

R E S O L U T I O N NO. ____

A RESOLUTION CONCERNING THE FINANCING OF IMPROVEMENTS FOR THE GILLETTE ELECTRICAL SYSTEM; APPROVING A LEASE, AN AMENDED AND RESTATED GENERATION DISPATCH AND ENERGY MANAGEMENT AGREEMENT, AN ECONOMY ENERGY POWER PURCHASE AGREEMENT, A GAS TRANSPORTATION AGREEMENT, AND RELATED DOCUMENTS AND TRANSACTIONS; AND APPOINTING THE LESSEE REPRESENTATIVE PURSUANT TO THE TERMS OF THE LEASE.

WHEREAS, the City of Gillette, Wyoming (the "City" or "Gillette") is a body corporate duly organized and existing under the laws of the state of Wyoming (the "State"), authorized by Title 15, Chapter 7, Article 2 , Wyo. Stat. to own and operate an electrical system (the "Gillette Electrical System") and the City has owned the Gillette Electrical System since prior to March 1, 1975; and

WHEREAS, the City is a participating agency in the Consolidated Wyoming Municipalities Electric Power System Joint Powers Board (the "Board"), a duly organized and existing body corporate and politic under the provisions of the Wyoming Joint Powers Act, Wyo. Stat. §§ 16-1-102 through 16-1-109 (the "Act"), established under a Joint Powers Agreement dated as of February 6, 1984 (the "Joint Powers Agreement"), entered into by and between Gillette and the City of Torrington, Wyoming ("Torrington"). The Joint Powers Agreement was amended by Amendment No. 1, made and entered into as of the 1st day of June, 2007, whereby the Town of Basin, Wyoming ("Basin") joined the Board as a participating agency and three members were added to the Board to represent Basin. The Board was created for the purpose of jointly expanding, financing or operating electrical systems owned by municipalities prior to March 1, 1975, and constructing and operating any facilities located within or without the State for the generation or transmission of electrical energy to supply those electrical systems for the joint benefit of the Board's participants, as well as for the individual benefit of Gillette, Torrington and Basin; and

WHEREAS, the City has requested that the Board finance the following items relating to its electrical utility system (the "Gillette Electrical System"), which will be of service to and be for the benefit of the inhabitants of the City: (i) the acquisition of a simple-cycle gas turbine peaking facility (the "CT II Facility" or "Facility") from Black Hills Wyoming, LLC ("BHW"), and (ii) working capital; and

WHEREAS, the CT II Facility is located on real property in the Neil Simpson Complex (located outside of Gillette) (the "Facility Land"), which will be leased to the Board under that certain Ground Lease to be dated as of September 3, 2014 (the "Ground Lease"), by and between BHW and the Board; and

WHEREAS, with respect to the purchase of the CT II Facility, the City has received the following documents from BHW: (i) that certain Amended and Restated Generation Dispatch and Energy Management Agreement to be dated as of September 3, 2014 (the "Amended GDEMA"), by and between Black Hills Power, Inc., a South Dakota corporation ("BHP") and the City, the purpose of which is the supply of energy and ancillary services to the City; (ii) that certain Economy Energy Power Purchase Agreement to be dated as of September 3, 2014 (the "Economy Energy Agreement"), by and between BHW and the City, the purpose of which is the provision of energy to the City; and (iii) that certain Transportation Service Agreement to be dated as of September 3, 2014 (the "Gas Transportation Agreement"), by and between BHW and the City, the purpose of which is the transportation of natural gas to the CT II Facility; and

WHEREAS, for purposes of financing the CT II Facility and the working capital, the governing body of the City (the "Governing Body") has determined, and hereby determines, that it is in the best interests of the City and its citizens and inhabitants that the City enter into that certain Lease and Agreement dated as of August 26, 2014 (the "Lease"), wherein Gillette, as sublessee, will sublease the Facility Land from the Board, and Gillette will further lease from the Board the CT II Facility; and

WHEREAS, pursuant to that certain resolution of the Board adopted on August 5, 2014 (the "Bond Resolution"), and in order to provide funds for the acquisition of the CT II Facility and the working capital, the Board has authorized the issuance and sale of the following lease revenue bonds: (i) \$21,935,000 Tax-Exempt Electric Facilities Improvement Lease Revenue Bonds (City of Gillette, Wyoming, Electrical System Project), Series 2014A (the "Series 2014A Bonds"), and (ii) \$2,535,000 Taxable Electric Facilities Improvement Lease Revenue Bonds (City of Gillette, Wyoming, Electrical System Project), Series 2014B (the "Series 2014B Bonds" and collectively with the Series 2014A Bonds, the "Series 2014 Bonds" or the "Bonds"); and

WHEREAS, pursuant to that certain Bond Purchase Agreement dated as of August 5, 2014 (the "Bond Purchase Agreement"), between the Board and RBC Capital Markets, LLC, acting as principal and underwriter, and not as agent (the "Underwriter"), the Board has sold the Series 2014 Bonds to the Underwriter at a price and pursuant to the terms and conditions set forth in the Bond Purchase Agreement; and

