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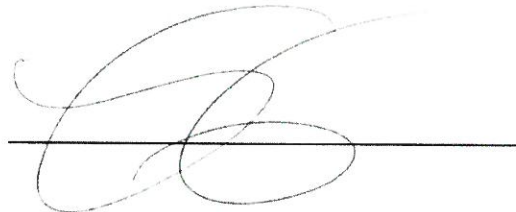
BY  DEPUTY
REGISTRAR OF VOTERS

I HEREBY CERTIFY that the attached copy of Resolution Number 2016-25, to which this certificate is attached, is a full, true, and correct copy of the original record maintained in my office, which was duly adopted by the Town Council of the Town of Apple Valley on July 26, 2016.

Dated this 2nd day of August 2016.

LA VONDA M-PEARSON, CMC
OFFICE OF THE TOWN CLERK
TOWN OF APPLE VALLEY

By: _____



RESOLUTION NO. 2016-25

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY CALLING AND GIVING NOTICE OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2016 FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF SAID TOWN A PROPOSED ORDINANCE AUTHORIZING THE FINANCING OF THE ACQUISITION OF THE LIBERTY UTILITIES WATER SYSTEM AND THE ACQUISITION, IMPROVEMENT, OR FINANCING OF OTHER PROJECTS, BY ISSUING PUBLIC DEBT IN EXCESS OF \$5,000,000 IF THE TOWN OBTAINS VOTER APPROVAL OR THE TOWN COUNCIL HOLDS A PUBLIC HEARING, CERTIFIES THAT THE REVENUES FROM THE PROJECT WILL COVER DEBT PAYMENTS, PROHIBITS THE USE OF TAXPAYER REVENUES TO REPAY THE DEBT, AND CONDUCTS AN ANNUAL INDEPENDENT AUDIT, REQUESTING THAT THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS CONSOLIDATE THIS ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 8, 2016, AND SETTING RULES FOR DIRECT ARGUMENTS AND REBUTTALS CONCERNING THE PROPOSED ORDINANCE

WHEREAS, the Town is currently in the process of acquiring Liberty Utilities (Apple Valley Ranchos Water) Corp.'s ("Liberty") water supply and distribution system which serves the majority of the incorporated area of the Town as well as some outlying areas located in a portion of the incorporated City of Victorville and unincorporated San Bernardino County ("Apple Valley Water System"); and

WHEREAS, the proposed acquisition of the Apple Valley Water System was a response to a number of factors, including, but not limited to, the following: longstanding public concern about escalating water rates; the significantly higher water rates paid by customers of the Apple Valley Water System as compared to neighboring jurisdictions; lack of local control over water rates, service, expenditures, and policy; lack of responsiveness and accountability of the private owners to concerns of ratepayers within the service area; and the lack of transparency in the operation of the Apple Valley Water System; and

WHEREAS, although the Town considered acquisition a last resort, in light of the foregoing factors, at a special meeting on November 17, 2015, the Town Council adopted two Resolutions of Necessity authorizing the acquisition, by eminent domain, of the Apple Valley Water System; and

WHEREAS, on January 8, 2016, the Town initiated a formal condemnation action to acquire the Apple Valley Water System; and

WHEREAS, on June 28, 2016, the Town Council received, filed, and accepted the Certificate of Sufficiency of Initiative Petition issued by the Town Clerk for an initiative petition proposing the adoption of an ordinance amending the Apple Valley Municipal Code by requiring voter approval before the Town can issue public debt of more than \$10,000,000 in connection with the acquisition, construction, improvement, or

financing of an enterprise (as that term is defined in state law) when the debt is to be repaid by fees collected by the Town and not from the Town's taxpayer revenues (the "Measure"); and

WHEREAS, in accordance with state law, the Town Council is required to place the Measure before Apple Valley voters at the General Municipal Election/Statewide general election to be held on November 8, 2016; and

WHEREAS, at its June 28 regular meeting, the Town Council directed staff to prepare an alternative to the Measure that would offer qualified voters a choice; and

