

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY, CALIFORNIA
AND RECORD OF ACTION**

November 15, 2016

**FROM: TOM HUDSON, Director
Land Use Services Department**

**SUBJECT: NON-FINANCIAL MEMORANDUM OF UNDERSTANDING WITH THE TOWN OF
APPLE VALLEY REGARDING THE APPLE VALLEY MULTISPECIES HABITAT
CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION PLAN**

RECOMMENDATION

Approve a non-financial Memorandum of Understanding (**Agreement No. 16-866**) with the Town of Apple Valley for the planning and implementation of the Apple Valley Multispecies Habitat Conservation Plan/Natural Community Conservation Plan.
(Presenter: Terri Rahhal, Planning Director, 387-4431)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS AND OBJECTIVES

**Implement the Countywide Vision.
Ensure Development of a Well-Planned, Balanced, and Sustainable County.
Pursue County Goals and Objectives by Working with Other Agencies.**

FINANCIAL IMPACT

Approval of this non-financial Memorandum of Understanding (MOU) will not result in the use of additional Discretionary General Funding (Net County Cost). The recommended MOU will allow the County to participate in streamlined habitat mitigation and permitting process through the Multispecies Habitat Conservation Plan/Natural Community Conservation Plan administered by the Town of Apple Valley, at no cost to the County.

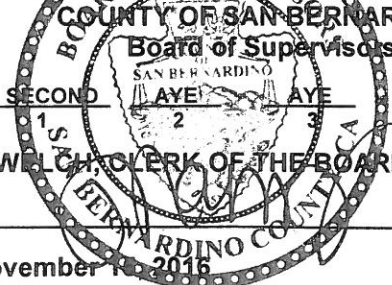
BACKGROUND INFORMATION

The recommended MOU between the County of San Bernardino (County) and the Town of Apple Valley (Town) establishes an agreement to cooperate in the implementation of a Multispecies Habitat Conservation Plan (MSHCP) and Natural Community Conservation Plan (NCCP) (collectively, the "Plan"), which covers approximately 222,382 acres and includes private lands under jurisdictions of the County and Town, as well as adjacent state and federal lands. Although commonly referred to as the MSHCP, which is a plan recognized by the US Fish and Wildlife Service, the Plan also includes an NCCP, which is the equivalent habitat conservation plan approved by the State of California. Approximately 47,888 acres of the Plan area are private lands in the Town and approximately 80,207 acres are unincorporated private lands under County jurisdiction.

cc: LUSD-Rahhal w/agree for Sig
Contractor c/o Dept w/agree
LUSD-Hudson
CAO-Snoke
File - w/agree
jr 11/15/16

ITEM 24

Record of Action of the Board of Supervisors
APPROVED (CONSENT CALENDAR)
COUNTY OF SAN BERNARDINO



MOTION	SECOND	AYE	AYE	MOVE	AYE
	1	2	3	4	5

LAURA H. WELCH, CLERK OF THE BOARD

BY _____

DATED: November 15, 2016

**NON-FINANCIAL MEMORANDUM OF UNDERSTANDING WITH THE
TOWN OF APPLE VALLEY REGARDING THE APPLE VALLEY
MULTISPECIES HABITAT CONSERVATION PLAN/NATURAL
COMMUNITY CONSERVATION PLAN
NOVEMBER 15, 2016
PAGE 2 OF 2**

Upon final adoption of the Plan, all habitat planning, permitting, and mitigation within the Plan area will be administered by the Town, with no need to seek project-level permits from the US Fish and Wildlife Service or the California Department of Fish and Wildlife.

On September 14, 2010 (Item No. 50), the Board of Supervisors (Board) approved Memorandum of Understanding - Sphere of Influence (Sphere MOU) with the Town to collaboratively develop compatible land use standards for, and timely consultation on development entitlements within the Town sphere of influence. The proposed MOU incorporates the Sphere MOU by reference and would utilize the development project review procedures already followed under the Sphere MOU to review development projects for compliance with the Plan.

The recommended MOU provides for the Town to be the lead agency for California Environmental Quality Act (CEQA) compliance of the Plan and to be the "Implementing Entity" for the Plan. The County will continue to be CEQA lead agency for individual projects under County jurisdiction and will refer projects for review by the Town, as it does now pursuant to the Sphere MOU. During its review of a project for land use compatibility, the Town will also review for consistency with the Plan and administer habitat take authorizations under the Plan, as needed.

As currently proposed, the Plan is consistent with the existing General Plan land use designations of both the Town and the County. No land use amendments are anticipated. Upon approval of the Plan by the Town, the Plan will be brought to the Board. At the time of adoption, any required General Plan amendments (primarily anticipated in the General Plan Conservation Elements) will be recommended concurrently.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Bart Brizzee, Principal Assistant County Counsel, 387-5455) on October 24, 2016; Finance (Luther Snoke, Administrative Analyst, 387-4345) on October 24, 2016; and County Finance and Administration (Mary Jane Olhasso, Assistant Executive Officer, 387-4599) on October 25, 2016.



F A S

CONTRACT TRANSMITTAL

FOR COUNTY USE ONLY

<input type="checkbox"/> New	FAS Vendor Code		SC	Dept.	A	Contract Number 16-866			
<input type="checkbox"/> Change									
<input type="checkbox"/> Cancel									
ePro Vendor Number					ePro Contract Number				
County Department			Dept.	Orgn.	Contractor's License No.				
Land Use Services Department			PLN	PLN					
County Department Contract Representative				Telephone		Total Contract Amount			
Terri Rahhal, Planning Director				(909)387-4431					
Contract Type <input type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input checked="" type="checkbox"/> Other:									
If not encumbered or revenue contract type, provide reason:									
Commodity Code		Contract Start Date		Contract End Date		Original Amount	Amendment Amount		
Fund AAA	Dept. PLN	Organization PLN	Appr. 200	Obj/Rev Source	GRC/PROJ/JOB No.	Amount			
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount			
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount			
Project Name MOU with Town of Apple Valley for the Apple Valley MSHCP				Estimated Payment Total by Fiscal Year					
				FY	Amount	I/D	FY	Amount	I/D

CONTRACTOR _____

Federal ID No. or Social Security No. _____

Contractor's Representative _____

Address _____ Phone () - _____

Nature of Contract: (Briefly describe the general terms of the contract)

THIS IS NOT A CONTRACT
THIS IS A COVER
TRANSMITTAL ONLY

(Attach this transmittal to all contracts not prepared on the "Standard Contract" form.)

