 15<sup>th</sup> St. Cheyenne, WY 82002, and McGee, Hearne & Paiz, LLP (Contractor), whose address is: 314 W 18<sup>th</sup> St., Cheyenne, WY 82001.
2. **Purpose of Contract.** The purpose of this Contract is to set forth the terms and conditions by which the Contractor shall provide professional auditing services.
3. **Term of Contract.** his Contract is effective when all parties have executed it (Effective Date). The term of the Contract is from Effective Date through June 30, 2024. All services shall be completed during this term.

This Contract may be extended twice by agreement of both parties in writing and subject to the required approvals. There is no right, or expectation of extension and any extension will be determined at the discretion of the Council.

4. **Payment.**
  - A. The Council agrees to pay the Contractor for the services described in Attachment A, which is attached to and incorporated into this Contract by this reference. Total payment under this Contract shall not exceed, fifty-two thousand dollars (\$52,000). Payment shall be made when services are completed and incorporated herein by reference. Payment shall be made within forty-five (45) days after submission of invoice pursuant to Wyo. Stat. § 16-6-602. Contractor shall submit invoices in sufficient detail to ensure that payments may be made in conformance with this Contract.
  - B. No payment shall be made for work performed before the Effective Date of this Contract. Should the Contractor fail to perform in a manner consistent with the terms and conditions set forth in this Contract, payment under this Contract may be withheld until such time as the Contractor performs its duties and responsibilities to the satisfaction of Council.
5. **Responsibilities of Contractor.** The Contractor agrees to:
  - A. Provide the services described in Attachment A, Scope of Work.
6. **Responsibilities of Council.** The Council agrees to:
  - A. Pay Contractor in accordance with Section 4 above.
7. **General Provisions.**

- A. Amendments.** Any changes, modifications, revisions, or amendments to this Contract which are mutually agreed upon by the parties to this Contract shall be incorporated by written instrument, executed by all parties to this Contract.
- B. Applicable Law, Rules of Construction, and Venue.** The construction, interpretation, and enforcement of this Contract shall be governed by the laws of the State of Wyoming, without regard to conflicts of law principles. The terms “hereof,” “hereunder,” “herein,” and words of similar import, are intended to refer to this Contract as a whole and not to any particular provision or part. The Courts of the State of Wyoming shall have jurisdiction over this Contract and the parties. The venue shall be the First Judicial District, Laramie County, Wyoming.
- C. Assignment Prohibited and Contract Shall Not be Used as Collateral.** Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set out in this Contract without the prior written consent of the other party. The Contractor shall not use this Contract, or any portion thereof, for collateral for any financial obligation without the prior written permission of the Council.
- D. Audit and Access to Records.** The Council and its representatives shall have access to any books, documents, papers, electronic data, and records of the Contractor which are pertinent to this Contract.
- E. Availability of Funds.** Each payment obligation of the Council is conditioned upon the availability of government funds which are appropriated or allocated for the payment of this obligation, and which may be limited for any reason including, but not limited to, congressional, legislative, gubernatorial, or administrative action. If funds are not allocated and available for continued performance of the Contract, the Contract may be terminated by the Council at the end of the period for which the funds are available. The Council shall notify the Contractor at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to the Council in the event this provision is exercised, and the Council shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section.
- F. Award of Related Contracts.** The Council may award supplemental or successor contracts for work related to this Contract or may award contracts to other contractors for work related to this Contract. The Contractor shall cooperate fully with other contractors and the Council in all such cases.
- G. Certificate of Good Standing.** The Contractor shall provide to the Council a Certificate of Good Standing from the Wyoming Secretary of State, or other proof that Contractor is authorized to conduct business in the State of Wyoming, if required, before performing work under this Contract. Contractor shall ensure that all annual filings and corporate taxes due and owing to the Secretary of State’s office are up-to-date before signing this Contract.

- H. Compliance with Laws.** The Contractor shall keep informed of and comply with all applicable federal, state, and local laws and regulations in the performance of this Contract.
- I. Confidentiality of Information.** All documents, data compilations, reports, computer programs, photographs, data, and other work provided to or produced by the Contractor in the performance of this Contract shall be kept confidential by the Contractor unless written permission is granted by the Council for its release. If and when Contractor receives a request for information subject to this Contract, Contractor shall notify Council within ten (10) days of such request and shall not release such information to a third party unless directed to do so by Council.
- J. Entirety of Contract.** This Contract, consisting of nine (9) pages and Attachment A, Scope or Work, consisting of two (2) pages, represent the entire and integrated Contract between the parties and supersedes all prior negotiations, representations, and agreements, whether written or oral. In the event of a conflict or inconsistency between the language of this Contract and the language of any attachment or document incorporated by reference, the language of this Contract shall control.
- K. Ethics.** Contractor shall keep informed of and comply with the Wyoming Ethics and Disclosure Act (Wyo. Stat. § 9-13-101, *et seq.*) and any and all ethical standards governing Contractor's profession.
- L. Extensions.** Nothing in this Contract shall be interpreted or deemed to create an expectation that this Contract will be extended beyond the term described herein. Any extension of this Contract shall be initiated by the Council and shall be accomplished through a written amendment between the parties entered into before the expiration of the original Contract or any valid amendment thereto, and shall be effective only after it is reduced to writing and executed by all parties to the Contract.
- M. Force Majeure.** Neither party shall be liable for failure to perform under this Contract if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays.
- N. Indemnification.** The Contractor shall release, indemnify, and hold harmless the State, the Council, and their officers, agents, and employees from any and all claims, suits, liabilities, court awards, damages, costs, attorneys' fees, and expenses arising out of Contractor's failure to perform any of Contractor's duties and obligations hereunder or in connection with the negligent performance of

Contractor's duties or obligations, including, but not limited to, any claims, suits, liabilities, court awards, damages, costs, attorneys' fees, and expenses arising out of Contractor's negligence or other tortious conduct.

- O. Independent Contractor.** The Contractor shall function as an independent contractor for the purposes of this Contract and shall not be considered an employee of the State of Wyoming for any purpose. Consistent with the express terms of this Contract, the Contractor shall be free from control or direction over the details of the performance of services under this Contract. The Contractor shall assume sole responsibility for any debts or liabilities that may be incurred by the Contractor in fulfilling the terms of this Contract and shall be solely responsible for the payment of all federal, state, and local taxes which may accrue because of this Contract. Nothing in this Contract shall be interpreted as authorizing the Contractor or its agents or employees to act as an agent or representative for or on behalf of the State of Wyoming or the Council or to incur any obligation of any kind on behalf of the State of Wyoming or the Council. The Contractor agrees that no health or hospitalization benefits, workers' compensation, unemployment insurance or similar benefits available to State of Wyoming employees will inure to the benefit of the Contractor or the Contractor's agents or employees as a result of this Contract.
- P. Nondiscrimination.** The Contractor shall comply with the Civil Rights Act of 1964, the Wyoming Fair Employment Practices Act (Wyo. Stat. § 27-9-105, *et seq.*), the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, *et seq.*, and the Age Discrimination Act of 1975 and any properly promulgated rules and regulations thereto and shall not discriminate against any individual on the grounds of age, sex, color, race, religion, national origin, or disability in connection with the performance under this Contract.
- Q. Notices.** All notices arising out of, or from, the provisions of this Contract shall be in writing either by regular mail or delivery in person at the addresses provided under this Contract.
- R. Notice of Sale or Transfer.** The Contractor shall provide the Council with notice of any sale, transfer, merger, or consolidation of the assets of the Contractor. Such notice shall be provided in accordance with the notices provision of this Contract and, when possible and lawful, in advance of the transaction. If the Council determines that the sale, transfer, merger, or consolidation is not consistent with the continued satisfactory performance of the Contractor's obligations under this Contract, then the Council may, at its discretion, terminate or renegotiate the Contract.
- S. Ownership and Return of Documents and Information.** Council is the official custodian and owns all documents, data compilations, reports, computer programs, photographs, data, and other work provided to or produced by the Contractor in the performance of this Contract. Upon termination of services, for any reason, Contractor agrees to return all such original and derivative information and

documents to the Council in a useable format. In the case of electronic transmission, such transmission shall be secured. The return of information by any other means shall be by a parcel service that utilizes tracking numbers. Upon Council's verified receipt of such information, Contractor agrees to physically and electronically destroy any residual Council-owned data, regardless of format, and any other storage media or areas containing such information. Contractor agrees to provide written notice to Council confirming the destruction of any such residual Council-owned data.

**T. Prior Approval.** This Contract shall not be binding upon either party, no services shall be performed, and the Wyoming State Auditor shall not draw warrants for payment, until this Contract has been fully executed, approved as to form by the Office of the Attorney General, filed with and approved by A&I Procurement, and approved by the Governor of the State of Wyoming, or his designee, if required by Wyo. Stat. § 9-2-3204(b)(iv).

**U. Insurance Requirements.**

- (i) During the term of this Contract, the Contractor shall obtain and maintain, and ensure that each subcontractor obtains and maintains, each type of insurance coverage specified in Insurance Coverage, below.
- (ii) All policies shall be primary over any insurance or self-insurance program carried by the Contractor or the State of Wyoming. All policies shall include clauses stating that each insurance carrier shall waive all rights of recovery under subrogation or otherwise against Contractor or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.
- (iii) The Contractor shall provide Certificates of Insurance to the Council verifying each type of coverage required herein. If the policy is a "claims made" policy instead of an "occurrence" policy, the information provided shall include, but is not limited to, retroactive dates and extended reporting periods or tails.
- (iv) All policies shall be endorsed to provide at least thirty (30) days advance written notice of cancellation to the Council. A copy of the policy endorsement shall be provided with the Certificate of Insurance.
- (v) In case of a breach of any provision relating to Insurance Requirements or Insurance Coverage, the Council may, at the Council's option, obtain and maintain, at the expense of the Contractor, such insurance in the name of the Contractor, or subcontractor, as the Council may deem proper and may deduct the cost of obtaining and maintaining such insurance from any sums which may be due or become due to the Contractor under this Contract.

- (vi) All policies required by this Contract shall be issued by an insurance company with an A.M. Best rating of A- VIII or better.
- (vii) The Council reserves the right to reject any policy issued by an insurance company that does not meet these requirements.

**V. Insurance Coverage.** The Contractor shall obtain and maintain the following insurance in accordance with the Insurance Requirements set forth above:

- (i) Commercial General Liability Insurance. Commercial general liability insurance (CGL) coverage, occurrence form, covering liability claims for bodily injury and property damage arising out of premises, operations, products and completed operations, and personal and advertising injury, with minimum limits as follows:
  - (a) \$1,000,000.00 each occurrence;
  - (b) \$1,000,000.00 personal injury and advertising injury;
  - (c) \$2,000,000.00 general aggregate; and
  - (d) \$2,000,000.00 products and completed operations.

The CGL policy shall include coverage for Explosion, Collapse and Underground property damage. This coverage may not be excluded by endorsement.

- (ii) Workers' Compensation and Employer's Liability Insurance. Employees hired in Wyoming to perform work under this Contract shall be covered by workers' compensation coverage obtained through the Wyoming Department of Workforce Services' workers' compensation program, if statutorily required. Employees brought into Wyoming from Contractor's home state to perform work under this Contract shall be covered by workers' compensation coverage obtained through the Wyoming Department of Workforce Services' workers' compensation program or other state or private workers' compensation insurance approved by the Wyoming Department of Workforce Services, if statutorily required.

The Contractor shall provide the Council with a Certificate of Good Standing or other proof of workers' compensation coverage for all of its employees who are to perform work under this Contract, if such coverage is required by law. If workers' compensation coverage is obtained by Contractor through the Wyoming Department of Workforce Services' workers' compensation program, Contractor shall also obtain Employer's Liability "Stop Gap" coverage through an endorsement to the CGL policy required by this Contract, with minimum limits as follows:

- (a) Bodily Injury by Accident: \$1,000,000.00 each accident;
- (b) Bodily Injury by Disease: \$1,000,000.00 each employee; and
- (c) Bodily Injury by Disease: \$1,000,000.00 policy limit.

(iii) Unemployment Insurance. The Contractor shall be duly registered with the Department of Workforce Services and obtain such unemployment insurance coverage as required. The Contractor shall supply Council with a Certificate of Good Standing or other proof of unemployment insurance coverage.

(iv) Automobile Liability Insurance. Automobile liability insurance covering any auto (including owned, hired, and non-owned) with minimum limits of \$1,000,000.00 each accident combined single limit.

(a) \$2,000,000.00 each occurrence; and

(b) \$2,000,000.00 general aggregate.

Coverage shall include breach response costs, regulatory fines and penalties, and credit monitoring expenses, with limits sufficient to respond to these obligations.

**W. Publicity.** Any publicity given to the projects, programs, or services provided herein, including, but not limited to, notices, information, pamphlets, press releases, research, reports, signs, and similar public notices in whatever form, prepared by or for the Contractor, shall identify the Council as the sponsoring agency and shall not be released without prior written approval from the Council.

**X. Severability.** Should any portion of this Contract be judicially determined to be illegal or unenforceable, the remainder of the Contract shall continue in full force and effect, and the parties may renegotiate the terms affected by the severance.

**Y. Sovereign Immunity and Limitations.** Pursuant to Wyo. Stat. § 1-39-104(a), the State of Wyoming and Council expressly reserve sovereign immunity by entering into this Contract and specifically retain all immunities and defenses available to them as sovereigns. The parties acknowledge that the State of Wyoming has sovereign immunity and only the Wyoming Legislature has the power to waive sovereign immunity. Designations of venue, choice of law, enforcement actions, and similar provisions shall not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Contract shall not be strictly construed, either against or for either party, except that any ambiguity as to sovereign immunity shall be construed in favor of sovereign immunity.

**Z. Taxes.** The Contractor shall pay all taxes and other such amounts required by federal, state, and local law, including, but not limited to, federal and social security taxes, workers' compensation, unemployment insurance, and sales taxes.

**AA. Termination of Contract.** This Contract may be terminated, without cause, by the Council upon thirty (30) days written notice. This Contract may be terminated by

the Council immediately for cause if the Contractor fails to perform in accordance with the terms of this Contract.

- BB. Third-Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of third-party beneficiary, and this Contract shall not be construed so as to create such status. The rights, duties, and obligations contained in this Contract shall operate only between the parties to this Contract and shall inure solely to the benefit of the parties to this Contract. The provisions of this Contract are intended only to assist the parties in determining and performing their obligations under this Contract.
- CC. Time is of the Essence.** Time is of the essence in all provisions of this Contract.
- DD. Titles Not Controlling.** Titles of sections and subsections are for reference only and shall not be used to construe the language in this Contract.
- EE. Waiver.** The waiver of any breach of any term or condition in this Contract shall not be deemed a waiver of any prior or subsequent breach. Failure to object to a breach shall not constitute a waiver.
- FF. Counterparts.** This Contract may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute one and the same Contract. Delivery by the Contractor of an originally signed counterpart of this Contract by facsimile or PDF shall be followed up immediately by delivery of the originally signed counterpart to the Council.

**THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK.**

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

The Effective Date of this Contract is the date of the signature last affixed to this page.

**COUNCIL:**

Wyoming Business Council

\_\_\_\_\_  
Joshua J. Dorrell, Chief Executive Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Amy L. Grenfell, Chief Operating Officer

\_\_\_\_\_  
Date

**CONTRACTOR:**

Mcgee, Hearne & Paiz, LLP

\_\_\_\_\_  
Robert Dahill, Partner

\_\_\_\_\_  
Date

**ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM**

\_\_\_\_\_  
Cole R. White, Assistant Attorney General

\_\_\_\_\_  
Date



Kari Kivisto &lt;kari.kivisto2@wyo.gov&gt;

## WBC Board of Directors - 10 Day Notice of Proposed Amendment to the Board of Directors ByLaws

1 message

Amy Grenfell &lt;amy.grenfell@wyo.gov&gt;

To: WBC-BoardMembers &lt;wbc-board@wyo.gov&gt;

Cc: Josh Dorrell &lt;josh.dorrell@wyo.gov&gt;, "Sarah Stacy Fitz-Gerald (WBC)" &lt;sarah.fitz-gerald@wyo.gov&gt;, Kari Kivisto &lt;kari.kivisto2@wyo.gov&gt;

WBC Board of Directors-

At the May 3, 2023 board meeting in Gillette, you will see an agenda item under the Operations Committee section requesting consideration of a ByLaws Amendment.

