

TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** February 12, 2019

From: Lori Lamson **Item No:** 9
Assistant Town Manager

Subject: A RESOLUTION COMMITTING THE TOWN TO INITIATE ANNEXATION PROCEEDINGS OF 1,470.6 ACRES THAT LIE WEST OF DALE EVANS PARKWAY, NORTH OF JOHNSON ROAD, EAST OF INTERSTATE 15, AND SOUTH OF MORRO ROAD TO COMPLY WITH CONDITION NO. 5 OF LAFCO RESOLUTION NO. 3280 APPROVING LAFCO ANNEXATION NO. 3229

Town Manager Approval: _____ **Budgeted Item:** Yes No N/A

RECOMMENDED ACTION:

- A. Adopt Town Council Resolution No. 2019-03 (Attachment A) "A Resolution of Commitment to Initiate", committing the Town of Apple Valley to initiate submittal of an annexation application for the remaining portion of the "Golden Triangle", not a part of Annexation No. 3229, as referenced above;
- B. Direct staff to budget for costs associated with initiating said annexation application in the 2019-2020 fiscal year;
- C. Direct staff to agendize for Town Council consideration the Resolution for filing and plan for service and a Resolution for environmental clearance for said annexation within one year;

SUMMARY:

On December 5, 2018, the Local Agency Formation Commission (LAFCO) held a public hearing to consider the Town of Apple Valley's proposal to annex 1,365 acres of County lands into the Town boundaries. The area is bounded by Johnson Road to the south, Interstate 15 to the west, Morro Road to the north and is generally located west of Stoddard Wells Road. The Town originally submitted this application to LAFCO in early 2018. LAFCO approved the request by adopting Resolution No. 3280 (Attachment B) that outlines the conditions of the approval.

Condition No. 5 of Resolution No. 3280, requires that the Town initiate annexation of the remaining County island area between the easterly boundaries of the current annexation

extending to Dale Evans Parkway, within one year from the date of the Certificate of Completion issuance of Annexation No. 3229. A resolution committing to Condition No. 5, must be adopted by the Town Council prior to issuance of the Certificate of Completion. A status report shall be provided to the Commission at the six month date outlining the progress of the Town in fulfilling this obligation. If the Town adopts the attached Resolution, but does not fulfill the commitment for annexation of the remaining area, the next future annexation request by the Town, will be required to initiate the annexation of the remainder island.

BACKGROUND:

On August 11, 2009, the Town Council voted to pursue the annexation of the entire area known as the “Golden Triangle” in north Apple Valley. The area is generally bounded by Interstate-15, Dale Evans Parkway and Johnson Road. This 2009 proposal includes the area of Annexation No. 3229 and the remaining island area predominately to the east, bounded by Dale Evans Parkway. The effort was ultimately denied by a vote of the registered voters residing in the area.

After nearly ten years, LAFCO’s approval of Annexation No. 3229 now excludes any existing developed residential properties, creating a 1,470.6 acre island, significantly reducing the original 2009 annexation proposal. This island consists of some developed land and is the location of where the voters denying the original annexation reside.

Annexation No. 3229 provides the Town with certain benefits, particularly those associated with economic development goals. The purpose of Annexation No. 3229 is to add freeway frontage land into the Town, to improve local services in the area and in the process, retain tax revenues generated in the area.

In order to comply with the intent of the State Laws that govern formations of cities under LAFCO, new islands or remaining islands, within an annexation, are only permitted when the annexation process, including protest hearings have been exhausted. This is the reasoning behind LAFCO requiring that the Town again, to initiate application submittal for the remaining island within a year of the obtaining Certificate of Completion for Annexation No. 3229.

Pre-zoning of the entire “Golden Triangle” annexation area was accomplished in the 2009 General Plan Update. A map of the pre-zoning can be found in Attachment 3. Once the Town prepares a Plan for Service and accompanying environmental clearance for the remaining island, a Resolution to Initiate Annexation Filing, will be agenzized for a public hearing and Council consideration. The future Resolution will determine the appropriate environmental review determination and direct staff to submit an application for annexation along with the Plan for Service. This Resolution would not come before the Town Council prior to July 1, 2019, which is the beginning of the 2019-2020 fiscal year.

