

**INTERLOCAL AGREEMENT
CREATING THE
GRAND WATER AND SEWER SERVICE AGENCY**

This Interlocal Agreement is made and entered into by and among the GRAND COUNTY WATER CONSERVANCY DISTRICT, a political subdivision of the State of Utah, organized and existing pursuant to authority of the Water Conservancy Act, §17A-2-1401 *et seq.*, Utah Code Ann., 1953, as amended (hereinafter the "Conservancy District"); the GRAND COUNTY SPECIAL SERVICE WATER DISTRICT, a political subdivision of the State of Utah, organized and existing pursuant to authority of the Utah Special Service District Act, §17A-2-1301 *et seq.*, Utah Code Ann., 1953, as amended (hereinafter the "Service District"); and the SPANISH VALLEY WATER AND SEWER IMPROVEMENT DISTRICT, a political subdivision of the State of Utah organized and existing pursuant to authority of §17A-2-301 *et seq.*, Utah Code Ann., 1953, as amended (hereinafter the "Improvement District"); (the Conservancy District, Service District and Improvement District being sometimes hereinafter referred to individually as a "District" or collectively as the "Districts");

W I T N E S S E T H:

WHEREAS, the Conservancy District was established on September 1, 1971, by decree of the Seventh Judicial District in and for Grand County, State of Utah, Civil No. 3158, for the purpose of conserving, developing, and stabilizing supplies of water for domestic, irrigation, power, manufacturing, municipal, recreational and other beneficial uses and all other purposes authorized by law, within the boundaries of the Conservancy District; and

WHEREAS, the Service District was established on August 22, 1977, pursuant to a Resolution of the Board of County Commissioners of Grand County, Utah, for the purpose of providing water related services and constructing and acquiring certain water-related improvements within the boundaries of the Service District; and

WHEREAS, the Improvement District was established on April 18, 1974, pursuant to Grand County Ordinance No. 118, as amended by Resolution No. 1978, of the Board of County Commissioners of Grand County, Utah, for the purpose of performing and carrying out the functions, activities and responsibilities of improvement districts as set out in the above-referenced statute pursuant to which the Improvement District was established; and

WHEREAS, the Districts have historically shared employees and other resources in providing their respective municipal services to residents and others within their respective boundaries; and

WHEREAS the respective governing boards of the Districts each find that there is mutual advantage and benefit of economies of scale, economic development and utilization of resources in cooperating with each other in jointly planning, financing, operating and maintaining the resources and assets of the Districts in and for the common interest and good of the those served within their respective boundaries as the same currently exist and as modified by annexation from time to time; and

WHEREAS, state law provides that, pursuant to the provisions of the Utah Interlocal Cooperation Act, §11-13-1, *et seq.*, Utah Code Ann., 1953, as amended (the "Act"), any power or powers, privileges or authority exercised or capable of exercise by a public agency of the state (defined as any political subdivision of the state, including special districts of various kinds), may be exercised and enjoyed jointly with any other public agency, and that any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the Act; and

WHEREAS the governing boards of the respective Districts have each determined it to be in the best public interest that an agreement be entered into among them, and that a separate legal and administrative entity be established, pursuant to the Act, in order to accomplish the purpose and

maximize the benefits of their joint and cooperative action, including the undertaking and financing of the services to be provided by and the ongoing operation and maintenance of all water and sewer systems, buildings, facilities, equipment, grounds, and all other resources and assets which are the properties of the Districts;

NOW, THEREFORE, in consideration of the mutual covenants and promises by and among the Districts, and pursuant to the powers granted to each by the Constitution, the Act, and other statutes and laws of the State of Utah, the Districts agree as follows:

I. ESTABLISHMENT OF THE GRAND WATER AND SEWER SERVICE AGENCY

A. CREATION AND PURPOSE

Pursuant to the provisions of §11-13-5.5 of the Act, there is hereby created and established a separate legal and administrative entity which shall be known as the Grand Water and Sewer Service Agency (hereinafter the "Agency"), for the purpose of undertaking and financing the services to be provided by and the ongoing operation and maintenance of all water and sewer systems, buildings, facilities, equipment, grounds, and all other resources and assets which are the properties of the Districts and the Agency.

