

## INDEMNITY AGREEMENT

**THIS AGREEMENT** made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between CITY OF TEHACHAPI, a Municipal Corporation ("City") and \_\_\_\_\_ ("Applicant"),

### W I T N E S S E T H :

WHEREAS, Applicant has requested that the City Council take the following actions and process and approve the following project (the "Project"):

\_\_\_\_\_  
\_\_\_\_\_; and

WHEREAS, the Project will require the exercise of City's discretion and, in consideration of City processing the Project, Applicant agrees to indemnify City from liability or loss connected with the processing or approval of the Project as provided in this Agreement.

NOW, THEREFORE, it is mutually agreed between City and Applicant as follows:

1. Applicant shall defend, indemnify, and hold harmless City, its officers, councilpersons, employees, and agents from any and all costs, expenses, liabilities, losses, claims, actions, proceedings or damages of whatever nature against the City or its officers, councilpersons, employees, or agents to attack, set aside, void, or annul the Project or City's processing of same or approval or conditions of approval established hereafter by City or any of its departments, commissions, officers, councilpersons, employees, or any claim, action or proceeding seeking to impose personal liability against City, its officers, councilpersons, employees, or agents as a direct result of their involvement in the Project including any claim for private attorney general fees claimed by or awarded to any party from City.

2. City will promptly notify Applicant in writing of any such claim, action, or proceeding within ten business days of the date that the City is served with same. City shall cooperate fully in the defense of any action or claim relating to the Project.

3. City may, within its unlimited discretion, participate in the defense of any such claim, action, or proceeding provided City bears its own attorney's fees and costs.

4. The term of this Agreement shall be until completion of all litigation, proceedings, or other actions relating to the Project and payment in full of all judgments, costs, and other awards thereunder by Applicant or, alternatively, if no action, proceeding, or other challenge has been filed, the elapsing of all statutes of limitation applying to the foregoing actions, proceedings, or other matters which may be filed

against City regarding the Project. Notwithstanding the foregoing, City may terminate this Agreement by written notice to Applicant.

5. All notices to Applicant under this Agreement shall be deemed valid and effective upon deposit in the United States mail, postage prepaid, certified and/or registered mail or by confirmed facsimile or electronic mail addressed as follows: to the City of Tehachapi, City Manager, 115 South Robinson Street, Tehachapi, California 93561, Fax (661) 822-8559, Email [ggarrett@tehachapicityhall.com](mailto:ggarrett@tehachapicityhall.com); to Applicant--\_\_\_\_\_

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6. Applicant shall not assign its interest herein or any part thereof and any attempted assignment shall be void.

7. Time is of the essence with regard to each covenant, condition and provision of this Agreement.

8. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

9. This Agreement constitutes the entire Agreement between the parties with regard to the subject matter herein and supersedes all prior oral and written agreements and understandings between the parties with respect thereto.

10. This Agreement may not be altered, amended, or modified except by a writing executed by duly authorized representatives of all parties.

11. In the event any action or proceeding is instituted arising out of or relating to this Agreement, the prevailing party shall be entitled to its reasonable attorneys' fees and actual costs.

12. This Agreement may be executed in counterparts.

13. Waiver by a party of any provision of this Agreement shall not be considered a continuing waiver or a waiver of any other provision, including the time for performance of any such provision.

14. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors, and assigns.

15. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the

provisions shall remain in full force and effect and not be affected, impaired, or invalidated thereby.

16. City and Applicant each acknowledge that each party and their respective legal counsel have reviewed this Agreement and agree that this Agreement is the product of negotiations between the parties. This Agreement shall be interpreted without reference to the rule of interpretation of documents that uncertainties or ambiguities therein shall be determined against the party so drafting the Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first hereinabove written.

\_\_\_\_\_  
Greg Garrett, City Manager  
City of Tehachapi, California, "City"

a \_\_\_\_\_ "Applicant"

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

Name:

Its:

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

Name:

Its: