

WATER AGREEMENT

THIS WATER AGREEMENT (this “**Agreement**”), is made and entered into as of _____, 2025 (“**Effective Date**”), by and between Apple Valley Town (the “**Town**”), a Utah municipal corporation, and Little Creek Land Company, LLC, a Utah limited liability company, and Jepson Canyon Resort Development Co. Inc., a Utah corporation (together “**Developer**”). The Town and Developer may be referred to herein individually as a “Party” and collectively as the “the Parties”.

RECITALS:

A. Developer is the owner of certain real property situated in Apple Valley, Utah, with Parcel Identification numbers AV-1337-A-1-A-1-A, AV-1340, AV-1341, AV-1347, AV-1352, AV-1353-JC2, AV-1381, AV-1381-JC1, AV-1382-JC2, AV-1383-JC2, AV-1384-JC3, AV-1338-A-2, AV-1385-JC3 and AV-1338-A-1-JC3, and more particularly described in Exhibit “A” which is attached hereto and incorporated herein by reference. (“**Property**”);

B. Big Plains Water Special Service District (“**Big Plains**”) was a Utah Special Service District that provided culinary water service to Apple Valley the Town through a system of water rights and water infrastructure (wells, pumps, lines, tanks, valves and meters) system of water collection and conveyance facilities (“Town Water System”). Big Plains was dissolved on _____, August 25, 2025 and all rights, title, interests, and obligations of Big Plains were assigned to and assumed by the Town as of such date. The area served by Big Plains, and now the Town, includes the Property.

C. Developer and the Town are parties to a Master Development Agreement (the “Master Development Agreement”) relating to the development of the Subject Property into a residential and mixed-use project (the “**Project**”).

D. Pursuant to the Master Development Agreement, Master Developer is entitled to develop residential dwelling units (“RDUs”). Developer acknowledges and agrees that each RDU requires a water connection and is attributable to one (1) Equivalent Residential Unit (“ERU”) for purposes of this Agreement.

E. Based on the preliminary 2025 United States Geological Survey Aquifer Study (the “USGS Preliminary Report”), the Town Water System and the aquifer which is the source of the Town’s water (the “Present Source Aquifer”) have reached maximum capacity. The final version of that study (the “USGS Final Report”) has not yet been released.

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

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

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G. Big Plains passed resolution number BPW-R-2023-11 (“**Resolution**”). Per the Resolution, Big Plains may, at its discretion, accept the dedication of one (1) acre foot of municipal category water rights per connection, or a developer ~~much~~ must purchase water from Big Plains at a rate of \$10,000 per acre foot (the “**Buy-In Fees**”).

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H. To effectuate the dissolution of Big Plains, the transfer of Big Plains’ assets, the assumption of Big Plains’ obligations and seamless operational transition of the Town Water System, the Town, for the time being, has adopted as its own, Big Plains’ former Policies and Procedures for Retail Water Service, including without limitation the Resolution (“**Town Water Policies & Standards**”).

E.—

I. Developer has previously dedicated to Big Plains, and Big Plains has accepted dedication of, 169 acre feet of water rights for use in the Project (“Dedicated Water”) and the Town, as successor in interest to Big Plains, acknowledges such dedication. Both parties acknowledge and agree that the ~~dedicated 169 acre feet of water rights~~ Dedicated Water will satisfactorily meet the required obligations for the said 227 residential lots. Developer further acknowledges that additional water rights or the payment of additional Buy-In Fees are required for any commercial developments, parks, public landscaping, public pools, water features or any other supporting infrastructure requiring a water connection (“Non-Residential Water Uses”). For any such Non-Residential Water Uses, Developer shall obtain a water usage study prepared by an engineer engaged and paid for by Developer and the results/recommendations of which being approved by an engineer engaged and paid for by the Town (“Water Usage Study”). Each Water Usage Study shall determine the number of ERUs attributable to the applicable Non-Residential Water Use for purposes of this Agreement. Thereafter, the development and construction of any improvements and structures and the commencement of the Non-Residential Water Use shall constitute an automatic reduction of the remaining ERUs.

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F.J. The Parties intend that this Agreement and the covenants contained herein shall run with the land and bind future owners and successors in interest of/to the Subject Property.

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G.K. The Town is willing to provide culinary water service to the Project, and Developer desires that the Town 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. Recitals. The above Recitals are hereby incorporated into this Agreement as if fully set forth herein.