B. POWER AND AUTHORITY OF THE AGENCY

(1) Delegation to the Agency

The Districts hereby jointly and severally confer upon and delegate to the Agency all rights, duties, powers, privileges and authority which, under the laws of the State of Utah are exercised or may be capable of being exercised by each of the respective Districts, and which may be delegated to the Agency pursuant to the Act.

(2) Powers of the Agency

The enumerated powers of the Agency shall include the following as necessary to accomplish the purposes and realize the benefits for which the Agency is organized:

(a) the power to administer, manage, operate, maintain, and repair or cause to be administered, managed, operated, maintained and repaired on behalf of the Districts any and all water and sewer systems, buildings, facilities, equipment, grounds and all appurtenances and improvements thereto belonging to the Districts;

(b) the power to provide wholesale and retail irrigation and municipal and industrial water, sewer and storm drain services within the boundaries of the Districts;

(c) the power to render services or acquire water and sewer systems, buildings, facilities, equipment, grounds, and all appurtenances and improvements thereto in excess of those required to meet the needs or requirements of the individual Districts, if it is determined to be necessary by the governing board of the Agency to accomplish the purposes and realize the benefits for which the Agency was organized and so long as any excess sold to other public agencies within or without the state is sold on terms that assure that the cost of providing the excess shall be recovered by the Agency;

(d) the power to employ and fix the terms and compensation of all employees, agents consultants, and representatives of the Agency;

(e) the power to purchase, contract for, lease, or otherwise deal with real and personal property of the Districts and the Agency;

(f) the power to apply for and obtain all necessary licenses, permits, or consents from all governmental entities or other persons;

(g) the power to charge and collect all fees and charges with respect to commodities, services and facilities provided by the Agency on behalf of the Districts and the Agency, including, without limitation, impact fees;

(h) the power to charge and collect fees for customer connections to the works of the Districts and the Agency and for permitting and supervising the making of connections;

(i) the power to administer, account for, manage, and use the ad valorem tax and other revenues of the Districts for the purpose of administering, managing, operating, maintaining and repairing the water and sewer systems, buildings, facilities, equipment, grounds and all appurtenances and improvements thereto belonging to the Districts and the Agency;

(j) the power to pay, or provide for payment when due, of all costs, fees and expenses lawfully incurred by the Agency;

(k) the power to administer and pay, or provide for payment of, all notes, bonds, and other lawful debts and obligations heretofore or hereinafter incurred by the Districts strictly in accordance with the respective terms and provisions of said notes, bonds, debts and obligations;

(l) the power to enter into all contracts considered desirable by the governing board of the Agency;

(m) the power to issue bonds or notes under a resolution, trust indenture, or other security instrument for the purpose of financing the facilities or improvements of the Agency, all in conformance with the provisions of §11-13-19 of the Act which provides that such bonds and notes shall not be a debt of any District which is a party to this Agreement;

(n) the power to promulgate, adopt and/or amend such rules, regulations and penalties as are deemed necessary in order to provide water, sewer and storm drainage services and to properly

administer, manage, operate, maintain, and repair all water and sewer systems, buildings, facilities, equipment, grounds and all appurtenances and improvements thereto belonging to the Districts and the Agency;

(o) the power to prosecute actions in the name of the Agency for violations of any applicable laws, lawful rules and regulations which the governing board of the Agency may adopt in order to accomplish the purposes and realize the benefits for which the Agency is organized, as well as to protect the contractual, statutory and other legal rights of the Agency in its best interest; and

(p) any and all other powers which may be lawfully exercised by the Agency under the applicable provisions of the Act as currently enacted and as may be amended from time to time.

C. BOARD OF DIRECTORS

(1) Composition of the Board of Directors.

(a) The Agency shall be governed by a board of directors which shall be comprised of all of the members of the of the board of directors of the Conservancy District, the administrative control board of the Service District, and the board of trustees of the Improvement District, (the "Board of Directors"). Members shall continue to be appointed or elected to the board of directors of the Conservancy District, administrative control board of the Service District and board of trustees of the Improvement District, as the case may be, in conformance with the applicable laws pertaining to each District.

