

**INTERLOCAL AGREEMENT FOR WEEKEND AND HOLIDAY BAIL HEARINGS BY
AND BETWEEN WHITE PINE COUNTY, CITY OF ELY AND THE JUSTICE COURT
OF ELY TOWNSHIP NUMBER ONE**

THIS AGREEMENT made and entered into by and between, White Pine County, Nevada, hereinafter referred to as "COUNTY", the City of Ely, Nevada, hereinafter referred to as "CITY", and the Justice Court of Ely Township Number One, County of White Pine, State of Nevada, hereinafter referred to as "JC", by and through their respective authorized representatives. The COUNTY, CITY, and JC may also be collectively referred to in this Agreement as the "Parties" or, individually, as a "Party."

WITNESSETH:

WHEREAS, the passage of Nevada Assembly Bill 518 and Nevada Senate Bill 235, effective July 1, 2023, provides certain rural counties Judiciary with State funded compensation for their weekend and holiday pretrial release (bail) hearing obligations until June 30, 2025; and, this Agreement shall be in no manner whatsoever be considered ratification of CITY's or Municipal Court's right or entitlement to the State funded compensation;

WHEREAS, NRS 277.180(1) provides that any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the contracting agencies is authorized by law to perform;

WHEREAS, the Parties are integral parts of the local government and public agencies under NRS 277.100;

WHEREAS, the Parties are authorized by Nevada law to perform all duties hereunder by law;

WHEREAS, the Parties desire to memorialize and clarify their obligations in this Agreement relating to weekend and holiday pretrial release (bail) hearing duties;

WHEREAS, the Parties expressly and mutually agree that even if this Agreement is, or found to be by a court of competent jurisdiction, lacking or absent of legal consideration, this Agreement shall be enforceable and binding upon any and all of the Parties; and,

NOW THEREFORE, in consideration of the mutual promises and covenants herein, the Parties agree as follows:

ARTICLE I

TERM & TERMINATION

- 1.0 Term.** This Agreement shall become effective on January 18, 2025 (the “Effective Date”). This Agreement contemplates a term of approximately twenty-four (24) weeks in duration and terminating on June 30, 2025.
- 1.1 Termination.** This Agreement shall terminate on the earlier of: (1) June, 30, 2025; (2) thirty (30) days from the date when a Party provides a thirty (30) day prior written notice of its intent to terminate the Agreement provided in accordance with Section 5.8 of this Agreement; or, (3) if the State ceases to provide funding to COUNTY for weekend and holiday pretrial release (bail) hearings. Upon termination of this Agreement no Party shall owe any other Party any duty or obligation under this Agreement, save those duties and obligations which expressly survive the termination of this Agreement.
- 1.2 Extension.** This Agreement does not contemplate any type of extension (automatic or otherwise) upon expiration of the term herein (as stated in Section 1.1), regardless of whether or not the State elects to continue to fund COUNTY with compensation for their weekend and holiday pretrial release (bail) hearing obligations beyond June 30, 2025.
- 1.3 Request for Meeting.** In the event that any Party experiences substantial changes in their duties under this agreement, any Party may request, in writing, a meeting with the other Parties to discuss needed changes or amendments to this Agreement.
- 1.4 Contingent New Agreement.** Upon the termination of this Agreement, or if the Nevada State Legislature allocates additional funds to the County for compensation for Weekend and Holiday Bail Hearings to occur after June 30, 2025, whichever occurs first, the Parties agree to engage in good-faith discussions regarding the potential of a new agreement covering the same subject matter. This provision does not obligate any Party to enter into a new contract, nor does it extend the term of this Agreement beyond its termination date. Any new agreement shall be subject to and contingent upon the allocation of additional funding by the Nevada State Legislature for compensation for Weekend and Holiday Bail Hearings, mutual negotiation, consent, and execution in a signed and dated writing by all Parties to this Agreement or their authorized representatives.

