

ORDINANCE NO. _____

AN ORDINANCE CONCERNING THE CREATION OF THE CITY OF GILLETTE, WYOMING, SPECIAL IMPROVEMENT DISTRICT NO. 52; ORDERING THE CONSTRUCTION AND INSTALLATION OF A NEW WATER SYSTEM AND ALL NECESSARY APPURTENANCES FOR THE SUBDIVISION COMMONLY REFERRED TO AS INTERSTATE INDUSTRIAL PARK, ALONG WITH THE NECESSARY SURFACE RECLAMATION OF GRADING AND VEGETATION; DESCRIBING THE SAME; DIRECTING THE CITY ENGINEER TO PREPARE THE PLANS AND SPECIFICATIONS THEREFOR; FIXING THE BOUNDARIES OF SAID DISTRICT; RATIFYING ALL CONSISTENT ACTION PREVIOUSLY TAKEN CONCERNING SUCH; AND PRESCRIBING DETAILS IN CONNECTION WITH SAID DISTRICT.

WHEREAS, pursuant to Title 15, Chapter 6, Wyo. Stat., on August 15, 2017, the governing body (the "Governing Body") of the City of Gillette, Wyoming (the "City"), passed Resolution No. 2629 (the "Resolution of Intention"), declaring the intention of the Governing Body to create a special improvement district within the City for the purpose of construction and installation of a new water system and all necessary appurtenances (collectively, the "Water Improvements") for the Subdivision commonly referred to as Interstate Industrial Park, including the pro rata share of the cost for engineering design, rights-of-way, permitting, construction inspection, special services and legal, fiscal and administrative costs against the properties specifically benefitted by the Water Improvements and included within the proposed Improvement District; and

WHEREAS, the Governing Body met on Tuesday, September 19, 2017 to consider any and all remonstrances and objections to the proposed improvements, in accordance with the Resolution of Intention; and

WHEREAS, a copy of the Resolution of Intention was duly mailed to each legal owner of record of property within the proposed district, and

WHEREAS, the Resolution of Intention was published fifteen (15) days prior to the date of the hearing as a Notice in The Gillette News-Record on August 18, 2017; and

WHEREAS, the Governing Body set a 5:00 P.M., Friday, September 15, 2017 deadline for filing remonstrances and objections of to the creation of the improvement district and the construction of the Water Improvements; and

WHEREAS, the objections and protests were filed by legal owners of record of less than one-half of the area of the property subject to assessment; and

WHEREAS, the remonstrances and objections were heard by the Governing Body at the hearing on September 19, 2017, and a list of said objections and protests has been attached as EXHIBIT A to this Ordinance, and by this reference is made a part hereof; and

WHEREAS, after careful consideration of all the remonstrances and objections with regard to the proposed improvement district, the Governing Body has determined to overrule the objections and protests filed, in accordance with WYO. STAT. §15-6-204;

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GILLETTE, WYOMING:

SECTION 1. Creation of District. There is hereby created and established within the corporate limits of the City a special improvement district for the purpose of construction and installation of a new water system and all necessary appurtenances (collectively, the “Water Improvements”) for the Subdivision commonly referred to as Interstate Industrial Park, and assessing the cost thereof, including the prorata share of the cost for engineering design, rights-of-way, permitting, construction inspection, special services and legal, fiscal and administrative costs, to the property specially benefitted thereby.

The special improvement district shall be known as “City of Gillette, Wyoming, Special Improvement District No. 52” (the “District”).

SECTION 2. Kind and Location of Improvements. The character, kind and extent of the Improvements and the areas in which such Improvements will be constructed and installed shall be as follows:

Water system improvements will consist of the installation of approximately 7,200 lineal feet of 12” PVC and 450 lineal feet of 6” PVC water mains; connections to the City’s existing water system in four separate locations; the installation of approximately 2,500 lineal feet of 4” water service line, with approximately 1,100 feet being installed by horizontal directional drilling; near the property line the 4” service line will be reduced to a 1” service line and connected to the existing service; installation of 44 meter pits, one for each lot; and the installation of 17 fire hydrants. The water system improvements will also include all incidental work, including, but not limited to, pipe bedding, utility crossings, and the installation of tees, reducers, elbows, gate valves, test stations, fire hydrant bollards, curb stops, pressure reducing valves, insulation board, and splash pans. The water system improvements will also include the abandonment and the removal of portions of the existing water system facilities, including, but not limited to, water mains, service lines, curb stops, valves, fittings, fire hydrants, the well, the pump station and the water storage tank.

The City of Gillette will reconstruct 2nd Street and Conestoga Drive outside the costs of the water system improvements and these expenses will not be included in the assessment for the local improvement district, however, there will be some minor surface restorations included with the water system improvements. This would include grading and revegetation over the water main along Conestoga Drive (this water line is located outside the pavement of the street).