(b) Each director's term of office on the Board of Directors shall be equal to said director's term of office as a member of the governing board of the Conservancy District, Service District or Improvement District, as the case may be.

(c) Members of the Board of Directors may be compensated in such amounts and be reimbursed for the actual cost of travel and other expenses incurred in serving as a member of the Board of Directors in such a manner as the Board of Directors shall determine in the best interest of the Agency and in conformance with applicable law.

(2) Officers of the Board of Directors

(a) The members of the Board of Directors shall elect, from among its membership, a President and Vice President, each to serve for a term of two (2) years. The President shall be elected from among the members of the governing boards of the Conservancy District, Service District or Improvement District. The Vice President shall be elected from among the members of the governing boards of the Conservancy District or the Improvement District.

(b) The President shall be the presiding officer of the Board of Directors, and shall have general powers to carry out the policies and objectives of the Agency established hereby and by the Board of Directors. The President shall call and preside at all meetings of the Board of Directors and shall be an ex-officio member of all committees established by the Board of Directors. The President of the Board shall prepare the order of business for all meetings with due regard to expediting the business for all meetings, and including therein any matters which may be ordered by the Board of Directors. The President shall also have such other and further duties as may from time to time be established by the Board of Directors.

(c) The Vice President shall serve at the request of the President. During the absence or inability of the President to act, the Vice President shall perform the duties and exercise the powers of the President.

(d) A Secretary may be appointed by the Board of Directors to serve for an indeterminate term at the pleasure of the Board of Directors. The Secretary's duties shall be to keep a faithful, correct, and full record of the minutes of the Board of Directors. The Secretary shall be the custodian of and shall faithfully keep all records of the Board of Directors. The Secretary shall be responsible for the giving of all notices and attending to all correspondence which may be ordered by the Board of Directors or President. The Secretary shall perform such other duties as may be generally attributable to the office of secretary and may receive compensation at the discretion of the Board of Directors. The Secretary may, but need not be, a member of the Board of Directors. The Secretary, upon approval of the Board of Directors, may obtain the assistance of such other person(s) as necessary in the fulfillment of the above duties and responsibilities.

(e) A Treasurer may be appointed by the Board of Directors to serve for an indeterminate term at the pleasure of the Board of Directors. The Treasurer shall have charge and custody of, and be responsible for, all funds and securities of the Agency; receive and give receipts for moneys due and payable to the Agency from any source whatsoever, and deposit all such money in the name of the Agency in such banks, trust companies or other depositories as shall be directed by the Board of Directors; issue checks, drafts, and other orders for payment of the money, notes or other evidences of indebtedness issued or otherwise incurred by the Districts and/or issued or otherwise incurred in the name of the Agency, subject to the provisions of this Agreement; and in general perform all of the duties incident to the office of treasurer and such other duties as from time to time may be assigned by the Board. The Treasurer may also concurrently serve as the Secretary at the discretion of the Board of Directors. The Treasurer may, but need not be, a member of the Board of Directors. The Treasurer, upon approval of the Board of Directors, may obtain the

assistance of such other person(s) as necessary in the fulfillment of the above duties and responsibilities.

(3) Voting Among the Board of Directors.

Each member of the Board of Directors shall be entitled to one (1) vote in matters that come before the Board for decision, and all issues shall be decided by majority vote of a quorum present. A quorum for the transaction of business at any meeting shall consist of not less than a majority of the members of the Board of Directors.

(4) Meetings of the Board of Directors

(a) The Board of Directors shall meet on a quarterly basis in the months of February, May, August and November, and convene a special budget meeting in December of each year. The Board of Directors may further convene such other meetings as it shall determine necessary for the conduct and proper handling of the business of the Agency.

(b) Each year, at the February meeting of the Board of Directors, an annual meeting shall be held. The purpose of the annual meeting shall be to receive a full report of the activities and the business of the Agency, to receive a report regarding the budget and the financial transactions conducted during the preceding year and to elect the officers of the Board of Directors for the year.