ARTICLE II

FINANCIAL COMMITMENT

- 2.0 Payment for Municipal Court.** COUNTY shall not be obligated to pay CITY more than a maximum, total amount of \$10,800. COUNTY shall pay CITY a maximum of \$450 for each Weekend (Saturday and Sunday, and includes the

Associated Weekend Holiday, if any) that the MUNICIPAL COURT (MC) Judge (or the MC Judge's designee) is assigned/scheduled to be "On-Call" to perform pretrial release (bail) hearing duties for the MC. See Sections 5.0, 5.1 and 5.2. Payments shall be due and payable from COUNTY to CITY within thirty (30) days following the MC Judge's (or the MC Judge's designee's) assigned/scheduled "On-Call" Weekend and includes, if any, the Associated Weekend Holiday. COUNTY shall not pay CITY any additional monies if the MC Judge (or the MC Judge's designee) is "Called-Back" to perform any associated pretrial release (bail) hearing duties. CITY shall be solely responsible to pay the MC Judge (or the MC Judge's designee) and do so in a timely manner. COUNTY is not responsible for any payment owed to the MC Judge (nor the MC Judge's designee) by CITY. COUNTY is only financially responsible for payments to CITY for the MC Judge (or the MC Judge's designee) for actually being "On-Call" to perform pretrial release (bail) hearings conducted on Weekends, (Saturdays and Sundays, and includes any associated Weekend Holidays, if any). COUNTY is not responsible for any payments for hearings or other work performed on any other day(s).

2.1 No "Back-Pay" or "Retroactive-Pay" Owed to CITY. It is expressly and mutually agreed between the Parties that the COUNTY shall not be responsible for any monies, payment, nor owe CITY, for any Weekend and/or the Associated Weekend Holiday, if any, that the MC Judge (or the MC Judge's designee) was previously, i.e., prior to the Effective Date of this agreement, assigned/scheduled to be "On-Call", or was "Called-Back".

2.2 Billing. CITY shall, at its sole expense, prepare and submit invoices to COUNTY no more than once per month and no later than the tenth (10th) day of each month for services rendered during the preceding calendar month. Each CITY invoice shall reflect a rate of \$450 per each weekend the CITY has incurred as a payroll expense and shall include the appropriate supporting documentation for the payroll expense. COUNTY shall remit payment in full for all undisputed amounts within thirty (30) calendar days from the invoice date.

If COUNTY disputes any portion of an invoice, COUNTY shall provide CITY with written notice, via email, specifying the disputed amount and the basis for the dispute. COUNTY may withhold payment of the disputed amount pending resolution of the dispute. CITY shall not be entitled to any late payment fees, interest, penalties, or any other costs, expenses, or damages, of any nature and kind whatsoever, related to delayed payment of disputed amounts.

2.3 No Increase or Decrease of Payments. Unless Nevada State Law and/or the State of Nevada's funding of weekend and holiday pretrial release (bail) hearings changes and/or otherwise requires an increase or decrease of payment(s), there shall be no increase or decrease of payment(s) from COUNTY to CITY.

2.4 Clawback and Return of Funds. In the event that any federal, state, or local agency, grantor, or funding entity (the "Funding Agency") requires the return,

repayment, or reimbursement of funds provided to the COUNTY for compensation for Weekend and Holiday Bail Hearings, and disbursed under this Agreement to CITY, whether due to noncompliance, audit findings, misallocation, disallowance, or any other reason whatsoever (the “Clawback”), the CITY, shall be responsible for the full repayment of such funds to the COUNTY.

Upon notification of a Clawback demand by the Funding Agency to the COUNTY, the CITY shall remit the required amount, in full, to the COUNTY within thirty (30) days of receiving written notice of the repayment obligation. If CITY fails to return the funds, in full, within the thirty (30) days, the COUNTY may pursue any and all legal remedies available under Nevada law, including but not limited to setoff, withholding of future disbursements, or initiating legal proceedings to recover the funds from the CITY.

The CITY acknowledges and agrees that it shall indemnify, defend, and hold harmless the COUNTY from any and all claims, liabilities, collections, penalties, damages, of any nature and kind whatsoever, arising from or related to the Clawback, including reasonable attorneys’ fees and costs.

This **Clawback and Return of Funds** clause shall survive the termination or expiration of this Agreement.