Each property owner will also need to pay a Plant Investment Fee (i.e., \$1,287.50 for a 1” meter) and install a back-flow preventer (estimated to be \$1,000, depending of the level of hazard classification for each property) on their water service line. These costs will be incurred outside of the assessment and would be due from each property owner once the work is completed.

SECTION 3. The proposed Special Improvement District shall be comprised of 44 lots for commercial/industrial use, recorded as follows:

Lots 1, 2, and 3 of the Softail Subdivision as recorded in Book 9 of Plats, Page 64-65.

Lots 4A and 4B, Block 3, Interstate Industrial Park Subdivision as recorded in Book 7 of Plats, Page 224.

Lots 3A and 3B, Block 3, Interstate Industrial Park Subdivision as recorded in Book 7 of Plats, Page 173.

Lots 1C, 1D, 1E, 2A, 2B, 3D, 3E, 4D, 4E, 4F, and 4G, Block 2, Interstate Industrial Park Subdivision as recorded in Book 2 of Plats, Page 189.

Lots 7A, 7B, 8A, 8B, 8C, 8D, 9A, 9B, 9C, 9D, 10A, 10B, 10C, and 10D, Block 1; Lots 1B, 3B, 3C, and 4C, Block 2; Lots 2A, 2B, and 8, Block 3, Interstate Industrial Park Subdivision as recorded in Book 2 of Plats, Page 173.

The partial Lots 1, 2, and 3, Block 1, south of Conestoga Drive; Lots 5, 6, and 7, Block 3, Interstate Industrial Park Subdivision as recorded in Book 2 of Plats, Page 50.

The boundaries of the proposed Improvement District, all property to be located within the City limits, shall be as follows:

Located in a portion of the S1/2 SE1/4 of Section 24, T50N, R72W of the 6th P.M., Campbell County, Wyoming; and a portion of the N1/2 NE1/4 of Section 25, T50N, R72W of the 6th P.M., Campbell County, Wyoming;

Commencing at the Southeast corner of said Section 24;

Thence N 01°06'00" W, 562.95 feet;

Thence S 88°54'00" W, 33.00 feet to the point of beginning;

Thence S 88°50'25" W, 624.78 feet;

Thence S 01°06'25" E, 417.01 feet;

Thence S 88°47'48" W, 399.76 feet;

Thence S 01°10'40" E, 789.39 feet;

Thence N 80°46'21" W, 1586.19 feet;

Thence N 00°26'36" W, 478.83 feet;

Thence N 00°15'11" W, 1259.03 feet;

Thence along a curve to the right having a radius of 1825.43 feet, an arc length of 276.79 feet, a chord bearing of N 79°53'20" E, and a chord length of 276.52 feet;

Thence along a curve to the right having a radius of 2705.12 feet, an arc length of 249.59 feet, a chord bearing of N 87°17'17" E, and a chord length of 249.50 feet;

Thence along a curve to the right having a radius of 10543.36 feet, an arc length of 322.69 feet, a chord bearing of S 87°51'53" E, and a chord length of 322.68 feet;

Thence S 87°03'32" E, 667.28 feet;

Thence S 61°25'38" E, 831.65 feet;

Thence S 87°08'28" E, 327.71 feet;

Thence S 01°06'00" E, 365.05 feet to the point of beginning.

Said described area contains 83.77 acres, more or less.

A map of the proposed district is on file and may be inspected at the office of the City Clerk, City Hall, 201 E 5th St, Gillette, Wyoming 82716.

SECTION 4. Ordering Engineering. The City Engineer is authorized and ordered to prepare the complete plans and specifications for said Improvements.

SECTION 5. Ordering Improvements. The construction of said Improvements, in accordance with the final plans, specifications and maps thereof to be prepared by the City Engineer, is hereby authorized and ordered.

SECTION 6. Change of Grades. The Improvements will result in no significant change in street elevations or grades in and along the streets in the District.

SECTION 7. Sources of Funds for Improvements. The sources of funds for the total Improvements are as follows:

1. Water Improvements - Improvement District Assessments
2. Road Improvements - City of Gillette (optional 1% sales tax)

SECTION 8. City Payment of Costs and Assessments. The City will pay for the costs of the Water Improvements and Road Improvements in the proposed Improvement District from monies identified in SECTION 5 above. The City will also pay, from grants received or from other sources, the amount of the assessments on property owned by it, if any, in the proposed Improvement District.

Except as provided in this SECTION, any assessment against property owned by the City may be paid out of the general fund, road fund or any other fund which may be lawfully available.

The maintenance of the proposed Water Improvements after their acceptance by the City shall not be included in the construction contract or contracts, and there shall be no charges for such maintenance included in the assessments for the proposed Water Improvements; provided, however, that nothing herein shall be construed to preclude provision in the contract or contracts relating to the guarantee of improvements made thereunder.

