

CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT

This Confidentiality and Nondisclosure Agreement (the "Agreement") is made this 5 day of May, 2020, by and between the Colorado Oil and Gas Conservation Commission ("COGCC" or the "Commission"), and the City of Evans. Collectively, COGCC and the City of Evans are referred to together as "Parties".

RECITALS

WHEREAS, on November 21, 2019, the Commission promulgated new rules and amendments to its Rules of Practice and Procedure, 2 C.C.R. 404-1 ("Flowline Rules"), including Rule 1101.e(1), which provides:

The Director will make Geographic Information System (GIS) data for off-location flowlines, crude oil transfer lines, and produced water transfer systems available through a publicly accessible online map viewer. Line attributes available to the public through the online map viewer will include the spatial location, operator, fluid type, pipe material type, and pipe size. Online map viewer data only will be available at scales greater than or equal to 1:6,000. Any person may view spatial data at scales less than 1:6,000 for an individual parcel at the Commission's office.

WHEREAS, at the November 21, 2019 hearing the Commission also promulgated Rule 1101.e(2), which provides:

Disclosure of Form 44 Data. Upon request from a Local Governmental designee(s), and subject to executing a confidentiality agreement and the provisions of the Colorado Open Records Act, the Commission will provide to the Local Government all Geographic Information System (GIS) data submitted through Flowline Reports, Form 44s, for all off-location flowlines, crude oil transfer lines and produced water transfer systems. The Local Government may only reproduce or publish data that the Commission makes publicly available through its website. A Local Government may share more specific data in person than that which the Commission makes publicly available, but the information must be treated as confidential and may not be reproduced or published.

WHEREAS, the Parties to this Agreement want to allow for the transfer of GIS data to the City of Evans in accordance with the provisions of Commission Rule 1101.e.(1) and (2).

NOW THEREFORE, in light of the foregoing, the Parties agree as follows:

1. Transfer of the GIS Data. The COGCC agrees to provide _____ the City of Evans _____ the GIS data submitted to the COGCC through the Form 44s for the off-location flowlines, crude oil transfer lines and produced water transfer systems. (“Flowline GIS Data”).

2. Maintaining Confidentiality of the Flowline GIS Data. _____ the City of Evans _____ agrees that it will maintain the Flowline GIS Data in accordance with Commission Rules 1101.e.(1) and (2). Specifically, _____ the City of Evans _____ agrees that it will not display, transmit, publish, provide or make available on-line the Flowline GIS Data at scales less than 1:6,000. _____ the City of Evans _____ may allow more specific Flowline GIS Data to be viewed by members of the public if they present themselves in person at _____ the City of Evans _____’s offices. If _____ the City of Evans _____ is to provide more specific Flowline GIS Data in person to a member of the public, _____ the City of Evans _____ agrees that the Flowline GIS Data will be treated as confidential and will not be reproduced or published.

3. Nondisclosure of Confidential Information.
 - a. _____ the City of Evans _____ will take all necessary and reasonable security measures to ensure that the Flowline GIS Data is maintained, protected and displayed in accordance with the terms of this Agreement.

 - b. _____ the City of Evans _____ will train its Representatives on the responsible and appropriate use, handling, and disclosure of the Flowline GIS Data. _____ the City of Evans _____ agrees that it will take all necessary and appropriate measures to ensure that any Representative granted access to Flowline GIS Data is familiar with the terms of this Agreement and complies with such terms.

 - c. _____ the City of Evans _____ will be responsible for the unauthorized access, use, or disclosure of the Flowline GIS Data by its representatives.

4. Unauthorized Disclosure.
 - a. Upon _____ the City of Evans _____’s discovery that the Flowline GIS Data has been displayed, transmitted, published, provided or made available on-line in a manner that is contrary to or inconsistent with the provisions of Section 2 of this Agreement _____ the City of Evans _____ will notify the COGCC within five (5) business days. Such notice will include all details known concerning the access, use, or disclosure of the Flowline GIS Data.

- b. The Parties agree that the disclosure of any Flowline GIS Data that is inconsistent with this Agreement will not waive the confidentiality of the Flowline GIS Data. The Parties further agree that each will make best efforts to retrieve such improperly disclosed Flowline GIS Data from the person or entity to which it was disclosed. This provision will survive the termination of this Agreement.
5. the City of Evans agrees and understands that it and the COGCC are subject to the Colorado Open Records Act, Colo. Rev. Stat. Ann. § 24-72-200.1, *et seq.* (“CORA”) and this Agreement does not supersede either Party’s duty to comply with CORA.
6. If the City of Evans receives notice that it may become legally required to disclose any Flowline GIS Data in contravention of a Commission Rule or this Agreement, the City of Evans will provide COGCC with prompt notice of any proceedings reasonably expected to require such disclosure. COGCC may, if it desires and at its own expense, intervene or seek a protective order preventing the disclosure of the Flowline GIS Data. If disclosure is required by court order, the City of Evans will disclose only that portion of the Flowline GIS Data which the City of Evans’s counsel advises is required by a court order.
7. Force and Effect. The confidentiality obligations established by this Agreement will remain in full force and effect for any Flowline GIS Data provided to the City of Evans under the terms of this Agreement as long as that Flowline GIS Data remains in the possession of the City of Evans, without regard to whether the Agreement is terminated pursuant to Paragraph 10.
8. Authority to Enter into Agreement. The person executing this Agreement on behalf of the City of Evans acknowledges and affirms that they are either an elected official or employee of the City of Evans who has the right and authority to bind the City of Evans to the terms and conditions of this Agreement.
9. Suspension of Transmission of Flowline GIS Data. If the Commission becomes aware of the City of Evans’s potential material breach of any of its obligations or duties under this Agreement, the Commission may suspend disclosure of future Flowline GIS Data until such time as the Commission is satisfied that the City of Evans is complying with its obligations and duties under this Agreement.

10. Termination.

- a. Either Party may terminate this Agreement by notifying the other Party of its intention to withdraw from this Agreement in writing at least 48-hours prior to termination.
- b. If, as determined by the Commission, the City of Evans materially breaches any of its obligations or duties under this Agreement, the Commission may terminate this Agreement. In such event, the Commission will notify the City of Evans in writing that the Commission is terminating the Agreement, and the termination will be effective upon delivery of the written notice.
- c. No later than 30 days after the termination of this Agreement, the City of Evans will return to the COGCC all Flowline GIS Data within its possession and remove all Flowline GIS Data from all public and internal websites and systems. the City of Evans further agrees that it will make best efforts to retrieve all Flowline GIS Data disclosed to its Representatives and return it to the COGCC.

11. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Colorado.

12. Entire Agreement. The Parties acknowledge and agree that this Agreement embraces the entire Agreement between the Parties relating to the subject matter described herein.

It is so AGREED, this 5 day of May, 2020

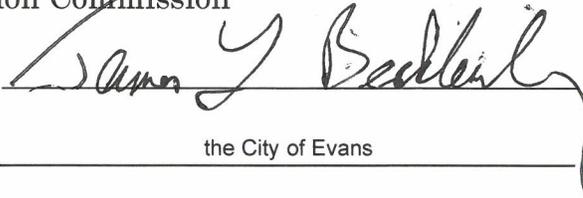
COLORADO OIL AND GAS CONSERVATION COMMISSION



 Jeff Robbins

Director
Colorado Oil and Gas Conservation Commission

SIGNATURE:



LOCAL GOVERNMENT:

the City of Evans

NAME:

James L. Becklenberg

TITLE:

City Manager