

**BIG PLAINS WATER SPECIAL SERVICE DISTRICT  
RESOLUTION NO. BPW-2024-11**

**INTERLOCAL AGREEMENT FOR USE OF PERSONNEL AND PHYSICAL RESOURCES**

THIS AGREEMENT is made and entered effective as of the 1st day of July 2024, by and between the Town of Apple Valley, Utah, a Utah municipal corporation ("Town") and Big Plains Water and Sewer Special Service District, a Utah special service district ("District"). This agreement will replace and supersede any past interlocal agreements between Big Plans and the Town of Apple Valley.

**RECITALS**

**WHEREAS**, the Town, pursuant to Utah law, caused the creation of the District in order to provide for water services within the Town; and

**WHEREAS**, both the Town and the District are authorized under Utah law to enter into agreements for joint or cooperative action; and

**WHEREAS**, it is in the best interests of both the Town and the District to operate in an effective and efficient manner for the good of the citizens; and

**WHEREAS**, the Town is willing to allow the District to utilize certain Town personnel and physical resources in exchange for reimbursement to the Town.

**WHEREAS**, the District is willing to allow the Town to utilize certain District personnel and water in exchange for reimbursement to the District; and

**WHEREAS**, the previous interlocal agreement for personnel and physical resources, dated April 21, 2022, was outdated; and the District and Town desire to repeal the old interlocal agreement and adopt this interlocal agreement that better suits both parties.

**AGREEMENT**

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**1. USE OF TOWN PERSONNEL (CLERK/ACCOUNTING/BILLING/ADMIN/PURCHASING AGENT)**

Both parties agree to a flat rate of \$5,000.00 per month for the interlocal agreement. This will cover all personnel costs, office supplies, equipment, CPA/accountant, 15 hours a week for a shared water assistance/maintenance person and all other fees as described in this agreement.

The Town agrees that, until otherwise determined by both the Town and the District, the District may use the services of Town employees, as approved between the Town and the District, as reasonably necessary to conduct the business of the District.

The above-mentioned rate shall cover all rates and fees including payroll taxes of 7.85% to cover FICA, workers compensation and unemployment. No other benefits will be reimbursed, regardless of the status of the individual performing the work. The District would normally employ a part-time person to perform the work described above. The District will not engage in absorbing expenses not otherwise paid by the District if a stand-alone.

## **2. USE OF TOWN EQUIPMENT AND PHYSICAL RESOURCES**

Building: The District has purchased their own mobile office. Included in this agreement is the space rent for the office on the town's property located at the Town Hall as well as the electricity used to service said office.

Office Supplies: This is included in the monthly fee to cover the costs of office supplies, i.e., pens, folders, paper clips, etc.

Monthly Invoicing: The solid waste fee billed by the Town, includes fees for postage. The District will not be charged for postage fees until such a time when billing has been separated. The District will give the large copy machine to the town and the town will take ownership of the copy machine. The town will supply the district office with a smaller personal sized printer. Included in the monthly fee will be the cost of all printer ink and toner.

Telephone/Internet: Included in this agreement is one internet connection to the water districts office. .

Website Usage: Included in this agreement is the costs to maintain the website. The district shall be given its own page with all information pertaining to the District not to be comingled on Town pages, other than meetings and code pages. Any website or design changes/improvements would be the responsibility of the district.

Zoom for Meetings: The fees for this service are included in this agreement.

Backhoe: The District's use will be minimal. Backhoe use will be included under this agreement. Damage to the backhoe while being used by the district will be the responsibility of the district. The district will pay for any damages due to misuse or accidents. Any major mechanical repairs shall be the responsibility of the Town.

Dump Truck: The District's use will be minimal. Dump Truck use will be included under this agreement. Damage to the dump truck while being used by the district will be the responsibility of the district. The district will pay for any damages due to misuse or accidents. Any major mechanical repairs shall be the responsibility of the Town.

If the Town changes to different methods of providing the above services, the Chairman and Mayor may negotiate the change in charges and/or services.

#### **4. WATER USAGE AND CHARGES FOR THE TOWN**

The District shall charge the Town for water usage as a customer. These charges will be paid monthly to the district as any other water customer.

#### **5. RECORD KEEPING**

All files of the District shall be kept separate from the Town's records, i.e., separate filing cabinets, separate folder on the server, separate space on desks, separate area for ordinance and resolution binders, etc. so as to minimize the loss of records and enhance the efficiency of the Town personnel performing the work. All manual files will be stored at the town hall.

#### **6. PAYMENT BY DISTRICT**

The Town shall invoice the District on monthly basis. The District has 30 days from the date of the Town's invoice to make payment without incurring interest charges. Interest will be charged at 1.5% for each month or partial month the payment is late.

