

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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PROPOSAL NO.:

LAFCO 3216

HEARING DATE:

March 23, 2017

RESOLUTION NO. 3242

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY MAKING DETERMINATIONS ON LAFCO 3216; 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 AND FORMATION OF SERVICE ZONE FP-5 WEST VALLEY (Area 1 includes the entirety of the corporate boundaries of the City of Upland, encompassing approximately 10,016 acres [15.65 square miles] and Area 2 is the proposed annexation into County Fire's Service Zone FP-5 and the formation of Service Zone FP-5 West Valley which includes the corporate boundaries of the City of Upland and the area commonly known as the community of San Antonio Heights for a total of approximately 11,696 acres [18.3 square miles]).

On motion of Commissioner _____, duly seconded by Commissioner _____, 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,

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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;

WHEREAS, the Commission determines to modify the proposal to include (a) the expansion of the annexation to County Fire Service Zone FP-5 to include the community commonly known as San Antonio Heights, and (b) to include the formation of Service FP-5 West Valley to isolate the revenues from the special tax impose for use only within its boundaries; 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", "A-1", "B", and "B-1" attached this resolution;

Condition No. 2. The following distinctive short form designation shall be used through this proceeding: LAFCO 3216.

Condition No. 3. The effective date of this reorganization shall be no earlier than July 1, 2017 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 to include annexation, the San Bernardino County Fire Protection District (hereafter shown as "County Fire") Valley Service Zone, as the Successor District to the fire and emergency medical response obligations of the City of Upland, 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 approval of the City of Upland Fire Department (City Fire). All property tax revenues attributable to the City of Upland transferred to County Fire prior to calculations required by Revenue and Taxation Code Section 96.1 and all other collections or assets of the City of Upland for its Fire Department shall accrue and be transferred to the Successor District(s) pursuant to Government Code Section 56886(i). Said Successor District(s) shall be subject to the terms and conditions contained herein.

Condition No. 5. All previously authorized charges, fees, assessments, and/or taxes currently in effect by San Bernardino County Fire Protection District Service Zone FP-5 (annexing agency) shall be extended to the annexing territory in the same manner as provided in the original authorization pursuant to Government Code Section 56886(t). Such revenues shall accrue and be deposited in accounts designated for the use of Service Zone

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FP-5 West Valley.

Condition No. 6. Upon the effective date of the reorganization including annexation, pursuant to the terms specified in the updated Plan for Service, attached hereto as Exhibit "C" and the updated Action Plan, attached hereto as Exhibit "D", all current full-time City Fire 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 current full-time City Fire Department Flight Nurses and Flight Paramedics shall transfer to the San Bernardino County Fire Protection District Special Operations Division 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. 7. Prior to the issuance of the Certificate of Completion, the City of Upland shall provide to the Executive Officer of LAFCO and the San Bernardino County Fire Protection District documentation that funds meeting the 75% confidence level of the Workers' Compensation Claim Reserve for all City fire suppression personnel and non-fire suppression personnel transferring to County Fire have been allocated and isolated in a trust account maintained by the City of Upland. The amount of the trust funds must be supported by the City of Upland's current actuarial report. The trust funds will be established by the effective date of LAFCO 3216 and shall be impressed with the public trust, use or purpose for the payment of Workers' Compensation claims for transferring employees. The City of Upland shall separately maintain such funds in accordance with the provisions of Government Code Section 57462.

No later than July 15 of each year, the City of Upland shall certify to the Successor District the amount in the trust fund, and an actuarial assessment of what is required to maintain funding at the 75% confidence level established above, and that the trust funds remain available for the use or purpose of the payment of Workers' Compensation claims for transferring employees. The City of Upland shall make such certification to the Successor District until all such Workers' Compensation claims have been retired. To the extent that funding falls below the 75% threshold, the City of Upland must make a further payment to the trust fund to meet the threshold. Funding that exceeds the 75% threshold, along with any funds remaining following retirement of all claims, shall be transferred to and become general funds of the City of Upland.

Condition No. 8. Upon the effective date of the reorganization including annexation, the City of Upland 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, and other City employees transferring to County Fire.

Condition No. 9. Upon the effective date of the reorganization including annexation, the City of Upland shall adopt the existing County Fire Ordinances and Fee Schedules.

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Condition No. 10. Upon the effective date of the reorganization including annexation, the Successor District shall accept all facilities transferred from the City of Upland 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 Upland 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 shall be prepared by the City of Upland City Manager's office and accepted by the San Bernardino County Surveyor to be filed and/or recorded upon the effective date of the reorganization to include annexation with a copy provided to LAFCO. All the documents to effectuate the transfer of leased lands and/or facilities or other entitlements for use of land and/or facilities shall be prepared by the City of Upland City Manager's office to be filed and/or recorded upon the effective date of the reorganization to include annexation with a copy provided to LAFCO. All the documents to transfer the title for vehicles shall be prepared by the City of Upland City Manager's office to be filed upon the effective date of the change with a copy provided to LAFCO.