ARTICLE III

DUTIES & RESPONSIBILITIES

- 3.0 Municipal Court Duties & Responsibilities.** At the MC’s sole cost, expense, time, and effort, the MC shall supply and perform any and all necessary duties, actions, documentation, attendance, service, participation, and/or personnel, required in preparation for, conducting of, and post-hearing Judicial duties for, the City of Ely, Nevada, pretrial release (bail) hearings at all MC assigned/scheduled “On-Call” Weekends (and, if any, the Associated Weekend Holiday) and “Call-Backs”. It shall be the sole responsibility of the MC Judge to assign/schedule themselves, their personnel, and/or their designee for Weekend and, if any, the Associated Weekend Holiday, for pretrial release (bail) hearings.
- 3.1 Justice Court Duties & Responsibilities.** At the JC’s sole cost, expense, time and effort, the JC shall supply and perform any and all necessary duties, actions, documentation, attendance, service, participation, and/or personnel, required in the preparation for, conducting of, and post-hearing Judicial duties for, the State of Nevada, pretrial release (bail) hearings at all JC assigned/scheduled “On-Call” Weekends (and, if any, the Associated Weekend Holiday) and all “Call-Backs”. It shall be the sole responsibility of the JC Judge to assign/schedule themselves, their personnel, and/or their designee for Weekend and, if any, the Associated Weekend Holiday, for pretrial release (bail) hearings.

- 3.2 No Sharing of Duties.** Neither the JC Judge (or their personnel, or designee) nor the MC Judge (or their personnel, or designee) shall be responsible for sharing their duties, nor be obligated in any manner whatsoever, for the duties of the other.
- 3.3 Municipal Court Judge Not Employee or Official of County.** The MC Judge is not an agent, official, officer, employee, contractor, representative, or volunteer of the County in any official or unofficial capacity. The MC Judge is not an agent, official, officer, employee, contractor, representative, or volunteer of the JC in any official or unofficial capacity.

ARTICLE IV

INSURANCE & LIABILITY

- 4.0 Insurance.** At no cost to any other Party, each of the Parties shall be solely responsible for maintaining and providing their own General Liability and Worker's Compensation Insurance for its operation in fulfilling the pretrial release (bail) hearing services associated with and/or necessary to fulfill this Agreement.
- 4.1 Liability.** Each Party shall be solely liable for any and all of its own acts, negligence, omissions, and/or errors, of any nature and kind whatsoever, relating to the services or obligations associated with and/or necessary to fulfill this Agreement. No Party shall be liable to the other for any losses, costs, expenses, payments, damages, or any other liabilities, whether direct or indirect, consequential or incidental, arising from or related to the acts, negligence, omissions, errors of any the other Party in connection with the fulfillment of this Agreement, under any legal, or equitable, theory whatsoever.

This limitation of liability shall apply to all claims, whether based on contract, tort, statute, or any other legal theory, and shall survive the termination or expiration of this Agreement.

ARTICLE V

OTHER CONTRACT TERMS

- 5.0 "On-Call" Defined:** "On-Call" is defined as the requirement to be fit and able to be contacted by local law enforcement, prosecutor, defense counsel, and/or a member of the local judiciary, by telephone, email and video conferencing, during a Weekend, including the Associated Weekend Holiday, if any, in order to monitor and receive communications associated with pretrial release (bail) hearings, and be fit and able to return to on-duty work when contacted, in order to provide any and all duties relating to pretrial release (bail) hearings, but not formally on-duty until contacted and required to perform said duties.

- 5.1 “On-Call” Weekend Defined:** An “On-Call” Weekend shall be from 5pm Friday through Sunday for JC and from 5pm Thursday through Sunday for MC. Failure of a person to be fit and able to be “On-Call” (as defined in Section 5.0) during a Weekend shall relieve COUNTY of COUNTY’s obligation to issue payment for that Weekend without any recourse.
- 5.2 “On-Call” Associated Weekend Holiday Defined:** “On-Call” for an Associated Weekend Holiday for any COUNTY and/or CITY recognized Holiday that falls on a Monday, Tuesday, or Wednesday, shall be from 5pm the evening before the Holiday through the day of the Holiday. Any COUNTY and/or CITY recognized Holiday that falls on a Thursday or Friday, shall be from 5pm the evening before the Holiday through the day of the Holiday.
- 5.3 “Called-Back” Defined:** “Called-Back” is defined as an “On-Call” Judge (or their designee) who has completed a regularly scheduled work shift, work week, or on an authorized day off, when contacted to return to work, in order to provide any and all duties relating to pretrial release (bail) hearings. A person who is “Called-Back” is formally on-duty but not entitled to any additional pay. Failure of a person to be fit and able to work when “Called-Back” shall relieve COUNTY of COUNTY’s obligation to issue payment for that Weekend without any recourse.
- 5.4 Release and Waiver of Claims.** To the fullest extent permitted by the laws of the State of Nevada, the CITY does hereby irrevocably and unconditionally release, waive, and discharge the COUNTY, including its officials, officers, employees, agents, contractors, representatives, volunteers, and assigns, in either their personal and/or professional capacity, from any and all claims, demands, liabilities, obligations, losses, damages, costs, expenses (including, but not limited to, attorneys’ fees), causes of action, and/or legal proceedings, of any nature and kind whatsoever, whether known or unknown, foreseeable or unforeseeable, suspected or unsuspected, arising out of or relating to this Agreement.