Approved as to Legal Form (sign in blue ink) Bart Brizzee, Principal Assistant County Counsel Date <u>11-4-16</u>	Reviewed as to Contract Compliance Trish Munoz, Administrative Supervisor Date <u>11/4/16</u>	Presented to BOS for Signature Tom Hudson, Director of Land Use Services Date <u>11.4.2016</u>
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Auditor-Controller/Treasurer/Tax Collector Use Only	
<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS
Input Date	Keyed By

Memorandum of Understanding
by and between
The Town of Apple Valley and San Bernardino County
for the Planning and Implementation
of the Apple Valley
Multispecies Habitat Conservation Plan / Natural Community Conservation Plan

This Memorandum of Understanding (“MOU”) is entered into between (1) the Town of Apple Valley, a California general law city and municipal corporation (“Town”) and, (2) the County of San Bernardino, a political subdivision of the State of California (“County”) on November 15, 2016 (the “Effective Date”). The Town and the County are sometimes referred to in this MOU, individually, as a “Party” and, collectively, as the “Parties”.

The purpose of this MOU is to memorialize how the Town and the County will work together to develop and implement the Multispecies Habitat Conservation Plan/Natural Community Conservation Plan (“Plan”).

RECITALS

Whereas, the Town and County have a history of collaboration to ensure compatible land use standards and processes, to wit, on September 14, 2010, the Town and County entered into an MOU to establish a process to collaboratively develop a Sphere Standards Overlay under the County’s Development Code (Section 82.22.010) to ensure compatible land use standards between County development standards and the land use designations and pre-zoning described in the Town’s 2009 amended General Plan for the Town’s Sphere of Influence (“Sphere”) (the September 14, 2010 MOU (“Sphere MOU”) is attached hereto as Exhibit “A” and incorporated herein by reference);

Whereas, the Town and the County are jointly developing the Plan, and the Plan Area is approximately 222,382 acres and includes private land under the respective jurisdictions of both the Town and the County, as well as Federal and State lands that are not under the jurisdiction of either the Town or County (a map depicting the Plan boundaries is attached hereto as Exhibit “B” and incorporated herein by reference);

Whereas, The intent of the Plan is to conserve, restore, and manage large connected natural and semi-natural landscapes to aid in the recovery of endangered, threatened, and at-risk species populations within the Plan Area while also maintaining the Town's and the County's rural character, quality of life, and economic opportunities;

Whereas, the goal of the Plan is to provide a conservation strategy that benefits the larger region while streamlining the economic development process within the Plan Area;

Whereas, The Town, as the Lead Agency for the Plan, has been working collaboratively with the County to address development needs described in the County's 2007 General Plan within the Plan Area;

Whereas, upon approval of the Plan both Parties will be signatories and Permittees under the Plan.

Whereas, both Parties have jurisdiction of private lands within the Plan Area, with the Town having jurisdiction over approximately 47,888 acres of private land and the County having jurisdiction of approximately 80,207 acres of private land, including that within the Town's Sphere; and

Whereas, the Town and County desire to memorialize how they will work together to develop and implement the Plan.

THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

Section 1. Incorporation of Recitals. The Recitals are incorporated into and are a part of the MOU.

Section 2. Preparation of the Plan. The Town Community Development Department, Planning Division staff, the County Land Use Services Department staff, and the successor agencies (at times collectively or individually referred to as "Staff"), shall work cooperatively to ensure that the Plan is acceptable to each jurisdiction. Similar to the previously adopted Sphere Development Standards, the Plan will set out the development requirements within each land use district for discretionary development permits/approvals within the Plan Area. To foster the continued development of the Plan consistent with the above stated objective, the County and the

Town agree as follows:

2.1. Staff from both agencies shall work in good faith to develop a process, provide input, and review the Plan for proposed adoption by the Town Council and County Board of Supervisors (“Board”).

2.2. To ensure the public is fully informed and has the opportunity to provide input, the Parties shall seek comment from key stakeholders during the development of the Plan. The Town shall also circulate the draft document for public comment prior to consideration for approval by the Town Council and County Board.

2.3. Following the Town’s adoption of the Plan, County Staff shall present the Plan for consideration by the County Board. The Town and the County shall comply with any and all obligations related to the California Environmental Quality Act (“CEQA”) (Public Resources Code Sections 21000, et. seq.) prior to taking any action to adopt the Plan. To the extent practicable while maintaining its legal obligation to exercise its independent judgment, the County will use the environmental analysis prepared for the Town to substantiate the actions taken by the County.

2.4. The Town’s adoption of the Plan, together with the County’s adoption of the Plan will provide the procedural mechanism for implementation of this MOU and future development within the Plan Area shall, to the extent possible under the Town’s and County’s municipal codes and state law, be evaluated in accordance with the Plan standards.

2.5 Once the Plan is approved by the Town and County, any requested changes would be subject to a Plan Amendment Process as outlined in the Plan.

2.6. Nothing herein is intended to abrogate the jurisdiction of the City or the County with respect to projects over which each has land use authority.

Section 3. Notification and Consultation on Development Entitlements During Development of the Plan. The County Staff shall endeavor to inform Town Staff at the earliest opportunity when County Staff becomes aware of a discretionary development project or concept proposed within the Plan boundaries.

