



TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** October 28, 2014
From: Marc Puckett, Assistant Town Manager **Item No:** 12
Subject: AMENDMENT TO GRANT AGREEMENT WITH THE COUNTY OF SAN BERNARDINO FOR PRESERVATION AND OPERATION OF THE VICTOR VALLEY MUSEUM

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

RECOMMENDED ACTION:

1. That the Town Council approve an increase in the amount of \$10,000.00 for a total of \$25,000.00 in annual financial support provided to the Victor Valley Museum in partnership with the San Bernardino County Museum.
2. That the Town Council approve Budget Amendment BA 15-05 in the amount of \$10,000.00 increasing the appropriation for annual financial support for the Victor Valley Museum to \$25,000.00 (General Fund).

SUMMARY:

Approval of this amendment to the grant agreement with the County of San Bernardino for the preservation and operation of the Victor Valley Museum will increase the annual financial support for the museum by \$10,000.00 to \$25,000.00.

BACKGROUND:

On September 8, 2009, Doug Shumway, Chairman of the Board of Directors of the Victor Valley Museum, made an appeal to the Town Council for financial assistance to prevent the museum's closing due to lack of revenue and funding. Mr. Shumway indicated that the museum's current business plan estimated that the museum would be depleted of operating funds by October, 2009. He asserted that the museum had been sustained by donations and fundraising up to that point, but like other non-profit

agencies, it had lost support due to the dwindling economy. Mr. Shumway stated that he had made a similar appeal to the San Bernardino County Museum and that the County museum had agreed to help either by taking over the facility or by providing funds to keep it open.

Subsequent to the September 8, 2009 Council meeting, San Bernardino County Museum Director Robert McKernan researched the costs of incorporating the Victor Valley Museum into the County Museum System. In his report, he suggested a phased approach for incorporation. Phase I addresses a one-time cost for incorporation. Phase II identified the ongoing cost to operate the Victor Valley Museum and included annual offsetting revenue received from other sources. According to the report, the annual offsetting revenue would be generated through admissions and facility use fees, educational program fees, and High Desert community funding support. In addition to private donations, the community funding expectation included financial support from the Mojave Water Agency, City of Hesperia, and the Town of Apple Valley. The report estimated the Town's level of support to be \$7,500.00; dependent upon facility revenue and donations from other community stakeholders, the Town's actual level of funding was expected to be within the range of \$7,500.00 to \$15,000.00 per year. Then County Supervisor Brad Mitzelfelt had indicated that the County would absorb all take over and start up costs.

Based upon a recent review of the cost of operation of the museum by the County Library Director, in July, 2014, County Supervisor Lovingood requested that the Town consider a \$10,000.00 increase in the level of support provided for preservation and operation of the Museum.

The Victor Valley Museum currently located at 11873 Apple Valley Road in Apple Valley, opened in the Victorville Courthouse in 1976 and provides approximately 7,000 visitors per year with a compelling look into the rich and varied history of the High Desert. With displays of Native American artifacts, the region's mining and pioneer history, and native animal exhibits to name a few, the museum prides itself on 33 years of continued education, enrichment, and inspiration of both young and old through the preservation of local history. In recognition of its participation and support of the museum, the Town received its own wing or exhibit area and is featured on all promotional museum items.

FISCAL IMPACT:

The proposed amendment to the grant agreement with the County of San Bernardino for preservation and operation of the Victor Valley Museum will increase the annual financial support for the museum by \$10,000.00 from \$15,000.00 to \$25,000.00 annually. If approved, the additional funding will be appropriated from the General Fund available fund balance.

CONCLUSION:

Staff recommends approval of the attached grant agreement and BA 15-05.

ATTACHMENTS:

1. Grant Agreement between the Town of Apple Valley and County of San Bernardino for Operation and Preservation of the Victor Valley Museum.
2. Budget Amendment No. 15-05 Approving \$10,000 Increase in Annual Financial Support for Victor Valley Museum.

GRANT AGREEMENT

(For preservation of Victor Valley Museum)

THIS GRANT AGREEMENT is made and entered into this ____ day of _____, 20__, by and between the TOWN OF APPLE VALLEY, a municipal corporation, hereinafter referred to as “Grantor”, and the COUNTY OF SAN BERNARDINO, a county subdivision of the State of California, hereinafter referred to as “Grantee” with reference to the following facts:

A. Grantee has requested funds from Grantor in order to provide certain services including the cultivation and support of events, programs and exhibits through its incorporation of the Victor Valley Museum (the “Museum”) into the San Bernardino County Museum system, to the fullest extent consistent with the availability of funds.

B. Grantee endeavors to provide the community-at-large with a unique and enduring access to objects, specimens and artifacts related to the Hi-Desert region and the greater Southwest. The Grantee endeavors to do this through its ownership and operation of the Museum, which provides approximately 7,000 visitors per year an opportunity to view Native American artifacts, learn about the Hi-Desert’s mining and pioneer history, and observe native animal exhibits.

C. Grantor has determined that the granting of such funds is for a public municipal purpose and will advance the general good of the community and, therefore, approved in 2014 during a Public Hearing before the Town Council, the granting of funds up to twenty-five thousand dollars (\$25,000) annually, which shall be used for the purposes of operating the Museum.

NOW THEREFORE, the parties mutually agree as follows:

1. Grantor hereby grants to Grantee the maximum sum of twenty-five thousand dollars (\$25,000) annually (hereinafter the “Grant”) subject to the terms and conditions stated herein.

2. This Grant shall not issue until the Grantee has adequately demonstrated to the Grantor, in the Grantor's reasonable but otherwise sole and absolute discretion, that the Museum has been fully and legally incorporated into the County Museum system.

