

INTERGOVERNMENTAL AGREEMENT FOR USE OF WELD COUNTY OIL AND GAS ENERGY DEPARTMENT STAFF TO ASSIST WITH 1041 OIL AND GAS LOCATION ASSESSMENT ENFORCEMENT FOR THE CITY OF EVANS.

THIS AGREEMENT is made and entered into this _____ day of April, 2022, by and between the CITY OF EVANS, COLORADO, a Colorado Home Rule Municipality, by and through its City Council with offices located at 1100 37th Street, Evans, Colorado 80620 (hereinafter referred to as “City”) and COUNTY OF WELD, COLORADO, a Colorado Home rule County, by and through the Board of County Commissioners for Weld County, with offices located at 915 10th Street, Greeley, Colorado 80632 (hereinafter referred to as “County.”)

WITNESSETH:

WHEREAS, intergovernmental agreements to provide functions or services, including the sharing of costs of such services or functions, by political subdivisions of the State of Colorado, are specifically authorized by C.R.S. § 29-1-203, and other sections of the Colorado Revised Statutes, and

WHEREAS, the City of Evans is in need of assistance with 1041 Oil and Gas Location Assessment regulations and hearings, and

WHEREAS, Weld County has an established Oil and Gas Energy Department (hereinafter referred to as “OGED”) that regularly enforces 1041 regulations and conducts 1041 hearings, and

WHEREAS, Weld County is willing and able to share the services of its Oil and Gas Energy Department with the City of Evans, pursuant to the terms of this Agreement, in order to assist the City of Evans with 1041 regulations and hearings.

NOW, THEREFORE, in consideration of the mutual promises and covenants expressed herein, Weld County and the City of Evans hereby agree as follows:

1. **Sharing of County Oil and Gas Energy Department 1041 Services:** The County agrees to have its OGED staff spend a portion of their time, as needed, assisting the City with implementation of 1041 regulations inclusive of processing 1041 applications, and conducting 1041 hearings on behalf of and in coordination with the City as outlined in this Agreement. The County shall keep careful track of all OGED staff time spent on each 1041 Oil and Gas Location Assessment Application (“Application”). The County shall bill the City for all costs of said staff time and related costs incurred by the County for providing services to the City as outlined in Exhibit A, Payment Schedule, which may be updated annually.
2. **City’s Development Review:** The City shall be responsible for ensuring all the City’s resolutions, ordinances, codes, regulations, agreements, or other enactments of the City are adhered to by all parties who submit an Application to the County and the City. In addition, the City shall be responsible for making the final determination of whether to approve, deny, or come to another decision for each Application submitted to the County and City.

3. **Cost and Reimbursement:**

- a. **Application Processing.** The City shall pay an initial payment of ten thousand dollars (\$10,000.00) to the County for each Application submitted to the County and the City, within thirty (30) days of receipt of the Application. The County shall provide a final invoice to the City with the total price for all services and costs within thirty (30) days of the City notifying the County that the OGED Hearing Officer's Final Order was ratified by the City. The final invoice will reflect the actual OGED staff time and costs spent on the matter. The City shall have thirty (30) days from the date of the final invoice to remit payment to the County for any amount due and owing on the final invoice after the initial \$10,000.00 payment is applied to the invoice balance. In the event that the OGED actual staff time and costs is less than the initial \$10,000.00 payment, the County shall reimburse any amounts owed to the City within thirty (30) days of the City ratifying the OGED Hearing Officer's Final Order. Except as otherwise provided in this Agreement, all direct and indirect services rendered to the City by the County pursuant to the terms of this Agreement shall be billed to the City at the per hour rates specified in Exhibit A, Payment Schedule, which may be updated annually.
 - b. **Enforcement and Other Services.** The City may request the County to perform additional services outside of application processing including, but not limited to, re-evaluating an Application or Final Order, rehearing an Application in front of the OGED Hearing Officer, holding a suspension or revocation hearing, conducting regular or continuing inspections, or other enforcement activities. All associated OGED staff time and costs will be invoiced to the City within thirty (30) days of the conclusion of the services provided. The City shall pay any invoice from the County within thirty (30) days of the invoice date. Except as otherwise provided in this Agreement, all direct and indirect services rendered to the City by the County pursuant to the terms of this Agreement shall be billed to the City at the per hour rates specified in Exhibit A, Payment Schedule, which may be updated annually.
4. **Term:** The Agreement becomes effective upon signature of the County and the City. The term of this Agreement shall be from the date of signature hereunder to and until April 30, 2023, after which time this Agreement shall automatically renew from year to year, unless terminated sooner pursuant to the terms and conditions set forth in this Agreement.
5. **Termination:** This Agreement may be unilaterally terminated by any party with or without cause by providing ninety (90) days' written notice to the other party.
6. **Assignment:** No Party may assign this Agreement without prior written consent from the other Party.
7. **Compliance with Laws:** The County and the City agree to comply with the applicable provisions of all federal, state, or local laws or ordinances and all lawful orders, rules,

and regulations issued thereunder; and any provisions, representations or agreements, or contractual clauses required thereby to be included or incorporated by reference or operation of law in this Agreement.

