



City Council Special Work Session Agenda

Date: 4/9/2019
Time: 5:00 p.m.
Location: City Hall Council Chambers

- Mayor Matt Hall
- Justin Baily
- Diane Ballard
- Jerry Fritz
- Landon Greer
- Glenn Nielson
- Heidi Rasmussen
- City Administrator, Barry Cook
- Administrative Services Officer, Cindy Baker
- City Attorney, Scott Kolpitke

- 5:00 – 5:15 Discuss Contract for Off Duty Police Personnel
Staff Reference: Chief Baker
- 5:15 -5:45 – Discuss Electric Rate Analysis
Staff Reference: Bert Pond, Electrical Engineer
- 5:45-6:00 – Discuss/Review Requirements/Threshold for Architect Stamped Plans
 - Staff Reference: Todd Stowell City Planner
- Updates – City Administrator
- Council Committee Reports
- Other Matters from Council
- Meeting Reminders:
 - **Tuesday, April 16, 2019** – Regular Council Meeting 7:00 p.m. Council Chambers
 - **Tuesday, April 23, 2019** – Special Work Session 5:00 p.m. Council Chambers

Time Adjourned: _____

**CONTRACT FOR THE OFF-DUTY ASSIGNMENT
OF POLICE PERSONNEL**

THIS CONTRACT is made and entered into this _____ day of _____,
_____, by and between the City of Cody, Wyoming whose principal business address is
1338 Rumsey Avenue, Cody, WY 82414-3713 ("City"), and,
_____, a
_____, whose principal business address is
_____ ("Requestor").

Statement of Purpose. The purpose of this Contract is to identify the terms and conditions for members of the Cody Police Department to voluntarily provide off-duty law enforcement services the Requestor at the Requestor's venue.

For and in consideration of the mutual covenants and agreements herein contained, City and Requestor agree as follows:

1. Services. The City shall permit off-duty police to provide law enforcement services to Requestor upon request and upon approval of the Chief of Police or his or her designee. The City will, upon receipt of a timely request, make best efforts to post notice of the Requestor's police needs in the City's Police Department to provide an opportunity for officers to volunteer for such duties. The City shall have no obligation to provide law enforcement services to Requestor. Upon approval, and in the event a sufficient number of officer's volunteer for such duties, the officers shall provide the law enforcement services, and the Requestor shall reimburse the City according to the terms of this agreement.

2. Term. The Term of this Contract shall be from the date first written above until **December 31, 2019**, unless extended by written agreement of the parties or terminated pursuant to this Contract.

3. Authority of Off-Duty Officers. Off-duty officers and supervisors shall be authorized to enforce the law to the full extent of their lawful authority. They shall not be authorized to enforce the rules of Requestor's establishment or any other venue. They shall not be authorized to enforce the rules of Requestor's management or personnel.

4. Supervising Officer Requirement. When more than four officers provide services at the same time, a sergeant or an officer acting in a supervisory capacity, may be assigned and shall have supervisory control over the law enforcement services. The Chief of Police, in his or her sole discretion or that of his or her designee, may require the assignment of supervisors when fewer than four officers are assigned depending on the size or nature of the event.

5. Police Vehicles. If the services to be provided include traffic control, a marked police vehicle with emergency equipment shall be stationed with each officer at each traffic point controlled by police personnel providing services under this Contract. The Requestor shall pay the city \$5.00 per hour (or any portion of an hour) and per vehicle for the time a vehicle is required to be stationed at such traffic control point.

6. Pay Rates and Modifications. The hourly compensation for each level of police and administrative personnel, excluding holiday compensation, shall be the following hourly rates:

a. Hourly Personnel Rates.

- Police Officer \$55
- Police Sergeant \$60
- Police Lieutenant \$70

b. Holiday Rates. The City currently recognizes the following holidays: New Year's Day (January 1), Presidents' Day (third Monday in February), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September), Veterans Day (November 11), Thanksgiving Day (Thanksgiving Day fourth Thursday in November), the day after Thanksgiving and Christmas Day (December 25). The hourly compensation for police and administrative personnel providing services on holidays shall be the hourly rate set forth above plus \$10.00 per hour (Holiday Rate). When any police are scheduled to start or finish his or her shift on a designated holiday, the Requestor shall pay the holiday rate for the entire shift.

c. Minimum Charge and Cancellation Charge. Requestor agrees to pay a three-hour minimum charge per officer for each request regardless of the number of hours requested. Requestor agrees to pay a two-hour minimum charge per officer for each request in the event the Requestor cancels or changes the request without providing 24-hour notice of such change or cancelation.

