

# TOWN OF APPLE VALLEY

## QUALIFIED SMALL EMPLOYER HEALTH REIMBURSEMENT ARRANGEMENT (QSEHRA) PLAN

This Qualified Small Employer Health Reimbursement Arrangement (QSEHRA) Plan (the “Plan”) is made and effective July 1, 2023,

### RECITALS

WHEREAS, Town of Apple Valley (the “Company”), a municipal corporation organized and existing under the laws of the State of Utah, with its head office located at:

1777 N. Meadowlark Dr  
Apple Valley, UT 84737

desires to establish a plan to reimburse eligible medical expenses in lieu of a cost-prohibitive group health insurance plan.

WHEREAS, the Company passed and began offering the Plan in July of 2023 and now desires to make adjustments to the Plan.

RESOLVED, The Company shall fully fund this arrangement for each eligible employee from which covered expenses (as defined in Section 213 of the Internal Revenue Code) for the employee, their spouse, and ~~or~~ their dependents shall be reimbursed. Reimbursements shall not exceed seventy-five percent (75%) of the maximum statutory limits established for the year.

RESOLVED, the Company will offer a single or family plan based on family size as allowed by law.

RESOLVED, the submission of medical expenses must be in a form and in sufficient detail to meet the requirements of the Company. Expenses may be submitted until March 31 for the previous calendar year.

RESOLVED, the Plan shall be administered in a nondiscriminatory manner (as defined in Section 150(h) of the Internal Revenue Code) and shall remain in effect until modified or terminated by a later resolution.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Company adopts this Plan as follows:

### ARTICLE I. PURPOSE AND ESTABLISHMENT

## **1.1 Purpose**

Effective as a July 1, 2023, Company establishes a QSEHRA Plan under the Cures Act of 2016 effective July 1, 2023 for the benefit of all eligible employees under Section 105(b), (e) of the internal Revenue Code as from time to time amended.

## **1.2 Name**

The name of the Plan is Town of Apple Valley Qualified Small Employer Health Reimbursement Arrangement (QSEHRSA).

## **1.3 Plan Not Subject To a Cafeteria Plan**

This Plan may only be fully funded by the Company. No salary reduction contributions may be made under this arrangement.

## **1.4 Effective Date**

The provisions of the Plan, as set forth herein, shall only apply to an eligible employee who is in the active employ of the Company on or after July 1, 2023.

## **1.5 Termination**

This plan shall continue on a year-to-year basis until terminated by the Employer.

## **ARTICLE II. DEFINITIONS AND CONSTRUCTION**

### **2.1 Definitions**

Where the following words and phrases appear in this Plan, they shall have the respective meanings set forth in this Article, unless the context clearly indicates to the contrary.

- a) Plan: The HRA Plan for Employees working for the Company, the Plan set forth herein, as amended from time to time.
- b) Employer: Town of Apple Valley, a municipal corporation organized and existing under the laws of the State of Utah, or its successor.
- c) Committee: The person or persons appointed pursuant to Section 6 to assist the Employer with the Plan Administration in accordance with said Section.

- d) Employee: Any person who, on or after the Effective Date, is receiving remuneration for personal services rendered to the Employer.
- e) Dependents: An individual who is a dependent of a Participant within the meaning of Section 152(a) of the Code, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof, and includes any child (as defined in Code Section 152(f)(1) of the Participant, including a child under a Qualified Medical Child Support Order, who as of the end of the taxable year has not attained age 27. A Spouse is an individual who is legally married to a Participant.
- f) Participant: An Employee participating in the Plan in accordance with the provisions of Section 3.1.
- g) Fiduciaries: The Employer and the Committee, but only with respect to the specific responsibilities of each for Plan administration, all as described in Section 6.1.
- h) Participation: The period or periods during which an Employee participates in this Plan as determined in accordance with Section 3.1.
- i) Compensation: The total of all amounts paid to a Participant for a given Year by the Employer for personal services and reported as wages for purposes of income tax.
- j) Effective Date: July 1, 2023~~5~~, the date on which the provisions of this updated Plan became effective.
- k) Year: The 12-month period commencing on January 1 and ending on December 31.
- l) Code: The Internal Revenue Code and any other Codes relating to issues contained in this Plan, as amended from time to time.
- m) Qualifying Medical and Health Care Expenses: Expenses as defined in Section 213(d) of the Internal Revenue Code.

