

AMENDED AND RESTATED COOPERATIVE AGREEMENT AMONG  
THE WYOMING DEPARTMENT OF TRANSPORTATION,  
CITY OF LARAMIE AND ALBANY COUNTY

1. **Parties.** The parties to this Amended and Restated Agreement (Agreement) are the **Wyoming Department of Transportation** (WYDOT) whose address is: 5300 Bishop Boulevard, Cheyenne, WY 82009-3340, the **City of Laramie** (City) whose address is: PO Box C, Laramie, WY 82073 and **Albany County** (County) whose address is: 525 East Grand Avenue, Laramie, WY 82070.
2. **Purpose of Agreement.** The purpose of this Agreement is to: amend and restate the agreement among the WYDOT, the City, and the County dated February 9, 2000 (the Original Agreement), in its entirety, and to set forth the terms and conditions by which the parties will participate in WYDOT's Urban Systems Program in the Laramie Urban Area, Albany County, Wyoming.

The Original Agreement, dated February 9, 2000, set forth the terms and conditions by which the parties would participate in WYDOT's Urban Systems Program in the Laramie Urban Area, Albany County, Wyoming.

3. **Term of Agreement.** This Agreement is effective when all parties have executed it (Effective Date). The term of the Agreement shall remain in full force and effect until terminated. This Agreement is intended to span the duration of the FAST Act (Fixing America's Surface Transportation) highway legislation and any related extensions, continuing resolutions, or modifications to this legislation.
4. **Funding.**
  - A. The Surface Transportation Program Urban (STP-U) fund balance is administered and held in trust by WYDOT and is funded at the discretion of the Transportation Commission of Wyoming. WYDOT may distribute STP-U funds for preliminary engineering as well as construction of Urban System projects. WYDOT will allocate and distribute the funds to the urban areas in Wyoming that in the Urban Program according to the following formula:

$$\frac{\text{Corporate Boundary population}}{\text{Total corporate population of all Urban Systems areas in Wyoming}}$$

The total annual allocation to the Laramie Urban Systems Program under this MOU shall be approximately Five hundred sixty-four thousand nine hundred

twenty-seven dollars (**\$564,927.00**). This amount may be adjusted at the time of the decennial census when population numbers become available and/or if the Transportation Commission of Wyoming adjusts the total allocation.

- B. WYDOT agrees to pay a maximum of ninety and forty-nine hundredths percent (**90.49%**) of the total cost of any Urban Systems projects utilizing Urban Systems funds. The City and/or County agree to reimburse a combined minimum of nine and fifty-one hundredths percent (**9.51%**) local match of the total cost of any Urban Systems projects utilizing Urban Systems funds. The local match shall be paid by the appropriate local governing agency for all project activities charged to the Urban Systems Program, within the boundaries shown in Attachment A, which is attached to and incorporated into this Agreement by this reference. The total project reimbursement dollar amount under this Agreement by the City and County shall be set by individual Urban Systems project agreements.

5. **Responsibilities of the City and County.** The City and County shall:

- A. Jointly Plan and participate in WYDOT's Urban Systems Program in accordance with WYDOT's Operating Policy 2-4, as may be amended from time to time, and which is incorporated into this Agreement by this reference, or as directed by WYDOT.
- B. Reimburse WYDOT in accordance with Section 4, above.
- C. Be responsible for any costs beyond the maximum amount of funding set forth in Section 4, above.
- D. Ensure that the Special and General Provisions contained in this Agreement also apply to any consultants hired by the City or County under this Agreement.

6. **Responsibilities of WYDOT.** WYDOT shall:

- A. Provide planning, organization, and construction assistance for urban transportation system improvements intended to benefit the traveling public, to include increasing street and highway system traffic capacity and improving safety.
- B. Set aside STP-U funds on an annual basis and pay for the projects funded by this Agreement in accordance with Section 4, above.

7. **Federal Special Provisions.**

- A. **Administration of Federal Funds.** The City and County agree their use of the funds awarded herein is subject to the Uniform Administrative Requirements of 2 CFR Part 200, *et seq.*; any additional requirements set forth by the federal funding

agency; all applicable regulations published in the Code of Federal Regulations; and other program guidance as provided to it by WYDOT.

