LAFCO Resolution No. 3211 for LAFCO 3198 (San Bernardino)

Attachment 3

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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PROPOSAL NO.: **LAFCO 3198**

HEARING DATE: **JANUARY 27, 2016**

RESOLUTION NO. 3211

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY MAKING DETERMINATIONS ON LAFCO 3198; APPROVING THE REORGANIZATION TO INCLUDE ANNEXATIONS TO THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT, ITS VALLEY SERVICE ZONE AND SERVICE ZONE FP-5 OF SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT (generally representing the corporate limits of the City of San Bernardino encompassing approximately 38,144 acres (59.5 square miles)).

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 the County of San Bernardino was filed with the Executive Officer of this Local Agency Formation Commission (hereinafter referred as the "Commission") in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 et seq.), and the Executive Officer has examined the application and executed her 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 this Commission on this matter; and,

WHEREAS, the Executive Officer has reviewed available information and prepared a report including her 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 held upon the date and at the time and place specified in the notice of public hearing and in order or orders continuing the hearing; and,

WHEREAS, at this hearing, this Commission heard and received all oral and written protests; the Commission considered all plans and proposed changes of 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; and,

NOW, THEREFORE, BE IT RESOLVED, that the Commission does hereby determine, resolve, order and find 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 this resolution;

Condition No. 2. The following distinctive short form designation shall be used through this proceeding: LAFCO 3198.

Condition No. 3. The effective date of this reorganization shall be no earlier than July 1, 2016 subject to completion of the terms and conditions outlined in this resolution for approval as authorized by Government Code Sections 56886(p) and 57202;

Condition No. 4. Upon the effective date of the reorganization, the San Bernardino County Fire Protection District (SBCFPD) Valley Service Zone, as the Successor District to the fire and emergency medical response obligations of the City of San Bernardino, shall succeed and/or be assigned all rights, duties, responsibilities, properties (both real and personal), contracts, equipment, assets, liabilities, obligations, functions, executory provisions, entitlements, permit and approvals of the City of San Bernardino Fire Department (City Fire). All property tax revenues attributable to the City of San Bernardino not designated in Condition No. 13 below, prior to calculations required by Section 96.1 of the Revenue and Taxation Code, including delinquent taxes and any and all other collections or assets of City of San Bernardino, shall accrue and be transferred to the Successor Districts pursuant to 56886(i). Said Successor Districts shall be subject to the terms and conditions contained herein;

Condition No. 5. Upon the effective date of the reorganization including annexation, pursuant to the terms specified in the Plan for Service, attached as Exhibit "B" and the updated Transition Action Plan, attached as Exhibit "C", all current City Fire Department employees, suppression, prevention, and administrative, shall transfer to the San Bernardino County Fire Protection District Valley Service Zone with comparable position classifications, rates of pay, accrued vacation and sick leave, vacation and sick leave accrual rates, seniority rights, and shall become subject to the terms and conditions set forth in said Plan for Service. All transferred employees shall be subject to the terms and conditions of the respective San Bernardino County Fire Protection District Memorandum of Understanding in place as of the effective date of the reorganization including annexation for their successor classification.

Condition No. 6. Upon the effective date of the reorganization including annexation, pursuant to the terms specified in the Plan for Service and updated Transition Action Plan, all current City Fire Dispatch employees shall transfer to the joint powers authority known as Consolidated Fire Agencies (hereafter "CONFIRE") with comparable position classifications, rates of pay, accrued vacation and sick leave, vacation and sick leave accrual rates, seniority rights and shall become subject to the terms and conditions

set forth in said Plan for Service. All transferred employees shall be subject to the terms and conditions of the respective Memorandum of Understanding in place as of the effective date of the reorganization including annexation for their successor classification;

Condition No. 7. Prior to the issuance of the Certificate of Completion, the City of San Bernardino shall provide to the Executive Officer of LAFCO documentation that it has obtained a workers compensation tailing insurance policy covering all worker compensation claims of all City fire suppression personnel and other City employees transitioning to County Fire and/or CONFIRE.

