

City of Green River
City Council Meeting
Agenda Documentation

Preparation Date: October 26, 2016	Department: Public Works
Meeting Date: November 1, 2016	Department Head: Mark Westenskow
	Presenter: Mark Westenskow

Subject:

Agreement to perform Topographic Survey services for ADA Improvements Project

Background/Alternatives:

Public Works requires topographic survey information for the design of the ADA Improvements Project, to be funded by a Transportation Alternatives Program (TAP) Grant through WYDOT. The Project includes ADA Improvements to the intersections of East Teton Boulevard & Bridger Drive, West Teton Boulevard & Crossbow Drive, and West Teton & Cumorah Way. Design work will occur this winter, with construction in summer 2017.

Public Works solicited proposals from several survey firms capable of collecting the required topographic data. (A summary of the proposals received is attached.) William H. Smith and Associates, Inc. (WHS), a local firm with a Rock Springs office, provided a proposal that meets both the available budget and the specified schedule for the completion of the work.

Attachments:

ADA Improvements Survey Proposal Summary, WHS Standard Short Form Agreement

Fiscal Impact:

WHS proposes to complete the required survey for \$3,250. There is budget authority available to fund the survey work through the WYADA Program of the Capital Projects fund. The dollars expended will be eligible for reimbursement from the TAP Grant (80/20).

Staff Impact:

Minimal

Legal Review:

WHS Standard Short Form Agreement Document – Pending Legal Review

Suggested Motion:

"I move to authorize the Mayor to sign the Agreement with William H. Smith and Associates, Inc. to perform topographic survey services for the City's ADA Improvements Project in the amount of \$3,250.00."

City of Green River
ADA Improvements - TAP Grant Project
Topo Survey Proposals

Surveyor		East & West Teton
Inberg Miller (IME)	\$	4,950.00
JFC	\$	5,801.90
Crank Companies	\$	7,700.00
William H. Smith (WHS)	\$	3,250.00
Indo American Engineering	\$	13,824.00



William H. Smith and Associates, Inc.

Surveyors Engineers Planners

404 N Street Suite 201
Rock Springs, WY 82901

Toll Free 866-938-3088
www.whsmithpc.com

Phone 307-362-6065
Fax 307-362-6064

STANDARD SHORT FORM AGREEMENT FOR ENGINEERING & SURVEYING SERVICES

PROJECT NAME: City of Green River ADA Improvements Project

CLIENT: City of Green River

CLIENT requests and authorizes William H Smith and Associates, Inc. to perform the services summarized in the scope below:

SCOPE:

Provide topographic surveying services for the City of Green River ADA Improvements Project. The Project includes ADA Improvements to the intersections of East Teton Boulevard & Bridger Drive, West Teton Boulevard & Crossbow Drive, and West Teton Boulevard & Cumorah Way. The specific information to be gathered is described in the attached letter dated October 21, 2016. The attached General Provisions shall apply to this agreement.

COMPENSATION by the CLIENT to William H. Smith and Associates, Inc. is as follows:

A Lump Sum fee of \$3,250.00 as described in the attached letter dated October 21, 2016.

Services covered by this AGREEMENT will be performed in accordance with the PROVISIONS stated on page 2 of 2 of this AGREEMENT and any attachments or schedules attached hereto. This AGREEMENT supersedes all prior agreements and understandings and may only be changed by written amendment executed by both parties.

Approved for CLIENT

By

Title

Date

Accepted for William H. Smith and Associates, Inc.

By

Shawn M. Arnoldi, P.E.
Vice President

Date

PROVISIONS

1. Authorization to Proceed

Execution of this AGREEMENT by the CLIENT will be authorization for WILLIAM H. SMITH AND ASSOCIATES, INC. to proceed with the work, unless otherwise provided for in this AGREEMENT.