FISCAL IMPACT:

The costs associated with the future annexation, including the preparation for the Plan for Service and the environmental review, will be addressed in the upcoming budget process of the 2019-2020 fiscal year. The filing fees associated with the future annexation will also be budgeted and identified in a future resolution to be considered by the Town Council upon directing staff to file the annexation.

ATTACHMENTS:

1. Resolution No. 2019- 03
2. LAFCO Resolution No. 3280
3. Pre-Zoning/Location Map

RESOLUTION NO. 2019-03

A RESOLUTION OF THE TOWN OF APPLE VALLEY, SAN BERNARDINO COUNTY, CALIFORNIA, COMMITTING THE TOWN TO INITIATE ANNEXATION PROCEEDINGS WITH THE LOCAL AGENCY FORMATION COMMISSION (LAFCO) OF SAN BERNARDINO COUNTY FOR THE ANNEXATION OF A 1,470.6 ACRE COUNTY ISLAND THAT INCLUDES PARCELS THAT LIE WEST OF DALE EVANS PARKWAY, NORTH OF JOHNSON ROAD, EAST OF U.S. INTERSTATE 15, AND SOUTH OF MORRO ROAD

WHEREAS, On December 5, 2018 LAFCO adopted Resolution No. 3280 approving the annexation of LAFCO No. 3229 with conditions of approval;

WHEREAS, Condition No. 5 of the conditions of approval of Resolution No. 3280 requires the Town to initiate the annexation process for the 1,470.6 acre island east of the approved annexation, within one year of the date of the Certificate of Completion of LAFCO Annexation No. 3229;

WHEREAS, in order to receive the Certificate of Completion of LAFCO Annexation No. 3229 the Town must adopt a resolution committing the Town to initiate the annexation of said remainder island;

WHEREAS, a status report shall be provided to LAFCO within 6 months of the Certificate of Completion date for Annexation No. 3229, outlining the progress the Town has achieved in pursuing the filing of the annexation application for said remainder island;

WHEREAS, According to Condition No. 5, if the Town does not fulfill its commitment outlined in this resolution, to initiate the annexation of the remainder island, the following future annexation request to LAFCO will require inclusion of the remainder island;

WHEREAS, Condition No. 5 shall be deemed complete by LAFCO once they issue a Certificate of Filing for the remainder island;

WHEREAS, to comply with Condition No. 5 of LAFCO Resolution No. 3280, the Town of Apple Valley commits to initiating the filing for annexation of the remaining 1,470.6 acre island east of the approved annexation (LAFCO No. 3229), west of Dale Evans Parkway, north of Johnson Road and south of Morro Road, within one year from the date of Certificate of Completion of LAFCO No. 3229 and obtain a Certificate of Filing;

WHEREAS, the Town of Apple Valley commits to initiate proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3, commencing with Section 56000 of the California Government code, for the annexation

of this 1,470.6 acre remainder of unincorporated property that is presently within the Town's Sphere of Influence; and

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Apple Valley that the Local Agency Formation Commission of San Bernardino County is hereby requested to issue a Certificate of Compliance for LAFCO Annexation No. 3229, due to the Town's commitment, as stated above, complying with the requirement of Condition No. 5 of LAFCO Resolution No. 3280 for the approval of Annexation No. 3229.

APPROVED and **ADOPTED** by the Town Council of the Town of Apple Valley this 12th day of February 2019.