Condition No. 8, Upon the effective date of the reorganization including annexation, the City of San Bernardino shall retain the obligations for unfunded retirement obligations, any contractual benefit following retirement such as health insurance maintenance or payment, or other contractual obligation approved by the City for all suppression, prevention, dispatch, and other City employees transitioning to County Fire and/or CONFIRE;

Condition No. 9. Upon the effective date of the reorganization including annexation, the Successor District shall accept all facilities transferred from the City of San Bernardino in "as is" condition (pursuant to Government Code Section 56886(h). All assets including, but not limited to, equipment (vehicles, apparatus, supplies, etc.) rolling stock, tools, office furniture, fixtures and equipment, all lands, buildings, real and personal property and appurtenances held by the City of San Bernardino for the purpose of providing fire protection and emergency medical response shall be transferred to the Successor District, the Valley Service Zone of SBCFPD. All quitclaim deeds to effectuate the transfer of land and/or buildings and the title transfer documents for vehicles shall be prepared by the City of San Bernardino City Manager's office to be filed upon the effective date of the change with a copy provided to LAFCO.

Condition No. 10. All equipment and fixtures, office furniture, real and personal property held by the City of San Bernardino for the purpose of providing fire and emergency medical response dispatching shall be transferred to CONFIRE, a joint powers authority providing for a centralized public safety communications system and a cooperative program of fire-related functions such as emergency operations. Upon the effective date of the reorganization including annexation, CONFIRE shall accept all equipment transferred from the City of San Bernardino in "as is" condition (pursuant to Government Code Section 56886(h);

Condition No. 11. Pursuant to the provisions of Government Code Section 56886(e) the SBCFPD Board of Directors shall be required to create a new sub-service zone under FP-5 to reflect the City of San Bernardino territory. After conclusion of the protest hearing pursuant to Government Code Section 57000 et seq., but prior to the issuance of the Certificate of Completion, as authorized by Government Code Section 56886(o), the Board of Directors of the SBCFPD shall provide the LAFCO Executive Officer with documentation identifying how the provisions contained in Health and Safety Code Section 13950 to form the new Service Zone of FP-5 to isolate the special tax revenue contributed by the territory within the City of San Bernardino will be implemented by the District. All actions required by the SBCFPD to implement the special tax shall be

completed prior to the August 8, 2016 due date for placement of the special tax on the tax rolls by the San Bernardino County Treasurer/Tax Collector;

Condition No. 12. Upon the effective date of the reorganization including annexation, the Successor District shall accept the administration of Community Facilities District #1033 (hereafter CFD 1033) from the City of San Bernardino terminating in Fiscal Year commencing July 1, 2033. The special tax levy for this entity shall be limited to the commercial, retail, office and industrial properties currently assessed or which will be developed in the future pursuant to the terms specified in City of San Bernardino Resolution No. 2004-210. All residential properties previously assessed will be exempted from future assessments by Valley Service Zone administration of CFD 1033. All cash on hand or fund balance in the accounts of CFD 1033 within the City of San Bernardino upon the effective date of LAFCO 3198 shall transfer to the administration of this CFD under the Successor District. All delinquent taxes and any and all other collections or assets of CFD 1033 that may accrue shall be transferred to the Successor District pursuant to Government Code Section 56886(i). The revenues to be received by the Successor District administering CFD 1033 are impressed with the public trust, use or purpose as defined by City of San Bernardino Resolution No. 2004-210 and all transactions utilizing these funds shall be accounted for and described in the annual audit and/or comprehensive financial reports recognizing CFD 1033 by the Successor District.

The future administration of CFD 1033 under the Successor District shall require that the Valley Service Zone, Successor District, shall participate in the development review process of the City of San Bernardino for any properties within the defined Verdemont Service Area, shown on Exhibit "D", for commercial, industrial retail or office uses. The City of San Bernardino shall be required to annex any commercial, industrial, retail or office parcels into CFD 1033 as a condition of development approval to be completed prior to the issuance of the certificate of occupancy for said projects.