The ByLaws state the following regarding the appropriate procedure for amending the ByLaws:

### ARTICLE XII. AMENDMENTS OF THE BYLAWS

These ByLaws may be amended, supplemented, or repealed by a two-thirds or greater vote of the Directors present at any meeting of the Board in which a quorum is present. The Chief Executive Officer or his/her designee shall provide notice of any amendment of the ByLaws to each Director having voting rights at least ten (10) days prior to any meeting whereby the Board shall consider such amendments.

**This email serves as the 10 Day notice prior to the May 3, 2023 board meeting where the Board shall consider an amendment to the ByLaws.**

The proposed amendment to the ByLaws is in Article III, Section A. Composition of the Board. The existing ByLaws reference fifteen (15) voting Directors. The ByLaws need to be amended with statute 9-12-103 which states "Beginning March 1, 2022, it shall be governed by a board of directors consisting of thirteen (13) voting directors ..."

The current and proposed ByLaws are attached to this email for your review and will also be included in your board book.

In addition, I am including the specific section from the ByLaws that is being recommended for amendment.

### Current ByLaws Wording:

#### ARTICLE III. BOARD OF DIRECTORS

A. Composition of the Board. A Board consisting of fifteen (15) voting Directors (Directors) shall govern the WBC. The Governor of the State of Wyoming (Governor) shall be a member and Co-Chairman of the Board, but shall not vote.

### Proposed ByLaws Amendment:

#### ARTICLE III. BOARD OF DIRECTORS

A. Composition of the Board. A board consisting of ~~fifteen (15)~~ thirteen (13) voting Directors (Directors) shall govern the WBC. The Governor of the State of Wyoming (Governor) shall be a member and Co-Chairmen of the Board, but shall not vote.

In addition, here is a snip of the legislation that is driving this proposed amendment:

#### 9-12-103. Wyoming business council; creation; composition; compensation; termination; meetings; surety bonds; fiscal

(a) There is created the Wyoming business council. The council is a body corporate operating as a state instrumental public benefit. As such it shall have, and is hereby vested with, the powers and duties conferred in this chapter. **Beginning March 1, 2022, it shall be governed by a board of directors consisting of thirteen (13) voting directors,** appointed by the governor with the advice and consent of the council. The governor shall be a member and cochairman of the board, but shall not vote. The appointed directors shall have demonstrated business expertise. An equal number of directors shall be appointed to initial terms of one (1), two (2) and three (3) years. No appointed director shall serve more than two (2) successive three (3) year terms. The governor shall appoint a successor in accordance with W.S. 28-12-101. The governor may remove any board member he appoints who fails to attend three (3) consecutive regular meetings of the council. No appointed council member shall attend a council meeting nor vote by proxy. The board shall select one (1) of its members to **act** as cochairman of the board. The chief executive officer serves at the pleasure of the board. All of the appointed directors shall be residents of Wyoming. **and at least twelve (12) of the appointed directors shall be residents of Wyoming.**

(b) The appointed directors shall receive per diem for attending board meetings in the same amount as state legislators. The board shall fix the salary of the chief executive officer. Subject to the terms of the chief executive officer shall determine the terms of employment, tenure, duties, working conditions, promotion and termination. Employees which the chief executive officer determines are necessary to carry out the purposes and functions of the council shall be covered by the Wyoming Retirement **Act**, the State Employees and Officials Group Insurance **Act** and the Wyoming Def

Thank you for your consideration and I look forward to fielding your questions and having more discussion on this topic at the May 3, 2023 board meeting in Gillette.

-Amy

--

Amy Grenfell

Chief Operating Officer

Located in Cheyenne, serving the state of Wyoming

email [amy.grenfell@wyo.gov](mailto:amy.grenfell@wyo.gov)

Office: 307-777-2847; Mobile: 307-286-1520

[LinkedIn](#)

Wyoming Business Council | 214 W. 15th Street | Cheyenne, WY 82002

Leading Economic Growth | Building Resilient Communities | Creating Opportunities


[Website](#) | [Facebook](#) | [Twitter](#) | [YouTube](#)



E-Mail to and from me, in connection with the transaction of public business, is subject to the Wyoming Public Records Act and may be disclosed to third parties.

---

**2 attachments**

 **WBC Board of Directors Changes from 2016.pdf**  
142K

 **WBC By-Laws as of 10Mar2016.pdf**  
583K

## BYLAWS OF THE WYOMING BUSINESS COUNCIL

### ARTICLE I. NAME AND OFFICE

The name of the body corporate shall be the Wyoming Business Council (WBC). The principal office shall be located in Cheyenne, Wyoming or at a location otherwise agreed upon and established by the WBC Board of Directors (Board). The WBC may also have offices at such other places as the Board may from time to time determine or the WBC's business may require.

### ARTICLE II. OBJECTIVES

The WBC is a body corporate and state instrumentality operated solely for the public benefit and created by the Wyoming Economic Development Act under the laws of the State of Wyoming as authorized by W.S. § 9-12-101 through 9-12-1312 et seq. (Act). The WBC may adopt rules and regulations to implement the programs and functions assigned by the Act, in accordance with Wyoming law.

### ARTICLE III. BOARD OF DIRECTORS

- A. Composition of the Board. A Board consisting of fifteen (15) voting Directors (Directors) shall govern the WBC. The Governor of the State of Wyoming (Governor) shall be a member and Co-Chairman of the Board, but shall not vote.
- B. Appointment. The Governor shall appoint Directors with the advice and consent of the Wyoming Senate. All of the appointed Directors shall be at large members.
- C. Qualifications. The Directors shall have demonstrated leadership and business expertise. At least twelve (12) of the Directors shall be residents of the State of Wyoming.
- D. Terms. Directors shall serve for terms of three (3) years. No Director shall serve more than two (2) full successive three (3) year terms. A Director appointed to fill a vacancy shall be eligible to serve two (2) full successive three (3) year terms in addition to the vacant term s/he is fulfilling.
- E. Removal. The Governor may remove any Director s/he appoints for cause and shall remove any Director who fails to attend three (3) consecutive regular meetings of the Board.
- F. Resignations. Any Director may resign from the Board at any time upon written notice to the Governor, Co-Chairman of the Board and Chief Executive Officer. Such resignation shall take effect at the time specified therein or, if no time is specified therein, shall take effect upon receipt thereof by the Co-Chairman or the Governor, and unless otherwise specified therein, the acceptance of such resignation by the Board shall not be necessary to make it effective.
- G. Vacancies. If a vacancy occurs, the Governor shall appoint a successor Director with the advice and consent of the Wyoming Senate. The Governor may fill any vacancy occurring between sessions of the legislature by temporary appointment to be effective until March 1 of the ensuing calendar year.
- H. Compensation/Reimbursement. Directors shall receive per diem for attending Board meetings in the same amount as state legislators and shall receive no other compensation for serving on the Board. Directors may receive reimbursement for mileage at the current federal IRS reimbursement rate.
- I. Conflicts of Interest. Directors shall be subject to the provisions and requirements of W.S. § 16-6-118 and shall abstain from voting in accordance therewith. Any Director shall abstain from voting on any issue before the Board if a conflict of interest exists whereupon an action by the Board will have a direct bearing on the personal interests of the Director.
- J. Committees. The Board may form committees and advisory councils. Each committee shall have as a member one or more of the members of the Board, not to constitute a quorum of the Board, and such other individuals as may be appointed by the Co-Chairman to undertake more extensive study and discussion of issues before the Board.

### ARTICLE IV. OFFICERS

- A. Officers. The Board shall elect one of its Directors to act as Co-Chairman with the Governor. The Board may elect other officers as prescribed by these Bylaws.
- B. Co-Chairman. The elected Co-Chairman of the Board shall preside at all meetings of the Board, and shall exercise and perform such other powers and duties as may be from time to time be assigned to the Co-Chairman by the Board or prescribed by these Bylaws.
- C. Vice Chairman. In the absence or disability of the Co-Chairman, the Vice-Chairman or other officer or officers, in order of their rank as fixed by the Board, shall perform all the duties and shall have all of the powers of the Co-Chairman. The Vice-Chairman shall have such other powers and duties that the Board or these Bylaws may prescribe for him/her.

- D. Secretary/Treasurer. The Secretary/Treasurer shall keep, or cause to be kept, a book of minutes at the principal office or such other place as the Board may order, with the time and place of holding, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at meetings, and the proceedings thereof.
- E. Executive Committee. The Executive Committee shall consist of the Co-Chairman, Vice-Chairman, Secretary/Treasurer and two other Directors of the Board. They shall meet as needed to plan for the Board's work and to fulfill tasks as may be assigned or undertaken.
- F. Election and Terms. The Directors shall elect Officers annually at the regular meeting of the Board held in the third quarter of each fiscal year, unless otherwise determined by the Board.

#### **ARTICLE V. STAFF**

- A. Chief Executive Officer. The Board shall retain a Chief Executive Officer (CEO) and fix the salary. The CEO serves at the pleasure of the Board. With the approval of the Board, the CEO shall determine the terms of employment, tenure, duties, working conditions, promotion and termination of all other employees as necessary to carry out the purposes and functions of the WBC.
- B. Appointment of Interim Chief Executive Officer. The Board may, at its discretion, appoint an Interim Chief Executive Officer to serve at the pleasure of the Board or until the permanent CEO is retained to carry out the functions and duties of the CEO.
- C. Employees. Employees of the WBC serve at the pleasure of the CEO. The WBC is an at-will employer and reserves the right to terminate an employment relationship at any time and for any reason not prohibited by law. WBC employees shall be covered by the Wyoming Retirement Act, the State Employees and Officials Group Insurance Act and the Wyoming Deferred Compensation Act.

#### **ARTICLE VI. MEETINGS OF THE BOARD**

- A. Quorum. A majority of the voting Directors constitutes a quorum for the transaction of any business or the exercise of any power of function of the WBC.
- B. Actions of the Board. In the event of a quorum, a majority vote of the Directors present shall decide any matter brought before the WBC unless otherwise defined by law, in which case, such express provision shall govern and control the action of the Board.
- C. Regular Meetings of the Board. The Directors shall set the date and location of all regular meetings of the Board. The Directors shall hold regular meetings of the Board on a quarterly basis, unless otherwise prescribed and determined by the Board. All regular meetings of the Board shall be held at a place within the State of Wyoming and as designated from time to time by the Board with public notice.
- D. Special Meetings of the Board. The Co-Chairman, the Chief Executive Officer, a majority of a quorum of the Board or upon the written request of at least two (2) Directors, may request a special meeting in addition to, or in place of, a regular meeting of the Board, for any purpose or purposes, unless otherwise prescribed by statute. Such request shall state the nature of the business to be transacted, the purpose or purposes of the proposed meeting, and the place, day and hour of such meeting. Business transacted at any special meeting of the Board of Directors shall be limited to the purposes stated in the notice.
- E. Emergency Meetings of the Board. The Co-Chairman or Chief Executive Officer may call emergency meetings of the Board to take temporary action on matters of serious immediate concern. A majority of a quorum of the Board shall ratify actions taken at emergency meetings at its next regular meeting.
- F. Notice. The Chief Executive Officer, with the advice and consent of the Board, shall set, at a minimum, the date and location of the next regular meeting before the adjournment of the preceding regular meeting. The Chief Executive Officer or his/her designee shall notify each Director of the date, time and location of all regular meetings at least thirty (30) days prior to the meeting date. The Chief Executive Officer or his/her designee shall provide each Director with advance notice of any special or emergency meeting of the Board. Public notice of regular meetings of the Board shall state the place, date and hour of the meeting, and, in the case of a special meeting, additionally, the purpose or purposes of the meeting.
- G. Other Action. The Board may conduct meetings by electronic means or any other form of communication by which all persons participating in the meeting can hear, read or otherwise discern meeting discussion contemporaneously. In the case of meetings held via electronic means, the WBC must make adequate provision for public participation to the extent required by the Wyoming Public Meetings Act.
- H. Proxies. No Director shall send a designee to attend a Board meeting, nor vote by proxy.
- I. Wyoming Public Meetings Requirements. The meetings of the Board shall be open to the public and comply with the requirements of the Wyoming Public Meetings Act, W.S. 16-4-401 through 16-4-408 et seq. (Wyoming Public Meetings Act). Notice of meetings of the Board shall also comply with the requirements of the Wyoming Public Meetings Act. At the request of the Co-Chairman, a majority of a quorum of the Board, or the CEO, an official meeting or portions thereof may adjourn into executive session pursuant to the applicable provisions of the Wyoming Public Meetings Act.

#### **ARTICLE VII. RECORDS**

- A. Minutes. The WBC shall take minutes of all meetings of the Board. Official written minutes of the previous Board meeting shall be prepared and presented to the Board as the first item on the agenda. The WBC shall record, but not publish, minutes of a meeting where the Board takes no action. The WBC is not required to record or publish minutes for day-to-day administrative activities of the WBC, its officers or employees.

- B. Inspection of Records. The books of account and minutes of proceedings of the Board and committees of the Board shall be open to inspection upon request to the extent prescribed by the Wyoming Public Records Act.
- C. Inspection of Bylaws. WBC shall keep in its principal office the original or a copy of these Bylaws, and any amendments to these Bylaws, which shall be open to inspection at all reasonable times during ordinary business hours.
- D. Wyoming Public Records Requirements. The records of the WBC shall be open to the public and comply with the requirements of the Wyoming Public Records Act.

#### **ARTICLE VIII. FINANCES**

- A. Fiscal Year. The fiscal year for the WBC shall run July 1 through June 30 unless otherwise established by the Board or law.
- B. Budget. The WBC shall prepare, maintain and submit an annual report and budget complete with requirements as provided by W.S. § 9-12-112 and Wyoming law.
- C. Fiscal Policy. The Board shall adopt and from time to time review a fiscal policy setting out a formal procedure that shall govern internal controls, the signing of checks, the obligation of funds, approval of contracts, leases, deed and mortgages and other significant aspects of the WBC operation that are consistent with Wyoming law.
- D. Depository. The WBC may designate an official depository(ies) for its funds, accounts and transactions in addition to the bank utilized by the State of Wyoming. The WBC may deposit any of its funds in any financial institution located within the State of Wyoming.
- E. Seal. The WBC may have a common seal. The signature of the name of WBC by an authorized person(s) shall be legal and binding with or without a seal.

#### **ARTICLE IX. PARLIAMENTARY PROCEDURES**

Robert's Rules of Order, most current available edition, shall be the parliamentary authority for all matters of procedure not specifically covered by these Bylaws.

#### **ARTICLE X. IMMUNITY AND INDEMNIFICATION**

These Bylaws do not waive or otherwise modify any immunity afforded to the Directors or WBC pursuant to law. Additionally, to the extent permitted by the Wyoming Constitution and other applicable law, the WBC shall indemnify and hold harmless from liability and expenses any Director of the WBC who is serving at the request of the WBC and acting within his/her official duties as an Officer or Director of the WBC.

#### **ARTICLE XI. SEVERABILITY AND WAIVER**

The invalidity of any provision of these Bylaws does not affect the validity of the remaining provisions, and for this purpose, these Bylaws are severable. The Directors may waive any provision of these Bylaws by unanimous consent, provided such waiver and action is not otherwise prohibited by law.

**ARTICLE XII. AMENDMENTS OF THE BYLAWS**

These Bylaws may be amended, supplemented or repealed by a two-thirds or greater vote of the Directors present at any meeting of the Board in which a quorum is present. The Chief Executive Officer or his/her designee shall provide notice of any amendment of the Bylaws to each Director having voting rights at least ten (10) days prior to any meeting whereby the Board shall consider such amendments.

KNOW BY THESE PRESENTS, THAT THE FOREGOING BYLAWS WERE ADOPTED AS THE BYLAWS OF THE WYOMING BUSINESS COUNCIL BY A VOTE OF AT LEAST TWO-THIRDS OF THE BOARD OF DIRECTORS AT A REGULAR MEETING OF THE BOARD OF DIRECTORS HELD ON THE 10TH DAY OF MARCH 2016.

IN WITNESS WHEREOF, I have hereunto signed my name this \_\_\_\_ day of March 2017.

---

Co-Chairman

IN WITNESS WHEREOF, I have hereunto signed my name this \_\_\_\_ day of March 2017.

---

Vice Chairman

Amended and Restated, May 2, 2023

**BYLAWS  
OF THE  
WYOMING BUSINESS COUNCIL**

**ARTICLE I. NAME OF OFFICE**

The name of the body corporate shall be the Wyoming Business Council (WBC). The principal office shall be located in Cheyenne, Wyoming or at a location otherwise agreed upon and established by the WBC Board of Directors (Board). The WBC may also have offices at such other places as the Board may from time to time determine or the WBC's business may require.

**ARTICLE II. OBJECTIVES**

The WBC is a body corporate and state instrumentality operated solely for the public benefit and created by the Wyoming Economic Development Act under the laws of the State of Wyoming as authorized by W.S. § 9-12-101 through 9-12-1312 et seq. (Act). The WBC may adopt rules and regulations to implement the programs and functions assigned by the Act in accordance with Wyoming law.

**ARTICLE III. BOARD OF DIRECTORS**

- A. Composition of the Board. A board consisting of thirteen (13) voting Directors (Directors) shall govern the WBC. The Governor of the State of Wyoming (Governor) shall be a member and Co-Chairmen of the Board, but shall not vote.
- B. Appointment. The Governor shall appoint Directors with the advice and consent of the Wyoming Senate. All of the appointed Directors shall be at large members.
- C. Qualifications. The Directors shall have demonstrated leadership and business expertise. At least twelve (12) of the Directors shall be residents of the State of Wyoming.
- D. Terms. Directors shall serve for terms of three (3) years. No Director shall serve more than two (2) full successive three (3) year terms. A Director appointed to fill a vacancy shall be eligible to serve two (2) full successive three (3) year terms in addition to the vacant terms she/he is fulfilling.
- E. Removal. The Governor may remove any Director she/he appoints for cause and shall remove any Director who fails to attend three (3) consecutive regular meetings of the Board.
- F. Resignations. Any Director may resign from the Board at any time upon written notice to the Governor, Co-Chairman of the Board and Chief Executive Officer. Such resignation shall take effect at the time specified therein or, if no time is specified therein, shall take

effect upon receipt thereof by the Co-Chairman or the Governor, and unless specified therein, the acceptance of such resignation by the Board shall not be necessary to make it effective.

- G. Vacancies. If a vacancy occurs, the Governor shall appoint a successor Director with the advice and consent of the Wyoming Senate. The Governor may fill any vacancy occurring between sessions of the legislature by temporary appointment to be effective until March 1 of the ensuing calendar year.
- H. Compensation/Reimbursement. Directors shall receive per diem for attending Board meetings in the same amount as state legislators and shall receive no other compensation for serving on the Board. Directors may receive reimbursement for mileage at the current federal IRS reimbursement rate.
- I. Conflicts of Interest. Directors shall be subject to the provisions and requirements of W.S. § 16-6-118 and shall abstain from voting in accordance therewith. Any Director shall abstain from voting on any issue before the Board if a conflict of interest exists whereupon an action by the Board will have a direct bearing on the personal interests of the Director.
- J. Committees. The Board may form committees and advisory councils. Each committee shall have as a member one or more of the members of the Board, not to constitute a quorum of the Board, and such other individuals as may be appointed by the Co-Chairman to undertake more extensive study and discussion of issues before the Board.

#### **ARTICLE IV. OFFICERS**

- A. Officers. The Board shall elect one of its Directors to act as Co-Chairman with the Governor. The Board may elect other officers as prescribed by these Bylaws.
- B. Co-Chairman. The elected Co-Chairman of the Board shall preside at all meetings of the Board, and shall exercise and perform such other powers and duties as may be from time to time assigned to the Co-Chairman by the Board or prescribed by these Bylaws.
- C. Vice-Chairman. In the absence or disability of the Co-Chairman, The Vice-Chairman or other officer or officers, in order of their rank as fixed by the Board, shall perform all the duties and shall have all of the powers of the Co-Chairman. The Vice-Chairman shall have such other powers and duties that the Board or these Bylaws may prescribe for him/her.
- D. Secretary/Treasurer. The Secretary/Treasurer shall keep, or cause to be kept, a book of minutes at the principal office or such other place as the Board may order, with the time

and place of holding, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at meetings, and the proceedings thereof.

- E. Executive Committee. The Executive Committee shall consist of the Co-Chairman, Vice-Chairman, Secretary/Treasurer and two other Directors of the Board. They shall meet as needed to plan for the Board's work and to fulfill tasks as may be assigned or undertaken.
- F. Election and Terms. The Directors shall elect Officers annually at the regular meeting of the Board held in the third quarter of each fiscal year, unless otherwise determined by the Board.

## **ARTICLE V. STAFF**

- A. Chief Executive Officer. The Board shall retain a Chief Executive Officer (CEO) and fix the salary. The CEO serves at the pleasure of the Board. With the approval of the Board, the CEO shall determine the terms of employment, tenure, duties, working conditions, promotion and termination of all other employees as necessary to carry out the purposes and functions of the WBC.
- B. Appointment of Interim Chief Executive Officer. The Board may, at its discretion, appoint an Interim Chief Executive Officer to serve at the pleasure of the Board or until the permanent CEO is retained to carry out the functions and duties of the CEO.
- C. Employees. Employees of the WBC serve at the pleasure of the CEO. The WBC is an at-will employer and reserves the right to terminate an employment relationship at any time for any reason not prohibited by law. WBC employees shall be covered by the Wyoming Retirement Act, the State Employees and Officials Group Insurance Act and the Wyoming Deferred Compensation Act.

## **ARTICLE VI. MEETINGS OF THE BOARD**

- A. Quorum. A majority of the voting Directors constitutes a quorum for the transaction of any business or the exercise of any power of function of the WBC.
- B. Actions of the Board. In the event of a quorum, a majority vote of the Directors present shall decide any matter brought before the WBC unless otherwise defined by law, in which case, such express provision shall govern and control the action of the Board.
- C. Regular Meetings of the Board. The Directors shall set the date and location of all regular meetings of the Board. The Directors shall hold regular meetings of the Board on a quarterly basis, unless otherwise prescribed and determined by the Board. All regular meetings of the Board shall be held at a place within the State of Wyoming and as designated from time to time by the Board with public notice.

- D. Special Meetings of the Board. The Co-Chairman, the Chief Executive Officer, a majority of a quorum of the Board or upon the written request of at least two (2) Directors, may request a special meeting in addition to, or in place of, a regular meeting of the Board, for any purpose or purposes, unless otherwise prescribed by the statute. Such request shall state the nature of the business to be transacted, the purpose or purposes of the proposed meeting, and the place, day and hour of such meeting. Business transacted at any special meeting of the Board of Directors shall be limited to the purposes stated in the notice.
- E. Emergency Meetings of the Board. The Co-Chairman or Chief Executive Officer may call emergency meetings of the Board to take temporary action on matters of serious immediate concern. A majority of a quorum of the Board shall ratify actions taken at emergency meetings at its next regular meeting.
- F. Notice. The Chief Executive Officer, with the advice and consent of the Board, shall set, at a minimum, the date and location of the next regular meeting before the adjournment of the preceding regular meeting. The Chief Executive Officer or his/her designee shall notify each Director of the date, time and location of all regular meetings at least thirty (30) days prior to the meeting date. The Chief Executive Officer or his/her designee shall provide each Director with advance notice of any special or emergency meeting of the Board. Public notice of regular meetings of the Board shall state the place, date, and hour of the meeting, and, in the case of a special meeting, additionally, the purpose or purposes of the meeting.
- G. Other Action. The Board may conduct meetings by electronic means or any other form of communication by which all persons participating in the meeting can hear, read or otherwise discern meeting discussion contemporaneously. In the case of meetings held via electronic means, the WBC must make adequate provision for public participation to the extent required by the Wyoming Public Meetings Act.
- H. Proxies. No Director shall send a designee to attend a Board meeting, nor vote by proxy.
- I. Wyoming Public Meetings Requirements. The meetings of the Board shall be open to the public and comply with the requirements of the Wyoming Public Meetings Act, W.S. § 16-4-401 through 16-4-408 et seq. (Wyoming Public Meetings Act). Notice of meetings of the Board shall also comply with the requirements of the Wyoming Public Meetings Act. At the request of the Co-Chairman, a majority of a quorum of the Board or the CEO, an official meeting or portions thereof may adjourn into executive session pursuant to the applicable provisions or the Wyoming Public Meetings Act.

## **ARTICLE VIII. RECORDS**

- A. Minutes. The WBC shall take minutes of all meetings of the Board. Official written minutes of the previous Board meeting shall be prepared and presented to the Board as

the first item on the agenda. The WBC shall record, but not publish, minutes of a meeting where the Board takes no action. The WBC is not required to record or publish minutes for day-to-day administrative activities of the WBC, its officers or employees.

- B. Inspection of Records. The books of account and minutes of proceedings of the Board and committees of the Board shall be open to inspection upon request to the extent prescribed by the Wyoming Public Records Act.
- C. Inspection of Bylaws. WBC shall keep in its principal office the original or a copy of these Bylaws, and any amendments to these Bylaws, which shall be open to inspection at all reasonable times during ordinary business hours.
- D. Wyoming Public Records Requirements. The records of the WBC shall be open to the public and comply with the requirements of the Wyoming Public Records Act.

## **ARTICLE VIII. FINANCES**

- A. Fiscal Year. The fiscal year for the WBC shall run July 1 through June 30 unless otherwise established by the Board or law.
- B. Budget. The WBC shall prepare, maintain and submit an annual report and budget complete with requirements as provided by W.S. § 9-12-112 and Wyoming law.
- C. Fiscal Policy. The Board shall adopt and from time to time review a fiscal policy setting out a formal procedure that shall govern internal controls, the signing of checks, the obligation of funds, approval of contracts, leases, deed and mortgages and other significant aspects the WBC operation that are consistent with Wyoming law.
- D. Depository. The WBC may designate an official depository(ies) for its funds, accounts and transactions in addition to the bank utilized by the State of Wyoming. The WBC may deposit any of its funds in any financial institution located within the State of Wyoming.
- E. Seal. The WBC may have a common seal. The signature of the name of WBC by an authorized person(s) shall be legal and binding with or without a seal.

## **ARTICLE IX. PARLIAMENTARY PROCEDURES**

Robert's Rules of Order, most current available edition, shall be the parliamentary authority for all matters of procedure not specifically covered by these Bylaws.

## **ARTICLE X. IMMUNITY AND INDEMNIFICATION**

These Bylaws do not waive or otherwise modify any immunity afforded to the Directors or WBC pursuant to law. Additionally, to the extent permitted by the Wyoming Constitution and other applicable law, the WBC shall indemnify and hold harmless from liability and expenses any Director of the WBC who is serving at the request of the WBC and acting within his/her official duties as an Officer or Director of the WBC.

## **ARTICLE XI. SEVERABILITY AND WAIVER**

The invalidity of any provision of these Bylaws does not affect the validity of the remaining provisions, and for this purpose, these Bylaws are severable. The Directors may waive any provision of these Bylaws by unanimous consent, provided such waiver and action is not otherwise prohibited by law.

## **ARTICLE XII. AMENDMENTS OF THE BYLAWS**

These Bylaws may be amended, supplemented, or repealed by a two-thirds or greater vote of the Directors present at any meeting of the Board in which a quorum is present. The Chief Executive Officer or his/her designee shall provide notice of any amendment of the Bylaws to each Director having voting rights at least ten (10) days prior to any meeting whereby the Board shall consider such amendments.

KNOW BY THESE PRESENTS, THAT THE FOREGOING BYLAWS WERE ADOPTED AS THE BYLAWS OF THE WYOMING BUSINESS COUNCIL BY A VOTE OF AT LEAST TWO-THIRDS OF THE BOARD OF DIRECTORS AT A REGULAR MEETING OF THE BOARD OF DIRECTORS HELD ON THE 2<sup>ND</sup> DAY OF MAY 2023.

IN WITNESS WHEREOF, I have hereunto signed my name this \_\_\_\_ day of May 2023.

---

Co-Chairman

IN WITNESS WHEREOF, I have hereunto signed my name this \_\_\_\_ day of May 2023.

---

Vice Chairman

**BYLAWS  
OF THE  
WYOMING BUSINESS COUNCIL**

**ARTICLE I. NAME OF OFFICE**

The name of the body corporate shall be the Wyoming Business Council (WBC). The principal office shall be located in Cheyenne, Wyoming or at a location otherwise agreed upon and established by the WBC Board of Directors (Board). The WBC may also have offices at such other places as the Board may from time to time determine or the WBC's business may require.

**ARTICLE II. OBJECTIVES**

The WBC is a body corporate and state instrumentality operated solely for the public benefit and created by the Wyoming Economic Development Act under the laws of the State of Wyoming as authorized by W.S. § 9-12-101 through 9-12-1312 et seq. (Act). The WBC may adopt rules and regulations to implement the programs and functions assigned by the Act in accordance with Wyoming law.

**ARTICLE III. BOARD OF DIRECTORS**

- A. Composition of the Board. A board consisting of ~~fifteen (15)~~ thirteen (13) voting Directors (Directors) shall govern the WBC. The Governor of the State of Wyoming (Governor) shall be a member and Co-Chairmen of the Board, but shall not vote.
- B. Appointment. The Governor shall appoint Directors with the advice and consent of the Wyoming Senate. All of the appointed Directors shall be at large members.
- C. Qualifications. The Directors shall have demonstrated leadership and business expertise. At least twelve (12) of the Directors shall be residents of the State of Wyoming.
- D. Terms. Directors shall serve for terms of three (3) years. No Director shall serve more than two (2) full successive three (3) year terms. A Director appointed to fill a vacancy shall be eligible to serve two (2) full successive three (3) year terms in addition to the vacant terms she/he is fulfilling.
- E. Removal. The Governor may remove any Director she/he appoints for cause and shall remove any Director who fails to attend three (3) consecutive regular meetings of the Board.
- F. Resignations. Any Director may resign from the Board at any time upon written notice to the Governor, Co-Chairman of the Board and Chief Executive Officer. Such resignation shall take effect at the time specified therein or, if no time is specified therein, shall take

effect upon receipt thereof by the Co-Chairman or the Governor, and unless specified therein, the acceptance of such resignation by the Board shall not be necessary to make it effective.

- G. Vacancies. If a vacancy occurs, the Governor shall appoint a successor Director with the advice and consent of the Wyoming Senate. The Governor may fill any vacancy occurring between sessions of the legislature by temporary appointment to be effective until March 1 of the ensuing calendar year.
- H. Compensation/Reimbursement. Directors shall receive per diem for attending Board meetings in the same amount as state legislators and shall receive no other compensation for serving on the Board. Directors may receive reimbursement for mileage at the current federal IRS reimbursement rate.
- I. Conflicts of Interest. Directors shall be subject to the provisions and requirements of W.S. § 16-6-118 and shall abstain from voting in accordance therewith. Any Director shall abstain from voting on any issue before the Board if a conflict of interest exists whereupon an action by the Board will have a direct bearing on the personal interests of the Director.
- J. Committees. The Board may form committees and advisory councils. Each committee shall have as a member one or more of the members of the Board, not to constitute a quorum of the Board, and such other individuals as may be appointed by the Co-Chairman to undertake more extensive study and discussion of issues before the Board.

#### **ARTICLE IV. OFFICERS**

- A. Officers. The Board shall elect one of its Directors to act as Co-Chairman with the Governor. The Board may elect other officers as prescribed by these Bylaws.
- B. Co-Chairman. The elected Co-Chairman of the Board shall preside at all meetings of the Board, and shall exercise and perform such other powers and duties as may be from time to time assigned to the Co-Chairman by the Board or prescribed by these Bylaws.
- C. Vice-Chairman. In the absence or disability of the Co-Chairman, The Vice-Chairman or other officer or officers, in order of their rank as fixed by the Board, shall perform all the duties and shall have all of the powers of the Co-Chairman. The Vice-Chairman shall have such other powers and duties that the Board or these Bylaws may prescribe for him/her.
- D. Secretary/Treasurer. The Secretary/Treasurer shall keep, or cause to be kept, a book of minutes at the principal office or such other place as the Board may order, with the time

and place of holding, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at meetings, and the proceedings thereof.

- E. Executive Committee. The Executive Committee shall consist of the Co-Chairman, Vice-Chairman, Secretary/Treasurer and two other Directors of the Board. They shall meet as needed to plan for the Board's work and to fulfill tasks as may be assigned or undertaken.
- F. Election and Terms. The Directors shall elect Officers annually at the regular meeting of the Board held in the third quarter of each fiscal year, unless otherwise determined by the Board.