Larry Cusack, Mayor

ATTEST:

La Vonda M-Pearson, Town Clerk

**LOCAL AGENCY FORMATION COMMISSION
FOR SAN BERNARDINO COUNTY**

1170 West Third Street, Unit 150, San Bernardino, CA 92415-0490
(909) 388-0480 • Fax (909) 388-0481
lafco@lafco.sbcounty.gov
www.sbclafco.org

PROPOSAL NO.: LAFCO 3229

HEARING DATE: DECEMBER 5, 2018

AMENDED RESOLUTION NO. 3280

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO 3229 - REORGANIZATION TO INCLUDE ANNEXATION TO THE TOWN OF APPLE VALLEY AND DETACHMENT FROM COUNTY SERVICE AREA 70. The reorganization area encompasses approximately 1,365 acres, which is generally bordered by a combination of parcel lines and Morro Road (existing Town boundaries) on the north, a combination of Fairfield Avenue and parcel lines on the east, a combination of parcel lines, Johnson Road (existing Town boundaries) on the south, and the centerline of the Interstate 15 Freeway on the west. The area is generally located in the northern Town of Apple Valley sphere of influence area.

On motion of Commissioner Bagley, duly seconded by Commissioner Cox, and carried, the Local Agency Formation Commission adopts the following resolution:

WHEREAS, an application for the proposed reorganization in San Bernardino County was filed with the Executive Officer of this Local Agency Formation Commission (hereinafter referred to as "the Commission") in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq.), and the Executive Officer has examined the application and executed his certificate in accordance with law, determining and certifying that the filings are sufficient; and,

WHEREAS, at the times and in the form and manner provided by law, the Executive Officer has given notice of the public hearing by the Commission on this matter; and,

WHEREAS, the Executive Officer has reviewed available information and prepared a report including his recommendations thereon, the filings and report and related information having been presented to and considered by this Commission; and,

WHEREAS, the public hearing by this Commission was called for December 5, 2018 at the time and place specified in the notice of public hearing; and,

WHEREAS, at the hearing, this Commission heard and received all oral and written support and/or opposition; the Commission considered all plans and proposed changes of

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organization, objections and evidence which were made, presented, or filed; it received evidence as to whether the territory is inhabited or uninhabited, improved or unimproved; and all persons present were given an opportunity to hear and be heard in respect to any matter relating to the application, in evidence presented at the hearing.

NOW, THEREFORE, BE IT RESOLVED, that the Commission does hereby determine, find, resolve, and order as follows:

DETERMINATIONS:

SECTION 1. The proposal is approved subject to the terms and conditions hereinafter specified:

CONDITIONS:

Condition No. 1. The boundaries of this change of organization are approved as set forth in Exhibits "A" and "A-1" attached.

Condition No. 2. The following distinctive short-form designation shall be used throughout this proceeding: LAFCO 3229.

Condition No. 3. All previously authorized charges, fees, assessments, and/or taxes currently in effect by the Town of Apple Valley (annexing agency) shall be assumed by the annexing territory in the same manner as provided in the original authorization pursuant to Government Code Section 56886(t).

Condition No. 4. The Town of Apple Valley will accept the transfer of all previously offered or dedicated drainage easements within the affected area as shown on exhibits to the resolution of approval, which exclude any regional drainage facilities identified. The Town will assume authority over these drainage easements upon completion of LAFCO 3229.

Condition No. 5. The Town of Apple Valley shall be required to initiate annexation of the remainder of the island within one year of the Commission's approval of LAFCO 3229. A resolution by the Town Council of the Town of Apple Valley shall be submitted to the Executive Officer of LAFCO outlining the Town's commitment to fulfilling this requirement prior to the issuance of the Certificate of Completion for LAFCO 3229. A status report shall be provided to the Commission at the six month date outlining the progress of the Town of Apple Valley in fulfilling its obligation. Failure on the part of the Town of Apple Valley to fulfill its commitment for annexation of the remainder island shall require that the next annexation proposed to the Town of Apple Valley, either by the Town through resolution or by property owner/registered voter petition, include a condition requiring the initiation of annexation of the remainder island. Said condition of approval shall be deemed completed upon the issuance of the Certificate(s) of Filing for the island.

Condition No. 6. The Town of Apple Valley shall indemnify, defend, and hold harmless the Local Agency Formation Commission for San Bernardino County from any legal expense, legal action, or judgment arising out of the Commission's approval of this proposal, including any reimbursement of legal fees and costs incurred by the Commission.

