

INDEMNITY AGREEMENT

This indemnity agreement (“Agreement”) dated for reference purposes as of this ____ day of ____, 2024, is executed by Littlerock Storage LLC, a Washington limited liability company (“Indemnitor”) herein for the benefit of the City of Tumwater, a Municipal Corporation (“City”).

RECITALS:

1. Indemnitor has requested the City approve a preliminary Site Plan Review (“TUM-23-0650”), Conditional Use Permit (“TUM-24-0108”) and Variance (“TUM-24-0119”) (“Land Use Application”) relative to property owned by Indemnitor and situated on two parcels totaling approximately 1.7-acres situated at 6115 and 6119 Littlerock Rd. Tumwater, WA 98512, and further defined as Thurston County Tax Parcel Numbers 1270-321-1802 and 1270-321-1801 (“the Land”).
2. The Bonneville Power Administration (“BPA”) is the holder of certain easements over and across portion of the above describe property, (“Easement Area”) in connection with the placement and maintenance of electrical transmission lines within the easement area. The Indemnitor maintains that the provisions of those easements do not require approval by the Bonneville Power Administration for the construction of the improvements within the easement area in connection with the above referenced land use application, as it relates to the construction of improvements including but not limited to utilities and storm retention trenches and roads. This Agreement with regard to the construction of the improvements is entered into in lieu of including a condition upon approval of Indemnitor’s development that would require the Indemnitor to enter into an agreement with the BPA concerning the approval of the construction of those improvements within the easement area. Nothing herein shall foreclose such an agreement with the BPA , nor shall the terms of this Indemnity Agreement be affected by any such agreement with BPA in the future.
3. The Indemnitor is executing this Agreement to induce the City to not require prior approval by the BPA with respect to the improvements to be constructed within the easement area in accordance with the development of the property, pursuant to the above referenced land use application. The City acknowledges that it will accept this Indemnification Agreement in lieu of making as a condition of approval the execution of an agreement between the Indemnitor and the BPA.

AGREEMENT:

As a material inducement and consideration for City’s agreement to not require prior approval by the Bonneville Power Administration for the construction of

improvements within the BPA easement area, the Indemnitor represents, warrants, covenants, and agrees as follows:

1. INDEMNIFICATION

- 1.1 Indemnitor shall defend and hold the City harmless from and against any and all claims, demands, damages, losses, liens, liabilities, penalties, fines, lawsuits, and other proceedings, and cost and expenses (including attorney's fees, architectural and engineering and accountings costs, and all other replace and cleanup costs) that are incurred or may be made or incurred by the City or are in any way connected with the construction and maintenance of any improvements within the Bonneville Power Administration easement area in connection with or in furtherance of the development of the above described property by the Indemnitor, its heirs, successors, and assigns in connection with the development of the property pursuant to the above referenced land use application. This indemnification shall apply not only to any claims that may be brought by or on behalf of the Bonneville Power Administration, but on behalf of any other claimant arising out of the easements granted to the BPA in connection with the activities and improvements to be located within the Bonneville Power easement area constructed by Indemnitor or its assigns pursuant to the Land Use Application.

2. ASSUMPTION OF LIABILITY

- 2.1 In addition to the indemnification provision set forth above, the Indemnitor also assumes any and all liability for costs to relocate or to remove any improvements to be constructed in connection with the land use application referred to above in the event the BPA, its successors or assigns, successfully requires relocation or removal of any such improvements constructed with the easement area, including the costs of all site restoration.

3. UNCONDITIONAL OBLIGATIONS

- 3.1 Indemnitor's obligations under this Agreement are unconditional and shall not be subject to any limitation or liability and shall continue to affect after any transfer of all or any portion of the property described above the subject to the land use application.
- 3.2 This indemnity shall run with the Land. The Indemnitor states that all of the obligations set forth therein shall run with the land and shall be binding upon the heirs, successors, and assigns of the Indemnitor, and further

provide this Indemnity Agreement at the request of the City may be recorded.

4. ATTORNEYS FEES AND EXPENSES

4.1 Indemnitor agrees to pay on demand all of the City's costs and expenses, including the City's attorney's fees and legal expenses incurred relating to the enforcement of this agreement. In the event arbitration, suit, action, or other legal proceedings is brought to interpret and enforce this Agreement, then Indemnitor on behalf of its heirs, successors, and assigns agrees to pay all additional funds and the arbitrator or judges reasonable attorneys' costs, disbursement, and attorney's fees at hearing, trial, and on any and all appeals.

5. SUCCESSORS AND ASSIGNS

5.1 This agreement shall be binding upon and inure to the benefit of the City, Indemnitor and their respective representatives' successors, and assigns, and shall run with the Land.

6. AMENDMENT

6.1 The parties agree that this Agreement sets forth the entire understanding of the parties with respect to the subject matter contained herein and cannot be amended or modified, except in writing signed by all parties bound by this Agreement.

DATED this _____ day of _____, 2024.

LITTLEROCK STORAGE LLC

CITY OF TUMWATER

Trevor Colby
Managing Member

By: _____
Its: _____

Notary Acknowledgement on Following Page

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

On this _____ day of _____, 2024, before me personally appeared Trevor Colby, to me known to be the Managing Member of Littlerock Storage LLC, the limited liability company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC - State of Washington
Commission expires:_____

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

On this _____ day of _____, 2024, before me personally appeared _____, to me known to be the _____, of the City of Tumwater, the Municipal Corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC - State of Washington
Commission expires:_____