#### **ARTICLE V. STAFF**

- A. Chief Executive Officer. The Board shall retain a Chief Executive Officer (CEO) and fix the salary. The CEO serves at the pleasure of the Board. With the approval of the Board, the CEO shall determine the terms of employment, tenure, duties, working conditions, promotion and termination of all other employees as necessary to carry out the purposes and functions of the WBC.
- B. Appointment of Interim Chief Executive Officer. The Board may, at its discretion, appoint an Interim Chief Executive Officer to serve at the pleasure of the Board or until the permanent CEO is retained to carry out the functions and duties of the CEO.
- C. Employees. Employees of the WBC serve at the pleasure of the CEO. The WBC is an at-will employer and reserves the right to terminate an employment relationship at any time for any reason not prohibited by law. WBC employees shall be covered by the Wyoming Retirement Act, the State Employees and Officials Group Insurance Act and the Wyoming Deferred Compensation Act.

#### **ARTICLE VI. MEETINGS OF THE BOARD**

- A. Quorum. A majority of the voting Directors constitutes a quorum for the transaction of any business or the exercise of any power of function of the WBC.
- B. Actions of the Board. In the event of a quorum, a majority vote of the Directors present shall decide any matter brought before the WBC unless otherwise defined by law, in which case, such express provision shall govern and control the action of the Board.
- C. Regular Meetings of the Board. The Directors shall set the date and location of all regular meetings of the Board. The Directors shall hold regular meetings of the Board on a quarterly basis, unless otherwise prescribed and determined by the Board. All regular meetings of the Board shall be held at a place within the State of Wyoming and as designated from time to time by the Board with public notice.

- D. Special Meetings of the Board. The Co-Chairman, the Chief Executive Officer, a majority of a quorum of the Board or upon the written request of at least two (2) Directors, may request a special meeting in addition to, or in place of, a regular meeting of the Board, for any purpose or purposes, unless otherwise prescribed by the statute. Such request shall state the nature of the business to be transacted, the purpose or purposes of the proposed meeting, and the place, day and hour of such meeting. Business transacted at any special meeting of the Board of Directors shall be limited to the purposes stated in the notice.
- E. Emergency Meetings of the Board. The Co-Chairman or Chief Executive Officer may call emergency meetings of the Board to take temporary action on matters of serious immediate concern. A majority of a quorum of the Board shall ratify actions taken at emergency meetings at its next regular meeting.
- F. Notice. The Chief Executive Officer, with the advice and consent of the Board, shall set, at a minimum, the date and location of the next regular meeting before the adjournment of the preceding regular meeting. The Chief Executive Officer or his/her designee shall notify each Director of the date, time and location of all regular meetings at least thirty (30) days prior to the meeting date. The Chief Executive Officer or his/her designee shall provide each Director with advance notice of any special or emergency meeting of the Board. Public notice of regular meetings of the Board shall state the place, date, and hour of the meeting, and, in the case of a special meeting, additionally, the purpose or purposes of the meeting.
- G. Other Action. The Board may conduct meetings by electronic means or any other form of communication by which all persons participating in the meeting can hear, read or otherwise discern meeting discussion contemporaneously. In the case of meetings held via electronic means, the WBC must make adequate provision for public participation to the extent required by the Wyoming Public Meetings Act.
- H. Proxies. No Director shall send a designee to attend a Board meeting, nor vote by proxy.
- I. Wyoming Public Meetings Requirements. The meetings of the Board shall be open to the public and comply with the requirements of the Wyoming Public Meetings Act, W.S. § 16-4-401 through 16-4-408 et seq. (Wyoming Public Meetings Act). Notice of meetings of the Board shall also comply with the requirements of the Wyoming Public Meetings Act. At the request of the Co-Chairman, a majority of a quorum of the Board or the CEO, an official meeting or portions thereof may adjourn into executive session pursuant to the applicable provisions or the Wyoming Public Meetings Act.

## **ARTICLE VIII. RECORDS**

- A. Minutes. The WBC shall take minutes of all meetings of the Board. Official written minutes of the previous Board meeting shall be prepared and presented to the Board as

the first item on the agenda. The WBC shall record, but not publish, minutes of a meeting where the Board takes no action. The WBC is not required to record or publish minutes for day-to-day administrative activities of the WBC, its officers or employees.

- B. Inspection of Records. The books of account and minutes of proceedings of the Board and committees of the Board shall be open to inspection upon request to the extent prescribed by the Wyoming Public Records Act.
- C. Inspection of Bylaws. WBC shall keep in its principal office the original or a copy of these Bylaws, and any amendments to these Bylaws, which shall be open to inspection at all reasonable times during ordinary business hours.
- D. Wyoming Public Records Requirements. The records of the WBC shall be open to the public and comply with the requirements of the Wyoming Public Records Act.

## **ARTICLE VIII. FINANCES**

- A. Fiscal Year. The fiscal year for the WBC shall run July 1 through June 30 unless otherwise established by the Board or law.
- B. Budget. The WBC shall prepare, maintain and submit an annual report and budget complete with requirements as provided by W.S. § 9-12-112 and Wyoming law.
- C. Fiscal Policy. The Board shall adopt and from time to time review a fiscal policy setting out a formal procedure that shall govern internal controls, the signing of checks, the obligation of funds, approval of contracts, leases, deed and mortgages and other significant aspects the WBC operation that are consistent with Wyoming law.
- D. Depository. The WBC may designate an official depository(ies) for its funds, accounts and transactions in addition to the bank utilized by the State of Wyoming. The WBC may deposit any of its funds in any financial institution located within the State of Wyoming.
- E. Seal. The WBC may have a common seal. The signature of the name of WBC by an authorized person(s) shall be legal and binding with or without a seal.

## **ARTICLE IX. PARLIAMENTARY PROCEDURES**

Robert's Rules of Order, most current available edition, shall be the parliamentary authority for all matters of procedure not specifically covered by these Bylaws.

## **ARTICLE X. IMMUNITY AND INDEMNIFICATION**

These Bylaws do not waive or otherwise modify any immunity afforded to the Directors or WBC pursuant to law. Additionally, to the extent permitted by the Wyoming Constitution and other applicable law, the WBC shall indemnify and hold harmless from liability and expenses any Director of the WBC who is serving at the request of the WBC and acting within his/her official duties as an Officer or Director of the WBC.

## **ARTICLE XI. SEVERABILITY AND WAIVER**

The invalidity of any provision of these Bylaws does not affect the validity of the remaining provisions, and for this purpose, these Bylaws are severable. The Directors may waive any provision of these Bylaws by unanimous consent, provided such waiver and action is not otherwise prohibited by law.

## **ARTICLE XII. AMENDMENTS OF THE BYLAWS**

These Bylaws may be amended, supplemented, or repealed by a two-thirds or greater vote of the Directors present at any meeting of the Board in which a quorum is present. The Chief Executive Officer or his/her designee shall provide notice of any amendment of the Bylaws to each Director having voting rights at least ten (10) days prior to any meeting whereby the Board shall consider such amendments.

KNOW BY THESE PRESENTS, THAT THE FOREGOING BYLAWS WERE ADOPTED AS THE BYLAWS OF THE WYOMING BUSINESS COUNCIL BY A VOTE OF AT LEAST TWO-THIRDS OF THE BOARD OF DIRECTORS AT A REGULAR MEETING OF THE BOARD OF DIRECTORS HELD ON THE 2<sup>ND</sup> DAY OF MAY 2023.

IN WITNESS WHEREOF, I have hereunto signed my name this \_\_\_\_ day of May 2023.

---

Co-Chairman

IN WITNESS WHEREOF, I have hereunto signed my name this \_\_\_\_ day of May 2023.

---

Vice Chairman



# SERVICES COMMITTEE REPORT

## **Chapter 1**

### **Small Business Innovation Research Matching Program**

**Section 1. Authority.** The Wyoming Business Council, pursuant to Wyoming Statute § 9-12-105(d), is required to promulgate such rules as are necessary to administer a Small Business Innovation Research (SBIR) program to match federal funds approved for Wyoming companies conducting research and development activity in the State.

**Section 2. Purpose.** These rules are promulgated for the purpose of establishing a regulatory framework for providing matching funding to small businesses headquartered in and organized under the laws of Wyoming that have received federal funds for the purpose of research and development.

#### **Section 3. Definitions.**

- (a) As used in this chapter:
  - (i) “Council” means the Wyoming Business Council Board of Directors.
  - (ii) “Council Staff” means the staff of the Wyoming Business Council assigned to administer the SBIR program.
  - (iii) “Applicant” means a Wyoming based company that applies for funding under the SBIR program.
  - (iv) “Awardee” means a business entity or individual who has been awarded funds under the SBIR program.
  - (v) “Phase I award” is as specified by the federal granting agency.
  - (vi) “Phase II award” is as specified by the federal granting agency, including variations or related programs of Phase II federal programs.

#### **Section 4. Application requirements and program eligibility.**

- (a) In addition to the statutory requirements under W.S. § 9-12-105(d), to be eligible, an applicant must:
  - (i) Have received an SBIR or Small Business Technology Transfer (STTR) Phase I or II award from a federal agency targeted at the development of qualified research or technologies on or after July 1, 2018;
  - (ii) Be a for-profit partnership, limited liability company, limited liability partnership, or corporation registered with the Wyoming Secretary of State;

(iii) Agree to provide a report, as described in Section 5(e), describing in detail its efforts to and success in commercializing the service, product, concept, design or other marketable asset to be developed with the assistance of State funds;

(iv) Produce or propose to produce a service, product, concept, design or any other marketable asset that aligns with the State of Wyoming's Economic Development Strategy;

(v) Certify that, to the extent practical, all of the research described in any proposal for Phase I or Phase II funding will be conducted in Wyoming; and

(vi) Commit to seeking additional investment funding investment funding, whether from federal or private sources.

(b) Awardees are limited to one (1) award per phase under this chapter per fiscal year (July 1 through June 30), for a maximum of two (2) SBIR awards per year, and four (4) SBIR awards over the life of the company.

## **Section 5. Application process.**

(a) Application.

(i) Council Staff shall provide an SBIR application online that includes a requirement to provide information relevant for funding decisions, including but not limited to information that establishes the applicant's eligibility for SBIR funding.

(ii) Each applicant shall file its application for SBIR funds with Council Staff online at a website provided by Council Staff.

(b) Application process, procedure and approval. Applications are received on a quarterly basis and reviewed in the following manner:

(i) Council Staff shall review applications to ensure accuracy, applicant eligibility and completeness, and provides a recommendation based upon these rules and W.S. § 9-12-105(d).

(ii) The Council, or Council Staff has the sole discretion to make award decisions based upon these rules and W.S. § 9-12-105(d). The Council, or Council Staff may consult with subject matter experts for assistance and advice in making funding decisions.

(c) Award amounts, disbursement schedules, and annual allocations.

(i) Number of awards.

(A) Council Staff, in their sole discretion, may make up to twenty (20) Phase I awards per fiscal year.

(B) Council Staff, in their sole discretion, may make up to twenty (20) Phase II awards per fiscal year.

(C) Council Staff, in their sole discretion, may award up to five million dollars (\$5,000,000.00) in total SBIR awards per fiscal year.

(ii) Disbursement schedules and annual allocations to this program are detailed in the startup:Wyoming Subaccount Allocation Plan and Procedures adopted by the Council.

(d) Reporting.

(i) Upon project completion, awardees shall provide a report on or before July 1 of each year for three (3) years prior to commercialization, and for three (3) years after commercialization, or a maximum of five (5) years, highlighting the elements required under Wyoming Statute § 9-12-105(d)(i)(E).

(ii) In addition to the elements required under Wyoming Statute § 9-12-105(d)(i)(E), the required annual report to the Council must address the awardee's:

(A) Development of the proposed service, product, concept, design or other marketable asset in sufficient detail to allow Council Staff to review the awardee's progress towards commercialization;

(B) Progress toward seeking and receiving additional funding, whether from State, federal or private sources;

(C) Plans for growth, market, commercialization and capitalization for the upcoming year;

(D) Proof of proper use of funds in the form of receipts or invoices;  
and

(E) Maintenance of nexus in Wyoming that is substantial and continuous. To prove nexus, awardee must provide documentary evidence showing the majority of the awardee's employees work in Wyoming.

(iii) An awardee must provide material to the Council or Council Staff as requested for purposes of promoting Wyoming's entrepreneurial ecosystem and lifestyle.

(iv) Additional reporting requirements may be outlined in the SBIR grant agreement between the awardee and the Council.

(f) Allowable use of funds; consequence for misuse of funds and repayment.

(i) Funds may be spent on materials or activities that facilitate development or commercialization of a company's service, product, concept, design or any other marketable asset. Any other use of State-provided SBIR funds is prohibited.

(ii) In addition to the repayment requirement under W.S. § 9-12-105(d)(iv), the Council may seek return of the disbursed funds if it at any time determines that an awardee has failed to submit any part of the required annual report, including disclosure of its efforts to seek additional nonstate investment funding; has made a prohibited use of the funds; or has breached the agreement between itself and the Council. In that instance, the grant recipient shall repay all funds provided under this chapter plus interest at the rate of four percent (4%) per annum compounded annually from the date the funds were granted. This provision is in addition to, and does not replace, any other potential cause of action the Council may have against the awardee based on its conduct.

(g) Conflict with federal rules. To the extent these rules are inconsistent with or otherwise conflict with rules for the federal grant program under which the Applicant has received federal funds, the contrary rules and requirements of the federal program shall control. This provision shall not apply if the conflict results from a statutory provision.

**Section 6. Program administration.** The Council may designate Council Staff to approve applications and make award decisions. If the Council chooses to designate Council Staff with this responsibility, Council Staff shall make a quarterly report to the Council on the number of applications approved, the status of the approved applications, and the amount of funds distributed to awardees.

## **Chapter 1**

### **Small Business Innovation Research Matching Program**

**Section 1. Authority.** The Wyoming Business Council, pursuant to Wyoming Statute § 9-12-105(d), is required to promulgate such rules as are necessary to administer a Small Business Innovation Research (SBIR) program to match federal funds approved for Wyoming companies conducting research and development activity in the State.

**Section 2. Purpose.** These rules are promulgated for the purpose of establishing a regulatory framework for providing matching funding to small businesses headquartered in and organized under the laws of Wyoming that have received federal funds for the purpose of research and development.

#### **Section 3. Definitions.**

- (a) As used in this chapter:
  - (i) “Council” means the Wyoming Business Council Board of Directors.
  - (ii) “Council Staff” means the staff of the Wyoming Business Council assigned to administer the SBIR program.
  - (iii) “Applicant” means a Wyoming based company that applies for funding under the SBIR program.
  - (iv) “Awardee” means a business entity or individual who has been awarded funds under the SBIR program.
  - (v) “Phase I award” ~~means an award where the federal government has made a grant under 15 U.S.C. § 638(e)(4)(A)-is as specified by the federal granting agency.~~
  - (vi) “Phase II award” ~~means an award where the federal government has made a grant under 15 U.S.C. § 638(e)(4)(B)(i)-(iv)-is as specified by the federal granting agency, including variations or related programs of Phase II federal programs.~~

#### **Section 4. Application requirements and program eligibility.**

- (a) In addition to the statutory requirements under W.S. § 9-12-105(d), to be eligible, an applicant must:
  - (i) Have received an SBIR or Small Business Technology Transfer (STTR) Phase I or II award from a federal agency targeted at the development of qualified research or technologies on or after July 1, 2018;
  - (ii) Be a for-profit ~~sole proprietorship~~, partnership, limited liability company, limited liability partnership, or corporation registered with the Wyoming Secretary of State;

(iii) Agree to provide a report, as described in Section 5(e), describing in detail its efforts to and success in commercializing the service, product, concept, design or other marketable asset to be developed with the assistance of State funds;

(iv) Produce or propose to produce a service, product, concept, design or any other marketable asset that aligns with the State of Wyoming's Economic Development Strategy ~~relates to or fulfills one of the five Next Generation Engines identified in the ENDOW 20 Year Economic Diversification Strategy;~~

(v) ~~Provide a good faith declaration of intent to remain in Wyoming for three (3) years after commercialization of service, product, concept, design or other marketable asset to be developed with the assistance of State funds;~~

~~(vi)~~—Certify that, to the extent practical, all of the research described in any proposal for Phase I or Phase II funding will be conducted in Wyoming; and

(vi) Commit to seeking additional ~~nonstate~~ investment funding investment funding, whether from federal or private sources.

(b) Awardees are limited to one (1) award per phase under this chapter per fiscal year (July 1 through June 30), for a maximum of two (2) SBIR awards per year, and four (4) SBIR awards over the life of the company.

## **Section 5. Application process.**

(a) Application.

(i) ~~The Council~~ Staff shall provide an SBIR application online that includes a requirement to provide information relevant for funding decisions, including but not limited to information that establishes the applicant's eligibility for SBIR funding.

(ii) Each applicant shall file its application for SBIR funds with ~~the Council~~ Staff online at a website provided by ~~the Council~~ Staff.

(b) Application process, procedure and approval. Applications are received on a ~~rolling~~ quarterly basis and ~~will be reviewed in the month following the month of application submission~~ in the following manner:

(i) Council Staff shall review applications to ensure accuracy, applicant eligibility and completeness, and provides a recommendation based upon these rules and W.S. § 9-12-105(d).

(ii) The Council, or Council Staff ~~as designated by the Council~~, has the sole discretion to make award decisions based upon these rules and W.S. § 9-12-105(d). The Council,

or Council Staff ~~as designated by the Council~~, may consult with subject matter experts for assistance and advice in making funding decisions.

~~(iii) — Following the Council's decision, or the decision of Council Staff if so designated by the Council, requests for funding will be routed through the Governor or the Governor's designee for approval. The Council will thereafter submit the invoice for payment to the State Auditor's Office. Payments shall be made to awardees within forty-five (45) days after submission of the invoice per W.S. § 16-6-602 and shall follow the disbursement schedule provided in the startup: Wyoming Subaccount Allocation Plan and Supplemental Procedures adopted by the Council.~~

~~(c) Agreement template. In consultation with the Attorney General's Office, the Council shall prepare a template for all agreements between itself and potential awardees of SBIR funds and shall submit the template to the Attorney General's Office for approval. Following approval by the Attorney General's Office, the Council shall use this template for all such agreements, and shall not deviate from the template without approval from the Attorney General's Office. The Council shall, on an annual basis, resubmit the template to the Attorney General's Office for updates and approval.~~

~~(d) — Award amounts, disbursement schedules, and annual allocations.~~

(i) Number of awards.

(A) ~~The Council Staff~~, in ~~its~~their sole discretion, may make up to twenty (20) Phase I awards per fiscal year.

(B) ~~The Council Staff~~, in ~~its~~their sole discretion, may make up to twenty (20) Phase II awards per fiscal year.

(C) ~~The Council Staff~~, in ~~its~~their sole discretion, may award up to five million dollars (\$5,000,000.00) in total SBIR awards per fiscal year.

(ii) Disbursement schedules and annual allocations to this program are detailed in the startup: Wyoming Subaccount Allocation Plan and Procedures adopted by the Council.

~~(ed)~~ Reporting.

(i) Upon project completion, aAwardees shall provide a report on or before July 1 of each year for ~~two (2) three (3) years after an award is granted~~ prior to commercialization, and for three (3) years after commercialization, ~~for or~~ a maximum of five (5) years~~-, highlighting the elements required under Wyoming Statute § 9-12-105(d)(i)(E).~~

(ii) In addition to the elements required under Wyoming Statute § 9-12-105(d)(i)(E), the required annual report to the Council must address the awardee's:

(A) Development of the proposed service, product, concept, design or other marketable asset in sufficient detail to allow Council Staff to review the awardee's progress towards commercialization;

(B) Progress toward seeking and receiving additional funding, whether from State, federal or private sources;

(C) Plans for growth, market, commercialization and capitalization for the upcoming year;

(D) Proof of proper use of funds in the form of receipts or invoices;  
and

(E) ~~Suggestions for continuous improvement to State programs for startups; and~~

~~\_\_\_\_\_ (F) Maintenance of nexus in Wyoming that is substantial and continuous. To prove nexus, awardee must provide the following:~~

~~(I) Documentary evidence showing the majority of the awardee's employees work in Wyoming; and~~

~~(II) A multimedia narrative of the Wyoming lifestyle of its employees leveraging social media resources.~~

(iii) An awardee must provide material to the Council, or Council Staff as designated by the Council, as requested for purposes of promoting Wyoming's entrepreneurial ecosystem and lifestyle.

(iv) Additional reporting requirements may be outlined in the SBIR grant agreement between the awardee and the Council.

(f) Allowable use of funds; consequence for misuse of funds and repayment.

(i) Funds may be spent on materials or activities that facilitate development or commercialization of a company's service, product, concept, design or any other marketable asset. Any other use of State-provided SBIR funds is prohibited.

(ii) In addition to the repayment requirement under W.S. § 9-12-105(d)(iv), the Council may seek return of the disbursed funds if it at any time determines that an awardee has failed to submit any part of the required annual report, including disclosure of its efforts to seek additional nonstate investment funding; has made a prohibited use of the funds; or has breached the agreement between itself and the Council. In that instance, the grant recipient shall repay all funds provided under this chapter plus interest at the rate of four percent (4%) per annum compounded annually from the date the funds were granted. This provision is in addition

to, and does not replace, any other potential cause of action the Council may have against the awardee based on its conduct.

(g) Conflict with federal rules.

—————(i)—————To the extent these rules are inconsistent with or otherwise conflict with rules for the federal grant program under which the Applicant has received federal funds, the contrary rules and requirements of the federal program shall control. This provision shall not apply if the conflict results from a statutory provision.

**Section 6. Program administration.** The Council may designate Council Staff to approve applications and make award decisions. If the Council chooses to designate Council Staff with this responsibility, Council Staff shall make a quarterly report to the Council on the number of applications approved, the status of the approved applications, and the amount of funds distributed to awardees.

## **Chapter 1**

### **Kickstart:Wyoming Program**

**Section 1. Authority.** The Wyoming Business Council, pursuant to Wyoming Statute § 9-12-105(c), is required to promulgate such rules as are necessary to administer a “kickstart:Wyoming” program to provide funding to early stage ventures of Wyoming based entrepreneurs.

**Section 2. Purpose.** These rules are promulgated for the purpose of providing a regulatory framework for providing funding to early-stage high-growth ventures of Wyoming based entrepreneurs to commercialize services, products, concepts, designs or other marketable assets.

#### **Section 3. Definitions.**

(a) As used in this chapter:

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

(ii) “Council Staff” the staff of the Wyoming Business Council assigned to administer the “kickstart:Wyoming” program.

(iii) “High-growth potential company” means a company with a globally differentiated concept, scalable product and business model, defined value proposition, large target addressable market and potential for exit via initial public offering or acquisition.

(iv) “Applicant” means a business entity or individual who applies for funding under the “kickstart:Wyoming” program.

(v) “Awardee” means a business entity or individual who has been awarded funds under the “kickstart:Wyoming” program.

#### **Section 4. Application Requirements and Program Eligibility.**

(a) In addition to the statutory requirements under W.S. § 9-12-105(c), to be eligible, an applicant must:

(i) Employ twenty-five (25) individuals or less;

(ii) Produce or propose to produce a service, product, concept, design or any other marketable asset aligns with the State of Wyoming’s Economic Development Strategy;

(iii) Provide a good faith declaration of intent to remain in Wyoming;

(iv) Own or manage a high-growth-potential company;

(v) Agree to provide a report, as described in Section 5(g), describing in detail its efforts to and success in commercializing the service, product, concept, design or other marketable asset to be developed with the assistance of State funds; and

(vi) Commit to seeking additional investment funding, whether from federal or private sources, and

(vii) Have some or all founding members that have, through this company or another:

(A) Have been a finalist in a pitch competition; or

(B) Be a graduate of an accelerator program; or

(C) Have previously founded and either failed or exited a previous company; or

(D) Have previously helped raise meaningful equity funding in a meaningful capacity.

(b) Awardees are limited to one (1) award under this chapter per fiscal year (July 1 through June 30) with a maximum award amount that does not exceed seventy-five thousand dollars (\$75,000.00) over the lifetime of the company.

## **Section 5. Application process.**

(a) Prioritization criteria.

(i) Council Staff shall prioritize awards under this chapter based on the following criteria:

(A) Applicant's ability to lead to scalable, commercially successful product, concept, or design within a reasonable period of time;

(B) Applicant's potential for stimulating innovation-driven economic growth within Wyoming; and

(C) The amount of funds applicant has requested and its demonstrated need for those funds.

(ii) In addition to the criteria listed under Section 5(a)(i) of this chapter, Council Staff may, in their sole discretion, consider the following additional criteria to prioritize awards:

(A) The commercialization potential of the proposed service, product, concept, design or other marketable asset;

(B) The viability and thoughtfulness of the individual or business entity's technology, funding, commercialization, and exit strategy;

(C) The degree of success in prior commercialization, if any, of an existing service, product, concept, design or other marketable asset supported by previous funding and the return on investment for that funding;

(D) The individual or business entity's ability to attract follow-on funding;

(E) The management quality, potential and experience of the individual or the business entity's management team; and

(F) Likely public benefit to Wyoming were the individual or business entity to receive the requested funds and develop the service, product, concept, design or other marketable asset as proposed.

(b) Application.

(i) Council Staff shall provide a "Kickstart:Wyoming" application online that includes a requirement to provide information relevant for funding decisions, including but not limited to information that establishes the applicant's eligibility for a grant under the "kickstart:Wyoming" Program.

(ii) Each applicant shall file its application for "kickstart:Wyoming" funds with Council Staff online at a website provided by Council Staff.

(c) Application process, procedure and approval. Applications are received on a quarterly basis and reviewed in the following manner:

(i) Council staff reviews to ensure accuracy, eligibility and completeness, and provides a recommendation based upon these rules and W.S. § 9-12-105(c).

(ii) The Council, or Council Staff has the sole discretion to make award decisions based upon these rules and W.S. § 9-12-105(c). The Council, or Council Staff may consult with subject matter experts for assistance and advice in making funding decisions.

(iii) Following the Council's decision or the decision of Council Staff, requests for funding will be routed through the Governor or the Governor's designee for approval. Council Staff will thereafter submit the invoice for payment to the State Auditor's Office.

(d) Amount of award; annual allocations. Applicants may seek funding between \$5,000 and \$50,000 per application. Annual allocations to this program are detailed in the startup:Wyoming Subaccount Allocation Plan.

(e) Reporting.

(i) Awardees shall provide a report to the Wyoming Business Council between six (6) and fifteen (15) months after the award is granted. The report should address the company's:

(A) Progress toward commercialization of service, product, concept, design, or other marketable asset;

(B) Progress toward seeking and receiving additional funding, whether from State, federal or private sources;

(C) Plans for growth, market, commercialization and capitalization in the upcoming year;

(D) Proof of proper use of funds;

(E) Maintenance of nexus in Wyoming that is substantial and continuous. To prove nexus, awardee must provide documentary evidence showing the majority of the awardee's employees work in Wyoming.

(ii) Additional reporting requirements may be outlined in the grant agreement between the awardee and the Council.

(g) Allowable use of funds; consequence for misuse of funds and repayment.

(i) Funds may be spent on materials or activities that facilitate development or commercialization of a company's service, product, concept, design or any other marketable asset.

(ii) Any other use of "Kickstart:Wyoming" funds is prohibited. Business Council will conduct an audit between thirteen (13) and sixteen (16) months of the award date for the purpose of verifying that "Kickstart:Wyoming" funds are spent on appropriate materials and activities. The Council may seek return of the disbursed funds if it at any time determines that an awardee has failed to submit any part of the required annual report, has made a prohibited use of the funds, or has breached the agreement between itself and the Council. In that instance, the awardee shall repay all funds provided under this chapter plus interest at the rate of four percent (4%) per annum compounded annually from the date the funds were granted. This provision is in addition to, and does not replace, any other potential cause of action the Council may have against the awardee based on its conduct.

**Section 6. Program administration.** The Council may designate Council Staff to approve applications and make award decisions. If the Council chooses to designate Council Staff with this responsibility, Council Staff shall make a quarterly report to the Council on the number of applications approved, the status of the approved applications, and the amount of funds distributed to awardees.

## **Chapter 1**

### **Kickstart:Wyoming Program**

**Section 1. Authority.** The Wyoming Business Council, pursuant to Wyoming Statute § 9-12-105(c), is required to promulgate such rules as are necessary to administer a “kickstart:Wyoming” program to provide funding to early stage ventures of Wyoming based entrepreneurs.

**Section 2. Purpose.** These rules are promulgated for the purpose of providing a regulatory framework for providing funding to early-stage high-growth ventures of Wyoming based entrepreneurs to commercialize services, products, concepts, designs or other marketable assets.

#### **Section 3. Definitions.**

(a) As used in this chapter:

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

(ii) “Council Staff” the staff of the Wyoming Business Council assigned to administer the “kickstart:Wyoming” program.

(iii) “High-growth potential company” means a company with a globally differentiated concept, scalable product and business model, defined value proposition, large target addressable market and potential for exit via initial public offering or acquisition.

(iv) “Applicant” means a business entity or individual who applies for funding under the “kickstart:Wyoming” program.

(v) “Awardee” means a business entity or individual who has been awarded funds under the “kickstart:Wyoming” program.

#### **Section 4. Application Requirements and Program Eligibility.**

(a) In addition to the statutory requirements under W.S. § 9-12-105(c), to be eligible, an applicant must:

(i) Employ ~~fifty (50)~~ twenty-five (25) individuals or less;

(ii) Produce or propose to produce a service, product, concept, design or any other marketable asset that ~~relates to or fulfills one of the five Next Generation Engines identified in the ENDOW 20-Year Economic Diversification Strategy~~ aligns with the State of Wyoming’s Economic Development Strategy;

(iii) Provide a good faith declaration of intent to remain in Wyoming;

- (iv) ~~Be, or~~ Own or manage a high-growth-potential company;
- (v) Agree to provide a report, as described in Section 5(g), describing in detail its efforts to and success in commercializing the service, product, concept, design or other marketable asset to be developed with the assistance of State funds; and
- (vi) Commit to seeking additional ~~nonstate~~ investment funding, whether from federal or private sources, and
- (vii) Have some or all founding members that have, through this company or another:
  - (A) Have been a finalist in a pitch competition; or
  - (B) Be a graduate of an accelerator program; or
  - (C) Have previously founded and either failed or exited a previous company; or
  - (D) Have previously helped raise meaningful equity funding in a meaningful capacity.

(b) Awardees are limited to one (1) award under this chapter per fiscal year (July 1 through June 30); with a maximum award amount that does not exceed seventy-five thousand dollars (\$75,000.00) over the lifetime of the company.

## **Section 5. Application process.**

- (a) Prioritization criteria.
  - (i) ~~The Council Staff will~~ wish prioritize awards under this chapter based on the following criteria:
    - (A) Applicant's ability to lead to scalable, commercially successful product, concept, or design within a reasonable period of time;
    - (B) Applicant's potential for stimulating innovation-driven economic growth within Wyoming; and
    - (C) The amount of funds applicant has requested and its demonstrated need for those funds.
  - (ii) In addition to the criteria listed under Section 5(a)(i) of this chapter, ~~the Council Staff may, in its~~ their sole discretion, consider the following additional criteria to prioritize awards:

(A) The commercialization potential of the proposed service, product, concept, design or other marketable asset;

(B) The viability and thoughtfulness of the individual or business entity's technology, funding, commercialization, and exit strategy;

(C) The degree of success in prior commercialization, if any, of an existing service, product, concept, design or other marketable asset supported by previous funding and the return on investment for that funding;

(D) The individual or business entity's ability to attract follow-on funding;

(E) The management quality, potential and experience of the individual or the business entity's management team; and

(F) Likely public benefit to Wyoming were the individual or business entity to receive the requested funds and develop the service, product, concept, design or other marketable asset as proposed.

(b) Application.

(i) ~~The Council~~ Staff shall provide a "Kickstart:Wyoming" application online that includes a requirement to provide information relevant for funding decisions, including but not limited to information that establishes the applicant's eligibility for a grant under the "kickstart:Wyoming" Program.

(ii) Each applicant shall file its application for "kickstart:Wyoming" funds with ~~the Council~~ Staff online at a website provided by ~~the Council~~ Staff.

(c) Application process, procedure and approval. Applications are received on a ~~rolling~~quarterly basis and ~~will be reviewed in the month following the month of application submission in the following manner:~~

(i) Council staff reviews to ensure accuracy, eligibility and completeness, and provides a recommendation based upon these rules and W.S. § 9-12-105(c).

(ii) The Council, or Council Staff ~~as designated by the Council~~, has the sole discretion to make award decisions based upon these rules and W.S. § 9-12-105(c). The Council, or Council Staff ~~as designated by the Council~~, may consult with subject matter experts for assistance and advice in making funding decisions.