3.1. Staff from the County and Town shall meet regularly to review and discuss applications for development projects or other entitlements and proposed General Plan amendments and Development Code amendments. The County will continue to provide notice of all discretionary projects within the Plan boundaries to the Town's Planning Staff for review and comment, consistent with and as described in the Sphere MOU, prior to Planning Commission or Board hearings. The County agrees to reasonably consider the Town's comments and in good faith consider incorporating Town-recommended changes to the extent practicable prior to adoption of the Plan.

3.2. For projects within the boundaries of the Plan Area, the County shall continue to encourage applicants to meet with and consult with Town Staff at the earliest opportunity for the purpose of assuring, to the extent possible, conformance with the Plan.

Section 4. Implementation of the Plan. Upon approval of the Plan, Staff of both Parties will evaluate their General Plans to determine consistency with the Plan and whether General Plan amendments should be recommended to the respective governing bodies.

4.1 The Town, as CEQA Lead Agency and Implementing Entity for the Plan, will coordinate with the County to extend the take authorizations provided by the Plan to projects located on private lands under the County's land use jurisdiction.

4.2 The County will be continue to be responsible for issuing land use approvals on lands under its jurisdiction within the Plan Area. However, for projects under the County's land use jurisdiction and within the Plan Area, the County, as a part of its land use approval process, will consider as an additional criterion the project's compliance with the Plan, including a compliance permit from the Town Planning Division indicating that the project has met all the requirements of the Plan.

Section 5. Term of MOU and Termination. This MOU will become effective on the date on which it has been approved by both the Town Council on behalf of the Town and the Board on behalf of the County and fully executed counterpart originals have been exchanged between the Parties. The term of this MOU shall be for the length of the permit term of the Plan. Either Party may terminate this MOU prior to the expiration of the term by providing the other party written notice of intent to termination, which shall be effective sixty (60) days after such notice,

or where the other Party is in material breach of any of its material obligations under this MOU and fails to cure such breach within sixty (60) days of receiving notice thereof from the non-breaching Party.

Section 6. Notices. All notices permitted or required under this MOU shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose.

Town

Town of Apple Valley
14955 Dale Evans Parkway
Apple Valley, CA 92307
Attn: Assistant Town Manager,
Community Development

County

County of San Bernardino
385 North Arrowhead Avenue
San Bernardino, CA 92415
Attn: Land Use Services Director

Section 7. Integration/Modifications. This MOU contains the entire understanding of the Parties with respect to the matters set forth in this MOU and supersedes any and all prior writings and oral discussions concerning the same. This MOU may not be amended except by a writing duly signed and duly approved by the Town and County. This MOU is not intended to and shall not accrue to the benefit of any person or entity other than the Town and the County.

Section 8. Governing Law. This MOU shall be governed by the procedural and substantive laws of the State of California

Section 9. Invalidity: Severability. If any portion of this MOU is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

Section 10. Counterpart Originals. This MOU may be executed by the Parties in counterparts, all of which together shall constitute a single MOU.

Section 11. Attorney's Fees. If any legal action is instituted to enforce or declare any Party's rights hereunder, each Party, including the prevailing Party, shall bear its own costs and attorney's fees.

Section 12. Authority to Enter into MOU. Town and County both warrant that the

individuals who have signed this MOU have the legal power, right and authority to make this agreement and bind both respective Parties to this MOU.

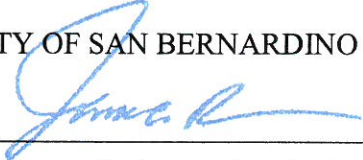
IN WITNESS WHEREOF, the Parties, intending to be bound by the terms and conditions set forth herein, have executed this MOU as of the Effective Date.

[Signatures on following page]

SIGNATURE PAGE TO
MEMORANDUM OF UNDERSTANDING
(Multispecies Habitat Conservation Plan/Natural Community Conservation Plan)

COUNTY:

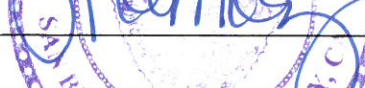
COUNTY OF SAN BERNARDINO

By: 
James Ramos, Chairman Board of Supervisors

Dated: NOV 15 2016

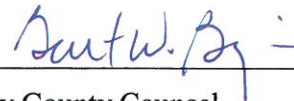
SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

LAURA H. WELCH, Clerk of the Board of Supervisors

By: 
Deputy

Dated: NOV 15 2016

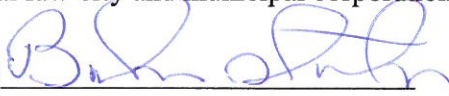
APPROVED AS TO LEGAL FORM:
County Counsel

By: 
Deputy County Counsel

Dated: 11-7-16

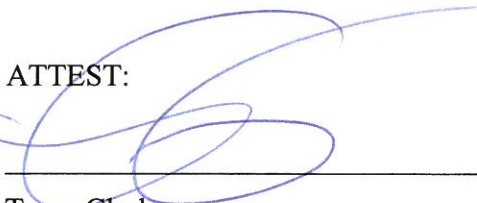
CITY:

TOWN OF APPLE VALLEY, a California legal law city and municipal corporation

By: 
Barb Stanton, Mayor

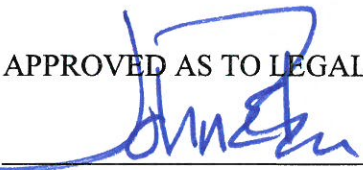
Dated: _____

ATTEST:


Town Clerk

Dated: 11-21-14

APPROVED AS TO LEGAL FORM:


Town Attorney

Dated: 11-18-16

Exhibit A - September 14, 2010 MOU between the Town of Apple Valley and San Bernardino County

