

AGREEMENT

Agreement made and entered into this 27th day of January, 2012 by and between the City of Gillette, Wyoming, a municipal corporation and City of the First Class, hereinafter CITY, of 201 East Fifth Street, Gillette, Wyoming, and Liebherr Mining Equipment Newport News Company, a Virginia corporation of 5800 State Highway 59 South, Gillette Wyoming, 82718, hereinafter known as "LIEBHERR". LIEBHERR and CITY may be referred to collectively herein as the PARTIES.

WHEREAS LIEBHERR is a large local industrial equipment company, and is expanding its business and creating new jobs in Campbell County, South of CITY; and

WHEREAS the PARTIES have agreed that LIEBHERR shall cause the construction of water mains for support of fire suppression systems to serve its expanding business operation in compliance with all CITY design and construction standards, which will connect LIEBHERR to CITY water mains, hereinafter the LIEBHERR PROJECT; and,

WHEREAS, the LIEBHERR has received a grant from the Wyoming Business Council to fund the construction of the LIEBHERR PROJECT, which grant requires the LIEBHERR to pay 10% of the project cost, hereinafter the LOCAL CONTRIBUTION; and,

WHEREAS, LIEBHERR will convey the LIEBHERR PROJECT to the CITY when it is complete and operational and LIEBHERR will become a CITY utility customer; and

WHEREAS the LIEBHERR PROJECT will be designed to serve additional customers; and,

WHEREAS the CITY and the LIEBHERR have come to an agreement whereby LIEBHERR will provide the entire LOCAL CONTRIBUTION and the CITY will charge an additional connection fee to future additional customers to the water main constructed as the LIEBHERR PROJECT,

which shall be paid to LIEBHERR according to the terms of this agreement;
and,

WHEREAS the PARTIES intend this agreement to formalize and fully set forth their understanding and agreement concerning their respective duties and obligations.

The PARTIES agree as follows:

1. The LIEBHERR PROJECT is funded by a grant from the Wyoming Business Council. The total project cost of the LIEBHERR PROJECT is estimated to be \$_____. The estimated LOCAL CONTRIBUTION, is 10% of that cost, or \$_____.
 2. LIEBHERR will provide the LOCAL CONTRIBUTION. The total number of properties, (hereinafter "Served Properties") which can be served by the LIEBHERR PROJECT for water is _____. If the LOCAL CONTRIBUTION was paid equally by each property that could be served the amount would be \$_____ per property for water, hereinafter the PRO-RATA SHARE. If the total number of Served Properties increases or decreases prior to the time of collection of the first PRO-RATA SHARE, the PRO-RATA SHARE will be adjusted accordingly.
 3. The legal description of the property that could be served by the LIEBHERR PROJECT for water is contained on Exhibit B to this agreement, which is attached.
 4. In consideration of the construction of the LIEBHERR PROJECT and the payment of the LOCAL CONTRIBUTION by the LIEBHERR and the conveyance of the completed water main to the CITY, the CITY agrees to furnish municipal water and municipal sewer service at the rates established by CITY ordinances in effect at the time service is rendered, which rates may be changed by CITY action at any time and from time to time. The CITY also agrees to charge an additional fee equal to the PRO-RATA SHARE for water, to the properties listed on Exhibit B when and if they connect to the LIEBHERR PROJECT, subject to paragraph 5 below. The CITY will forward the collected PRO-RATA SHARES it receives to the LIEBHERR. The CITY shall have no obligation to reimburse LIEBHERR
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except from PRO-RATA SHARES it receives from properties listed on Exhibit B which connect to the LIEBHERR PROJECT and shall have no obligation to reimburse the LIEBHERR should it be prevented by a Court of competent jurisdiction from charging those connection fees.

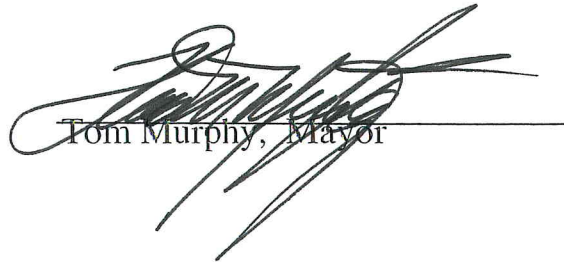
5. Initially, LIEBHERR will only receive water service for fire protection, for which the CITY does not charge a Plant Investment or Tap fee. When the Madison project is completed and becomes operational supplying increased water supply to the City system, then LIEBHERR will become a domestic water customer and at that time the other properties listed on exhibit B would also have domestic water service available through the LIEBHERR PROJECT. A water Plant Investment Fee would be due from those new users and the CITY will also charge the PRO-RATA SHARE as well. The Parties acknowledge that the Madison project will not be operational for at least four years, so there will be no opportunity to connect additional users and collect those connection fees until that time. The City may allow water connections for fire protection only, but will not collect the PRO-RATA SHARE since there is no Plant Investment Fee charged for that connection.

6. This agreement shall take effect upon the approval and final execution of the agreement by all the parties hereto. The terms of this agreement shall bind the parties hereto and their successors and assigns. This agreement shall not be assigned in whole or in part without the prior written approval of both Parties. Any assignment without the prior written approval of both Parties is void. The Term of this agreement is 19 years from the date this agreement is executed by the Parties.


7. This agreement shall be governed by the law of the State of Wyoming. The District Court of the Sixth Judicial District in Campbell County, Wyoming shall have venue and jurisdiction exclusively for any action in law or equity, which may be instituted to enforce the terms of this agreement.

Dated this ____ day of _____, 2012.

City of Gillette
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Tom Murphy, Mayor

(SEAL) ATTEST:


Karlene Abelseth, City Clerk



LIEBHERR,:

Liebherr Mining Equipment Newport News Company


Rick Ochs Director-Western Operations

STATE OF WYOMING)
) ss.
County of Campbell)

The above and foregoing Agreement was subscribed, sworn to, and acknowledged before me by Rick Ochs Director-Western Operations of Liebherr Mining Equipment Newport News Company this 27 day of January, 2012.

Witness my hand and official seal.

My Commission Expires:

Notary Public

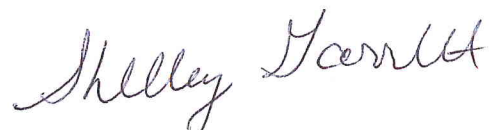
STATE OF WYOMING)
) ss.
County of Campbell)



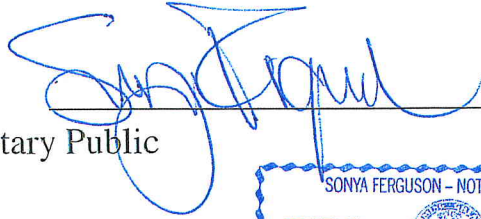
The above and foregoing instrument was acknowledged before me by Tom Murphy, Mayor and Karlene Abelseth, City Clerk this 29th day of February 2012.

Witness my hand and official seal.

My Comm. Expires 1-20-2013



I-1079684.2



My Commission Expires: Notary Public