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Condition No. 7. Pursuant to Government Code Section 56886.1, public utilities, as defined in Section 216 of the Public Utilities Code, have ninety (90) days following the recording of the Certificate of Completion to make the necessary changes to impacted utility customer accounts.

Condition No. 8. The date of issuance of the Certification of Completion shall be the effective date of the reorganization;

SECTION 2. The Commission determines that approval of LAFCO 3229 will create an unincorporated island completely surrounded by the Town of Apple Valley. Since the east side of Interstate 15 within the Town's unincorporated sphere cannot be developed in conformity with the Town's standards unless the area is annexed, the Commission determines, pursuant to the provision of Government Code Section 56375(m), to waive the restrictions on the creation of a totally surrounded island contained within Government Code Section 56744 because it would be detrimental to the orderly development of the community, and it further determines that the area to be surrounded cannot reasonably be annexed to another city or incorporated as a new city.

SECTION 3. DETERMINATIONS. The following determinations are required to be provided by Commission policy and Government Code Section 56668:

1. The reorganization area is legally uninhabited containing zero registered voters as certified by the Registrar of Voters as of November 1, 2018.
2. The County Assessor's Office has determined that the total assessed valuation of land within the reorganization area is \$11,775,061 as of August 2, 2018, broken down as: \$11,033,461 (land) and \$741,600 (improvements).
3. The reorganization area is within the sphere of influence assigned the Town of Apple Valley.
4. Legal notice of the Commission's consideration of the proposal has been provided through publication in the *Daily Press*, a newspaper of general circulation within the area. As required by State law, individual notification was provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notice.
5. In compliance with the requirements of Government Code Section 56157 and Commission policies, LAFCO staff has provided individual notice to:
 - landowners (206) and registered voters (0) within the reorganization area (totaling 206 notices); and,
 - landowners (220) and registered voters (23) surrounding the reorganization area (totaling 243 notices).

Comments from registered voters, landowners, and other individuals and any affected local agency in support or opposition have been reviewed and considered by the Commission in making its determination.

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6. The Town of Apple Valley has assigned the reorganization area pre-zone land use designations as a part of its 2009 General Plan Update, which include the following: Estate Residential (1 unit/1 to 2.5 acres), General Commercial (retail and services), Regional Commercial (retail, services, restaurant, and hotel/motel), Office Professional (office and ancillary retail), and Planned Industrial (warehousing, light manufacturing, research/development, and administrative). These zoning designations are consistent with the Town's General Plan and is generally compatible with the surrounding land uses in the area. The Town's pre-zone designations will remain in effect for a minimum of two years following annexation unless specific actions are taken by the Town Council.
7. The Southern California Associated Governments ("SCAG") adopted its 2016-2040 Regional Transportation Plan and Sustainable Communities Strategy pursuant to Government Code Section 65080. LAFCO 3229 includes the eastern portion of the I-15 Freeway, which is part of the RTP-SCS's State highway improvement (expansion/rehabilitation) program including reconstruction of Stoddard Wells Road Overcrossing and as well as Stoddard Wells Road.
8. An Addendum to the Environmental Impact Report (SCH#2008091077) was prepared and certified by the Town of Apple Valley for its 2009 General Plan and Annexation 2008-001. The Commission, its staff, and its Environmental Consultant have independently reviewed the Town's General Plan Environmental Impact Report and Addendum.

The Commission certifies that it has considered the Town's General Plan Environmental Impact Report and the Addendum and the environmental effects as outlined in the Addendum prior to reaching a decision on the project and finds the information substantiating the Addendum adequate for the reorganization decision as a CEQA responsible agency. The Commission further finds that it does not intend to adopt alternatives or additional mitigation measures for this project as all changes, alternations, and mitigation measures are within the responsibility and jurisdiction of the Town and/or other agencies and not the Commission, and find that it is the responsibility of the Town to oversee and implement these measures.