LAND USE SERVICES DEPARTMENT



COUNTY OF SAN BERNARDINO

ADMINISTRATIVE OFFICE
385 North Arrowhead Avenue • San Bernardino, CA 92415-0187
(909) 387-4141 Fax (909) 387-4288
<http://www.sbcounty.gov/landuseservices>

DENA M. SMITH
Director

October 6, 2010

Town of Apple Valley
14955 Dale Evans Parkway
Apple Valley, CA 92307

Attention: La Vonda Pearson

Re: Memorandum of Understanding between the County of San Bernardino and the Town of Apple Valley

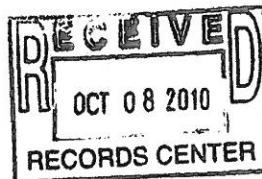
Dear Ms. Pearson,

Please find the enclosed Memorandum of Understanding (MOU) between the County of San Bernardino (County) and the Town of Apple Valley containing the Mayor's original signature. My apologies for not including this along with the County's signed original.

This MOU was executed in counterparts; thereby two (2) originals exist with each agency's authorized signature on separate documents.

Sincerely,

Nanci Sevelin, Contract Coordinator
Contracts and Compliance Unit
(909) 387-4589



**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY, CALIFORNIA
AND RECORD OF ACTION**

September 14, 2010

**FROM: DENA M. SMITH, Director
Land Use Services Department**

SUBJECT: MEMORANDUM OF UNDERSTANDING WITH THE TOWN OF APPLE VALLEY

RECOMMENDATION(S)

Approve Memorandum of Understanding (**Agreement No.10-887**) with the Town of Apple Valley to enhance the land use planning relationship between Apple Valley and the County of San Bernardino regarding future development within Apple Valley's Sphere of Influence.

(Affected Districts: First)

(Presenter: Dena M. Smith, Director, 387-4141)

BACKGROUND INFORMATION

Approval of this item will allow the County of San Bernardino (County) to enter into a Memorandum of Understanding (MOU) with the Town of Apple Valley (Apple Valley) to enhance the land use planning relationship between Apple Valley and the County regarding future development within Apple Valley's Sphere of Influence (Sphere).

In early 2007, the Town Council of Apple Valley directed Apple Valley's Planning staff to prepare a draft MOU between the Town and the County for the purpose of enhancing the land use planning relationship between the two jurisdictions regarding future development within Apple Valley's Sphere. The intent was to allow Apple Valley to have more input and influence in its review of future development within the Sphere area. The draft MOU was prepared in May 2007 and was forwarded to the County for review and comment. Since that time, Apple Valley staff has met with County staff several times to come to agreement on the provisions contained in the MOU. A final draft version of the MOU was agreed upon by Apple Valley staff and County staff on August 18, 2010.

Chapter 82.22 of the County's Development Code allows special sphere standards to be applied to projects within cities' spheres of influence. Pre-zoning the Sphere by the Town of Apple Valley, whereby they adopted land use designations equivalent to those of the County, was the first step in this process. The intent of these actions was to preserve the existing County designations and preserve the Sphere areas from future development that would impact the rural character of the Sphere area. This MOU would provide for the preparation of special

Page 1 of 2

cc: LUSD-Sevelin w/ agree
Contractor c/o LUSD w/ agree
Auditor-Accts Pay Mgr w/ agree
EBIX-BPO c/o Risk Mgmt
LUSD-Smith;Davis
County Counsel-Brizzee
CAO-Valdez
File - w/ agree
jll
09/24/10

ITEM 50

Record of Action of the Board of Supervisors
APPROVED (CONSENT CALENDAR)
COUNTY OF SAN BERNARDINO

MOTION	<u>AYE</u>	<u>AYE</u>	<u>AYE</u>	<u>MOVE</u>
	1	4	4	5

LAURA H. WELCH, CLERK OF THE BOARD

BY  CLERK OF THE BOARD

DATED: September 14, 2010

Rev 0708R1

**BOARD OF SUPERVISORS
MEMORANDUM OF UNDERSTANDING WITH THE TOWN OF APPLE
VALLEY
SEPTEMBER 14, 2010
PAGE 2 OF 2**

development standards to be applied to Apple Valley's Sphere. To date, the City of Fontana was the first and only other city to take advantage of this provision in the County Development Code.

During the course of coordination between Apple Valley and the County, County staff agreed that Apple Valley staff would prepare the development standards and the necessary environmental review for compliance with the California Environment Quality Act for Apple Valley's Sphere. Both the development standards and the environmental documentation would then be reviewed by the County, incorporating any agreed upon comments. The Apple Valley Town Council would then adopt by ordinance the Sphere Development Standards, which would also be adopted by County ordinance as an amendment to the County Development Code.

In the meantime, this MOU will establish that all discretionary projects within the boundaries of Apple Valley's Sphere will be forwarded to the Apple Valley's Planning Staff for review and comment prior to an administrative or Planning Commission hearing. Also, the County will encourage applicants to consult with Apple Valley's staff at the earliest opportunity for the purpose of assuring conformance with Apple Valley's General Plan and Development Code. After the development standards are adopted by both Apple Valley and the County, County staff will have clear direction through the parameters and regulations adopted for review, analysis and recommendations on future projects. The development standards will also give the County Planning Commission and Board of Supervisors clear regulations for entitling future development in Apple Valley's Sphere.

FINANCIAL IMPACT

Approval of this MOU with Apple Valley will not result in any cost to the County. This is a non-financial MOU.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Bart Brizzee, Deputy County Counsel, 387-8946) on August 24, 2010; Land Use Services Department [(Patty Davis, Administrative Supervisor, 387-4148) and (Nanci Sevelin, Contract Coordinator, 387-4598)] on August 24, 2010; and by the County Administrative Office (Beatriz Valdez, Principal Administrative Analyst, 387-1852) on August 25, 2010.