- B. Assumption of Risk.** The City and County shall assume the risk of any loss of state or federal funding, either administrative or program dollars, due to the City or County's failure to comply with state or federal requirements. WYDOT shall notify the City and County of any state or federal determination of noncompliance.
- C. Conflict of interest.** Per 2 CFR 200.112, the City and County must disclose in writing any potential conflict of interest to WYDOT including financial or other personal interests.
- D. Copyright License and Patent Rights.** The City and County acknowledges that federal grantor, the State of Wyoming, and WYDOT reserve a royalty-free, nonexclusive, unlimited, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for federal and state government purposes: (1) the copyright in any work developed under this Agreement; and (2) any rights of copyright to which the City or County purchases ownership using funds awarded under this Agreement. The City and County must consult with WYDOT regarding any patent rights that arise from, or are purchased with, funds awarded under this Agreement.
- E. Environmental Policy Acts.** The City and County agree 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.
- F. Federal Audit Requirements.** The City and County agree that if it expends an aggregate amount of seven hundred fifty thousand dollars (\$750,000.00) or more in federal funds during its fiscal year, it must undergo an organization-wide financial and compliance single audit. The City and County agree to comply with the audit requirements of the U.S. General Accounting Office Government Auditing Standards and Audit Requirements of 2 CFR Part 200, Subpart F. If findings are made which cover any part of this Agreement, the City and County shall provide one (1) copy of the audit report to WYDOT and require the release of the audit report by its auditor be held until adjusting entries are disclosed and made to WYDOT's records.
- G. Human Trafficking.** As required by 22 U.S.C. § 7104(g) and 2 CFR Part 175, this Agreement may be terminated without penalty if a private entity that receives funds under this Agreement:

  - (i) Engages in severe forms of trafficking in persons during the period of time that the award is in effect;

- (ii) Procures a commercial sex act during the period of time that the award is in effect; or
  - (iii) Uses forced labor in the performance of the award or subawards under the award.
- H. Kickbacks.** The City and County certify and warrant 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 City or County breach or violate this warranty, WYDOT may, at its discretion, terminate this Agreement without liability to WYDOT, or deduct from the agreed upon price or consideration, or otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee.
- I. Limitations on Lobbying Activities.** By signing this Agreement, the City and County certify and agree that, in accordance with P.L. 101-121, payments made from a federal grant shall not be utilized by the City or County or its subcontractors in connection with lobbying member(s) of Congress, or any federal agency in connection with the award of a federal grant, contract, cooperative agreement, or loan.
- J. Mandatory Disclosures.** Per 2CFR 200.113, the City and County must disclose, in a timely manner, in writing to WYDOT all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting this award. Failure to make required disclosures can result in remedies for noncompliance including suspension or debarment.
- K. Monitoring Activities.** WYDOT shall have the right to monitor all activities related to this Agreement that are performed by the City and County or their subcontractors. 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 Agreement related work.
- L. No Finder's Fees:** No finder's fee, employment agency fee, or other such fee related to the procurement of this Agreement, shall be paid by either party.
- M. Non-Supplanting Certification.** The City and County hereby affirm that federal grant funds shall be used to supplement existing funds, and shall not replace (supplant) funds that have been appropriated for the same purpose. The City and County should be able to document that any reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds under this Agreement.

- N. Nondiscrimination.** The City and County 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 Agreement.
- O. Program Income.** The City and County shall not deposit grant funds in an interest bearing account without prior approval of WYDOT. Any income attributable to the grant funds distributed under this Agreement must be used to increase the scope of the program or returned to WYDOT.
- P. 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 City or County and related to the services and work to be performed under this Agreement, shall identify WYDOT and the Federal Highway Administration as the sponsoring agency and shall not be released without prior written approval of WYDOT.
- Q. Suspension and Debarment.** By signing this Agreement, the City and County certify that neither they nor their principals/agents are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction or from receiving federal financial or nonfinancial 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), 44 CFR Part 17, or 2 CFR Part 180, or are on the debarred, or otherwise ineligible, vendors lists maintained by the federal government. Further, the City and County agree to notify WYDOT by certified mail should it or any of their principals/agents become ineligible for payment, debarred, suspended, or voluntarily excluded from receiving federal funds during the term of this Agreement.
- 8. State General Provisions.** Pursuant to WYDOT's written notice to proceed, the City and County agree to undertake and prosecute the work hereunder in accordance with the schedule of conditions set forth herein.
- A. Amendments.** Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed by all parties to this Agreement.
- B. Applicable Law, Rules of Construction, and Venue.** The construction, interpretation, and enforcement of this Agreement 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 Agreement as a whole and not to any particular provision or part. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the parties. The venue shall be the First Judicial District, Laramie County, Wyoming.

