

Resolution No. 2022-03

A Resolution of Application of the Borrego Springs Fire Protection District Initiating Proceedings with the San Diego Local Agency Formation Commission for Dissolution of Borrego Springs Fire Protection District and Concurrent Annexation of the Territory Within the District’s Boundaries into the San Diego County Fire Protection District with a Corresponding Sphere of Influence Amendment, and Finding that the Action is Not a “Project” Under CEQA or is, Alternatively, Exempt from CEQA

WHEREAS, the Borrego Springs Fire Protection District (“District”) operates and exists pursuant to the provisions of the Fire Protection District Law of 1987, Health and Safety Code section 13800 et seq.; and

WHEREAS, formed in 1961, the District currently provides structural fire protection, advanced life support-level emergency medical services, rescue services, ambulance transport, and related functions throughout its boundaries—covering approximately 310 square miles (together the “Services”); and

WHEREAS, the cost of providing the Services has increased at a greater rate than the increase in revenues available to fund the Services; and

WHEREAS, in the last few years, the County of San Diego has strategically positioned itself to provide fire protection and emergency medical services in unincorporated San Diego County, including taking action to create the San Diego County Fire Protection District (“SDCFPD”); and

WHEREAS, SDCFPD currently operates a cooperative, regionalized integrated fire protection and emergency medical service system, which mostly surrounds the District’s jurisdictional boundaries; and

WHEREAS, the District has worked with SDCFPD to develop a framework including terms and conditions on how a potential transfer of the Services from the District to SDCFPD could be accomplished; and

WHEREAS, the District and SDCFPD have identified the potential dissolution of the District and concurrent annexation of the territory within the District’s boundaries into SDCFPD, together with a corresponding amendment to SDCFPD’s sphere of influence, as a potential option to be explored by the District; and

WHEREAS, after review by the District Board of Directors, the District Board desires 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 to effectuate the transfer of the Services to SDCFPD, by seeking approval of the San Diego Local

Agency Formation Commission (“LAFCO”) to dissolve the District (the “Dissolution”) and concurrently annex the territory within the District’s boundaries (“District Territory”) to SDCFPD, and correspondingly amend the SDCFPD sphere of influence, on terms and conditions consistent with those specified herein (“Dissolution/Concurrent Annexation”); and

WHEREAS, the reasons for the proposed Dissolution/Concurrent Annexation include, but are not limited to, the following:

- (1) Ensure continuity and long-term security of the Services for the communities within the boundaries of the District, including increasing and improving staffing levels;
- (2) Produce savings by eliminating duplication of management, administration, and oversight associated with the operation of multiple Special Districts providing the same service; and
- (3) Create greater efficiencies within facility and fleet management programs.

WHEREAS, the Dissolution/Concurrent Annexation is not a project requiring environmental review under the California Environmental Quality Act (“CEQA”), Public Resources Code section 21000 *et seq.* and accompanying regulations in Title 14 of the California Code of Regulations, section 15000 *et seq.* (“State CEQA Guidelines”) because it does not have the potential to result in a direct physical change in the environment or a reasonably foreseeable indirect physical change to the environment. (Pub. Resources Code, § 21065; State CEQA Guidelines, § 15378). The Dissolution/Concurrent Annexation itself will not change any existing land use or result in construction of new facilities. Further, the Dissolution/Concurrent Annexation does not authorize any construction or development of land; and

WHEREAS, even if the Dissolution/Concurrent Annexation is considered a “project” under CEQA, it is exempt from environmental review under the Class 20 exemption for changes in the organization of local agencies. (State CEQA Guidelines, § 15320.) Under section 15320, changes in the organization of a local governmental agency are exempt if the changes do not modify the geographical area in which previously existing powers are exercised. This exemption applies because Dissolution/Concurrent Annexation constitutes a “change of organization” or “changes of organization” under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, and does not change the geographical area within which the power to provide the Services will be exercised. There is no evidence that the Dissolution/Concurrent Annexation involves any unusual circumstances that might cause a significant effect on the environment. (State CEQA Guidelines, § 15300.2(c).); and

WHEREAS, even if the approval of Dissolution/Concurrent Annexation is considered a “project,” it is also exempt under the “common sense” exemption because it can be seen with certainty that there is no possibility that it may have a significant effect on the environment. (State CEQA Guidelines, § 15061(b)(3).) Dissolution/Concurrent Annexation itself does not authorize any construction or development of land. If a construction or development project is proposed in the future, the construction or development would be subject to environmental review, as required under CEQA, at that time. Because the site and project-specific details of

any potential future construction or development project are unknown at this time, impacts of such potential future development are speculative.

THEREFORE, BE IT RESOLVED, ORDERED AND DETERMINED by the Board of Directors of the Borrego Springs Fire Protection District as follows:

1. Effect of Recitals. The recitals set forth hereinabove are true and are hereby incorporated as substantive findings for this Resolution of Application.
2. Proposal. A proposal is hereby made by the Borrego Springs Fire Protection District (“District”) to LAFCO as follows:
 - a. This proposal for the Reorganization is made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 commencing with Section 56000 of the California Government Code.
 - b. The nature of the proposed Reorganization is Dissolution of the District and Concurrent Annexation of the District Territory into SDCFPD for the provision of the Services upon terms and conditions consistent with those specified herein. It is the District Board’s intent that the Dissolution/Concurrent Annexation not occur unless it is consistent with the terms and conditions specified herein, or as otherwise agreed by the District.
 - c. The District’s proposal for Dissolution/Concurrent Annexation is not consistent with SDCFPD’s sphere of influence; accordingly the District requests LAFCO take action make the necessary corresponding amendment to the SDCFPD sphere of influence.
 - d. The boundaries of the proposal area are depicted on the corresponding map attached hereto as Exhibit “A,” and by this reference incorporated herein.
 - e. The District is inhabited.
 - f. The reasons for proposed Reorganization are as follows:
 - (1) Ensure continuity and long-term security of the Services for the communities within the boundaries of the District;
 - (2) Produce savings by eliminating duplication of management, administration, and oversight associated with the operation of multiple Special Districts providing the same service; and
 - (3) Create greater efficiencies within facility and fleet management programs.
 - g. It is desired by the District that the Dissolution/Concurrent Annexation provide for and made subject to the following terms and conditions:

- (1) SDCFPD as Successor to District. Upon and after the Effective Date of the Dissolution/Concurrent Annexation (“Effective Date”), SDCFPD shall be the successor to the District for purpose of providing the Services, and succeeding to all of the rights, duties, and obligations of the extinguished District with respect to enforcement, performance, or payment of any outstanding bonds, including revenue bonds, or other contracts and obligations within the territory previously included within the extinguished District, and the authority to assess, levy and/or collect any previously authorized fees, charges, assessments, and/or taxes of the District, including, but not limited to, the Special Tax adopted by the voters of Borrego Springs FPD in November 2004. (Government Code Section 56700 and 56886(b) and (m)). Further, all property tax revenues and voter-approved special tax or special assessment revenues (if any), received or receivable by the District as of the Effective Date shall be collected or collectible by SDCFPD for the exclusive use of funding the services within the territory. SDCFPD property taxes, special taxes, and special assessments shall not be available for other SDCFPD or County purposes.
 - i. In addition to the above, SDCFPD shall be the successor to, and shall have the authority to, administer Borrego Springs Fire Protection District CFD No. 2014-01, as the legislative body thereto, including but not limited to (i) levying, assessing and/or collecting all previously authorized special taxes related thereto and all such special taxes shall accrue and be transferred to SDCFPD as successor thereto; (ii) SDCFPD succeeding to all of the rights, duties, responsibilities, properties, contracts, equipment, assets, functions and obligations of CFD No. 2014-01; (iii) the continued provision of authorized services provided therein by SDCFPD as successor thereto; (iv) the management of all funds of CFD No. 2014-01 by SDCFPD as successor thereto;” and (v) the issuance of bonds of CFD No. 2014-01 which are authorized but not yet issued at the time of transfer.
- (2) Transfer of Employees. SDCFPD shall provide evidence to LAFCO prior to the effective date of the Dissolution/Concurrent Annexation (“Effective Date”), which may be in the form of an agreement by and between SDCFPD and CAL FIRE, which evidence shall ensure that as of the Effective Date, all District employees employed by the District immediately prior to the Effective Date, will be blanketed in as employees of the State of California or offered equivalent employment as determined by SDCFPD (Government Code section 56886(l)).
- (3) Service Levels. Upon the Effective Date, SDCFPD shall meet or exceed the service levels within the District, including, but not limited to, the following:

- i. Paramedic Fire Engine. SDCFPD shall provide a full time 3-person staffed Paramedic Fire Engine at the Borrego Springs Fire Station.
 - ii. Paramedic Ambulance. SDCFPD shall provide a full time 2-person staffed Paramedic Ambulance at the Borrego Springs Fire Station.
 - iii. Cover Station. SDCFPD shall ensure Station 91 is a must-cover station (move up after 30 minutes).
 - iv. Administration/Operation. SDCFPD will ensure a Battalion Chief is assigned to oversee the Borrego Springs Fire Station.
 - v. Fire Station Assessment. SDCFPD shall provide evidence to LAFCO prior to the Effective Date, committing to evaluate the need for a replacement fire station to serve Borrego Springs as part of SDCFPD's Capital Improvement Program.
 - vi. Community Events. SDCFPD and/or state firefighters stationed at Borrego Springs will participate in community events as requested.
- (4) Monetary Allocation. The District agrees to work in good faith with SDCFPD to allocate reserve and capital funds for equipment and facility upgrades prior to the Effective Date.
- (5) HR218 ID: As successor in interest to the District, SDCFPD will make a best effort to ensure District Fire Chief Hardcastle and any other qualified employee upon retirement, is provided a photographic identification card that identifies them as a “qualified retired law enforcement officer” under 18 U.S.C. Sections 926B, 926C (also known as HR 218), to the extent all conditions under the law are met. Prior to dissolution, the District will provide documentation to SDCFPD of any such law enforcement officer status.
- (6) Transfer of Property and Other Assets to SDCFPD. As of the Effective Date, all real property (including, but not limited to, District Station 91 and any and all lands owned by the District) and personal property (including, but not limited to, all vehicles or other rolling stock (with remaining fire apparatus to be disposed by the District as approved by SDCFPD), tools, office furniture, fixtures, equipment, books, records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, entitlements, agreements, contracts, claims, judgments, and all other assets shall transfer from the District to SDCFPD in “as-is” condition, without any payment or repair obligation from the District (Government Code Section 56886(h)).

(7) Transfer of Liabilities to SDCFPD. As of the Effective Date any and all liabilities of the District, such as accounts payable, contract obligations and consumer deposits, shall be transferred to SDCFPD's appropriate, respective, isolated accounts, and in addition the following liabilities shall transfer to SDCFPD:

- i. The District's Unfunded Actuarial Liability loan with First Foundation Bank dated October 2020 (to pay down unfunded CalPERS liability as of that date).
- ii. All current and future unfunded liability (CalPERS) for employees of the District (past and as of the Effective Date).
- iii. The District's Copy Machine lease with Image Source/ Xerox dated April 7, 2020.

Additionally, SDCFPD will assume the current District tower site lease agreements with T-Mobile, Verizon, AT&T, American Messaging, AirTouch Paging and Santa Monica College.

(8) Prohibition on Dissolved Agency. Upon approval from LAFCO for the dissolution of the District, the District is prohibited from taking any of the actions contained in Government Code Section 56885.5, including:

- i. Approving any increase in compensation or benefits for members of the governing board, its officers, or the executive officer of the agency.
- ii. Appropriating, encumbering, expending, or otherwise obligating, any revenue of the agency beyond that provided in the current budget at the time the dissolution is approved by LAFCO.

(9) Effective Date. The later of July 1, 2023, or upon the date LAFCO records the Certificate of Completion.

3. CEQA Compliance. For all the reasons set forth in the above Recitals, and based upon all of the substantial evidence in the record as a whole, the Board of Directors of the District finds that the Dissolution/Concurrent Annexation: (1) is not a "project" subject to environmental review under CEQA (Pub. Resources Code, § 21065; State CEQA Guidelines, § 15378); (2) alternatively, is exempt from CEQA under the Class 20 exemption as a "change in organization" (State CEQA Guidelines, § 15320); (3) alternatively, is exempt from CEQA under the "common sense" exemption because it can be seen with certainty that there is no possibility that Dissolution/Concurrent Annexation may have a significant effect on the environment. (State CEQA Guidelines, § 15061(b)(3)); and (4) none of the exceptions to the application of these exemption exist (State CEQA Guidelines, § 15300.2).

- a. The Board of Directors hereby directs that all documents and other materials constituting the record of proceedings related to this Resolution of Application for

approval of Dissolution/Concurrent Annexation, be maintained by the District Fire Chief of the District, or designee, on file at the District offices at 2324 Stirrup Road, Borrego Springs CA, 92004.

- b. The Board of Directors directs Staff to file a Notice of Exemption with the County Clerk for the County of San Diego.

- 4. Adoption. This Resolution of Application is hereby adopted and approved by the Board of Directors of the District and San Diego LAFCO is hereby requested to initiate proceedings as authorized and in the manner provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 for the Dissolution of the District and Concurrent Annexation of the District Territory into SDCFPD for the provision of the Services upon terms and conditions consistent with those specified herein.

- 5. Submission of Resolution of Application and other Application Materials. The Board of Directors authorizes and directs the District Fire Chief to file a certified copy of this Resolution of Application together with the required LAFCO application, finalized plan for services as required by Government Code section 56653, map, and other documents with LAFCO’s Executive Officer.

- 6. Further Authority Granted to the District Fire Chief. The District Fire Chief is authorized to sign any and all documents and agreements with LAFCO and the County of San Diego or SDCFPD to carry out the intent of this Resolution of Application based on the terms in this Resolution of Application.

- 7. Effective Date. This Resolution of Application shall take effect immediately upon adoption by the Board of Directors of the District.

PASSED AND ADOPTED by the following vote of the Board of Directors of the Borrego Springs Fire Protection District on August ~~14~~25, 2022.

AYES: _____

NOES: _____

ABSENT:: _____

Bradley Tidwell
President, Board of Directors