(5) Operating Committee

(a) An operating committee of seven (7) members shall be appointed by the Board of Directors (the "Operating Committee"). The President and Vice President of the Board of Directors shall be members of the Operating Committee. The remaining five members of the Operating Committee shall be appointed so that the membership of the full Operating Committee, including the President and Vice President, shall consist of three members from the governing board of the

Conservancy District, three members from the governing board of the Improvement District and one member from the governing board of the Service District.

(b) Members of the Operating Committee shall be appointed to serve for a term of two (2) years, consistent with the terms of the President and Vice President of the Board of Directors.

(c) The Operating Committee shall meet two times each month according to a schedule to be determined by the Operating Committee.

(d) Each member of the Operating Committee shall be entitled to one (1) vote in matters that come before the Operating Committee for decision, and all issues shall be decided by majority vote of a quorum present. A quorum for the transaction of business at any meeting of the Operating Committee shall consist of not less than four (4) of the appointed members of the Operating Committee.

(e) Notwithstanding the foregoing, in addition to the seven appointed members of the Operating Committee as provided herein, any and all other members of the Board of Directors who are not members of the Operating Committee, may also attend any meeting of the Operating Committee; and in such event, if a quorum of not less than four appointed members of the Operating Committee is present at such meeting, then each other member of the Board of Directors in attendance who is not a member of the Operating Committee may nevertheless participate in the meeting and be entitled to one (1) vote, on an equal basis with the members of the Operating Committee, on all such matters as shall be brought before the Operating Committee for a decision.

(6) Open and Public Meetings Law Compliance

The Agency shall be subject to the applicable provisions of the Utah Open and Public Meetings Law, §52-4-1 *et seq.*, Utah Code Ann. 1953, as amended. As such, with respect to

meetings of the Board of Directors and the Operating Committee, notice of agenda items shall be given, minutes of meetings shall be kept and maintained of record, and all meetings shall be open to the public to the extent and in the manner required by law. The Agency may, for the purpose of complying with the requisite provisions of the Utah Open and Public Meetings Law, convene and conduct any public meeting by means of telephonic or telecommunications conference in conformance with the provisions of §11-13-37 of the Act.

(7) Employment for Purposes of Governmental Immunity

In conformance with the provisions of §11-13-24 of the Act, officers and employees performing services for the Agency pursuant to this Agreement are deemed to be officers and employees of the Agency even though performing said functions outside of the territorial limits of any one of the Districts, and shall be deemed officers and employees of the Agency under the provisions of the Utah Governmental Immunity Act, §63-30-1 *et seq.*, Utah Code Ann., 1953, as amended.

(8) Non-employment of Officers

No member of the Board of Directors may be a full or part-time employee of the Agency while serving on the Board of Directors of the Agency.

D. OWNERSHIP OF ASSETS

Title to the assets of each of the respective Districts shall be and remain vested in the name of each said District during the term of this Agreement. The Agency shall have the power, however, to acquire such additional assets in its own name, as may be necessary, at the discretion of the Board of Directors, to accomplish the purposes and realize the benefits for which the Agency is organized. All assets of the Districts and the Agency shall be administered, managed, operated, maintained and repaired on behalf of the Districts by the Agency.

E. MANNER OF FINANCING

(1) Revenues

The cost of operating and conducting the business of the Agency shall be paid from tax and other revenues appropriated by and contributed to the Agency by the governing boards of the Districts in conformance with the provisions of §11-13-13 and §11-13-16.5 of the Act; from fees, service charges, and other revenues obtained pursuant to services rendered by the Agency; and from other sources.

(2) No Taxing Authority

The Agency shall not have the power to levy any tax on property or individuals.

(3) Fiscal Procedures Compliance

The Districts and the Agency shall prepare their respective budgets, establish and maintain books and accounting records, and otherwise operate in conformance with and be bound by all pertinent requirements of the Uniform Fiscal Procedures for Special Districts Act, §17A-1-401 *et seq.*, Utah Code Ann. (1990).