Condition No. 13. Prior to the issuance of the Certificate of Completion for the reorganization to include annexation, pursuant to the provisions outlined in Government Code Section 56886 (i), (o) and (s), the Commission requires that the City of San Bernardino, County of San Bernardino, and San Bernardino County Fire Protection District enter into a contract which directs the Auditor/Controller/Treasurer/Tax Collector for San Bernardino County to provide for the calculation of property tax revenues to be transferred from the City's proceeds under the property tax in lieu of Motor Vehicle License Fees to the Valley Service Zone of SBCFPD, successor agency, as a replacement for the exclusion of the Inland Valley Development Authority (IVDA) territory within the City of San Bernardino from the property tax transfer process in the manner presented below, a signed copy of which is to be provided to the LAFCO Executive Officer. This term and condition shall assure that there is no impairment of the Inland Valley Development Agency Tax Allocation Refunding Bonds Series 2014A and Successor Agency to the Inland Valley Development Agency Tax Allocation Refunding Bonds Series 2014B bond obligations:

a. The calculation shall use the following amounts to determine the transfer from proceeds of property tax swap in lieu of Motor Vehicle License Fees: (a) base property tax within the affected Tax Rate Areas (TRAs) within IVDA a part of the corporate limits of the City of San Bernardino, (b) pass through payments,

negotiated or statutory within the defined TRAs; (c) residual distribution as a result of redevelopment dissolution within the defined TRAs; and (d) any other property tax proceeds that would have come to the Valley Service Zone except for the exclusion of the IVDA area of the City of San Bernardino; and,

b. The methodology outlined above shall be permanent and may only be amended after the conclusion of the revenue bond pledge on or after June 30, 2035 or if said revenue bond pledges are refunded or refinanced by mutual agreement between the County of San Bernardino, the San Bernardino County Fire Protection District and the City of San Bernardino.

Condition No. 14. Prior to the issuance of the Certificate of Completion for the reorganization to include annexation, pursuant to the provisions outlined in Government Code Section 56886 (i) the Commission requires that the City of San Bernardino, County of San Bernardino, and San Bernardino County Fire Protection District enter into a contract which requires the Auditor/Controller/Treasurer/Tax Collector for San Bernardino County to direct that 35% of the City's total property taxes in lieu of Vehicle License Fees be transferred to the Valley Service Zone of SBCFPD, Successor District, to fund the provision of fire protection and emergency medical response services. This contract shall be perpetual and address the needs for allocation of funds to replace the property tax in-lieu of Motor Vehicle License fees should the State of California make changes to this revenue stream legislatively. This amount is in addition to the amounts determined pursuant to the provisions of Revenue and Taxation Code Section 99 for LAFCO 3198.;

Condition No. 15. The remaining payments, all rights and interests held or claimed by the City of San Bernardino Fire Department under all agreements and/or memoranda of understanding with any public agency or private entity, shall transfer to the Successor District, Valley Service Zone of the SBCFPD, excluding those contracts shown on Exhibit "E" for termination. The Successor District, Valley Service Zone, shall also assume all joint use, maintenance, automatic aid or mutual aid agreements held by the City of San Bernardino Fire Department [(Government Code Section 56886(r)]. Amendments of existing agreements required for successful transfer shall be completed and submitted to the Local Agency Formation Commission prior to the issuance of the Certificate of Completion to address any changes [Government Code Section 56886(r)(v)];

Condition No. 16. The debt obligations of the transferring City of San Bernardino Fire Department shall be either be paid in full prior to the issuance of the Certificate of Completion or assigned to the Successor District, the Valley Service Zone of SBCFPD. The debt obligations to be paid relate to the City's leaseback financing with the California Infrastructure and Economic Development Bank and the lease through WESTNET;

Condition No. 17. Upon the effective date of this reorganization, the appropriation limit of San Bernardino County Fire Protection District, Valley Service Zone, Successor District, shall be increased by $21,596,954 for Fiscal Year 2016-17 to recognize the anticipated first year proceeds of taxes for the provision of fire protection

and emergency medical response;

Condition No. 18. Upon the effective date of this reorganization, any funds currently deposited for the benefit of the City of San Bernardino Fire Department which have been impressed with a public trust, use or purpose shall be transferred to the Successor District, and said District shall separately maintain such funds in accordance with the provisions of Government Code Section 57462;