Condition No. 11. Upon the effective date of the reorganization including annexation, San Bernardino County Fire Protection District shall accept all equipment transferred from the City of Upland in "as is" condition that relate to its air ambulance operations (pursuant to Government Code Section 56886(h)). All equipment and fixtures, office furniture, real and personal property and permits and licenses held by the City of Upland for the purpose of providing air ambulance service shall be transferred to the San Bernardino County Fire Protection District. All documents required to effectuate the transfer of lease holdings, title to modular units housing the operation, contract with Reach Air Medical Serviced LLC, and the permit, contract, and license for regional air ambulance issued by the Inland Counties Emergency Medical Agency shall be prepared by the City of Upland City Manager's office and submitted to the LAFCO Executive Officer prior to the issuance of the Certificate of Completion.

Condition No. 12. Any remaining payments, all rights and interests held or claimed by the City of Upland 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 and the Reach Air Medical LLC contract (transfer outlined above). The Successor District, Valley Service Zone, shall also assume all joint use, maintenance, automatic aid or mutual aid agreements held by the City of Upland 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. 13. 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 \$10,000,000 for Fiscal Year 2017-18 to recognize the anticipated first year proceeds of taxes for the provision of fire protection and emergency medical response and shall not be considered to be an amendment of the appropriation limit.

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Condition No. 14. Upon the effective date of this reorganization, the appropriation limit of San Bernardino County Fire Protection District, Service Zone FP-5 West Valley shall be established as \$4,000,000 for Fiscal Year 2017-18 to recognize the anticipated first year proceeds of taxes for the provision of fire protection and emergency medical response.

Condition No. 15. Upon the effective date of this reorganization, any funds currently deposited for the benefit of the City of Upland 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. 16. 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 Upland 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 Fire Department shall be allowed. Exceptions to this prohibition include planned and budgeted increases identified in the adopted budget for Fiscal Year 2016-17.
- 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.

Condition No. 17. The City of Upland 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, as modified to include San Antonio Heights, is legally inhabited with 42,734 registered voters as of January 26, 2017. The City of Upland has 40,513 voters as of January 8, 2017.
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 3215.
3. The County Assessor's Office has provided a determination that the total assessed valuation of the area as shown on the last equalized assessment roll (December 2016) is \$8,432,507,329 broken down as follows:

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Land	\$2,681,314,491
Improvements	\$5,933,232,704
Personal Property	\$ 209,797,232
Homeowners Exemption	(\$ 391,837,098)

4. Legal notice of the Commission's consideration of the proposal has been provided through publication of a legal advertisement in *The Inland Valley Daily Bulletin*, a newspaper of general circulation in the area. In addition, individual notices were provided to all affected and interested agencies, County departments and those individuals and agencies requesting special notice.
5. In compliance with the requirements of Government Code Section 56125, individual notice was mailed to landowners within the modified reorganization area (totaling 21,918) which includes the modified territory for annexation into SBCFPD Service Zone FP-5 (a special tax zone) – City of Upland corporate boundaries and the community of San Antonio Heights. 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 3216 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 3216 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 fire protection and emergency medical response will continue to be provided to the City of Upland by County Fire at a comparable service level; 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 Upland, Metropolitan Water District of Southern California, Inland Empire Utilities Agency, Chino Basin Water Conservation District, Monte Vista Water District, and the Inland Empire Resource Conservation District. The expansion of the area to include the community of San Antonio Heights adds the following public agencies: San Bernardino County Fire Protection District and its Valley Service Zone and County Service Area 70

The City of Upland 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

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Fire Protection District, and its Valley Service Zone will be expanded to include the territory of the City of Upland as a function of the reorganization. SBCFPD Service Zone FP-5 will be expanded to include the territory of the City of Upland and the community of San Antonio Heights along with the formation of FP-5 West Valley reflecting this annexation area 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 define range of services to residents, landowners, and governments within the corporate limits of the City of Upland. The Plan for Service, jointly submitted by the City of Upland 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 reorganization area and its residents 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 amended Plan for Service and Fiscal Impact Analysis.
11. The proposal complies with Commission policies that indicate the desire to provide for the establishment of appropriate, sustainable and logical municipal government structure for the distribution of an efficient and effective delivery of public services. Inclusion of the City of Upland within the jurisdictional boundary of the San Bernardino County Fire Protection District and its Valley Service Zone will allow the residents and landowners to receive the benefits of the economies of scale from a regional provider of fire protection and emergency medical response services.
12. This proposal will not affect the fair share allocation of the regional housing needs assigned to the City of Upland through the Southern California Association of Government's (SCAG) Regional Housing Needs Allocation (RHNA) process.
13. 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.
14. The County Board of Supervisors and the City of Upland have successfully completed the process for the determination of the transfer of ad valorem property tax revenues upon successful completion of this reorganization to the successor agencies, SBCFPD and its Valley Service Zone. This fulfills the requirements of Section 99 of the Revenue and Taxation Code.

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15. 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 30-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 APPROVED AND ADOPTED by the Local Agency Formation Commission
for San Bernardino County by the following vote:**

AYES: **COMMISSIONERS:**

NOES: **COMMISSIONERS:**

ABSENT: **COMMISSIONERS:**

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

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 March 23, 2017.

DATED:

KATHLEEN ROLLINGS-McDONALD
Executive Officer

DRAFT