

Exhibit 28

Resolution No. 2016-19
(Authorizing City Manager To Take All Necessary Actions to Comply with
LAFCO Conditions for Annexation into San Bernardino County Fire District)

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3 **RESOLUTION NO. 2016-19**

4 **RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN**
5 **BERNARDINO AUTHORIZING THE CITY MANAGER TO TAKE ALL NECESSARY**
6 **ACTIONS TO COMPLY WITH THE LOCAL AGENCY FORMATION COMMISSION**
7 **FOR SAN BERNARDINO COUNTY (LAFCO) CONDITIONS FOR ANNEXATION**
8 **INTO THE SAN BERNARDINO COUNTY FIRE DISTRICT**

9 **WHEREAS**, on May 18, 2015 the Mayor and Common Council adopted Resolution No.
10 2015-103 which approved the filing of the Plan of Adjustment with the United States Bankruptcy
11 Court, which included outsourcing fire services; and

12 **WHEREAS**, on August 24, 2015 the Mayor and Common Council adopted Resolution No.
13 2015-195 which approved submitting an application to the Local Agency Formation Commission for
14 San Bernardino County (LAFCO) for annexation into the San Bernardino County Fire Protection
15 District and authorized the City Manager to negotiate an agreement with County Fire for fire
16 services; and

17 **WHEREAS**, on January 27, 2016 the Local Agency Formation Commission for San
18 Bernardino County (LAFCO) passed Resolution No. 3211 approving the annexations into the San
19 Bernardino County Fire Protection District, its Valley Service Zone and Service Zone FP-5 of San
20 Bernardino County Fire Protection District, attached hereto as Exhibit "A;" and

21 **WHEREAS**, pursuant to Resolution No. 3211 there are several conditions that are required
22 to be met in order for the annexation to go through; and

23 **WHEREAS**, it is necessary to give the City Manager the authority to take all necessary steps
24 in order for the Annexation to be completed successfully;

25 **NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMON**
26 **COUNCIL OF THE CITY OF SAN BERNARDINO AS FOLLOWS:**

27 **SECTION 1.** The City Manager is hereby authorized to take any all actions necessary to
28 comply with all of the conditions listed in LAFCO Resolution No. 3211, attached hereto as
Exhibit "A" and incorporated herein.

SECTION 2. The City Manager is hereby authorized to execute all agreements
necessary to comply with all of the conditions listed in Exhibit "A" once the agreements have
been approved as to form by the City Attorney.

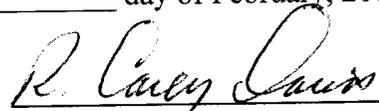
RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN BERNARDINO AUTHORIZING THE CITY MANAGER TO TAKE ALL NECESSARY ACTIONS TO COMPLY WITH THE LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY (LAFCO) CONDITIONS FOR ANNEXATION INTO THE SAN BERNARDINO COUNTY FIRE DISTRICT

I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the Mayor and Common Council of the City of San Bernardino at a joint regular meeting thereof, held on the 16th day of February, 2016, by the following vote, to wit:

<u>Council Members:</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
MARQUEZ	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
BARRIOS	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
VALDIVIA	<u> </u>	<u> </u>	<u> </u>	<u> X </u>
SHORETT	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
NICKEL	<u> </u>	<u> X </u>	<u> </u>	<u> </u>
JOHNSON	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
MULVIHILL	<u> X </u>	<u> </u>	<u> </u>	<u> </u>


Georgeann Hanna, CMC, City Clerk

The foregoing Resolution is hereby approved this 19th day of February, 2016.


R. Carey Davis, Mayor
City of San Bernardino

Approved as to form:
Gary D. Saenz, City Attorney

By: 

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

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(909) 388-0480 • Fax (909) 885-8170
E-mail: lafco@lafco.sbcounty.gov
www.sbclafco.org

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 _____, 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, 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,

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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

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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

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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 Verdemon 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

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- 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

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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.