

RULES AND REGULATIONS

OF THE

RAFTER J IMPROVEMENT AND

SERVICE DISTRICT

November 15, 2018
(with amendments through February 6, 2013)

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 OF THE
 RAFTER J IMPROVEMENT AND SERVICE DISTRICT**

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**RULES AND REGULATIONS OF THE
RAFTER J IMPROVEMENT AND SERVICE DISTRICT**

The Board of Directors of the Rafter J Improvement and Service District adopt the following rules and regulations:

RULE 1
DEFINITIONS

1.1 “Assessed Value” means the assessed value of real property, and improvements and personal property thereon, within the District as determined from the last assessment roll of Teton County, Wyoming. (W.S. § 18-12-102)¹

1.2 “Board” means the Board of Directors of the Rafter J Improvement and Service District. (W.S. § 18-12-102)

1.3 “Charge” means fees, tolls, rates, and rentals. (W.S. § 18-12-102)

1.4 “Contested Case” means a proceeding in which legal rights, duties or privileges of a party are required by law to be determined by the Board after an opportunity for hearing. (W.S. § 16-3-101(b)(ii))

1.5 “Director” means a member of the Board of Directors of the Rafter J Improvement and Service District.

1.6 “District” means the Rafter J Improvement and Service District. (W.S. § 18-12-102)

1.7 “Elector” means a person defined as an elector under the Improvement and Service District Act. (W.S. § 18-12-102(a)(vii))

1.8 “Expenses’ or “Costs” means all expenses of hearings, bond elections, expenses incurred by members of the board of directors in connection with the performance of their duties, engineering, accounting and legal expenses, costs and expenses incurred in connection with the acquisition, construction, repair, maintenance, replacement, and operation of improvements provided by the District, insurance premiums, salaries of agents and employees of the District, and other expenses incurred by the Board of Directors in carrying out the purposes and powers of the District.

1.9 “Improvement” means and includes buildings, structures, and all facilities of a public nature intended for public use, including but not limited to streets, sidewalks, curbs,

¹ Numbers in parenthetical are references to the Wyoming Statutes Annotated, 1977 Republished Edition, as amended through May of 1998, and are for reference purposes only.

gutters, alleys, and other public ways, parks, recreational facilities, water, sewage, solid waste disposal and other sanitary facilities and systems, and with respect to the foregoing, such additional facilities or improvements as relate or contribute to the full public use and enjoyment thereof. (W.S. § 18-12-102)

1.10 “Landowner” or “Property Owner” means the person holding record fee title to real property or a person obligated to pay general property taxes under a contract to purchase real property. (W.S. § 18-12-102)

1.11 “Party” means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party. (W.S. § 16-3-101 (b)(vi))

1.12 “Person” means any individual, partnership, corporation, association, municipality, governmental subdivision or public or private organization of any character other than the Board. (W.S. § 16-3-101(b)(vii))

1.13 “Service” means the operation and maintenance of improvements and any other service authorized by the Improvement and Service District Act:

RULE 2 **CHARGES FOR SERVICES AND ADMINISTRATION**

2.1 Charges for Administration Expenses. The Directors shall charge each landowner their pro rata share, in such rate, proportion, or percentage as determined by the Directors, for the costs of administering the District. The expenses of administering the District shall include, but not be limited to, all expenses for professional services, actual and necessary expenses of the Directors and Officers incurred in connection with the performance of their duties, the cost of any liability or other insurance for the District, its officers and employees, and the salaries or wages of any employees of the District.

2.2 Charges for the Use of Improvements and Services. The Directors may establish and collect charges for water, sanitation, and related services, and the use of improvements or services provided by the District, including authority to change the amount or rate thereof, and to pledge the revenues therefrom for the payment of District indebtedness. Users of District improvements or services, other than landowners, may be charged by the Directors for the use of such improvements or services.

2.3 Methods of Collection. Charges for administration and the use of improvements and services shall be collected by methods such as shall be determined by the Directors from time to time. Methods may include all those permitted by law, including but not limited to:

- (a) Collection of charges by the District directly from landowners or users, either monthly, quarterly, semiannually, annually, or on such basis as the Directors shall determine by resolution. (W.S. § 18-12-112 (a)(viii))
- (b) Collection of charges through the County Assessor's Office by assessment(s) for administration expenses and for the use of any improvement to cover the cost of operating and maintaining the improvement, after application to and approval by the County Commissioners. (W.S. § 18-12-112(a)(xxi))
- (c) Collection of charges through the County Assessor's Office by tax levy made by the Teton County Commissioners, pursuant to annual assessments determined by the Board and adopted in the District's annual budget according to the procedures set forth in Rules 3 and 4 below.
- (d) Collection of charges through the County Assessor's Office by tax levy made by the Teton County Commissioners, pursuant to special assessment(s), said special assessment(s) to be developed according to the procedures set forth in Rule 5 below. (W.S. § 18-12-116 through 119)(See also Paragraph 5(a) of the Petition for the Formation of the Rafter J Improvement and Service District).
- (e) Collection of charges through the County Assessor's Office by tax levy made by the Teton County Commissioners pursuant to the issuance of bonds to facilitate the performance of services for the benefit of the residents of the District, said bonds to be issued according to the procedure set forth in Rule 7 below. (W.S. § 18-12-120 through 137)