2. Compensation

Compensation for all services provided by WILLIAM H. SMITH AND ASSOCIATES, INC. under this AGREEMENT shall be based on the schedule of fees and expenses, as attached to this agreement. All services will be provided on an HOURLY basis unless otherwise shown and agreed upon.

3. Per Diem Rates

WILLIAM H. SMITH AND ASSOCIATES, INC.'s Per Diem Rates are those hourly or daily rates charged for work performed on Client's Project by WILLIAM H. SMITH AND ASSOCIATES, INC. employees of the indicated classifications. These rates are subject to annual calendar year adjustments and include all allowances for salary, overheads, and fee, but do not include allowances for Direct Expenses.

4. Direct Expenses

WILLIAM H. SMITH AND ASSOCIATES, INC.'s Direct Expenses, are those costs incurred on or directly for the Client's Project, including, but not limited to, necessary transportation costs, including current rates for WILLIAM H. SMITH AND ASSOCIATES, INC. vehicles; meals and lodging; laboratory tests and analyses; computer services; word processing services; telephone, printing, binding, and reproduction charges; all costs associated with outside consultants, sub consultants, subcontractors, and other outside services and facilities; and other similar costs. Reimbursement for Direct Expenses will be on the basis of actual charges when furnished by commercial sources and on the basis of current rates when furnished by WILLIAM H. SMITH AND ASSOCIATES, INC.

5. Cost Opinions

Any cost opinions or Project economic evaluations provided by WILLIAM H. SMITH AND ASSOCIATES, INC. will be on a basis of experience and judgment, but, since it has no control over market conditions or bidding procedures, WILLIAM H. SMITH AND ASSOCIATES, INC. cannot warrant that bids, ultimate construction cost, or Project economics will not vary from these opinions.

6. Standard of Care

The standard of care applicable to WILLIAM H. SMITH AND ASSOCIATES, INC.'s services will be the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time WILLIAM H. SMITH AND ASSOCIATES, INC.'s services are performed. WILLIAM H. SMITH AND ASSOCIATES, INC. will re-perform any services not meeting this standard without additional compensation.

7. Termination

This AGREEMENT may be terminated for convenience on 30 days' written notice, or for cause, if either party fails substantially to perform through no fault of the other and does not commence correction of such nonperformance within 5 days of written notice and diligently complete the correction thereafter. On termination, WILLIAM H. SMITH AND ASSOCIATES, INC. will be paid for all authorized work performed up to the termination date. If no notice of termination is given, relationships and obligations created by this AGREEMENT, except Articles 9 through 14, will be terminated upon completion of all applicable requirements of this AGREEMENT.

8. Payment to WILLIAM H. SMITH AND ASSOCIATES, INC.

Monthly invoices will be issued by WILLIAM H. SMITH AND ASSOCIATES, INC. for all work performed under this AGREEMENT. Invoices are due and payable on receipt. All invoices not paid promptly will be subject to the following late payment penalty: 30 to 59 days overdue, \$500; 60 to 89 days overdue, \$750. In the event of the failure of CLIENT to make payment of any invoice for WILLIAM H. SMITH AND ASSOCIATES, INC.'s services within thirty (30) days from the date of invoice, then WILLIAM H. SMITH AND ASSOCIATES, INC., at its election, may terminate this agreement, or may cease performance of the services to be provided hereunder until the full payment of all amounts owing from CLIENT has been received. Additionally, in the event of the failure of CLIENT to make payment of any invoice for WILLIAM H. SMITH AND ASSOCIATES, INC.'s services within thirty (30) days from the date of invoice, WILLIAM H. SMITH AND ASSOCIATES, INC., at its election, may retain and hold all papers, reports, drawings, blue prints, plans, surveys, plats, and other records relating to the engineering and surveying services to be provided under this Agreement until the

full payment of all amounts owing from CLIENT has been received. CLIENT agrees to pay all of WILLIAM H. SMITH AND ASSOCIATES, INC.'s reasonable attorney's fees and all other costs and expenses which are incurred by WILLIAM H. SMITH AND ASSOCIATES, INC. in collection of any amount not timely paid by CLIENT pursuant to the terms of this agreement. In the event of a disputed or contested billing, only that portion so contested will be withheld from payment, and the undisputed portion will be paid. The CLIENT will exercise reasonableness in contesting any bill or portion thereof.