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2. Water Rights Buy-In. Developer and the Town acknowledge and agree that the Dedicated Water shall cover and satisfy the requirements in the Resolution and enable a total of Two Hundred Twenty Seven (227) residential connections at the Project, at no additional Buy-In Fee at no additional cost to Developer. Should Developer elect to develop commercial connections in the Project pursuant to the Master Development Agreement, Developer may

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purchase additional water to enable such ~~commercial connections~~ **Non-Residential Uses**. The foregoing does not preclude the Town from requiring Developer to pay impact fees in connection with the development of the Project in accordance with applicable law. Developer acknowledges and agrees that additional water rights or the payment of additional Buy-In Fees are required for any Non-Residential Uses. For any such Non-Residential Water Uses, Developer shall obtain a Water Usage Study. Each Water Usage Study shall determine the number of ERUs attributable to the applicable Non-Residential Water Use for purposes of this Agreement. Thereafter, the development and construction of any improvements and structures and the commencement of the Non-Residential Water Use shall constitute an automatic reduction of the remaining ERUs. Subject to the terms and conditions of this Agreement, the Town shall provide culinary water service to the Project in accordance with Town ordinances, Town Water Policies & Standards and other applicable law.

1.

2.3. Water Improvements. In compliance with the requirements of the Town Water Policies & Standards, other ~~Town ordinances~~ **Town** and the Utah Division of Drinking Water, and at Developer's sole expense, Developer will design and construct all connecting pipeline, all wells, all tanks and any other infrastructure to comply with applicable laws, and all necessary facilities, fixtures, meters and appurtenances needed to operate and deliver water to the Project (the "Project Water Improvements").

3.4. Water Easements. Developer understands and agrees they will be solely responsible for obtaining and/or purchasing any easements required to facilitate the above-mentioned requirements in section 2.3, provided, however, that the Town shall reasonably cooperate as necessary in obtaining any such easements, ~~including, without limitation which~~ reasonable cooperation may include the Town-e, in its sole discretion and subject to applicable law, electing to exercise its power of eminent domain where the Town determines that the acquisition of such easement constitutes a valid public use under Utah Code Ann. § 78B-6-501 et seq. and is necessary to serve the public interest. ~~exercising its power of eminent domain to acquire necessary easements by taking if Developer is unable to acquire the same on reasonable terms; but~~ If the Town elects to acquire such easements through eminent domain for a public use, Developer shall reimburse the Town for the Town's actual costs incurred in connection with such acquisition, including compensation paid to affected property owners. ~~Developer shall be responsible for the cost of any fair market value compensation required in connection with the acquisition of such easements.~~ The Developer will also be responsible for any and all engineering and attorney cost/fees incurred by the Town. The Developer will connect the Project to the Town Water System but not into the current aquifer being utilized by the Town. Upon connection to the Town Water System, Developer will dedicate all water conveyance improvements to the Town, and the Town 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. Nothing in this Agreement shall limit or otherwise affect the exercise by the Town of its legislative and police powers in enacting zoning, subdivision, development, land use or other laws and regulations after the date of this Agreement

4. Alternative Water Sourcing. The Town has informed Developer that the current ~~Apple Valley water system~~ **Town Water System** has reached its maximum capacity and that

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based on the USGS Preliminary Report the ~~current aquifer~~ Present Source Aquifer is at maximum capacity. Developer agrees and understands that based on this information they will be required to obtain water on a different aquifer at a location to be determined by the Town. Developer agrees to design/construct wells, pipes and infrastructure to a capacity required to comply with applicable law and the Town's standards. Developer agrees and understands they are responsible for all cost to bring adequate water to the Project. ~~Notwithstanding the foregoing, if another developer or third party has already drilled well(s) to access the different aquifer and connected the same to the Town Water System, then Developer will be fully relieved of that obligation and shall only be required to construct such infrastructure as may be required to connect the Project to the Town Water System. If Developer is required to access the different aquifer as provided herein, Developer and the Town shall endeavor to reach a mutually agreeable plan with respect to accessing water and connecting to the Town Water System, provided, however, that the Town shall have final authority regarding such plan in accordance with applicable law. As indicated above, the Town shall reasonably cooperate in the execution of such plan (at no expense to the Town), including the use of eminent domain authority.~~

5.

~~5.~~ 5. Subject Water Tank. Prior to ~~Section 5.1~~ the issuance of any certificates of occupancy for residential units in the Project, Developer shall design/construct a 1,000,000 gallon water tank with the capacity necessary to service the Project as determined by the Town's engineer ("Water Tank") within the Project at a location mutually agreed by Developer and Town. The Water Tank shall be constructed according to Town standards.

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~~6.~~ 6. Prior to the issuance of any certificates of occupancy for residential units in the Project, either (i) the Water Tank must be completed by Developer or another developer or third party, or (ii) a completion assurance bond, escrow or other security to guaranty completion of the Water Tank must be in place with the Town. If another developer or third party completes the Water Tank or posts the necessary completion assurance with the Town, Developer shall be fully relieved of the obligation to construct the Water Tank. Should the Town desire additional size and capacity to the Water Tank beyond the 1,000,000 gallon capacity ~~Should the Town desire additional size and capacity to the Water Tank beyond the capacity required to serve the Project,~~ the Town shall pay the extra cost thereof prior to construction of the Water Tank.

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6.

~~6.1.~~ 6.1. Dedication. Upon receipt of ~~project a~~ Certificate of Occupancy for the Project, Developer will dedicate all ~~water system improvements~~ Project Water Improvements to the Town, including without limitation the Water Tank, and the Town will become the owner and operator and shall manage in all respects ~~the Water Tanksuch Project Water Improvements and the storage of culinary water,~~ in accordance with all applicable laws.

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7.

~~7.8.~~ 7.8. Novation. This Agreement novates and supersedes the Water and Sewer Agreement by and between Big Plains and Developer dated June 12, 2019, which is recorded as

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DOC # 20190024368 and the First Amendment to Water and Sewer Agreement dated February 17, 2021.

8.9. Access. The Town shall at all times be provided with complete access to all pipelines and other facilities installed by Developer. Developer acknowledges that the Town 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.

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

9.11. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Utah, without regard to its conflict of law principles.

~~10.12.~~ Assignment. The Town may, upon providing written notice to Developer, ~~and upon approval of Developer, which approval shall not be unreasonably withheld,~~ assign or transfer its obligations hereunder to another supplier.

13. Indemnification. Developer shall indemnify, defend, and hold harmless the Town, and their respective elected officials, officers, employees, agents, representatives, boards, and commissions (collectively, the "**Indemnified Parties**"), from and against any and all claims, demands, causes of action, damages, liabilities, losses, costs, and expenses (including reasonable attorneys' fees and costs of defense) arising out of or related to: (a) the acts or omissions of Developer or its contractors, subcontractors, agents, employees, or representatives in connection with the design, construction, installation, or maintenance of the Water Improvements or any other obligations of Developer under this Agreement; (b) any breach of this Agreement by Developer; or (c) any injury to persons (including death) or damage to property arising from or in connection with Developer's performance under this Agreement or the condition, use, or failure of the Water Improvements prior to dedication and acceptance by the Town. This indemnification obligation shall not apply to the extent any such claim, demand, cause of action, damage, liability, loss, cost, or expense is caused by the gross negligence or willful misconduct of an Indemnified Party. The provisions of this Section shall survive termination or expiration of this Agreement and shall be binding upon Developer and its successors and assigns.

~~11.~~ 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.

~~12.14.~~ Entire Agreement. 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

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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.

15. Limitation of Damages. 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.

16. Covenant Running with the Land. This Agreement shall be recorded in the chain of title for the Property and is intended by the Parties to be covenants that run with the land which bind future successors and assigns.

17. Counterparts. 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.

18. No Third-Party Beneficiaries. Unless expressly stated otherwise herein, this Agreement is made solely for the benefit of the Parties hereto and their respective successors and assigns, and no other person or entity shall be deemed to have any rights or remedies under or by reason of this Agreement.

19. Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by the Party granting the waiver. The failure of any Party 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 strict compliance with every provision of this Agreement.

20. Relationship of the Parties. Nothing in this Agreement shall be construed to create a partnership, joint venture, agency, or employment relationship among the Parties. No Party shall have authority to bind or obligate another Party except as expressly set forth in this Agreement.

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21. Further Assurances. Each Party agrees to execute and deliver such other documents and to take such further actions as may be reasonably required to carry out the intent and purpose of this Agreement.

14.22. Severability. If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect, and the invalid, illegal, or unenforceable provision shall be deemed modified to the least extent necessary to make it enforceable.

15.23. Authorization. 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)

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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.

Apple Valley Town TOWN:

TOWN OF APPLE VALLEY,
A Utah municipal corporation

Mike Farrar, Mayor

ATTEST

Jenna Vizcardo, Town Recorder

ACKNOWLEDGEMENT

STATE OF UTAH _____)
_____) ss:
COUNTY OF WASHINGTON _____)

On the _____ day of September, 2025, personally appeared before me Mike Farrar, who being by me duly sworn, did say that he is the Mayor of the Town of Apple Valley, Utah municipal corporation, and that said instrument was signed on behalf of the Town by authority of its Town Council and said Mayor acknowledged to me that the Town executed the same.

NOTARY PUBLIC

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.

By: _____
Its: _____

ATTEST _____

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DEVELOPER:

LITTLE CREEK LAND COMPANY, LLC,
A Utah limited liability company

By: _____
Its: _____

DEVELOPER

JEPSON CANYON RESORT RESORT DEVELOPMENT
CoCO., Inc.,
A Utah corporation

By: _____
Its: _____

ACKNOWLEDGMENT

STATE OF UTAH _____)
_____) ss:
COUNTY OF WASHINGTON _____)

On the _____ day of _____, 2025, personally appeared before me _____ and _____ duly sworn, did say that they are the _____ and _____ of Little Creek Land Company, LLC, a Utah limited liability company and Jepson Canyon Resort Development Co., Inc., respectively, and that the foregoing instrument was duly authorized by such companies by authority given them under the operating agreement and bylaws respectively for said companies.

NOTARY PUBLIC

EXHIBIT "A"
TO WATER AGREEMENT
(Legal Description of the Property)

Need