2.4 Tax Liens. Charges to be collected by taxes, together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same, constitute, until paid, a perpetual lien on and against the property taxed, and such lien shall be administered as and on a parity with the tax lien of other general taxes. (W.S. § 18-12-119)

2.5 Delinquencies and Other Liens. Charges to be collected directly by the Directors constitute, until paid, a perpetual lien on and against the property served or benefited, and any such lien may be foreclosed in the same manner as provided by the laws of the state of Wyoming for the foreclosure of mechanics' liens. Before any such lien is foreclosed the district shall hold a hearing thereon after notice thereof by publication and by registered first class mail, postage prepaid, addressed to the last known owner at his² last known address according to the record of the district and the real property assessment roll in Teton County. The delinquent property owner shall also be liable for costs of collection, including interest and a reasonable attorneys' fee.

² Words in the masculine gender include the feminine and neuter genders throughout these rules.

2.6 Discontinuance of Service. Delinquency in the payment of charges constitute grounds for the Directors to discontinue or shut off service after notice thereof by publication and by registered first class mail, postage prepaid, addressed to the last known owner at his last known address according to the record of the district and the real property assessment roll in Teton County.

2.7 Charges for Non-budgeted Services and Administrative Expenses. The Board may charge landowners for the cost of services and expenses in excess of the amount approved in the budget pursuant to Rule 4.2 if the Directors, in their sole discretion, deem it necessary to protect the health and welfare of the residents in the District and the value of their property in the District.

RULE 3 **IMPROVEMENTS AND ASSESSMENTS GENERALLY**

3.1 Payment for Improvements. Improvements may be paid for with funds received or generated by the District as permitted by law, including but not limited to payment by annual assessment as set forth in Rules 3 and 4, payment by special assessment as set forth in Rule 5, and payment by the issuance of bonds as set forth in Rule 6.

3.2 Assessments for Improvements Benefiting Specific Property. When an improvement proposed by the Board will benefit specific property in the District to a greater extent than other property, the improvement may be financed with an assessment against the property specifically benefited upon a frontage, zone, or other equitable basis, in accordance with benefits. (W.S. §18-12-115)

3.3 Determination of Annual Assessments. The Board, as it deems required, shall establish an annual assessment against property in the District based on the amount approved in the budget for improvements, if any, as set forth in Rule 4.2, taking into account the amount of any principal, interest, and reserve funds coming due that year from any outstanding or budgeted bond issues for services and improvements, as well as other anticipated revenues. Additionally, the Board may establish annual assessments for the collection of charges by the County Assessor for administration expenses and for services and the use of improvements, as set forth in Rule 2. The amount of the annual assessments against each property owner shall be forwarded to the Assessor's office by the Treasurer of the District on or before the date when the Teton County Assessor's office requires such information, except for those charges or assessments the Board chooses to collect directly from property owners as permitted by law.

3.4 Collection of Assessments. Assessments for improvements in the District shall be levied and collected by the Teton County Assessor, and payments made monthly to the Treasurer of the District and paid into the depository of the District to the credit of the District. All taxes levied pursuant to these Rules and Regulations and the Improvement and Service District Act, together with interest thereon and penalties for default in payment thereof, and the cost of collecting the same, constitute, until paid, a perpetual lien on and against the property taxed, and such lien shall be administered as and on a parity with the tax lien of other general taxes. (W.S. § 18-12-119)

RULE 4
BUDGET FOR IMPROVEMENTS AND SERVICES

4.1 Budget. The total amount of charges and assessments required to be raised for District improvements and services shall be determined at least annually in accordance with the following procedure. The Board of Directors shall prepare a budget covering at least a one-year period, showing in reasonable detail the various functions and matters proposed to be covered by the budget, showing the estimated income and other funds which may be received by the District, and showing the estimated amount of assessments and other taxes or charges required to cover costs and expenses and to provide a reasonable reserve. The budget shall be filed with and shall follow a format acceptable to the director of the state department of audit. (W.S. § 16-4-104(f); 9-1-507(a)(iii))

