



A COMMUNITY OF CHOICE

# Planning and Development Department

2101 O'Neil Avenue, Suite 202, Cheyenne WY 82001  
(Phone) 307-637-6282 (Fax) 307-637-6366

## MEMO

To: Honorable Mayor Patrick Collins and Members of the City Council  
From: Charles Bloom, AICP, Planning and Development Department  
Subject: Agreement for the Purchase, Sale and Exchange of Lands between the City of Cheyenne and Black Hills Energy for the exchange of real property, 0.77 acres, from the City to Black Hill Energy and 0.85 acres, from Black Hills Energy to the City, both having appraised values of \$275,000 and \$445,000, respectively (Properties generally located 800 block of W 18th Street and 1300 block of W 24th Street)  
Date: November 4, 2024

---

### Background:

The item for consideration is a purchase and sale agreement between the City and Black Hills Energy. This agreement would trade a 0.77 City land located on East 24<sup>th</sup> Street north of the present Black Hills Energy local office for land a 0.85-acre parcel on the north side of West 18<sup>th</sup> Street between Snyder Avenue and Reed Avenue. Appraisals have been completed for both properties and the difference in value is \$170,000, which the City will pay to Black Hills Energy. Acquisition of this property allows for City control of land adjacent to the Reed Rail Corridor project.



City land to go to Black Hills Energy



Black Hills Energy land to go to the City

The proposed Governing Body review schedule is as follows:

- Introduction October 28, 2024
- Finance Committee November 4, 2024
- Final consideration: November 12, 2024

### Attachments:

1. Purchase and Sale Agreement

CITY CONTRACT # \_\_\_\_\_

## AGREEMENT FOR THE PURCHASE, SALE, AND EXCHANGE OF LANDS

This Agreement for the Purchase, Sale and Exchange of Lands (“Agreement”) is made effective as of the date of execution (“Effective Date”) of the last signing party below, and entered into by and between the City of Cheyenne, Wyoming, a municipal corporation organized under the laws of the State of Wyoming, having its principal offices at 2101 O’Neil Avenue, Cheyenne, Wyoming 82001 (“City”), and Cheyenne Light, Fuel and Power Company, doing business as Black Hills Energy, PO Box 1400 Rapid City, SD 57709-1400, (“BHE”), and sometimes individually referred to herein as “Party” and collectively as “Parties.”

WHEREAS, the City owns the surface and subsurface estate of Lot 4, Block 3, Griffin Addition to the City of Cheyenne, Wyoming, encompassing 0.77 acres (“Parcel A”) and having an appraised value of Two Hundred Seventy-Five Thousand Dollars (\$275,000).

WHEREAS, BHE owns a surface and subsurface estate to lands legally described as Lots 5-8, Block 334, City of Cheyenne, Wyoming, plus the south half of the alley vacated with Resolution No 1395 (“Parcel B”), encompassing .85 acres and having an appraised value of Four Hundred Forty-Five Thousand Dollars (\$445,000).

WHEREAS, the City desires to trade Parcel A to BHE for Parcel B;

WHEREAS, BHE wishes to trade Parcel B to the City for Parcel A; and

WHEREAS, the value of Parcel B exceeds the value of Parcel A;

NOW THEREFORE, in consideration of the mutual benefits and obligations set forth in this Agreement:

1. Purpose of Agreement. Subject to the terms and conditions set forth in Paragraphs 2-15:

- a. The City agrees to sell to BHE, and BHE agrees to purchase from the City, Parcel A;
- b. The City shall convey Parcel A to BHE pursuant to Wyo. Stat. § 15-1-112(b)(ii) (West 2024); and,
- c. BHE shall convey Parcel B to the City in exchange for Parcel A and One Hundred and Seventy Thousand Dollars (\$170,000) in consideration to be paid by the City.

