



# CITY OF GILLETTE

## Utilities

P.O. Box 3003 • Gillette, Wyoming 82717-3003  
Phone (307) 686-5262  
[www.gilletthewy.gov](http://www.gilletthewy.gov)

October 08, 2013

Harry C. LaBonde, Jr., P.E., Director  
Wyoming Water Development Commission  
6920 Yellowtail Road  
Cheyenne, WY 82002

**RE: GILLETTE MADISON PIPELINE JOINT BONDING PROJECT (06EN40)**  
PHASE III REHABILITATION – DEEP GROUND ANODES  
*WWDC Level III Reversion Date Extension Request*

Mr. LaBonde,

**The City of Gillette respectfully requests an Amendment to the WWDC Project Agreement for the above referenced project to extend the reversion date by one year - from July 1, 2014 to July 1, 2015.** This time extension is necessary to complete the last phase of this multi-year, multi-contract project.

**We do not anticipate the need to increase the overall project budget.** At this time, we believe we have ample budget available to complete the project.

Currently, DOWL HKM and Rust-Not Corrosion Control Services (Rust-Not) are finalizing the engineering design documents to complete the installation of seven (7) deep ground anode beds that will provide cathodic protection to our existing 30-inch Madison Transmission Pipeline. We expect to wrap-up our final easements and begin advertisement for bids in the first quarter of 2014. Unfortunately, we do not believe we will be able to complete the construction before the WWDC Project Agreement Reversion Date of July 1, 2014.

Our Phase II Internal Joint Bonding Project and our separate Phase III Deep Ground Anode Bed Project have taken longer than expected for the following reasons:

1. Upon completion of the Phase I "External" Joint Bonding Project and subsequent "Internal Pilot Study" in late 2009, the City contracted with DOWL HKM and Rust-Not to complete the Phase II "Internal" Joint Bonding design. Bid Documents were prepared and the project was publicly advertised. Garney Wyoming Inc. was the contractor selected to perform the work. Garney successfully completed the Phase II "Internal" Rehabilitation (Internal Joint Bonding) during the winter of 2010/2011. After a very wet spring, Garney completed the final reclamation and the project was accepted by the City in August 2011.
2. Shortly after the Phase II Internal Joint Bonding Project was complete, DOWL HKM and Rust-Not completed the record drawings and electric continuity testing. Final recommendations for the Phase III Deep Ground Anode Design were provided in late 2011.
3. Starting in early 2012, Rust-Not was busy coordinating the design of the City's new 42-inch (parallel) Madison Pipeline with the future design of our Deep Ground Anodes CP System.

*(Rust-Not is sub-consultant for DOWL HKM for the above referenced project as well as a sub-consultant for Burns & McDonnell for our separate Gillette Madison Pipeline Project.)*

4. Shortly after completing a field pipeline coating and lining certification school for our first 42-inch pipeline contract between Wyodak and the Southern Drive Tank, Bill Spickelmire of Rust-Not was hospitalized and was unable to perform any work on our projects for several months beginning in October 2012 and lasting through early 2013.
5. Fortunately, Mr. Spickelmire recovered from his illness in early 2013. In February 2013 the City retained DOWL HKM and Rust-Not to design, permit and perform construction oversight for the Phase III Deep Ground Anodes.
6. The design of the new corrosion protection system will provide benefit to both the existing 30-inch Madison Pipeline as well as the new 42-inch Madison Pipeline. The City has been actively negotiating easements for the new 42-inch pipeline. We have been coordinating this easement acquisition effort with other, separate easements required for the Phase III Deep Ground Anode CP System.

Thank you for your consideration. Please feel free to contact me if you have any questions or need additional information at 307-687-2534 or e-mail: [mikec@gillettewy.gov](mailto:mikec@gillettewy.gov).

