

## WATER AGREEMENT

THIS WATER AGREEMENT (this “**Agreement**”), is made and entered into as of \_\_\_\_\_, 2024 (“**Effective Date**”), by and between Big Plains Water Special Service District, a Utah Special Service District (“**Big Plains**”), Apple Valley Town (“**Town**”), a Utah municipal corporation, and Hidden Rock Development Group, a Utah limited liability company (“**Developer**”).

### RECITALS:

A. Developer is the owner of certain real property situated in Apple Valley, Utah, with Parcel Identification numbers AV-2194-D, AV-2194-B, and AV-2-2-27-432, more particularly described on Exhibit A, attached hereto (“**Property**”);

B. Big Plains is a Utah Special Service District that provides culinary water service to Apple Valley Town. Big Plains’ water system is shown on Exhibit B, attached hereto (“**Big Plains System**”). Big Plains’ service area includes the Property.

C. Developer is currently working with Town to develop the Property, to be known as Oculca Roca (“**Project**”).

D. Developer desires to obtain culinary water service for the Project from the Big Plains System, in accordance with the terms and conditions hereinafter set forth.

E. Developer is the owner of water rights numbered: 81-5516, 81-5514, and 81-5513 (“**Water Rights**”), appurtenant to the Property. Developer desires to convert some of the Water Rights into secondary water for use at the Project.

F. Big Plains is willing to serve the Project, and Developer desires that Big Plains be the owner and operator of the System, all upon the terms and conditions hereafter set forth.

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions hereof, the parties agree as follows:

1. As per Big Plains resolution BPW-R-2023-11, At the District's discretion, one (1) acre foot of municipal category water rights must be bought-in at \$10,000.00 per connection or deeded to the District in lieu of the buy-in. Conveyance to the District, must be in a form or manner approved by the District, an existing water right in a quantity sufficient to allow the District to meet the use applied for by the applicant. The decision of water rights buy in or waters rights deeded to the district will be determined by the district at a future time.

2. In compliance with the requirements of Big Plains and the Utah Division of Drinking Water, Developer will design, construct the connecting pipeline to comply with applicable laws, and all necessary facilities, fixtures, meters and appurtenances needed to operate and deliver water to the Project.

3. At the general location shown on Exhibit B, or at such other location deemed by Big Plains and Developer to be more economical and convenient and as approved by Big Plains, Developer will connect the Project to the Big Plains System. Upon connection to the Big Plains System, Developer will dedicate all water conveyance improvements to Big Plains, and Big Plains will become the owner and operator and shall manage in all respects the Delivery of culinary water to the Project, in accordance with all applicable laws.

4. Developer shall construct a water tank (“**Water Tank**”) within the Project at a location mutually agreed by Developer, Big Plains, and Town. The Water Tank shall be constructed according to Town/District standards.

4.1. Developer and District agree that Developer is responsible to construct the Water Tank up to a 600,000-gallon capacity. Should District desire additional size and capacity to the Water Tank beyond the 600,000 gallon capacity, district shall pay the extra cost thereof prior to construction of the Water Tank.

4.2. Should Developer, in the future, expand the Project in a manner that increases Developer’s usage of water beyond the usage needed for the 600,000-gallon Water Tank capacity, as calculated by Districts engineers, Developer shall pay District for its proportionate share of the Water Tank’s capacity that Developer uses beyond the 600,000 gallons capacity paid by Developer.

4.3. Upon receipt of project Certificate of Occupancy, Developer will dedicate all water tank improvements to District, and District will become the owner and operator and shall manage in all respects the Water Tank and storage of culinary water, in accordance with all applicable laws.

4.4. Developer shall be responsible for construction of the Water Tank only, and shall not be responsible for water sourcing, wells, water lines, or other infrastructure necessary to serve and operate the Water Tank.

5. The wells currently located on the Property will not be connected to the Big Plains System or to the Water Tank, but are intended for use for secondary water and irrigation purposes at the Project.

6. As a condition of continued water service under this Agreement and to meet State Engineer requirements, Developer shall install and maintain to Big Plains standards a meter for measuring any and all water use, including, but not limited to any use under paragraph 4 above. Developer is responsible for any fees for the meter and the costs of any survey and inspections. Big Plains shall perform normal maintenance on the meter, at reasonable expense to Developer or its successor.

7. Big Plains shall at all times be provided with complete access to all pipelines and other facilities installed by Developer. Developer acknowledges that Big Plains on a periodic basis will be entering the premises to inspect all water, and infrastructure and gives permission of ingress and egress for the same.

8. The parties' obligations hereunder are subject to the obtaining of any approvals or permits required by Utah Law.

9. Big Plains may, in its sole and absolute discretion, assign or transfer its obligations hereunder to another supplier.

10. All parties agree to indemnify, save harmless and defend the others, their agents and employees, from all claims, mechanics liens, demands, damages, actions, cost and charges, and other liabilities arising out of or by reason of the obligations contained in this Agreement.