2. Terms of the Agreement.

a. All improvements, structures, and fixtures situated on Parcel A will be conveyed to BHE in an “as is” condition without any representations or warranties relating to Parcel A’s physical condition and without ascribing any value to them;

b. The City agrees to trade Parcel A to BHE in exchange for Parcel B and the monetary consideration listed above. All improvements, structures, and fixtures situated on Parcel B will be conveyed to the City in an “as is” condition without any representations or warranties relating to Parcel B’s physical condition and without ascribing any value to them; and

c. Prior to the date of closing, the parties shall secure the release and discharge of all mortgages, liens, assessments, leases, rental agreements, advertising sign leases, if any, and other claims which encumber the Parcels. Each party shall have the right to cancel this Agreement in the event the other party is unable or otherwise fails, neglects, or refuses to convey good and marketable title in accordance with the terms and conditions of this Agreement.

3. Payment of Taxes. Prior to closing, BHE shall pay, when due and payable, all property taxes and assessments asserted against the Real Property for Parcel B for the current year and for all prior years. All such taxes for the current year shall be apportioned between the Parties on a pro rata basis as of the date of closing.

4. Title of Parcel B.

a. Prior to closing, the City shall have the right to obtain a Title Commitment for Parcel B (the “Title Commitment”) at the City’s sole cost and expense. In the event the Title Commitment shows that BHE is not vested with a good, marketable, and insurable fee simple title Parcel B, or that the Real Property is subject to liens, encumbrances, taxes, or assessments which will not be discharged prior to closing, the City shall have the right, in its sole and absolute discretion, to declare this Agreement null and void;

b. Within ten (10) days following the receipt of the Title Commitment from the City, BHE shall deliver to the City the following:

i. True, complete, and legible copies of all documents referred to in the Title Commitment to the extent that any such document has not been filed for record in the office of the Laramie County Clerk and ex-officio register of deeds;

ii. True, complete, and legible copies of all documents that are known to Seller, that are not referred to in the Title Commitment and that may affect the marketability of title to Parcel B;

iii. True and complete copies or originals of any lease or occupancy agreements for any portion of Parcel B;

iv. All mortgages, notes, and loan documents for any mortgage which encumbers Parcel B on the date hereof, which mortgages, notes, and loan documents shall be discharged prior to closing; and

v. Copies of all materials relating to pending or present litigation involving Parcel B;

c. The City shall have twenty (20) business days from the date of receipt of the Title Commitment referred to in Section 4 in which to examine the same. If the City finds title to the Real Property to be other than as described in Section 4(a) hereof, the City shall, no later than the expiration of said period of twenty (20) business days, notify BHE in writing specifying the defect or defects; provided, that if the City fails to give BHE written notice of such defects before the expiration of said period of twenty (20) business days, the defects shown in the Title Commitment or in documents provided by BHE shall be deemed to be Permitted Exceptions and waived as title objections. The City may raise as additional objections, however, any defect first shown by any title update between the date of the Title Commitment and the closing date by giving BHE written notice of any such defect within five (5) business days after the City first has notice of same. If the City has given BHE timely written notice of defects that render the title other than as required by this Agreement (“Defects”), BHE shall use their best efforts to cause such Defects to be cured within ten (10) days following receipt of such notice. In the event BHE fails to eliminate such Defects, the City shall have the right to terminate this Agreement. In the event BHE creates any liens or encumbrances on Parcel B which are capable of being satisfied by the payment of money at the closing, BHE shall be obligated to use the Purchase Price, if any, to cure the Defects;

d. The date for elimination of the Defects may be extended until closing. In the event BHE does not eliminate any Defect prior to or at closing, as the same may be extended under the preceding provision, the City shall have the option of either: (i) closing and accepting the title “as is,” without reduction in the Purchase Price, or (ii) cancelling this Agreement. In the event of a Defect that was not caused by BHE’s failure to act, BHE’s only responsibility shall be to assign to the City BHE’s Title Insurance Policy or BHE’s rights under BHE’s Title Insurance Policy, whichever is applicable, and cooperate with the City in obtaining the assistance of BHE’s title insurer to remove the Defect; and

e. BHE shall not create any new exceptions to title and shall use his best efforts to prevent any other person or entity from creating new exceptions to title to Parcel B prior to closing.