CITY acknowledges and agrees that this release and waiver extends to all claims, including those that CITY may not presently anticipate, know, or suspect to exist. CITY expressly waives all rights under the Nevada Revised Statutes and any other applicable laws or legal principles that might otherwise limit the scope of this release, including any protections related to unknown claims.

CITY further agrees that it shall not initiate, institute, or maintain any claim, demand, lawsuit, cause of action, and/or legal proceeding, of any nature and kind whatsoever, against COUNTY, including its officials, officers, employees, agents, contractors, representatives, volunteers, and assigns, in either their personal and/or professional capacity, for any matter covered by this release. CITY expressly assumes all risk of any and all claims, of any nature and kind whatsoever, that may arise from or relate to this Agreement.

This **Release and Waiver of Claims** shall be binding upon CITY and its successors, assigns, representatives, and legal affiliates and shall survive the termination or expiration of this Agreement.

5.5 Indemnification. To the fullest extent permitted by the laws of the State of Nevada, CITY shall defend, indemnify, and hold harmless COUNTY, including its officials, officers, employees, agents, contractors, and representatives, volunteers, and assigns, in either their personal and/or professional capacity, from and against any and all claims, demands, lawsuits, causes of action, liabilities, losses, damages, injuries, costs, and expenses of any kind whatsoever, including but not limited to monetary losses, property damage, collection actions, equitable relief, personal injury, and wrongful death, whether asserted by an individual or any other entity, or imposed by a court of law or administrative action of any federal, state, or local governmental agency, arising out of or related to any act, omission, negligence, or willful misconduct of CITY, its officials, officers, owners, employees, agents, contractors, invitees, or volunteers.

This indemnification obligation includes, without limitation, the payment of all fines, penalties, judgments, settlements, awards, decrees, attorneys' fees, court costs, and any related expenses incurred by COUNTY, including its officials, officers, employees, agents, contractors, and representatives, volunteers, and assigns, in either their personal and/or professional capacity, and including the reimbursement of all legal fees, expenses, and costs incurred in the enforcement of this provision.

This **Indemnification** obligation shall survive the expiration or termination of this Agreement.

5.6 Limited Liability. The COUNTY, including its officials, officers, employees, agents, contractors, and representatives, volunteers, and assigns, in either their personal and/or professional capacity, assumes no liability for any past, present, and/or future, damages, losses, collections, injuries, and/or deaths, of any nature and kind whatsoever. COUNTY will not waive and intends to assert to the fullest extent allowed by law and/or available under Nevada Revised Statute (NRS) Chapter 41 liability limitations in all cases. The COUNTY shall not be liable for liability or damage, loss, collection, claims for injury to person or property, and/or death, of any nature and kind whatsoever, including, without limitation, the CITY's officials, officers, employees, agents, contractors, representatives, volunteers, and assigns.

This **Limited Liability** shall survive the expiration or termination of this Agreement.

- 5.7 No Waiver of Sovereign Immunity.** Nothing in this Agreement shall be deemed to constitute a waiver, of any nature and kind whatsoever, of the sovereign immunity of COUNTY.
- 5.8 Good Faith and Fair Dealing.** All provisions of this Agreement are governed by the covenant of good faith and fair dealing.
- 5.9 Breach.** Failure of any Party to substantially perform any obligation of this Agreement shall be deemed a breach. Failure to declare a breach or declare a waiver of any particular breach of this Agreement or the material or nonmaterial terms of this Agreement, by any Party, shall not operate as a waiver by such Party of any of its rights or remedies as to any other breach, including, but not limited to, another breach of the same provision.
- 5.10 Rights, Remedies and Benefits Cumulative.** The rights, remedies and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other said rights, remedies and benefits, nor of any other rights, remedies and benefits allowed by law or in equity.
- 5.11 No Third-Party Beneficiaries.** This Agreement shall not confer third (3rd) party beneficiary status on any non-party. It is also agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in any member of the general public a third (3rd) party beneficiary status hereunder, or to authorize anyone not a Party to this Agreement to maintain a suit or claim of any nature and kind whatsoever.
- 5.12 Notices.** Any notice, demand, complaint, or request, in connection with this Agreement shall be sufficient in all respects if given in a dated writing and delivered in person, by facsimile, email, or by United States Postal Service mail, to any and/or all other proper Parties as follows:

White Pine County

1786 Great Basin Blvd., Suite 3

Ely, Nevada 89301

(775) 293-6509 Office

(775) 289-2544 Fax

ATTENTION: White Pine County Clerk

Email: WPClerk@WhitePineCountyNV.gov

City of Ely

501 Mill Street

Ely, Nevada 89301

(775) 289-2430 Office

(775) 293-1395 Fax

ATTENTION: City Clerk

Email: CityClerk@CityofElyNV.gov

Ely Justice Court

1786 Great Basin Blvd., Suite 6

Ely, Nevada 89301

(775) 293-6540 Office

(775) 289-3392 Fax

ATTENTION: Justice Court Judge

Email: WPCJusticecourt@WhitePineCountyNV.gov

- 5.13 Change of Address Notification.** Changes in the respective addresses to which notices shall be directed may be made from time to time by any Party. Notice of any such change in address shall be timely directed to the other Party in a dated writing.
- 5.14 Independent Public Agencies.** The Parties are associated with each other only for the purposes and to the extent set forth in this Agreement, and in respect to performance of services pursuant to this Agreement, each Party is and shall be an independent public agency separate and distinct from the any of other Parties and, subject only to the terms of this Agreement, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Agreement. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or any other similar such relationship between the Parties hereto, or to otherwise create any liability, under any legal or non-legal theory, of any nature and kind whatsoever, with respect to the indebtedness, liabilities, damages, collections, and/or obligations, of the other agency or any other Party hereto.
- 5.15 Entire Agreement.** This Agreement constitutes the entire Agreement between the Parties concerning its subject matter and there are no representations, conditions, warranties or collateral agreements, express or implied, statutory or otherwise, with respect to this Agreement other than is contained herein. It is hereby expressly agreed and understood that the entire agreement between the Parties is contained in this Agreement and supersedes, if any, all oral agreements and negotiations between the Parties.
- 5.16 Contract Documents.** There are no other documents which comprise the Agreement between the Parties and none are attached hereto nor made a part hereof. Other documents or amendments to this Agreement may be included at a later time by the written agreement of the Parties.
- 5.17 Amendments.** Amendments or modifications to this Agreement may be made from time to time if unanimously approved, and in a signed and dated writing, by all of the Parties hereto.
- 5.18 Assignments.** Any assignment, conveyance, or transfer of any Party's right, title, ownership, or interest under this Agreement shall require the prior, unanimous, written, signed and dated, consent of all the other Parties in their sole and

absolute discretion. Any unpermitted assignment, conveyance, or transfer of this Agreement and/or a Party's right, title, ownership, or interest under this Agreement shall be void.

