

ORDINANCE NO. 1180
AN ORDINANCE OF THE COUNTY
OF SAN BERNARDINO,
STATE OF CALIFORNIA,
GRANTING A FRANCHISE TO
APPLE VALLEY RANCHOS WATER
COMPANY TO LAY, CON-
STRUCT, OPERATE, MAINTAIN,
USE, REPAIR, REPLACE AND/
OR REMOVE A SYSTEM OF
CONDUITS, MAINS, PIPELINES
AND APPURTENANCES IN, UN-
DER, UPON, ALONG AND
ACROSS THE PUBLIC STREETS,
HIGHWAYS AND PUBLIC
PLACES OF SAID COUNTY.

The Board of Supervisors of the County of San Bernardino does ordain as follows:

Section 1: The right, privilege and franchise is hereby granted by the Board of Supervisors of the County of San Bernardino, State of California, to Apple Valley Ranchos Water Company, a California corporation, herein called the Grantee, its successors and assigns, to construct, erect, install, lay, maintain, operate, use, alter, repair, change the size of, remove, relocate, and replace, for a period of fifty (50) years from and after the effective date of this ordinance, a water system consisting of pipelines, distribution, transmission and service pipelines, fire hydrants, valves, enclosures, attachments, accessories, facilities and appurtenances, all hereinafter called pipelines and appurtenances, now existing or hereafter constructed, erected, installed or placed, and necessary or convenient for transporting and distributing water service, and any and all other uses and purposes for which a water system may be used, in, upon, over, under, along and across, any and all public roads, streets, ways, places and highways, including county highways and freeways, and state highways, all hereinafter called public roads and highways, as the same now or hereafter may exist or be established, constructed and exist in the County of San Bernardino, State of California, not now within any incorporated city, together with the right, privilege and franchise during said fifty (50) year period to distribute, transport, collect for, pump, and provide service to the public for any and all such uses and purposes.

Section 2: Work to construct, erect, install or construct pipelines and appurtenances not already existing, for the distribution, transportation, collection for, and supplying of water service and other uses and purposes, shall be commenced in good faith within not more than four (4) months from the granting of this franchise, and shall be prosecuted diligently and in good faith so as to meet and fill the reasonable needs of the inhabitants of said County of San Bernardino for the service of which this franchise is granted.

Section 3: The Grantee, its successors or assigns, shall during the life of the franchise herein granted, pay to the County of San Bernardino, in lawful money of the United States, two per cent (2%) of the gross annual receipts of said Grantee arising from the use, operation or possession of said franchise within said County of San Bernardino. As used herein, the phrase "two per cent (2%) of the gross annual receipts of the grantee arising from the use, operation or possession of the franchise" shall be construed as that similar phrase found in Section 6006 of the Public Utilities Code of the State of California and in former Section 3 of Chapter 578, page 777, Statutes of 1905, popularly known as the Broughton Act. The first such payments shall accrue from the fifth anniversary of the effective date of the ordinance granting this franchise and shall become due and payable at the expiration of six

years from said effective date. Subsequent annual payments shall become due and payable each year thereafter during the life of this franchise; and in the event any such annual payment is not made, said franchise shall be forfeited.

Section 4: The Grantee, its successors and assigns, shall file annually with the Board of Supervisors and the Auditor of the County of San Bernardino, a statement as of the 31st day of December of each year during the life of the franchise herein granted, showing the gross annual receipts of said Grantee, its successors or assigns, during the calendar year or portion of calendar year preceding the date of such statement, arising from the use, operation or possession of said franchise. Each statement so filed shall be verified by the oath of the said Grantee, or its successors or assigns, or by the oath of the duly authorized Manager or official representative of the Grantee, its successors or assigns, if the same shall be a corporation; and said Grantee, its successors or assigns, shall pay to the County Treasurer of the County of San Bernardino within four (4) months after the close of each calendar year, two per cent (2%) of such gross annual receipts arising from the use, operation or possession of said franchise.

Section 5: If said Grantee, or its successors or assigns, shall sell, transfer or assign such franchise or any of the rights or privileges hereby granted, the vendor, transferor, or assignor thereof, shall file with the Clerk of the Board of Supervisors of said County of San Bernardino within thirty (30) days after the completion of such sale, transfer or assignment, a copy of the instrument in writing by which the same was sold, transferred or assigned and if such copy of such instrument shall not be so filed as herein provided, then such sale, transfer or assignment shall be void.

Section 6: All pipelines or appurtenances which shall be constructed, installed, maintained and operated under and in the exercise of the franchise herein granted, shall be constructed and installed in a good and workmanlike manner and shall be constructed, installed, maintained and operated in accordance with the laws of the State of California and the rules, regulations and orders of the Public Utilities Commission of said state having reference thereto, and in accordance with all lawful ordinances, resolutions and regulations adopted by the Board of Supervisors of San Bernardino County and not in conflict with the paramount authority of the State of California; and as to state highways, subject to provisions of the laws relating to the location and maintenance of pipelines or appurtenances and facilities therein, and specifically in accordance with Ordinance 815 or any successor thereof.