(4) Agency Budget

The budget of the Agency shall provide appropriations for expenditures including, but not limited to, the administration, management, operation, construction, maintenance and repair of all water and sewer systems, buildings, facilities, equipment, grounds and all appurtenances and improvements belonging to the Districts and to the Agency; the payment of all notes, bonds, and other lawful debts and obligations of the Districts and the Agency; and the setting aside of appropriate reserve funds. In preparing and adopting the budget for the Agency, the Districts agree as follows:

(a) On or before October 15 of each year, the governing boards of the respective Districts shall prepare and file with the Agency a proposed tentative budget for the ensuing year, which shall set forth an estimate of the tax and other revenues for each District for the budget year and specify that 100% of all such revenues for each District shall be appropriated for contribution to the Agency for expenditure by the Agency pursuant to the Agency's budget.

(b) On or before October 30 of each year, the budget officer of the Agency shall prepare and file with the Board of Directors a proposed tentative budget for each fund of the Agency detailing the financial plan for the ensuing budget year and specifying the estimates of the anticipated tax and other revenues to be received from the Districts and other anticipated revenues of the Agency and all appropriations for expenditures necessary for the accomplishment of the business of the Agency. The governing boards of the Districts and the Board of Directors of the Agency shall convene a joint meeting in November of each year to approve the tentative budgets of the Districts and the Agency and to establish the time and place of a public hearing to consider the adoption of the final budgets of the Districts and the Agency.

(c) The final budgets of the Districts and the Agency for the ensuing year shall be adopted by resolution of the governing boards of the Districts and the Agency in December of each year.

(d) A copy of the final budgets for each District and the Agency shall be certified by the budget officer and filed with the state auditor within thirty (30) days after adoption.

(5) Disbursements

All checks or drafts which expend the funds of the Agency shall be required to bear two signatures. Those authorized to sign include the President, Vice President and Treasurer. These

officers are charged with the duty of ensuring that all disbursements are in accordance with this Agreement and the officially adopted policies and procedures of the Board of Directors.

(6) Expenditure Limitations

Expenditures of the Agency, up to \$10,000 per individual contract, may be expended upon approval of the Operating Committee. No funds in excess of said amount may be expended for any purpose without the approval of the Board of Directors. Specific items listed in the annual budget and approved therein by the Board of Directors may be expended in accordance with the budget without further consideration or approval by the Board of Directors.

(7) Fiscal and Accounting Services

The Board of Directors is empowered to obtain such fiscal and accounting services as it deems necessary in formulating, adopting and administering its budget and otherwise concerning the fiscal affairs of the Agency, and to conduct such compilations, reviews or audits as may be prescribed by State law.

(8) Payment of Bonds and other Obligations

The Board of Directors shall be responsible to pay or otherwise provide for payment, when due, of all principal and interest due and owing in connection with any and all notes, bonds, and other lawful debts and obligations heretofore incurred by the Districts and to otherwise strictly comply with all terms, covenants and conditions pertaining to said notes, bonds, debts and obligations. Notwithstanding the responsibility of the Agency to make or otherwise provide for payment as provided herein, the underlying debt or obligation for which payments are made by the Agency shall be and remain the debt or obligation of the respective Districts and not the debt or obligation of the Agency.

II. POLICIES AND PROCEDURES

The Agency shall adopt policies and procedures for the management and the conduct of its affairs, and promulgate such rules and regulations as it shall deem necessary and proper in accomplishing the purposes and realizing the benefits for which the Agency is organized.

III. DISTRICT RESPONSIBILITIES

This Agreement shall not relieve the Conservancy District, Service District or Improvement District of any obligation or responsibility imposed upon them by law; however, the actual and timely performance of any such obligation or responsibility by the Agency hereunder may be offered in satisfaction thereof pursuant to the provisions of §11-13-8 of the Act.

IV. TERM OF AGREEMENT

This Agreement shall be in force and effect for a term of fifty (50) years unless sooner terminated as provided herein.