4.2 Approval of Budget. The Directors shall call a meeting of the property owners and electors in the District within five (5) days of the third Thursday in July, and give at least one (1) week notice by publication in a newspaper of general circulation in Teton County of the time and place thereof and the amount of the proposed budget as compared to the amount of the previous year's budget to all such property owners. The Directors shall furnish a copy of the budget to any property owner, elector, or other affected person in the District upon written request of such property owner, elector, or other affected person. The budget shall be adopted as the budget for the District upon the affirmative vote of a majority of the Directors, unless a majority of the property owners in the District object to the adoption of the budget in writing on or before the date Directors resolve to adopt the budget. (W.S. § 16-4-109(b))

RULE 5
SPECIAL ASSESSMENTS FOR IMPROVEMENTS

5.1 Resolution of Intent. The Board may declare by resolution their intent to order improvements to be paid for by special assessment for any improvement not provided for in the annual budget. The resolution shall specify:

- (a) The nature of the improvement proposed;
- (b) The extent of the District to be improved;
- (c) The probable cost per unit of measurement as shown by estimates of a qualified engineer;
- (d) The time in which the cost will be payable; and
- (e) The time when a resolution authorizing improvements will be considered.

5.2 Notice of Resolution. The Board of Directors shall request the Teton County Clerk to give notice, by advertisement once in a newspaper of general circulation in Teton County, to the owners of the property to be assessed, said notice to provide:

- (a) The information set forth in Rule 5.1;
- (b) That maps, estimates, and schedules showing the approximate amounts to be assessed and all resolutions and proceedings are on file and may be seen or examined at the office of the Teton County Clerk or other designated place; and
- (c) That all objections and complaints concerning the proposed improvements by owners of property subject to assessment will be heard and considered by the Board before final action, under the provisions of the Wyoming Administrative Procedure Act.

In addition to the published notice provided for in this rule 5.2, the Directors shall notify all property owners of any proposed special assessment by written notice mailed to each property owner in the District, at their last known address according to the record of the District and the real property assessment roll in Teton County, at least ten (10) days in advance of the hearing date.

5.3 Objections to Special Assessments. All objections and complaints to a proposed special assessment must be submitted in writing to the Secretary of the Board of Directors on or before the date the matter is heard by the Board. The complaints and objections must be signed by the property owner and must state the reason for the complaint or objection. Any complaints or objections not conforming with this rule will not be considered by the Board and will not be deemed an objection to the improvement.

5.4 Defeat of Proposed Special Assessment. If objection to the improvement proposed to be financed by special assessments for the improvement are made by owners or agents representing property subject to thirty (30) percent or more of the projected dollar assessments for the improvement, the proposed improvement may not be considered within one (1) year thereafter.

5.5 Proposals for Special Assessments by Property Owners. Owners of particular property within the District may request that the Directors consider a specific improvement for such property which will be paid for by special assessment, provided that such property owners shall be obligated to pay the total cost of any engineering estimates, surveying, legal costs, or other directly related costs incurred in determining feasibility of the improvement.

5.6 Hearing on the Resolution of Intent to Provide for Special Assessment. The hearing on the resolution of intent to provide for special assessment shall be conducted as follows and pursuant to the provisions of the Wyoming Administrative Procedures Act:

- (a) The hearing before the Board of Directors shall be recorded either stenographically or electronically. The oral proceedings or any part thereof shall be transcribed on request of landowners upon payment of the cost thereof;
- (b) Only landowners subject to assessment will be heard at the hearing; provided, however, that any owner shall have the right to appear by or with counsel, or by or with a duly qualified representative to the satisfaction of the Presiding Officer. Any person appearing in a representative capacity shall be precluded from examining or cross-examining any witness, unless such person shall be an attorney licensed to practice in the State of Wyoming, or non-resident attorney associated with a Wyoming attorney;
- (c) A member of the Board of Directors shall be selected by the Board of Directors to preside at the hearing and shall have the power to:

- (i) Administer oaths and affirmations;
 - (ii) Issue subpoenas;
 - (iii) Rule upon offers of proof and receipt of relevant evidence;
 - (iv) Cause depositions to be taken;
 - (v) Regulate the course of the hearing;
 - (vi) Hold conferences for settlement or simplification of issues;
 - (vii) Dispose of procedural requests or similar matters; and
 - (viii) Take any other action authorized by law, consistent with these rules or required to fulfill any of his duties.
- (d) Hearings shall be conducted, as nearly as practicable, in accordance with the following order of procedure:
- (i) The presiding officer shall announce that the hearing is opened and read the published notice of resolution;
 - (ii) The presiding officer shall then call for written complaints and objections to the improvement to be filed with the Board;
 - (iii) The presiding officer shall then allow those landowners filing written complaints and objections (contestants) to make opening statements;
 - (iv) The presiding officer shall then allow those landowners in favor of the proposed resolution (respondents) to make an opening statement;
 - (v) The evidence of contestants will be heard;
 - (vi) The evidence of the respondents will be heard;
 - (vii) The Board of Directors may call and interrogate witnesses and take official notice of any material fact not appearing in evidence which falls within the traditional matters of judicial notice, or which falls within the District's specialized knowledge, or which

is a part of information, data or material included within the District's files;