- 5.19 Execution of Additional Instruments.** From time to time after execution of this Agreement, as and when requested by a Party in a signed and dated writing, the Parties agree to use their best efforts to communicate and cooperate with one another in order to, in a timely manner, acknowledge, execute, and deliver all necessary instruments or documents, in writing, and take such other action as may be reasonable or necessary to effectuate the terms of this Agreement.
- 5.20 Other Agreements.** Except as expressly and specifically set out in this Agreement, the terms and provisions of this Agreement shall in no way affect or impair the terms, obligations or conditions of any other agreement between the Parties.
- 5.21 Open Meeting Law.** This Agreement and any amendment, modification, alteration, or change of the provisions of this Agreement shall only be made in an Open Public Meeting, unless a specific statutory provision allows or requires the discussion or negotiations to be held in private. Notwithstanding, any results of the negotiations or discussions shall be placed on the record pursuant to the State of Nevada's Open Meeting law.
- 5.22 Governing Law.** This Agreement shall be interpreted and enforced in accordance with, and the validity and performance of this Agreement shall be governed by, the laws of the State of Nevada, without regard to principles of conflict of laws.
- 5.23 Contract Interpretation.**
- A. No Drafter.** Each Party to this Agreement and its counsel has reviewed this Agreement. No Party shall be deemed the drafter of this document as the Parties have read, reviewed, and revised, the terms stated herein and understand them.
 - B. Joint Work Product.** This Agreement is the joint work product of the Parties and the Parties have participated in its preparation. The Parties have approved the language of this Agreement and agree the language expresses their mutual intent. In the event of an ambiguity or contradiction in terms, no presumption shall be imposed against any Party hereto by reason of document preparation. There is no drafter of this Agreement and there cannot be a presumption for or against a drafter in interpreting or enforcing this Agreement.
 - C. No Presumption in Case of Ambiguity or Contradiction.** In the event of an ambiguity or contradiction in terms, the Parties stipulate that any Court interpreting or construing this Agreement shall not apply a rule of construction, nor make a presumption, that the Agreement should be more strictly construed against any Party hereto.

- D. No Strict Construction.** In the case of an ambiguity or contradiction in terms, no rule of “strict construction” shall be applied to this Agreement and/or against any Party hereto. The rule of reasonableness, commercial common sense, and the spirit and intent of the Agreement is to be the guiding interpretive principles.
- E. Invalid Provision.** The illegality or invalidity of any provision(s), in-full or in-part, of this Agreement shall not affect the validity of the remainder of the Agreement and this Agreement shall be construed as if such provision(s), in-full or in-part, did not exist. The unenforceability of such provision(s) shall not be held to render any other provision(s) of this Agreement invalid or unenforceable
- F. Severability.** If any covenant, condition or provision in this Agreement is held to be illegal, invalid, or unenforceable, by a court of competent jurisdiction, the illegality, invalidity, or unenforceability of any such covenant, condition or provision shall be found and declared to be severable, and in no way whatsoever affect any other covenants, conditions or provision in this Agreement.
- G. Waiver of Rights.** No delay or failure by any Party hereto to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute waiver of that or any other right, unless expressly permitted herein. Any Party hereto may, by formal written, signed and dated, notice delivered to the other party, in the manner provided in this Agreement, but shall not be under obligations to, waive any of its rights or any conditions to obligations it is owed, or any covenant or duty of the other party. No waiver shall affect or alter the remainder of this Agreement, and each covenant, duty, and condition shall continue in full force and effect with respect to any other breach, whether existing prior to or occurring after the waiver. The failure of any Party hereto to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party’s right to subsequently enforce and compel compliance with every provision of this Agreement. Failure of any Party to complain of any act or omission on the part of the other Party shall not be deemed a waiver by the noncomplaining Party of any of its rights under this Agreement. No waiver by any Party at any time, express or implied, of any breach of any provisions of this Agreement shall be a waiver of a breach of any other provision of this Agreement or a consent to any subsequent breach of the same or any other provision.
- H. Clause Headings.** The number, letter, caption, clause, provision, article, and/or section headings appearing in this Agreement have been inserted solely for the purpose of convenience and ready reference. They do not purport to, and shall not be deemed to, define, limit, amplify, or extend the scope or intent of the clauses, provisions, articles, and/or sections to which they pertain, and shall not be considered in interpreting this Agreement.

- I. **Use of Singular or Plural Words.** Whenever the context of any provision, term, and/or word, may require it, the singular shall be held to include the plural provision, term, and/or word, and vice versa.
- J. **Use of Pronouns.** Feminine or neuter pronouns shall be substituted for those of masculine for and vice versa. The singular pronoun shall be substituted for the plural pronoun and vice versa in any place in which the context may require such substitution.
- K. **Collateral References.** Unless otherwise expressly provided herein, any agreement, instrument, statute, or code defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument, statute, or code as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes and codes) by succession of comparable successor statutes and codes and references to all attachment thereto and instruments incorporated therein.