As early as possible for each fiscal year, the Town and District shall review the interlocal agreement, current billing rates and make any appropriate adjustments based on number of District customers, employee costs, and physical resource costs. Until a new agreement of rates supersedes the prior year agreement, the prior agreement shall remain in full effect.

#### **7. ADMINISTRATION OF AGREEMENT**

This Agreement shall be administered by the Mayor of the Town of Apple Valley and the Chairman of the administrative control board of the Big Plains Water Special Service District.

#### **8. RETAINED RIGHTS**

Each party specifically retains all rights and obligations granted to or imposed upon it by state law.

#### **9. AGREEMENT CONDITIONAL**

The parties agree that this Agreement shall become effective immediately upon approval and execution hereof by the parties' respective Governing Bodies and the filing of the Agreement with the Parties' respective keeper of records.

#### **10. LIABILITY AND HOLD HARMLESS**

Town and District shall use reasonable diligence in performance of this Agreement, but do not assume any responsibility for any damage to the other party or others not the result of carelessness, negligence, failure to adhere to established standards, or willful acts on the part of Town or the District or their employees, representatives or agents. Each party will indemnify,

hold harmless, and defend the other party and its agents, principals, and employees from and against all claims, defenses, losses, liability and attorney fees arising out of or resulting from said party's failure to comply with the requirements of this Agreement, or with all federal, state and local laws applicable to the performance of this Agreement.

#### **11. TERM**

The term of this Agreement shall be for five (5) years initially, which may be extended on a year-to-year basis thereafter by written extension agreements entered into by the parties, not to exceed a total term of fifty (50) years. The monthly amount due can be re-negotiated once a year at the time of creating the town/district new fiscal budget.

#### **12. DEFAULT OR BREACH**

In the event of a default or breach in the performance of any obligation contained herein, the party not in default or breach shall provide written notice of such default or breach to the defaulting or breaching party. If such breach or default is not cured within thirty (30) days after receipt of such notice, the non-breaching or non-defaulting party may terminate this Agreement by providing thirty (30) days written notice of its election to terminate. Alternatively, or together in conjunction with such termination, the party in default or breach shall be liable to the other party for all damages suffered by said party, including costs of court and reasonable attorney fees.

#### **13. AUTHORIZED AGREEMENT**

Town and District hereby represent and warrant, one to the other, by signature of this Agreement, that its Governing Body has taken all action as required by law to approve this Agreement and to authorize execution of this Agreement on behalf of that party.

#### **14. RECITALS**

The recitals set forth at the beginning of this Agreement are incorporated herein by this reference as part of this Agreement.

#### **15. CONSTRUCTION**

This Agreement shall be governed by and construed under the laws of the State of Utah.

#### **16. INDEPENDENT ACTION**

The parties hereto shall not be deemed to be partners or joint venturers under this Agreement or in any manner.

**17. LEGAL COMPLIANCE**

Each party shall be responsible for ascertaining and overseeing compliance with all government and legal requirements.

**18. ENTIRE AGREEMENT; NO THIRD-PARTY BENEFICIARIES**

This Agreement contains the entire agreement between the parties concerning its subject matter, supersedes all prior agreements and understandings, whether or not written, and is not intended to confer upon any person other than the parties hereto any rights or remedies hereunder.

**19. AMENDMENT**

This Agreement may be amended only by a written instrument duly executed by the parties hereto.

**20. SEVERABILITY**

If any of the terms, covenants or conditions of this Agreement, or the application of any of such terms, covenants or conditions, shall be held invalid as to any person, party, or entity, by any court having jurisdiction in the premises, the remainder of this Agreement, and the application of its terms, covenants or conditions to such person, party or entity shall not be affected thereby.

**21. NO WAIVER**

Neither failure nor delay to object to any default or failure to perform under this Agreement on the part of either of the parties hereto shall operate as a waiver thereof. Any waiver at any time by either of the parties hereto of their rights with respect to a default or other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

**22. SUCCESSORS AND ASSIGNS**

The terms of this Agreement shall be binding upon each of the parties hereto and their successors and assigns; provided that neither party may assign its rights hereunder without the prior written consent of the other, which consent may be withheld in the sole discretion of the other party.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to the Agreement to be executed on the date set forth above to be effective as of the effective date set forth above.

TOWN

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Mike Farrar, Mayor

Date

DISTRICT

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Mike Farrar, Chairman

Date

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Kevin Sair, Vice Chairman

Date

ATTEST

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Jenna Vizcardo, Town Clerk

Date