Sincerely,  
CITY OF GILLETTE



Michael H. Cole, P.E.  
Utility Project Manager

Enclosure(s): *Gillette Madison Joint Bonding Project:*

- a. WWDC Project Agreement,*
- b. Amendment One, and*
- c. Amendment Two*

email copy: Tom Murphy, Mayor, City of Gillette  
Carter Napier, City Administrator, City of Gillette  
Kendall Glover, Utilities Director, City of Gillette  
Bryan Clerkin, P.E., Deputy Director – Engineering & Construction, WWDC  
Dayton Alsaker, PE, Region Manager, DOWL HKM

File: 06EN40 – Gillette Madison Pipeline Rehabilitation Project \ WWDC Correspondence

**PROJECT AGREEMENT  
GILLETTE MADISON PIPELINE JOINT BONDING  
PC No. \_\_\_\_\_**

1. **Parties.** The parties to this Agreement dated September 27, 2005, are the STATE OF WYOMING, acting by and through the WYOMING WATER DEVELOPMENT COMMISSION, the agency authorized by law to enter into this Agreement [COMMISSION], and the CITY OF GILLETTE, Campbell, County, Wyoming, a duly organized municipality existing under the laws of that state [SPONSOR].

2. **Purpose of Agreement.** The purpose of this Agreement is to implement the provisions of Chapter No.147, Wyoming Session Laws, 2005, enacted by the Fifty-Eighth Legislature of the State of Wyoming at its 2005 General Session, authorizing the design, construction, and operation of the Gillette Madison Pipeline Joint Bonding Project [PROJECT]; describing the PROJECT; specifying terms for funding the PROJECT; providing for financing through the COMMISSION from the Wyoming water development account; and providing for an appropriation. The PROJECT consists of the following components:

- (a) The rehabilitation and replacement of bonding wires to provide corrosion protection to the city's Madison Pipeline; and
- (b) Inclusion of the appurtenances necessary to make the PROJECT complete and function in the manner intended.

The final plans and specifications as prepared by a registered professional engineer selected by the SPONSOR [SPONSOR'S ENGINEER] will further define the PROJECT components.

3. **Term of Agreement and Required Approvals.** This Agreement is effective when all parties have executed it and all approvals have been granted. This Agreement shall remain in effect until all provisions and conditions set forth herein have been fully satisfied.

4. **Special Provisions.**

A. The STATE OF WYOMING has appropriated from the Water Development Account created by Wyo. Stat. 41-2-124 (a)(ii), to the COMMISSION, a sum not to exceed ONE MILLION TWO HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$1,225,000.00) which shall be a grant of not more than ONE MILLION TWO HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$1,225,000.00) or fifty percent (50%) of the actual development costs, whichever is less, which shall be disbursed to the SPONSOR according to the terms of this Agreement. The SPONSOR is responsible for acquiring fifty percent (50%) of the project funds from other sources.

B. The SPONSOR shall establish a separate fund in the amount of \$1,000,000 and shall increase the amount in said account by \$250,000 per year, for repair and maintenance of the PROJECT. If requested by the COMMISSION, the SPONSOR will submit a copy of its annual budget to the COMMISSION for verification of the existence and amount of the required separate fund

C. Funds disbursed under the terms of this Agreement may only be used, upon approval by the COMMISSION in its sole and absolute discretion, to defray construction costs identified in the final plans and specifications or authorized by approved change orders, to pay for design and construction engineering services authorized by the approved contract between the SPONSOR and the SPONSOR'S ENGINEER, to pay for consultants, permits, easements or land essential to construction of the PROJECT, and to meet necessary and reasonable PROJECT expenses or costs not directly identified above which have been granted prior written approval by the COMMISSION. Requests for prior approval of necessary and reasonable PROJECT expenses shall be accompanied by proposals describing the work, acquisition, or other expense, and detailed estimates of the cost.

**D.** Prior to the release of funds under this Agreement, the SPONSOR shall submit to the COMMISSION a copy of a resolution approved by the town council approving participation in this project and accepting the financing package.

**E.** The SPONSOR shall submit to the COMMISSION the plans, specifications, and construction budgets. The COMMISSION shall have a reasonable time from the date of receipt of said plans, specifications, and budgets to examine them and submit comments. If the plans and specifications require modifications or it is reasonable to expect that the proposed PROJECT cannot be constructed with the funds available, the SPONSOR shall be informed in writing and the SPONSOR shall have a reasonable time within which to 1) provide such information as may be required by the COMMISSION, or to make such authorized alterations to the proposed PROJECT as are agreed upon by the parties and as are necessary to provide the COMMISSION with a reasonable expectation that the PROJECT may be constructed with the funds available, or 2) terminate the PROJECT.

**F.** Once the plans and specifications are in acceptable form and the COMMISSION determines it is reasonable to expect that the PROJECT as proposed may be constructed with the funds available, the COMMISSION shall so inform the SPONSOR in writing, and the bidding process may be initiated. If the SPONSOR initiates the bidding process without prior written notification by the COMMISSION, the SPONSOR shall bear all costs resulting from said action.