9. Limitation of Liability

To the maximum extent permitted by law, WILLIAM H. SMITH AND ASSOCIATES, INC.'s liability for Client's damages for any cause or combination of causes will, in the aggregate, not exceed (i) the compensation received by WILLIAM H. SMITH AND ASSOCIATES, INC. under this AGREEMENT, or (ii) \$50,000 whichever is the least amount. This Provision takes precedence over any conflicting Provision of this AGREEMENT or any document incorporated into it or referenced by it.

10. Severability and Survival

If any of the provisions contained in this AGREEMENT are held illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby. Limitations of liability and indemnities shall survive termination of this AGREEMENT for any cause.

11. Asbestos or Hazardous Substances

To the maximum extent permitted by law, the CLIENT will indemnify WILLIAM H. SMITH AND ASSOCIATES, INC. from all claims, damages, losses, and costs, including litigation expenses and attorney's fees, arising out of or relating to the presence, discharge, release, or escape of hazardous substances, contaminants, or asbestos on or from the Project.

12. Monitoring Services

WILLIAM H. SMITH AND ASSOCIATES, INC. is not responsible for the duties and responsibilities that belong to the other agents of the CLIENT such as developer(s), construction contractor(s), designer(s), testing laboratory (ies), full-time inspector(s), or other parties associated with the Project not in the employment of or a subcontractor to WILLIAM H. SMITH AND ASSOCIATES, INC.

13. Interpretation

The limitations of liability and indemnities will apply whether WILLIAM H. SMITH AND ASSOCIATES, INC.'s liability arises under breach of contract or warranty; tort, including negligence; strict liability; statutory liability; or any other cause of action, except for willful misconduct or gross negligence for limitations of liability sole negligence for indemnification, and shall apply to WILLIAM H. SMITH AND ASSOCIATES, INC.'s officers, affiliated corporations, employees, and subcontractors. The law of the state of Wyoming shall govern the validity of this AGREEMENT, its interpretation and performance, and any other claims related to it.

14. No Third Party Beneficiaries

This AGREEMENT gives no rights or benefits to anyone other than the CLIENT and WILLIAM H. SMITH AND ASSOCIATES, INC. and has no third party beneficiaries. WILLIAM H. SMITH AND ASSOCIATES, INC.'s services are defined solely by this AGREEMENT, and not by any other contract or AGREEMENT that may be associated with the Project.

15. Reuse of Document

All designs, drawings, specifications, documents, and other work products of WILLIAM H. SMITH AND ASSOCIATES, INC. are instruments of service for this PROJECT, whether the PROJECT is completed or not. Reuse by the CLIENT, or by others acting through or on behalf of the CLIENT of any such instruments of service without the written permission of WILLIAM H. SMITH AND ASSOCIATES, INC. will be at Client's sole risk. CLIENT agrees to indemnify and defend WILLIAM H. SMITH AND ASSOCIATES, INC. from all claims, damages, losses, and expenses, including, but not limited to, direct, indirect, or consequential damages and attorney's fees, arising out of or related to such unauthorized reuse.

16. Free Publicity

WILLIAM H. SMITH AND ASSOCIATES, INC. has the right to photograph the above named project and to use the photos in the promotion of the professional practice marketing materials. Should additional photos be needed in the future, the client agrees to provide reasonable access to the facility.



William H. Smith and Associates, Inc.

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Phone 307-362-6065
Fax 307-362-6064

October 21st, 2016

Mark Westenskow, P.E., Public Works Director
Department of Public Works
50 E. 2nd North Street
Green River, WY 82935

**Proposal: Green River ADA Improvements Project
East Teton & West Teton**

Dear Mr. Westenskow:

William H. Smith and Associates, Inc. is pleased to have the opportunity to submit our proposal for providing professional services on the above referenced project.

