



# TOWN OF APPLE VALLEY

## TOWN COUNCIL STAFF REPORT

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**To:** Honorable Mayor and Town Council                      **Date:** March 9, 2017

**From:** Frank Robinson, Town Manager                      **Item No:** 1  
Town Manager's Office

**Subject:** CALLING OF SPECIAL ELECTION ON JUNE 6, 2017 REQUESTING  
AUTHORIZATION FOR THE TOWN TO FINANCE THE ACQUISITION OF  
THE APPLE VALLEY WATER SYSTEM, INCLUDING RELATED  
EXPENSES, BY INCURRING DEBT

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

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### RECOMMENDED ACTION:

Staff recommends that the Town Council take the following actions:

- A. Adopt the following Resolutions:
1. Resolution No. 2017-08 - A Resolution of the Town Council of the Town of Apple Valley Ordering, Calling, Providing for and Giving Notice of a Special Election to be Held on June 6, 2017, for the Purpose of Submitting to the Qualified Voters of Said Town a Proposition to Authorize Said Town to Finance the Acquisition of the Apple Valley Water System, Currently Owned and Operated by Liberty Utilities, including Related Expenses, by Incurring Debt in the Maximum Amount of \$150 Million, provided that the Debt is Repaid from Revenues Generated by the Water System, and not from Taxes, and further that the Town Conducts an Annual Independent Audit
  2. Resolution No. 2017-09 - A Resolution of the Town Council of the Town of Apple Valley, California, Setting Deadlines and Priorities for Filing Written Arguments Regarding a Town Measure and Directing the Town Attorney to Prepare an Impartial Analysis

3. Resolution No. 2017-10 - A Resolution of the Town Council of the Town of Apple Valley, California, Providing for the Filing of Rebuttal Arguments for a Town Measure to be Placed on the June 6, 2017 Special Municipal Election Ballot

## **SUMMARY:**

Staff recommends that the Town Council consider the adoption of three (3) Resolutions placing a measure on the June 6, 2017 ballot requesting voter authorization to finance the acquisition of the Apple Valley Water System, currently owned and operated by Liberty Utilities, including related expenses, by incurring debt in the maximum amount of \$150 million, provided that the debt is repaid from revenues generated by the water system, and not from taxes, and further that the Town conducts an annual independent audit.

## **BACKGROUND:**

### **THE APPLE VALLEY WATER SYSTEM**

The Apple Valley Water System is an integrated and independent water system that provides water service primarily in the Town. In addition, the Apple Valley Water System includes some small geographic areas outside the Town's boundaries in limited portions of the City of Victorville and a small unincorporated area of the County of San Bernardino. 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.

### **ACQUISITION OF APPLE VALLEY WATER SYSTEM**

The Town began exploring the potential acquisition of the Apple Valley Water System in 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 owners to the concerns of ratepayers within the service area; and the lack of transparency in the operation of the Apple Valley Water System.

At the direction of the Town Council, Town staff and expert consultants undertook an exhaustive evaluation process. This process included: reviewing official filings, reports and documents; conducting public meetings seeking input from the community; retaining engineering and financial consulting firms; preparing a report by a utility valuation

professional with expertise in utility appraisals to evaluate the fair market value of the Apple Valley Water System; preparing and presenting a detailed Final Environmental Impact Report on the proposed acquisition; and preparing and presenting a detailed financial feasibility analysis considering the financial consequences of municipal ownership of the Apple Valley Water System.

On June 26, 2015, in compliance with the requirements of Section 7267.2 of the Government Code, the Town transmitted a formal offer to acquire the Apple Valley Water System from its owners for its appraised fair market value of \$50.3 million following the appraisal process. The offer included a full description of the Apple Valley Water System proposed to be acquired. On July 24, 2015, then owner Apple Valley Ranchos Water Company rejected the Town's offer, refused to negotiate with the Town, and made it clear that it was unwilling to sell the Apple Valley Water System separate from the other entities owned by its owner Park Water Company. No appreciable change has occurred in the owner's posturing since it was acquired by Liberty Utilities.