**G.** Prior to advertising the PROJECT it will be necessary for the SPONSOR to acquire or otherwise meet a series of prerequisites, which may include but not necessarily be limited to:

- (1) Right-of-way and option agreements;
- (2) Easements on public lands, if required;
- (3) Environmental assessments;
- (4) Section 401, Clean Water Act, Certification;
- (5) Section 404, Clean Water Act, Permit;
- (6) DEQ Permit to Construct;
- (7) Final Plans and Specifications approval by State Engineer;
- (8) Incidental work required to prepare the PROJECT for construction; and
- (9) Approval by the COMMISSION of final plans, specifications, and construction budgets, which shall include revisions, deletions, or mitigation resulting from meeting items (1) through (8) above.

**H.** Prior to advertising for bids the SPONSOR shall:

- (1) Provide the COMMISSION with an attorney's title opinion or a letter and documents from a title company or abstractor certifying that all access, easements, and rights-of-way for the construction and long term operation and maintenance of the PROJECT have been secured and recorded; and
- (2) Provide to the COMMISSION from the SPONSOR'S ENGINEER its proposed advertisement for bids including the rules and standards to be used to establish the qualification of bidders, to determine whether submitted bids are responsive to the advertisement for bids, to determine whether bidders are qualified for the preference under Wyo. Stat. 16-6-101 *et. seq.*, and to determine the lowest responsible bid.

I. The SPONSOR shall not issue its advertisement for bids unless and until the COMMISSION has approved, in writing, the submissions required under this subsection. The SPONSOR shall take no binding action as to the award of the bid without the review and concurrence of the COMMISSION.

J. Disbursement of funds shall be made on the basis of requests from the SPONSOR to the COMMISSION. Requests for the disbursement of funds shall be certified by the SPONSOR or its designated representative and accompanied by material invoices or other acceptable evidence of mature obligations, which may include periodic construction pay estimates approved by the SPONSOR'S ENGINEER. Upon review and approval of the requests by the COMMISSION, requests will be processed and disbursements will be delivered to a representative of the SPONSOR who is designated as being responsible for receiving disbursements from the COMMISSION. Funds released to the SPONSOR shall be received and accounted for separately from all other funds of the SPONSOR.

K. Fifty percent (50%) of each eligible billing received by the COMMISSION authorized under the terms of this agreement shall be paid from grant funds. The SPONSOR is responsible to complete the project and provide any funding in excess of those available from the COMMISSION from other sources.

L. The SPONSOR shall use funds disbursed by the COMMISSION immediately upon receipt strictly in accordance with the requests for payment submitted by the SPONSOR and approved by the COMMISSION. If at any time after execution of this Agreement and before one year after the date of final payment to the SPONSOR, the COMMISSION requests an audit of funds disbursed, the SPONSOR agrees to submit to and cooperate with the audit conducted by duly authorized representatives of the COMMISSION.

M. Contract specific retainages will be directed by the COMMISSION in accordance with Wyoming law. The COMMISSION at its discretion may approve reductions in the accumulated retainage as specified in individual contracts between the SPONSOR and its contractors when requested by the SPONSOR and recommended by the SPONSOR'S ENGINEER to the extent permitted by law. In any event, the balance of accumulated retainages will be released when final payment is made.

N. As conditions for disbursing funds to the SPONSOR, the SPONSOR shall:

- (1) Provide to the COMMISSION for prior examination and for prior approval all contract or contracts to be executed by the SPONSOR for all work contemplated by this Agreement and any changes or work orders for items not covered in the contract documents.
- (2) Provide to the COMMISSION for examination all plans and specifications prepared and any bids received to the COMMISSION. The SPONSOR shall require the SPONSOR'S ENGINEER to hold progress review meetings at the 10%, 50% and 90% levels of completion of the PROJECT plans. If Wyo. Stat. 16-6-701 through 16-6-706 are applicable to the SPONSOR, the SPONSOR shall provide all prospective contractors with a package of Contractor Retainage Account forms supplied or approved by the COMMISSION as part of the bid package.
- (3) The SPONSOR'S ENGINEER shall provide to the COMMISSION a summary of bids received in the format provided by the COMMISSION.
- (4) Communicate to the COMMISSION all information on all aspects of the PROJECT and require that the SPONSOR'S ENGINEER submit or make available for inspection, such reports on the progress of the work and on the results of tests of materials and workmanship requested by the COMMISSION.