WHEREAS, there have been presented to the Governing Body of Gillette the forms of the Lease (including in the Lease the schedule of Rental Payments and Optional Purchase Price, as defined in the Lease) and the Bond Purchase Agreement; and

WHEREAS, the Governing Body desires to approve the Lease and authorize the execution and performance of such document by Gillette; and

WHEREAS, the Governing Body hereby acknowledges the Bond Purchase Agreement; and

WHEREAS, the Governing Body also wishes to approve the Amended GDEMA, the Economy Energy Agreement and the Gas Transportation Agreement and authorize the execution and performance of such documents by Gillette; and

WHEREAS, the Governing Body further desires to appoint a Lessee Representative (as defined by the Lease) for purposes of this financing;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF GILLETTE, WYOMING:

Section 1. Ratification of Actions. All actions heretofore taken (not inconsistent with the provisions of this resolution) by the Governing Body or officials of Gillette, directed toward the acquisition of the CT II Facility and working capital, are hereby ratified, approved, and confirmed.

Section 2. Finding As To Governmental Purpose. The Governing Body hereby finds and determines, pursuant to the constitution and laws of the State, that the acquisition of the CT II Facility and working capital, the subleasing of the Facility Land and the leasing of the CT II Facility from the Board under the terms and provisions set forth in the Lease, are necessary, convenient, and in furtherance of the governmental purposes of Gillette, and are in the best interests of Gillette and its citizens and inhabitants; and the Governing Body hereby authorizes such subleasing of the Facility Land and leasing of the CT II Facility under the terms and provisions of the Lease.

Section 3. Finding as to Litigation. The Governing Body finds and determines that no lawsuits have been filed, no actions have been threatened, and no claims have been made against Gillette which would have any effect on the acquisition of the CT II Facility and working capital or the issuance of the Series 2014 Bonds by the Board.

Section 4. Approval of Lease, Amended GDEMA, Economy Energy Agreement and Gas Transportation Agreement. The Lease, Amended GDEMA, Economy Energy Agreement and Gas Transportation Agreement are in all respects approved, authorized, and confirmed, and the Mayor and the City Clerk are authorized and directed to affix their signatures to such documents, and thereafter Gillette shall be bound by the provisions thereof.

Section 5. Attestation; Authorization of Other Documents. The City Clerk is hereby authorized and directed to attest all signatures and acts of any official of the City in connection with the matters authorized by this resolution, and to place the seal of the City on the documents authorized and approved by this resolution. The Mayor and other officials of the City are hereby authorized to execute and deliver for and on behalf of the City any and all additional certificates, documents, and other papers and to perform all other acts that they may deem necessary or appropriate in order to implement and carry out the transactions and other matters authorized by this resolution.

Section 6. No Indebtedness. No provision of this resolution, the Lease, the Amended GDEMA, the Economy Energy Agreement and the Gas Transportation Agreement or the Series 2014 Bonds shall be construed as creating or constituting a general obligation or other indebtedness of Gillette, nor a mandatory charge or requirement against Gillette in any ensuing budget year beyond the then current budget year. Gillette shall have no obligation to make any payment with respect to the Series 2014 Bonds except in connection with the payment of the Rental Payments and Additional Rentals (as defined in the Lease) and certain other payments under the Lease, which payments may be terminated by Gillette in accordance with the provisions of the Lease.

Section 7. Rental Payments and Optional Purchase Price. The Rental Payments (as defined in the Lease) for the CT II Facility shall be payable during the Lease Term (as defined in the Lease) on the following dates, in the following amounts:

Rental Payment Schedule

| <u>Payment Date</u> | <u>Principal</u> | <u>Interest</u> | <u>Total</u> |
|----------------------------|-------------------------|------------------------|---------------------|
| 11/15/2014 | \$ | \$ 281,859.72 | \$ 281,859.72 |
| 05/15/2015 | 1,040,000 | 534,050.00 | 1,574,050.00 |
| 11/15/2015 | | 531,450.00 | 531,450.00 |
| 05/15/2016 | 795,000 | 531,450.00 | 1,326,450.00 |
| 11/15/2016 | | 527,475.00 | 527,475.00 |
| 05/15/2017 | 805,000 | 527,475.00 | 1,332,475.00 |
| 11/15/2017 | | 521,000.00 | 521,000.00 |
| 05/15/2018 | 815,000 | 521,000.00 | 1,336,000.00 |
| 11/15/2018 | | 512,850.00 | 512,850.00 |
| 05/15/2019 | 835,000 | 512,850.00 | 1,347,850.00 |
| 11/15/2019 | | 504,500.00 | 504,500.00 |
| 05/15/2020 | 850,000 | 504,500.00 | 1,354,500.00 |
| 11/15/2020 | | 483,250.00 | 483,250.00 |
| 05/15/2021 | 890,000 | 483,250.00 | 1,373,250.00 |
| 11/15/2021 | | 461,000.00 | 461,000.00 |
| 05/15/2022 | 935,000 | 461,000.00 | 1,396,000.00 |