Condition No. 19. Upon the effective date of this reorganization, any funds currently deposited for the benefit of the City of San Bernardino Fire Department Community Facilities District 1033 which have been impressed with a public trust, use or purpose shall be transferred to the Successor District for its administration of Community Facilities District 1033, and said Successor District shall separately maintain such funds in accordance with the provisions of Government Code Section 57462;

Condition No. 20. As of the date of approval of the reorganization by LAFCO through the effective date pursuant to the provisions of Government Code 56885.5(a) (4), the City Council of the City of San Bernardino shall be prohibited from taking the following actions unless it first finds an emergency situation exists as defined in Government Code Section 54956.5, and it is supported by the San Bernardino County Fire Protection District::

a) **No Increase in Compensation or Benefits:** No increase in calculation for payment of benefits or compensation for employees of the City of San Bernardino Fire Department shall be allowed. Exceptions to this prohibition include planned and budgeted increases identified in the adopted budget for Fiscal Year 2015-16.

b) **Bound by Current Budget:** Appropriating, encumbering, expending, or otherwise obligating any revenue of the City Fire Department beyond that provided in the current budget at the time of Commission approval, but to include any budgetary adjustment due to the circumstances surrounding the December 2, 2015 terrorist attack, unless agreed to by the Successor District.

Condition No. 21. The City of San Bernardino and the San Bernardino County Fire Protection District, applicants for this change of organization, shall indemnify, defend and hold harmless the Commission 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.

SECTION 2. DETERMINATIONS. The following determinations are noted in conformance with Commission policy and Government Code Section 56668:

1. The County Registrar of Voters Office has determined that the study area is legally inhabited with 67,883 registered voters as of October 8, 2015.

2. The reorganization area is within the sphere of influence assigned the San Bernardino County Fire Protection District through approval of the companion proposal identified as LAFCO 3197.

3. The County Assessor's Office has determined that the total assessed valuation of land and improvements for the area is $11,363,748,189 as of November 2, 2015. This figure is broken down as $2,976,373,339 for land and $8,387,374,850 for improvements.

4. Notice of this hearing was published as required by law in *The Sun*, a newspaper of general circulation in the area. As required by State law and Commission policy a 1/8th page legal ad was provided in compliance with the provisions of Government Code Section 56157. Individual notices were provided to affected and interested agencies, County departments and those individuals and agencies requesting special notice. Comments from registered voters and any affected local agency have been reviewed and considered by the Commission in making its determination.

5. In compliance with the requirements of Government Code Section 56125, individual notice was mailed to landowners within the reorganization area (totaling 42,783) in response to the annexation of the territory into SBCFPD Service Zone FP-5 (a special tax zone). Comments from landowners have been considered by the Commission in making its determination.

6. The Southern California Association of Governments (SCAG) has adopted a Regional Transportation Plan and Sustainable Community Strategy pursuant to the provisions of Government Code Section 65352.5. Approval of LAFCO 3198 has no direct impact on these determinations. The Sustainable Community Strategy includes as a determination the need to assure the ongoing availability of health and safety services which approval of LAFCO 3198 will support.

7. The Commission's Environmental Consultant, Tom Dodson of Tom Dodson and Associates, has indicated his recommendation that the review of this reorganization proposal is statutorily exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that that the proposal will not change the area in which the service is provided; therefore, no physical affect upon the environment can be seen. The Commission certifies it has reviewed and considered the environmental recommendation and finds that a General Rule Statutory Exemption as authorized under Section 15061(b) (3) of the State CEQA Guidelines is appropriate. The Commission directs the Executive Officer to file a Notice of Exemption within five (5) working days.

8. The study area is presently served by the following public agencies: County of San Bernardino, City of San Bernardino, East Valley Water District, San Bernardino Valley Municipal Water District, San Bernardino Valley Water Conservation District, Inland Empire Resource Conservation District, Riverside Corona Resource Conservation District, and West Valley Water District. The City of San Bernardino is affected through the transfer of its fire protection and emergency medical response obligation to County Fire as a function of the

reorganization. In addition, the change anticipates that the San Bernardino County Fire Protection District, its Valley Service Zone and its Service Zone FP-5 will be expanded to include the territory of the City of San Bernardino as a function of the reorganization. None of the other agencies are affected by this reorganization proposal as they are regional in nature.