- (5) Provide to the COMMISSION for prior examination and approval of the qualifications of the engineering or consulting firm proposed by the SPONSOR to design, inspect and monitor construction of the PROJECT. Said examination for approval may include, but not be limited to, supervisory position assignments. Any changes to engineering or consulting firm personnel assigned to the PROJECT are subject to approval by the COMMISSION.

**O.** Disbursement of funds for final payment to a contractor shall be made following an inspection of the completed PROJECT by the COMMISSION and upon inspection and certification of completion by the SPONSOR'S ENGINEER. Prior to final disbursement of funds, the SPONSOR shall furnish the COMMISSION proof in affidavit form that all claims, liens, or other obligations for the PROJECT have been properly paid and settled or will be paid and settled from the final disbursement. Further, the SPONSOR shall have published notice of completion and final settlement in a newspaper allowing forty (40) days for parties to present claims for payment due prior to the date of final payment, according to law.

**P.** The SPONSOR shall also provide the COMMISSION with a certified copy of the as-constructed PROJECT plans and a copy of the operation and maintenance manual.

**Q.** Representatives of the COMMISSION shall have the right of ingress and egress to enter upon the premises at any time, along established easements, for the purpose of inspection during construction of the PROJECT described in this Agreement, and during the term of the economic life of the project. The SPONSOR shall not be responsible for the safety of such representatives of the COMMISSION while they are on or about the premises.

**R.** The SPONSOR shall complete the PROJECT and shall be responsible for operation and maintenance of the PROJECT in accordance with accepted engineering practices. The SPONSOR shall be responsible for all costs, including labor, for all operation, maintenance and repairs. In addition, the SPONSOR shall complete the PROJECT no later than the reversion date of July 1, 2009 and shall have settled all claims and paid all PROJECT expenses by that date. No funds will be paid by the COMMISSION after the reversion date specified, and the SPONSOR shall be solely responsible for payment of any expenses incurred or claims received after said date.

**S.** If through any cause, either party shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if either party shall violate any of the covenants, agreements, or stipulations of this document, the other party shall thereupon have the right to terminate this Agreement if such default or violation is not corrected within thirty (30) days after submitting written notice to the defaulting party. If the COMMISSION determines that the SPONSOR has, without good cause, abandoned completion of the PROJECT, the SPONSOR shall be obligated to immediately repay the full amount of all grant funds actually expended plus interest as established by the state auditor in an amount equal to the interest that would have accrued on the expended grant funds in the water development account from the date of expenditure.

**T.** Notwithstanding the above, the SPONSOR shall not be relieved of liability to the COMMISSION for damages sustained by the COMMISSION by virtue of any breach of this Agreement by the SPONSOR, and the COMMISSION may withhold any payments to the SPONSOR for the purposes of set off until such time as the exact amount of damages due the COMMISSION from the SPONSOR is determined. In the event of default or the SPONSOR's negligent or intentional failure to complete the PROJECT, the COMMISSION shall have the right of set off against any State of Wyoming accounts or sources of funding designated for use by, or on behalf of the SPONSOR for the full amount owed to the COMMISSION pursuant to this PROJECT Agreement.

## 5. General Provisions.

**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 and signed by all parties to this Agreement.

**B. Applicable Law.** The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the parties, and the venue shall be the First Judicial District, Laramie County, Wyoming.

**C. Audit/Access to Records.** The COMMISSION and any of its representatives shall have access to any books, documents, papers, and records of the SPONSOR which are pertinent to this Agreement.

**D. Availability of Funds.** Each payment obligation of the COMMISSION is conditioned upon the availability of government funds which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the continuance of the services performed by the SPONSOR, the Agreement may be terminated by the COMMISSION at the end of the period for which the funds are available. The COMMISSION shall notify the SPONSOR 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 COMMISSION in the event this provision is exercised, and the COMMISSION shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section. This provision shall not be construed to permit the COMMISSION to terminate this Agreement in order to acquire similar services from another party.

