



# TOWN OF APPLE VALLEY TOWN COUNCIL STAFF REPORT

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**To:** Honorable Mayor and Town Council      **Date:** January 26, 2016  
**From:** Marc Puckett, Assistant Town Manager      **Item No:** 5  
**Subject:** TOWN COUNCIL CONSIDERATION OF PROPOSED RESOLUTION  
DECLARING INTENTION TO REIMBURSE EXPENDITURES FROM  
THE PROCEEDS OF OBLIGATIONS TO BE ISSUED BY THE TOWN  
AND DIRECTING CERTAIN ACTIONS

**T.M. Approval:** \_\_\_\_\_      **Budgeted Item:**  Yes  No  N/A

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## **RECOMMENDED ACTION:**

That the Town Council take the following action: Adopt Resolution No. 2016-01, in accordance with United States Income Tax Regulations Section 1.150-2.

## **BACKGROUND:**

### **WATER SYSTEM INFORMATION**

The Apple Valley Water System is an integrated and independent water system that provides water service primarily in the Town. Apple Valley Ranchos Water Company (“AVR”) owns and operates Apple Valley Water System. Apple Valley Water System is reported to be currently comprised of 23 groundwater wells, 11 storage tanks, 16 emergency generators, 8 booster pump stations, over 450 miles of pipeline and more than 22,000 active service connections, covering 14 interconnected pressure zones and providing service to over 62,000 consumers.

### **DECISION TO ACQUIRE**

The Town began exploring the potential acquisition of Apple Valley Water System in response to a number of factors, including: longstanding public concern about AVR’s 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 AVR to concerns of ratepayers within the service area; and the lack of transparency in the operation of the Apple Valley Water System.

## **EMINENT DOMAIN PROCEEDINGS**

On November 17, 2015, the Town Council held a public hearing and ultimately adopted Resolutions of Necessity to undertake eminent domain proceedings to acquire the Apple Valley Water System.

The Town has further proposed to issue tax-exempt obligations to finance the acquisition of the Apple Valley Water System. In order to utilize these proceeds to reimburse itself for any earlier funds expended in the process of acquiring the Apple Valley Water System, the Town must adopt a resolution, which declares an intention to reimburse itself for such expenditures.

### **FISCAL IMPACT:**

The adoption of this Resolution will have no immediate fiscal impact on the Town. If the Town issues obligations, the resolution would allow proceeds of those tax-exempt obligations to be used to reimburse the Town for moneys expended in the acquisition of the Apple Valley Water System. Debt service on the obligations would be payable from water rate payments.

### **ATTACHMENTS:**

1. Resolution No. 2016-01

**RESOLUTION NO. 2016-01**

**A RESOLUTION OF THE TOWN OF APPLE VALLEY DECLARING INTENTION TO REIMBURSE EXPENDITURES FROM THE PROCEEDS OF OBLIGATIONS TO BE ISSUED BY THE TOWN OF APPLE VALLEY AND DIRECTING CERTAIN ACTIONS**

**RESOLVED**, by the Town Council of the Town of Apple Valley, California:

**WHEREAS**, the Town proposes to undertake the project referenced below, to issue debt for such project and to use a portion of the proceeds of such debt to reimburse expenditures made for the project prior to the issuance of the debt; and

**WHEREAS**, United States Income Tax Regulations Section 1.150-2 provides generally that proceeds of tax-exempt debt are not deemed to be expended when such proceeds are used for reimbursement of expenditures made prior to the date of issuance of such debt unless certain procedures are followed, one of which is a requirement that (with certain exceptions), prior to the payment of any such expenditure, the issuer declares an intention to reimburse such expenditure; and

**WHEREAS**, it is in the public interest and for the public benefit that the Town declares its official intent to reimburse the expenditures referenced herein.

**NOW, THEREFORE**, it is hereby DECLARED and ORDERED, as follows:

Section 1. The Town intends to issue obligations (the "Obligations") for the purpose of paying the costs of acquiring, by eminent domain, Apple Valley Ranchos Water Company's Apple Valley Water System (the "Project").

Section 2. The Town hereby declares that it reasonably expects (i) to pay certain costs of the Project prior to the date of issuance of the Obligations and (ii) to use a portion of the proceeds of the Obligations for reimbursement of expenditures for the Project that are paid before the date of issuance of the Obligations.

Section 3. The maximum principal amount of the Obligations is \$125,000,000.

**APPROVED** and **ADOPTED** by the Town Council of the Town of Apple Valley this 26<sup>th</sup> day of January, 2016.

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Barb Stanton, Mayor

**ATTEST:**

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LaVonda M-Pearson, Town Clerk