- C. Assignment Prohibited and Agreement 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 Agreement without the prior written consent of the other party. The City and County shall not use this Agreement, or any portion thereof, for collateral for any financial obligation without the prior written permission of WYDOT.
- D. Auditing and Access to Records.** The City and County may be subject to monitoring activities by WYDOT including on-site visits, review of supporting documents, and limited scope audits. WYDOT and its representatives shall have access to any books, documents, papers, electronic data, and records of the City and County which are pertinent to this Agreement. All records relevant to this Agreement are subject to audit, including the assessment of the City’s and County’s overall accounting and internal control system.
- E. Availability of Funds.** Each payment obligation of WYDOT 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 the continued performance of the Agreement, the Agreement may be terminated by WYDOT at the end of the period for which the funds are available. WYDOT shall notify the City and the County at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to WYDOT in the event this provision is exercised, and WYDOT 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.** WYDOT may undertake or award supplemental or successor agreements for work related to this Agreement or may award agreements to other contractors for work related to this Agreement. The City and County shall cooperate fully with other contractors and WYDOT in all such cases.
- G. Compliance with Laws.** The City and County shall keep informed of and comply with all applicable federal, state, and local laws and regulations in the performance of this Agreement.
- H. Confidentiality of Information.** Except when disclosure is required by the Wyoming Public Records Act or court order, all documents, data compilations, reports, computer programs, photographs, data, and other work provided to or

produced by the City and/or County in the performance of this Agreement shall be kept confidential by the City and County unless written permission is granted by WYDOT for its release. If and when the City or County receive a request for information subject to this Agreement, the City or County shall notify WYDOT within ten (10) days of such request and shall not release such information to a third party unless directed to do so by WYDOT.

- I. Entirety of Agreement.** The Original Agreement, consisting of three (3) pages; the Exhibits, consisting of the pages stamped thereon; This Agreement, consisting of eleven (11) pages; and Attachment A, [City] Urban Systems Boundary Map, consisting of one (1) page, represent the entire and integrated Agreement between the parties and supersede all prior negotiations, representations, and agreements, whether written or oral. In the event of a conflict or inconsistency between the language of this Agreement and the language of any attachment, exhibit, or document incorporated by reference, the language of this Agreement shall control.
- J. Ethics.** The City and County shall keep informed of and comply with the Wyoming Ethics and Disclosure Act (W.S. § 9-13-101, *et seq.*), and any and all ethical standards governing the City and County's profession.
- K. Force Majeure.** No party shall be liable for failure to perform under this Agreement 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 parties 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.
- L. Indemnification.** All parties to this Agreement shall assume the risk of any liability arising from their own conduct. No party agrees to insure, defend or indemnify the other parties.
- M. Independent Contractor.** The City and County shall function as independent contractors for the purposes of this Agreement and shall not be considered an employee of the State of Wyoming for any purpose. Consistent with the express terms of this Agreement, the City and County shall be free from control or direction over the details of the performance of services under this Agreement. The City and County shall assume sole responsibility for any debts or liabilities that may be incurred by the City and County in fulfilling the terms of this Agreement and shall be solely responsible for the payment of all federal, state, and local taxes which may accrue because of this Agreement. Nothing in this Agreement shall be interpreted as authorizing the City or County or their agents or employees to act as an agent or representative for or on behalf of the State of

Wyoming or WYDOT, or to incur any obligation of any kind on the behalf of the State of Wyoming or WYDOT. The City and County agree 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 City and County or the City's and County's agents or employees as a result of this Agreement.

