

**AMENDMENT TWO (A) TO AND RESTATEMENT OF THE MEMORANDUM OF UNDERSTANDING
BETWEEN
CAMPBELL COUNTY, WYOMING, THE CITY OF GILLETTE, WYOMING, AND THE CAMPBELL
COUNTY PUBLIC LAND BOARD**

1. **Parties.** This Amendment Two (A) to and Restatement of the Memorandum of Understanding Between Campbell County, Wyoming, the City of Gillette, and the Campbell County Public Land Board (“Amended and Restated MOU”) is entered into between Campbell County, Wyoming (“County”), whose address is 500 South Gillette Ave., Ste 1100, Gillette, WY 82716, the City of Gillette, Wyoming, (“City”) whose address is 201 East 5th Street, Gillette, WY 82716, and the Campbell County Public Land Board (“Board”), whose address is 1635 Reata Drive, Gillette, Wyoming 82718.

2. **Purpose and Background.** On August 24, 2022, the parties entered into an “Amended” Memorandum of Understanding Between Campbell County, Wyoming, the City of Gillette, and the Campbell County Public Land Board (“Original MOU”). The purpose of this Original MOU was to allocate certain costs amongst the parties associated with the International Pathfinder Camporee events to be held in 2024 and 2029 (“Camporee Events”). The Board and Andrews University-Center for Youth Evangelism entered into a contract for the use of CAM-PLEX facilities for the Camporee Events (“Contract”). The Contract requires investment of significant sums of money into CAM-PLEX facilities. Specifically, the Contract requires site preparation and earthwork for Andrews University-Center for Youth Evangelism to set up a mobile amphitheater (“Amphitheater Costs”). Additionally, the Contract requires installation of certain water, sanitary sewer, road, irrigation, earthwork, and electrical infrastructure across CAM-PLEX facilities, as well as expenditures on miscellaneous other costs (collectively “Other Costs”). The Original MOU obligated the City and the County (in equal share) to pay no more than \$1,500,000.00 for Amphitheater Costs. The Original MOU limited the City and County’s payment obligation to this \$1,500,000.00 threshold for the Camporee Events. The Original MOU obligated the Board to pay any cost exceeding this \$1,500,000.00 threshold.

On August 21, 2023, the parties entered into “Amendment Two” to the Memorandum of Understanding Between Campbell County, Wyoming, the City of Gillette, Wyoming, and the Campbell County Public Land Board (“Amended MOU”). With respect to the Camporee Events, the purpose of the Amended MOU was to clarify that the City and County’s \$1,500,000.00 payment obligation permitted payments for both Amphitheater Costs and Other Costs so long as payments did not exceed the aforementioned threshold.

The purpose of this Amended and Restated MOU are i.) to increase the City and County’s payment obligation from \$1,500,000.00 to \$1,840,000.00 and confirm that certain unexpended funds for capital expenditures previously approved by the City and County in a regular annual capital budget request from the Board prior to the Contract and the Original MOU in the amount of \$340,000 are credited against the City and County’s payment obligation of \$1,840,000.00 and the stated payment obligation

conforms to the currently authorized amounts. However, no other unexpended funds previously approved in a regular annual budget request prior to August 22, 2022 are to be credited against the City and County's payment obligation of \$1,840,000.00; and ii.) to facilitate authorized expenditures by the Board in recognition of the unique nature of the Camporee Events and the requirements of the Board under the Contract and the need for the Board to be able to adapt to developments and to pay costs and expenses in a timely manner so as to avoid late fees and costs, all while remaining consistent with existing requirements and procedures.

No additional funds are being requested of the City or County by the Board by virtue of this Amended and Restated MOU.

3. **Term of MOU.** This Amended and Restated MOU is effective as of the date the last signature is affixed below and all required approvals have been granted. The term of this Amended and Restated MOU is deemed to have begun on August 24, 2022. This term of this Amended and Restated MOU ends upon completion of the Contract between the Board and the Andrews University-Center for Youth Evangelism.

4. **Responsibilities of the City and County.**

A. The City and County agree to split equally the Amphitheater Costs and Other Costs. The City's and County's payment obligations shall not exceed \$1,840,000.00. By way of illustration, the City's and County's payment obligations will not exceed \$920,000.00 each under this subsection.

B. The parties agree that the City's and County's total payment obligations for costs related to either the Camporee Events or the Contract are limited to the amounts stated in Section 4(A) of this Amended and Restated MOU.