**E. Compliance with Laws.** The SPONSOR shall keep informed of and comply with all applicable federal, state and local laws and regulations in the performance of this Agreement, including but not limited to laws and regulations governing assessment processes, public bidding, public works and contractor retainage. The SPONSOR shall comply with all resident and other preference requirements, including but not limited to those applicable to labor, materials and subcontractors.

**F. Entirety of Agreement.** This Agreement, consisting of seven (7) pages represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

**G. Indemnification.** The SPONSOR shall release, indemnify, and hold harmless the State of Wyoming, the COMMISSION, their commissioners, officers, agents, employees, successors and assignees from any cause of action, or claims, charges or costs, including attorney's fees and expert witness fees, or demands of any sort arising out of, directly or indirectly, the SPONSOR's performance or failure to perform under this Agreement.

**H. Independent Contractor.** The SPONSOR shall function as an independent contractor for the purposes of this Agreement. No joint venture, partnership, employer/employee or principal/agent relationship between the parties hereto is created by this Agreement. The SPONSOR shall assume sole responsibility for any debts or liabilities that may be incurred by the SPONSOR in fulfilling the terms of this Agreement. Nothing in this Agreement shall be interpreted as authorizing the SPONSOR or its agents or employees to act as an agent or representative for or on behalf of the State of Wyoming or the COMMISSION, or to incur any obligation of any kind on the behalf of the State of Wyoming or the COMMISSION.

**I. Notice.** All notices arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties either by regular mail or delivery in person.

**J. Nondiscrimination.** The SPONSOR shall comply with the Civil Rights Act of 1964, the Wyoming Fair Employment Practices Act, Wyo. Stat. 27-9-105 *et seq.*, and the Americans with Disabilities Act (ADA), 42 U.S.C. 12101, *et seq.* The SPONSOR shall assure that no person is discriminated against based on the grounds of age, sex, race, religion, national origin or disability in connection with the performance of this Agreement.

**K. Prior Approval.** This Agreement shall not be binding upon either party, no services shall be performed under the terms of this Agreement, and the Wyoming State Auditor shall not draw warrants for payment on this Agreement, until this Agreement has been reduced to writing, approved by the Office of the Attorney General, filed with and approved by the Department of Administration and Information.

**L. 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.

**M. Sovereign Immunity.** The State of Wyoming and the COMMISSION do not waive sovereign immunity by entering into this Agreement, and specifically retain immunity and all defenses available to them as sovereigns pursuant to Wyo. Stat. 1-39-104(a) and all other state law.

**N. 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. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement. The parties to this Agreement intend and expressly agree that only parties signatory to this Agreement shall have any legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this Agreement, or to bring an action for the breach of this Agreement.

**O. Waiver.** The waiver of any breach of any term or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach.

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6. **Signatures.** In witness thereof, the parties to this Agreement, through their duly authorized representatives, have executed this Agreement on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement.

**WYOMING WATER DEVELOPMENT COMMISSION**

Floyd Field  
Floyd Field, Chairman

8-15-05  
Date

Robert Yemington  
Robert Yemington, Secretary

8-17-05  
Date

ATTEST:

Lawrence M. Besson  
Lawrence M. Besson, Director

**CITY OF GILLETTE**

Duane Evenson  
Duane Evenson, Mayor

9/19/05  
Date

ATTEST:

Margo Rhoades  
Margo Rhoades, City Clerk

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

S. Jane Caton  
S. Jane Caton  
Senior Assistant Attorney General

9-27-05  
Date

**AMENDMENT ONE TO PROJECT AGREEMENT  
GILLETTE MADISON PIPELINE JOINT BONDING PROJECT**

1. **Parties.** This Amendment to Project Agreement is made and entered into by and between the State of Wyoming, acting by and through the WYOMING WATER DEVELOPMENT COMMISSION [COMMISSION] and the CITY OF GILLETTE, Campbell County, Wyoming, a duly organized municipality existing under the laws of that state [SPONSOR].

2. **Purpose of Amendment.** This Amendment shall constitute the first amendment to the Project Agreement between the COMMISSION and the SPONSOR which was duly executed on August 15, 2005, August 17, 2005, September 19, 2005, and September 27, 2005, which became effective September 27, 2005. The purpose of this amendment is to effectuate Section 18 of Chapter No. 105, Sessions Laws of Wyoming, 2006, enacted by the Fifty-Eighth Legislature of the State of Wyoming at its 2006 Budget Session, increasing the appropriation, changing the disbursement percentage of a portion of the appropriation, and extending the date unexpended funds revert to the water development account.