WHEREAS, pursuant to California Elections Code Section 9222, the Town Council is authorized and desires to submit to the voters a measure to adopt an ordinance which would generally require voter approval of any Town debt of more than \$5,000,000 where the debt is for the purpose of acquiring, constructing, improving, or financing an enterprise and the debt is secured against the future revenues of that enterprise with one important exception – it will not apply where the following conditions are satisfied: (1) the Council conducts a public hearing prior to issuing the debt; (2) the Council certifies (based on financial analysis) that the projected revenues from the enterprise exceed the debt payments proposed; (3) the Council certifies that debt will not be paid by the taxing power of the Town; and (4) the Council requires an annual independent audit to ensure that the proceeds of the debt are utilized in connection with the enterprise only ("Ordinance"); this exception will not apply to revenue bonds, which already require voter approval under state law; and

WHEREAS, the Town Council also desires to consolidate the election for the Ordinance herein with the General Municipal Election and Statewide general election to be held on November 8, 2016.

NOW, THEREFORE, THE APPLE VALLEY TOWN COUNCIL DOES HEREBY RESOLVE:

SECTION 1. The recitals stated above are true and correct and are incorporated herein by reference.

SECTION 2. Pursuant to the California Elections Code Section 9222 and any other applicable requirements of the laws of the State of California relating to general law cities, the Town Council hereby calls and orders to be held in the Town of Apple Valley on Tuesday, November 8, 2016, a General Municipal Election for the purpose of submitting the Ordinance attached hereto as Exhibit "A" and incorporated herein by this reference to the qualified electors.

SECTION 3. The Town Council, pursuant to the California Elections Code, hereby orders that the following question be submitted to the qualified electors of the Town of Apple Valley at the election to be held on November 8, 2016:

Shall an ordinance be adopted authorizing the Town of Apple Valley to finance the acquisition of the Liberty Utilities water system and to acquire, improve, or finance other projects, by issuing public debt in excess of \$5,000,000, if the Town obtains voter approval or the Town Council holds a public hearing, certifies that the revenues from the project will cover debt payments, prohibits the use of taxpayer revenues to repay the debt, and conducts an annual independent audit?	YES
	NO

SECTION 4. Approval of the Ordinance shall require a majority vote of the total number of valid ballots cast and counted.

SECTION 5. Notice of the time and place of the election is hereby given. The Town Clerk is authorized, instructed, and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 6. The Town Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment, and paraphernalia that may be necessary in order to properly and lawfully conduct the election. The ballots to be used at the election shall be in form and content as required by law.

SECTION 7. Town staff is hereby authorized and directed to appropriate the necessary funds to pay for the Town's cost of placing the Ordinance on the election ballot.

SECTION 8. The polls shall open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed.

SECTION 9. The Town Council requests that the Board of Supervisors of San Bernardino County consolidate the election on the Ordinance with the established Statewide General Election to be held the same day and the Registrar of Voters of San Bernardino County conduct the election in the manner provided by law. Pursuant to California Elections Code Section 10400 et seq., the Town Clerk is directed to file a certified copy of this Resolution with the Board of Supervisors of San Bernardino County and the Registrar of Voters of San Bernardino County on or before **August 12, 2016**. Pursuant to California Elections Code Sections 10403 and 10418, the election will be held and conducted in accordance with the provisions of law regulating the Statewide General Election.

SECTION 10. The Town Clerk is hereby directed to transmit a copy of the Ordinance set forth in Section 2 above to the Town Attorney, who shall prepare an impartial analysis of the Ordinance in accordance with Section 9280 of the Elections Code not to exceed 500 words in length. The impartial analysis shall show the effect of the Ordinance on existing law and the operation of the Ordinance. It shall also include a statement indicating whether the Ordinance was placed on the ballot by a petition signed by the requisite number of voters or by the Town Council. In the event the entire text of

the Ordinance is not printed on the ballot, or in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-font bold type, the following: **"The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the election official's office at (760) 240-7000, ext. 7800 and a copy will be mailed at no cost to you."** The impartial analysis shall be filed no later than the deadline for direct arguments.

SECTION 11. The Town Council authorizes (i) the Town Council or any member(s) of the Town Council, (ii) any individual voter eligible to vote on the above measure, (iii) a bona fide association of such citizens or (iv) any combination of voters and associations, to file a written argument in favor of or against the Town measure, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California and may change the argument until and including 5:30 p.m. on **August 25, 2016**, after which no arguments for or against the Ordinance may be submitted to the Town Clerk. Arguments in favor of or against the measure shall each not exceed 300 words in length. Each argument shall be filed with the Town Clerk, signed, and include the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument.