The Commission directs its Executive Officer to file a Notice of Determination within five (5) days within the San Bernardino County Clerk of the Board of Supervisors. The Commission, as a responsible agency, also notes that this proposal is exempt from the California Department of Fish and Wildlife fees because the fees were the responsibility of the Town of Apple Valley as a CEQA lead agency.

9. The reorganization area is served by the following local agencies: Apple Valley Fire Protection District, County of San Bernardino, County Service Area 60 (airport), County Service Area 70 (unincorporated County-wide multi-function), Mojave Desert Resource Conservation District (portion), Mojave Water Agency.

County Service Area 70 will be detached upon successful completion of this proposal. None of the other agencies will be directly affected by the completion of this proposal through an adjustment in their boundaries as they are regional in nature.

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10. The Town of Apple Valley has submitted a plan for the extension of municipal services to the study area as required by Government Code Section 56653, which indicate that the Town of Apple Valley can, at a minimum, maintain the existing level of service delivery and can improve the level and range of services currently available in the area.

The Plan for Service and Fiscal Impact Analysis have been reviewed and compared with the standards established by the Commission and the factors contained within Government Code Section 56668. The Plan for Service and the Fiscal Impact Analysis conform to those adopted standards and requirements.

11. The reorganization proposal complies with Commission policies that indicate the preference for areas proposed for development at an urban-level land use to be included within a Town or City so that the full range of municipal services can be planned, funded, extended and maintained.

However, the approval of this proposal will create an island of unincorporated territory to be totally surrounded by the Town. Based on the termination of LAFCO 3169 in 2012 due to registered voter protest, LAFCO 3229 cannot be expanded to eliminate the island area without the risk of termination again.

12. The reorganization area can benefit from the availability and extension of municipal services from the Town of Apple Valley upon future development.
13. This proposal will assist the Town of Apple Valley's ability to achieve its fair share of the regional housing needs as the land use designation include Estate Residential, which allows one unit to 2.5 acres.
14. With respect to environmental justice, which is the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services, the following demographic and income profile was generated using ESRI's Community Analyst within the Town of Apple Valley and within and around the reorganization area (2018 data):

Demographic and Income Comparison	Town of Apple Valley (%)	Reorganization Area and Unincorporated Sphere (%)
Race and Ethnicity		
• African American Alone	9.3 %	8.5 %
• American Indian Alone	1.2 %	0.8 %
• Asian Alone	3.4 %	5.9 %
• Pacific Islander Alone	0.5 %	0.8 %
• Hispanic Origin (Any Race)	39.5 %	25.4 %
Median Household Income	\$55,261	\$82,990

Through future development, the reorganization area will benefit from the extension of services and facilities from the Town and, at the same time, the approval of the

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reorganization proposal will not result in the unfair treatment of any person based on race, culture or income.

- 15. The County of San Bernardino and the Town of Apple Valley have successfully negotiated a transfer of property tax revenues that will be implemented upon completion of this annexation. This fulfills the requirements of Section 99 of the Revenue and Taxation Code.
- 16. The map and legal description, as revised, are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's Office.

SECTION 4. Approval by the Local Agency Formation Commission indicates that completion of this proposal would accomplish the proposed change of organization in a reasonable manner with a maximum chance of success and a minimum disruption of service to the functions of other local agencies in the area.

SECTION 5. The Executive Officer is hereby authorized and directed to mail certified copies of this resolution in the manner provided by Section 56882 of the Government Code.

SECTION 6. The Commission hereby directs that, following completion of the reconsideration period specified by Government Code Section 56895(b), the Executive Officer is hereby directed to initiate protest proceedings in compliance with this resolution and State law.

SECTION 7. Upon conclusion of the protest proceedings, the Executive Officer shall adopt a resolution setting forth his determination on the levels of protest filed and not withdrawn and setting forth the action on the proposal considered.

SECTION 8. Upon adoption of the final resolution by the Executive Officer, either a Certificate of Completion or a Certificate of Termination, as required by Government Code Sections 57176 through 57203, and a Statement of Boundary Change, as required by Government Code Section 57204, shall be prepared and filed for the proposal.