09/14/10 #50

TOWN OF APPLE VALLEY/COUNTY OF SAN BERNARDINO

MEMORANDUM OF UNDERSTANDING
(Sphere of Influence)

This Memorandum of Understanding ("MOU") is entered into between (1) the Town of Apple Valley, a California general law city and municipal corporation ("Town") and, (2) the County of San Bernardino, a political subdivision of the State of California ("County"). The Town and the County are sometimes referred to in this MOU, individually, as a "Party" and, collectively, as the "Parties".

RECITALS

A. The Town, incorporated in 1988, and located entirely within the County, is approximately 78 square miles in size, with an additional 130 square miles (122,921 acres) of unincorporated area located within the Town's Sphere of Influence ("Sphere"). A map depicting the Town boundaries, and the Sphere areas is attached hereto as Exhibit "A" and incorporated herein by reference.

B. Differences currently exist between the Town's General Plan and Development Standards ("Town Development Standards") and the County's General Plan and Development Standards ("County Development Standards"), which relate to development within the Sphere.

C. On August 11, 2009, the Town approved an amended General Plan which includes pre-zoning for the Sphere. The Town's General Plan land use designations and pre-zoning adopted by the Town for the Sphere lands are equivalent to the County's land use designations and zoning.

D. The County's Development Code (Section 82.22.010) provides that the County may adopt a sphere standards overlay ("Sphere Standards Overlay") in city spheres of influence to allow the implementation of County development standards that more closely conform to city development standards within the specified sphere. The intent of the Sphere Standards Overlay is to "ensure that the County's approval of a proposed development in a sphere of influence is consistent with the shared objectives of the County and the applicable city where the County has determined it is appropriate to adopt similar standards." No Sphere Standards Overlay has been adopted by the County for the Sphere.

E. Adoption of a mutually agreed upon set of development standards that apply to the Sphere area will ensure that future development in the Sphere will be compatible with, and closely conform to the shared objectives of both the County and Town development standards.

F. The purpose of this MOU is to establish a process for the County and Town to collaboratively develop compatible land use standards for the Sphere. In addition, the MOU provides for timely consultation by the Parties on development entitlements within the Sphere.

G. Nothing in this MOU and/or Sphere Standards Overlay shall be interpreted to alter the County of San Bernardino's land use authority over the unincorporated area of the County lying within the Town's Sphere or as an abrogation or delegation of that authority to the Town.

THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

Section 1. Incorporation of Recitals. The Recitals are incorporated into and are a part of the MOU.

Section 2. County and Town's Development Code and Development Standard Changes. The County Land Use Services Department staff and the Town of Apple Valley Economic and Community Development Department, Planning Divisions staff and successor agencies (at times collectively or individually referred to as "Staff"), shall work cooperatively to prepare a set of development standards for the Sphere ("Sphere Development Standards") that are acceptable to each jurisdiction. The Sphere Development Standards will set out the development requirements within each land use district for discretionary development permits/approvals within the Sphere to be applied until such time as the Town annexes various portions of the unincorporated Sphere and assumes land use jurisdiction or this MOU is terminated pursuant to Section 5 herein. To foster the continued development of the Sphere consistent with the above stated objective, the County and the Town agree as follows:

2.1. Staff from both agencies shall work in good faith to develop a process and timeline to complete the Sphere Development Standards for proposed adoption by the Town and inclusion in the County's Development Code as a Sphere Standards Overlay. This process shall be initiated upon the County's receipt of the Town's proposed Sphere Development Standards.

2.2. To ensure the public is fully informed and has the opportunity to provide input, the Parties shall seek comment from key stakeholders during the development of provisions for the Sphere Standards Overlay. The Parties shall also circulate the draft document for public comment prior to consideration for approval by the Town Council and County Board of Supervisors.

2.3. Following the Town's adoption of the Sphere Development Standards, County Staff shall present a proposed Sphere Standards Overlay for the Town of Apple Valley sphere of influence ("Town Sphere Standards Overlay") for consideration by the County. The Town and the County shall comply with any and all obligations related to the California Environmental Quality Act ("CEQA") (Public Resources Code Sections 21000, et. seq.) prior to taking any action to adopt the Sphere Development Standards and the Town Sphere Standards Overlay. To the extent practicable while maintaining its legal obligation

to exercise its independent judgment, the County will use the environmental analysis prepared for the Town to substantiate the actions taken by the County.

2.4. The Town's pre-zoning and adoption of the Sphere Development Standards, together with the County's adoption of the Sphere Standards Overlay for the Town will provide the procedural mechanism for implementation of this MOU and future development shall be evaluated in accordance with Sphere Development Standards.

2.5 Any project requesting changes to the Sphere Development Standards shall be reviewed by both agencies prior to adoption in accordance with Section 3.1 below.

Section 3. Notification and Consultation on Development Entitlements. The County shall continue to inform Town Staff at the earliest opportunity when it becomes aware of a discretionary development project or concept proposed within the boundaries of the Town's Sphere.

3.1. Staff from the County and Town shall meet at regularly scheduled times to review and discuss applications for development projects or other entitlements and proposed General Plan amendments and Development Code amendments, including changes to the Sphere Standards Overlay and zoning changes within the Sphere. The County will continue to provide notice of all discretionary projects within the boundaries of the Town's Sphere to the Town's Planning Staff for review and comment at least 10 days prior to zoning administrator or other administrative hearings and at least 30 days prior to Planning Commission or Board of Supervisors hearings. The County agrees to reasonably consider the Town's comments and incorporate Town-recommended changes to the extent practicable.

3.2. For projects within the Sphere, the County shall continue to encourage applicants to meet with and consult with Town Staff at the earliest opportunity for the purpose of assuring, to the extent possible, conformance with the Town of Apple Valley General Plan and Development Code.

Section 4. Implementation of Sphere Development Standards. The County will implement the Sphere Development Standards prepared jointly by the Town and the County, as provided in Sections 2.1 through 2.3 herein, for all future discretionary development projects.