The Town Clerk shall comply with all provisions of law establishing priority of arguments for printing and distribution to the voters, and shall take all necessary actions to cause the selected arguments to be printed and distributed to the voters.

SECTION 12. Pursuant to California Elections Code Section 9285, when the Town Clerk has selected the arguments for and against the Ordinance which will be printed and distributed to the voters, the Town Clerk shall send a copy of an argument in favor of the Ordinance to the authors of any argument against the Ordinance and a copy of any argument against the Ordinance to the authors of any argument in favor of the Ordinance immediately upon receiving the arguments.

The author or a majority of the authors of an argument relating to the Ordinance may prepare and submit a rebuttal argument not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument. A rebuttal argument may not be signed by more than five authors.

A rebuttal argument shall be filed with the Town Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, not later than **August 30, 2016**.

Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

SECTION 13. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

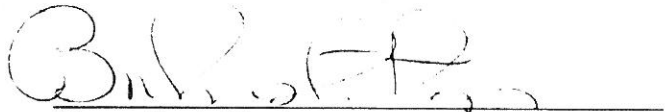
SECTION 14. The Town Council finds that this Resolution is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 15. Severability. The provisions of this Resolution are severable and if any provision of this Resolution is held invalid, that provision shall be severed from the Resolution and the remainder of this Resolution shall continue in full force and effect, and not be affected by such invalidity.

SECTION 16. This Resolution shall become effective upon its adoption.

SECTION 17. The Town Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, and ADOPTED this 26th day of July, 2016.



Mayor Barb Stanton

ATTEST:



La Vonda M-Pearson, Town Clerk

EXHIBIT "A"

BALLOT MEASURE

PUBLIC SERVICE ENTERPRISE ACCOUNTABILITY AND TRANSPARENCY ACT

The People of the Town of Apple Valley do ordain as follows:

SECTION 1. Title. This measure shall be known and may be cited as "The Public Service Enterprise Accountability and Transparency Act."

SECTION 2. Purpose and Intent. In enacting this measure, the people of the Town of Apple Valley find and declare as follows:

(a) The residents of the Town of Apple Valley currently receive water service from a private water company that operates the Apple Valley Water System.

(b) The Apple Valley Water System is an integrated and independent water system that primarily serves the Town. The Apple Valley Water System is currently owned and operated by Liberty Utilities (Apple Valley Ranchos Water) Corp., a subsidiary of Liberty Utilities Co., which is in turn owned by Canadian power giant Algonquin Power & Utilities Corp.

(c) In response to longstanding public concern about escalating water rates, the significantly higher water rates paid by customers of the Apple Valley Water System as compared to neighboring jurisdictions, the lack of local control over water rates, service, expenditures, and policy, the lack of responsiveness and accountability of the owners to the concerns of ratepayers within the service area, and the lack of transparency in the operation of the Apple Valley Water System, the Town undertook an exhaustive evaluation process to consider the acquisition of the Apple Valley Water System.

(d) After completing the evaluation process, the Town Council decided to proceed with the acquisition of the Apple Valley Water System in order to reduce rates, ensure local control, improve responsiveness, and increase transparency.

(e) In order to finance the acquisition of the Apple Valley Water System, the Town will need to issue debt to be repaid from the fees paid by ratepayers. If the Town decides to issue bonds to repay the debt, state law requires that the voters must approve the bonds. State law does not require voter approval for other forms of debt, however.

(f) An initiative that is intended to make it harder for the Town to acquire the water system has recently qualified for the ballot. The initiative would go much further, however, and require voter approval for any enterprise involving indebtedness over \$10 million if it is to be repaid using fees or revenues.

(g) There is an alternative. Before the Town issues more than \$5 million in debt for the acquisition of the Apple Valley Water System or any other enterprise that provides public services, the Town Council should have to satisfy four conditions to ensure transparency and accountability:

- (1) Hold a public hearing at least ten days before it considers issuing public debt;
- (2) Certify, based on a financial analysis, that the revenues from the enterprise will exceed the cost of repaying the debt;
- (3) Guarantee that the taxpayers of Apple Valley will not be on the hook for the public debt; and
- (4) Conduct an annual, independent audit to assure the residents of Apple Valley that the proceeds of the debt are only being used in connection with the public service enterprise.