7. Administrative Fee. Requestor shall pay an administrative fee in the amount of three percent (3%) of the costs of services rendered by police personnel. All personnel provided by the City to the Requestor shall be covered by the City's Workers Compensation plan.

8. Payment. The City will invoice the Requestor for services rendered on a monthly basis. The Requestor shall pay the invoices in full within thirty (30) days of receipt. In the event an invoice is not paid within thirty (30) days, interest will accrue at the rate of 12% per annum on the unpaid balance. In the event that the City is required to initiate any action for collection of any past due invoices, the Requestor shall pay the City for all costs of collection including reasonable attorney's fees incurred.

9. Emergency Recall. The Requestor agrees and acknowledges that any personnel rendering services pursuant to this Contract are subject at any time to emergency recall by the Chief of Police or his or her designee. Such emergency recall shall not constitute a breach of this Contract.

10. Indemnification. The Requestor covenants and agrees to indemnify, defend, save, and hold harmless the City, its officers, employees, officials, representatives and agents from any and all liability, loss, costs, charges, obligations, expenses, attorney fees, litigation, judgments, damages, claims, and demands of any kind whatsoever arising from (a) any act or omission of any City employee, officer, supervisor, or manager provided to the Requestor by the City pursuant to this Contract; (b) any act or omission of the Requestor, its employees, or anyone under the Requestor's direction or control relating to this Contract; and (c) from any claim relating to the underlying event or venue where the services are provided pursuant to this Contract.

11. Termination.

a. Generally. Either party may terminate this Contract without cause by giving written notice of termination to the non-terminating party specifying the effective date of termination but at least fourteen (14) calendar days prior to the effective date of termination. In the event of such termination, Requestor shall be liable to the City for services performed as of the effective date of termination.

b. For Cause. If, through any cause, Requestor fails to fulfill its obligations under this Contract in a timely and proper manner, violates any provision of this Contract or violates any applicable law, the City shall have the right to terminate this Contract for cause immediately upon written notice of termination to Requestor. In the event of such termination by the City, Requestor shall be liable to the City for services performed as of the effective date of termination. Notwithstanding the above, Requestor shall not be relieved of liability to the City for any damages sustained by the City by virtue of any breach of this Contract.

12. Governing Law and Venue; Recovery of Costs. This Contract shall be governed by the laws of the State of Wyoming, and venue shall be in Park County, Wyoming. The parties submit to the jurisdiction of the state courts within Wyoming. In the event legal action is brought to resolve any dispute among the parties related to this Contract, except that related to Payment as described in paragraph 8, the prevailing party in such action shall be entitled to recover reasonable court costs and attorney fees from the non-prevailing party.

13. Assignment. Requestor shall not assign this Contract without the City's prior written consent.

14. Survival Clause. Upon discharge, satisfaction, expiration or termination of this Contract, Paragraph 10 of this Contract shall survive in full force and effect.

15. Entire Agreement. This Contract contains the entire agreement of the parties relating to the subject matter hereof and, except as provided herein, shall not be modified or amended except by written agreement of the parties.

16. Severability. In the event a court of competent jurisdiction holds any provision of this Contract invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Contract.

17. Headings. Paragraph headings used in this Contract are for convenience of reference and shall in no way control or affect the meaning or interpretation of any provision of this Contract.

18. Notices. Written notices required under this Contract and all other correspondence between the parties shall be directed to the following and shall be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested:

If to the City:

Chuck Baker
Chief of Police
Cody Police Department
1402 River View Drive
Cody, WY 82414

If to Requestor:

Attn: _____
Email: _____

19. Immunity: By entering into this Agreement, the City does not waive its governmental immunity, and expressly reserves the right to assert immunity as a defense to any action arising under this Agreement. The City further reserves its immunities, defenses, and limitations provided under the Wyoming Government Claims Act.

20. Counterparts. This Contract may be executed in counterparts, each of which may be deemed an original but all of which constitute one and the same instrument. Additionally, a copy of an executed original Contract signed by a party hereto and transmitted by facsimile or electronic mail shall be deemed an original, and any party hereto is entitled to rely on the validity, authenticity, and authority of an original transmitted by facsimile or electronic mail.

21.. Authorization. By signature below, the undersigned acknowledge that this contract has been read, the conditions set forth above agreed upon and that the undersigned has authority to enter into this contract on behalf of the party indicated.

IN WITNESS WHEREOF, the parties have executed this Contract as of the date first written above.

