

## **INDEMNITY AGREEMENT FOR RESTORATION OF PIPELINE**

This INDEMNITY AGREEMENT (hereinafter the "Agreement"), dated and effective this \_\_\_\_ day of October, 2023, is hereby entered into between UVRP, LLC, a Nevada limited liability company (hereinafter "Developer") and the City of Reno, a Nevada municipal corporation (hereinafter the "City of Reno"). Developer and the City of Reno are collectively referred to as the "Parties."

### **RECITALS**

WHEREAS the Parties desire to enter into an agreement (hereinafter the "Pipeline Crossing Agreement") with the Union Pacific Railroad Company (hereinafter "UPRR"), whereby UPRR consents to the construction of one (1) underground 24 inch SDR 35 PVC pipe encased in 36 Inch carbon steel pipeline encroachment with a crossing only between mile post 3.7 on the Reno Ind Ld at or near Reno, Washoe County, Nevada; and

WHEREAS the agreement between UPRR, Developer and the City of Reno incorporates a Termination Clause, whereby UPRR has the right to terminate the Pipeline Crossing Agreement under the conditions specified in said Pipeline Crossing Agreement; and

WHEREAS Developer agrees to indemnify the City of Reno in the event that UPRR exercises the right to terminate, under the terms and conditions set forth herein;

THEREFORE, Developer and the City of Reno hereby enter into this Agreement for the express purpose of facilitating the Pipeline Crossing Agreement.

### **Article 1: Definitions**

1.1 "Pipeline Crossing Agreement" means that Pipeline Crossing Agreement entered into by and between Union Pacific Railroad Company, UVRP, LLC, a Nevada limited liability company, and the City of Reno, a Nevada Municipal Corporation (a copy of which is attached hereto, with all accompanying exhibits).

1.2 "Termination Clause" means section 11 of Exhibit B attached to the Pipeline Crossing Agreement.

1.3 "UPRR" is the Union Pacific Railroad Company, signatory to the Pipeline Crossing Agreement, and any individual or entity that acquires the rights and obligations, in whole or in part, of the Pipeline Crossing Agreement, whether by assignment or otherwise.

### **Article 2: Indemnification**

2.1 This Agreement is made in consideration of the City of Reno's execution of the Pipeline Crossing Agreement and assumption of the obligations set forth therein.

2.2 After the installation of any sewage pipeline on the pipeline right-of-way, Developer hereby agrees that in the event that UPRR exercises its rights under the Termination Clause, Developer shall remove all pipe and other property it placed on the premises, but no other, fill and level all ditches, ruts and depressions caused by construction or removal operations, remove all debris resulting from such construction or removal operations, remove all stakes and posts that Developer may have put into the ground and generally restore the surface of the pipeline right-of-way as near to its original condition as may be possible, all within a reasonable time after the installation of the pipeline or the abandonment or expiration of this grant, all at Developer's own cost and expense. If Developer fails to do so, the City of Reno may do so at Developer's risk and expense, and Developer agrees to reimburse the City of Reno for the cost of the removal and restoration operations. Nothing in this paragraph shall be construed to obligate Developer to provide any material, work or services to fix, resolve, rectify, repair or otherwise replace work or improvements that Developer did not originally provide or otherwise install.

2.3 In addition to the obligations created under paragraph 2.2 herein, Developer shall be responsible for the construction of a new sewage pipeline, in a location and according to specifications which shall be agreed upon between Developer and the City of Reno within thirty (30) days after the City of Reno receives written notice of termination from UPRR.

2.4 In the event the City of Reno breaches its obligations under the Pipeline Crossing Agreement, the City of Reno shall be deemed to have waived its rights under this Agreement.

### **Article 3: Performance**

3.1 Determination of Termination. UPRR shall not be deemed to have exercised its rights under the Termination Clause unless and until it performs all obligations under said clause, including providing the notices required by said clause.

3.2 Notice. Upon the City of Reno's receipt of written notice of termination from UPRR, the City of Reno shall have ten (10) days to provide a copy of said notice to Developer, along with a demand for indemnity by Developer.