3. **Term of the Amendment.** This Amendment shall commence immediately upon the last required signature being affixed hereto, and shall remain in full force and effect through the term of this Project Agreement, unless terminated at an earlier date pursuant to the provisions of the Project Agreement, or pursuant to federal or state statute or rule or regulation.

4. **Specific Changes.**

A. **Project Grant.** The PROJECT funding as set forth in Section 4.A. of the Project Agreement is amended as follows:

4.A The STATE OF WYOMING has appropriated from the Water Development Account created by Wyo Stat. 41-2-124 (a)(ii), to the COMMISSION, a sum not to exceed TWO MILLION NINE HUNDRED THOUSAND DOLLARS (\$2,900,000.00) which shall be disbursed to the SPONSOR for the exclusive purpose of completing the aforementioned PROJECT. The funds are divided as follows:

- (1) A grant to the SPONSOR of not more than ONE MILLION TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$1,225,000.00) or fifty percent (50%) of the actual development costs, which shall be matched by the SPONSOR with funds from other sources, whichever is less until it is entirely disbursed, followed by:
- (2) A grant to the SPONSOR of not more ONE MILLION SIX HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$1,675,000.00) or sixty-seven percent (67%) of the additional funds needed to complete the PROJECT, whichever is less. The SPONSOR shall be responsible for obtaining the other thirty three percent (33%) of the PROJECT funding from other sources.

Said funds shall be disbursed to the SPONSOR according to the terms of subsection 4.J. of the Project Agreement. The SPONSOR is responsible for acquiring the balance of PROJECT funds from other sources.

B. **Disbursement Proportions.** The disbursement of funds as set forth in Section 4.J. of the Project Agreement is amended as follows:

4.J Disbursement of funds shall be made on the basis of requests from the SPONSOR to the COMMISSION. Requests for the disbursement of funds shall be certified by the SPONSOR or its designated representative and accompanied by material invoices or other acceptable evidence of mature obligations, which may include periodic construction pay estimates approved by the SPONSOR'S



ENGINEER. Upon review and approval of the requests by the COMMISSION, requests will be processed and disbursements will be delivered to a representative of the SPONSOR who is designated as being responsible for receiving disbursements from the COMMISSION. Funds released to the SPONSOR shall be received and accounted for separately from all other funds of the SPONSOR.

Funds described in Section 4.A.(1) shall be entirely disbursed prior to any funding described in Section 4.A.(2) being disbursed. Each disbursement of funds described in Section 4.A.(1) shall be an amount equal to fifty percent (50%) of each request eligible for project funds. Each disbursement of funds described in Section 4.A.(2) shall be an amount equal to sixty-seven percent (67%) of each request eligible for project funds. The SPONSOR is responsible for payment of any amount not financed under this Agreement.

Contract specific retainages will be directed by the COMMISSION in accordance with Wyoming law. The COMMISSION at its discretion may approve reductions in the accumulated retainages as specified in individual contracts between the SPONSOR and its contractors when requested by the SPONSOR and recommended by the SPONSOR'S ENGINEER to the extent permitted by law. In any event, the balance of accumulated retainages will be released when final payment is made.

The SPONSOR agrees to use funds disbursed by the COMMISSION immediately upon receipt strictly in accordance with the requests for payment submitted by the SPONSOR and approved by the COMMISSION. If at any time after execution of this Agreement and before one year after the date of final payment to the SPONSOR, the COMMISSION requests an audit of funds disbursed, the SPONSOR agrees to submit to and cooperate with the audit conducted by duly authorized representatives of the COMMISSION.

C. Reversion of Unexpended Funds. The reversion date or unexpended funds as set forth in Section 4.R. of the Project Agreement is amended as follows:

4.R The SPONSOR agrees that it will complete the PROJECT and that it shall be responsible for operation and maintenance of the PROJECT in accordance with accepted engineering practices. The SPONSOR shall be responsible for all costs, including labor, for all operation, maintenance and repairs. In addition, the SPONSOR shall complete the PROJECT no later than the reversion date of July 1, 2010, and shall have settled all claims and paid all PROJECT expenses by that date. No funds will be paid by the COMMISSION after the reversion date specified and the SPONSOR shall be solely responsible for payment of any expenses incurred or claims received after said date.

