

**MEMORANDUM OF UNDERSTANDING
REGARDING A REQUEST FOR IMPACT ASSISTANCE FUNDS FROM THE STATE
OF WYOMING, INDUSTRIAL SITING COUNCIL CONCERNING THE GOLD KING
MINING PROJECT BY AND BETWEEN LARAMIE COUNTY, ALBANY COUNTY,
THE CITY OF LARAMIE AND THE CITY OF CHEYENNE, WYOMING**

This Memorandum of Understanding (“MOU”) regarding Impact Assistance Funds for the Gold King Corp. (Gold King) Mining Project is dated and effective the date of the last signature appended hereto by the parties any party, or as otherwise allowed by law or regulations, between the following entities who, when referred to collectively, are referred to as “The Parties” or “Parties”:

- The Board of Commissioners of the County of Laramie, Wyoming, is a body corporate and political subdivision of the State of Wyoming, whose physical address is 310 West 19th Street, Cheyenne, Wyoming 82001, and whose mailing address is P.O. Box 608; Cheyenne, Wyoming; 82003.
- The Board of Commissioners of the County of Albany, Wyoming, a is body corporate and political subdivision of the State of Wyoming, whose address is 525 East Grand Avenue, Laramie, Wyoming 82070.
- The City of Cheyenne, Wyoming, is a Wyoming municipal corporation under Wyo. Stat. § 15-1-102 and a first class city under Wyo. Stat. § 15-3-101, whose address is 2101 O’Neil Avenue; Cheyenne, Wyoming; 82001.
- The City of Laramie, Wyoming, is a Wyoming municipal corporation under Wyo. Stat. § 15-1-102 and a City manager form of government under Wyo. Stat. § 15-4-201 (“City of Laramie”), whose address is 406 Ivinson Avenue; Laramie, Wyoming.
- All other parties to this MOU shall be as indicated in attached counterpart signature pages and as identified by name and contact information on Attachment ‘A’ to this MOU which is fully incorporated herein.

RECITALS & FINDINGS

A. **WHEREAS**, Gold King intends to construct and operate an open pit copper, gold and silver mine and mineral processing facility in unincorporated Laramie County (“The Project”). The operation will produce a mineral ore concentrate through a crushing and floating process. The concentrate will then be transported for refining and recovery of precious metals outside of Wyoming;

B. **WHEREAS**, The Project will be constructed on all private and state land leases in Laramie County approximately 20 miles west of Cheyenne, Wyoming, north of Interstate 80 and south of County Road 210. Primary access to the Project site will be via Wyoming State Highway 210, west on County Road 210 for approximately two and one-half miles, and south on an

improved private ranch road. The Project Area is located on lands owned by the State of Wyoming Office of State Lands and Investments (T14N R70W Section 36) and Ferguson Ranch, Inc. (T14N R70W south half [S½] of Section 25 and T14N R69W Section 31). The total Project Area is approximately one thousand six hundred (1,600) acres;

C. **WHEREAS**, the land delineated within the Project Area has been utilized as undeveloped rangeland for cattle grazing and historical mineral exploration and mining. The State of Wyoming Office of State Lands and Investments (OSLI) leased the mineral rights in Section 36 to Gold King for mineral exploration and development and leases the surface grazing rights to the Ferguson Ranch, Inc. Sections 25 and 31 surface rights are owned by Ferguson Ranch. Section 36 is state owned and administered by OSLI. Currently, Section 36 surface rights are under lease to the Ferguson Ranch for grazing. Gold King is under an option agreement with Ferguson Ranch for the surface use of portions of Section 25 and 31 required for the Project;

D. **WHEREAS**, an extensive amount of mining activity has occurred within the Project Area and surrounding mining district including prospecting, exploration drilling, surface mining, and underground excavation. The Project is centrally located in, and the focus of, past exploration and mining activities associated with the historic Copper King Mine, discovered in 1881. Development and mining occurred up to 1910. At least thirteen (13) separate mineral exploration drilling campaigns have been performed within the Project Area since 1930. In 2017, 2018, 2020, and 2021, Gold King performed additional mineral exploration and investigation activities within the Project Area to delineate the ore body;

E. **WHEREAS**, Gold King is seeking an Industrial Siting Permit pursuant to Wyo. Stat. § 35-12-109 of the Industrial Development Information and Siting Act. A jurisdictional meeting was held with the Wyoming Department of Environmental Quality (DEQ), Industrial Siting Division (ISD) on July 18, 2022, during which Industrial Siting Division (ISD) staff determined the Project is subject to their jurisdiction based on the estimated construction cost. Albany and Laramie County were defined as the study area, with primary emphasis on the cities of Cheyenne and Laramie;