(iii) Following the Council's decision, or the decision of Council Staff ~~if so designated by the Council~~, requests for funding will be routed through the Governor or the Governor's designee for approval. ~~The Council~~ Staff will thereafter submit the invoice for payment to the State Auditor's Office.

(d) ~~Agreement template. In consultation with the Attorney General's Office, the Council shall prepare a template for all agreements between itself and potential awardees of "kickstart:Wyoming" funds and shall submit the template to the Attorney General's Office for approval. Following approval by the Attorney General's Office, the Council shall use this template for all such agreements, and shall not deviate from the template without approval from the Attorney General's Office. The Council shall, on an annual basis, resubmit the template to the Attorney General's Office for updates and approval.~~

(e) ~~Amount of award; annual allocations. Applicants may seek funding between \$5,000 and \$50,000 per application. Annual allocations to this program are detailed in the startup:Wyoming Subaccount Allocation Plan.~~

(~~f~~) Reporting.

(i) Awardees shall provide a report to the Wyoming Business Council between ~~twelve (12)~~six (6) and fifteen (15) months after the award is granted. -The report should address the company's:

(A) Progress toward commercialization of service, product, concept, design, or other marketable asset;

(B) Progress toward seeking and receiving additional funding, whether from State, federal or private sources;

(C) Plans for growth, market, commercialization and capitalization in the upcoming year;

(D) Proof of proper use of funds ~~in the form of receipts or invoices;~~

(E) ~~Suggestions for continuous improvement to State programs for startups;~~

~~——(F)——Maintenance of nexus in Wyoming that is substantial and continuous. To prove nexus, awardee must provide the following:~~

(~~I~~) ~~Documentary~~ documentary evidence showing the majority of the awardee's employees work in Wyoming; ~~and.~~

(~~II~~) ~~A multimedia narrative of the Wyoming lifestyle of its employees, leveraging social media resources.~~

(ii) ~~Awardees must provide material to the Council, or Council Staff as designated by the Council, as requested for purposes of promoting Wyoming's entrepreneurial ecosystem and lifestyle. Additional reporting requirements may be outlined in the grant agreement between the awardee and the Council.~~

(g) Allowable use of funds; consequence for misuse of funds and repayment.

(i) Funds may be spent on materials or activities that facilitate development or commercialization of a company's service, product, concept, design or any other marketable asset.

(ii) Any other use of "Kickstart:Wyoming" funds is prohibited. Business Council will conduct an audit between thirteen (13) and sixteen (16) months of the award date for the purpose of verifying that "Kickstart:Wyoming" funds are spent on appropriate materials and activities. The Council may seek return of the disbursed funds if it at any time determines that an awardee has failed to submit any part of the required annual report, has made a prohibited use of the funds, or has breached the agreement between itself and the Council. In that instance, the awardee shall repay all funds provided under this chapter plus interest at the rate of four percent (4%) per annum compounded annually from the date the funds were granted. This provision is in addition to, and does not replace, any other potential cause of action the Council may have against the awardee based on its conduct.

**Section 6. Program administration.** The Council may designate Council Staff to approve applications and make award decisions. If the Council chooses to designate Council Staff with this responsibility, Council Staff shall make a quarterly report to the Council on the number of applications approved, the status of the approved applications, and the amount of funds distributed to awardees.

# Memo



TO: WYOMING BUSINESS COUNCIL BOARD OF DIRECTORS  
FROM: WBC SERVICES DIVISION  
SUBJECT: SBIR ANNUAL INVESTMENT APPROVAL  
DATE: MAY 3, 2023

The services team is seeking board approval to invest up to \$3,000,000 in SBIR matching grants during fiscal year 2024.

## **PROGRAM OVERVIEW**

The Wyoming Legislature allocated \$5,000,000 to the SBIR Matching Grant Program over the current biennium to be used to support economic development through job creation, innovation, and recruiting of innovative companies to Wyoming. These investments will be under the SBIR rules including Section 6: Program Administration, which allows for delegation of approval of applications and award decisions with the addition of quarterly reports to the Board of Directors. Grant amounts are limited by W.S. 9-12-105 (d)(ii) and further defined by *startup:Wyoming Allocation Plan and Supplemental Procedures*, setting the maximum grant amounts of \$100,000 for a company's first phase I match, and \$70,000 for following phase I grants. For any Phase II matching grant the maximum amount is \$200,000. There is also defined a maximum of 4 matching grant awards per life of a company as stated in rule.

## **OF NOTE**

During FY23, to date, \$1,810,000.00 of the previous approval of \$2,000,000.00 has been allocated to Wyoming companies.

## **REQUEST**

The existing WBC Contracts policy requires this Board to review and approve all contracts and expenditures totaling \$100,000 or more. While we believe continuation of this practice and policy is appropriate, it presents certain challenges with timely disbursement of grants to support startups as required by W.S. 9-12-105 (d)(iii). There are also challenges with the proprietary research and development being proposed for SBIR grants that cannot be presented during a public meeting.

The services team feels strongly that timely disbursement of these funds will greatly benefit viability of these startup businesses and give them the best chance of success into the future. To facilitate timely and maximal utilization of the SBIR funding, we recommend adoption of the following resolution:

*BE IT RESOLVED by the Wyoming Business Council Board of Directors, the CEO and staff of the Wyoming Business Council are hereby authorized to invest and disburse funds allocated to WBC for the SBIR Matching Grant Program and may do so on behalf of the board in the amount of up to three million dollars (\$3,000,000) in fiscal year 2024, in accordance with existing rules and without pre-approval provided. All investments will be made in good faith and full compliance with applicable state law, and otherwise performed in accordance with WBC policy. The CEO and staff shall provide updates to the board on all investments made under this authorization at each regular public meeting.*



# STRATEGY COMMITTEE REPORT



# INVESTMENTS COMMITTEE REPORT

## Credit Memorandum

**Applicant:** Security State Bank (Sheridan, WY)  
**Client:** Mine Rite Technologies  
240 Flatiron Drive  
Buffalo, WY 82410  
**Date:** May 3, 2023  
**Purpose:** Business 50/50 Loan for working capital and raw material purchases for the conversion of purchase orders into products.

**Proposal:**

Security State Bank, located in Sheridan, WY, has requested the Wyoming Business Council (WBC) to participate under the “50/50 Financing” provision of the Wyoming Partnership Challenge Loan program to provide two revolving loans of credit to Mine Rite Technologies, LLC. One loan (\$200,000) will be used for operating capital and the second loan (\$1,000,000) will be used to support the conversion of purchase orders into finished goods. As each purchase order is received, up to 70% of material costs will be provided to Mine Rite to fulfill the order. Once the receivable is built, delivered, and paid for, the advance on material will be paid off. The bank and WBC have acquired a list of all assets and they have been professionally valued and appraised. WBC’s participation will be a maximum of three hundred thousand dollars (\$300,000) or 25% of the final total loan.

	<b>Request</b>
<b>Total Loan</b>	\$1,200,000
<b>WBC Portion</b>	<b>\$300,000 (25%)</b>
<b>Amount Refinanced</b>	\$0
<b>Collateral</b>	Buildings, Equipment, Receivables
<b>Loan Fee</b>	\$3,000 (1%)
<b>WBC Interest Rate</b>	6%
<b>Adjustment Time</b>	Fixed
<b>Blended Interest Rate</b>	8.625%
<b>Loan Term</b>	3 Years RLOC
<b>Payment Frequency</b>	Monthly
<b>Guarantor</b>	John D’Amico Zach D’Amico

**Project:**

Mine Rite Technologies was formally incorporated in February of 2004. The company manufactures and provides specialty attachments for large mining and construction equipment. Mr. John D’Amico invented the ‘Tube Box” Truck Body. This patented tubular design is structurally stronger, yields a lower center of gravity, allows for an easier manufacturing process, and eliminates welded seams on the truck body. Mr. D’Amico also owns and operates two other businesses, Minerite Buffalo Properties, LLC and Certified Tool Technologies, Inc and will

provide cash flow and guarantee support. The WBC has been working with Patrick Schilling, Commercial Lender, to help structure this deal. The lead bank is lending according to their loan policy and the proposed loan participation includes 25% participation from Wyoming Smart Capital Network.

#### **Cash Flow:**

Based on the historical financials obtained from the lead bank, Mine Rite Technologies was significantly impacted by the pandemic shutdowns. However, the company is trending in a good direction and due to the nature of the loan, purchase contracts will be established and fulfilled before additional funds are advanced. There will be additional measures taken to monitor the loan including, but not limited to, Monthly monitoring, Quarterly Statement review, and limited owner distributions to federal income tax burdens. The monthly debt service will be reduced when the interest rate is blended with the WBC's portion of the loan and will improve the cash flow of the company. This blended rate will save the company debt service on the monthly payments to Security State Bank up to (approx.) \$750; totaling a potential \$27,000 over the life of the loan. The total DSCR for current and proposed debt for the three businesses and two owners is 1.56. The projected DSCR for 2023 for Mine Rite Technologies and Certified Tools combined will be 3.19 on the proposed debt. This assumes the net revenue on the purchase orders that will be fulfilled.

Credit reports were submitted to the WBC from the lead bank and all accounts are current and paying as agreed.

#### **Bank Risk Rating:**

The loan is presented as a pass credit with Security State Bank, based on historical cash flow, guarantor support, and collateral.

**The net available balance in the Economic Development Fund is \$11,820,977.**

#### **Recommendation:**

**Staff recommends that the Board of Directors of the Wyoming Business Council approve the loan participation in the amount of \$300,000.00 (three hundred thousand dollars and 00/100 cents) as presented in this Credit Memorandum. This participation will be with Security State Bank in Sheridan, WY as the lead bank. The loan recipient will be Mine Rite Technologies, LLC.**

Respectfully submitted,



John Wendling  
Loan Portfolio Manager  
**Attachment 1 – Applicable Statute**

## **Attachment 1**

### **§ 9-12-304. Criteria for loans.**

Any business may apply to the council for financing as defined in W.S. 9-12-301(a) (vi). "Fifty-fifty (50-50) financing program" means the provision of financing for that portion of the total project cost that is calculated by subtracting from the total project cost the sum of the business's debt. The council shall not consider a proposal in which the fifty-fifty (50-50) financing component exceeds fifty percent (50%) of the total project cost or two million five hundred thousand dollars (\$2,500,000.00), whichever is less, and the business does not contribute more than fifteen percent (15%) of the total project cost.

## Credit Memorandum

**Applicant:** Security State Bank (Gillette, WY)  
**Client:** CHEMSOL, LLC  
P.O. Box 423 Gillette, WY 82718  
**Date:** May 3, 2023  
**Purpose:** Business Succession Loan for acquisition of existing chemical supply company on the production side of oil and gas industry.

**Proposal:**

Security State Bank, located in Gillette, WY has requested the Wyoming Business Council (WBC) to participate under the "Succession Financing" provision of the Wyoming Partnership Challenge Loan program to provide a term loan to CHEMSOL, LLC to acquire Chemical Consultants, LLC, an oil and gas chemical supply company. The existing owner has passed away and the family is selling to Jared Green. Mr. Green has been with Chemical Consultants, LLC since 2010. The existing business has been a long-time customer of Security State Bank and Mr. Green has been a valued customer since 2009. The proposed loan would be used to acquire all business assets associated with the company. The bank and WBC have acquired a list of all assets and valuation of said assets. WBC's participation will be one hundred seventy-five thousand dollars (\$175,000) or 50% of the final total loan.

	<b>Request</b>
<b>Total Loan</b>	\$350,000
<b>WBC Portion</b>	<b>\$175,000 (50%)</b>
<b>Amount Refinanced</b>	\$0
<b>Collateral</b>	All Assets except A/R
<b>Loan Fee</b>	\$1,750 (1%)
<b>WBC Interest Rate</b>	5.5%
<b>Adjustment Time</b>	Fixed
<b>Blended Interest Rate</b>	6.875%
<b>Loan Term</b>	7 Years Fully Amortized
<b>Payment Frequency</b>	Monthly
<b>Guarantor</b>	Jared Green

**Project:**

Chemical Consultants was formally incorporated in April of 1988. The company provides chemical inhibitors for scale and corrosion management, reverse emulsion breakers, and other specialty chemicals to service oil and gas producers. The WBC has been working with Ryan Gross, Market President, to help structure this deal. The previous owner passed away in early 2022, and the Operations Manager, Jared Green has been solely managing the company. Mr. Green has arranged the purchase of the company and its assets and has been an integral part of the company since 2010. Under Mr. Green's ownership the business will be incorporated as

CHEMSOL, LLC. The lead bank is lending according to their loan policy, and through participation of the WBC can maintain an acceptable Loan to Value.

**Cash Flow:**

Based on the historical financials obtained from the lead bank, Chemical Consultants exhibits the ability to service the proposed debt with a DSCR of 2.44 assuming the bank's interest amount to the entire loan. The cash flow will be stronger/better when the interest rate is blended with the WBC's portion of the loan to 2.50 debt service ratio and will improve the cash flow of the company. This blended rate will save the company debt service on the monthly payments to Security State Bank in the amount of (approx.) \$235, totaling \$19,712.94 over life of the loan.

Credit reports were submitted to the WBC from the lead bank and all accounts are current and paying as agreed.

**Bank Risk Rating:**

The loan is presented as a pass credit with Security State Bank, based on history with the lender, guarantor support, and management/industry experience.

**The net available balance in the Economic Development Fund is \$11,820,977**

**Recommendation:**

**Staff recommends that the Board of Directors of the Wyoming Business Council approve the loan participation in the amount of \$175,000.00 (one hundred seventy-five thousand dollars and 00/100 cents) as presented in this Credit Memorandum. This participation will be with Security State Bank in Gillette, WY as the lead bank. The loan recipient will be CHEMSOL, LLC.**

Respectfully submitted,



John Wendling  
Loan Portfolio Manager

**Attachment 1 – Applicable Statute**

## **Attachment 1**

### **§ 9-12-304. Criteria for loans.**

Any business may apply to the council for financing as defined in W.S. 9-12-301(a) (xii). “Succession Financing” means a provision of financing to be used to assist in the transition or succession of a business that has been in existence for not less than seven (7) years immediately before the transfer or succession to a new owner of the business.

# SHERIDAN, WY MANUFACTURING SNAPSHOT

## 2018 - 2022

*This data was collected in early 2023 from five (5) large-scale manufacturing companies, with at least 50 employees, & located in Sheridan, WY. Some of these companies worked with SEEDA and received BRC funding.*

*The data collected was analyzed by Applied Economics to show economic impact over a 5-year period. The algorithm used is formulated to each Wyoming county's statistics and these market factors help determine the measurement. Data collected includes jobs, wages, and capital expenditures. These numbers do not include other factors such as other tax revenue generating benefits and additional induced economic activity.*

### Five-Company Overview:

**585**

#### Jobs Created

**Direct Jobs Created**

*(jobs created by the companies surveyed)*

**175**

**Indirect Jobs Created**

*(jobs created at other local companies due to increased demand for goods and services for surveyed companies)*

**120**

**Induced Jobs Created**

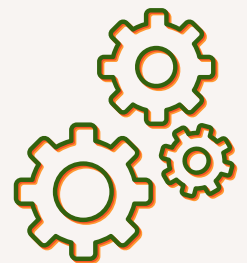
*(jobs created by personal spending of workers employed in direct and indirect jobs)*



#### Total Annual Income

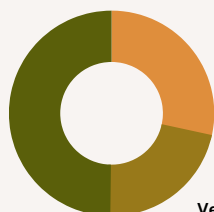
**\$30,640,528**

**Total Annual Income for Jobs Created**



#### Total Spending Impact

*(personal spending of all jobs created)*



Groceries, Household Supplies & Services  
\$10,347,533

Housing, Taxes, Insurance, etc  
\$18,144,618

Vehicles, Appliances, Apparel, etc  
\$7,942,825

#### Tax Revenues

*(includes jobs, wages, and capital expenditures)*

**\$1,296,109**

**Annual Local Tax Revenues**

**\$381,633**

**Annual State Tax Revenues**



#### Sheridan Co. Overall Manufacturing Industry:

Total Manufacturing Jobs: **903**

5-Year Annual Growth: **11.1%**

Average Annual Wage: **\$54,368**



**SEEDA**

Sheridan Economic and  
Educational Development Authority

**Wyoming**  
BUSINESS COUNCIL

#### REFERENCES

\*Applied Economics, LLC

\*JobsEQ data as of 2022Q4



214 W. 15<sup>th</sup> Street  
Cheyenne, WY 82002  
Tel: (307) 777-2800 Fax: (307) 777-2838  
[www.wyomingbusiness.org](http://www.wyomingbusiness.org)

---

### Memorandum

**To:** Wyoming Business Council Board of Directors  
**From:** Investments Team  
**Subject:** SEEDA Kennon Loan/Vacutech Grant Repayment Refinance Proposal  
**Date:** May 3, 2023

---

The Sheridan Economic & Educational Development Authority (SEEDA) Joint Powers Board is requesting the Wyoming Business Council Board's consideration to consolidate current debt owed to the Business Ready Communities (BRC) Grant and Loan Program. SEEDA currently is paying as agreed on an original loan amount of \$1,510,761 awarded January 17, 2019. They are also making annual payments to reimburse WBC for grant funds distributed on the Vacutech project that was withdrawn by the company.

