

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)