- (viii) The contestants may offer rebuttal evidence;
- (ix) The presiding officer, in his discretion, may allow evidence to be offered out of order;
- (x) Closing arguments will be made in the following sequence:

First - Contestant

Second - Respondent

Third - Contestant in Rebuttal

- (xi) The presiding officer may recess the hearing as required and may limit the time for opening statements and closing arguments and the presentation of evidence;
 - (xii) After all interested landowners have been offered an opportunity to be heard, the presiding officer shall excuse all witnesses and declare the evidence closed. The evidence of the case may be reopened at a later date, for good cause shown, by order of the examiner upon motion of any party to the proceeding; and
 - (xiii) The presiding officer may declare that the matter is taken under advisement by the Board and that the decision of the Board of Directors will be announced at a later date. A written decision of the Board of Directors shall, in any event, be made within ten (10) days after the conclusion of the hearing.
- (e) No testimony will be received from a witness except under oath or affirmation. Oath or affirmation shall be administered by the presiding officer in the form of: "Do you swear (or affirm) to tell the truth, the whole truth, and nothing but the truth in the matter now before the Board, so help you God?", or such other form of oath as the witness deems binding on his conscience. (W.S. § 1-2-101 and 103)

5.7 Notice of Apportionment: Assessment Roll. A copy of the resolution as finally adopted shall be recorded by the county clerk who shall within sixty (60) days after the adoption of the resolution by written notice, mailed or otherwise delivered, notify each owner of property

to be assessed of the amount of the assessment, the purpose for which the levy is made, the tax against each lot or parcel of land, and the date it becomes delinquent. (W.S. § 18-12-118(a)) The county assessor shall prepare a local assessment roll pursuant to law and deliver the same to the county treasurer for collection. (W.S. § 18-12-118(b))

RULE 6 **HEARINGS GENERALLY**

6.1 Contested Case Hearings Generally. In matters of contested cases, as defined by law, hearings shall be conducted according to the provisions of the Wyoming Administrative Procedure Act, the procedures that follow, and as nearly as practicable, according to the procedures set forth above at Rule 5.6 pertaining to Special Assessment Hearings. Pursuant to the Wyoming Administrative Procedure Act, the Board shall, upon application of any party in a contested case, issue a subpoena requiring the appearance of witnesses for the purpose of taking evidence or requiring the production of any books, papers, or other documents relevant or material to the inquiry. (W.S. § 16-3-107(d))

6.2 Informal Disposition of Hearings. Compliance with the Wyoming Administrative Procedure Act may be waived and hearings not in compliance with these rules may be held upon written agreement by all the parties. Informal disposition may be made of any hearing by stipulation of affected parties.

6.3 Petition. Any person who believes they have a right to a contested case hearing before the Board may initiate the process by filing a petition with the Board setting forth:

- (a) A concise statement of the facts on which the petitioner relies;
- (b) A statement in ordinary language setting forth the action or decision desired by the petitioner;
- (c) The name, address, and telephone number of the petitioner and the attorney for the petitioner, if any;
- (d) The signature of the petitioner and attorney for the petitioner, if any;
- (e) The legal authority, if any, known at the time of the filing of the petition, upon which the petitioner relies.

6.4 Docket. When a contested case petition is filed, the Board shall determine whether the matter qualifies as a contested case requiring a hearing under the law. If the matter does not qualify for hearing, the Board shall so notify the petitioner in writing by certified mail. Otherwise, the Board shall assign a docket number to the proceeding and note it on a separate page of a docket together with the date of the filing. The Board shall establish a separate file for each docketed case in which all documents pertaining to the case that are filed with the Board shall be placed and maintained. The Board shall note the nature of each document filed and its filing date on the docket page assigned to the case.

6.5 Board as Petitioner. In any matter in which the Board is required to hold a hearing before an independent hearing officer in which it has the burden of proof, the Board shall be deemed the petitioner for purposes of these rules. Any notices or writing required by law for said hearing shall be deemed satisfied in the form of the Board's petition. Any answer or objection by the other party to the petition of the Board shall be served in writing at least fifteen (15) working days before any scheduled hearing.