F. **WHEREAS**, Gold King filed an application for a Permit to Mine with the DEQ, Land Quality Division on September 13, 2022. Gold King filed an Industrial Siting Permit application with the ISD on February 21, 2023 in conjunction with this application. The Project meets the definition of a “facility” in Wyo. Stat. § 35-12-109, thus, Wyo. Stat. § 35-12-106 requires that Gold King obtain a permit to construct the Project;

G. **WHEREAS**, Gold King proposes an 18-month construction period beginning in the first quarter of 2024 with commercial operation in the third quarter of 2025. Gold King estimates an eighteen (18) month average workforce of one hundred sixty-nine (169) workers with a peak of three hundred forty-nine (349) workers in June 2023;

H. **WHEREAS**, the proposed costs of the Project were reviewed by the Industrial Siting Division and determined to exceed the statutory threshold construction cost amount of two hundred fifty-three million eight hundred seventy-eight thousand dollars (\$253,878,000.00). The

total estimated construction cost for the Project is two hundred seventy-seven million two hundred thousand dollars (\$277,200,000.00), including materials and labor;

I. **WHEREAS**, Gold King consulted with potentially affected municipalities, counties, state agencies, and other stakeholders to discuss environmental, social, and economic topics. Various media, including online networking communities, newspapers, conferences, etc., were utilized to share information about the Project. Early in the planning process, Gold King met with Laramie County agencies and local municipalities to aid in the planning of the Project and notification letters with an informational packet were mailed to state agencies, local governments, joint powers boards, and surrounding landowners. Gold King conducted two (2) in-person informational sessions for the public in Cheyenne and Laramie on December 14 and 15, 2022, respectively. These informational sessions were advertised by mailings that were sent on November 28, 2022, and by the Wyoming Tribune Eagle newspaper and Laramie Boomerang newspaper on November 26, 2022;

J. **WHEREAS**, the socioeconomic impact analysis reports that both local and state communities will gain net positive economic benefits throughout the construction, operation, and reclamation phases of the Project. The State of Wyoming will gain economic benefits including temporary and permanent job creation, royalty revenue, and tax revenue. Locally, the Project may result in Impact Assistance Fund payments and is expected to increase local spending on goods and services, add to the local economic activity, increase local service jobs to support Project employees, and increase tax revenue. Over the life of the Project, including construction and ten (10) years of operations, the Project is anticipated to generate one hundred twenty million one hundred thousand dollars (\$120,100,000.00) in sales, use, lodging, severance, and ad valorem taxes for the State and local governments;

K. **WHEREAS**, The Project will place manageable demands on local utilities, such as the raw water supply network operated by the Cheyenne Board of Public Utilities (BOPU) and electrical lines operated by Black Hills Energy. Gold King has been working with both entities to address Project water supply and electricity needs, along with local government entities to address any socioeconomic concerns that may arise from the construction or operation of the Project. In-migration of workers during construction is not anticipated to significantly impact various municipal utilities and public services;

L. **WHEREAS**, Wyo. Stat. § 35-12-109(xiii) requires that Gold King provide in its Application “[a]n evaluation of potential impacts together with any plans and proposals for alleviating social and economic impacts upon local governments or special districts and alleviating environmental impacts which may result from the proposed facility.”;

M. **WHEREAS**, Wyo. Stat. § 35-12-109(xx) & (xxi) requires that Gold King, for this Project, provide in its Application any “site reclamation and decommissioning plan which will assure that [it] will be properly reclaimed and decommissioned,” along with proof of Gold King’s “financial capability to decommission and reclaim the facility” and “financial capability to construct, maintain and operate the facility.”;

N. **WHEREAS**, Wyoming’s Chapter 1, Section 2(b) of the DEQ, Administrative Rules and Regulations (“Rules and Regulations”) define “area or local government primarily affected by the proposed industrial facility” as “any defined geographical area in which the construction or operation of the industrial facility may significantly affect the environment, population, level of economic well-being, level of social services, or may threaten the health, safety or welfare of present or expected inhabitants” and the definition includes “any such county, incorporated municipality, school district, or combination thereof formed under Wyoming Joint Powers Act.”;

O. **WHEREAS** Chapter 1, Section 8(g) of the Rules and Regulations requires Gold King to “identify what it deems to be the area of site influence and recommends as the local governments primarily affected by the proposed industrial facility.”;