5. Same Terms and Conditions. With the exception of items explicitly delineated in this Amendment, all terms and conditions of the Project Agreement between the COMMISSION and the SPONSOR, including but not limited to sovereign immunity, and all prior amendments to the Project Agreement shall remain unchanged and in full force and effect.

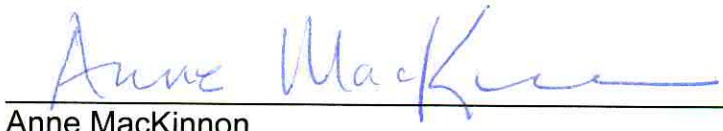
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6. **Signatures.** IN WITNESS THEREOF, the parties to this Amendment through their duly authorized representatives have executed this Amendment, known as Amendment One to the Project Agreement between the COMMISSION and the SPONSOR, on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Amendment as set forth herein.

**WYOMING WATER DEVELOPMENT COMMISSION**


  
George Jost  
Chairman

10/9/06  
Date

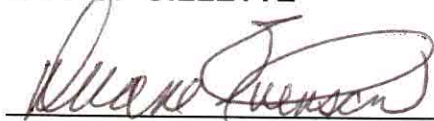
  
Anne MacKinnon  
Secretary

11-9-06  
Date

ATTEST:

  
Lawrence M. Besson  
Director

**CITY OF GILLETTE**

  
Duane Evenson, Mayor

9/6/06  
Date

ATTEST:

  
Margo Rheades, City Clerk

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

  
S. Jane Caton, Senior Assistant Attorney General

11-14-06  
Date

The Amendment date is the date of the last signature affixed to this page.



**AMENDMENT TWO TO PROJECT AGREEMENT  
GILLETTE MADISON PIPELINE JOINT BONDING PROJECT**

1. **Parties.** This Amendment TWO to the Project Agreement is made and entered into by and between the State of Wyoming, acting by and through the WYOMING WATER DEVELOPMENT COMMISSION [COMMISSION] and CITY OF GILLETTE, Campbell County, Wyoming, a duly organized municipality existing under the laws of that state [SPONSOR].

2. **Purpose of Amendment.** This Amendment shall constitute the second amendment to the Project Agreement between the COMMISSION and the SPONSOR which was duly executed on August 15, 2005, August 17, 2005, September 19, 2005 and September 27, 2005 and which became effective September 27, 2005. The purpose of this Amendment is to effectuate 2009 Wyo. Sess. Laws, Ch. 38, increasing the appropriation for additional project costs and extend the date unexpended funds revert to the water development account..

3. **Term of the Amendment.** This Amendment shall commence immediately upon the last required signature being affixed hereto, and shall remain in full force and effect through the term of this Project Agreement.

4. **Specific Changes.**

A. **PROJECT Grant.** The PROJECT funding as set forth in Section 4.A. of the Project Agreement is amended as follows:

4.A. The STATE OF WYOMING has appropriated from the Water Development Account created by Wyo. Stat. 41-2-124 (a)(ii), to the COMMISSION, a sum not to exceed FIVE MILLION SEVENTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$5,077,500.00) which shall be disbursed to the SPONSOR for the exclusive purpose of completing the aforementioned PROJECT. The funds are divided as follows:

(1) A grant to the SPONSOR of not more than ONE MILLION TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$1,225,000.00) or fifty percent (50%) of the actual development costs, whichever is less until it is entirely disbursed, followed by:

(2) A grant to the SPONSOR of not more than ONE MILLION SIX HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$1,675,000.00) or sixty-seven percent (67%) of the additional funds needed to complete the PROJECT, whichever is less, followed by:

(3) A grant to the SPONSOR of not more than TWO MILLION ONE HUNDRED SEVENTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$2,177,500.00) or sixty-seven percent (67%) of the additional funds needed to complete the PROJECT, whichever is less. The SPONSOR is responsible for acquiring the remaining project funds from other sources.

B. **Disbursement Proportions.** The disbursement of funds as set forth in Section 4.J. of the Project Agreement is amended as follows:

4.J. Disbursement of funds shall be made on the basis of requests from the SPONSOR to the COMMISSION. Requests for the disbursement of funds shall be certified by the SPONSOR or its designated representative and accompanied by material invoices or other acceptance evidence of mature obligations, which may include periodic construction pay estimates approved by the SPONSOR'S ENGINEER. Upon review and approval of the requests by the COMMISSION,



requests will be processed and disbursements will be delivered to a representative of the SPONSOR who is designated as being responsible for receiving disbursements from the COMMISSION. Funds released to the SPONSOR shall be received and accounted for separately from all other funds of the SPONSOR.