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Section 6. Notices. All notices permitted or required under this MOU shall be given to the respective Parties at the following addresses, or at such other address as the respective parties may provide in writing for this purpose.

Town

Town of Apple Valley
14955 Dale Evans Parkway
Apple Valley, CA 92307
Attn: Town Manager

County

County of San Bernardino
385 North Arrowhead Avenue
San Bernardino, CA 92415
Attn: Land Use Services Director

Section 7. Integration/Modifications. This MOU contains the entire understanding of the Parties with respect to the matters set forth in this MOU and supersedes any and all prior writings and oral discussions concerning the same. This MOU may not be amended except by a writing duly signed and duly approved by the Town and County. This MOU is not intended to and shall not accrue to the benefit of any person or entity other than the Town and the County.

Section 8. Governing Law. This MOU shall be governed by the procedural and substantive laws of the State of California

Section 9. Invalidity: Severability. If any portion of this MOU is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

Section 10. Counterpart Originals. This MOU may be executed by the Parties in counterparts, all of which together shall constitute a single MOU.

Section 11. Attorney's Fees. If any legal action is instituted to enforce or declare any Party's rights hereunder, each Party, including the prevailing Party, shall bear its own costs and attorney's fees.

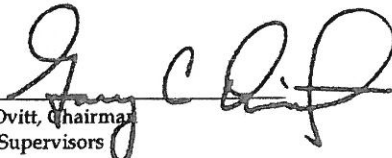
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[Signatures on following page]

SIGNATURE PAGE TO
MEMORANDUM OF UNDERSTANDING
(Sphere of Influence)

COUNTY:

COUNTY OF SAN BERNARDINO

By: 
Gary C. Ovitt, Chairman
Board of Supervisors

Dated: SEP 14 2010

SIGNED AND CERTIFIED THAT A COPY
OF THIS DOCUMENT HAS BEEN
DELIVERED TO THE CHAIRMAN
OF THE BOARD

LAURA H. WELCH
Clerk of the Board of Supervisors
By: 
Deputy

Dated: SEP 14 2010

APPROVED AS TO LEGAL FORM:

County Counsel

By: 
Deputy County Counsel

Dated: 9.7.10

CITY:

TOWN OF APPLE VALLEY, a
California legal law city and
municipal corporation

By: _____
Peter Allan, Mayor

Dated: _____

ATTEST:

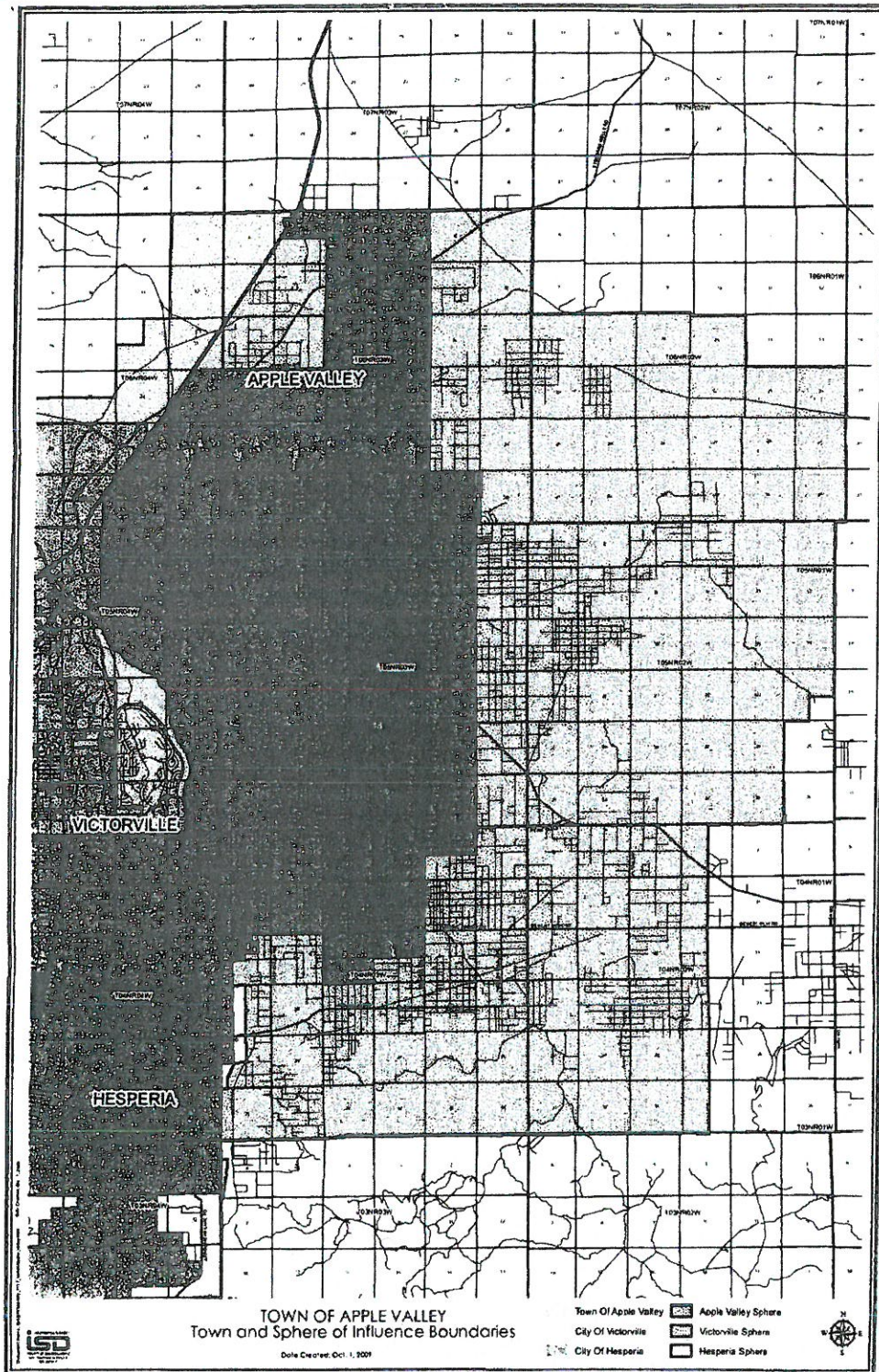
Town Clerk

Dated: _____

APPROVED AS TO LEGAL FORM:

Town Attorney

Dated: _____



TOWN OF APPLE VALLEY/COUNTY OF SAN BERNARDINO

**MEMORANDUM OF UNDERSTANDING
(Sphere of Influence)**

This Memorandum of Understanding ("MOU") is entered into between (1) the Town of Apple Valley, a California general law city and municipal corporation ("Town") and, (2) the County of San Bernardino, a political subdivision of the State of California ("County"). The Town and the County are sometimes referred to in this MOU, individually, as a "Party" and, collectively, as the "Parties".

RECITALS

A. The Town, incorporated in 1988, and located entirely within the County, is approximately 78 square miles in size, with an additional 130 square miles (122,921 acres) of unincorporated area located within the Town's Sphere of Influence ("Sphere"). A map depicting the Town boundaries, and the Sphere areas is attached hereto as Exhibit "A" and incorporated herein by reference.

B. Differences currently exist between the Town's General Plan and Development Standards ("Town Development Standards") and the County's General Plan and Development Standards ("County Development Standards"), which relate to development within the Sphere.

C. On August 11, 2009, the Town approved an amended General Plan which includes pre-zoning for the Sphere. The Town's General Plan land use designations and pre-zoning adopted by the Town for the Sphere lands are equivalent to the County's land use designations and zoning.

D. The County's Development Code (Section 82.22.010) provides that the County may adopt a sphere standards overlay ("Sphere Standards Overlay") in city spheres of influence to allow the implementation of County development standards that more closely conform to city development standards within the specified sphere. The intent of the Sphere Standards Overlay is to "ensure that the County's approval of a proposed development in a sphere of influence is consistent with the shared objectives of the County and the applicable city where the County has determined it is appropriate to adopt similar standards." No Sphere Standards Overlay has been adopted by the County for the Sphere.

E. Adoption of a mutually agreed upon set of development standards that apply to the Sphere area will ensure that future development in the Sphere will be compatible with, and closely conform to the shared objectives of both the County and Town development standards.

F. The purpose of this MOU is to establish a process for the County and Town to collaboratively develop compatible land use standards for the Sphere. In addition, the MOU provides for timely consultation by the Parties on development entitlements within the Sphere.

G. Nothing in this MOU and/or Sphere Standards Overlay shall be interpreted to alter the County of San Bernardino's land use authority over the unincorporated area of the County lying within the Town's Sphere or as an abrogation or delegation of that authority to the Town.

THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

Section 1. Incorporation of Recitals. The Recitals are incorporated into and are a part of the MOU.

Section 2. County and Town's Development Code and Development Standard Changes. The County Land Use Services Department staff and the Town of Apple Valley Economic and Community Development Department, Planning Divisions staff and successor agencies (at times collectively or individually referred to as "Staff"), shall work cooperatively to prepare a set of development standards for the Sphere ("Sphere Development Standards") that are acceptable to each jurisdiction. The Sphere Development Standards will set out the development requirements within each land use district for discretionary development permits/approvals within the Sphere to be applied until such time as the Town annexes various portions of the unincorporated Sphere and assumes land use jurisdiction or this MOU is terminated pursuant to Section 5 herein. To foster the continued development of the Sphere consistent with the above stated objective, the County and the Town agree as follows:

2.1. Staff from both agencies shall work in good faith to develop a process and timeline to complete the Sphere Development Standards for proposed adoption by the Town and inclusion in the County's Development Code as a Sphere Standards Overlay. This process shall be initiated upon the County's receipt of the Town's proposed Sphere Development Standards.

2.2. To ensure the public is fully informed and has the opportunity to provide input, the Parties shall seek comment from key stakeholders during the development of provisions for the Sphere Standards Overlay. The Parties shall also circulate the draft document for public comment prior to consideration for approval by the Town Council and County Board of Supervisors.

2.3. Following the Town's adoption of the Sphere Development Standards, County Staff shall present a proposed Sphere Standards Overlay for the Town of Apple Valley sphere of influence ("Town Sphere Standards Overlay") for consideration by the County. The Town and the County shall comply with any and all obligations related to the California Environmental Quality Act ("CEQA") (Public Resources Code Sections 21000, et. seq.) prior to taking any action to adopt the Sphere Development Standards and the Town Sphere Standards Overlay. To the extent practicable while maintaining its legal obligation to exercise its independent judgment, the County will use the environmental analysis prepared for the Town to substantiate the actions taken by the County.

2.4. The Town's pre-zoning and adoption of the Sphere Development Standards, together with the County's adoption of the Sphere Standards Overlay for the Town will provide the procedural mechanism for implementation of this MOU and future development shall be evaluated in accordance with Sphere Development Standards.

2.5 Any project requesting changes to the Sphere Development Standards shall be reviewed by both agencies prior to adoption in accordance with Section 3.1 below.

Section 3. Notification and Consultation on Development Entitlements. The County shall continue to inform Town Staff at the earliest opportunity when it becomes aware of a discretionary development project or concept proposed within the boundaries of the Town's Sphere.

3.1. Staff from the County and Town shall meet at regularly scheduled times to review and discuss applications for development projects or other entitlements and proposed General Plan amendments and Development Code amendments, including changes to the Sphere Standards Overlay and zoning changes within the Sphere. The County will continue to provide notice of all discretionary projects within the boundaries of the Town's Sphere to the Town's Planning Staff for review and comment at least 10 days prior to zoning administrator or other administrative hearings and at least 30 days prior to Planning Commission or Board of Supervisors hearings. The County agrees to reasonably consider the Town's comments and incorporate Town-recommended changes to the extent practicable.