11. This Agreement shall constitute the entire agreement and understanding of and between the Parties in relation to matters described herein, and no statements, representations, inducements or promises other than as expressly set forth herein have been given or received by any of the Parties (nor by their respective agents, employees, attorneys or representatives) in return for the same. All negotiations, oral conversations, statements, representations and/or agreements leading up to the execution of this Agreement are merged herewith and shall not be the basis for any legal rights, claims or defenses in relation to any litigation or otherwise. No parole or extrinsic evidence may be used to contradict any of the terms of this Agreement. Any amendment to this Agreement must be in writing, signed by duly authorized representatives of the Parties hereto, and specifically state the intent of the Parties to amend this Agreement.

12. In no event shall any Party, or its boards, commissions, officers, agents or employees, be liable in damages for any default under this Agreement, it being expressly understood and agreed that the sole legal remedy available to another Party for a breach or violation of this Agreement by the another Party shall be an action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Agreement by the another Party, or to terminate, modify, correct or suspend this Agreement. In connection with the foregoing provisions, each Party acknowledges, warrants and represents that it has been fully informed with respect to, and represented by counsel of such Party's choice in connection with, the rights and remedies of such Party hereunder and the waivers herein contained, and after such advice and consultation has presently and actually intended, with full knowledge of such Party's rights and remedies otherwise available at law or in equity, to waive and relinquish such rights and remedies to the extent specified herein, and to rely to the extent herein specified solely on the remedies provided for herein with respect to any breach of this Agreement by the other Party.

13. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. Electronic transmission (including email and fax) of a signed copy of this Agreement and the retransmission of any signed electronic transmission shall be the same as delivery of an original. Signatures on this document, whether executed physically or by use of electronic signatures, shall be deemed original signatures and shall have the same legal effect as original signatures.

14. The persons executing this Agreement warrant and represent that they are duly authorized to do so in the capacity stated. All negotiations, understandings, representations and preliminary agreements are merged herein. The parties intend this document to be the final and

exclusive expression of their agreement. This Agreement may not be modified, amended or revoked unless by a writing signed by all the parties hereto. The language in all parts of this Agreement shall in all cases be construed simply, as a whole and in accordance with its fair meaning and not strictly for or against any party. The captions of this Agreement are not part of the provisions hereof and shall have no force or effect. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of this Agreement, this Agreement shall not be interpreted or construed against the party preparing it.

(Signatures to follow)

**IN WITNESS WHEREOF**, the parties hereto have executed this Water Supply Agreement by and through their respective, duly authorized representatives as of the day and year first above written.

**Big Plains Water Special Service District**

\_\_\_\_\_  
By:  
Its:

**Apple Valley Town**

\_\_\_\_\_  
By:  
Its:

**ATTEST** \_\_\_\_\_

**DEVELOPER**

**HIDDEN ROCK DEVELOPMENT GROUP LLC**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

## EXHIBIT "A"

AV-2194-D

Beginning at a point North 89°53'25" East along the South section line 1080.46 feet from the Southwest corner of Section 27, Township 42 South, Range 12 West, Salt Lake Base and Meridian; and running thence North 0°04'17" West 2638.65 feet to a point on the center section line; thence North 89°54'58" East along said center section line 559.35 feet to a point on a parcel more particularly described in document #20070025178, filed and on record at Washington County Recorder's Office, State of Utah; thence along said parcel the following two (2) courses: South 0°03'58" East 218.34 feet; thence North 89°53'25" East 346.55 feet to a point on a parcel more particularly described in instrument #917739, filed and on record at Washington County Recorder's Office, state of Utah; thence along said parcel the following two (2) courses: South 0°03'58" East 321.36 feet; thence South 84°32'14" East 655.48 feet to the center section line; thence South 0°03'39" East along said center section line 2035.05 feet to the South quarter corner of said Section 27; thence South 89°53'25" West along the South Section line 1557.90 feet to the point of beginning.

AV-2194-B

Commencing at the Southwest Corner of Section 27, Township 42 South, Range 12 West, Salt Lake Base and Meridian; and running thence North 89°56'17" East 2639.07 feet to the South Quarter Corner of said Section 27; thence North 0°01'06" West along the Quarter Section Line 2035.00 feet to the true point of beginning; thence North 84°29'22" West 656.00 feet; thence North 0°01'06" West 908.32 feet to the fenceline on the South side of the road; thence North 59°01'33" East along the fenceline 761.40 feet to the Quarter Section Line; thence South 0°01'06" East 1363.17 feet to the true point of beginning.

AV-2-2-27-432

Beginning at a point North 89°53'25" East along the South section line 1080.46 feet from the Southwest corner of Section 27, Township 42 South, Range 12 West, Salt Lake Base and Meridian; and running thence North 0°04'17" West 2638.65 feet to a point on the center section line; thence North 89°54'58" East along said center section line 559.35 feet to a point on a parcel more particularly described in document #20070025178, filed and on record at Washington County Recorder's Office, State of Utah; thence along said parcel the following two (2) courses: South 0°03'58" East 218.34 feet; thence North 89°53'25" East 346.55 feet to a point on a parcel more particularly described in instrument #917739, filed and on record at Washington County Recorder's Office, state of Utah; thence along said parcel the following two (2) courses: South 0°03'58" East 321.36 feet; thence South 84°32'14" East 655.48 feet to the center section line; thence South 0°03'39" East along said center section line 2035.05 feet to the South quarter corner of said Section 27; thence South 89°53'25" West along the South Section line 1557.90 feet to the point of beginning.

# EXHIBIT "B"