5. Title of Parcel A.

a. Prior to closing, the BHE shall have the right to obtain a Title Commitment for Parcel A (the "Title Commitment") at the BHE's sole cost and expense. In the event the Title Commitment shows that the City is not vested with a good, marketable, and insurable fee simple title Parcel A, or that the Parcel is subject to liens, encumbrances, taxes, or assessments which will not be discharged prior to closing, BHE shall have the right, in its sole and absolute discretion, to declare this Agreement null and void;

b. Within ten (10) days following the receipt of the Title Commitment from BHE, the City shall deliver to BHE the following:

i. True, complete, and legible copies of all documents referred to in the Title Commitment to the extent that any such document has not been filed for record in the office of the Laramie County Clerk and ex-officio register of deeds;

ii. True, complete, and legible copies of all documents that are known to the City, that are not referred to in the Title Commitment and that may affect the marketability of title to Parcel A;

iii. True and complete copies or originals of any lease or occupancy agreements for any portion of Parcel A;

iv. All mortgages, notes, and loan documents for any mortgage which encumbers Parcel A on the date hereof, which mortgages, notes, and loan documents shall be discharged prior to closing; and

v. Copies of all materials relating to pending or present litigation involving Parcel A;

c. BHE shall have twenty (20) business days from the date of receipt of the Title Commitment referred to in Section 4 in which to examine the same. If BHE finds title to the Real Property to be other than as described in Section 4(a) hereof, BHE shall, no later than the expiration of said period of twenty (20) business days, notify the City in writing specifying the defect or defects; provided, that if BHE fails to give the City written notice of such defects before the expiration of said period of twenty (20) business

days, the defects shown in the Title Commitment or in documents provided by the City shall be deemed to be Permitted Exceptions and waived as title objections. BHE may raise as additional objections, however, any defect first shown by any title update between the date of the Title Commitment and the closing date by giving the City written notice of any such defect within five (5) business days after BHE first has notice of same. If BHE has given the City timely written notice of defects that render the title other than as required by this Agreement (“Defects”), the City shall use their best efforts to cause such Defects to be cured within ten (10) days following receipt of such notice. In the event the City fails to eliminate such Defects, BHE shall have the right to terminate this Agreement. In the event the City creates any liens or encumbrances on Parcel A which are capable of being satisfied by the payment of money at the closing, the City shall be obligated to pay such amounts, if any, required to cure the Defects;

d. The date for elimination of the Defects may be extended until closing. In the event the City does not eliminate any Defect prior to or at closing, as the same may be extended under the preceding provision, BHE shall have the option of either: (i) closing and accepting the title “as is,” without reduction in the Purchase Price, or (ii) cancelling this Agreement. In the event of a Defect that was not caused by the City’s failure to act, the City’s only responsibility shall be to assign to BHE the City’s Title Insurance Policy or the City’s rights under the City’s Title Insurance Policy, whichever is applicable, and cooperate with BHE in obtaining the assistance of the City’s title insurer to remove the Defect; and

e. The City shall not create any new exceptions to title and shall use his best efforts to prevent any other person or entity from creating new exceptions to title to Parcel A prior to closing.

6. Conditions Precedent.

a. The City’s obligation to close this transaction shall be subject to fulfillment of the following conditions precedent:

i. BHE shall, at BHE’s sole cost and expense, obtain releases, at or prior to closing, for all liens or encumbrances affecting the Real Property pursuant to the terms of this Agreement;

ii. BHE shall not be in default in its obligations under this Agreement;  
and

iii. The Escrow Agent, at the expense of the City, shall be prepared to deliver a Title Insurance Policy in a form acceptable to the City (“Title Policy”) insuring the City’s title to the Parcel B in accordance with the terms of

this Agreement;

b. In the event any of the foregoing conditions precedent in Section 6.a. are not fulfilled as of closing (or earlier date where specified otherwise), then the City shall have the option of either: (i) waiving the condition and closing “as is” without reduction in the Purchase Price, provided that BHE assigns to the City all of BHE’s right, title, and interest to the Title Insurance Policy it obtained when it acquired Parcel B, or (ii) cancelling this Agreement by written notice to BHE; and