6.6 Notice of Hearing. For any contested case hearing which is to be held before the Board, except special assessment hearings, the Board shall cause written notice to be served at least ten (10) days before the date set for hearing according to the provisions of the Wyoming Administrative Procedure Act. (W.S. § 16-3-107(a) & (b)) Service of the petition and notice of hearing may be by certified mail to the last known address of the party involved or by personal service by an adult. All other notices and service of papers shall be made in accordance with Wyoming Rule of Civil Procedure 5.

6.7 Hearing Examiner. Whenever it shall appear, from statements of any party or other sources, including but not limited to applicable Federal or State case law, that a dispute exists wherein a contested case hearing is authorized or required to be held before the Board, the Board, at its option, may delay further proceedings until all factual disputes are heard and recommendations are made by a hearing examiner as provided in this section:

- (a) The hearing examiner shall be the presiding officer at the hearing and shall conduct all proceedings in an impartial manner;
- (b) The hearing examiner shall be a qualified member of the bar of Wyoming;
- (c) The hearing examiner shall make recommended findings of fact and conclusions of law to the Board in writing within twenty (20) days after the conclusion of the hearing;
- (d) The hearing examiner shall be hired by the Board and shall be entitled to reasonable fees for his services and reimbursement for reasonable expenses incurred in connection therewith, but shall not be considered an employee of the Board but rather an independent contractor;

- (e) The hearing examiner shall accord the parties the same hearing procedural rights as are available to them in a hearing before the Board as herein set forth.

6.8 Final Decisions and Adverse Orders. A final decision or order adverse to a party shall be made and noticed according to the provisions of the Wyoming Administrative Procedure Act. (W.S. § 16-3-110) The vote of the Board shall be shown in its decision. The decision shall be recorded in the file docketed for the matter.

6.9 Informal Hearings. Matters that do not qualify as contested case proceedings may be heard by the Board at their discretion. Such informal or investigative hearings may be held by the Board without compliance with these rules. A party seeking an informal hearing shall make such a request to the Board through certified mail. Should the Board decide to grant a hearing, the party will be given an opportunity to address the Board at the next regular meeting of the Board, or at a special meeting called by the Board. So far as the orderly conduct of public business permits, any interested person may appear before the Board for the presentation, adjustment, or determination of any issue, request, or controversy in any proceeding or in connection with any District function.

6.10 Severability. If any provision of these rules of practice or the application thereof to any matter is held invalid, the invalidity shall not affect the other provisions or applications of these rules which can be given effect without the invalid provisions or application, and for this purpose the provisions of these rules are severable.

RULE 7 BONDS

7.1 Resolution for Submission of Bond Proposition to Voters. By resolution the Board may submit to the qualified voters of the District, at any election held for that purpose, the proposition of issuing bonds to provide funds for the acquisition, construction, improving or financing of improvements as well as performing services for the benefit of the residents of the District, including any or all expenses incidental thereto or connected therewith. (W.S. § 18-12-121)

7.2 Contents of Resolution. The resolution shall:

- (a) State the purpose for which the bonds are proposed to be issued;
- (b) State the estimated amount of money to be raised by the bond issue;
- (c) State the principal amount of the bonds;
- (d) State the maximum rate of interest on the bonds and whether the interest will be payable annually or semiannually;

- (e) Fix the date, time and place of the election;
- (f) Fix the manner of holding the election;
- (g) State the denomination of each bond, which shall not be less than one thousand dollars (\$1,000.00); and state the maturity of the bonds which shall not exceed twenty-five (25) years from the date of the bond or the date of any series of the bonds. (W.S. § 18-12-121)

7.3 Notice of Bond Election. The Board, through the County Clerk, shall give the property owners not less than thirty (30) nor more than forty (40) days written notice of the bond election by publication in a newspaper of general circulation in Teton County, which notice shall include the following information:

- (a) The question or questions to be submitted including the information set forth in Rule 7.2;
- (b) A statement by the Board of the need for the issuance of the bonds and the purposes for which the proceeds of the bonds shall be devoted;
- (c) The name and a description of the exterior boundaries of the District;
- (d) A general description of the proposed improvement or service to be provided by the District;

(W.S. § 18-12-122(b), 18-12-121(b), 22-21-104)

7.4 Election Procedures. The election procedures shall be as follows:

- (a) The bond election ballot shall specify the name of the District, the total amount of the proposed bond issue, the maximum interest rate payable thereon, the term of years over which the bonds shall be repaid, and a brief description of the improvements to be acquired or constructed and the services to be rendered with the proceeds thereof. The question to be submitted on the ballot after such description shall be as follows:

For Issuance of Bonds _____
 Against Issuance of Bonds _____

- (b) The Directors may divide the District into subdivisions for the purpose of such election or may adopt the election districts or precincts established for general or other elections;
- (c) If the election is not conducted by mail ballot and is not held in conjunction with another election, it shall not be necessary to keep the pools open at any election more than five (5) consecutive hours at any time between the hours of 9:00 a.m. and 7:00 p.m. of the day of the election;
- (d) The returns of any election shall be canvassed and the results thereof declared by the Board within five (5) days following the date of the election at a regular or special meeting; and
- (e) Except as otherwise provided in the Improvement and Service District Act (W.S. § 18-22-122), bond elections shall be called by the Board and held in accordance with these Rules and Regulations and the election procedures set forth in the Political Subdivision Bond Election Law. (W.S. § 22-21-101 through 22-21-112)

7.5 Approval of Bond Proposition. Any bond proposition shall be defeated unless a majority of the ballots cast on the bond question is in favor of the issuance of the bonds. If the majority is opposed to such issuance, the proposal to issue bonds for the same general purpose shall not again be submitted to election within the same calendar year. (W.S. § 22-21-110)

RULE 8 **LIMITATION ON INDEBTEDNESS WITHOUT APPROVAL OF ELECTORS**

No debt in excess of the taxes for the current year shall, in any manner, be created by the District, unless the proposition to create such debt shall have been submitted to a vote of the electors of the District and approved by a majority of the electors. (Art. 16 Section 4, Wyo. Constitution)

RULE 9 **CONTRACTS FOR PUBLIC IMPROVEMENTS AND SERVICES**

9.1 Bidding Process for Contracts for Improvements and Services. Wyoming law does not require an Improvement and Service District to advertise for bid a contract for public improvement or service. However, in an effort to ensure that the residents of the District are provided with the best value for products and services acquired by the Board, the following bidding process has been established:

- (a) Informal Bidding for Contracts. The Board shall, by resolution approved by a majority of Directors, establish a threshold amount over which the Board will require informal bidding for contracts (Informal Bidding Threshold). The Board shall thereafter solicit and attempt to secure at least three (3) bids for all contracts for any type of public improvement or service where the cost exceeds the Informal Bidding Threshold. This requirement for informal bidding excludes contracts for professional services and excludes any emergency work for the District. Informal bids may be solicited by telephone, writing, facsimile or electronic mail.
- (b) Formal Bidding for Contracts. The Board shall, by resolution approved by a majority of Directors, establish a threshold amount over which the Board will require formal bidding for contracts (Formal Bidding Threshold). The Board shall thereafter require all contracts for any type of public improvement or service where the proposed cost exceeds the Formal Bidding Threshold to be formally advertised for bid. The requirement for formal bidding excludes contracts for professional services and excludes any emergency work for the District. Formal bidding includes the following:
- (i) Plan Specifications. Before advertising for bid for any work on a public improvement or service, the Board shall prepare detailed plans and specifications, together with an estimate of the probable cost, along with a form of the proposed contract.
 - (ii) Publication. The advertisement for bid shall be published on two (2) different occasions, at least seven (7) days apart, in a newspaper having general circulation in the District. The published notice shall state the place where interested persons can obtain complete specifications of the work to be performed.
 - (iii) Statement of Wyoming Materials Preference. Requests for bids and proposals shall include the words “preference is hereby given to materials, supplies, agricultural products, equipment, machinery, and provisions procured, manufactured or grown in Wyoming, or supplied by a resident of the state, quality being equal to articles offered by competitors outside of the state.”
- (c) Exemption from Requirement for Informal or Formal Bidding. Notwithstanding the above, neither formal nor informal bidding for a contract is required in an instance where the Board, at its sole discretion, determines that a particular service or improvement project should be sole-sourced to a contractor with whom the Board has prior experience and where the Board determines that the sole-sourcing offers desirable value and/or a benefit to the District. If the Board elects to exempt a service or improvement project from the formal or informal bidding process, the

Board must determine that satisfactory reasons exist to sole source the contract.