Although the Town considered acquisition a last resort, at a special meeting on November 17, 2015, the Town Council adopted two (2) Resolutions of Necessity authorizing the acquisition, by eminent domain, of the Apple Valley Water System. At the same meeting, the Town Council certified a Final Environmental Impact Report (SCH #2015061078), which analyzes the environmental impacts associated with the Town's acquisition of the Apple Valley Water System. On January 8, 2016, the Town formally initiated a condemnation action to acquire the Apple Valley Water System.

#### **LIBERTY UTILITIES FUNDED MEASURE V**

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 ("Measure V").

The drafting and signature gathering effort on the petition for Measure V was funded by Liberty in an apparent effort to frustrate the Town's efforts to acquire the Apple Valley Water System.

After five (5) months of paid signature gathering, the petition for Measure V was signed by twelve percent (12%) of registered voters in the Town. In accordance with state law, the Town Council placed Measure V before Apple Valley voters at the General Municipal Election/Statewide general election held on November 8, 2016. A majority of voters voting on Measure V approved it.

Measure V requires the Town to obtain voter approval before it may finance the acquisition of the Apple Valley Water System and to conduct such an election pursuant to the rules set forth in the Revenue Bond Law of 1941, regardless of whether the debt is

in the form of revenue bonds. (Municipal Code, ch. 3.35(b)(2) [defining “public debt” to include “certificates of participation, or public leaseback”].)

Under the Revenue Bond Law of 1941 (Government Code section 54380 et seq.), the Town Council must adopt a resolution to submit the measure to the voters at a regular or special meeting of Council. The resolution must:

- (a) State that the purpose of issuing the debt is to finance the acquisition of the Apple Valley water system.
- (b) State the estimated cost of the acquisition, construction, improvement and financing of the water system.
- (c) State the principal amount of the debt.
- (d) State the maximum rate of interest on the debt, which shall not exceed 12%. The interest rate may be either fixed or variable, and shall be payable at the times and in the manner specified in the resolution.
- (e) Fix the election date.
- (f) Fix the manner of holding the election.
- (g) Fix the manner of voting on the issuance of the debt.
- (h) State that in all other particulars the election shall be held and the votes canvassed pursuant to law for general municipal elections.
- (i) State that the debt is payable exclusively from the revenues of the water system and from any other funds, including contributions, from any source which the Town may legally apply to the acquisition of the water system, except any and all proceeds of taxation, and that the debt will not be secured by the taxing power of the Town.

(Gov. Code, §§ 54382, 54384.)

The resolution must be published once a day for at least seven (7) days in a newspaper published at least six (6) days a week in the Town or published once a week for two (2) succeeding weeks in a newspaper published less than six (6) days a week in the Town. If there are no such newspapers, the resolution shall be posted in three (3) public places in the local agency for two (2) succeeding weeks. (Gov. Code, § 54385.) This may occur after the resolution is adopted.

### **PROPOSED ACTION:**

Pursuant to Elections Code Section 9222, Government Code Section 54380 et seq., and Municipal Code, Chapter 3.35, the Town may submit to its qualified voters, at an election held for that purpose, a request to authorize the Town to finance the acquisition of the Apple Valley Water System, including related expenses, by incurring debt, provided that the debt is repaid from revenues generated by the water system, and not from taxes. The measure must be approved by more than 50% of the voters who cast ballots in the election.

Town staff proposes that the following measure be put to voters at the June election:

Shall the Town of Apple Valley be authorized to finance the acquisition of the Apple Valley Water System, currently owned and operated by Liberty Utilities, including related expenses, by incurring debt in the maximum amount of \$150 million, provided that the debt is repaid from revenues generated by the water system, and not from taxes, and further that the Town conducts an annual independent audit?

In order to do so, the Town must adopt resolutions calling the election, setting forth the procedures for the filing of written arguments, and setting forth the procedures for the filing of rebuttal arguments. The Town Attorney's Office has prepared the attached Resolutions to achieve these requirements.