c. BHE’s obligation to close this transaction shall be subject to fulfillment of the following conditions precedent:

i. the City shall, at the City’s sole cost and expense, obtain releases, at or prior to closing, for all liens or encumbrances affecting Parcel A pursuant to the terms of this Agreement;

ii. the City shall not be in default in its obligations under this Agreement; and

iii. The Escrow Agent, at the expense of BHE, shall be prepared to deliver a Title Insurance Policy in a form acceptable to BHE (“Title Policy”) insuring BHE’s title to the Parcel A in accordance with the terms of this Agreement; and

d. In the event any of the foregoing conditions precedent in Section 6.c. are not fulfilled as of closing (or earlier date where specified otherwise), then BHE shall have the option of either: (i) waiving the condition and closing “as is” without reduction in the Purchase Price, provided that the City assigns to BHE all of the City’s right, title, and interest to the Title Insurance Policy it obtained when it acquired Parcel A, or (ii) cancelling this Agreement by written notice to the City.

7. BHE’s Representations and Warranties.

a. BHE hereby represents and warrants to the City that the following are true statements as of the date of this Agreement and shall be true as of the date of closing, and BHE agrees to deliver a certificate confirming that the following representations and warranties are true as of the date of the closing:

i. BHE has full power and authority to sell and convey Parcel B and to execute this Agreement and such other documents described herein;

ii. BHE now has, and will have at closing, good, marketable, and

indefeasible title in fee simple to Parcel B subject to the Permitted Exceptions and no Party, except as herein set forth, has, or shall have any right in, or to acquire, Parcel B;

iii. At closing, Parcel B shall be free and clear of all encumbrances except the Permitted Exceptions as set forth in this Agreement;

iv. At closing, Parcel B shall be free from all actions, suits, claims, assessments, or proceedings pending or, to the knowledge of BHE, threatened that could materially adversely affect the ownership, operation, or maintenance of Parcel B or BHE's ability to perform hereunder;

v. To the best of BHE's knowledge, Parcel B and BHE are not currently in violation of or subject to: (i) any existing, pending, or threatened investigation or inquiry by any governmental authority; or (ii) any remedial obligations under any applicable laws pertaining to health or the environment (hereinafter sometimes collectively called "Applicable Environmental Laws"), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), and the Resource Conservation and Recovery Act of 1976, as amended ("RCRA"). BHE shall have no obligation to remove or take any action to cure or remediate any environmentally hazardous material from Parcel B if any environmentally hazardous material is found on Parcel B;

vi. BHE does not have knowledge of any hazardous substances or solid wastes that have been disposed of or otherwise released on Parcel B. The terms "hazardous substance" and "release" shall have the meanings specified in CERCLA, and the terms "solid waste" and "disposal" or "disposed" shall have the meanings specified in RCRA; provided, to the extent that the laws of the State of Wyoming establish a meaning for "hazardous substance," "release," "solid waste," or "disposal" that is broader than that specified in either CERCLA or RCRA, such broader meaning shall apply; and

vii. There are no parties in possession of any portion of Parcel B, whether as lessees, tenants at sufferance, trespassers, or otherwise;

b. BHE shall not intentionally cause any of the representations and warranties contained herein to become materially incorrect, nor authorize any action which would do so. If after the execution of this Agreement and on or before closing, BHE nonetheless has knowledge that any of the representations and warranties set forth herein have become incorrect in any respect ("Discrepancy"), BHE shall promptly notify the City, in writing, of the occurrence of such event. The City shall have a right to



approve or disapprove any such Discrepancy, which approval or disapproval shall be given by written notice delivered to BHE within ten (10) days prior to the closing for the City to evaluate the effect of such Discrepancy. If the City waives such Discrepancy, and elects to acquire Parcel B, BHE's representations and warranties contained herein shall be deemed to have been made as of the closing, subject to the waived Discrepancy. If the City disapproves of the Discrepancy, and BHE fails to cure same, then upon written notice thereof to BHE, this Agreement shall be terminated, and all rights and obligations of the Parties hereunder shall terminate; and

c. Except for the representations of BHE set forth in Section 7 that shall survive for one (1) year from the closing, the express representations and warranties made in this Agreement shall merge into any instrument or conveyance delivered at closing and shall not survive closing.