## 2.2 Construction

The masculine gender, where appearing in the Plan, shall be deemed to include the feminine gender, unless the context clearly indicates to the contrary. All references to the plural herein shall also mean the singular and to the singular shall also mean the plural unless the context otherwise indicates. The words “hereof”, “herein”, “hereunder” and other similar compounds of the word “here” shall mean and refer to the entire Plan and not to any particular provision, Section or Article. Article and Section headings are for convenience of reference and not intended to add to or subtract from the terms of this Plan.

## **ARTICLE III. PARTICIPATION, ENROLLMENT, NOTIFICATIONS, AND TERMINATION**

### **3.1 Participation**

An eligible Employee shall participate in the Plan for any Year in which he meets the following requirements:

- a) He/she has performed services for the Employer at some time during the Year for at least 90 days
- b) He/she is a Full-Time Employee, working 30 hours or more per week
- c) He/she is not subject to collective bargaining
- d) He/she is not a non-resident alien
- e) Individuals who are self-employed as described in section 401(c) of the Internal Revenue Code, including sole proprietors, or partners in a partnership

### **3.2 Enrollment**

The Employee shall enroll in the Plan on an approved form approved by the Committee after being notified of eligibility.

### **3.3 Notifications**

The Company shall notify an Employee in writing when he first becomes a Participant. Subsequent notices shall be given at least 90 days before the beginning of each Year. Such notification shall include information required to be furnished by IRS.

### **3.4 Termination**

An Employee is automatically terminated as a Participant from the Plan on the earliest of the following dates:

- a) The date on which this Plan is terminated by the Employer;
- b) The date on which the Participant's employment is terminated, whether termination is initiated by the Participant or the Employer.

## **ARTICLE IV. BENEFITS**

### **4.1 Generally**

This Plan provides for the payment of, or the reimbursement of, medical expenses (as defined in the IRS Code Section 213(d)) of an eligible Employee and Dependents as follows:

- a) Employee must provide proof of Minimum Essential Coverage (MEC) at the beginning of the Plan Year or when Employee becomes eligible to participate in the Plan. This proof must consist of either (a) a document from a third party (for example, the insurer) showing that the Employee and dependents have coverage (for example, an insurance card or an explanation of benefits) and an attestation by the Employee that the coverage is MEC; or (b) an attestation by the Employee stating that the Employee and Dependents have MEC, the date coverage began, and the name of the provider of the coverage. If employee is not covered under MEC for any month, the Employee may be subject to tax under the individual mandate requirement of the Affordable Care Act and reimbursements may then be includable in gross income.
- b) Payments and reimbursements for any year shall be no more than ~~the~~ 75% of the statutory limit of that Year. In the case of an Employee who is not covered for the entire year, the limitations are prorated.
- c) Reimbursements shall be included as a line item in the Employee's payroll checks as a non-taxable addition. Non-taxed premiums are taxable under certain circumstances such as in an employer sponsored health plan. Other taxable reimbursements include over the counter drugs purchased without a prescription.

## **4.2 Qualifying Health and Medical Care Expenses**

For this purpose, "medical expenses" means expenses for medical care, as defined in section 213(d) (which includes premiums for other health coverage, such as individual health insurance policies).

## **4.3 Carry-Forward/Run-Out Period**

Benefits not used in a prior year may be carried forward subject to ~~the~~ 75% of the maximum statutory limit. If an Employee's participation in the Plan ends, the period of coverage ends on the day of the terminating event. Any expenses incurred after that date are ineligible for reimbursement. If the Employee has not incurred Qualified Expenses equal to the amounts allocated on their behalf under this Plan before that date, the unused amount is forfeited to the Employer. All forfeited amounts become the property of the Employer.

## **4.4 Refund of Duplicate or Non-Qualifying Reimbursement**

A reimbursement made to an Employee that is not a qualifying expense (i.e., duplicate reimbursement, or reimbursement for an expense not covered by an MEC, or non-medical

expenses) shall be deemed taxable or may be repaid with after-tax funds. The repayment must be paid by March 15 of the year following the year in which the error was identified.

#### **4.5 Reporting Requirement**

Reimbursed medical expenses are excludable from gross wages. However, the Employee's permitted (maximum benefit allowed by Employer) benefit shall be reported on the W-2 in Box 12 with a code of FF. Any non-qualifying reimbursements not repaid shall be included in the Employee's gross wages as taxable.