- N. Insurance Requirements.** The City and County are protected by the Wyoming Governmental Claims Act, Wyo. Stat. § 1-39-101, et seq., and certify that they each are members of the Wyoming Association of Risk Management (WARM) pool or the Local Government Liability Pool (LGLP), Wyo. Stat. § 1-42-201, et seq., and shall provide a letters verifying their participation in the WARM or LGLP to WYDOT.
- O. Notices.** All notices arising out of, or from, the provisions of this Agreement shall be in writing either by regular mail or delivery in person at the addresses provided under this Agreement.
- P. Ownership and Return of Documents and Information.** WYDOT is the official custodian and owns all documents, data compilations, reports, computer programs, photographs, data, and other work provided to or produced by the City and/or County in the performance of this Agreement. Upon termination of services, for any reason, the City and/or County agree to return all such original and derivative information and documents to WYDOT 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.
- Q. Patent or Copyright Protection, and Rights in Data.** The City and County recognize that certain proprietary matters or techniques may be subject to patent, trademark, copyright, license, or other similar restrictions, and warrants that no work performed by the City and/or County or its Consultants shall violate any such restriction. The City and/or County shall defend and indemnify WYDOT for any infringement or alleged infringement of such patent, trademark, copyright, license, or other restrictions.

Copyrighting or other exclusions placed on any documents or materials developed by a consultant, its sublets, agents or assigns under this Agreement are prohibited.

Data produced, furnished, acquired, or used in meeting the terms and conditions of this Agreement shall be available to WYDOT and/or the federal funding agency with unlimited rights. Data means all recorded information, regardless of form, to include both technical – scientific or technical nature – and computer software information. It does not include information related to administration of the Agreement such as financial, cost or pricing, or management information. Unlimited rights means that the state or federal agency has the right to use,



disclose, reproduce, and distribute the data in any manner and for any purpose, and to permit others to also have unlimited rights. Meanings and uses described in this Section 8 (P) are superseded and/or supplemented by 48 CFR 52.227-14.

- R. Prior Approval.** This Agreement shall not be binding upon any party, no services shall be performed, and the Wyoming State Auditor shall not draw warrants for payment, until this Agreement 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. § 9-2-1016(b)(iv).
- S. Severability.** Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of the Agreement shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.
- T. Sovereign Immunity and Limitations.** Pursuant to W.S. § 1-39-104(a), the State of Wyoming and WYDOT expressly reserve sovereign immunity by entering into this Agreement and the City and the County expressly reserve governmental immunity. Each of them specifically retain all immunities and defenses available to them as sovereign or governmental entities pursuant to W.S. § 1-39-101, *et seq.*, and all other applicable law. 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 Agreement shall not be strictly construed, either against or for either party, except that any ambiguity as to immunity shall be construed in favor of immunity.
- U. Taxes.** The City and County 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.
- V. Termination of Agreement.** This Agreement may be terminated, without cause, by any party upon thirty (30) days written notice. If the City or County terminates this Agreement prior to project completion then the City and County will reimburse WYDOT for all federal-aid funds expended. This Agreement may be terminated by WYDOT immediately for cause if the City or County fails to perform in accordance with the terms of this Agreement.
- W. 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 Agreement shall not be construed so as to create such status. The rights, duties, and obligations contained in this Agreement shall operate only between the parties to this Agreement and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in

determining and performing their obligations under this Agreement.

- X. Time is of the Essence.** Time is of the essence in all provisions of this Agreement.
- Y. Titles Not Controlling.** Titles of sections and subsections are for reference only and shall not be used to construe the language in this Agreement.
- Z. Waiver.** The waiver of any breach of any term or condition in this Agreement shall not be deemed a waiver of any prior or subsequent breach. Failure to object to a breach shall not constitute a waiver.
- AA. Counterparts.** This Agreement 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 Agreement. Delivery by the City or County of an originally signed counterpart of this Agreement by facsimile or PDF shall be followed up immediately by delivery of the originally signed counterpart to WYDOT.