8. The City's Representations and Warranties.

a. The City hereby represents and warrants to BHE that the following are true statements as of the date of this Agreement and shall be true as of the date of closing, and the City agrees to deliver a certificate confirming that the following representations and warranties are true as of the date of the closing:

i. The City has full power and authority to sell and convey the Parcel A and to execute this Agreement and such other documents described herein;

ii. The City now has, and will have at closing, good, marketable, and indefeasible title in fee simple to the Parcel A subject to the Permitted Exceptions and no Party, except as herein set forth, has, or shall have any right in, or to acquire, the Parcel A;

iii. At closing, Parcel A shall be free and clear of all encumbrances except the Permitted Exceptions as set forth in this Agreement;

iv. At closing, Parcel A shall be free from all actions, suits, claims, assessments, or proceedings pending or, to the knowledge of the City, threatened that could materially adversely affect the ownership, operation, or maintenance of the Parcel A or the City's ability to perform hereunder;

v. To the best of the City's knowledge, Parcel A and the City are not currently in violation of or subject to: (i) any existing, pending, or threatened investigation or inquiry by any governmental authority; or (ii) any remedial obligations under any applicable laws pertaining to health or the environment (hereinafter sometimes collectively called "Applicable Environmental Laws"),

including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (“CERCLA”), and the Resource Conservation and Recovery Act of 1976, as amended (“RCRA”). The City shall have no obligation to remove or take any action to cure or remediate any environmentally hazardous material from Parcel A if any environmentally hazardous material is found on Parcel A;

vi. The City does not have knowledge of any hazardous substances or solid wastes that have been disposed of or otherwise released on Parcel A. The terms “hazardous substance” and “release” shall have the meanings specified in CERCLA, and the terms “solid waste” and “disposal” or “disposed” shall have the meanings specified in RCRA; provided, to the extent that the laws of the State of Wyoming establish a meaning for “hazardous substance,” “release,” “solid waste,” or “disposal” that is broader than that specified in either CERCLA or RCRA, such broader meaning shall apply; and

vii. There are no parties in possession of any portion of Parcel A, whether as lessees, tenants at sufferance, trespassers, or otherwise;

b. The City shall not intentionally cause any of the representations and warranties contained herein to become materially incorrect, nor authorize any action which would do so. If after the execution of this Agreement and on or before closing, the City nonetheless has knowledge that any of the representations and warranties set forth herein have become incorrect in any respect (“Discrepancy”), the City shall promptly notify BHE, in writing, of the occurrence of such event. BHE shall have a right to approve or disapprove any such Discrepancy, which approval or disapproval shall be given by written notice delivered to the City within ten (10) days prior to the closing for BHE to evaluate the effect of such Discrepancy. If BHE waives such Discrepancy, and elects to acquire Parcel A, the City’s representations and warranties contained herein shall be deemed to have been made as of the closing, subject to the waived Discrepancy. If BHE disapproves of the Discrepancy, and the City fails to cure same, then upon written notice thereof to the City, this Agreement shall be terminated, and all rights and obligations of the Parties hereunder shall terminate; and

c. Except for the representations of the City set forth in Section 8 that shall survive for one (1) year from the closing, the express representations, and warranties made in this Agreement shall merge into any instrument or conveyance delivered at closing and shall not survive closing.

9. Risk of Loss. Each Parcel shall be conveyed in substantially and materially the same condition as on the date this Agreement is executed, ordinary wear and tear excepted.

10. Default Provisions. In the event of a party's failure to close in accordance with the terms and provisions of this Agreement for sixty (60) days after written notice, the other party, at its option and as its sole and exclusive remedy for default, shall have the right either to terminate this Agreement or seek specific performance of the other party's obligations hereunder.

11. Closing Costs and Expenses. At closing, the City shall pay the cost of the Title Insurance Policy to be issued to the City and the cost of the survey for Parcel A, and all recording fees necessary to record instruments received by the City at closing. Each party shall pay the recording costs with respect to documents necessary to clear title to the Parcel it is conveying at closing. BHE shall pay the cost of the Title Insurance Policy to be issued to BHE, the cost of survey related to Parcel B, and recording costs for all instruments received by BHE at closing. The closing agent's fee shall be paid equally by BHE and City. Each Party shall pay that Party's attorney's fees, if any.

12. Closing.

a. The closing of this transaction shall be held on \_\_\_\_\_, 2024, after the satisfaction of all the conditions of closing ("Closing Date"). The parties agree that First American Title Company shall prepare the closing documents.

b. At closing, BHE shall deliver:

i. A warranty deed duly executed and acknowledged in proper form for recording conveying to the City good and indefeasible fee simple title in and to Parcel B, subject only to the Permitted Exceptions;

ii. An assignment of all rights appurtenant to the Parcel B, if any, as provided above;

iii. A title affidavit and a mechanic's lien affidavit;

iv. An affidavit of exclusive possession;

v. A certificate, or other document as acceptable to the City, confirming BHE's authority to sell Parcel B; and,

vi. Such other documents as are usually required to insure the City's title.

c. At closing, the City, at the City's expense, shall deliver:

i. A warranty deed duly executed and acknowledged in proper form

for recording conveying to the City good and indefeasible fee simple title in and to Parcel A, subject only to the Permitted Exceptions;

- ii. An assignment of all rights appurtenant to Parcel A, if any, as provided above;
- iii. City shall receive an Owner's Title Insurance Policy in a form acceptable to the City, issued by a Title Insurance Company in the full amount of the Purchase Price, insuring the City's indefeasible fee simple title to Parcel B, subject only to the Permitted Exceptions and the printed exceptions contained in the standard form of BHE's Title Insurance Policy.
- iv. A title affidavit and a mechanic's lien affidavit provided by BHE;
- v. An affidavit of exclusive possession provided by BHE;
- vi. A certificate, or other document as acceptable to BHE, confirming the City's authority to sell Parcel A;
- vii. Such other documents as are usually required to insure BHE's title; and
- viii. The monetary consideration listed above.

13. Brokers. The Parties each represent and warrant to the other that no Party to this transaction shall be responsible for the payment of any compensation or commission due any real estate agent, broker, salesman, or finder unless that Party has engaged the real estate agent, broker, salesman, or finder in writing. If a claim for compensation or commission in connection with this transaction is made by any agent, broker, salesman, or finder claiming to have dealt through or on behalf of one of the Parties hereto, such Party shall indemnify, defend, and hold harmless the other Parties hereunder from and against all liabilities, damages, claims, costs, fees, and expenses whatsoever (including reasonable attorney's fees and court costs at all trial and appellate levels) with respect to said claim for compensation or commission. Anything to the contrary notwithstanding, the provisions of this paragraph shall survive the closing and any cancellation or termination of this Agreement.

14. Assignability. Neither Party shall have the right to assign this Agreement without the express written consent of the other Party.

15. Notices. Any notices required or permitted to be given under this Agreement

shall be delivered by hand or mailed by certified or registered mail, return receipt requested, or overnight delivery service in a postage prepaid envelope, and addressed as follows:

If to the City/City: City of Cheyenne  
2101 O'Neil Avenue  
Cheyenne, Wyoming 82001  
ATTN: City Clerk

If to BHE: Real Estate  
Manager, Black  
Hills Energy PO  
Box 1400  
Rapid City, SD  
57709 -1400