9. Upon reorganization, the primary successor district, the Valley Service Zone of the SBCFPD, will extend the defined range of services to residents, landowners and government within the corporate limits of the City of San Bernardino. The Plan for Service, jointly submitted by the City of San Bernardino and SBCFPD, provide a general outline of the delivery of services mandated by Government Code Section 56653. This Plan and Fiscal Impact analysis indicates that the transfer of service to the Valley Service Zone and SBCFPD can, at a minimum, maintain the level of service delivery currently received by the area. The Plan for Service and Fiscal Impact Analysis has been reviewed and compared with the standards established by the Commission and the factors contained within Government Code Section 56668. The Commission finds that such Plan for Service and the supplemental data submitted conform to those adopted standards and requirements.

10. The proposal complies with Commission policies and reflects a mechanism to address the long-term sustainability of the delivery of fire suppression, prevention and emergency medical response to the citizens and community of the City of San Bernardino. The reorganization area can benefit from the assumption of fire protection and emergency medical response through the Valley Service Zone of the San Bernardino County Fire Protection District as evidenced by the Plan for Service.

11. This proposal will not affect the fair share allocation of the regional housing needs assigned to the City of San Bernardino through the Southern California Association of Government's (SCAG) Regional Housing Needs Allocation (RHNA) process.

12. With respect to environmental justice, the reorganization provides for the continuation of existing fire protection and emergency medical response within the area and will not result in the unfair treatment of any person based upon race, culture or income.

13. The County Board of Supervisors has completed the process for the determination of the transfer of ad valorem property tax revenues upon successful completion of this reorganization to the successor agency, SBCFPD and its Valley Service Zone. An amendment to Resolution No. 2015-232 will be processed to address the transfer of property tax revenues only for those areas outside the Inland Valley Development Agency (IVDA).

    Based upon the need to maintain the pledge to the Revenue Bonds of IVDA and its Successor Oversight Agency, the revenues generated by the tax rates levied in the Tax Rate Areas within IVDA shall be retained by the City of San Bernardino until the bonds or bond-related obligations are paid in full or refunded

under the IVDA's Bond Indenture (Inland Valley Development Agency Tax Allocation Refunding Bonds, Series 2014A and Successor Agency to the Inland Valley Development Agency Tax Allocation Refunding Bonds, Series 2014B (IVDA Bonds) pursuant to an Indenture of Trust, dated as of May 1, 2014 (Bond Indenture)) or longer if required. This fulfills the requirements of Section 99 of the Revenue and Taxation Code.

14. The maps and legal descriptions prepared by the County Surveyor are in substantial compliance with LAFCO and State standards.

SECTION 3. Approval by the Local Agency Formation Commission indicates that completion of this proposal would accomplish the proposed change or 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 4. 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 5. 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 (Part 4, commencing with Government Code Section 57000), provide for a 45-day protest proceeding, set the matter for consideration of the protest proceedings, and provide notice of the hearing pursuant to Government Code Section 57025 and 57026.

SECTION 6. Upon conclusion of the protest proceedings, the Executive Officer shall adopt a resolution setting forth her determination on the levels of protest filed and not withdrawn and setting forth the action on the proposal considered.

SECTION 7. 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 APRPOVED AND ADOPTED by the Local Agency Formation Commission for San Bernardino County by the following vote:

AYES:	**COMMISSIONERS:**	**Bagley, Cox, Curatalo, McCallon, Williams**
NOES:	**COMMISSIONERS:**	**None**
ABSENT:	**COMMISSIONERS:**	**Lovingood, Ramos**

RESOLUTION NO. 3211

STATE OF CALIFORNIA)
) SS.
COUNTY OF SAN BERNARIDNO)

I, KATHLEEN ROLLINGS-McDONALD, 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 January 27, 2016.

DATED: January 28, 2016

KATHLEEN ROLLINGS-McDONALD
Executive Officer

LOCAL AGENCY FORMATION COMMISSION
CO. OF SAN BERNARDINO