

GIRLS RESIDENTIAL TREATMENT FACILITY PROJECT
MEMORANDUM OF UNDERSTANDING

This agreement is entered into this _____ day of _____, 2013, between, **CAMPBELL COUNTY** (hereinafter referred to as COUNTY) and the **CITY OF GILLETTE** (hereinafter referred to as CITY), and **YOUTH EMERGENCY SERVICES, Inc.**, (hereinafter referred to as YES). The COUNTY, YES and the CITY may be referred to hereinafter collectively as the Parties.

I. PURPOSE

This Memorandum of Understanding (MOU) shall outline the terms of understanding among the Parties with respect to the Girls Residential Treatment Facility Project in the City of Gillette and shall identify the specific roles and responsibilities of each party specific to this project. Further written agreements may be developed as deemed necessary, by any party, to identify additional specific roles and responsibilities.

II. PROJECT

The Parties agree that they will work cooperatively with each other, as outlined in this MOU, to design, construct and operate the Girls Residential Treatment Facility, hereinafter the PROJECT. The CITY and COUNTY have budgeted funds towards the construction of this facility. The existing YES facilities are located within the CITY upon property currently owned by CITY. CITY shall consult with YES and the COUNTY to administer the construction of the PROJECT.

III. FINANCING OF FACILITY

It is agreed by the Parties that the following contributions will be provided for the construction of the PROJECT:

- (1) The PARTIES anticipate that the estimated cost of the construction of the PROJECT will be \$3,463,800.
- (2) The CITY and COUNTY will each contribute the following amounts on a not-to-exceed basis: CITY has budgeted \$1,463,800 and COUNTY \$1,000,000 dollars for a total of \$2,463,800 towards the construction cost

of the project. YES will be responsible for the cost of the project not paid by the CITY and the COUNTY.

- (3) The COUNTY contribution must be matched by YES dollar for dollar with private funds and contributions to complete the project. To access the County funds, the private matching dollars must be in addition to any existing funding already in place. Further, a clear accounting of the current balance of funds in place must be presented, and all new dollars specifically identified and accounted for in a monthly report to the Board of Commissioners. A monthly report including a clear accounting of Project expenses shall be presented to the Board of Commissioners during the construction of the Project which shall include charges to the contributions of the Parties. This provisional funding will be available for a two (2) year period, in which match funding must be raised and the project commenced.
- (4) Upon satisfaction of the match requirement to access COUNTY funding, COUNTY and YES shall pay their match funds to the CITY. The City shall pay the project costs according to the CMAR agreement, charging each of the Parties its pro-rata share of each payment, based upon their initial contributions as listed above in III-(2).
- (5) YES shall pay all PROJECT costs in excess of \$ 3,463,800. If the total PROJECT costs are less than \$ 3,463,800 then CITY will return any unspent amounts to the Party contributing any such unspent funds on a pro-rata share.

IV. PROJECT MANAGEMENT

The Parties agree that the CITY will be responsible for the design and construction management of the overall project and will serve as the conduit for the YES and COUNTY to have input into those facets of the project. The CITY will utilize the Construction Manager at Risk process to construct the facility.

V. OWNERSHIP OF FACILITY

It is the intent of the Parties that the PROJECT will be owned by the CITY and leased to YES on the completion of construction.

VI. USE OF FACILITY

YES shall operate the entire facility and pay all costs associated with its regular operations including utilities and general maintenance, upkeep and housekeeping, as well as exterior maintenance of the parking lot, landscaping and/or future park areas on the property.

VII. FURNISHINGS AND EQUIPMENT.

The Parties agree that YES shall raise the necessary funding to provide furnishings and equipment to outfit all spaces in the PROJECT.

VIII. LIABILITY AND WORKERS' COMPENSATION INSURANCE

YES shall procure and maintain insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of work by YES under this project as provided below. The CITY and COUNTY specifically do not waive and specifically reserve any and all immunities granted by the Wyoming Governmental Claims Act, W.S. 1-39-101 et seq.

(1) MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of Wyoming with Statutory Limits.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The CITY and COUNTY, their officers, officials, employees, and volunteers are to be covered as additional insured's on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of YES including materials, parts, or equipment furnished in connection with such work or operations.

Primary Coverage

For any claims related to this contract, YES's insurance coverage shall be primary insurance as respects the CITY and COUNTY, their officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the CITY and COUNTY, its officers, officials, employees, or volunteers shall be excess of YES's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the CITY and COUNTY.

Waiver of Subrogation

YES hereby grants to the CITY and COUNTY a waiver of any right to subrogation which any insurer of YES may acquire against the CITY and COUNTY by virtue of the payment of any loss under such insurance. YES agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not YES has received a waiver of subrogation endorsement from the insurer.

Employers Liability/Stop Gap Coverage

The CGL policy shall be endorsed to contain Employers Liability/Stop Gap Coverage

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the CITY and COUNTY. The CITY and COUNTY may require YES to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

Verification of Coverage

YES shall furnish the CITY and COUNTY with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the CITY and COUNTY before the project commences. However, failure to obtain the required documents prior to the beginning of the project shall not waive the YES's obligation to provide them. The CITY and COUNTY reserve the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Builder's Risk Insurance

The CITY procure and maintain Builder's Risk Insurance against Special Causes of Loss, Earthquake and Flood for the Girls Residential Treatment Facility at full replacement cost with no coinsurance penalty provision including coverage for equipment and materials at the job site destined to be installed or become a permanent part of the building structure. The COUNTY and YES will be named in the policy as Loss Payees.

IX. INDEMNITY AGREEMENT

The Parties hereby agree to indemnify and hold harmless each other against any and all liability, claims, suits, losses, costs and legal fees caused by, arising out of, or resulting from their own negligent act or omission. Notwithstanding the above, nothing in this Agreement shall be read to constitute or to require a waiver of any rights of the CITY or COUNTY under the doctrine of sovereign immunity, or a waiver of its immunity under the Wyoming Governmental Claims Act, W.S. 1-39-101 *et sec.*

X. COMPLIANCE WITH LAW

The Parties represent that their possession, occupancy, and use of the premises will comply with all applicable federal, state, County and city laws and regulations.

XI. SIGNATURES

In witness whereof, the Parties, through their authorized representatives, have executed this MOU on the dates set out below and certify that they have read, understood and agree to the terms and conditions of this MOU as set forth herein.

CAMPBELL COUNTY, WY

Dan Coolidge, Chairman

Attest:

Susan Saunders, County Clerk

CITY OF GILLETTE, WY

Tom Murphy, Mayor

Attest:

Karlene Abelseth, City Clerk

YOUTH EMERGENCY SERVICES, Inc.

, President

Attest:

, Secretary