Currently, SEEDA is making payments on the Kennon Loan in the amount of \$106,298.77 per year. The rate/term on that loan is 3.50% for 20 years. They are also making a yearly payment on the Vacutech reimbursement of \$28,006.20 per year for a total of 10 years and 0% interest.

The Wyoming Business Council staff has been working with SEEDA to consolidate their debt obligations and create a refinance option with one annual payment to help cash flow needs going forward. The loan refinance option would restructure the debt over a 20-year period at 2.00% interest rate with the first three years interest free.

As outlined in Attachment 1, the first three years of the loan will have no interest, with the entire annual payment going towards the Vacutech grant repayment amount, or 3 payments of \$84,018.67 for a total of \$252,056. The following 17 years will be the balance of the SEEDA Kennon Loan of \$1,457,338 amortized at 2.00% for an annual fixed payment of \$101,969.78.

**The Investments Division recommends and requests the Board's approval of SEEDA's proposal to consolidate and refinance current debt owed to WBC of \$1,709,394 in accordance with the terms as outlined in Attachment 1.**

## Attachment 1

SEEDA Kennon/Vacuttech Refinance Summary			
Current			
	Kennon Loan	Vacuttech Grant Repayment	Total
Balance	\$1,457,338.00	\$252,055.80	\$1,709,394
Annual Payment	\$106,298.77	\$28,006.20	\$134,305
Current Term	20	10	
Current Rate	3.50%	0%	
20 Year Term - 3 Year, no interest - 17 yrs @ 2% (Grant Repaid first, then loan starts)			
Total Loan Amount	\$1,709,394		
First 3 yrs Annual Payment	\$84,018.67	Yearly Savings (First 3 Years)	\$50,286.30
Annual Payment (17 Yrs)	\$101,969.78	Yearly Savings (Final 17 Years)	\$32,335.19
One Time Fee	\$125.00		
*Includes credit for fee paid on previous Kennon Loan			

## Chapter 1

### GENERAL PROVISIONS

**Section 1. Purpose.** The purpose of the program is to promote economic development through publicly owned infrastructure at the city, town, county, tribe and regional levels in order to improve economic health and a stronger state economy. These rules are adopted in order to implement W.S. 9-12-601 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.

**Section 2. 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 3. Definitions.**

(a) “Affixed equipment” means equipment that is fixed in position to a building or property as a permanent appendage or as a structural part of the building or property.

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

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

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

(e) “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 with 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.

(f) “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 town, city, county or region by providing necessary resources and assistance.

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

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

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

(j) “Eligible project costs” means total project costs, less ineligible project costs. Eligible project costs for infrastructure projects include affixed equipment and other permanent fixtures.

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

(l) “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.

(n) “Median Wage” means if 90% or more of the employment is located in one county, utilize County Median Wage; if less than 90%, utilize State Median Wage. Must also meet State Industry Average Wage to be considered “median wage.”

(o) “Movable equipment” includes those items that are the functioning collection of machinery or devices for performing a mechanical, electrical or communications task that remain movable and not a structural part of the building and/or property.

(p) “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.

(q) “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.

(r) “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.

(s) “Phased projects” means a project in which parts (“phases”) are completed and fully functional before the entire project is built-out. Receipt of funding for a phased project does not guarantee additional funding for future phases.

(t) “Political subdivision” means a division of the state that exists primarily to discharge some function of local government.

(u) “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, that meet an unmet need in the market area and result in the creation of new wealth or economic growth. An additional consideration will be given for full-time equivalent (FTE) positions with wages at or above median and state industry average wage and which include benefits.

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

(w) “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) Eligible applicants as defined by W.S. 9-12-601(b) may apply for BRC funding. Two or more eligible applicants may apply for a joint project via one application.

(b) The Council may enter into a cooperative agreement with the Eastern Shoshone Tribe, the Northern Arapaho Tribe, or the cooperative tribal governing body 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.

(d) An otherwise eligible applicant that is past due on program reporting or revenue recapture payments to the Council shall be deemed ineligible until the applicant brings itself into full compliance with existing reporting and payment obligations to the Council.

(i) Noncompliant applicants shall be highlighted on program annual reporting to the Wyoming Legislature.

## **Section 5. Type of Projects.**

(a) An infrastructure project is a project that funds the construction of physical structures and facilities including the purchase of land, buildings, facilities, telecommunications infrastructure, rights of way, airports, sewer and water projects, roads, landscaping, recreational and convention facilities and like expenditures. The Council may recommend, and the Board may approve, upon a finding of extraordinary circumstances, that a higher funding amount and/or a lower match amount is consistent with the purpose of the BRC.

(i) 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, at or above median wage and at the state industry average wage, will be created or retained by the business. The maximum grant amount per project is five million dollars (\$5,000,000). Funding in excess of the maximum grant amount may be applied for as a BRC loan.

(ii) 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. The applicant must demonstrate potential exists for creation of new primary jobs. The maximum grant amount per project is five million dollars (\$5,000,000). Funding in excess of the maximum grant amount may be applied for as a BRC loan.

(iii) A Community 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. 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) per project and the maximum grant amount for Category 2 applicants is seven hundred fifty thousand (\$750,000) per project. Funding in excess of the maximum grant amount may be applied for as a BRC loan.

(b) 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 economic capabilities of the community as a whole and identifies potential future economic development opportunities. This may include regional targeted industry plans. The maximum award is one hundred thousand (\$100,000).

(ii) A Feasibility Study is a site-specific or industry-specific plan to determine the feasibility of a project to meet economic development objectives or remove barriers to economic growth. The maximum award is fifty thousand (\$50,000).

## **Section 6. Eligible Activities.**

(a) 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.

(d) Grant and loan funds may not be used for salaries, wages, or contracts during the grant writing stage.

(e) Eligible projects shall clearly demonstrate how the outcome for each project will result in economic growth.

#### **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 the applicant, there shall be documentation that in the event of dissolution of the owner, the BRC-funded infrastructure 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 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.

(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. Revenue recapture requirements may be satisfied via revenue recapture payments unless otherwise prohibited by applicable statutes, rules, or regulations. All funds recaptured at the local level shall

be placed in a segregated economic development account or separate line item within a budget.

(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 shall 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 shall be recaptured to the BRC fund.

(c) Revenue recapture percentage to the BRC account may be increased above 25% at the discretion of the Council staff.

(d) No more than fifty percent (50%) of local recapture may be used for operational expenses of the applicant or the agent of the applicant and must be 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.

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

(f) A lien shall be filed on the property by the Council staff at the time of grant and/or loan agreement execution.

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

(a) Projects involving a private developer shall demonstrate that adequate consideration exists by showing that the expected benefit to the State is at least as great as the BRC assistance. The analysis of whether adequate consideration exists may include whether the private developer is providing a match with its own funds, has secured a match with other non-state funds, and any capital expenditures the private developer intends to make connected to the project. Such projects shall include the repayment of BRC funds as described in Section 8 and meet at least one of the following three criteria:

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

(ii) Projected tax benefits;

(iii) 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 or another venue as approved by 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 shall at a minimum:

(A) Identify the economic development opportunity or opportunities;

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

(C) 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 at least one month prior to project submission.

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

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

(i) Council staff shall utilize a scoring matrix to evaluate a grant and/or loan application.

(ii) Each applicant shall submit the required application form and any supplemental documentation required by Council staff.

(iii) An applicant shall demonstrate satisfactory performance under previous grants and/or loans awarded through this program.

(c) Incomplete or ineligible applications will be sent back to the applicant for resubmittal at the next eligible application cycle. If Council staff determine that an application is incomplete or ineligible, the applicant shall be provided an explanation of the Council staff's findings and recommendations.

(d) The Council staff shall provide statewide notice of Council and Board meetings at which BRC applications will be discussed.

(e) The Council staff shall provide the Council with a summary of each application and a recommendation as to that application.

(f) The Council shall perform a roll-call vote on all BRC projects.

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

## **Section 12. 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 on the Wyoming Business Council website.

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

Community Readiness	One per calendar year
Community Project	One per calendar year
Planning	One per calendar year

### **Section 13. Grant Match Requirements.**

- (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.
- (d) The total required match 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 sources 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.
- (f) For Business Committed applications, the committed business must contribute to the project in at least one of the following ways:
  - (i) Contribute to the eligible cash match;
  - (ii) Contribute to the ineligible cash match; or
  - (iii) Contribute other investments into the project.
- (g) The following is a breakdown of the required match percentages by category:

<b>BRC Required Match</b>			
	Category 1 Applicant	Category 2 Applicant	Notes
Business Committed	20%	10%	Half of match must be cash
Community Readiness	20%	10%	Half of match must be cash
Community Project	20%	10%	Half of match must be cash
Planning	25%	25%	Half of match must be cash
All matches are calculated as a percentage of total eligible project cost.			

- (h) Applicants for all 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.

(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 event the applicant is a joint powers board, the project's location will determine its categorization.

#### **Section 14. 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 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, Council staff shall notify 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 shall notify an award recipient of a pending expiration prior to the one-year anniversary of the grant/loan approval. The award recipient may submit a written request to continue the project. Council staff may request new or updated information and documentation. Council staff may recommend and the Council may grant an extension of time in which to start or terminate the project.

(iv) For projects with contingencies, applicant must provide a quarterly update on the status of any project contingency. The 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 contingency terms.

(d) Construction Monitoring.

(i) Reports. Within fifteen (15) calendar days of the conclusion of each calendar quarter during the term of the award contract, the applicant shall provide Council staff with a progress report. Each progress report shall set forth, in narrative form, the work accomplished under the grant, loan, or grant and loan during the quarter and shall include a financial status report.

(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) At the end of the construction period, the applicant shall provide Council staff a comprehensive report of the project and a cumulative financial statement that reflects the total fund expenditure pursuant to the award contract.

(e) Project Evaluation.

(i) Reports. Once the construction period is complete, the applicant shall submit annual reports for an additional five years to evaluate project outcomes against established measures on an annual basis. The Board may approve a longer reporting period on a finding that a longer reporting period would be beneficial to the State for the project. Council staff shall tailor reports to the specific nature of each grant or loan, in agreements between the Council and 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 shall be available to other award recipients.

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

(iv) At the end of the five-year reporting requirement and/or at the sale of the public asset (if applicable), the 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) A detailed accounting of project expenditures that were paid for with BRC grant and/or loan funds;

(B) The match contributed and the source of the match monies;

(C) Recapture revenue(s) received, including an accounting 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

(D) The accomplishments that resulted from the grant and/or loan. An authorized official of the award recipient shall certify, under penalty of false swearing, that the information in the report is true.

(v) The Council staff reserves the right to require the award recipient to request a BRC project audit be conducted by the director of the department of audit or his designee. The award recipient shall be responsible to pay the cost of this audit.

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

### **Section 15. Public Comments on Applications Submitted and Under Board Consideration for Funding Recommendations.**

(a) Comments regarding any application submitted under this program may be offered by any interested party.

(b) Written comments shall be received by the Council staff no less than fourteen (14) calendar days prior to the public meeting at which the application is to be considered by the Council and:

(i) May be submitted using an online form to be prescribed by the Council staff;

(ii) May be submitted by email to the [wbc.public-comment@wyo.gov](mailto:wbc.public-comment@wyo.gov); or

(iii) May be submitted by mail or courier service as follows:

Wyoming Business Council  
Attn: Public Comment  
214 West 15<sup>th</sup> Street  
Cheyenne, WY 82002

(c) Written comments submitted by any means other than those set forth in Subsection 15(b) of this Chapter shall not be considered.

(d) Prior to taking action on any application, the Council may accept oral comments during public session from any interested party. In accordance with W.S. 16-4-403(b), any party wishing to offer oral comments shall notify the Council as set forth below. Such notification shall include:

(i) The first and last name of the person offering comment; and

(ii) The affiliation(s) of the person offering comment; and

(iii) If applicable for commenters participating virtually, the unique identifier (such as screen name or user name) of the person offering comment such that the Council can identify the person offering comment and enable them to speak.

(e) Notwithstanding Subsection 15(d) of this Chapter, the Council reserves its right to forego public comments during any meeting of the Council or to otherwise impose reasonable limitations, such as limitations on comment length, on any comment period.

**Section 16. Attorney General Opinions.** No Business Committed grant shall be made without the written opinion of the Attorney General as to the legality of the grant.

## **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 2. General Policy.** A BRC loan may be made to fund all or a portion of any project that is an eligible activity. A BRC loan 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 applicant. Council staff 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 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 applicant;

(iv) If applicable, an applicant 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 the loan will require an election;

(D) The proposed method of repayment and identified revenue sources for that repayment; and

(E) An affirmation that the Wyoming State Constitution debt provisions and all other applicable 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 applicant's attorney in evaluating the legality of the proposed indebtedness, each applicant shall provide:

(A) An annual budget for the preceding and current fiscal years; and

(B) 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:

(I) Assessed valuation for the current and two (2) preceding fiscal years;

(II) Total bonded and non-bonded indebtedness, including outstanding principal balance, interest rate and remaining term;

(III) 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;

(IV) Sales and use tax imposed within the jurisdiction of the applicant; and

(V) 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.

**Section 4. Maximum Loan Amount.** The maximum loan amount is five million dollars (\$5,000,000) 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.

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

- (ii) A floor of one percent (1%) for revenue generating projects.
- (iii) 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.
- (iv) Fees such as origination, documentation, filing appraisal and any additional fees will be paid by the applicant.
- (v) 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 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 shall be required to provide a complete appraisal on the collateral. The Council reserves the right to review and accept the appraisal or 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 determine 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. Election Determination.** No funds shall be disbursed to an applicant unless the applicant provides proof that an election approving the project and borrowing for the project by the qualified electors of the borrowing entity has occurred or is not required by law.

#### **Section 8. Loan Evaluation.**

- (a) In addition to Application Evaluation criteria in Chapter 1, Council staff shall evaluate a loan application utilizing the following criteria:
  - (i) 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
  - (ii) If applicable, whether the applicant is current on repayment obligations to the 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.

**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 Cost Reduction" grant. No less than fifty percent (50%) of the match shall be calculated by the net wages, not including benefits, 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 and are at the state industry average wage. 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.

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.** 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 14 and the following:

(i) Funds 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 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.

(ii) 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 award recipient, Council staff may grant an extension of time in which the business must start operations.

(iii) 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 Procedures.**

(a) Each applicant under this Chapter shall follow the application requirements in Chapter 1.

(b) In addition to other requirements listed for a development agreement in Chapter 1, the following 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) A 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 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) If applicable, a signed lease agreement or memorandum committing the applicant and business to follow the terms of lease agreement.

(c) Council staff shall utilize a scoring matrix to evaluate an application.

(d) At the applicant's expense, Council staff may request a disinterested third party 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.

## Chapter 1

### GENERAL PROVISIONS

**Section 1. Purpose.** The purpose of the program is to promote economic development through publicly owned infrastructure at the city, town, county, tribe and regional levels in order to improve economic health and a stronger state economy. These rules are adopted in order to implement W.S. 9-12-60~~2~~1 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.

**Section 2. 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 3. Definitions.**

(a) “Affixed equipment” means equipment that is fixed in position to a building or property as a permanent appendage or as a structural part of the building or property.

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

~~(b)~~ “Award recipient” means a county, incorporated city or town, joint powers board, or cooperative tribal governing body 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 with 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 town, city, county or region by providing necessary resources and assistance.

