

# **NATRONA**

COUNTY SCHOOLS

**Board of Trustees Special Meeting  
Central Services Facility  
970 N. Glenn  
Casper, WY 82601**

**May 23, 2011**

- I. Executive Session – 5:45 p.m.
- II. Special Session – 6:00 p.m.
- III. Consideration of Reservation of Rights and Tolling Agreement
- IV. Adjournment

## RESERVATION OF RIGHTS AND TOLLING AGREEMENT

This Reservation of Rights and Tolling Agreement (“the Agreement”) is effective the 28<sup>th</sup> day of April, 2011, by and between the Natrona County School District (“the District”) and the Wyoming School Facilities Commission (the “Commission”).

WHEREAS, the Commission staff approved the use of 10% Major Maintenance funds to pay for repairs to the Kelly Walsh High School swimming pool liner (approved project No. 029743, \$120,000) and for replacement of the Natrona County High artificial turf field (approved project No. 030657, \$541,588) (the two projects hereinafter referred to collectively hereinafter as “the Work”); and

WHEREAS, the District thereafter requested the use of regular Major Maintenance funds to pay for the Work; and

WHEREAS, the Commission staff rejected the District’s request for the use of regular Major Maintenance funds to pay for the Work, and advised the District of its right to pursue an informal review before the Commission pursuant to W.S. 21-15-116(f); and

WHEREAS, by letter dated April 28, 2011, the District requested an informal review before the Commission; and

WHEREAS, an informal review, and any potential administrative review or other proceedings to follow, are likely to require additional time, particularly in light of the anticipated July 1, 2011 reorganization of the Commission; and

WHEREAS, the parties agree that the District may proceed with the work during the upcoming Summer break using its own funds or 10% Major Maintenance funds approved by the Commission (and not exceeding the authorized total amount of 10% funds available), with the parties reserving their rights to pursue all remedies available to each of them with respect to ultimate funding for the Work upon resolution of informal review, administrative review or other proceedings to follow.

NOW, WHEREFORE, in consideration of the agreements, undertakings, forbearances and other consideration set forth herein, the adequacy and sufficiency of which are mutually acknowledged, the parties hereto agree as follows:

1. **Right to Proceed with the Work.** The Work shall proceed during the upcoming Summer break, without prejudice to either party’s right to pursue any and all available remedies arising from the Commission staff’s rejection of the District’s request for regular Major Maintenance funding for the Work.

2. **Reservation of All Rights.** The parties expressly reserve all rights with respect to their disagreement over the District’s request for, and the Commission staff’s rejection of, regular Major Maintenance funding for the work. The fact that the Work has proceeded or even been completed while the pursuit of such remedies proceeds shall not be a factor in the determination of the propriety of the District’s request for regular Major Maintenance funding of the Work, and shall not work to either party’s disadvantage with respect to such proceedings.

3. **Tolling of Time Requirements.** All time requirements associated with or related to the District’s request for regular Major Maintenance funds for the Work, or the Commission’s rejection of said request, including without limitation the District’s request for informal review, the time to file a petition requesting a contested case proceeding or other formal administrative review, and all other time limits shall be tolled for the period of time from April 28, 2011 until the informal review has concluded.

4. **General Provisions**

- A. **Amendments.** Either party may request changes in this Agreement. Any changes, modifications, revisions, or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed and signed by all parties to this Agreement.
- B. **Applicable Law.** 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 any action arising out of this Agreement and over the parties, and the venue shall be the First Judicial District, Laramie County, Wyoming.
- C. **Entirety of Agreement.** This Agreement, consisting of four (f) pages represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral.
- D. **Prior Approval.** This Agreement shall not be binding upon either party unless this Agreement has been reduced to writing and unless this Agreement is approved as to form by the Attorney General or his representative.
- E. **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.
- F. **Sovereign Immunity.** The State of Wyoming, and the Commission do not waive their sovereign immunity by entering into this Agreement, and each fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this Agreement.
- G. **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.

5. **Signatures.** The parties to this Agreement through their duly authorized representatives have executed this Agreement on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement as set forth herein.

WHEREFORE, the parties have set their hands to this Agreement, effective the date and year first set forth above.

NATRONA COUNTY SCHOOL DISTRICT

By \_\_\_\_\_

Title: Audrey M. Cotherman, Ed.D, Board Chair

WYOMING SCHOOL FACILITIES COMMISSION

By \_\_\_\_\_

Title: \_\_\_\_\_