THIS ACTION APPROVED AND ADOPTED by the Local Agency Formation Commission for San Bernardino County by the following vote:

AYES: **COMMISSIONERS:** Bagley, Cox, Curatalo, Williams, Warren

NOES: **COMMISSIONERS:** None

ABSTAIN: **COMMISSIONERS:** Lovingood

ABSENT: **COMMISSIONERS:** McCallon (Warren voting in his stead)

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STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

I, SAMUEL MARTINEZ, Executive Officer of the Local Agency Formation Commission for San Bernardino County, California, do hereby certify this record to be a full, true, and correct copy of the action taken by said Commission by vote of the members present as the same appears in the Official Minutes of said Commission at its regular meeting of December 5, 2018.

DATED: December 7, 2018



SAMUEL MARTINEZ
Executive Officer

(Seal of the Local Agency Formation Commission, Co. of San Bernardino)

EXHIBIT A

LAFCO 3229 REORGANIZATION TO INCLUDE ANNEXATION TO THE TOWN OF
APPLE VALLEY AND DETACHMENT FROM COUNTY SERVICE AREA 70

TOWN OF APPLE VALLEY ANNEXATION NO. 2018-001

IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, A PORTION OF SECTIONS 5, 6, 7, 8 AND 18, TOWNSHIP 6 NORTH, RANGE 3 WEST AND A PORTION OF SECTION 13, TOWNSHIP 6 NORTH, RANGE 4 WEST, SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE SOUTHWEST QUARTER OF SAID SECTION 5 EXCEPT THEREFROM THAT PORTION LYING NORTHWESTERLY OF THE SOUTHEASTERLY BOUNDARY OF LAFCO 2533;

TOGETHER WITH THE SOUTHEAST QUARTER OF SAID SECTION 6 EXCEPT THEREFROM THAT PORTION LYING NORTHWESTERLY OF THE SOUTHEASTERLY BOUNDARY OF LAFCO 2533;

TOGETHER WITH SAID SECTION 7, EXCEPT THEREFROM THAT PORTION LYING NORTHWESTERLY OF THE SOUTHEASTERLY BOUNDARY OF LAFCO 2533;

TOGETHER WITH THE NORTHWEST QUARTER OF SAID SECTION 8;

TOGETHER WITH THE NORTH HALF OF SAID SECTION 18 EXCEPT THEREFROM THAT PORTION LYING NORTHWESTERLY OF THE SOUTHEASTERLY BOUNDARY OF LAFCO 2533;

TOGETHER WITH THE SOUTHWEST QUARTER OF SAID SECTION 18;

TOGETHER WITH THE WEST HALF OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 18;

TOGETHER WITH THE WEST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18;

TOGETHER WITH SAID SECTION 13 EXCEPT THEREFROM THAT PORTION LYING NORTHWESTERLY OF THE SOUTHEASTERLY BOUNDARY OF LAFCO 2533.

TOTAL AREA CONTAINING 1,365.11 ACRES, MORE OR LESS.

PREPARED BY:


AMÉLIA PAULA PEREIRA - P.L.S. NO. 8493

SEPTEMBER 19, 2018
DATE

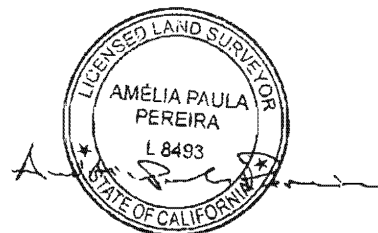


EXHIBIT A

FOR QUESTIONS REGARDING THIS MAP OR TO OBTAIN A COPY OF THIS MAP IN ELECTRONIC FORM, PLEASE CONTACT LAFCO FOR SAN BERNARDINO COUNTY