5.24 Force Majeure. Each party's obligation to perform or observe any term, condition, covenant or agreement on such Party's part to be performed or observed under this Agreement shall be suspended during such time as such performance or observance is prevented or delayed by reason of any "Force Majeure Event." A Force Majeure Event means an industry-wide strike, boycotts, labor disputes, embargoes, pandemic, acts of the public enemy, act of superior governmental authority, riots, rebellion or sabotage, war, fire, earthquake, flood or other natural disaster or any other circumstances not within the reasonable control of the Party required to perform, notwithstanding such party's reasonable diligent efforts to perform. A Force Majeure Event shall extend the time permitted for such performance only by the number of days by which such Force Majeure Event actually delayed performance. A Party shall not be liable for damages and/or any loss to any other Parties resulting from a Force Majeure Event.

5.25 Jurisdiction: Forum and Venue. The Parties irrevocably consent to the jurisdiction of the Seventh Judicial District Court, in and for the County of White Pine, State of Nevada, which shall irrevocably be the exclusive, proper, and only forum and venue, for adjudicating any lawsuit or any other litigation matters, of any nature and kind whatsoever, between any of the Parties, arising from or relating to this Agreement, including, without limitation, any involving a third party.

5.26 Attorney's Fees and Expenses. In the event suit, proceeding or action is instituted to enforce any of the terms, covenants or conditions of this Agreement (including, but not limited to, in the context of a bankruptcy action) or litigation concerning the rights and duties of the Parties to this Agreement, or to recover any amounts due hereunder, the losing Party shall pay to the prevailing Party,

in addition to the costs and disbursements allowed by statute, such sum as the court may adjudge reasonable as attorney's fees in such suit, proceeding or action, in both trial court and appellate court.

- 5.27 Final Expiration.** Upon final expiration of the term of this Agreement, this Agreement shall immediately terminate each Parties' interests in the Agreement and no Party shall owe any another Party any further duties, obligations or consideration, save those duties and obligations which expressly survive the termination of this Agreement.
- 5.28 Survival.** Any and all provisions of this Agreement which, by their nature, would reasonably be expected to be complied with or performed after the expiration, cancelation, or termination of this Agreement shall survive and be enforceable after the expiration, cancelation, or termination of this Agreement. Expiration, cancelation or termination of this Agreement shall not affect the rights or obligations of any Party that have arisen before the date of such expiration, cancelation, or termination. A Party's indemnification and confidentiality obligations shall survive expiration, cancelation, or termination of this Agreement in the manner described herein.
- 5.29 Perpetuities.** To the extent that this Agreement or any provision hereof could be construed to create, for purposes of the Nevada Rule Against Perpetuities (NRS §111.103 *et seq.*), a non-tested property interest for any period of time, the Parties agree that such interest shall vest, if at all, within the time period allowed by such rule.
- 5.30 Legal Requirements.** All Parties to this Agreement shall comply with all applicable federal, state, and local laws in performing this Agreement.
- 5.31 Signature Authority.** Each natural person signing this Agreement, for or on behalf of a legal entity Party hereto, represents, warrants, assures and guarantees to each other such natural person, and to each other such legal entity, that he or she is duly authorized and has legal power and/or authority so to sign.
- 5.32 Execution in Counterparts and Electronic Delivery.** This Agreement can be executed in counterparts, each of which shall be an original and upon the delivery to each Party of one or more copies of the Agreement signed by all Parties, together will constitute a fully executed and binding contract. The exchange of executed signature pages by facsimile or email transmission shall constitute effective delivery of such signature pages and may be used in lieu of the original signature pages for all purposes. In the event this Agreement is delivered by facsimile or email, the Parties agree to exchange ink-signed counterparts promptly after the execution and delivery of this Agreement at the request of another party. The original(s) shall be filed with the Clerk of the Seventh Judicial District Court, the *ex officio* Clerk of the

White Pine Board of County Commissioners.

IN WITNESS WHEREOF the Parties to this Agreement have signed this Agreement on the respective dates set forth below.

[Signatures on Following Page]

White Pine County, Nevada

By: _____
Jasen Hutchens, County Manager
White Pine County, Nevada

Date: _____

APPROVED AS TO FORM: _____
Melissa A. Brown, District Attorney
County of White Pine

Date: _____

Justice Court of Ely Township Number One

By: _____
Stephen J. Bishop, Justice of the Peace

Date: _____

City of Ely, Nevada

By: _____
Nathan Robertson, Mayor
City of Ely

Date: _____

APPROVED AS TO FORM: _____
Chris Arabia, City Attorney
City of Ely

Date: _____