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TYPE OF RECORD:	PERMANENT
CATEGORY OF RECORD:	CONTRACT
NAME OF CONTRACTOR:	VALLEY MW DEVELOPMENT, LLP
SUBJECT/PROJECT:	INDEMNIFICATION AGREEMENT DATED AUGUST 3, 1999 REGARDING THE DEVELOPMENT, USE AND PLACEMENT OF DRAINAGE FROM VALLEY MEADOWS WEST SUBDIVISION
CITY DEPARTMENT:	UTILITIES AND STREETS
YEAR:	1999
EXPIRATION DATE:	NONE
DESTRUCTION DATE:	NONE

## INDEMNIFICATION AGREEMENT

This INDEMNIFICATION AGREEMENT ("Agreement") is made and entered into this 3<sup>rd</sup> day of August, 1999, by and between **VALLEY MW DEVELOPMENT, LLP** ("Developer and Indemnitor"), and the **CITY OF GRAND JUNCTION COLORADO**, hereinafter referred to as the "City."

This Agreement specifies terms, conditions, responsibilities and duties of the Indemnitor to and in its indemnifying and holding harmless of the City, pertaining to the development, use and placement of drainage from Valley Meadows West Subdivision.

### RECITALS

A. The Indemnitor has designed and intends to develop Valley Meadows West Subdivision ("Subdivision") which subdivision was designed and developed such that surface water from the subdivision is discharged into the Grand Valley Irrigation Company canal.

B. The subdivision does not have surface and storm water detention or retention drainage facilities constructed to City standards.

C. As a condition of approval of the subdivision indemnification of the City was to be provided and the Indemnitor by and through this Agreement have provided appropriate indemnification to ensure future discharge of surface drainage into the Grand Valley Irrigation Company canal.

### AGREEMENT

NOW, THEREFORE, in consideration of the recitals, the obligations, benefits, duties and promises, the Indemnitor agrees as follows:

1. Valley Meadows West Subdivision was designed and approved for development with the condition of approval that surface and storm water drainage be provided. Rather than constructing surface and storm water detention or retention facilities within the Subdivision the drainage is piped and discharged into the Grand Valley Irrigation Company canal. This treatment of drainage in lieu of drainage facilities within the Subdivision is not in compliance with the design and engineering standards adopted and in effect in the City of Grand Junction.

2. Due to the historic drainage of the property prior to development and at the request of the Developer the subdivision was approved by the City without the construction of detention or retention facilities.

3. By virtue of the deviation from established standards, the Indemnitor hereby agrees to indemnify and hold harmless the City of Grand Junction and its officers, agents and employees from and against any and all claims, suits, damages, costs, expenses, liabilities, 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, use or failure of the drainage system and/or drainage conveyance described herein.

4. The Indemnitor agrees to indemnify, defend and hold the City of Grand Junction, its officers and employees, harmless from any and all loss, liability, claim or damages arising from or in any way related to the approval of the subdivision and/or development plan(s) of and for the subdivision with respect to the discharge of surface drainage into the Grand Valley Irrigation Company canal. Such indemnity shall specifically include but not necessarily be limited to all of the City's losses, damages, costs, expenses, expert witness fees and attorney fees paid, incurred or resulting from or arising out of claims or demands made as a result of drainage related damage, including but not limited to flooding and any and all other drainage and surface water discharge problems, to homes, structures or improvements or the value thereof. Additionally, the Indemnitor shall indemnify and hold harmless the City of Grand Junction, its officers and employees, from any and all loss, liability, claims, damages, fines or penalties asserted, assessed or imposed by any Federal, State or local agency concerning a discharge or approval of the subdivision and/or development of the Property with the drainage and discharge of surface water proposed, contemplated or performed by the Indemnitor.

5. The Indemnitor shall bear all costs and expenses of the indemnification provided for herein including but not necessarily limited to, court costs and attorney fees, whether or not any such liability, claims, or demands alleged are groundless, false or fraudulent. The Indemnitor may retain legal counsel of his choosing so long as any such counsel retained to defend the Indemnitor 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, use or failure of the drainage system and/or drainage conveyance referred to herein. The City does not waive any or all protections that it may have under the Colorado Governmental Immunity Act ("GIA"). The indemnity provided for in this Agreement shall be construed broadly and in order to provide the maximum protection of the City. This indemnity, to the extent necessary or required, may supplement the protections afforded by the GIA.

6. This Agreement shall be recorded with the Clerk and Recorder in Mesa County, Colorado, shall run with the land, and shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto. The persons signing this Agreement, whether as individuals or in a representative capacity, represent and otherwise shall have authority and be authorized to sign the Agreement and bind themselves or the entity on whose behalf they sign. This Agreement shall be perpetual and shall not be terminated.

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

"DEVELOPER AND INDEMNITOR"

VALLEY MW DEVELOPMENT, LLP

By: Thomas M. LaDuke  
Printed Name: THOMAS M. LADUKE  
Title: PARTNER

"CITY"

CITY OF GRAND JUNCTION COLORADO

By: David A. Varley  
Printed Name: David A. Varley  
Title: Assistant City Manager