- 8. Modification:** This Agreement contains the entire Agreement and understanding between the Parties and hereby supersedes any other agreements concerning the subject matter of this transaction, whether oral or written. No modification, amendment, novation, renewal, or other alteration of or to this Agreement shall be deemed valid or of any force or effect whatsoever, unless mutually agreed upon in writing by the Parties. No breach of any term, provision or clause of this Agreement shall be deemed waived or excused, unless such waiver of consent shall be in writing and signed by the party claimed to have so waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether express or implied, shall not constitute a consent, waiver of, or excuse for any other different or subsequent breach.
- 9. Governmental Immunity:** No portion of this Agreement shall be deemed a waiver, express or implied, of any immunities, rights, benefits, protections, or other provisions which a party, or its officers, employees, or agents, may possess pursuant to the Colorado Governmental Immunity Act § 24-10-101, *et seq.*, C.R.S., as applicable now or hereafter amended.
- 10. Severability:** If any section, subsection, paragraph, sentence, clause, or phrase of this Agreement is for any reason held or decided to be invalid or unconstitutional, such a decision shall not affect the validity of the remaining portions. The parties hereto declare that they would have entered into this Agreement and each and every section, subsection, paragraph, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses, or phrases might be declared to be unconstitutional or invalid.
- 11. Third Party Beneficiary Enforcement:** It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the undersigned parties and nothing in this Agreement shall give or allow any claim or right of action whatsoever by any other party not included in this Agreement. It is the express intention of the undersigned parties that any entity other than the undersigned parties receiving services or benefits under this Agreement shall be an incidental beneficiary only.
- 12. Parties Relationship.** The Parties to this Agreement intend that the relationship between them contemplated by this Agreement is that of independent entities working in mutual cooperation. Employees, staff, and agents of any one party hereto are not to be considered employees, staff or agents of any other party hereto for any purposes and said persons may not hold themselves out as employees or agents of any other party hereto or otherwise make any representation or commitment on behalf of any other party hereto. No party shall be in any way required to provide any pecuniary benefits, salaries, wages, or fringe benefits to employees, staff or agents of the other party.

- 13. No Guarantee by Weld County:** The City acknowledges that although the goal of services to be performed by the OGED is to confirm compliance with all current 1041 regulations for all Applications, County makes no guarantee as to the effectiveness of such services in achieving such goal.
- 14. Notice:** Any notice to be given under this Agreement shall either be hand delivered, with signed receipt, or mailed to the party to be notified at the address set forth herein, with signed receipt, or by facsimile with confirmation, until such time as written notice of a change is received from the party wishing to make a change of address. Any notice so mailed and any notice served by personal delivery shall be deemed delivered and effective upon receipt or upon attempted delivery. This method of notification shall be used in all instances, except for emergency situations when immediate notification to the parties is required.
- 15. Entire Agreement:** This writing constitutes the entire Intergovernmental Agreement between the parties hereto with respect to the subject matter herein, and shall be binding upon said parties, their officers, employees, agents and assigns and shall inure to the benefit of the respective survivors, heirs, personal representatives, successors and assigns of said parties.

Any demand or notice to either party may be given to the other party by addressing the written notice to:

Weld County: Jason Maxey
Director, Oil & Gas Energy Department
1301 N 17th Avenue
Greeley, CO 80631

City of Evans: Anne Best Johnson
Community Development Director
1100 37th Street
Evans, CO 80620

[INTENTIONALLY LEFT BLANK]

ATTEST:
Weld County Clerk to the Board

BOARD OF COUNTY COMMISSIONERS
WELD COUNTY, COLORADO

BY: _____

Deputy Clerk to the Board

Scott K. James, Chair

CITY OF EVANS,
STATE OF COLORADO

APPROVED AS TO FORM:

Brian Rudy, Mayor

Weld County Attorney

City of Evans Attorney

EXHIBIT A – Payment Schedule

Application Processing: At the time of an Application submittal to the County and the City, the City shall pay an initial payment of ten thousand dollars (\$10,000.00) to the County per Application.

The City shall promptly notify the County after the Hearing Officer’s Final Order has been ratified by the City no later than seven (7) days after ratification. Within thirty (30) days of the City ratifying the OGED Hearing Officer’s Final Order, the County shall provide an updated final invoice to the City with the total price for all services and costs. The final invoice will reflect the actual time spent on the matter by the OGED staff and any costs associated with the services provided. The City shall have thirty (30) days from the date of the final invoice to remit payment to the County for any amount due and owing on the final invoice after the initial \$10,000.00 payment is applied to the invoice balance. In the event the OGED actual staff time and associated costs is less than the initial \$10,000.00 payment from the City, the County shall reimburse any amounts owed to the City within thirty (30) days of the City ratifying the OGED Hearing Officer’s Final Order.

Enforcement and Other Services: The City may request the County to perform additional services outside of application processing including, but not limited to, re-evaluating an Application or Final Order, rehearing an Application in front of the OGED Hearing Officer, holding a suspension or revocation hearing, conducting regular or continuing inspections, or other enforcement activities. All associated OGED staff time and costs will be invoiced to the City within thirty (30) days of the conclusion of the services provided. The City shall pay any invoice from the County within thirty (30) days of the invoice date.

Except as otherwise provided in this Agreement, all direct and indirect services rendered to the City by the County pursuant to the terms of this Agreement shall be billed to the City at the per hour rates listed below and as updated annually by the County.

Staff Member	Hourly Rate
Clerical: Stephanie Frederick or Elisa Kunkel	\$79.01
Jennifer Teeters	\$89.21
Amanda Petzold	\$95.26
Kelly Holliday	\$111.24
Jason Maxey	\$154.68
Hearing Officer: David Kulmann	\$90.00