CITY OF CODY, WYOMING
A municipal corporation

Barry Cook, City Administrator

APPROVED AS TO FORM:

Scott Kolpitcke, City Attorney

ATTEST:

Cindy Baker, City Clerk

REQUESTOR:

Signature

Print Name

(1 Original to City Clerk, 1 Copy to Requestor)

AGENDA ITEM SUMMARY REPORT

City of Cody Retail Electric Rate Study – Discussion of initial findings and next steps for Retail Electric Rate setting

ACTION TO BE TAKEN

No formal action is requested at this meeting. City Staff would like to present the initial findings of the Retail Electric Rate Study being completed by Utility Financial Solutions, LLC, and discuss the next steps proposed by City Staff to finalize the Retail Electric Rate setting recommendations.

SUMMARY OF INFORMATION

The City of Cody provides retail electric utility service through the Electric Enterprise Fund. The City purchases all electricity provided to City residents from the Wyoming Municipal Power Agency (WMPA), a wholesale electricity provider to eight (8) member municipalities. In late 2018, WMPA contracted with Utility Financial Solutions, LLC (UFS) to complete a Wholesale Electric Rate Study to aid in the setting of wholesale electric rates and provide recommendations for rate adjustments as needed. UFS also offered to provide Retail Electric Rate Studies to the eight member municipalities of WMPA. The City of Cody accepted this offer, and UFS is completing a retail rate study for City's electric utility.

Mark Beauchamp of UFS has worked closely with City Staff to analyze the current retail electric rates, current and future revenue projections, and current and future electric fund reserve projections. Mr. Beauchamp will present the initial findings of the City of Cody Retail Electric Rate Study in a power point presentation and discuss the process by which the analysis has been completed. The key findings to be discussed are as follows:

- Increased Revenue Needs
 - The electric utility fund needs to increase revenue by approximately 2.0% per year for the next three to five years to move toward the Target Operating Income levels
 - The same revenue increase of approximately 2.0% per year for the next three to five years is needed to move toward the City of Cody Target Fund Reserves level
- “Cost of Service” based rate adjustments
 - The Retail Electric Rate Structure could be adjusted to be more in line with a “Cost of Service” based rate setting approach
 - The adjusted Retail Electric Rate Structure could lead to both increases and decreases to the actual electric service bills based on the customer type (Residential, Commercial, and Large Commercial – Demand) and the specific customer usage amounts
- Adjusted rate structure implementation
 - The adjusted Retail Electric Rate Structure could be implemented over a three-year period to minimize drastic changes to any single customer type all at once
 - The adjusted Retail Electric Rate Structure could take effect on October 1, 2019, to minimize monthly bill impacts to all customer types following higher-use summer months
 - Future adjustments would then take effect on October 1, 2020, and October 1, 2021, to complete the three-year implementation

AGENDA ITEM NO. _____

Based on these initial findings, City Staff has worked with UFS to develop the following recommendations for the next steps to finalize the Retail Electric Rate Study:

1. The final Retail Electric Rate Study should develop the rate structure needed to increase revenues by approximately 2.0% per year for the next three years.
2. The final Retail Electric Rate Study should develop a “Cost of Service” based electric rate structure for three (3) customer classifications of Retail, Commercial, and Large Commercial-Demand, and eliminate the classification of Small Commercial in the current structure.
3. The City Council consider approval of the rate structure developed for a three-year period to allow for (1) a “phase in” implementation period of the adjusted rates and (2) a known outcome of the adjusted rate implementation without future City Council action required (i.e. the rate adjustments would be set for the next three years through 2021).
4. The City Council consider approval of the adjusted rate structure to take effect on October 1, 2019 (with subsequent rate adjustments to take effect on October 1, 2020, and October 1, 2021, during the three-year implementation period)

If City Council concurs with the recommendations above, City Staff will work with UFS to finalize the details of the “Cost of Service” based rate structure to be included in the final Retail Electric Rate Study report. It is anticipated that the final Retail Electric Rate Study would be presented for City Council approval of the recommended rates concurrently with the FY2019-20 Budget Ordinance 1st, 2nd, and 3rd Readings at the meetings scheduled for June 4, June 11, and June 18, 2019. Upon final approval at 3rd Reading, the recommended rate adjustments would take effect on October 1, 2019.

FISCAL IMPACT

With City Council concurrence to move forward as recommended, it is anticipated that electric fund revenues will be increased by approximately 2.0% per year for the next three years.

HANDOUTS AT MEETING

1. UFS has prepared a Power Point presentation outlining the initial findings, and handouts will be distributed at the meeting

AGENDA ITEM NO. _____

MEETING DATE: APRIL 9, 2019
DEPARTMENT: COMMUNITY DEVELOPMENT
PREPARED BY: TODD STOWELL, AICP
CITY ADM. APPROVAL: _____
PRESENTED BY: TODD STOWELL

SUMMARY REPORT

DISCUSSION REGARDING REQUIREMENTS FOR ARCHITECTURAL STAMPED PLANS

ACTION TO BE TAKEN

Workshop Discussion.