PROJECT SCOPE

This project consists of a topographic/feature survey consisting of the collection of all existing site data including but not limited to as-built plans for existing water mains, sewer mains, storm drains, and any other plans that may show locations of wet and dry utilities. Call for locates by utility companies for any additional data to be collected. The area for collection of data will extend 100 ft. beyond all intersections at each street including all areas within the platted R.O.W. Easement widths.

WHS will provide high resolution up to date aerial imagery using our UAV (Drone). This information and service will provided at no additional cost and will be subsidiary to the work described above.

WHS will also provide a minimum of 3 (three) intervisible control points at each work area, plus provide adjacent boundary lines as required.

After all field and as-built plan data has been collected; WHS will prepare a base map drawing in AutoCAD format providing all dimensions, elevations and labels in imperial units scale. The drawing will include a scale with North Arrow including northings, eastings, and elevations of all control points. All line work will be completed for all appurtenances – curbs, gutters, sidewalks, parking, streets, structures, fences, trees, etc. Contours will be provided at 0.5 foot intervals and errors will not exceed one-half contour intervals. All utility data and information collected shall be shown on drawing, including but not limited to the rim locations, inverts, pipe diameters of sanitary, storm, water, electrical, and gas lines along with hydrants, street lights, culverts, catch basins, manholes, wells, phone/data, cable, buried tanks, etc.

DELIVERABLES AND SCHEDULE

WHS will provide the final deliverables in digital CAD file format including two (2) 24" x 36" full size drawing sheets of the site plans.

WHS anticipates beginning this work within one week of receiving a notice to proceed, and will provide final deliverables prior to December 2, 2016.



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LUMP SUM FEE:

Based on the above listed information, scope and schedule, the total deliverable lump sum fee is as follows:

(\$3,250.00) Three Thousand Two Hundred Fifty Dollars

We at WHS are committed to providing quality professional services delivered on schedule and within budget. We are pleased to have the opportunity to submit this Proposal for your consideration. Should questions arise, please call me at 307-362-6065 or email me at sarnoldi@whsmithpc.com.

Sincerely,

Shawn M. Arnoldi, P.E.
Principal/Vice President
William H. Smith and Associates, Inc.

File

GENERAL PROVISIONS

The below General Provisions shall also apply to all subconsultants engaged by the Consultant.

SECTION A. ASSUMPTION OF RISK

The Consultant shall assume the risk of any loss of state or federal funding, either administrative or program dollars, due to its failure to comply with state or federal requirements. The City of Green River shall notify the Consultant of any state or federal determination of noncompliance.

SECTION B. ENVIRONMENTAL POLICY ACTS

The Consultant agrees all activities under this Agreement will comply with the Clean Air Act, the Clean Water Act, the National Environmental Policy Act, and other related provisions of federal environmental protection laws, rules or regulations.

SECTION C. HUMAN TRAFFICKING

As required by 22 U.S.C. 7104(g) and 2 C.F.R. Part 175, this Agreement may be terminated without penalty if a private entity that receives funds under this Agreement:

1. Engages in severe forms of trafficking in persons during the period of time that the award is in effect;
2. Procures a commercial sex act during the period of time that the award is in effect; or
3. Uses forced labor in the performance of the award or subawards under the award.

SECTION D. KICKBACKS

The Consultant certifies and warrants that no gratuities, kickbacks, or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Agreement. If the Consultant breaches or violates this warranty, the City of Green River may, at its discretion, terminate this Agreement without liability to the City of Green River, or deduct from the agreed upon price or consideration, or otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee.

SECTION E. LIMITATIONS ON LOBBYING ACTIVITIES

By signing this Agreement, the Consultant certifies and agrees that, in accordance with Public Law 101-121, payments made from a federal grant shall not be utilized by the Consultant or its subconsultants in connection with lobbying Congressmen, or any other federal agency in connection with the award of a federal grant, contract, cooperative agreement, or loan.