3.3 Waiver. In the event that the City of Reno fails to timely provide notice pursuant to Section 3.2, the City of Reno shall be deemed to have voluntarily and irrevocably waived its right to indemnification under this Agreement.

3.4 Payment. The indemnity provided for herein shall become due thirty (30) days after receipt of written demand from the City of Reno. Any payment required by section 2.2 of this Agreement shall be made in cash. The amount of the payment shall be the actual damage and/or loss incurred by the City of Reno as a proximate result of the exercise of the Termination Clause, and shall not include incidental or consequential damages.

3.5           No Obligation Pending Dispute. In the event that any dispute shall arise between UPRR and the City of Reno and Developer, or either of them, concerning performance under the Pipeline Crossing Agreement, the rights and obligations thereunder, and/or the validity of UPRR's exercise of the Termination Clause, Developer's obligation to indemnify the City of Reno shall not take effect until the dispute has been resolved by order of a court of competent jurisdiction or by mutual agreement of the parties. A decision by an arbitrator or mediator shall constitute an order of a court of competent jurisdiction for purposes of this paragraph. In the event of any dispute between UPRR and the City of Reno and/or Developer, the City of Reno and Developer shall each bear their own costs and attorneys' fees with respect to each other. Nothing in this paragraph shall preclude an award of attorneys' fees against UPRR in favor of the City of Reno or Developer, or both of them.

#### **Article 4: General Terms**

4.1           This Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the respective heirs, legal representatives, successors, and assigns of all the Parties hereto.

4.2           Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Nevada.

4.3           Notices. All notices, requests, demands, and other communications required under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally or by certified mail, return receipt requested, and postage prepaid. If any notice is mailed, it shall be deemed given on the date such notice is deposited in the United States mail. If any notice is personally delivered, it shall be deemed given upon the date of such delivery. If notice is given to a party, it shall be mailed or delivered to the addresses set forth below the signature blocks herein.

4.4           Entire Agreement. With respect to the subject matter hereof, this Agreement sets forth the entire agreement and understanding of the Parties and the Escrow Agent. The Parties acknowledge in executing this Indemnity Agreement that they do not rely on any oral representations or warranties not expressly set forth herein.

4.5           Amendment. This Agreement may not be amended, modified, superseded, rescinded, or canceled except by a written instrument executed by the Parties.

4.6           Waivers. Except as otherwise expressly provided for herein, the failure of any party to the Agreement at any time or times to require performance of any provision under this Agreement shall in no manner affect the right at a later time to enforce the same performance. A waiver by any party to the Agreement of any such condition or breach of any term, covenant, representation, or warranty contained in this Agreement, in any one or more instances, shall neither be construed as a further or continuing waiver of any such condition or breach nor a waiver of any other condition or breach of any other term, covenant, representation, or warranty contained in this Agreement.

4.7 Headings. Section headings of this Agreement have been inserted for convenience of reference only and shall in no way restrict or otherwise modify any of the terms of provisions of this Agreement.

4.8 Counterparts. This Agreement may be executed in one or more counterparts, each of which when executed shall be deemed to be an original, and such counterparts shall together constitute one and the same instrument.

UVRP, LLC  
P.O. Box 8070  
Reno, Nevada 89507

City of Reno  
1 East 1st Street  
PO Box 1900  
Reno, Nevada 89505

By:   
Robert Fitzgerald, Manager

By: \_\_\_\_\_  
Hillary Schieve, Mayor

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Mikki Huntsman, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Attorney for UVRP, LLC.

By:   
Deputy City Attorney

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UVRP, LLC  
P.O. Box 8070  
Reno, Nevada 89507

City of Reno  
1 East 1st Street  
PO Box 1900  
Reno, Nevada 89505

By:   
Robert Fitzgerald, Manager

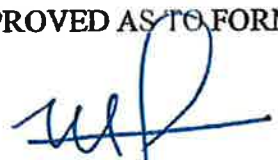
By: \_\_\_\_\_  
Hillary Schieve, Mayor

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Mikki Huntsman, City Clerk

APPROVED AS TO FORM:

By:   
\_\_\_\_\_  
Attorney for UVRP, LLC.

By: \_\_\_\_\_  
Deputy City Attorney