

Approved as to
form only:

Amr

Date: 8/27/19

**STROMDRAIN UTILITY EASEMENT AGREEMENT
LARAMIE COUNTY/CITY OF CHEYENNE**

Laramie County Commissioners, on behalf of Laramie County, Wyoming (Grantor) in consideration of the sum of ten dollars (\$ 10.00) and the performance of this agreement and covenant, hereby grants an easement as described herein unto the City of Cheyenne, a Municipal Corporation (Grantee) and to its successors or assigns, the right to enter on or under the lands of the Grantor situated in Laramie County, State of Wyoming and described as follows:

I. DESCRIPTION OF EASEMENT AREA

A 20-foot wide permanent Storm drain easement being situated in the Southwest 1/4 of Section 1, T13N, R67W of the 6th PM Laramie County, Wyoming, for purposes of laying, constructing, maintaining, operating, removing and replacing a storm drain on, over, through and across certain lands, containing approximately 1,490.39 square feet, more or less. See Exhibit A attached hereto.

A 40-foot wide temporary construction easement being situated in the Southwest 1/4 of Section 1, T13N, R67W of the 6th PM, containing approximately 2,290 square feet, more or less. See Exhibit A attached hereto.

II. GRANT

Grantor grants to Grantee a non-exclusive right of way and easement to place, construct, operate, repair, maintain, and replace a storm drain system. The Grantor shall not construct or place any structure or building, tree, woody plant or nursery stock, whether temporary or permanent, of any kind or nature on the Easement without prior notice to Grantee. Any such structure or item placed on the Easement may be removed by the Grantee without liability for damages as long as advance notice is given to Grantor. Grantor reserve the right to use the Easement area as long as such use does not interfere with Grantee's use.

Grantee shall maintain the storm drain and appurtenances thereto (collectively "Facilities"), together with the right of ingress to and egress from said premises for the purpose of surveying, geotechnical soil investigation, constructing, operating, inspecting, repairing, altering, maintaining and replacing said Facilities, or the removal thereof in whole or in part, at the will of the Grantee, it being the intention of the parties hereto that the Grantor is hereby granting the uses herein specified without divesting the Grantor of the right to enjoy the above-described premises, subject only to the rights of the Grantee to use the same for the purposes herein expressed.

III. TERM

This temporary easement shall commence on the day the notice to proceed with construction is delivered to the Grantor and terminates upon completion of the construction project.

IV. PURPOSE AND LIMITATION ON USE OF EASEMENT

This easement is granted solely for the purpose and use of installing a drainage line in the areas described in this Agreement. Grantee shall not subsequently add to existing drainage lines without County's consent.

Grantor reserve the right as needed, to require relocation of the Facilities at the expense of Grantee, and agrees to provide a suitable alternate location for such Facilities, and grants the necessary easement rights at the new location upon the same terms and conditions herein provided.

Grantee will bury all Facilities pipelines laid upon said land to a sufficient depth so as not to interfere with the cultivation of the soil.

Grantee will replace or rebuild any and all unusual or excessive damage to the easement property which shall be occasioned by the operation and maintenance of said Facilities under and through the above-described premises.

Grantee, following the installation, maintenance or removal of the Facilities, shall restore the surface of the Easement and any constructed improvements to, as near as practicable, the condition of the surface and the constructed improvements prior to said installation or maintenance.

V. TERMINATION and ABANDONEMENT

If Grantee has not commenced construction of the drainage line within twenty-four (24) months following the date this Easement is signed by Grantor, this Easement shall be deemed abandoned. If Grantee fails to use or maintain the Easement within a twenty-four (24) months period, the Easement shall be deemed abandoned. If Grantor believes that the Easement has been abandoned, is shall provide written notice thereof to Grantee through the designated contact person maintained by Grantee under this Easement, said notice to be sent by certified mail and/or facsimile. Unless Grantee has responded within thirty (30) days of the notice, providing evidence to counter the facts presented by Grantor regarding abandonment, Grantor may proceed to record an affidavit providing notice of abandonment and termination of this Easement with the recorder's office of Laramie County, Wyoming. Grantee hereby agrees that such notice shall constitute abandonment and termination of this Easement.

Grantee may terminate this Easement at any time upon providing written notice of termination on the record at the recorder's office of the County where the Easement is located, along with serving a copy of the recorded notice upon Grantor.