SECTION F. MONITORING ACTIVITIES

The consultant will provide written documentation and/or visible evidence that all provisions of the consultants service policy have been met. The City of Green River shall have the right to monitor all activities related to this Agreement that are performed by the Consultant or its subconsultants. This shall include, but not be limited to, the right to make site inspections at any time and with reasonable notice; to bring experts and consultants on site to examine or evaluate completed work or work in

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

SECTION G. NON-DISCRIMINATION

The Consultant shall comply with the Civil Rights Act of 1964, the Wyoming Fair Employment Practices Act (Wyoming Statute § 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/or any properly promulgated rules and regulations thereto and shall not discriminate against any individual on the grounds of age, sex, color, race, religion, national origin, or disability in connection with the performance under this Agreement.

SECTION H. PROFESSIONAL REGISTRATION

The Consultant shall endorse, as required by law, plans and reports prepared under this Agreement, and shall affix thereto his or her seal of professional registration, showing that he or she is licensed to practice in the State of Wyoming.

SECTION I. PUBLICITY

Any publicity given to the program or services provided herein, including, but not limited to, notices, information, pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Consultant and related to the services and work to be performed under this Agreement, shall identify the City of Green River, the Wyoming Department of Transportation (WYDOT) and/or the Federal Highway Administration (FHWA) as the sponsoring agency and shall not be released without prior written approval of the City of Green River and WYDOT.

SECTION J. SUSPENSION AND DEBARMENT

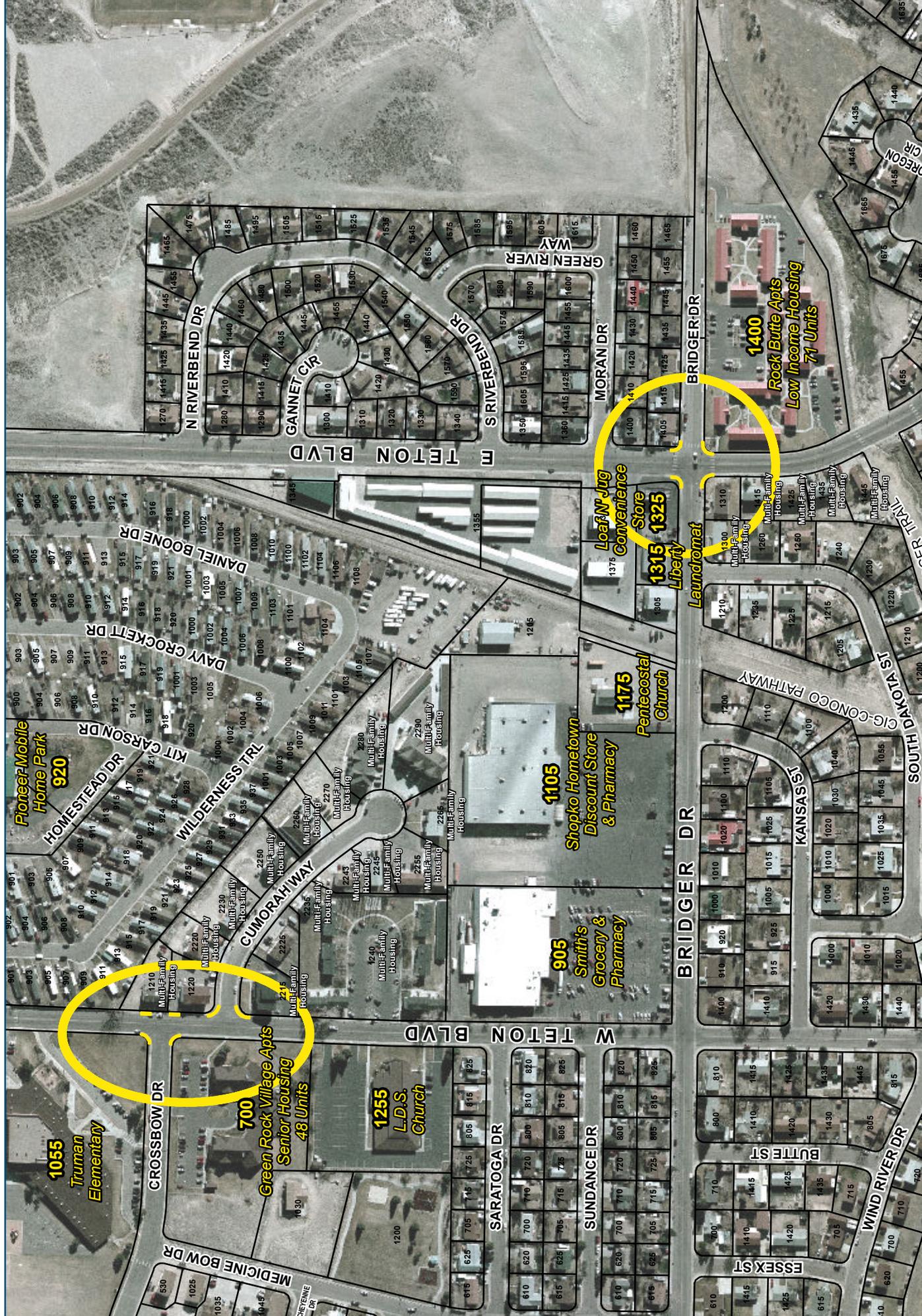
By signing this Agreement, the Consultant certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction nor from federal financial or non-financial assistance, nor are any of the participants involved in the execution of this Agreement suspended, debarred, or voluntarily excluded by any federal department or agency in accordance with Executive Order 12549 (Debarment and Suspension) and CFR 44 Part 17, or are on the debarred vendors list at www.epls.gov. Further, the Consultant agrees to notify [LPA Name] by certified mail should it or any of its agents become debarred, suspended, or voluntarily excluded during the term of this Agreement.