3. The Grant shall continue and remain in full force and effect and shall not be revoked except as set forth in this paragraph. The Grant shall terminate when the Grantee ceases to operate and maintain the Museum.

Notwithstanding the foregoing, the Grantor shall have the option to terminate the Grant at any time upon thirty (30) days' prior written notice to the Grantee. This Grant may also be terminated by the Grantor upon the failure of the Grantee to comply in any substantial or material respect with the terms or conditions of this Grant Agreement following the failure of the Grantee, upon reasonable notice from Grantor, to cure such default. Should the Grantor determine that the termination of this Grant is required, the Grantor shall forward a written notice of such determination to the Grantee at least thirty (30) days prior to the effective date of such termination.

4. The Grant shall be used by Grantee to pay for the costs associated with the on-going operation of the Museum, which include, but are not limited to, staffing, education outreach, programs, marketing, security, maintenance, cultivation events and supplies.

5. Grantee shall maintain and keep records of all expenditures and obligations according to generally recognized accounting principles. Such accounting records must be kept current and on the same basis as the budget. The records of Grantee shall be open to inspection and audit by the Grantor or its authorized representatives as is deemed necessary by Grantor during normal office hours.

6. Payment by the Grantor to the Grantee shall be made annually as follows: Within thirty (30) days of the end of the Grantor's fiscal year, Grantee shall submit a written statement to the Grantor, via the Town Manager's office, requesting that the Grantor remit an amount of money, no greater than twenty-five thousand dollars (\$25,000), that the Grantee has determined in its reasonable but otherwise sole and absolute discretion is needed to ensure continued operation of the Museum for the next fiscal year. Grantor shall remit the requested amount within sixty (60) days of receiving this request as long as the requested amount does not exceed twenty-five thousand dollars (\$25,000).

7. Grantee shall work with nonprofit support groups such as Friends of the Victor Valley Museum and the Museum Association and give diligent effort to raise funds to support its own activities and shall endeavor to limit its dependency upon Grantor for financial support.

8. Along with the annual request for funding, Grantee shall also submit an annual report to Grantor which shall include Grantee's activities for the past year, the names of all Museum directors and officers, and the classes of membership. In addition, Grantee shall provide, in a manner approved by Grantor's Town Manager, a detailed annual financial report covering all property and money received, disbursed and on hand from loans, gifts, devises, or bequests to Grantee and the financial receipts and disbursements by Grantee in its operation. Grantee shall attach to the annual financial report a separate listing of obligations incurred for which funds have been paid by Grantor, including the payroll of Grantee.

9. The Grantee assures and certifies that no personnel shall on the grounds of race, color, creed, national origin, ancestry, age, sex, sexual orientation or disability, including any condition related thereto, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity for which the Grantee has received funds hereunder and will immediately take measures to effectuate this agreement.

Pursuant to the Americans with Disabilities Act and specifically 42 USC 12132, Grantee acknowledges and agrees that in the performance of the Grant Agreement, no qualified individual shall, by reason of a disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of Grantee or be subjected to discrimination by Grantee.

10. The Grantee agrees to release, defend, indemnify and hold harmless the Grantor, and the Grantor's directors, officers, officials, employees, agents, volunteers, contractors, consultants and subcontractors (collectively, the "Releases") from and against any and all liability, costs (including reasonable attorneys' fees) and expenses for injury to or death of persons and damage to or destruction of property (including, but not limited to property and employees of each of the parties hereto), when arising or resulting out of (i) the negligence or willful misconduct of the Grantee, its agents, volunteers or employees (acting within the scope of their relationship with the Grantee), (ii) the construction, installation, maintenance, repair and operation of the Museum, and/or (iii) the default by the Grantee of any obligations on the Grantee's part to be performed under this Agreement, in any case, except to the extent due to the sole negligence, gross negligence, willful misconduct or criminal actions of the Releases. This covenant of indemnity shall continue in full force and effect notwithstanding termination of the Grant in any manner whatsoever.

11. Grantee shall not be considered and is not an agent, employee or contractor of Grantor.

12. The individuals executing this Grant Agreement and the instruments referenced herein on behalf of the Grantor each represent and warrant that they have the legal power, right and actual authority to bind the Grantor to the terms and conditions hereof and thereof.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first above written.

TOWN OF APPLE VALLEY

COUNTY OF SAN BERNARDINO

By: _____
Art Bishop
Mayor

By: _____
Name: Janice Rutherford, Chairman
Title: Board of Supervisors

Attest:

By: _____
La Vonda M-Pearson
Town Clerk

By: _____
Name: Laura H. Welch
Title: Clerk of the Board of Supervisors
of the County of San Bernardino

Approved as to Form:

By: _____
Best Best&Krieger LLP
Town Attorney



TOWN OF APPLE VALLEY
BUDGET AMENDMENT REQUEST

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|-----------------------|--------------|------------------|
| Requesting Department | Prepared By | Date Prepared |
| Finance | Marc Puckett | October 21, 2014 |

REVENUES AND OTHER FINANCING SOURCES

| Account Description | Fund | Dept | Account No. | Amendment Amount |
|---------------------|------|------|-------------|------------------|
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| REVENUE TOTAL | | | | - |

EXPENDITURES AND OTHER FINANCING USES

| Account Description | Fund | Dept | Account No. | Amendment Amount |
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| SB County Museums | 1001 | 1200 | 8940-0000 | 10,000 |
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| EXPENDITURE TOTAL | | | | 10,000 |

PURPOSE

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| To increase 2014-2015 appropriation from \$15,000 to \$25,000 for the preservation and operation of the Victor Valley Museum |
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| Department Director | Date | ATM Fin. & Admin./Asst. Fin. Dir. | Date |
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| Town Manager | Date | Entered by | Date |
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