P. **WHEREAS** Chapter 1, Section 8(i)(VII)(D), of the Rules and Regulations requires that Gold King provide “[e]stimates of impact assistance payments which will result from the project” in the Application;

Q. **WHEREAS**, the Application disclosed that the areas or local governments primarily affected by the proposed Project includes the Parties to this MOU;

R. **WHEREAS**, the Parties are the areas or local governments that will be primarily affected by the Project as described in the Application;

S. **WHEREAS**, Chapter 1, Section 2(b) of the Rules and Regulations defines the phrase “area or local government primarily affected by the proposed industrial facility” to include “any defined geographical area in which the construction or operation of the industrial facility may significantly affect the environment, population, level of economic well-being, level of social services, or may threaten the health, safety or welfare of present or expected inhabitants” and further includes “any such county, incorporated municipality, school district, or combination thereof formed under Wyoming Joint Powers Act[.]”;

T. **WHEREAS**, this MOU will include estimates of impact assistance payments that will result from the Project; and

U. **WHEREAS**, the Parties desire to enter into an agreement to determine and request the amounts and schedule for payment distribution of impact assistance funds for the Project consistent with the Application.

NOW, THEREFORE, in consideration of the Recitals & Findings, the terms and conditions hereinafter contained, and for such other good and valuable consideration, the receipt and sufficiency of which are herein acknowledged, the Parties agree as follows:

1. Term. This MOU shall be in full force and effect for the period commencing upon the affixing of the last signature of a party hereunto or until the Industrial Siting Council accepts this MOU and its associated requests for funding as final and shall continue until the Project is terminated, irrespective of when signed, and/or it shall be in effect until the Project is terminated.

2. **Purpose.** The purpose of this MOU is to provide the Industrial Siting Council, pursuant to Wyo. Stat. § 39-15-111(c) and (d) and Wyo. Stat. § 39-16-111 (d) and (e), an amount and schedule for distribution of impact assistance funds as agreed by the Parties.

3. **Amount & Schedule for Distribution of Impact Assistance Funds.**

3.01. The Parties agree to the amount and schedule for distribution of impact assistance funds as outlined in Exhibit 'A' which is attached hereto and incorporated herein. The Parties' funding requests contemplate that the Project is likely to occur during the same period as other permitted Industrial Projects; therefore, any Parties already receiving impact assistance funding for other projects adjusted their requests for the Project accordingly to prevent duplication. Documentation providing support and/or description of the request and schedule for distributive impact assistance funds is attached hereto as Exhibit 'B' which is fully incorporated herein.

3.02. Should a Party request that a distribution be adjusted, revised or modified, the Party shall first seek approval of all Parties before submittal to the Industrial Siting Council for their request for any modification of amount or distribution of impact assistance funds. The Parties shall take into consideration the factors as outlined in the Industrial Siting Rules as to whether the social and economic impacts have changed and establish a new distribution if necessary. The Parties may enter into an MOU with another Party to adjust, revise or modify a Party's amount of distribution of impact assistance funds; however, such MOU shall be forwarded to the Industrial Siting Council for review and approval.

4. **General Provisions.**

4.01. **Amendments.** Any Party may request changes to this MOU. Any changes, modifications, revisions or amendments to this MOU which are mutually agreed upon by and between the Parties to this MOU shall be incorporated by written instrument, and effective when executed and signed by all Parties to this MOU.

4.02. **Applicable Law.** The construction, interpretation and enforcement of this MOU shall be governed by the laws of the State of Wyoming. The courts of the State of Wyoming shall have subject matter jurisdiction over any action arising out of this MOU and personal jurisdiction over the Parties, and the venue shall be the First Judicial District, State of Wyoming District Court in Laramie County, Wyoming.

4.3. **Entirety of MOU.** This MOU, consisting of ten (10) pages and its associated counterpart signature pages (Exhibit 'A') and amounts and distribution schedule of impact assistance funds (Exhibit 'B') represents the entire and integrated MOU between the Parties and when accepted as final by the Industrial Siting Council supersedes all prior negotiations, representations, agreements, and MOUs, whether written or oral.

4.4. **Severability.** Should any term of this MOU be judicially determined to be illegal, unenforceable, void, or voidable, the remainder of the MOU shall continue in full force and effect, and any Party may renegotiate the term affected by the severance.

4.5. Governmental Immunity. The Parties and their respective governing bodies do not waive any defenses available under law, including, but not limited to, their governmental immunity, by entering into this MOU, and each fully retains all immunities and defenses available under Wyo. Stat. § 1-39-104(a) and all other immunities provided by law with respect to any action based on or occurring as a result of or in relation to, this MOU.

4.6. Indemnification. Each Party to this MOU shall assume the risk of liability arising from its own conduct. No Party agrees to insure, defend or indemnify the other Parties.

4.7. Other Interagency MOUs. All Parties to this MOU acknowledge that this MOU does not preclude or preempt each of the Parties individually entering into an MOU with one or more Parties to this MOU or outside of this MOU to modify the amount and distribution schedule of impact assistance funds as outlined in 3.02 herein. Such MOU's shall not nullify the force and effect of this MOU.

4.8. Titles Not Controlling. Titles of paragraphs are for reference only and shall not be used to construe the language in this MOU.

4.9. Waiver. The waiver or any breach of any term or condition in this MOU shall not be deemed a waiver of any prior or subsequent breach. Failure to object to a breach shall not constitute a waiver.

4.10. Severability. Should any portion of this MOU be judicially determined to be illegal or unenforceable, the remainder of the MOU shall continue in full force and effect, and the parties may renegotiate the terms affected by the severance.

4.11. Time is of the Essence. Time is of the essence in all provisions of the MOU.

4.12 Third Parties: 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 the Agreement, and shall inure solely to the benefit of the parties to this Agreement.

4.13. Counterpart Signatures. This MOU may be executed in counterparts, each of which when so executed and delivered shall constitute a complete and original instrument but all of which taken together shall constitute one and the same MOU and agreement, and it shall not be necessary when making proof of this MOU and agreement or any counterpart thereof to account for any other counterpart. Signatures transmitted by facsimile or e-mail, to stand or electronically transmitted files, shall have the same effect as the delivery original signatures and shall be binding upon and enforceable against the parties hereto as if such facsimile or stand document or electronically transmitted document were an original executed counterpart. If the parties exchange signatures by facsimile or electronic means, the parties agree to exchange original signatures as soon thereafter as is reasonably practical.

COUNTER-PART SIGNATURE PAGE

IN WITNESS WHEREOF, the entity or organization or party below has approved and caused this Memorandum of Understanding and its incorporated attachments to be signed and executed on its behalf as indicated herein.

BOARD OF COMMISSIONERS OF THE COUNTY OF LARAMIE, WYOMING:

By: _____
Chairman

Date: _____

ATTEST:

By: _____
Debra Lee, Laramie County Clerk

Approved as to Form:

County Attorney's Office

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COUNTER-PART SIGNATURE PAGE

IN WITNESS WHEREOF, the entity or organization or party below has approved and caused this Memorandum of Understanding and its incorporated attachments to be signed and executed on its behalf as indicated herein.

BOARD OF COMMISSIONERS OF THE COUNTY OF ALBANY, WYOMING:

By: _____
Chairman

Date: _____

ATTEST:

By: _____
Kayla White, Albany County Clerk

Approved as to Form:

County Attorney's Office

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COUNTER-PART SIGNATURE PAGE

IN WITNESS WHEREOF, the entity or organization or party below has approved and caused this Memorandum of Understanding and its incorporated attachments to be signed and executed on its behalf as indicated herein.

CITY OF CHEYENNE

Patrick Collins, Mayor

Date: _____

(SEAL)

Attest:

City Clerk

Approved as to Form:

City Attorney

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COUNTER-PART SIGNATURE PAGE

IN WITNESS WHEREOF, the entity or organization or party below has approved and caused this Memorandum of Understanding and its incorporated attachments to be signed and executed on its behalf as indicated herein.

CITY OF LARAMIE

Janine Jordan, City Manager

Date: _____

(SEAL)

Attest:

City Clerk

Approved as to Form:

City Attorney

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EXHIBIT A

**MEMORANDUM OF UNDERSTANDING
REGARDING A REQUEST FOR IMPACT ASSISTANCE FUNDS FROM THE STATE
OF WYOMING, INDUSTRIAL SITING COUNCIL CONCERNING THE GOLD KING
MINING PROJECT BY AND BETWEEN LARAMIE COUNTY, ALBANY COUNTY,
THE CITY OF LARAMIE AND THE CITY OF CHEYENNE, WYOMING**

Laramie County: \$370,600

Albany County: \$0

City of Cheyenne: \$484,127

City of Laramie: \$0