(h) If the Town fails to satisfy any of the four conditions, then the debt should only be incurred with voter approval.

SECTION 3. Chapter 3.35 of Title 3 of the Municipal Code is added to read:

"3.35 VOTER APPROVAL PRIOR TO ISSUANCE OF PUBLIC DEBT SECURED BY FEES OR CHARGES ON SERVICES

(a) No ordinance or resolution authorizing the issuance of bonds or other forms of public debt in an amount exceeding five million dollars (\$5,000,000) to provide funds for the acquisition, construction, improvement, or financing of an enterprise, secured by revenues derived from the operation of the enterprise, shall become effective unless approved by the voters, except as provided herein.

(b) For purposes of this Section:

- (1) The terms "bonds", "enterprise", "charges", and "revenues" shall have the same meaning as provided for in the Revenue Bond Law of 1941(Chapter 6, Part 1, Division 2, Title 5, commencing with Section 54300, of the Government Code).

- (2) The term "public debt" includes, but is not limited to, certificates of participation, or public leaseback, secured by the revenues derived from the operation of the enterprise, or lease payments made to advance the purpose of the enterprise.

(c) An ordinance or resolution authorizing the issuance of public debt exceeding five million dollars (\$5,000,000) to provide funds for the acquisition, construction, or improvement of an enterprise, secured by revenues derived from the operation of the enterprise, shall not be subject to voter approval provided that all of the following requirements are satisfied:

- (1) The Council conducts a public hearing on the issuance of the public debt at least ten (10) days before approving an ordinance or resolution authorizing the issuance of the public debt;
- (2) The Council certifies, based on a financial analysis and following a public hearing, that the projected revenues from the enterprise exceed the amount of public debt proposed to be issued;
- (3) The ordinance or resolution specifies that the public debt shall not be secured by the taxing power of the Town; and
- (4) The ordinance or resolution includes a requirement that the Town conduct an annual, independent audit to ensure that the proceeds of the public debt are expended only in connection with the enterprise.

(d) Any election required by this Section shall comply with the provisions of Article 3, Chapter 6, Part 1, Division 2, Title 5 (commencing with Section 54380) of the Government Code.

(e) The exception in subdivision (c) shall not apply to any form of indebtedness requiring voter approval under state law."

SECTION 4. Conflicting Law. If this initiative measure and another measure addressing the issuance of public debt by the Town of Apple Valley appear on the same ballot, and a majority of the voters vote in favor of both measures, then the measure receiving more votes shall become valid, binding, and adopted in its entirety, and the other measure shall be null and void in its entirety. The voters expressly declare this to be their intent, regardless of any contrary language in any other ballot measure.

SECTION 5. Severability. This initiative measure shall be interpreted and applied so as to be consistent with all federal and state laws. If any provision of this Act or part thereof, or any application thereof, is for any reason held to be invalid or

unconstitutional, the remaining sections and applications shall not be affected but shall remain in full force and effect, and to this end, the provisions of this initiative measure are severable.

SECTION 6. Effective Date. This Ordinance shall be deemed adopted upon the date that the vote is declared by the Council and shall go into effect ten (10) days after that date, as provided in section 9217 of the Elections Code.

Town of Apple Valley
Resolution No. 2016-25

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

TOWN OF APPLE VALLEY

I, LA VONDA M-PEARSON, Town Clerk for the Town of Apple Valley, Apple Valley, California, do hereby certify that Resolution No. 2016-25, duly and regularly adopted by the Town Council at a meeting thereof held on the 26th day of July, 2016 by the following vote:

AYES: Council Members Bishop, Emick, Cusack, Mayor Pro Tem Nassif, Mayor Stanton.

NOES: None.

ABSTAIN: None.

ABSENT: None.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Apple Valley, California, this 27th day of July, 2016.

LA VONDA M-PEARSON, CMC
TOWN CLERK

By:



Yvonne Rivera, Deputy

(SEAL)