

**BIOSOLIDS DISPOSAL AGREEMENT BETWEEN THE CITY OF SPEARFISH, SOUTH DAKOTA  
AND THE CITY OF GILLETTE, WYOMING**

This **BIOSOLIDS DISPOSAL AGREEMENT** (hereinafter “Agreement”) is effective this 21st day of May, 2019, and is entered into between the **CITY OF SPEARFISH**, 625 North 5th Street, Spearfish, South Dakota, 57783 (hereinafter “Spearfish”) and **CITY OF GILLETTE, WYOMING**, 201 East 5th Street, Gillette, Wyoming, 82716, its successors and assigns (hereinafter “Gillette”), referred to collectively as the Parties.

**WHEREAS**, Spearfish operates a waste water treatment plant located in Spearfish, South Dakota that produces biosolids in the form of a dewatered raw cake derived from excess biomass from its activated sludge treatment system (“Biosolids”); and

**WHEREAS**, Spearfish produces raw cake that averages 18% solids and currently disposes of Biosolids at the Belle Fourche landfill; and

**WHEREAS**, Spearfish is interested in exploring alternative disposal methods for its Biosolids; and

**WHEREAS**, Gillette, which also operates a waste water treatment plant, composts its biosolids and other organic material for resale; and

**WHEREAS**, Gillette has greater demand for its compost than supply and is desirous of acquiring additional biosolid material; and

**WHEREAS**, the Parties agree the disposal of Biosolids from Spearfish at the waste water treatment plant in Gillette would be mutually beneficial to both Parties,

**NOW, THEREFORE**, in consideration of the promises, mutual covenants, agreements, and representations herein contained, Spearfish and Gillette agree as follows:

1. **Biosolids Transportation and Acceptance.** The Parties agree that Spearfish will transport a certain portion of its Biosolids, the amount of which if any at all is to be determined by Spearfish in its sole discretion, to Gillette’s waste water treatment plant at Spearfish’s sole expense. Gillette agrees to accept the Biosolids from Spearfish at no cost to Spearfish. Spearfish understands and agrees that it is not entitled to any of the proceeds from the resale of Biosolids disposed of at the Gillette waste water treatment plant.
2. **Data Sharing.** Gillette will provide the testing analysis data associated with its Class A compost pile.
  - 2.1. Gillette agrees to remain compliant with the regulatory testing requirements mandated by the federal Environmental Protection Agency–Region 8.

- 2.2. Spearfish will provide all past testing analysis mandated by the South Dakota Department of Environmental and Natural Resources performed on Spearfish's biosolids composting program as requested by Gillette.
3. **Term.** This Agreement is effective May 21, 2019, or when all parties have executed it and all required approvals have been granted, whichever is later. The term of this Agreement shall be for a period of one (1) year beginning on the effective date. The Agreement will automatically renew for one (1) year terms unless terminated as provided herein.
4. **Termination of Agreement.** This Agreement may be terminated, without cause, by either party upon fifteen (15) days written notice. This Agreement may be terminated immediately for cause if either party fails to perform in accordance with the terms of this Agreement.
5. **Payment.** No payment shall be made to either party by the other party as a result of this Agreement.
- Indemnification.** Each party to this Agreement shall assume the risk of any liability arising from its own conduct. Neither party agrees to insure, defend or indemnify the other.
6. **Notices.** All written correspondence and notices pertaining to this Agreement shall be provided by first class mail to the addresses above.
7. **Amendment.** Any amendment to or modification of this Agreement shall be binding only if set forth in a writing signed by each of the parties.
8. **Entirety of Agreement.** This Agreement, consisting of five (5) pages represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.
9. **Governmental Immunity.** Gillette does not waive governmental immunity by entering into this Agreement and specifically retains all immunities and defenses available to it pursuant to WYO. STAT. §§ 1-39-101-120 and all other applicable law. Designations of venue, choice of law, enforcement actions, and similar provisions should not be construed as a waiver of governmental immunity. The Parties agree that any ambiguity in this Agreement shall not be strictly construed, either against or for either party, except that any ambiguity as to governmental immunity shall be construed in favor of governmental immunity.
10. **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.

11. **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 and shall inure solely to the benefit of 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.

(separate signature pages follow)

CITY OF SPEARFISH



Attest:

By:   
Dana Boke, Mayor


  
David H. Dutton, Finance Officer

State of South Dakota    )  
  ) ss.  
County of Lawrence        )

On this 2<sup>nd</sup> day of May, 2019, before me, the undersigned officer, personally appeared Dana Boke, the Mayor of the City of Spearfish, a South Dakota Municipal Corporation, and David H. Dutton, the Finance Officer of the City of Spearfish, a South Dakota Municipal Corporation, known to me or satisfactorily proven to be the persons described in the foregoing instrument, and acknowledged that they executed the same in the capacity therein stated and for the purposes therein contained.

*In Witness Whereof*, I have set my hand and official seal.

(Seal)

  
Notary Public

My Commission Expires: October 14, 2022



CITY OF GILLETTE

\_\_\_\_\_  
Louise Carter-King, Mayor

(Seal)

Attest:

\_\_\_\_\_  
Cindy Staskiewicz, City Clerk

State of Wyoming )  
 ) ss.  
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned officer,  
personally appeared \_\_\_\_\_ known to me or satisfactorily  
proven to be the persons described in the foregoing instrument, and acknowledged that  
he/she executed the same in the capacity therein stated and for the purposes therein  
contained.

*In Witness Whereof*, I have set my hand and official seal.

(Seal)

\_\_\_\_\_  
Notary Public

My Commission Expires: