

RESOLUTION NO. 2862
RESOLUTION APPROVING OF AND AUTHORIZING ENTRY INTO THE COOPERATION
AGREEMENT BETWEEN THE CITY OF GILLETTE AND BWXT ADVANCED TECHNOLOGIES,
LLC.

RECITALS

A. In part, BWXT Advanced Technologies LLC (“BWXT”) engages in research and development of nuclear technologies for energy production purposes. Both to establish a supply chain for these efforts and meet local energy needs, BWXT is considering the Gillette and Campbell County, Wyoming area as prospects for locating certain facilities and operations.

B. For purposes of economic development, the City of Gillette (“City”) is interested in exploring and evaluating the potential for BWXT to locate its facilities and operations in the City area.

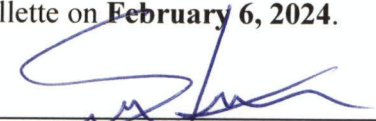
C. Based on the foregoing, the parties wish to enter into a Cooperation Agreement substantially in the form contained in **Exhibit A**.

NOW, IT IS HEREBY RESOLVED THAT:

1. The City approves of and is authorized to execute and enter into a Cooperation Agreement substantially in the form contained in **Exhibit A**.

2. The City Administrator may sign all ancillary documents needed for the parties to perform respective obligations contained in the Cooperation Agreement.

ADOPTED by a majority vote of the City Council of Gillette on **February 6, 2024**.



Shay Lundvall, Mayor

(S E A L)
ATTEST:




Alicia Allen, City Clerk

Exhibit A

**Cooperation Agreement
City of Gillette and BWXT AT**

24 January 2024

The City of Gillette, Wyoming (“the City”) and BWXT Advanced Technologies LLC, a limited liability corporation formed and operated in accordance with the laws of the State of Delaware (“BWXT”), each a “Party” and together the “Parties”, enter into this Cooperation Agreement (“Agreement”) dated and effective this day of 24 January 2024 to set out the mutual understanding of the Parties and the intended scope of work necessary to pursue their shared objectives.

WHEREAS, the City seeks to promote its economic development by encouraging participation in the nuclear energy supply chain by its citizens and businesses and by serving as a potential location for future BWXT operations; and

WHEREAS, the Parties wish to investigate the supply chain opportunities available to the City and whether businesses in the City are capable of participating in the supply chain for the nuclear energy industry by providing various supplies and services; and

WHEREAS, the Parties wish to evaluate the opportunities for BWXT to locate certain facilities and operations related to its BWXT Advanced Nuclear Reactor (“BANR”) in the City; and

WHEREAS, the City has expressed an interest in evaluating nuclear energy as a source of reliable industrial heat and electricity for the City’s residents and businesses; and BWXT proposes the development and future deployment of its BANR reactor as a potential long-term solution to the City’s needs; and

WHEREAS, the BANR reactor is proposed to produce an estimated 50MW thermal of heat, and it may be integrated with heat exchangers, electric power generation equipment, and systems controls into an integrated reactor cogeneration set (“Cogen Set”) that could be deployed at locations such as the City; and

WHEREAS, the Parties wish to investigate whether a combination of Cogen Sets will be capable of delivering the desired mix of heat and electricity to power industrial activities in the City consistent with the City’s business objectives and identified energy needs; and

WHEREAS, subject to multiple variables including corporate approvals, adequate funding, technical development, and licensing requirements, each Party desires to work diligently to evaluate, design, develop, license, manufacture, and deploy Cogen Sets and to promote the development of the related supply chain and location of certain related BWXT facilities and operations in the City; and

WHEREAS, the Parties recognize the substantial technical and commercial work effort that is required to enable the Parties to make any ultimate contractual commitments to develop the supply chain and to deploy Cogen Sets; and

WHEREAS, BWXT has entered into a contract with the Wyoming Energy Authority (“WEA”) dated 1 September 2023 that supports the development and commercialization of BANR reactors in Wyoming, and the work effort under the WEA contract will provide helpful synergies to the Parties.

NOW, THEREFORE, in consideration of the premises and mutual undertakings contained herein, the Parties hereby agree as follows:

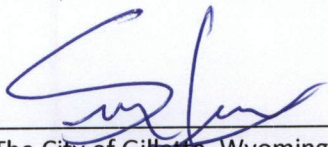
1. This Agreement shall be effective and binding on the Parties as of the date first set forth above upon the execution by all the Parties, and shall terminate upon the occurrence of any of the events listed below:
 - a. The expiration of three (3) years from the effective date of this Agreement; or
 - b. A Party provides written notice to the other Party that the Agreement is terminated effective no less than thirty (30) days after the date of such notice;
2. The terms of the Non-Disclosure Agreement [“NDA”] executed by the Parties on [___ January 2024] shall apply to information disclosed under this Agreement, and work under this Agreement shall be considered as the “Initiative” as defined in the NDA. The Parties agree that each Party hereby waives its right under paragraph 13 of the NDA to terminate that agreement while this Agreement remains in effect, and the NDA is amended accordingly.
3. The Parties set out herein a work scope to identify the City’s energy needs, to progress BANR development for potential application to the City’s energy needs, and to develop a preliminary business plan for the deployment and long-term operation of Cogen Sets for the benefit of the City. The work scope also addresses the development of a nuclear supply chain in the City and the consideration of the City as a location for certain related BWXT operations and facilities.
4. Subject to the provisions of this Agreement and the NDA, BWXT will cooperate with the City and its energy partners (such as Black Hills Energy) with whom the City procures and delivers electricity to customers in its market area. If requested by BWXT, the City will provide reasonable assistance to BWXT to enable such cooperation.
5. Subject to the provisions of this Agreement and the NDA, the City will cooperate with BWXT and enable BWXT to meet its obligations under the WEA contract. Such cooperation may include, but is not limited to, sharing information about the City’s energy needs and potential deployment of Cogen Sets. The parallel work effort with the WEA will be utilized to identify efficiencies that can be achieved through cooperation and potentially joint development with other parties in Wyoming.
6. The Parties will begin with systems engineering workshops in 2024 to determine the specific energy needs of the City and how to integrate proposed Cogen Sets into The City’s facilities. Such workshops may involve Black Hills Energy or any other party identified by the City and agreed by BWXT.
7. Also in 2024, the Parties will conduct commercial workshops to investigate possible business plans that address the terms for ownership and operation of the Cogen Sets, and the sale of energy to the City. Such workshops may involve Black Hills Energy or any other party identified by the City and agreed by BWXT.

8. The Parties will conduct surveys of the businesses in the City that could participate in the supply chain and cooperate to promote such opportunities to local businesses, inform interested parties of the requirements of participation, and develop the conditions necessary to effect commercial relationships as part of the supply chain.
9. Cooperation between the Parties to promote the development of the supply chain may include workshops and conferences with local businesses as well as the development of a business plan specific to promoting development of the supply chain in the City. This joint work effort necessarily involves cooperation with BWXT and other parties involved in its work effort under the WEA contract.
10. BWXT will provide to the City information reasonably requested regarding its future BANR related operations and facilities requirements that could be located in the City, and the City will assist BWXT in evaluating the business options that might be available to BWXT in the City.
11. The Parties desire to develop a preliminary business plan in 2024 reflecting the preceding efforts and identifying potential agreements between them and with other parties which will be involved in the nuclear energy value chain in Wyoming, the location of certain BANR related facilities or operations in the City, and the deployment of Cogen Sets at the City.
12. The Parties will endeavor to establish mutually agreed engineering and commercial frameworks that enable a commercialization decision in the 2025 timeframe to align with the conclusion of the WEA work scope.
13. Each Party shall solely bear and pay its own costs, charges, and expenses in connection with the preparation and implementation of this Agreement, the activities anticipated herein, and any other agreement incidental to or referred to in this Agreement.
14. It is agreed between the Parties that any subsequent transaction contemplated by this Agreement shall be conditional upon conclusion by the Parties of one or more definitive agreements each in a form and substance satisfactory to the Parties and the Parties obtaining all necessary corporate approvals.
15. Subject to Articles 2 and 16 herein, nothing in this Agreement shall prevent either Party from engaging with any others at any time related to the design, development, marketing, manufacture, operation, deployment, or otherwise related to nuclear reactors, Cogen Sets, or similar parts, components, or units or the supply chain for the same. It is the Parties' express understanding and intent that no exclusivity is established by this Agreement.
16. Intellectual Property disclosed or developed in conjunction with the activities anticipated hereunder will be addressed as follows:
 - a. Definitions:
 - i. "Background IP" means all Intellectual Property belonging to or controlled by either Party, (i) developed, conceived, obtained, or acquired prior to work performed under this Agreement, any resulting agreement(s) or work under the WEA Contract or (ii) developed, conceived, obtained, or acquired independently of the Agreement or any resulting agreement(s).