| <u>Payment Date</u> | <u>Principal</u> | <u>Interest</u> | <u>Total</u> |
|---------------------|------------------|-----------------|---------------|
| 11/15/2022 | \$ | \$ 437,625.00 | \$ 437,625.00 |
| 05/15/2023 | 985,000 | 437,625.00 | 1,422,625.00 |
| 11/15/2023 | | 413,000.00 | 413,000.00 |
| 05/15/2024 | 1,030,000 | 413,000.00 | 1,443,000.00 |
| 11/15/2024 | | 387,250.00 | 387,250.00 |
| 05/15/2025 | 1,085,000 | 387,250.00 | 1,472,250.00 |
| 11/15/2025 | | 360,125.00 | 360,125.00 |
| 05/15/2026 | 1,140,000 | 360,125.00 | 1,500,125.00 |
| 11/15/2026 | | 331,625.00 | 331,625.00 |
| 05/15/2027 | 1,195,000 | 331,625.00 | 1,526,625.00 |
| 11/15/2027 | | 301,750.00 | 301,750.00 |
| 05/15/2028 | 1,255,000 | 301,750.00 | 1,556,750.00 |
| 11/15/2028 | | 270,375.00 | 270,375.00 |
| 05/15/2029 | 1,315,000 | 270,375.00 | 1,585,375.00 |
| 11/15/2029 | | 237,500.00 | 237,500.00 |
| 05/15/2030 | 1,385,000 | 237,500.00 | 1,622,500.00 |
| 11/15/2030 | | 202,875.00 | 202,875.00 |
| 05/15/2031 | 1,450,000 | 202,875.00 | 1,652,875.00 |
| 11/15/2031 | | 166,625.00 | 166,625.00 |
| 05/15/2032 | 1,525,000 | 166,625.00 | 1,691,625.00 |
| 11/15/2032 | | 128,500.00 | 128,500.00 |
| 05/15/2033 | 1,600,000 | 128,500.00 | 1,728,500.00 |
| 11/15/2033 | | 88,500.00 | 88,500.00 |
| 05/15/2034 | 3,540,000 | 88,500.00 | 3,628,500.00 |

The Governing Body hereby determines and declares that the Rental Payments do not exceed a reasonable amount so as to place Gillette under an economic compulsion to renew the Lease or to place Gillette under an economic compulsion to exercise its option to purchase the CT II Facility pursuant to the Lease.

The Governing Body hereby determines and declares that the period during which Gillette has an option to purchase the CT II Facility (i.e., on any June 1 or December 1, commencing June 1, 2024) does not exceed the useful life of the CT II Facility. The Optional Purchase Price (as defined in the Lease) for the CT II Facility shall be payable during the Lease Term (as defined in the Lease) on the following dates, in the following amounts:

| <u>Payment Dates</u> | <u>Optional Purchase Price*</u> |
|----------------------|---------------------------------|
| 05/15/2024 | \$ 16,933,000.00 |
| 11/15/2024 | 15,877,250.00 |
| 05/15/2025 | 15,877,250.00 |
| 11/15/2025 | 14,765,125.00 |
| 05/15/2026 | 14,765,125.00 |
| 11/15/2026 | 13,596,625.00 |
| 05/15/2027 | 13,596,625.00 |
| 11/15/2027 | 12,371,750.00 |
| 05/15/2028 | 12,371,750.00 |

*See next page for footnote.

Payment Dates

Optional Purchase Price*

| | |
|------------|------------------|
| 11/15/2028 | \$ 11,085,375.00 |
| 05/15/2029 | 11,085,375.00 |
| 11/15/2029 | 9,735,500.00 |
| 05/15/2030 | 9,735,500.00 |
| 11/15/2030 | 8,317,875.00 |
| 05/15/2031 | 8,317,875.00 |
| 11/15/2031 | 6,831,625.00 |
| 05/15/2032 | 6,831,625.00 |
| 11/15/2032 | 5,268,500.00 |
| 05/15/2033 | 5,268,500.00 |
| 11/15/2033 | 3,628,500.00 |
| 05/15/2034 | 3,628,500.00 |

*If Option is exercised, Optional Purchase Price replaces Rental Payment due on same date. Lessee may use any available Debt Service Reserve Fund balances toward full optional prepayment of the Lease, along with any other available funds.

Section 8. Designation of Lessee Representative. The Governing Body hereby determines that the person who shall be specifically responsible for the CT II Facility shall be the Director of Utilities of Gillette (the "Lessee Representative"). The Lessee Representative may be changed by resolution hereafter adopted by the Governing Body.

Section 9. Severability. If any section, paragraph, clause, or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this resolution, the intent being that the invalid or unenforceable section, paragraph, clause, or provision shall be severable from the remaining sections, paragraphs, clauses, or provisions.

Section 10. Repealer. All bylaws, orders, and resolutions, or parts thereof, inconsistent with this resolution or with any of the documents hereby approved, are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, or resolution, or part thereof.

Section 11. Effective Date. This resolution shall be in full force and effect upon its passage and adoption.

PASSED, ADOPTED, AND APPROVED this 19th day of August, 2014.

(S E A L)

CITY OF GILLETTE, WYOMING

Mayor

ATTESTED:

City Clerk