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

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

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

(ij) “Eligible project costs” means total project costs, less ineligible project costs. Eligible project costs for infrastructure projects include affixed equipment and other permanent fixtures. Examples of ineligible costs include appliances, equipment, furnishings and other features of the facility which are not physically attached.

(jk) “Ineligible project costs” means project costs that are not eligible for BRC funding and include appliances, movable equipment, furnishings and other features of the facility which are not physically attached or otherwise are depreciating assets, 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.~~

(l) “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.

\_\_\_\_\_ (n) “Median Wage” means if 90% or more of the employment is located in one county, utilize County Median Wage; if less than 90%, utilize State Median Wage. Must also meet State Industry Average Wage to be considered “median wage.”

\_\_\_\_\_ (o) “Movable equipment” includes those items that are the functioning collection of machinery or devices for performing a mechanical, electrical or communications task that remain movable and not a structural part of the building and/or

property.

(mp) “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.

(eq) “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.

(pr) “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.

(qs) “Phased projects” means a project in which parts (“phases”) are completed and fully functional before the entire project is built-out. Receipt of funding for a phased project does not guarantee additional funding for future phases.

(ft) “Political subdivision” means a division of the state that exists primarily to discharge some function of local government.

(su) “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, that meet an unmet need in the market area and result in the creation of new wealth or economic ~~growth-diversification~~. An additional consideration will be given for full-time equivalent (FTE) positions with will be wages at or above median and state industry average wage and which include benefits.

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

(uw) “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) Eligible applicants as defined by W.S. 9-12-601(b) A county, an incorporated city or town, joint powers board, cooperative tribal governing body, 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 cooperative agreement with the Eastern Shoshone Tribe, the Northern Arapaho Tribe, or the cooperative tribal governing body 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.

(d) An otherwise eligible applicant that is past due on program reporting or revenue recapture payments to the Council shall be deemed ineligible until the applicant brings itself into full compliance with existing reporting and payment obligations to the Council.

(i) Noncompliant applicants shall be highlighted on program annual reporting to the Wyoming Legislature.

## **Section 5. Type of Projects.**

(a) An infrastructure project is a project that funds the construction of physical structures and facilities including the purchase the land, buildings, facilities, telecommunications infrastructure, rights of way, airports, sewer and water projects, roads, landscaping, recreational and convention facilities and like expenditures. The Council may recommend, and the Board may approve, upon a finding of extraordinary circumstances, that a higher funding amount and/or a lower match amount is consistent with the purpose of the BRC.

(i) 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, at or above median wage and at the state industry average wage, will be created or retained by the business. 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 per project is three-five million dollars (\$35,000,000). Funding in excess of the maximum grant amount may be applied for as a BRC loan.

(bii) 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. The applicant must demonstrate potential exists for creation of new primary jobs. The maximum grant amount per project is three-five million dollars (\$35,000,000). Funding in excess of the maximum grant amount may be applied for as a BRC loan.

(ciii) A Community 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. 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) per project and the maximum grant amount for Category 2 applicants is seven hundred fifty thousand (\$750,000) per project. Funding in excess of the maximum grant amount may be applied for as a BRC loan.

(db) 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 ~~e~~Economic ~~d~~Development ~~p~~Plan assesses the economic capabilities of the community as a whole and identifies potential future economic development opportunities. This may include regional targeted industry plans. The maximum award is ~~forty~~one hundred thousand (\$~~100,000~~).

(ii) A ~~f~~Feasibility ~~s~~Study is a site specific or industry specific plan to determine the feasibility of a project to meet economic development objectives or remove barriers to economic growth. The maximum award is ~~twenty-five~~ fifty thousand (\$~~250,000~~).

~~\_\_\_\_\_ (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) 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.

(d) Grant and loan funds may not be used for salaries, wages, or contracts during the grant writing stage.

(e) Eligible projects shall clearly demonstrate how the outcome for each project will result in economic growth.

## **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 the applicant, there shall be documentation that in the event of dissolution of the owner, the BRC-funded infrastructure 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 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.

(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.

~~———— (e) For business committed projects, applicants must agree to repay with a reasonable rate of return any funds received to reduce costs if the business relocates after the date of first receiving funds. This agreement shall set forth the terms of any potential relocation and the means through which it will repay all BRC funds.~~

## **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. Revenue recapture requirements may be satisfied via revenue recapture payments unless otherwise prohibited by applicable statutes, rules, or regulations. All funds recaptured at the local level shall be placed in a segregated economic development account or separate line item within a budget.

(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 shall 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 shall be recaptured to the BRC fund.

(c) Revenue recapture percentage to the BRC account may be increased above 25% at the discretion of the Council staff. Revenue paid to the BRC fund shall 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.~~

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

(fd) No more than fifty percent (50%) of local recapture may be used for operational expenses of the applicant or the agent of the applicant such as a local economic, community, or state organization and must be 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.

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

(f) A lien shall be filed on the property by the Council staff at the time of grant and/or loan agreement execution.

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

(a) Projects involving a private developer shall demonstrate that adequate consideration exists by showing that the expected benefit to the State is at least as great as the BRC assistance. The analysis of whether adequate consideration exists may include whether the developer is providing a match with its own funds, has secured a match with other non-state funds, and any capital expenditures the private developer intends to make connected to the project. Such projects shall include the repayment of BRC funds as described in Section 8 and meet at least one-two of the following three-four criteria:

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

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

(ii) Projected tax benefits;

(iii) 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 or another venue as approved by 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 shall at a minimum:

(A) Identify the economic development opportunity or opportunities;

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

(C) 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 at least one month prior to project submission.

~~\_\_\_\_\_ (i) Each Wyoming Business Council Regional Director is available to assist applicants with the development of projects and preparation of applications.~~

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

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

~~\_\_\_\_\_ (i) Council staff shall utilize a scoring matrix to evaluate a grant and/or loan application.~~

~~\_\_\_\_\_ (ii) Each applicant shall submit the required application form and any supplemental documentation required by Council staff.~~

~~\_\_\_\_\_ (iii) An applicant shall demonstrate satisfactory performance under previous grants and/or loans awarded through this program.~~

(c) Incomplete or ineligible applications will be ~~either tabled or~~ sent back to the applicant for resubmittal at the next eligible application cycle~~a different time~~. If Council staff determine that an application is incomplete or ineligible, the applicant shall be provided an explanation of the Council staff's findings and recommendations.

(d) The Council staff shall provide statewide notice of Council and Board meetings at which BRC applications will be discussed.

(e) The Council staff shall provide the Council with a summary of each application and a recommendation as to that application.

~~\_\_\_\_\_ (f) The Council shall perform a roll-call vote on all BRC projects. 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 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. Each applicant shall submit the required application form and any supplemental documentation required by Council staff.~~

~~(b) Recipient of Previous Awards. An applicant shall demonstrate satisfactory performance under previous grants and/or loans awarded through this program.~~

**Section 123. 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 on the Wyoming Business Council website ~~by the Council.~~

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

<del>Business Committed</del>	<del>No Limit</del>
<del>Managed Data Center Cost Reduction</del>	<del>No Limit</del>
Community Readiness	One per calendar year
Community 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. Council staff shall utilize a scoring matrix to evaluate a grant and/or loan application.~~

**Section 135. Grant Match Requirements.**

(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 match 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 sources 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.

(f) For Business Committed applications, the committed business must contribute to the project in at least one of the following ways:

(i) Contribute to the eligible cash match;

(ii) Contribute to the ineligible cash match; or

(iii) Contribute other investments into the project.

(g) The following is a breakdown of the required match percentages by category:

<b>BRC Required Match</b>			
	Category 1 Applicant	Category 2 Applicant	Notes
Business Committed	<u>2</u> 40%	<u>10</u> 5%	Half of match must be cash
Community Readiness	<u>2</u> 40%	<u>10</u> 5%	Half of match must be cash
Community Project	20%	10%	Half of match must be cash
Planning	25%	25%	Half of match must be cash
All matches are calculated as a percentage of total <u>eligible</u> project cost.			

(~~h~~g) 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 event the applicant is a joint powers board, the project's location will determine its categorization.

**Section 146. 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 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, Council staff shall notify 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 shall notify an award recipient of a pending expiration prior to the one-year anniversary of the grant/loan approval. The award recipient may submit a written request to continue the project. Council staff may request new or updated information and documentation. Council staff may recommend, and the Council may grant an extension of time in which to start or terminate the project.

(iv) For projects with contingencies, ~~Council staff may request~~ applicant must provide a monthly/quarterly update on the status of any project contingency. The 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 contingency terms.

(d) ~~Project~~Construction Monitoring.

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

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

(e) Project Evaluation.

(i) Reports. ~~Upon~~ Once the construction period is complete, the ~~applicant project construction, the award recipient~~ shall submit annual reports for an additional five years to evaluate project outcomes against established measures on an annual basis. The Board may approve a longer reporting period on a finding that a longer reporting period would be beneficial to the State for the project. Council staff shall tailor reports to the specific nature of each grant or loan, in agreements between the Council and 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 shall be available to other award recipients.

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

(iv) At the end of the five-year reporting requirement and/or at the sale of the public asset (if applicable), term of a BRC project, the 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) -a detailed accounting of project expenditures that were

paid for with BRC grant and/or loan funds;

\_\_\_\_\_ (B) ~~†~~The match contributed and the source of the match monies;

\_\_\_\_\_ (C) ~~†~~Recapture revenue(s) received, including an accounting 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

\_\_\_\_\_ (D) ~~†~~The accomplishments that resulted from the grant and/or loan. An authorized official of the award recipient shall certify, under penalty of false swearing, that the information in the report is true.

\_\_\_\_\_ (v) The Council staff reserves the right to require the award recipient to request a BRC project audit be conducted by the director of the department of audit or his designee. The award recipient shall be responsible to pay the cost of this audit.

\_\_\_\_\_ (vi) Record retention. Award recipients shall agree to retain all records related to the project for five (5) years following the Council staff's date of notice to award recipient of closeout of the grant.

**Section 157. Public Comments on Applications Submitted and Under Board Consideration for Funding Recommendations.**

(a) Comments regarding any application submitted under this program may be offered by any interested party.

(b) Written comments shall be received by the Council staff no less than fourteen (14) calendar days prior to the public meeting at which the application is to be considered by the ~~Board~~Council and:

(i) May be submitted using an online form to be prescribed by the Council staff;

(ii) May be submitted by email to the [wbc.public-comment@wyo.gov](mailto:wbc.public-comment@wyo.gov);  
or

(iii) May be submitted by mail or courier service as follows:

Wyoming Business Council  
Attn: Public Comment  
214 West 15<sup>th</sup> Street  
Cheyenne, WY 82002

(c) Written comments submitted by any means other than those set forth in Subsection 157(b) of this Chapter shall not be considered.

(d) Prior to taking action on any application, the ~~Board~~ Council may accept oral comments during public session from any interested party. In accordance with W.S. 16-4-403(b), any party wishing to offer oral comments shall notify the Council as set forth below. Such notification shall include:

(i) The first and last name of the person offering comment; and

(ii) The affiliation(s) of the person offering comment; and

(iii) If applicable for commenters participating virtually, the unique identifier (such as screen name or user name) of the person offering comment such that the Council can identify the person offering comment and enable them to speak.

(e) Notwithstanding Subsection 157(d) of this Chapter, the ~~Board~~ Council reserves its right to forego public comments during any meeting of the ~~Board~~ Council or to otherwise impose reasonable limitations, such as limitations on comment length, on any comment period.

**Section 16. Attorney General Opinions.** No Business Committed grant shall be made without the written opinion of the Attorney General as to the legality of the grant.

## **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 2. General Policy.** A BRC loan may be made to fund all or a portion of any project that is an eligible activity. A BRC loan 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 applicant. Council staff 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 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 applicant;

(iv) If applicable, an applicant 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 the loan will require an election;

(D) The proposed method of repayment and identified revenue sources for that repayment; and

(E) An affirmation that the Wyoming State Constitution debt provisions and all other applicable 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~~ applicant's attorney in evaluating the legality of the proposed indebtedness, each applicant shall provide:

\_\_\_\_\_ (A) ~~a~~ An annual budget for the preceding and current fiscal years;  
and

\_\_\_\_\_ (B) ~~and a~~ 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~~I~~) Assessed valuation for the current and two (2) preceding fiscal years;

\_\_\_\_\_ (B~~II~~) Total bonded and non-bonded indebtedness, including outstanding principal balance, interest rate and remaining term;

\_\_\_\_\_ (C~~III~~) 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~~IV~~) Sales and use tax imposed within the jurisdiction of the applicant; and

\_\_\_\_\_ (E~~V~~) 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.

**Section 4. Maximum Loan Amount.** The maximum loan amount is ~~three~~ five million dollars (\$~~35~~,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.

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

- (ii) A floor of one percent (1%) for revenue generating projects.
- (iii) 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.
- (iv) Fees such as origination, documentation, filing appraisal and any additional fees will be paid by the applicant.
- (v) 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 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 shall be required to provide a complete appraisal on the collateral. The Council reserves the right to review and accept the appraisal or 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 determine 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. Election Determination~~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) No funds shall be disbursed to an applicant unless the applicant provides proof that \_\_\_\_\_ 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 has occurred or is not required by law.~~

## **Section 8. Loan Evaluation.**

- (a) In addition to Application Evaluation criteria in Chapter 1, Council staff shall evaluate a loan application utilizing the following criteria:
  - (i) 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

(ii) If applicable, whether the applicant is current on repayment obligations to the 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.

#### **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 Cost Reduction" grant. No less than fifty percent (50%) of the match shall be calculated by the net wages, not including benefits, 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 and are at the state industry average wage. 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.

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.** 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 146 and the following:

(i) Funds 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 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.

(ii) 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 award recipient, Council staff may grant an extension of time in which the business must start operations.

(iii) 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.~~

#### **Section 56. Application Submittal Requirements Procedures.**

(a) Each applicant under this Chapter shall follow the application requirements in Chapter 1.

(b) In addition to other requirements listed for a development agreement in Chapter 1, the following 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) A 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 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) If applicable, a signed lease agreement or memorandum committing the applicant and business to follow the terms of lease agreement.

(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.~~Council staff shall utilize a scoring matrix to evaluate an application.

(d) At the applicant's expense, Council staff may request a disinterested third party 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.



## INTEROFFICE MEMORANDUM

---

---

TO: WYOMING BUSINESS COUNCIL BOARD OF DIRECTORS  
FROM: WBC INVESTMENTS DIVISION  
SUBJECT: WYVC FUND INVESTMENT APPROVAL  
DATE: MAY 3, 2023

The investments team is seeking board approval to invest our first tranche of funds which would be up to \$18,077,645 in SSBCI federal funds before January 1, 2026.

### **PROGRAM OVERVIEW**

The U.S. Federal Treasury approved a potential allocation of \$58,426,481 to Wyoming for the State Small Business Credit Initiative (SSBCI) Program. This is a 9-year federal program with disbursements in tranches which can be drawn down either at year 3 or prior to year 3 if 80% of the funds have been expended. These investments will be under the existing SSBCI rules (Ref No: 085.0018.1.01302023) including Section 6: Review and Recommendation, which outlines that two (2) board members will be included in the SSBCI Committee when the Committee Review Threshold of \$2,000,000 is exceeded. Equity investments are limited by U.S. Treasury to not more than ½ of the fund or round, and not more than \$5,000,000 per investment.

### **REQUEST**

The existing WBC Contracts policy requires this Board to review and approve all contracts and expenditures totaling \$100,000 or more. While we believe continuation of this practice and policy is appropriate, it presents certain challenges with timely disbursement of equity investments to support startups in Wyoming. There are also challenges with the proprietary and financial information required to complete appropriate diligence that cannot be presented during a public meeting.

The investments team feels strongly that timely investment of these funds will greatly benefit these funds and startup companies and give them the best chance of success in the future. To facilitate timely and optimal investment of the SSBCI federal funding, we recommend adoption of the following resolution:

*BE IT RESOLVED by the Wyoming Business Council (WBC) Board of Directors, the CEO and staff of the Wyoming Business Council are hereby authorized to invest and disburse funds allocated to WBC for the SSBCI Program and may do so in smaller increments up to \$18,077,645 before January 1, 2026, in accordance with existing program rules and without pre-approval provided. All investments will be made in good faith and full compliance with applicable federal guidelines, and otherwise performed in accordance with rules and WBC policy. The CEO and staff shall provide updates to U.S. Treasury and the board on all investments made under this authorization at each regular public WBC Board of Directors meeting.*

**STAFF RECOMMENDATION**

Staff recommends approval of this request.