16. Operation of the Real Property. During the period between the date hereof and the Closing Date, each party shall:

- a. Keep the Real Property in substantially the same repair and condition as of the date hereof, but excluding damages to the Real Property caused by the Inspection or use of the Real Property;
- b. Comply with all state and municipal laws, ordinances, regulations, and orders relating to the Real Property;
- c. Comply with all the terms, conditions, and provisions of all liens, mortgages, agreements, insurance policies, and other contractual arrangements relating to the Real Property, make all payments due thereunder, and suffer no default therein;
- d. Without written approval of the other party, neither negotiate nor enter into any new contract or modify any existing contract affecting the use or operation of the Real Property which cannot be terminated without charge, cost, penalty, or premium on or before the Closing Date;
- e. Operate, manage, and maintain the Real Property in the usual and customary manner for similar property;
- f. Promptly notify the other party in writing if any material change occurs in the occupancy or conditions affecting the Real Property; and
- g. Provide the other party and its representatives, employees, and agents full and complete access during normal business hours to the Real Property and adjacent

areas as provided in this Agreement.

17. Miscellaneous:

a. This Agreement shall be construed and governed in accordance with the laws of the State of Wyoming. Except for enforcement of the terms and conditions of this Agreement as between the Parties, the City reserves all defenses and immunities under the Wyoming Governmental Claims Act, Wyo. Stat. § 1-39-101, *et seq.*, and other applicable constitutional and statutory provisions of the State of Wyoming. The venue for any legal proceedings shall be the First Judicial District Court sitting in Laramie County, Wyoming;

b. In the event any term or provision of this Agreement be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Agreement shall be construed to be in full force and effect;

c. Any exhibits attached to this Agreement are incorporated in and made a part of this Agreement;

d. This Agreement constitutes the entire understanding and agreement between the Parties, and there are no understandings, agreements, representations, or warranties except as specifically set forth herein;

e. This Agreement may not be changed, altered, or modified except by an instrument in writing signed by the Party against whom enforcement of such change would be sought;

f. This Agreement shall be binding upon the Parties hereto and their respective successors and assigns;

g. The failure of any Party at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by any Party of any condition, or of any breach of any covenant, agreement, representation, or warranty contained in this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or breach or waiver of any other condition or of any breach of any other covenant, agreement, representation, or warranty;

h. If the final date of any period provided for herein for the performance of an obligation or for the taking of any action falls on a Saturday, Sunday, or banking holiday, then the time of that period shall be deemed extended to the next day which is not a Sunday, Saturday, or banking holiday. All time periods expiring on a specific date

or period herein shall be deemed to expire at 5:00 p.m. Mountain Standard or Mountain Daylight Time, as applicable;

i. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be deemed an original, but such counterparts together shall constitute but one agreement;

j. During the term of this Agreement, Seller shall not list the Real Property for sale, rent, or exchange or otherwise offer the Real Property for sale, rent, or exchange. Seller shall have the right to disclose this Agreement to any lending institution; and

k. City shall accept and cooperate with BHE or BHE’s donation of any additional value above the appraised values given to City to the City’s benefit because of the trade contemplated herein.

In witness thereof, the Parties to this Agreement, through their duly authorized representatives, have executed this Agreement on the days and dates set out below and certify that they have read, understood, and knowingly and voluntarily agreed to the terms and conditions of this Agreement.

CITY OF CHEYENNE:

Patrick Collins, Mayor

Date

(SEAL)

Attest:

Kristina F. Jones, City

Clerk

STATE OF WYOMING )  
 ) ss.  
COUNTY OF LARAMIE )

The foregoing instrument was acknowledged before me by Patrick Collins, Mayor of the City of Cheyenne, Wyoming, on this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Witness my hand and official seal.

Notary

Public My Commission Expires: \_\_\_\_\_

FOR BHE:

\_\_\_\_\_  
BHE

\_\_\_\_\_  
Date

STATE OF WYOMING     )  
  ) ss.  
COUNTY OF LARAMIE    )

The foregoing instrument was acknowledged before me by BHE on behalf of BHE, on this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Witness my hand and official seal.

\_\_\_\_\_  
Notary

Public My Commission Expires: \_\_\_\_\_