V. TERMINATION OF AGREEMENT

(1) Termination

Any of the Districts may withdraw from the Agency upon six (6) months written notice. In the event one of the Districts withdraws from the Agency, the Agency shall thereupon be dissolved, this Agreement shall terminate, and each District shall thereupon be solely and separately responsible for providing the services of each said District and the operation and maintenance of any and all water and sewer systems, buildings, facilities, equipment, grounds and improvements related thereto which are the separate property of each District.

(2) Distribution of Assets Upon Termination

Upon termination of this Agreement, all assets which are separately owned by the Agency, or the proceeds therefrom in the event of their sale, shall be divided among the Districts equally, as near as practicable, unless some other division is otherwise agreed to among the Districts, in writing, at the time of termination.

VI. AMENDMENTS

This Agreement may be changed, modified or amended, in writing, upon the agreement of the governing boards of the Districts.

VII. WARRANTY OF AUTHORITY

The officials executing this Agreement on behalf of each of the Districts hereby warrant that they have the requisite authority to execute this Agreement on behalf of their respective Districts pursuant to a resolution duly adopted by the governing board of each District, and that this Agreement is in full force and effect pursuant to the authority of each said resolution.

VIII. FILING OF AGREEMENT

Executed copies of this Agreement shall be filed with the keeper of records of each of the Districts during the term hereof.

IN WITNESS WHEREOF the parties have caused this instrument to be executed this 28th day of September, 1998.

GRAND COUNTY WATER CONSERVANCY DISTRICT

By: 
Chairman, Board of Directors

APPROVED AS TO FORM


Attorney for Grand County Water
Conservancy District

GRAND COUNTY SPECIAL SERVICE WATER DISTRICT

By: Harvey Merrill
Chairman, Grand County Council, acting as the
Governing Authority of the District

APPROVED AS TO FORM:

[Signature]
County Attorney, as Counsel for Grand
County Special Service Water District

SPANISH VALLEY WATER AND SEWER
IMPROVEMENT DISTRICT

By: [Signature]
Chairman, Board of Trustees

APPROVED AS TO FORM:

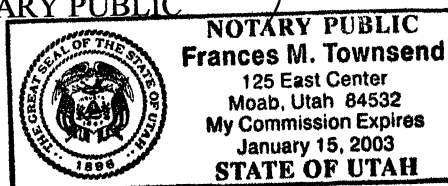
[Signature]
Attorney for Spanish Valley Water and
Sewer Improvement District

ACKNOWLEDGMENTS

STATE OF UTAH)
 : SS.
County of Grand)

On the 28 day of September, 1998, appeared before me Gary N. Wilson, personally known to me, or proved to me on the basis of satisfactory evidence, to be the Chairman of the Board of Directors of the Grand County Water Conservancy District, who duly acknowledged that the within and foregoing instrument was signed on behalf of said District by authority of a duly adopted resolution of its Board of Directors, and that said District executed the same.

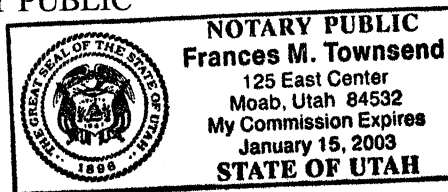
Frances M. Townsend
NOTARY PUBLIC



STATE OF UTAH)
 : SS.
County of Grand)

On the 28 day of September, 1998, appeared before me Paul J. Morris, personally known to me, or proved to me on the basis of satisfactory evidence, to be the Chairman of the Board of Trustees of the Spanish Valley Water and Sewer Improvement District, who duly acknowledged that the within and foregoing instrument was signed on behalf of said District by authority of a duly adopted resolution of its Board of Trustees, and that said District executed the same.

Frances M. Townsend
NOTARY PUBLIC



STATE OF UTAH)
 : SS.
County of Grand)

On the 28 day of September, 1998, appeared before me Harvey Merrell, personally known to me, or proved to me on the basis of satisfactory evidence, to be the Chairman of the Grand County Council, acting as the governing authority of the Grand County Special Service Water District, who duly acknowledged that the within and foregoing instrument was signed on behalf of said District by authority of a duly adopted resolution of its governing board, and that said District executed the same.

Frances M. Townsend
NOTARY PUBLIC

