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| TYPE OF RECORD:     | PERMANENT  |
| CATEGORY OF RECORD: | CONTRACT   |
| NAME OF CONTRACTOR: | MESA MACK SALES AND SERVICE, INC. AND<br>CALDWELL INVESTMENT PARTNERSHIP LLP   |
| SUBJECT/PROJECT:    | INDEMNIFICATION AGREEMENT FOR THE<br>DEVELOPMENT OF SURFACE AND STORMWATER<br>DETENTION AND/OR RETENTION DRAINAGE FACILITIES   |
| ADDRESS:            | 2399 F ROAD  |
| PARCEL #:           | 2945-054-10-001  |
| CITY DEPARTMENT:    | UTILITIES AND STREETS  |
| YEAR:               | 2005   |
| EXPIRATION DATE:    | A PERPETUAL AGREEMENT THAT SHALL NOT BE<br>TERMINATED EXCEPT BY A WRITTEN INSTRUMENT<br>EXECUTED BY THE CITY OF GRAND JUNCTION |
| DESTRUCTION DATE:   | NONE   |

INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (Agreement) is made and entered into this 9<sup>th</sup> day of June, 2005, by and between MESA MACK SALES AND SERVICE, INC., a Colorado corporation, and CALDWELL INVESTMENT PARTNERSHIP, LLP, a Colorado limited liability partnership (collectively referred to as Developer), and the CITY OF GRAND JUNCTION, a home rule municipality, its officers, agents and employees (collectively referred to as the City).

RECITALS:

A. Developer has developed Lots 1, 2, 3, 4, 5 and 6, Caldwell Subdivision, Mesa County, Colorado (Project), such that storm and/or surface water shall be discharged into the Independent Ranchmen's Ditch, a facility owned by the Grand Valley Irrigation Company (Owner).

B. Owner, through a Discharge Agreement dated November 23, 2004, has consented to accept the storm and/or surface water from the Project.

C. The Project has surface and stormwater detention and/or retention drainage facilities constructed to City standards. The City cannot, and does not by review and approval of the Project, authorize discharge into the facilities of others.

D. The City is unwilling to accept any liabilities, costs or expenses associated with or resulting from Developer's decision to discharge as designed.

NOW, THEREFORE, in consideration of the recitals above, and the approval of the Project, Developer agrees as follows:

1. The Project was designed and approved for development as detailed and described in Community Development File No. SPR-2004-233.

2. Developer, in consideration of the City approving the Project, the sufficiency of which consideration is acknowledged, agrees to indemnify and hold harmless the City from and against any and all claims, suits, damages, costs, expenses, liabilities, actions or proceedings asserted against the City arising from bodily injury, loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the design, construction, use and/or approval of the drainage system and/or drainage conveyance described herein and/or as constructed by Developer.

3. Developer shall indemnify and hold harmless the City from any and all loss, liability, claims, damages, fines or penalties asserted or imposed against the City by any federal, state or local agency concerning the environmental release or discharge from the Project or violation of environmental laws, rules or regulations that occur, result or are claimed to occur or result by or from the City's approval of the Project.

4. The indemnification provided for herein shall include, but not necessarily be limited to, property damage and/or personal injury.

5. Developer shall bear all costs and expenses of the indemnification provided for herein, including, but not necessarily limited to, court costs and attorneys' fees, whether or not any such liability, claims or demands alleged are groundless, false or fraudulent. Developer may retain legal counsel of its choosing so long as any such counsel retained to defend Developer and/or the City is licensed by and in good standing with the Colorado Supreme Court and is competent and experienced in defending claims, suits, actions or proceedings arising from bodily injury, loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the design, construction or use of the drainage system and/or drainage conveyance referred to herein. The City may disapprove such legal counsel, without cause being stated.

6. The persons signing this Agreement, whether as individuals or in a representative capacity, shall have the authority and be authorized to sign this Agreement and bind themselves or the entity on whose behalf he or she signs.

7. This Agreement shall be recorded with the Clerk and Recorder of Mesa County, Colorado. The covenants, terms and conditions of this Agreement shall run with the land, and shall be binding upon the Developer and its successors or assigns; provided, however, that Developer's and/or its successors' or assigns' obligations under this Agreement shall be limited to those obligations and liabilities arising or accruing under this Agreement during such party's ownership of property within the Project.

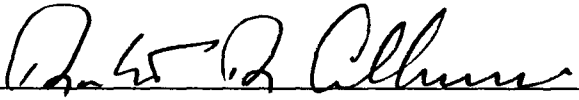
8. This Agreement shall be perpetual and shall not be terminated except by a written instrument executed by the City.

9. This Agreement and its covenants, terms and conditions are not intended to be, and shall not be construed as, a waiver of governmental immunity by the City.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the day and year first written above.

Developer:

MESA MACK SALES AND SERVICE, INC.,  
a Colorado corporation

By   
Robert R. Caldwell, President

CALDWELL INVESTMENT PARTNERSHIP, LLP,  
a Colorado limited liability partnership

By   
Robert R. Caldwell, Partner

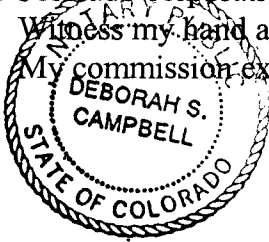
CITY OF GRAND JUNCTION, COLORADO,  
a home rule municipality

By   
Kelly Arnold, City Manager

STATE OF COLORADO )  
 ) ss.  
COUNTY OF MESA )

The foregoing instrument was acknowledged before me this 8th day of June, 2005, by Robert R. Caldwell, President of Mesa Mack Sales and Service, Inc., a Colorado corporation.

Witness my hand and official seal.  
My commission expires: 11/10/05.

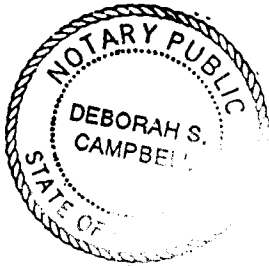


Deborah S. Campbell  
Notary Public

STATE OF COLORADO )  
 ) ss.  
COUNTY OF MESA )

The foregoing instrument was acknowledged before me this 8th day of June, 2005, by Robert R. Caldwell, Partner of Caldwell Investment Partnership, LLP, a Colorado limited liability partnership.

Witness my hand and official seal.  
My commission expires: 11/10/05.



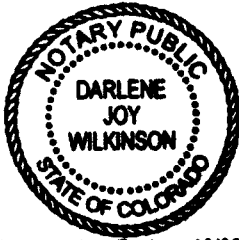
Deborah S. Campbell  
Notary Public

STATE OF COLORADO )  
 ) ss.  
COUNTY OF MESA )

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of June, 2005, by Kelly Arnold, City Manager of the City of Grand Junction, Colorado.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_.



**My Commission Expires 12/08/2007**

Darlene J. Wilkinson  
Notary Public