9.2 Preference for Wyoming Bidders, Workers, and Materials.

- (a) For the purposes of this Section, a resident means a person, partnership, limited partnership, registered limited partnership, registered limited liability company or corporation certified as a resident by the Wyoming Department of Employment, as set forth in more detail at W.S. §§16-6-101(a) and 16-6-102(e)
- (b) If advertisement for bids is not required under these regulations, the contract shall be let to a qualified resident of the state of Wyoming. (W.S. §16-6-102(a))
- (c) If advertisement for bid is required under these regulations, the contract shall be let to the responsible certified resident making the lowest bid, so long as the certified resident's bid is not more than five percent (5%) higher than that of the lowest responsible nonresident bidder. (W.S. §16-6-102(a))
- (d) Every contract for improvements and services in the District shall contain a provision requiring that Wyoming labor be used, except that other laborers may be used when Wyoming laborers are not available for the employment or are not qualified to perform the work involved. (W.S. §16-6-203.) This requirement may be waived so long as the person required to hire Wyoming laborers informs the nearest state workforce center at least eleven (11) days before work is commenced and the state workforce center certifies that the person's workforce needs cannot be filled. A successful resident bidder shall not subcontract more than thirty percent (30%) of the work covered by his contract to nonresident contractors. (W.S. §16-6-103)
- (e) Every contract for improvements and services let by the Board shall include a provision that Wyoming materials and products of equal quality and desirability shall have preference over materials or products produced outside the state. (W.S. §16-6-104)
- (f) Public improvements that are public structures shall be constructed and maintained by materials produced or manufactured in Wyoming if Wyoming materials are suitable and can be furnished in marketable quantities. Preferences shall not be granted for materials of an inferior quality to those offered by competitors outside of the state, but a differential not to exceed five percent (5%) may be allowed in cost of contract less than five million dollars (\$5,000,000.00) for the Wyoming

materials of equal quality as against materials from states having or enforcing a preference rule against out-of-state products. (W.S. §16-6-107)

9.3. Letting of Contract. Any contract required to be let for bid should be let to the lowest bidder who shall be determined qualified and responsible in the sole discretion of the Board, subject to the preference for resident bidders set forth at Section 9.2. The Board may reject all bids if it finds that none of the bids would serve the public interest. Every contract shall be executed by the President of the District or, in the President's absence or disability, another presiding Officer of the District and the Secretary of the District. Any contract for improvements or services shall require that the contractor hold the District and the Directors harmless, and indemnify the District and the Directors against any loss, claim or damage or any kind resulting from the contractor's performance of work pursuant to the contract.

9.4 Conflict of Interest. In certain instances, a Director may have an interest, either directly or indirectly, in any contract or in the performance of any work, the making or letting of which the Director may be called upon to act or vote, or the Director may be an agent or otherwise represent any person, company, or corporation with respect to any application or bid for any contract work upon which the Director may be called to vote. In such an instance, the Director shall immediately disclose to all contracting parties the nature and extent of the conflict, shall immediately recuse him or herself from all discussions and votes regarding said contract(s), and shall refrain from influencing any of the contracting parties. Furthermore, the Director who has an interest in any contract or agreement shall not act on behalf of the Board with respect to the inspection, operation administration, or performance of that contract. (W.S. §16-6-118)

9.5 Contractor's Bond or other Guarantee. In any case where the contract price for a public improvement or service exceeds seven thousand five hundred dollars (\$7,500.00), the Board shall require any contractor, prior to beginning work under the contract, to furnish to the Board a bond, or if the contract price is one hundred fifty thousand dollars (\$150,000.00) or less, any other form of guarantee acceptable to the Board. (W.S. §16-6-112)

- (a) The bond or other form of guarantee shall be:
 - (i) Conditioned for the payment of all taxes, excises, licenses, assessments, contributions, penalties and interest lawfully due the District.
 - (ii) For the use and benefit of any person performing any work or labor or furnishing any material or goods of any kind which were used in the execution of the contract, conditioned for the performance and completion of the contract according to its terms, compliance with all the requirements of law and payment as due of all just claims for work or labor performed, material furnished and taxes, excises, licenses, assessments, contributions penalties and interest accrued in the execution of the contract.

- (iii) In an amount not less than fifty percent (50%) of the contract price unless the price exceeds one hundred fifty thousand dollars (\$150,000.00) in which case the Directors may fix a sufficient amount.
 - (iv) Approved by and filed with the Directors.
- (b) If, in the Board's judgment, any of the sureties on a bond or other guarantee approved by the Board is insolvent or, for any cause, no longer offers proper or sufficient surety, the Board may within ten (10) days require the contractor to furnish a new or additional bond or other approved guarantee. If the Board requires a new or additional bond or guarantee, all work on the contract shall cease until such new bond or guarantee is furnished. If the guarantee is not furnished within ten (10) days of the Board's request, the Board may terminate the contract and complete the contract as the agent and at the expense of the contractor and his sureties. (W.S. §16-6-114)
 - (c) The Board must commence an action on a bond or any other form of guarantee within one year after the date of first publication of notice on final payment of the contract. (W.S. §16-6-115)