### **FISCAL IMPACT:**

As explained in the Impartial Analysis prepared by the Town Attorney for Measure V, the Town is required by Measure V to incur the costs normally associated with placing a measure on the ballot in San Bernardino County. The anticipated cost for placing a measure on the June 2017 ballot is \$222,000.

### **ATTACHMENTS:**

1. Resolution No. 2017-08 - A Resolution of the Town Council of the Town of Apple Valley Ordering, Calling, Providing for and Giving Notice of a Special Election to be Held on June 6, 2017 for the Purpose of Submitting to the Qualified Voters of Said Town a Proposition to Authorize Said Town to Finance the Acquisition of the Apple Valley Water System, Currently Owned and Operated by Liberty Utilities, Including

Related Expenses, by Incurring Debt in the Maximum Amount of \$150 Million, Provided that the Debt is Repaid from Revenues Generated by the Water System, and not from Taxes, and further that the Town Conducts an Annual Independent Audit

2. Resolution No. 2017-09 - A Resolution of the Town Council of the Town of Apple Valley, California, Setting Deadlines and Priorities for Filing Written Arguments Regarding a Town Measure and Directing the Town Attorney to Prepare an Impartial Analysis
3. Resolution No. 2017-10 - A Resolution of the Town Council of the Town of Apple Valley, California, Providing for the Filing of Rebuttal Arguments for a Town Measure to be Placed on the June 6, 2017 Special Municipal Election Ballot

## RESOLUTION NO. 2017-08

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY ORDERING, CALLING, PROVIDING FOR AND GIVING NOTICE OF A SPECIAL ELECTION TO BE HELD ON JUNE 6, 2017 FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF SAID TOWN A PROPOSITION TO AUTHORIZE SAID TOWN TO FINANCE THE ACQUISITION OF THE APPLE VALLEY WATER SYSTEM, CURRENTLY OWNED AND OPERATED BY LIBERTY UTILITIES, INCLUDING RELATED EXPENSES, BY INCURRING DEBT IN THE MAXIMUM AMOUNT OF \$150 MILLION, PROVIDED THAT THE DEBT IS REPAID FROM REVENUES GENERATED BY THE WATER SYSTEM, AND NOT FROM TAXES, AND FURTHER THAT THE TOWN CONDUCTS AN ANNUAL INDEPENDENT AUDIT**

**WHEREAS**, the Town is currently in the process of acquiring Apple Valley Ranchos Water Company's (now known as Liberty Utilities (Apple Valley Ranchos Water) Corp.) ("AVR") 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 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; and

**WHEREAS**, the acquisition amounts to a mere title transfer of the existing system from the Apple Valley Ranchos Water Company to the Town; 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 (2) 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**, the Town Council, pursuant to Municipal Code, tit. 3, ch. 3.35, Elections Code Section 9222, and Government Code Section 54380 et seq., may submit to its qualified voters, at an election held for that purpose, the proposition of acquiring debt to provide funds for the acquisition, construction, improving or financing of an enterprise, including any or all expenses incidental thereto or connected therewith, to be paid from the revenues generated by that enterprise; and

**WHEREAS**, the Town may be required to pay an acquisition price for the Apple Valley Water System in excess of the current appraised value; and

**WHEREAS**, based upon an analysis of AVR's most recent Annual Report to the CPUC, Town staff has determined that, through the elimination of certain costs (profits, taxes intercompany service agreements, and corporate overhead/corporate office costs), the Town could support an acquisition cost of as much as \$150 million and either maintain or reduce rates; and

**WHEREAS**, the aforementioned analysis does not include the most recent rate increase granted by the CPUC or the proposed surcharges proposed in Advice Letter 216-W-A, which would likely increase the maximum amount the Town could pay and still maintain or reduce rates; and