Within six (6) months following abandonment or termination (as evidenced by recording notice of abandonment or termination with the county recorder), Grantee shall remove at their own expense any cables or structures or the like from the Easement area, and reclaim the area to elevation and surface composition as prior to the Easement.

VI. GRANTOR'S USE OF EASEMENT

Grantor retains, reserves and shall continue to enjoy use of the surface of the Easement area for any and all purposes that do not interfere with and prevent the use by Grantee of the Easement,

including the right to build and use the surface of the granted Easement Area for drainage ditches, private streets, roads, driveways, alleys, walks, gardens, lawns, grazing, plantings and crops, parking areas, access for other industrial or commercial uses and other like uses, and to grant additional easements or dedicate all or any part of the Easement Area to any public entity for use as a public street, road or alley. Grantor may construct fences across the Easement Area, but Grantor shall not construct any permanent structure (structure with foundation or that is affixed to ground) or plant trees in the Easement Area without Grantee's prior written consent. If the Grantor shall dedicate all or any part of the Easement Area, the Grantee shall execute all instruments that may be necessary or appropriate to effectuate the dedication, without, however, extinguishing the rights granted in this Easement. Grantor's rights include, but are not limited to, access to maintain, shape and reconfigure drainage formations and constructions in the Easement Area including an existing detention pond.

VII. LIABILITY

Grantee shall be liable for all damages and losses caused by or arising out of the construction, maintenance, repair, replacement, or operation of the storm drain or activities upon the Easement Area that may be asserted against Grantor, except to the extent any such claims arise from the conduct of Grantor, Grantor's agents, contractors, employees, invitees, guests and permittees. Grantee agrees to defend, indemnify and hold harmless Grantor from and against any and all claims, demands and causes of action for injury, including death, or damage to persons or property or fines or penalties or environmental matters arising out of, incidental to or resulting from the operations of or for Grantee or Grantee's servants, agents, employees, guests, licensees, invitees or independent contractors, and from and against all costs and expenses incurred by Grantor by reason of any such claim or claims, including attorneys' fees; and each assignee of this Easement, or any interest therein, agrees to indemnify and hold harmless Grantor in the same manner; provided, however, this indemnity shall not apply to any instances where such claims arise from the conduct of Grantor, Grantor's agents, contractors, employees, invitees, guests and permittees. The provisions of this paragraph shall survive the termination or abandonment of this Easement.

VIII. OTHER EASEMENTS

Grantor may grant other easements over, along and across the Easement Area so long as such other easements do not interfere with Grantee's purposes and uses of the Easement after obtaining the prior, written consent of Grantee which shall not be unreasonably withheld, and which shall be provided within thirty (30) calendar days after receipt of request therefor. Grantee shall have no right to grant additional easements or sub-easements on, along or across the Easement Area.

IX. ENTIRE AGREEMENT

The Easement Agreement (4 pages), represents the entire and integrated agreement and understanding between the parties in regard to the subject matter herein and supersedes all prior negotiations, statements, representations and agreements, whether written or oral.

X. ASSIGNMENT

The rights granted herein to Grantee may not be assigned by Grantee without the prior written consent of Grantor, which consent shall not be unreasonably withheld, conditioned or delayed.

XI. 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 Grantor's governmental immunity as provided in this Agreement.

XII. GOVERNMENTAL IMMUNITY

Grantor does not waive its Governmental/Sovereign Immunity, as provided by any applicable law, including W. S. § 1-39-101 et seq., by entering into this Agreement. Further, Grantor fully retains 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.

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IN WITNESS WHEREOF, we have hereunto set our hands this 28th day of August, 2019.

Signed and delivered in the presence of:

GRANTOR:

City of Cheyenne
LARAMIE COUNTY

GRANTEE:

MAYOR
CITY OF CHEYENNE, WYOMING

By: Amanda J. Barto

Title: Building Notary

By: [Signature]

STATE OF Wyo)
) 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)

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 she is the Mayor of the City of Cheyenne, Wyoming, and that she executed the foregoing instrument for the purposes therein contained, by signing 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: _____

RECEIVED AND APPROVED AS
TO FORM ONLY BY THE
DEPUTY LARAMIE COUNTY
ATTORNEY

[Signature]