

INDEMNIFICATION AND HOLD HARMLESS AGREEMENT
Mobile Food Service Permit
CITY OF EFFINGHAM, ILLINOIS

THIS INDEMNIFICATION AND HOLD HARMLESS AGREEMENT (hereinafter referred to as the “Agreement”) is entered into this ____ day of _____, 20____ between the City of Effingham, Illinois, 201 E. Jefferson Avenue, Effingham, Illinois (herein referred to as “City”), and _____ (herein referred to as the “Permittee”).

WHEREAS, the City has authorized Permittee, subject to the terms and conditions of the provisions of Article V of Chapter 15 of the Municipal Code, and other ordinances, resolutions, rules and regulations of the City, to utilize municipal property or right-of-way for the purposes of operating a Mobile Food Service Establishment within only that area specifically designated in Permittee’s Mobile Food Service Establishment Permit, which said Mobile Food Service Establishment Permit is attached hereto and marked as Exhibit A and hereby incorporated by reference as though fully stated herein; and,

WHEREAS, as a condition to, and in consideration of, the City granting the Permittee a Mobile Food Service Establishment Permit, the Permittee is obligated to execute this Indemnification and Hold Harmless Agreement.

NOW, THEREFORE, in consideration of the following terms and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Findings. The findings made in the prefatory portion of this Agreement are hereby adopted by the parties.
2. Definitions. Capitalized words and terms used in this Agreement shall have the same meanings specified in Article V of Chapter 15 of the Municipal Code of the City of Effingham, Illinois, as amended from time to time, unless specifically amended herein.
3. City shall allow municipal property and/or right-of-way designated in Permittee’s Mobile Food Service Establishment Permit (“Public Property”) available to the Permittee for Permittee’s non-exclusive use during the term of this Agreement (as provided below), in accordance with the terms and conditions of this Agreement. Said Public Property is, and shall at all times remain, the sole property of the City. Permittee shall hold or possess no right, title, interest in, to, or under the aforesaid Public Property, except as specifically described in this Agreement and the Permittee’s Mobile Food Service Establishment Permit.

4. The term of this Agreement shall be from _____ (time/date of commencement) to _____ (time/date of termination) or for such extended period of time as may be mutually agreed by the parties.
5. Permittee agrees to (a) use the Public Property designated in Permittee's Mobile Food Service Establishment Permit in a careful and prudent manner in the regular course of business; and, (b) shall comply with all laws, ordinances and regulations, and any and all insurance provisions, relating to the use of the Public Property designated in Permittee's Mobile Food Service Establishment Permit.
6. Permittee shall not, without the prior written consent of City, make any changes, modifications, alterations, additions, or improvements to the Public Property designated in Permittee's Mobile Food Service Establishment Permit. Any and all such changes, modifications, alterations, additions, or improvements to the Public Property designated in Permittee's Mobile Food Service Establishment Permit shall belong to and become City's property and be subject to the provisions of this Agreement.
7. Permittee assumes the entire risk of loss, theft, damage, or destruction to any of Permittee's property located on, or around, the Public Property, or any other areas, designated in Permittee's Mobile Food Service Establishment Permit, from every cause whatsoever, whether or not covered by insurance, and no such loss shall relieve the Permittee of its obligations under this Agreement.
8. The City shall have no liability to Permittee or any person whomsoever for any claim, loss, damage, or expense (including attorney fees) of any kind or nature, whether special, consequential, economic or otherwise, caused or alleged to be caused directly, indirectly, incidentally, or consequentially by the use of the Public Property designated in Permittee's Mobile Food Service Establishment Permit, by any incident whatsoever arising in strict liability or otherwise from the City's or Permittee's negligence or otherwise, by the use or maintenance thereof, or for repair of the Public Property designated in Permittee's Mobile Food Service Establishment Permit, or for any loss of business or damage whatsoever and howsoever caused, or arising out of this Agreement.
9. Permittee, as a material consideration and as a condition without this Agreement would not have been entered for the privilege of using the Public Property as designated in Permittee's Mobile Food Service Establishment Permit, shall indemnify and hold harmless the City, its representatives, officers, elected officials, agents, beneficiaries, partners, and employees, successors and assigns, jointly and severally, and to assume all risk, responsibility and liability for death of, or injury to any persons, including, but not limited to members, officers, employees, volunteers,

representatives, agents, patrons, and licensees of the parties hereto, and for loss, damage, or injury to any property, including, but not limited to that belonging to the parties hereto (together with all liability for any expense, attorneys' fees and costs incurred or sustained by the City, whether in defense of any such claims, demands, actions, and causes of action or in the enforcements of the indemnification rights hereby conferred) arising from, growing out of, or in any manner or degree directly or indirectly caused by, attributable to, or resulting from the use of the Public Property designated in Permittee's Mobile Food Service Establishment Permit, regardless of the negligence of the City, its representatives, officers, elected officials, agents, beneficiaries, partners, and employees, successors and assigns. At the election of the City, the Permittee, upon receipt of notice to the effect, shall assume or join in the defense of any claim based upon allegations purporting to bring such claim within the coverage of this paragraph. Permittee's obligations to defend, indemnify, and hold harmless, as provided in this paragraph, shall survive the expiration, termination, and any and all extensions and assignments of this Agreement.

10. Permittee shall not have the right to assign this agreement in whole or in part to any person, firm, partnership, association, or company without prior written consent of the City.
11. Permittee further agrees to pay and discharge all costs and expenses (including attorneys' fees) incurred by the City in enforcing any of the terms, provisions, covenants, or indemnities of this Agreement.
12. Except for the Permittee's Mobile Food Service Establishment Permit, this Agreement constitutes the entire agreement between the parties. Except for the Permittee's Mobile Food Service Establishment Permit, any prior written or oral agreements of the parties regarding the transaction that is the subject of this Agreement merge with and are superseded by this Agreement. This Agreement may not be changed, amended, or modified except in a writing that is properly signed by all parties.

Executed at Effingham, Illinois, the day and year first above written.

CITY OF EFFINGHAM, ILLINOIS

PERMITTEE

By: _____

Hold Harmless Agreement -