**WHEREAS**, the Town Council wishes to submit to the qualified voters a request for authorization to acquire debt in a form to be determined in an amount not to exceed \$150 million (\$150,000,000) in order to finance an acquisition price of the Apple Valley Water System, pay capitalized interest on the debt, fund a debt service reserve fund, pay other costs associated with acquisition and fund a capital or operating reserve for the Apple Valley Water System; and

**WHEREAS**, such debt shall be payable exclusively from the revenues of the water enterprise and such other funds relating to the debt issuance, shall not be secured by the taxing power of the Town, and shall be subject to annual independent audit; and

**WHEREAS**, in an abundance of caution and to provide transparency regarding the acquisition, the Town prepared and circulated an Environmental Impact Report (SCH#2015061078) ("EIR") pursuant to the California Environmental Quality Act (Public Resources Code section 21000 et seq.; 14 Cal. Code Regs. Section 15000 et seq.) ("CEQA"); and

**WHEREAS**, on November 17, 2015, the Town certified the EIR, found that the acquisition would not result in any potentially significant impacts to the environment, and approved the acquisition via Town Council Resolution No. 2015-42; and

**WHEREAS**, according to Public Resources Code section 21166 and section 15162 of Title 14 of the California Code of Regulations, when an EIR has been prepared for a project pursuant to CEQA, no subsequent or supplemental environmental impact report shall be required by the lead agency unless substantial changes are proposed to the project or substantial changes occur with respect to circumstances under which the project is undertaken that require major revisions to the EIR, or new information becomes available that was not previously available that shows that the project will have a new or more significant environmental effect; and

**WHEREAS**, to the extent that any CEQA review for the Measure described herein is required, such CEQA review has already been satisfied through the Town's certification of its previously prepared EIR; and



**WHEREAS**, the Town Council has determined that it is necessary for the Town to incur indebtedness for the purpose of financing the acquisition of the Apple Valley Water System.

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

**SECTION 1. Recitals.** The recitals stated above are true and correct and are incorporated herein by reference. Resolutions 2015-42, 2015-43, and 2015-44, adopted at the special meeting of the Town Council on November 17, 2015, and the staff reports associated therewith, are incorporated herein by reference.

**SECTION 2. Special Election.** That pursuant to Sections 1000, 1400, and 9222 of the California Elections Code, the Town of Apple Valley may hold a special election on Tuesday, June 6, 2017 to submit to the qualified voters of the Town a certain proposition, namely: A proposition hereinafter set forth in Section 8 for authorizing the Town to incur debt therefor, in the principal amount stated in the ballot proposition hereinafter set forth, and for the objectives and the purposes set forth herein and in said ballot proposition with further particulars as follows:

(i) That the estimated cost of the acquisition of the Apple Valley Water System and financing the start-up costs of the Apple Valley Water System could amount up to \$150 million. The estimated cost of said municipal acquisition includes the following: (a) legal or other fees incidental to or connected with any litigation, negotiation or entering into of contracts associated with the acquisition of the water enterprise, or authorizing and incurring the debt, and (b) the costs of printing the financial documents and other costs and expenses incidental to or connected with the debt.

(ii) That the maximum rate of interest to be paid on said indebtedness shall not exceed the maximum rate permitted by law, to wit, twelve percent (12%) per annum, the actual rate or rates of interest on said debt to be determined at or prior to the time it is incurred. Such interest may be at fixed or variable rates. Said interest shall be payable daily, weekly, monthly or semi-annually except that interest for the first year may be made payable at the end of said year.

(iii) That if the proposition for the incurring of debt so submitted receives the requisite number of votes required by law, being a majority, in favor of the qualified electors voting on such proposition, the Town may incur debt not in excess of the amount stated in such proposition for the object and purpose set forth in such proposition.

(iv) That the debt shall be payable exclusively from the revenues of the water system and from any other funds, including contributions, from any source which the Town may legally apply to the acquisition of the water system, except any and all proceeds of taxation; that the debt will not be secured by the taxing power of the Town; and that the Town shall conduct an annual independent audit.

