

**WORKPLACE SAFETY CONTRACT BETWEEN  
STATE OF WYOMING, DEPARTMENT OF WORKFORCE SERVICES,  
WORKERS' COMPENSATION, RISK MANAGEMENT  
AND  
CAMPBELL COUNTY SCHOOL DISTRICT**

1. **Parties.** The parties to this Workplace Safety Contract (Contract) are the State of Wyoming, Department of Workforce Services, Workers' Compensation, Risk Management (Agency), whose address is: 5221 Yellowstone Road, Cheyenne, Wyoming 82002, and the Campbell County School District (Contractor), whose address is: 1000 W 8th Street, Gillette, Wyoming 82716.
2. **Purpose of Contract.** The purpose of this Contract is to set forth the terms and conditions by which the Contractor shall enhance existing or implement new workplace safety programs through the purchase of health or safety equipment or the provision of workplace safety training.
3. **Term of Contract.** This Contract is effective when all parties have executed it (Effective Date). The term of the Contract is from the Effective Date through three hundred ninety-five (395) days after the Effective Date. All services shall be completed during this term. There is no right or expectation of extension and any extension will be at the discretion of the Agency.
4. **Payment.**
  - A. The Agency agrees to pay the Contractor for the equipment or training described in Attachment B, Application, which is attached to and incorporated into this Contract by this reference. Total payment under this Contract shall not exceed eight thousand eight hundred sixty dollars and fifty cents (\$8,860.50). Contractor shall submit invoices in sufficient detail to ensure that payments have been made in conformance with this Contract.
  - B. No payment shall be made for equipment or training purchased 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 Agency.
  - C. **Allowable Expenses.** Allowable expenses shall be those expenses defined in Attachment A, the Department of Workforce Services, Workers' Compensation Division, Chapter 11, Workplace Safety Contracts, Section 4(b)(v), which is attached to and incorporated into this Contract by this reference.
  - D. **Expense Restrictions.** The Agency shall reimburse the Contractor for only those allowable expenses which are listed in Attachment B ("Award") and approved by the Agency. The Contractor shall not add new expenses or increase the amount of any approved expense listed in Attachment B.

**E. Schedule for Payment of Funds.**

- (i) One hundred percent (100%) of the Contract amount shall be remitted to the Contractor once the Contract is fully executed and the necessary paperwork has been processed through the State fiscal system.

**F. Unused Award Funds.** Should the Contractor fail to utilize the full Award for safety training, equipment purchase or both, the following shall apply:

- (i) The Contractor is required to refund all of the unused Award funds to the Agency. The refund shall be remitted to the Agency no later than thirty (30) days after notification (certified mail, return receipt requested) from the Agency that the refund is due. In all cases, refunds shall be remitted to the agency no later than ninety (90) days from the date of disbursement of Award funds.
- (ii) Failure to pay the refund to the Agency shall constitute a material breach of this Contract and shall result in the loss of the entire Award. Within fourteen (14) calendar days after notification from the Agency that the Contractor is in material breach of the Contract, the Contractor shall refund to the Agency the full Award previously paid to the Contractor under this Contract. The Contractor also agrees to pay the Agency as liquidated damages, and not as a penalty ten percent (10%) of the Award or two thousand dollars (\$2,000.00), whichever is less, to cover the Agency's administrative costs associated with this Contract.

**G. Reporting.** The Contractor shall submit reports according to Attachment A, Section 5, Applicant Reporting.

- (i) Failure to submit reports in a timely manner, as detailed in Attachment A, Section 5, shall constitute a material breach of this Contract and shall result in the loss of the entire Award. Within fourteen (14) calendar days after notification from the Agency that the Contractor is in material breach of the Contract, the Contractor shall refund to the Agency the full Award previously paid to the Contractor under this Contract. The Contractor also agrees to pay the Agency as liquidated damages, and not as a penalty, ten percent (10%) of the Award or two thousand dollars (\$2,000.00), whichever is less, to cover the Agency's administrative costs associated with this Contract.
- (ii) Failure to provide invoice and proof of purchase within ninety (90) days of receipt of payment shall constitute a material breach of this Contract and shall result in the loss of the entire Award.

**H. Loss of Eligibility.** Should Contractor fail to either submit reports or pay a refund in accordance with Sections 4(F) and (G) above, Contractor shall not be eligible for future funds, as stated in this Contract.

- I. **Contractor's Federal Employer Identification Required.** All invoices submitted for payment must include Contractor's Federal Employer Identification Number (FEIN).
  - J. **Funding Information.** The source of funds for this Contract is the Workers' Compensation Industrial Accident Fund.
5. **Responsibilities of Contractor.** The Contractor agrees to:
- A. Purchase the equipment or training described in Attachment B in accordance with the requirements set forth in Attachment A.
  - B. Ensure that scheduled trainee(s) are available and able to attend the training as scheduled, if training has been approved by the Agency.
  - C. Provide reasonable assurance that Contractor has purchased the equipment or training after the Effective Date of this Contract.
  - D. Provide a final report to the Agency in accordance with Attachment A.
6. **Responsibilities of Agency.** The Agency 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 Agency.
  - D. **Audit and Access to Records.** The Agency 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 Agency 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 Agency at the end of the period for which the funds are available. The Agency 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 Agency in the event this provision is exercised, and the Agency 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 Agency 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 Agency in all such cases.
- G. 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.
- 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 Contractor in the performance of this Contract shall be kept confidential by the Contractor unless written permission is granted by the Agency for its release. If and when Contractor receives a request for information subject to this Contract, Contractor shall notify Agency within ten (10) days of such request and shall not release such information to a third party unless directed to do so by Agency.
- I. Entirety of Contract.** This Contract, consisting of nine (9) pages; Attachment A, Department of Workforce Services, Workers' Compensation Consultation Safety and Risk, Chapter 11, Workplace Safety Contracts Rules, consisting of five (5) pages; and Attachment B, Application Form, Wyoming Workforce Services, Workers' Compensation Safety Consultation and Risk, Safety Improvement Fund Application, consisting of three (3) pages, represent the entire and integrated Contract 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 Contract and the language of any attachment or document incorporated by reference, the language of this Contract shall control.
- J. 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.
- K. 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.

- L. 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.
- M. Indemnification.** Each party to this Contract shall assume the risk of any liability arising from its own conduct. Neither party agrees to insure, defend, or indemnify the other.
- N. 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 Agency or to incur any obligation of any kind on behalf of the State of Wyoming or the Agency. 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.
- O. Kickbacks.** Contractor certifies and warrants that no gratuities, kickbacks, or contingency fees were paid in connection with this Contract, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Contract. If Contractor breaches or violates this warranty, Agency may, at its discretion, terminate this Contract without liability to Agency, or deduct from the agreed upon price or consideration, or otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee.
- P. Monitoring Activities.** Agency shall have the right to monitor all activities related to this Contract that are performed by Contractor or its 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 Contract; and to observe personnel in every phase of performance of Contract related work.

- Q. No Finder's Fees.** No Finder's fee, employment agency fee, or other such fee related to the procurement of the Contract, shall be paid by either party.
- R. 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.
- S. 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.
- T. Notice of Sale or Transfer.** The Contractor shall provide the Agency 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 Agency 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 Agency may, at its discretion, terminate or renegotiate the Contract.
- U. Ownership and Return of Documents and Information.** Agency 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 Agency 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.
- V. Patent or Copyright Protection.** The Contractor recognizes 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 Contractor or its subcontractors will violate any such restriction. The Contractor shall defend and indemnify the Agency for any infringement or alleged infringement of such patent, trademark, copyright, license, or other restrictions.
- W. 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).

- X. 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 Agency as the sponsoring agency and shall not be released without prior written approval from the Agency.
- Y. 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.
- Z. Sovereign Immunity and Limitations.** Pursuant to Wyo. Stat. § 1-39-104(a), the State of Wyoming and Agency expressly reserve sovereign immunity by entering into this Contract and the Contractor expressly reserves governmental immunity. Each of them specifically retains all immunities and defenses available to them as sovereigns or governmental entities pursuant to Wyo. Stat. § 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 Contract 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.
- AA. 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.
- BB. Termination of Contract.** Contractor's failure to perform in accordance with the terms of this Contract shall constitute a material breach. Within fourteen (14) calendar days after notification from the Agency that the Contractor is in material breach of the Contract, the Contractor shall refund to the Agency the full Award previously paid to the Contractor under this Contract. The Contractor also agrees to pay to the Agency as liquidated damages, and not as a penalty, ten percent (10%) of the Award, or two thousand dollars (\$2,000.00), whichever is less, to cover the Agency's administrative costs associated with this Contract. This Contract may be terminated, without cause, by the Agency upon thirty (30) days written notice.
- CC. 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.
- DD. Time is of the Essence.** Time is of the essence in all provisions of this Contract.

- EE. Titles Not Controlling.** Titles of sections and subsections are for reference only and shall not be used to construe the language in this Contract.
- FF. 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.
- GG. 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 Agency.

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8. **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.

**AGENCY:**

State of Wyoming, Department of Workforce Services, Workers' Compensation, Risk Management

\_\_\_\_\_  
Jason Wolfe, Workforce Standards Administrator

\_\_\_\_\_  
Date

**CONTRACTOR:**

Campbell County School District

Michelle Heitmann  
Michelle Heitmann, Safety Manager

1-31-23  
Date

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

Brie M. Richardson # 228810  
Brie M. Richardson, Assistant Attorney General

1/27/2023  
Date