5. **Responsibilities of the Board.**

A. The Board agrees to be responsible for and pay any cost exceeding the amounts identified in Section 4(A) of this Amended and Restated MOU ("Additional Cost"). The Board is not responsible for any costs incurred through direct contracts or agreements for services between the City and/or County and the Andrews University – Center for Youth Evangelism to which the Board is not a signatory.

B. If Additional Costs occur, then the Board shall refrain from including any Additional Cost in its budget submissions to the City and the County.

C. In satisfying its obligation to pay for any Additional Cost, the Board shall refrain from utilizing any source of funds for capital expenditures to which the City and County have contributed funds; however, in satisfying its obligation to pay for any Additional Cost, the Board may utilize any source of funds for operating expenses to which the City and County have contributed funds.

D. In satisfying its obligation to pay for any Additional Cost, the Board may utilize sources of funds to which the City and County have not contributed funds,

including, but not limited to, the Campbell County Public Land Board Operations Reserve fund, as amended (“Operations Reserve”) and the Special Events Account (“Special Events Account”). With respect to: (i) the Agreement for Joint and Co-operative Action, as amended; and, (ii) the respective City and County resolutions limiting utilization of funds from the Operations Reserve and the Special Events Account, the City and County waive any requirement that the City and County approve expenditures in excess of \$100,000 from the Operations Reserve and in excess of \$35,000 from the Special Events Account. The foregoing waiver only applies to expenditures for Additional Costs.

6. **General Provisions.**

- A. **Amendments.** Any party may request changes in this Amended and Restated MOU. Any changes, modifications, revisions, or amendments to this Amended and Restated MOU which are mutually agreed upon by the parties to this Amended and Restated MOU shall be incorporated by written instrument, executed and signed by all parties to this Amended and Restated MOU.
- B. **Applicable Law.** The construction, interpretation, and enforcement of this Amended and Restated MOU shall be governed by the laws of the State of Wyoming. The courts of the State of Wyoming shall have jurisdiction over any action arising out of this Amended and Restated MOU and over the parties, and the venue shall be the Sixth Judicial District, Campbell County, Wyoming.
- C. **Availability of Funds.** Each payment obligation of the City or County 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 Amphitheater Costs or Other Costs, the Amended and Restated Amended and Restated MOU may be terminated by the City or the County at the end of the period for which the funds are available. No penalty shall accrue to either the City or the County in the event this provision is exercised. Neither the City nor the County shall be obligated or liable for any future payments due or for any damages as a result of termination under this section.
- D. **Entirety of Agreement.** This Amended and Restated MOU, consisting of six (6) pages represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral.
- E. **Governmental Immunity.** Neither the City, the County, nor the Board waives governmental immunity by entering into this Amended and Restated MOU. The parties specifically retain all immunities and defenses available to them 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 Amended and Restated MOU shall

not be strictly construed, either against or for any party, except that any ambiguity as to governmental immunity shall be construed in favor of governmental immunity.

- F. **Independent Contractor.** Nothing in this Amended and Restated MOU shall be interpreted as authorizing any party or its agents and/or employees to act as an agent or representative for or on behalf of any other party nor to incur any obligation of any kind on the behalf of the other party.
 - G. **Severability.** Should any portion of this Amended and Restated MOU be judicially determined to be illegal or unenforceable, the remainder of the MOU shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.
 - H. **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 Amended and Restated MOU shall not be construed so as to create such status. The rights, duties, and obligations contained in this Amended and Restated MOU shall operate only between the parties to this MOU and shall inure solely to the benefit of the parties to this Amended and Restated MOU. The provisions of this MOU are intended only to assist the parties in determining and performing their obligations under this Amended and Restated MOU.
 - I. **Titles Not Controlling.** Titles of paragraphs are for reference only and shall not be used to construe the language in this Amended and Restated MOU.
 - J. **Waiver.** The waiver of any breach of any term or condition in this Amended and Restated MOU shall not be deemed a waiver of any prior or subsequent breach. Failure to object to a breach shall not constitute a waiver.
 - K. **The Force Majeure.** No party shall be liable for failure to perform under this Amended and Restated MOU if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, pandemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.
 - L. **Superseding Effect.** The terms of this Amended and Restated MOU supersede and the terms of the Original MOU and the terms of the Amendment Two MOU in their entirety.
7. **Signatures.** The parties to this Amended and Restated MOU through their duly authorized representatives have executed this Amended and Restated MOU on the

**CAMPBELL COUNTY PUBLIC LAND BOARD ATTORNEY'S APPROVAL AS
TO FORM**

J. David Horning

Date