**SECTION 3. Polling Places.** The Town Clerk shall request the Board of Supervisors of the County of San Bernardino to permit the Registrar of Voters to cause the precincts, polling places and election officers for said election to be established, to cause all election materials to be printed and mailed to each registered voter in the Town of Apple Valley, to cause all election supplies to be delivered to each polling place, and to cause the returns of said election to be canvassed and to certify the same to the Town Council of the Town of Apple Valley.

**SECTION 4. Notice.** 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 5. Election Supplies.** 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 6. Election Costs.** Town staff is hereby authorized and directed to appropriate the necessary funds to pay for the Town's cost of placing the Measure on the election ballot.

**SECTION 7. Compliance with CEQA.** The Town Council hereby finds and determines that, to the extent any CEQA review is required for the proposed Measure, such review was previously completed when the Town certified the EIR for the acquisition (SCH#2015061078) via Town Council Resolution No. 2015-42. Based on the substantial evidence set forth in the record, the Town Council further finds and determines that no subsequent or supplemental environmental review is required for the Resolution because none of the conditions under Public Resources Code section 21166 or section 15162 of Title 14 of the California Code of Regulations requiring the need for further subsequent review have occurred. Specifically, the Town Council finds that no additional environmental review is required because no substantial changes are proposed to the acquisition, no substantial changes have arisen with respect to the circumstances under which the acquisition will be undertaken, and no new information has become available showing that the acquisition will have a new or more significant environmental effect.

**SECTION 8. Purpose of Election; Ballot Measure.** As required by Section 13247 of the Elections Code, the ballot measure shall be printed in substantially the following form:

**BALLOT MEASURE  
(ABBREVIATED STATEMENT/BALLOT LABEL)**

**MEASURE “ \_\_\_ ”:**

**Shall the Town of Apple Valley be authorized to finance the acquisition of the Apple Valley water system, currently owned and operated by Liberty Utilities, including related expenses, by incurring debt in the maximum amount of \$150,000,000, provided that the debt is repaid from revenues generated by the water system, and not from taxes, and further that the Town conducts an annual independent audit?**

Yes/No

**SECTION 9. Election Pursuant to Law.** That except as otherwise provided in this Resolution, the election called hereby shall be held and the votes canvassed pursuant to law for other Town elections.

**SECTION 10. Publication.** Pursuant to Government Code Section 54385, the Town Clerk is hereby directed to publish this Resolution in full once a week for two (2) weeks in the newspaper of general circulation for the Town, and in each edition thereof during each day of publication.

**SECTION 11. Custodian of Record.** The documents and materials that constitute the record of proceedings on which this Resolution has been based are located at Apple Valley Town Hall, 14955 Dale Evans Parkway, Apple Valley, California. The custodian for these records is the office of the Town Manager.

**SECTION 12. 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 13. Effective Date.** This Resolution shall become effective immediately upon its adoption.

**SECTION 14. Certification.** The Town Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 9th day of March, 2017.

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Mayor Pro Tem Art Bishop

ATTEST:

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Debra Thomas, Deputy Town Clerk

**RESOLUTION NO. 2017-09**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, SETTING DEADLINES AND PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING A TOWN MEASURE AND DIRECTING THE TOWN ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS**

**WHEREAS**, on March 9, 2017, the Town Council of the Town of Apple Valley adopted Resolution No. 2017-08, calling, providing for and giving notice of a Special Municipal Election to be held in the Town of Apple Valley on June 6, 2017, at which time there will be submitted to the voters the following Measure:

<b>MEASURE “___”:</b> <b>Shall the Town of Apple Valley be authorized to finance the acquisition of the Apple Valley water system, currently owned and operated by Liberty Utilities, including related expenses, by incurring debt in the maximum amount of \$150,000,000, provided that the debt is repaid from revenues generated by the water system, and not from taxes, and further that the Town conducts an annual independent audit?</b>	<b>YES</b>
	<b>NO</b>

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1.** The Town Council authorizes (i) the Town Council or any member or members 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 thereof, to file written arguments, not exceeding 300 words, in favor of or against the Measure, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California. The arguments may be changed or withdrawn until and including the date fixed below by the Town Clerk, after which no arguments for or against the Measure may be submitted to the Town Clerk.