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

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

**WYOMING DEPARTMENT OF TRANSPORTATION**

\_\_\_\_\_  
Mark Gillett, P.E., Chief Engineer

\_\_\_\_\_  
Date

**CITY OF LARAMIE**

\_\_\_\_\_  
Joe Shumway, Mayor and President of City Council

\_\_\_\_\_  
Date

ATTESTED BY:

\_\_\_\_\_  
Nancy Bartholomew, City Clerk

**ALBANY COUNTY**

\_\_\_\_\_  
Terri Jones, Chairman of the County Commissioners

\_\_\_\_\_  
Date

ATTESTED BY:

\_\_\_\_\_  
Jackie R. Gonzales, County Clerk

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

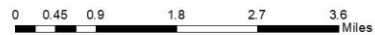
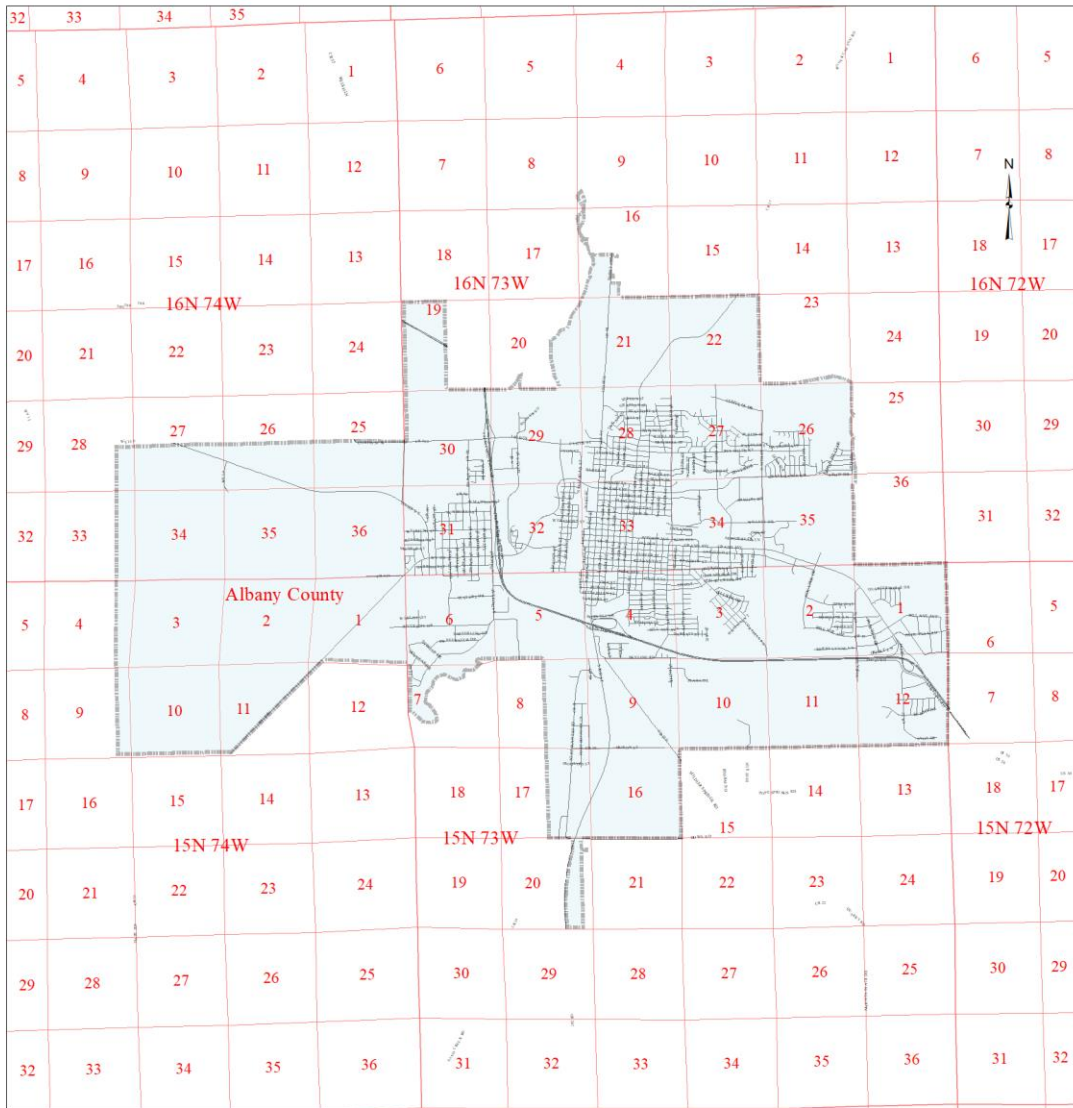
\_\_\_\_\_  
Alysia Goldman, Assistant Attorney General

\_\_\_\_\_  
Date

Urban System Boundary Map

# Laramie

**Legend**



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