



ACCESS AND HOLD HARMLESS AGREEMENT

AM General LLC ("AMG"), and the City of South Bend department of Venues Parks & Arts, through its governing board, the Board of Park Commissioners ("City"), enter into this Access and Hold Harmless Agreement ("Agreement") as of the Effective Date.

WHEREAS the City desires to have access to the Property (as defined below) to use for their East Race Rafting and Kayaking operation.

WHEREAS AMG is willing to allow the City to have access to the Property subject to certain terms and conditions.

NOW THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt of which is hereby acknowledged, AMG and the City agree as follows:

- 1. Right to Access.** AMG agrees to give the City access to the circle driveway and parking lot along the South side of the AM General Building along with the Grass Area adjacent to the circle driveway (the "Property") from 5:00 p.m. on Friday, August 30, 2019 until 3:00 p.m. on Saturday, August 31, 2019 subject to the terms and conditions in this Agreement.
- 2. Release of Liability.** The City, its officers, directors, employees, agents, departments, affiliates, successors, and assigns ("Releasing Parties") unconditionally release AM General LLC, its affiliates, parent companies, subsidiaries, and other affiliated organizations (collectively, "Related Companies"), and all of the Related Companies' members, officers, directors, employees, agents, and representatives (collectively with Related Companies, "Releasees") from any and all liabilities, losses, damages, costs (including attorney's fees), claims, demands, actions, causes of action, and suits in equity of whatever kind or nature related to Releasing Parties' access or use of the Property, including but not limited to all claims relating to (1) bodily injury or property damage arising out of or relating to Releasing Parties' access or use of the Property; or (2) the negligence, omission, or other fault of any of the Releasees relating to Releasing Parties' access or use of the Property.
- 3. Indemnification.** Releasing Parties agree to defend, indemnify, and hold harmless Releasees from any and all liabilities, losses, damages, costs (including attorney's fees), claims, demands, actions, causes of action, and suits in equity of whatever kind or nature arising out of (1) East Race Rafting and Kayaking; (2) any of the Releasing Parties' access or use of the Property; or (3) any breach of the representations and warranties in Paragraph 4.
- 4. Representations.** The City represent and warrants to AMG that they (1) have the legal authority and power to enter into this Agreement; (2) have followed all of the processes required by law to validly enter into this Agreement; (3) have duly authorized the execution of this Agreement by the agents that sign below; (4) will not interfere with AMG's business operations in any way while having access to the Property; and (5) will name AMG as an additional insured on all insurance policies covering liabilities arising from or related to the City's use of the Property.
- 5. Counterparts.** This Agreement may be signed in two or more counterparts, each of which when so executed shall be an original, but all of which together shall constitute one and the same instrument. Any electronically transmitted version of a manually executed original shall be deemed a manually executed original.

(Signatures on Following Page)

IN WITNESS WHEREOF, the Parties hereby execute this Agreement to be effective as of the **27th day of August 2019** ("**Effective Date**").

AMG

By: Rebecca Parker

VPA

By: [Signature]

**City of South Bend
Board of Park Commissioners**

Mark Neal, President

Title: Mgr. HC Services

Title: Executive Director

Consuella Hopkins, VP

Aimee Buccellato, Member

Dan Farrell, Member