

RESOLUTION 21 -

**AMENDING A WATER SERVICES FRANCHISE GRANTED TO
LIBERTY UTILITIES (BELLA VISTA WATER) CORPORATION**

KNOW ALL MEN BY THESE PRESENTS, THAT,

WHEREAS, LIBERTY UTILITIES (BELLA VISTA WATER), CORP. (formally, Bella Vista Water Company, Inc.), has requested a resolution of the Cochise County Board of Supervisors to amend a franchise granted to it on September 15, 2020 to include the franchise area previously granted to Sulger Water Company #2 on August 14, 2007 and to terminate the Sulger Water Company #2 franchise.

WHEREAS, the Cochise County Board of Supervisors on September 15, 2020 by Resolution No. 20-14, granted a franchise to **LIBERTY UTILITIES (BELLA VISTA WATER), CORP.** for the right, privilege, license, and franchise to construct, install, operate and maintain along, over, under and cross the streets, alleys, and highways, within the County, facilities for the purpose of maintaining and operating water lines and all other facilities pertinent to the transmission, delivery, and sale of water for domestic and commercial consumers, as might be approved by the Arizona Corporation Commission pursuant to A.R.S. § 40-283 within an area described in the Resolution; and

WHEREAS, the Cochise County Board of Supervisors on August 14, 2007 by Resolution No. 07-70 granted a franchise to Sulger Water Company #2 for the right, privilege, license, and franchise to construct, install, operate and maintain along, over, under and cross the streets, alleys, and highways, within the County, facilities for the purpose of maintaining and operating water lines and all other facilities pertinent to the transmission, delivery, and sale of water for domestic and commercial consumers, as might be approved by the Arizona Corporation Commission, pursuant to A.R.S. § 40-283, within an area described in the Resolution; and

WHEREAS, Resolution No. 07-70, provides that the Sulger Water Company #2 franchise may not be sold, leased, assigned, or conveyed without the express consent of the County, which consent shall not be unreasonably withheld; and

WHEREAS, Resolution No. 20-14, provides that Cochise County reserves the right to alter or amend the **LIBERTY UTILITIES (BELLA VISTA WATER), CORP.** franchise in any manner in the interest of the public; and

WHEREAS, Sulger Water Company has, subject to the express approval of the County, transferred and conveyed to **LIBERTY UTILITIES (BELLA VISTA WATER), CORP.** all of its rights under that franchise approved and granted by the County to Sulger Water Company #2 through Resolution No. 07-70; and

WHEREAS, the Arizona Corporation Commission has entered an Opinion and Order in Decision No. 77741 on July 22, 2020 approving the sale of Sulger Water Company's assets to **LIBERTY UTILITIES (BELLA VISTA WATER), CORP.** and approved the transfer of Sulger Water Company's Certificate of Necessity to **LIBERTY UTILITIES (BELLA VISTA WATER), CORP.**; and

WHEREAS, **LIBERTY UTILITIES (BELLA VISTA WATER), CORP.** has requested that Cochise County approve the amendment of its franchise to include the area described in the application for franchise made by Sulger Water Company #2 and granted through Resolution No. 07-70; and

WHEREAS, upon transfer and conveyance of the Sulger Water Company #2 franchise to **LIBERTY UTILITIES (BELLA VISTA WATER), CORP.**, it will be in the interest of the public that **LIBERTY UTILITIES (BELLA VISTA WATER), CORP.** assume operation, maintenance, delivery of water, and all other responsibilities and liabilities of the Sulger Water Company #2 franchise arising out of its operations, know or unknown at the time of conveyance.

WHEREAS, reasonable public notice of this Application and Request for Amendment has been provided in the manner required by A.R.S. 40-283 of the filing of this application and request for amendment and of the public hearing on this matter set for March 23, 2021 at 10:00 a.m. at the regular meeting place of the Board in the city of Bisbee, Arizona, as the time and place for the consideration of this matter; and,

WHEREAS, it appears from the affidavit of publication in the Herald-Review that due and regular notice of said date, time and place set for consideration of such action has been published once a week for three consecutive weeks prior to the date of the said hearing, to wit: on the dates of March 3, 2021 and March 10, 2021 and March 17, 2021 in the said newspaper and the matter being called at 10:00 o'clock a.m., and it appearing that the Board of Supervisors has not received a petition signed by more than 50% of the qualified electors of Cochise County asking the Board to deny the Application and Request for Amendment on or before the date set for consideration thereof; and,

WHEREAS, said Application and Request for Amendment came on to be heard on the 23rd day of March 2021 before the Board of Supervisors of Cochise County, and the Board considered the Application and Request to Amend and good cause appearing to grant the Application and Request:

NOW THEREFORE, BE IT RESOLVED by the Cochise County Board of Supervisors as follows:

1. The non-exclusive license and franchise granted by the Cochise County Board of Supervisors in Board Resolution No. 07-70 to Sulger Water Company #2 is hereby transferred to **LIBERTY UTILITIES (BELLA VISTA WATER), CORP.**
2. The **LIBERTY UTILITIES (BELLA VISTA WATER), CORP.** franchise created by Resolution No. 20-14 is amended to include the area previously made part of the Sulger Water Company #2 franchise, which is described in Exhibit A hereto, and **LIBERTY UTILITIES (BELLA VISTA WATER), CORP.** shall assume operation, maintenance, delivery of water, and all other responsibilities and liabilities of the Sulger Water Company #2 franchise arising out of its operations, know or unknown at the time of conveyance.
3. The rights, privileges, amendments, and franchise of this Resolution are made pursuant to the laws of Arizona including A.R.S. 40-283.
4. The conveyance of the Sulger Water Company #2 franchise and the amendment of the **LIBERTY UTILITIES (BELLA VISTA WATER), CORP.** franchise will not be effective for any purpose until the authorized representatives of each entity have indicated acceptance in writing and by signature below.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Cochise, State of Arizona, has caused these presents to be executed and signed by the Chairman of the Board of Supervisors on this ____ day of _____, 2021.

BOARD OF SUPERVISORS, COUNTY OF COCHISE:

Ann English, Chair

ATTEST:

APPROVED AS TO FORM:

Kim Lemons, CPCC
Clerk, Board of Supervisors

Paul Correa
Civil Deputy Cochise County Attorney

ACCEPTANCE OF FRANCHISE

This is to certify that transferee and grantee **LIBERTY UTILITIES (BELLA VISTA WATER), CORP.**, an Arizona Corporation, has on the ____ day of _____, 2021, accepted the amended franchise described in the foregoing resolution. Grantee agrees that it will be bound by, observe, and carry out the terms of the amended franchise.

GRANTEE: LIBERTY UTILITIES (BELLA VISTA WATER), CORP.

By: David Heighway, PE
Title: Engineering Director

CERTIFICATE OF CLERK

I, **Kim Lemons, CPCC**, Clerk of the Board of Supervisors of Cochise County, Arizona, do hereby certify that the foregoing excerpt from the minutes of the meeting of the Board of Supervisors of Cochise County, Arizona held on **Tuesday, March 23, 2021**, constitutes a true and correct copy of the said minutes insofar as they relate to the Application of **LIBERTY UTILITIES (BELLA VISTA WATER), CORP.** for the amended franchise described in the foregoing resolution in the County and to the granting of said amendment pursuant to the resolution hereinabove set out, all as appears in the official records of the Board of Supervisors.

IN WITNESS WHEREOF, I have set my hand and official seal of the Board of Supervisors of Cochise County, Arizona this 23rd day of March 2021.

Kim Lemons, CPCC
CLERK, BOARD OF SUPERVISORS
COCHISE COUNTY, ARIZONA

