INFORMATION SHARING AGREEMENT

This agreement made this DAY day of MONTH, 20YY between the City of Cheyenne, hereinafter referred to as "CITY," a municipal corporation organized pursuant to the laws of the State of Wyoming, acting by and through its Board of Public Utilities, hereinafter referred to as "BOPU," and APPLICANT NAME, hereinafter referred to as the "USER."

WITNESSETH:

WHEREAS, the BOPU manages, operates, maintains and controls the municipal water works, and sanitary sewer system for the CITY.

WHEREAS**,** the BOPU is the owner of geospatial information within the City of Cheyenne, Laramie County, Albany County, and Carbon County;

WHEREAS, the BOPU is the steward of and responsible for the control and maintenance of BOPU geospatial information within the City of Cheyenne, Laramie County, Albany County, and Carbon County;

WHEREAS, BOPU desires to share geospatial information with the USER for the sole and exclusive benefit of the USER pursuant to the terms and conditions herein;

**NOW, THEREFORE,** in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

**1. Purpose:**

The purpose of this Agreement is to outline the general terms and conditions of cooperation between the parties in the overall sharing of certain data and information owned or in the legal possession of each party hereto.

**2. Effective Date:**

This Agreement shall become effective on the date of signing by all parties. The Agreement shall not expire.

**3. Termination:**

Either party may terminate this Agreement for any reason, without penalty, upon thirty (30) days’ prior written notice to the other party or upon mutual agreement.

**4. Sharing Agreement and Intended Use:**

The BOPU agrees to provide the USER with access to BOPU geospatial information through the BOPU’s ESRI ArcGIS Online “Shared Mapping Application”. The USER agrees and understands that any and all digital data, Shared Mapping Application, and imagery created by the BOPU, the CITY or the Cheyenne/Laramie County GIS Cooperative, hereinafter referred to as “SHARED INFORMATION”, for use by the USER through the BOPU’s ESRI ArcGIS Online Shared Mapping Application are the property of the BOPU.

**5. Constraints on the Use of Shared Information:**

1. USER acknowledges that its employees and personnel will have access to confidential and proprietary SHARED INFORMATION of the BOPU during the term of this Agreement and agrees not to disclose any SHARED INFORMATION obtained to any person or entity except as authorized herein.
2. All SHARED INFORMATION is to be considered confidential and proprietary and is subject to the restrictions herein. The USER agrees that no SHARED INFORMATION will be sold, given or loaned to any person or entity not a party to this Agreement without the express written consent of the BOPU.
3. The USER agrees and understands that certain SHARED INFORMATION held by the BOPU may be subject to state and federal law including, but not limited to, the Wyoming Public Records Act, WS 16-4-201 et seq.
4. The USER agrees and understands that access to SHARED INFORMATION owned by the BOPU may be denied at any time pursuant to W.S. 16-4-203(b)(vi) or W.S. 16-4-203(d)(v), as information which might jeopardize public safety or as trade secrets, respectively.

1. All SHARED INFORMATION is provided solely for the benefit of the USER and exclusively for planning purposes. The USER expressly acknowledges and understands that the SHARED INFORMATION represents estimated location of utility facilities and is not meant to replace locates or field identification. Any reliance upon, reproduction of, or use of the shared information will be at the sole and exclusive risk of the USER.

**6.** **Security:**

The USER shall employ industry best practices, both technically and procedurally, to protect the BOPU’s SHARED INFORMATION from unauthorized physical and electronic access. Methods and procedures utilized in furtherance of this obligation are subject to review by the BOPU to this Agreement.

**7. Access:**

1. Access to SHARED INFORMATION provided hereunder shall be limited to those employees and staff members with a defined business need for review of the SHARED INFORMATION.
2. The BOPU agrees to grant one ESRI ArcGIS Online username owned and operated by the USER access to SHARED INFORMATION.

**8. Notification of Security Breaches:**

In the event of any breach or compromise of the security or confidentiality of SHARED INFORMATION where SHARED INFORMATION was or is reasonably believed to have been accessed by an unauthorized person or entity, immediate notification shall be provided to the BOPU and all reasonable action shall be taken to mitigate the security breach.

**9. Indemnification:**

The USER to this agreement shall be responsible for any liability arising from its own conduct and agrees to indemnify, pay the defense costs of, and hold the BOPU harmless from any and all claims, demands, costs liabilities, losses, expenses and damages (including attorneys’ fees, costs, and expert witnesses’ fees) arising out of or in connection with this Agreement that sound in an intellectual property claim (including but not limited to patent, copyright, trademark, trade name, or trade secret infringement).

**10. No Warranties:**

The BOPU makes no representations or warranties, either expressed or implied, with respect to the accuracy, completeness or appropriateness of the SHARED INFORMATION provided by the BOPU to the USER for use hereunder.

**11. Miscellaneous:**

a. **Assignment.** The USER hereto may not assign their respective rights, duties and obligations without the prior written consent of the BOPU.

b. **Severability, Entire Agreement and Amendments.** The invalidity in whole or of any part of this Agreement shall not affect the validity of the remainder of the Agreement. This written Agreement represents the complete agreement of the parties and shall not be modified except by an instrument in writing signed by the USER and the BOPU.

c. **Governmental/Sovereign Immunity.** Neither BOPU nor its agencies/members waive their Governmental/Sovereign Immunity, as provided by any applicable law including W.S. § 1-39-101 et seq., by entering into this agreement. Further, the BOPU fully retain all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law, based on this Agreement.

d. **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.

e. **Applicable Law and Venue.** The parties mutually understand and agree this Agreement shall be governed by and interpreted pursuant to the laws of the State of Wyoming. If any dispute arises between the parties from or concerning this Agreement or the subject matter hereof, any suit or proceeding at law or in equity shall be brought in the District Court of the State of Wyoming, First Judicial District, sitting at Cheyenne, Wyoming or the Federal District Court, District of Wyoming. This provision is not intended nor shall it be construed to waive any party’s governmental immunity as provided in this Agreement.

f. **Invalidity.** If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, or if the parties are advised of any such actual or potential invalidity or unenforceability, such holding, or advice shall not invalidate or render unenforceable any other provision hereof. It is the express intent of the parties the provisions of this Agreement are fully severable.

IN WITNESS WHEREOF, we have hereunto set our hands this \_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

Signed and delivered in the presence of:

USER: BOPU:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ CITY OF CHEYENNE, WYOMING

BOARD OF PUBLIC UTILITIES

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Bradley A. Brooks

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Director, Board of Public Utilities of the City of Cheyenne

STATE OF WYOMING )

) ss.

COUNTY OF LARAMIE )

Before me, a Notary Public in and for the state and county aforesaid, personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, with whom I am personally acquainted, and who, upon oath, acknowledged that he/she is the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and that he/she executed the foregoing instrument for the purposes therein contained, by signing his/her name as such officer.

Witness my hand and official seal at office in the state and county aforesaid, this \_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

My commission expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

STATE OF WYOMING )

) ss.

COUNTY OF LARAMIE )

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Witness my hand and official seal at office in the state and county aforesaid, this \_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

My commission expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(date) (date)