SUMMARY

There has been much discussion regarding when a construction project should have plans prepared and stamped by an architect.

Please review the attached excerpts from the Wyoming State Statute on the matter.

The building official has sought guidance from the state Board of Architects on the matter, particularly as it relates to Cody's home rule authority for building inspection and plan review. Their response was that, "The Board concluded that there were no exemptions or exceptions to Home Rule Municipalities within the Board's statute." We have interpreted that response to mean that the statute regarding architectural stamped plans does apply to Cody.

The building official's train of thought is that the building code requires building plans to be provided (without plans, the building official has nothing on which to conduct a plan review); therefore, per the Statute referenced, if the project is not otherwise exempt, those plans must be prepared and stamped by a licensed architect.

Admittedly, some could argue, that it is up to the state to enforce the state statute. However, the Building Division would prefer to rely on, and be consistent with the state statute on this matter. The more we are consistent with the thresholds published in state statute, the less opportunity for claims that our interpretations and requirements are arbitrary. Furthermore, it helps avoid the perception of inconsistency and favoritism among different developers and contractors.

The building division has transitioned into this position over the last several years and has been fairly consistent in using these thresholds over the last four to five years.

The Building Division is committed to being lenient in the areas of calculating occupancy of buildings, which allows many "borderline" projects to escape the requirement for architectural stamped plans. The Building Division can also interpret section (iv) about alterations to existing buildings in a lenient manner.

AGENDA ITEM NO. _____

EXCERPTS OF WYOMING STATE STATUTE PERTAINING TO ARCHITECTURAL STAMPED PLANS:

§ 33-4-101. Definitions.

(a) As used in this act:

(i) "Building" means a structure, including all the components which a structure comprises, including structural, mechanical and electrical systems, intended for use as shelter for man and his possessions;

(ii) "Practice of architecture" means rendering or offering to render service to clients generally, including any one or any combination of the following practices or professional services; advice, consultation, planning, architectural design, drawings and specifications; general administration of the contract as the owner's representative during the construction phase, wherein expert knowledge and skill are required in connection with the erection, enlargement or alteration of any building or buildings, or the equipment, or utilities thereof, or the accessories thereto, wherein the safeguarding of life, health or property is concerned or involved;

(iii) "Architect" means anyone licensed to practice architecture under this act;

...

(vi) "Board" means the Wyoming state board of architects and landscape architects;

...

§ 33-4-112. Persons required to qualify or register as "architect"; exceptions.

All persons shall register as an architect in order to make architectural plans and specifications for buildings except those buildings which are specifically exempted in W.S. 33-4-117.

§ 33-4-114. Prohibited acts; penalty for violations.

(a) It is a misdemeanor for any person to:

(i) Sell, fraudulently obtain or furnish any license or renewal license to practice architecture or landscape architecture; or

(ii) Without being licensed under this act:

(A) Advertise, represent or in any manner hold himself out as an architect or landscape architect;

(B) Engage in the practice of architecture or landscape architecture;

(C) Use in connection with his business or name, or otherwise assume, use or advertise any title or description, or engage in any other conduct which reasonably might be expected to mislead another to believe the person is an architect or landscape architect; or

(D) Without being an officer of the corporation, to engage in the practice of architecture or landscape architecture as a corporation.

(b) A person convicted under subsection (a) of this section shall be punished by a fine of not more than seven hundred fifty dollars (\$750.00) or by imprisonment for not more than six (6) months, or both.

(c) The board may, through the attorney general, seek to enjoin any person from committing any act in violation of this section. The board shall not be required to prove irreparable injury to enjoin any violation of this section.

§ 33-4-116. Documents, plans and designs; seal required.

An architect or landscape architect shall affix his seal to all documents, plans or designs he provides.

§ 33-4-117. Exemptions.

(a) Nothing in this act prohibits any person from preparing plans and specifications, designing, planning or administering the construction contracts for the construction, alteration, remodeling or repair of any of the following:

(i) Private residences;

(ii) Garages, commercial or industrial buildings, office buildings, preengineered metal buildings and buildings for the marketing, storage or processing of farm products and warehouses, which do not exceed two (2) stories in height, exclusive of a one (1) story basement, and which under applicable building code or codes, are not designed for occupancy by more than ten (10) persons;

(iii) Farm buildings;

(iv) Nonstructural alterations of any nature to any building if the alterations do not affect the safety of the occupants of the building.

(b) Nothing in this act shall be construed:

(i) As curtailing or extending the rights of any other legally recognized profession;

(ii) As prohibiting the practice of architecture by any legally qualified architect of this state or another state who is employed by the United States government while in the discharge of his official duties; ...