SECTION K. INSURANCE REQUIREMENTS

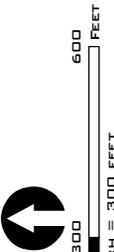
The Consultant selected must provide proof of adequate insurance acceptable to the City of Green River. The following minimum amounts are required:

- | | |
|--|----------------------------|
| 1. Worker's Compensation: | Statutory Limits |
| 2. Comprehensive General & Auto Liability: | \$500,000 per claim |
| | \$1,000,000 per occurrence |
| 3. Professional Liability: | \$500,000 |

The City of Green River shall be named as an additional insured in accordance with applicable State laws.



THIS MAP IS DESIGNED TO PROVIDE INFORMATION ABOUT THE CITY OF GREEN RIVER. EVERY EFFORT HAS BEEN MADE TO MAKE THIS MAP AS COMPLETE AND ACCURATE AS POSSIBLE. THE CITY OF GREEN RIVER DOES NOT WARRANT THE ACCURACY OF THE INFORMATION PROVIDED HEREIN. THE CITY OF GREEN RIVER SHALL HAVE NEITHER LIABILITY NOR RESPONSIBILITY TO ANY PERSON OR ENTITY WITH RESPECT TO ANY LOSS OR DAMAGE IN CONNECTION WITH OR ARISING FROM THE INFORMATION CONTAINED ON THIS MAP.



PROPOSED ADA RAMP IMPROVEMENTS

WYDOT TRANSPORTATION ALTERNATIVES GRANT

PREPARED BY JASON D BROWN, CITY OF GREEN RIVER GIS DATE: 6/25/2015
 \\CGR\PROJECT\FUNDING\BROWNDOT\TRANSPORTATION-ALT\GRANT\WYDOT_TRANSPORTATION_ALT_Grant_2015.mxd