Funds described in Section 4.A.(1) shall be entirely disbursed prior to any funding described in Section 4.A.(2) or Section 4.A.(3) being disbursed. Each disbursement of funds described in Section 4.A.(1) shall be an amount equal to fifty percent (50%) of each request eligible for PROJECT funds. Each disbursement of funds described in Section 4.A.(2) and Section 4.A.(3) shall be an amount equal to sixty-seven percent (67%) of each request eligible for PROJECT funds.

Contract specific retainages will be directed by the COMMISSION in accordance with Wyoming law. The COMMISSION at its discretion may approve reductions in the accumulated retainage as specified in individual contracts between the SPONSOR and its contractors when requested by the SPONSOR and recommended by the SPONSOR'S ENGINEER to the extent permitted by law. In any event, the balance of the accumulated retainages will be released when final payment is made.

The SPONSOR agrees to use funds disbursed by the COMMISSION immediately upon receipt strictly in accordance with the requests for payment submitted by the SPONSOR and approved by the COMMISSION. If at any time after execution of this Agreement and before one year after the date of the final payment to the SPONSOR, the COMMISSION requests an audit of funds disbursed, the SPONSOR agrees to submit to and cooperate with the audit conducted by duly authorized representatives of the COMMISSION.

C. Reversion of Unexpended Funds. The reversion date for unexpended funds as set forth in Section 4.R. of the Project Agreement is amended as follows:

4.R. The SPONSOR agrees that it will complete the PROJECT and that it shall be responsible for operation and maintenance of the PROJECT in accordance with accepted engineering practices. The SPONSOR shall be responsible for all costs, including labor, for all operation, maintenance and repairs. In addition, the SPONSOR shall complete the PROJECT no later than the reversion date of July 1, 2014 and shall have settled all claims and paid all PROJECT expenses by that date.

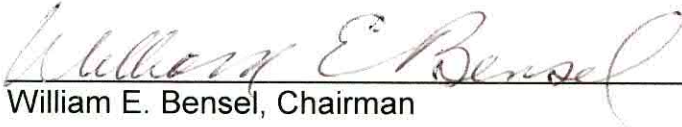
No funds will be paid by the COMMISSION after the reversion date specified and the SPONSOR shall be solely responsible for payment of any expenses incurred or claims received after said date.

**5. Same Terms and Conditions.** With the exception of items explicitly delineated in this Amendment, all terms and conditions of the Project Agreement between the COMMISSION and the SPONSOR, including but not limited to sovereign immunity, and all prior amendments to the Project Agreement shall remain unchanged and in full force and effect, including Amendment One to the Project Agreement which was duly executed September 5, 2006, November 9, 2006, and November 14, 2006 and which became effective November 14, 2006.

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6. **Signatures.** IN WITNESS THEREOF, the parties to this Amendment through their duly authorized representatives have executed this Amendment, known as Amendment Two to the Project Agreement between the COMMISSION and the SPONSOR, on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Amendment as set forth herein.

**WYOMING WATER DEVELOPMENT COMMISSION**

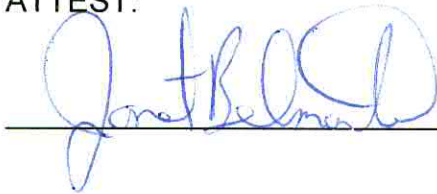
  
 William E. Bense, Chairman

8-26-09  
 Date

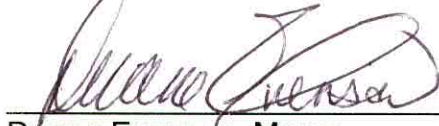
  
 Mitchel T. Cottenor, Secretary

8/29/09  
 Date

ATTEST:

  
 Janet Belmont

**CITY OF GILLETTE**

  
 Duane Evenson, Mayor

18-Aug-2009  
 Date

ATTEST:

  
 Karlene Abelse, Clerk

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

  
 S. Jane Caton, Senior Assistant Attorney General

9/3/09  
 Date

The Amendment date is the date of the last signature affixed to this page.