9.6 Partial/Progress Payments.

- (a) The Board shall authorize partial payments to the contractor of the amount due under the contract, as stipulated in the contract document, or as soon thereafter as practicable, so long as the contractor is satisfactorily performing on the contract. Not more than ten percent (10%) of the calculated value of any of the work completed and accepted shall be withheld until fifty percent (50%) of the work required under the contract has been performed. (W.S. §16-6-702)
- (b) Thereafter, if the Board determines that satisfactory process is being made in the work, no additional funds need be retained, but in no event may more than ten percent (10%) be withheld on the remaining fifty percent (50%) of the work required. (W.S. §16-6-702)
- (c) The withheld percentage of the contract price of the work or improvement shall be retained in an account in the name of the contractor, if so requested by the contractor, until such time as the contract is completed satisfactorily and accepted by the Board. (W.S. §16-6-702)
- (d) Upon the written request of the contractor, and upon a determination by the Board that satisfactory progress is being made in all phases by the

contract, the Board may authorize payment from a withheld percentage. However, before payment is made, the Board shall determine that satisfactory and substantial reasons exist for the payment and shall require written approval from any surety furnishing bonds for the contract work. (W.S. §16-6-702)

- (e) If it becomes necessary for the District to take on completion of the contract for any public work or public improvement, all amounts owed the contractor, including withheld percentages, shall first be applied toward completion of the contract. Any balance remaining in the retained percentage, after completion by the District, shall be payable to the contractor or the contractor's creditors. (W.S. §16-6-703)

9.7 Final Payment.

- (a) Prior to making a payment on any formal contract, the Board shall require the contractor, as well as all subcontractors and suppliers, to submit a sworn statement setting forth that all claims for material and labor performed under the contract have been and are paid for the entire period of time for which payment is to be made, and which includes any disputed claims. If any claims are disputed, the amount in dispute shall be deducted from the final payment and retained by the Board until the determination of the dispute, at which time payment shall be made to the person(s) found entitled thereto. (W.S. §16-6-117)
- (b) Forty (40) days before any contractor or contractor's representative receives a final payment on any improvement or service that has been let by contract, the Board shall publish in a newspaper of general circulation in the District once a week for three (3) consecutive weeks, and shall post in three (3) conspicuous places at the worksite, a notice setting forth in substance that the Board has accepted the work as completed according to the plans, specifications, and rules in the contract, and that the contractor is entitled to final settlement. The notice shall also state that the contractor will be paid the full due amount on the forty-first (41st) day and shall include a specific date for payment. (W.S. §16-6-116)

9.8 Requirement for Interest Bearing Deposit Agreement. The Board shall enter into an interest bearing deposit agreement with any depository designated by the contractor, after notice to the surety, to provide an agent for the custodial care and servicing of any deposits placed with the agent on any contract of more than twenty five thousand dollars (\$25,000.00). The Board, or any depository designated by the contractor under this section to serve as custodian for the obligations, shall collect interest and income when due on obligations and shall pay then to the contractor or as instructed by the contractor. Expenses incurred by this service shall be charged to the contractor and not be incurred by the District. (W.S. §16-6-704, 705)

9.9 Projects Funded in Part by the Federal Government. Where a public improvement or service project undertaken by the District is funded in whole or in part by the federal government, the applicable rules and laws of the United States shall govern the contract and where there is a conflict between these Rules and Regulations and federal law, federal law shall control. (W.S. §16-6-108, 16-6-706)

RULE 10
AMENDMENTS TO THE RULES AND REGULATIONS

10.1 Amendments. The Directors may amend these Rules and Regulations upon the affirmative vote of two-thirds (2/3) of the Directors; provided, however, that no such amendment, other than amendments having to do with interpretive rules or statements of general policy, shall be effective if two-thirds (2/3) of the property owners or two-thirds (2/3) of the electors object to such amendment in accordance with the procedure set forth in Rule 10.2. Any amendment defeated by the property owners or by the electors as set forth in Rule 10 shall not be reintroduced for consideration by the Directors for a period of one (1) year. No amendment shall be effective if contrary to law.

10.2 Procedure for Adopting Amendments. Prior to the Director's adoption of an amendment to the Rules and Regulations, other than interpretive rules or statements of general policy, the Directors shall give at least forty-five (45) days notice in the manner provided by, and containing the information required under the Wyoming Administrative Procedures Act. (W.S. § 16-3-103(a)(i)) Among other things, the notice shall:

- (a) Include the time when, the place where and the manner in which interested persons may present their view on the intended amendment;
- (b) Afford all interested persons the opportunity to submit their arguments in writing;
- (c) In the case of substantive rules, give an opportunity for an oral hearing if requested by twenty-five (25) or more persons, or by a governmental subdivision, or by an association having not less than twenty-five (25) members.

IN WITNESS WHEREOF, the Directors of the Rafter J Improvement and Service District have adopted these Rules and Regulations (with amendments through February 6, 2013) effective the 15th day of November, 2018.



Brian Schilling, Director



Wayne Flittner, Director



John Lotshaw, Director