- ii. "Foreground IP" means any Intellectual Property that is created or results from or is generated under or arises or is obtained pursuant to (or as a result of) this Agreement or any resulting agreement(s), or work under the WEA Contract, whether included or incorporated in any product, prototype, document, drawing, or any other information, data, or item that either Party has agreed to produce in the course of this Agreement or the WEA contract with its customer and including, but not limited to, the deliverables.
 - iii. "Nuclear Reactor System" means all nuclear reactor subsystems and components bounded by the electrical and heat connections to the integrated reactor system and includes the upper and lower core plenum/support subsystems, the reactor fuel element/assemblies, the reactor moderator element(s)/assembly(ies), the fuel assembly structure, core reflector and reactivity control devices, shielding components, ancillary support and flow distribution components, control/reflector drum drive shaft and seals, and the reactor vessel, instrumentation and control system(s), secondary side power conversion and steam heat generation system, coolant makeup system(s), balance of plant systems, and systems that ensure nuclear safety attributes of the plant and associated systems. The Nuclear Reactor System boundary is at the electrical and heat takeoffs to the City's facilities as well as the instrumentational and control systems necessary to demonstrate safety of the system(s) to federal regulators.
- b. Each Party reserves all legal rights in its Background IP. BWXT also specifically reserves all legal rights in its existing Nuclear Reactor System IP including, but not limited to, BANR.
 - c. All Foreground IP created, developed, or generated under this Agreement that meets the definition of Nuclear Reactor System shall be exclusively owned by BWXT, and the City hereby assigns and agrees to assign and transfer to BWXT all of the City's worldwide right, title, and interest in and to Nuclear Reactor System Foreground IP.
17. This Agreement sets forth the entire understanding of the Parties and may be amended or extended only by written agreement signed by both Parties.
18. Neither this Agreement nor any interest herein may be assigned, in whole or in part, by any Party without the prior written consent of the other Party.
19. The construction, interpretation, and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the parties, without regard to conflicts of law principles, and the venue shall be the Sixth Judicial District, Campbell County, Wyoming.
20. The City does not waive governmental immunity by entering into this Agreement and, unless specifically and expressly waived, the City retains all immunities and defenses available to it pursuant to W.S. 1-39-101 through 120 and all other applicable law. Designations of venue, choice of law, enforcement actions, dispute resolution force majeure, 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. With respect to W.S. 1-39-104(a), the City does not intend to retain immunity in actions based on contract under this provision.

21. Nothing herein shall be construed to create any partnership, joint venture, co-ownership, or other joint or common relationship between the Parties.
22. This Agreement may be executed in counterparts, each of which will be deemed to be an original and both of which taken together will be deemed to constitute one and the same instrument.
23. The Parties shall not make any public announcement or release pertaining to the existence of this Agreement or the subject matter contained herein without the prior written consent of the other Party, such consent not to be unreasonably withheld. However, if a public announcement is required by law or applicable regulation, the affected Party shall notify the other Party and cooperate with them, consistent with legal requirements regarding the content and form of the notice. No prior written consent shall be required for any such legally required public announcement or disclosure.
24. The Parties will appoint Representatives to facilitate communication between them and to organize the joint work effort set out above.
25. Articles 1, 2, 15-21, 25, and 26 shall survive termination of this Agreement and remain effective among and against the Parties.
26. *In no event shall either Party be liable to the other Party, whether based on contract, tort, negligence, strict liability, delay, warranty, indemnity, error and omission, or otherwise, for any consequential, special, incidental, indirect, exemplary, punitive, or multiple damages, or damages arising from or in connection with loss of use or loss of revenue or profit, and the Parties hereby release one another from any such liability.*

For and on behalf of the Parties:



The City of Gillette, Wyoming

Name: Shay Lundvall
Mayor

Date:

BWXT Advanced Technologies LLC

Name: Joseph K. Miller
President

Date:

(SEAL)

ATTEST:



Alicia Allen
City Clerk