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[Signatures on following page]

SIGNATURE PAGE TO
MEMORANDUM OF UNDERSTANDING
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COUNTY:

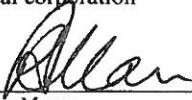
COUNTY OF SAN BERNARDINO

CITY:

TOWN OF APPLE VALLEY, a
California legal law city and
municipal corporation

By: _____
Gary C. Ovitt, Chairman
Board of Supervisors

Dated: _____

By:  _____
Peter Allan, Mayor

Dated: 9/14/10


SIGNED AND CERTIFIED THAT A COPY
OF THIS DOCUMENT HAS BEEN
DELIVERED TO THE CHAIRMAN
OF THE BOARD

LAURA H. WELCH
Clerk of the Board of Supervisors

By: _____
Deputy

Dated: _____

ATTEST:


Town Clerk

Dated: 9-14-10

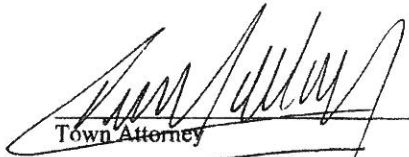
APPROVED AS TO LEGAL FORM:

County Counsel

By: _____
Deputy County Counsel

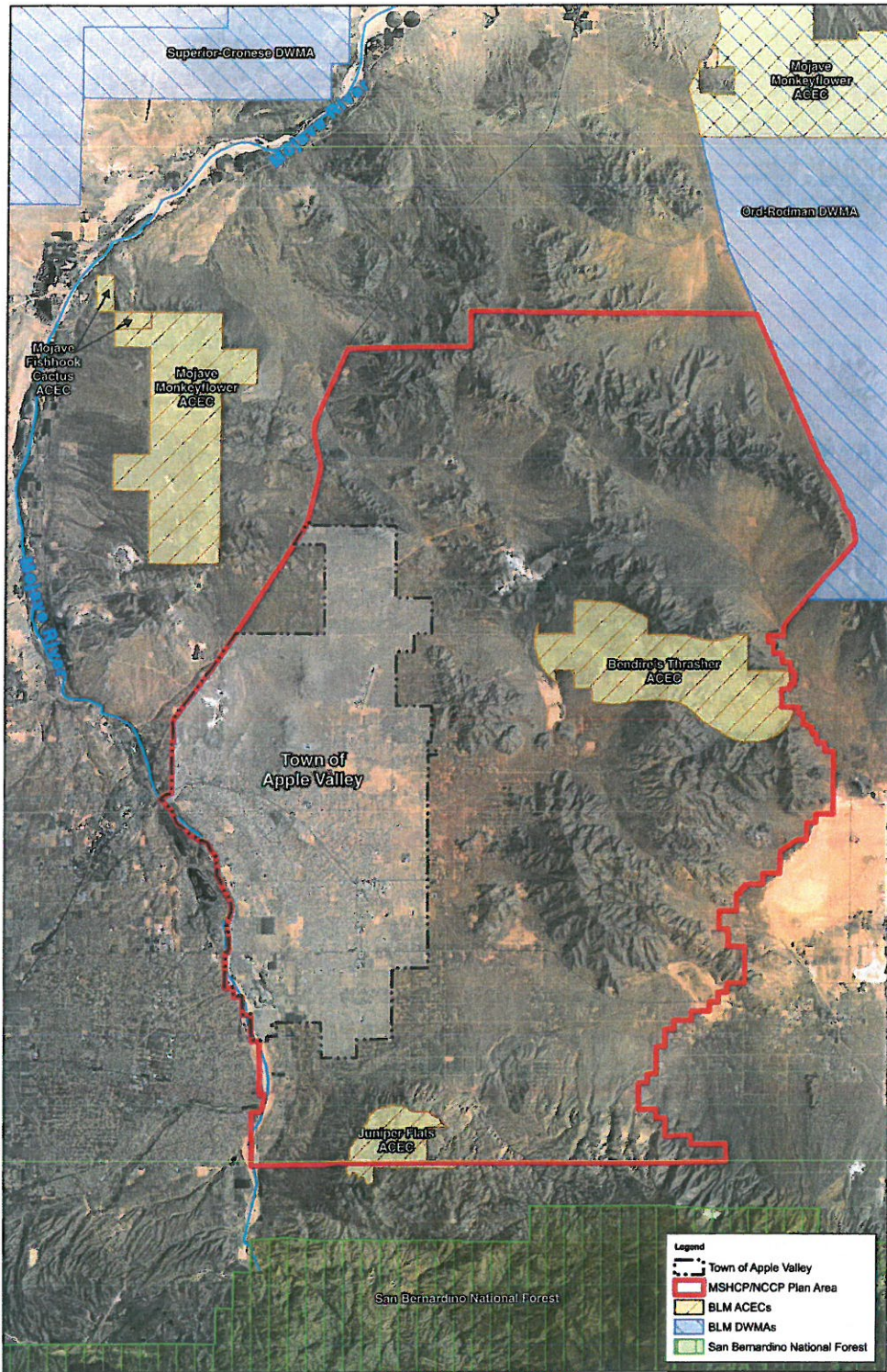
Dated: _____

APPROVED AS TO LEGAL FORM:


Town Attorney

Dated: 9/14/10

Exhibit B - Plan Boundaries Map



Michael Baker INTERNATIONAL

0 1.25 2.5 5 Miles

ADMINISTRATIVE DRAFT

Legend
Town of Apple Valley
MSHCP/NCCP Plan Area
BLM ACECs
BLM DWMA
San Bernardino National Forest

APPLE VALLEY
Plan Boundaries Map

Exhibit 1