### **ARTICLE V. ADMINISTRATION**

#### **5.1 Fiduciary Responsibility**

The Fiduciaries shall have only those specific powers, duties, responsibilities and obligations as are specifically given them under this Plan. The Employer shall have the sole responsibility for funding the Plan and shall have the sole authority to appoint and remove members of the Committee, and to amend or terminate this Plan. The Committee shall have the sole responsibility for the administration of this Plan, which responsibility is specifically described in this Plan.

#### **5.2 Funding**

There are no segregated funds or Plan assets required or established to maintain this Plan. Reimbursements shall be made from the Company's general assets. Annual allocations designated by the Employer shall be monitored for each enrolled Participant in a manner deemed appropriate by the Employer.

#### **5.3 Committee**

The Plan shall be administered by a Committee consisting of at least two people who shall be the Mayor or Designee, Finance Director or Town Administrator and Payroll Processor of the Employer Company.

#### **5.4 Claims Procedure**

The Committee shall make all determinations as to the eligibility of any Employee for Plan Participation or an Employer contribution. Any denial by the Committee of the claim for benefits under the Plan by an Employee shall be stated in writing by the Committee and delivered or mailed to the Employee; and such notice shall set forth the specific reasons for the denial, written to the best of the Committee's ability in a manner that may be understood without legal or actuarial counsel. In addition, the Committee shall afford a reasonable

opportunity to any Employee whose claim for benefits has been denied for a review of the decision denying the claim.

### **5.5 Records and Reports**

The Committee shall exercise such authority and responsibility as it deems appropriate to comply with governmental regulations relating to records of the Employer contributions made hereunder, notifications to Participants, and reports, if any.

### **5.6 Other Committee Powers and Duties**

The Committee shall have such duties and powers as may be necessary to discharge its duties hereunder, including, but not by way of limitation, the following:

- a) To construe and interpret the Plan and decide all questions of eligibility;
- b) To prepare and distribute, in such manner as the Committee determines to be appropriate, information explaining the Plan;
- c) To receive from the Employer and from Participants such information as shall be necessary for the proper administration of the Plan;
- d) To furnish the Employer, upon request, such annual reports with respect to the administration of the Plan as are reasonable and appropriate;

The Committee shall have no power to add to, subtract from or modify any of the terms of the Plan, or to change or add to any benefits provided by the Plan, or to waive or fail to apply any requirements of eligibility under the Plan

### **5.7 Decisions**

All decisions of the Committee shall be uniformly and consistently applied to all Participants in similar circumstances. When making a determination or calculation, the Committee shall be entitled to rely upon information furnished by a Participant, the Employer or the legal counsel of the Employer.

### **5.8 Notifications and Forms**

The Committee may require a Participant to complete and file with the Committee any and all forms approved by the Committee, and to furnish all pertinent information requested by the

Committee. The Committee may rely upon all such information so furnished it, including the Participant's current mailing address.

## **ARTICLE VI. EMPLOYER RIGHTS**

### **6.1 Non-Guarantee of Employment**

Nothing contained in this Plan shall be construed as a contract of employment between the Employer and any Employee, or as a right of any Employee to be continued in the employment of the Employer, or as a limitation of the right of the Employer to discharge any of its Employees, with or without cause.

### **6.2 Action by Employer**

Any action by the Employer under this Plan may be by any person or persons duly authorized to take such action.

### **6.3 Amendments**

The Employer reserves the right to make from time to time any amendment or amendments to this Plan which do not cause any part of Employer contributions hereunder to be used for, or diverted to, any purpose other than the exclusive benefit of Participants, provided however, that the Employer may make any amendment it determines necessary or desirable, with or without retroactive effect, to comply with the Code or any other federal law and regulations issued pursuant thereto.

### **6.4 Right to Terminate**

The Plan is intended to be permanent, but the Employer reserves the right to terminate the Plan at any time.

IN WITNESS WHEREOF, the Employer has executed this Agreement with full knowledge of its content and significance and intending to be legally bound by the terms hereof the day and year first above written.

TOWN OF APPLE VALLEY

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~~Frank Lindhardt~~ Michael Farrar, Mayor  
Clerk/Recorder

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Jenna Vizcardo,



Authorized Signature

Attest Signature