SECTION 9. Determination of Benefits. The Governing Body has determined, and

does hereby determine, that the method of assessment designated in SECTION 4 of the Resolution of Intention, passed and adopted on August 15, 2017, will result in a distribution of cost among the property owners in proportion to the special benefits conferred by the Improvements, and that said Improvements will confer a general benefit to the City as a whole.

The estimate of the cost of the Water Improvements to be constructed and installed by way of the proposed Improvement District is two million fifty thousand dollars (\$2,050,000.00) and the estimate of the contract price for said Water Improvements is one million seven hundred five thousand five hundred twelve dollars (\$1,705,512.00). The City of Gillette shall not accept bids or a combination of bids which exceed by more than ten percent (10%) the estimate of the contract price stated above unless the legal owners of record of all property in the proposed Improvement District waive this limitation.

METHOD OF ASSESSMENT FOR IMPROVEMENTS

The entire proposed Improvement District shall constitute one assessment unit in an estimated amount of two million four hundred seventy-six thousand one hundred twelve dollars and fifty-four cents (\$2,476,112.54), which is dedicated to the costs of the Water Improvements identified, including the prorata share of the cost for engineering design, rights-of-way, permitting, construction inspection, special services and legal, fiscal and administrative costs. The Governing Body has determined that the property in the proposed Improvement District will be similarly benefitted and therefor shall be assessed on an equal basis for their benefit of the proposed Water Improvements.

Based upon an estimated assessment unit cost of two million four hundred seventy-six thousand one hundred twelve dollars and fifty-four cents (\$2,476,112.54), the City Engineer has estimated that the assessment per lot will be fifty-six thousand two hundred seventy-five dollars and twenty-nine cents (\$56,275.29) (i.e., \$2,476,112.54 divided by 44 lots).

SECTION 10. Maintenance of Improvements. The maintenance of the proposed Water Improvements after their acceptance by the City shall not be included in the construction contract or contracts, and there shall be no charges for such maintenance included in the assessments for the proposed Water Improvements; provided, however, that nothing herein shall be construed to preclude provision in the contract or contracts relating to the guarantee of improvements made thereunder.

SECTION 11. Levy of Assessments. Upon the completion of the Improvements, the City Engineer shall prepare and file with the City Clerk an assessment roll, and notice of the filing of said roll shall be given, the hearing thereon shall be held, and all other necessary and proper steps and proceedings shall be taken, at the time and in the manner required by Title 15, Chapter 6, Wyo. Stat.

SECTION 12. Authorization to Officers and Employees. The officers and

employees of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance.

SECTION 13. Ratification. All action not inconsistent with the provisions of this Ordinance heretofore taken by the Governing Body and the officers thereof, directed toward the creation of the District, the improvement of property therein and the levy of assessments therefor, shall be, and the same hereby is, ratified, approved and confirmed.

SECTION 14. Repeal. All orders, by-laws, resolutions and ordinances, or parts thereof, in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 15. Severability. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or enforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the intention being that the various provisions hereof are severable.

SECTION 16. Effective Date of Ordinance. This Ordinance shall be in full force and effect upon its passage and publication.

SECTION 17. Recording. This Ordinance, after its passage and approval, shall be recorded by the City Clerk in a book kept for that purpose, and said Ordinance shall be published as required by law.

(S E A L)

CITY OF GILLETTE, WYOMING

Mayor

ATTESTED:

City Clerk

FIRST READING: October 3, 2017
SECOND READING: October 17, 2017
THIRD READING: November 7, 2017

Ordinance Creating SID No. 52
City of Gillette, Wyoming

EXHIBIT A

List of Written Remonstrances Filed with the City Clerk by the 5:00 P.M., September 15, 2017 Deadline:

By: RT Cox Law Firm, on behalf of Emmerson Investments, LLC, owners of Lots 4A and 4B,
Block 3, Interstate Industrial Park:

- The City is erroneously withholding requisite final signatures for the filing of Emmerson Investments Administrative Lot Consolidation Plat application until after the completion of the LID.
- The City has failed to properly allocate distribution of costs to property owners of LID No. 52.

Governing Body's Response to the Filed Objections:

The Council finds the consolidation plat sought was not timely filed in a completed format eligible for filing and lapsed through failure of a corrective action by the applicant

The Council finds the filing of the plat was done with the sole intention of avoiding the special assessment, and was done so as to have adjacent landowners and others in the district bear a disproportionate amount of the costs to be incurred for the Improvement District

The objecting party admitted that the Improvement District was necessary, but that they simply wanted to combine lots in order to only be assessed and receive one tap.

(Attach Affidavit of Publication for Ordinance)