The deadline to submit arguments for or against the Measure pursuant to this Resolution is declared by the Town Clerk to be **5:00 p.m. on March 23, 2017**. The arguments 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 (1) of its principal officers who is the author of the argument.

**SECTION 2.** The Town Council directs the Town Clerk to transmit a copy of the Measure to the Town Attorney. In accordance with California Elections Code section 9280, the Town Attorney shall prepare an impartial analysis of the Measure not exceeding 500 words showing the effect of the Measure on the existing law and the operation of the Measure, and shall transmit such impartial analysis to the Town Clerk not later than the deadline for submittal of arguments for or against the Measure, as set forth in this Resolution. The impartial analysis shall include a statement indicating that the Measure was placed on the ballot by the Town Council. In the event the entire text of the Measure is not printed on the ballot, nor 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 Office of the Town Clerk at (760) 240-7000 ext. 7800 and a copy will be mailed at no cost to you."

**SECTION 3.** The provisions of this Resolution shall apply only to the Special Election to be held on June 6, 2017.

**SECTION 4.** This Resolution shall take effect immediately upon its adoption.

**SECTION 5.** The Mayor shall sign this Resolution and the Town Clerk shall certify to the passage and adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 9th day of March, 2017.

\_\_\_\_\_  
Mayor Pro Tem Art Bishop

ATTEST:

\_\_\_\_\_  
Debra Thomas, Deputy Town Clerk

**RESOLUTION NO. 2017-10**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR A TOWN MEASURE TO BE PLACED ON THE JUNE 6, 2017 SPECIAL MUNICIPAL ELECTION BALLOT**

**WHEREAS**, on March 9, 2017, the Town Council of the Town of Apple Valley adopted Resolution No. 2017-08 calling, providing for and giving notice of a Special Municipal Election to be held in the Town of Apple Valley on June 6, 2017, at which time there will be submitted to the voters the following Measure:

<b>MEASURE “ ___ ”:</b>  <b>Shall the Town of Apple Valley be authorized to incur debt to finance the acquisition of the Apple Valley water system, currently owned and operated by Liberty Utilities, including related expenses, by incurring debt in the maximum amount of \$150,000,000, provided that the debt is repaid from revenues generated by the water system, and not from taxes, and further that the Town conducts an annual independent audit?</b>	<b>YES</b>
	<b>NO</b>

**WHEREAS**, California Elections Code sections 9285 authorizes the Town Council by majority vote to adopt provisions to provide for the filing of rebuttal arguments for Town Measures submitted at municipal elections.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1.** Pursuant to California Elections Code Section 9285, when the elections official has selected the arguments for and against the Measure which will be printed and distributed to the voters, the elections official shall send a copy of an argument in favor of the Measure to the authors of the argument against the Measure and a copy

of the argument against the Measure to the authors of the argument in favor of the Measure immediately upon receiving the arguments.

The author or a majority of the authors of an argument relating to the Measure may prepare and submit a rebuttal argument or may authorize in writing any other person or persons to prepare, submit or sign the rebuttal argument. However, a rebuttal argument may not be signed by more than five (5) persons. No rebuttal argument may exceed 250 words.

The rebuttal arguments 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 (1) principal officer, not later than **5:00 p.m. on April 3, 2017**.

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 2.** The provisions of this Resolution shall apply only to the Special Election to be held on June 6, 2017.

**SECTION 3.** This Resolution shall take effect immediately upon its adoption.

**SECTION 4.** The Mayor shall sign this Resolution and the Town Clerk shall certify to the passage and adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 9th day of March, 2017.

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Mayor Pro Tem Art Bishop

ATTEST:

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Debra Thomas, Deputy Town Clerk