Section 7: If any of the pipelines or appurtenances installed or maintained by the Grantee, or its successors or assigns, under and pursuant to the franchise hereby granted, in, upon, over, under, along or across any public road or highway shall become an obstruction to the use or impairment of any public road or highway or dangerous to the users thereof, or it shall become necessary to relocate any of said pipelines or appurtenances or facilities by reason of any lawful change of grade, alignment or width of any public road or highway, or the construction of any subway or viaduct, by the County of San Bernardino, the Board of Supervisors of said County shall have the right to order such pipelines or appurtenances or facilities relocated at the cost and expense of the Grantee, or its suc-

cessors or assigns from their then existing location to another location in, upon, over, along or across such public road or highway. Whenever a street is cut, or excavation made by Grantee, pursuant to this franchise, the work of restoration of such highway shall be done in accordance with county standards and requirements as they may be at the time such work is performed. If any such pipelines or appurtenances or facilities so ordered to be relocated by said Board of Supervisors are not relocated within thirty (30) days after the service of written notice upon the Grantee, its successors or assigns, requiring such relocation, said Board may immediately move and relocate the same at the sole cost and expense of the Grantee, its successors or assigns, which cost and expense, by the acceptance of the franchise hereby granted to the Grantee, for itself, its successors and assigns, agrees to pay on demand.

Section 8: Before any excavation or other work requiring excavation for and in connection with constructing, installing, maintaining, operating, repairing, altering, relocating or replacing pipelines or appurtenances or any thereof, in any public road or highway under the jurisdiction, supervision and control of the County of San Bernardino, or the Board of Supervisors of said County, is commenced by the Grantee, written notice of the proposed excavation and work shall be given by the Grantee to the County Highway Department of the County of San Bernardino not less than 10 days prior to the commencement of such excavation and work. Provided, that in cases of emergency requiring work in any such public road and highway for repairing and restoring its pipelines or appurtenances, or any thereof, in accordance with Ordinance 815 or any successor thereof; and the Grantee, at its own cost and expense, shall without delay replace and restore the excavation portion of such public road or highway in and to as good condition as before such excavation and work. Whenever a street is cut, or excavation made by grantee pursuant to this franchise, the work of restoration of such highway shall be done in accordance with county standards and requirements as they may be at the time such work is performed.

Section 9: The said Grantee, its successors or assigns, promptly after constructing, erecting, installing, altering, repairing and replacing any pipelines or appurtenances, or any part thereof, under and in the exercise of the franchise herein granted, shall, at its or their own cost and expense, restore and place such parts of the public roads and highways as may have been thereby damaged, in as good order and condition as they were at the time such pipelines or appurtenances, or part thereof, were constructed, erected, installed, altered, repaired or replaced.

Section 10: Said Grantee shall file a written acceptance of the franchise herein granted, and of the terms and conditions herein recited upon which it is granted, with the Clerk of the Board of Supervisors of San Bernardino County, and shall pay all costs of publication, within thirty (30) days after the passage and adoption of this ordinance.

Section 11: The Grantee shall file a bond running to the County of San Bernardino, with at least two good and sufficient sureties to be approved by the Board of Supervisors of said County, in the penal sum of One Thousand Dollars, conditioned that the Grantee shall well and truly observe, fulfill and perform each and every term and condition of the franchise herein granted, and, in case of any breach of condition of such bond, the

whole amount of the penal sum therein named shall be taken and deemed to be liquidated damages and shall be recoverable from the principal and surety or sureties, upon said bond. Said bond shall be filed with the Clerk of said Board of Supervisors within five days after said franchise is awarded to the Grantee.

Section 12: The franchise herein granted is granted under and pursuant to provisions of the laws of the State of California applicable to the granting of franchises by Counties; and said franchise shall not be exclusive but the Board of Supervisors of said County of San Bernardino reserves and shall have the right and power to grant other and additional franchises to persons, firms and corporations as authorized and provided by law.

Section 13: The Grantee shall reimburse and pay the County of San Bernardino for all publication expenses incurred by said County in connection with the granting of the franchise; said payment to be made within 30 days after said County shall have furnished Grantee with a written statement of such expenses.

Section 14: If any section, paragraph, provisions, sentence, clause or phrase of this Ordinance, or the application thereof to any public road or highway included in this Ordinance, if for reason held invalid, the remainder of this Ordinance or the application of such section, paragraph, provisions, sentence,

clause or phrase to other roads and highways included herein, shall not be affected thereby. The Grantee shall hold the County of San Bernardino, its authorized officers, agents and employees, harmless from and against any and all liability or loss resulting from claims for damages by any person arising out of the acts or omissions of the Grantee, its agents or employees, in the performance of any work authorized hereunder.

Section 15: The franchise herein granted and all provisions, rights, obligations and duties thereof shall extend and inure to and be binding on the Grantee, its successors and assigns.

Section 16: This Ordinance shall take effect thirty (30) days from and after its passage, unless suspended by referendum petition filed as provided by law, and shall within fifteen (15) days after its passage be published one time, with the name of the members of the Board of Supervisors voting for and against the same, in the San Bernardino Daily Sun, a newspaper of general circulation, published in said County of San Bernardino.

NANCY E. SMITH
Chairman,
Board of Supervisors

ATTEST:
V. DENNIS WARDLE
Clerk of the Board
BY RUDOLPH L. CORONA,
Deputy

STATE OF CALIFORNIA)
County of San Bernardino) ss.

I, V. DENNIS WARDLE, County Clerk and ex-officio Clerk of the Board of Supervisors of the County of San Bernardino, State of California, hereby certify that at a regular meeting of the Board of Supervisors of said County and State, held on the 31st day of August, 1964, at which meeting were present Supervisors Daniel D. Mikesell, Paul J. Young, S. Wesley Break, Nancy E. Smith, Chairman, and the Clerk, the foregoing ordinance was passed and adopted by the following vote, to-wit:

AYES: Mikesell, Young, Smith,
Break

NOES: None

ABSENT: Dana

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Board of Supervisors this 31st day of August, 1964.

V. DENNIS WARDLE,
County Clerk and ex-officio
Clerk of the Board of
Supervisors of the
County of San Bernardino,
State of California
BY RUDOLPH L. CORONA,
Deputy