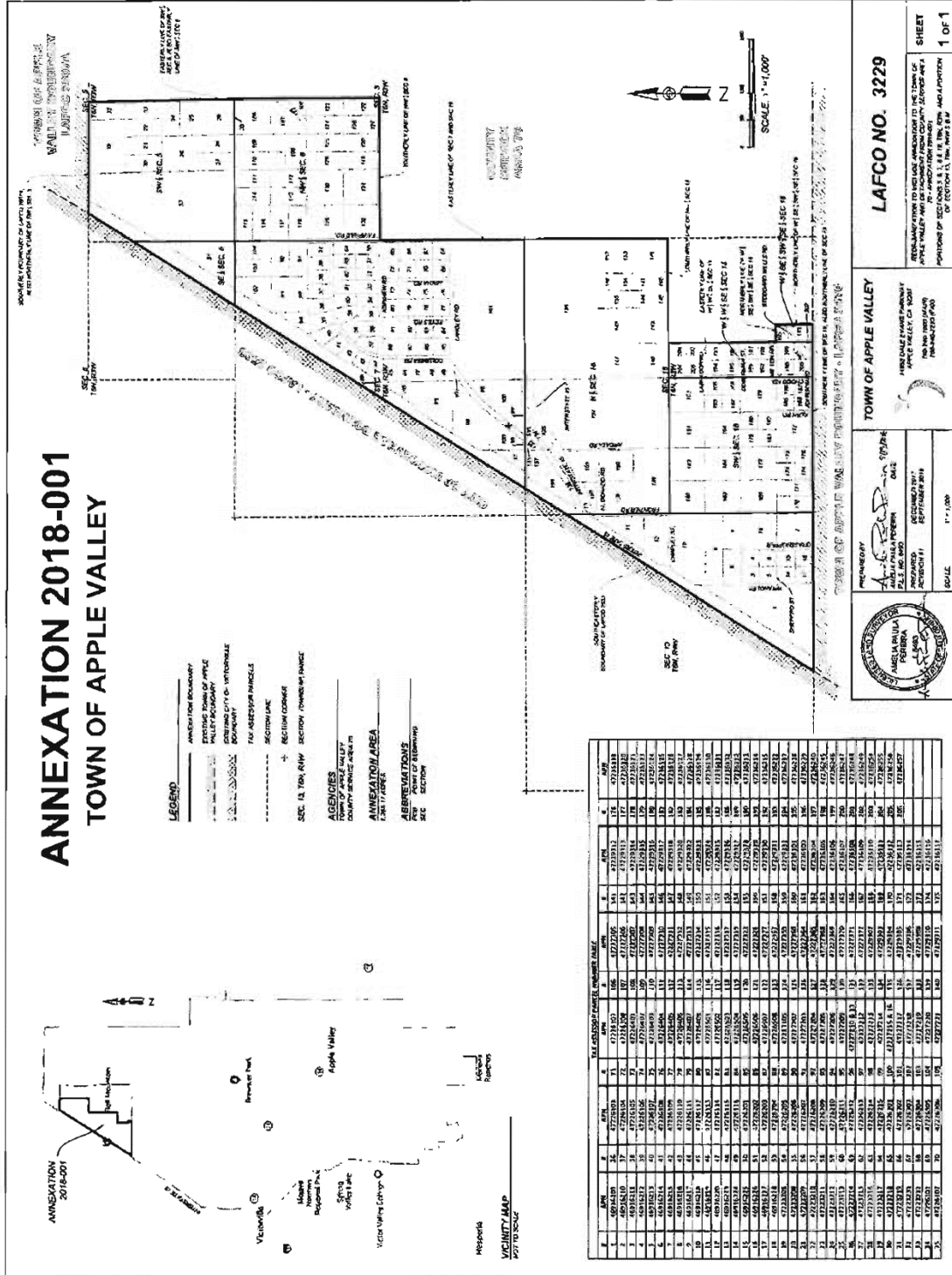


EXHIBIT A-1

EXHIBIT A-1

FOR QUESTIONS REGARDING THIS MAP OR TO OBTAIN A COPY OF THIS MAP IN ELECTRONIC FORM, PLEASE CONTACT LAFCO FOR SAN BERNARDINO COUNTY

