CASE STUDY FOR ADDRESSING LEGACY COSTS FOR A FIRE PROTECTION SERVICE TRANSFER

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LAFCO 3200 – Reorganization to include Annexation to the San Bernardino County Fire Protection District, its South Desert Service Zone, and its Service Zone FP-5 & the divestiture of the fire function from Twentynine Palms Water District

Annexation to the San Bernardino County Fire Protection District and its South Desert Service Zone
The actions related to this proposal include:

- Annexation of the territory within the Water District boundaries to County Fire (administrative arm of the District or parent district) and its related Service Zones – South Desert (regional zone which provides boots on the ground service provision)

- Annexation of the territory within the Water District boundaries and the area outside of the Water District boundary generally described as the peninsula of land between Morongo Road and the City of Twentynine Palms, south of the Marine Corps Air Ground Combat Center into County Fire’s Service Zone FP-5. (special tax zone which provides funding for paramedics and fire protection); and,

- Divestiture of the fire function of the Water District allowing for the transfer of the operation to County Fire. Government Code Section 56824.10 et seq sets forth the responsibilities of LAFCO to determine the removal of an active power to provide a function or service authorized under an agency’s Principal Act. In this case, Water Code Section 31120 authorizes a Water District to provide fire protection services as outlined Health and Safety Code 13801 et seq.
LAFCO 3200 – Reorganization to include Annexation to the San Bernardino County Fire Protection District, its South Desert Service Zone, and its Service Zone FP-5 & the divestiture of the fire function from Twenty-nine Palms Water District

Annexation to the San Bernardino County Fire Protection District Service Zone FP-5
LAFCO 3200 – Reorganization to include Annexation to the San Bernardino County Fire Protection District, its South Desert Service Zone, and its Service Zone FP-5 & the divestiture of the fire function from Twentynine Palms Water District

Annexation to the San Bernardino County Fire Protection District Service Zone FP-5
Required Determinations:

BOUNDARIES: Do the boundaries presented for the reorganization represent a division which makes sense from a service delivery perspective for current and future growth? Are the boundaries definite, certain and easily recognizable? Do the boundaries promote efficient and effective service delivery?

LAND USE: Will approval of the proposal affect the land use authority or the decisions upon land use options?

FINANCIAL AND SERVICE CONSIDERATIONS: Does the reorganization represent the best available service option for the affected community? Does it provide for a more efficient and effective form of government? Can the annexing or successor district continue to provide the level of services which existed prior to the change? Would the approval of the reorganization impair the ability of any other agency to continue providing its range and level of services?

ENVIRONMENTAL: Will the proposed reorganization have an adverse environmental effect that cannot be mitigated to a level of non-significance? If it does, can those adverse effects be overridden by other benefits?
Annexation to San Bernardino County Fire Protection District Service Zone FP-5
Tribal Lands: Twenty-Nine Palms Band of Mission Indians

- Marine Corps Air Ground Combat Center (MCAGCC)
- San Bernardino County Fire Protection District
- Twenty-nine Palms Water District
- Joshua Tree National Park

Legend:
- LAFCO 3199 - Sphere of Influence Amendment (Expansion) for the San Bernardino County Fire Protection District
- LAFCO 3200 - Reorganization to include Annexation to the San Bernardino County Fire Protection District, its South Desert Service Zone, and the divestiture of the fire function from Twentynine Palms Water District

- Twenty-Nine Palms Band of Mission Indians
- Sphere Expansion & Reorganization Area
- San Bernardino County Fire Protection District
- Joshua Tree National Park
- Marine Corps Air Ground Combat Center
ISSUES FOR CONSIDERATION

How would you propose to address legacy Issues identified as:

1. Method to address payment of existing safety retirement unfunded balance after transfer of fire operation estimated at $2,950,000. Palms Water District will no longer have a safety component and no revenue stream to fund the cost.

2. All employees, excluding the Fire Chief, will transfer to County Fire and a mechanism to address existing Workers’ Compensation claims will need to be identified.

3. Transfer of facilities which are owned by District but funded through a cooperative arrangement with the City of Twentynine Palms.
Unfunded Retirement Obligations:

At the outset of the review, it was estimated that the unfunded retirement obligation for closure of the Safety portion of the District’s PERS contract would be in the range of $1,000,000 and LAFCO staff proposed the creation of a separate service zone to address that liability. However, it was learned in late November that the amount was actually estimated at $2,950,000, three times the original estimate as well as learning in late January that the creation of a Service Zone to address payment would not be agreed to by the County.

To address this changed circumstance the City of Twentynine Palms and the Twentynine Palms Water District reached a contractual arrangement which required concurrence of LAFCO as a part of the proceedings:

- the Safety portion of the District’s PERS contract will be placed in “inactive” status upon the effective date of the reorganization; and,

- that the City will assume the long-term obligation for the unfunded balance not covered by existing financing through a contractual relationship.
Irrevocable Trust Unique Aspects:

- The City of Twentynine Palms shall provide for an Irrevocable Trust Account through Public Agency Retirement System (PARS);

- The District’s fund balance at June 30, 2016, less outstanding payments, including but not limited to, the Fire Chief’s severance package, the payment of sick/vacation leave to be transferred to County Fire, and the 2016-17 payment to PERS for inactive status for an estimate of $746,623 will be deposited in the irrevocable Trust upon the effective date of the proposal;

- The Water District’s Fire Station #421 will be sold to the City for $250,000 and in turn the funds will be deposited in the Irrevocable Trust;

- The Water District shall pay to the City (or directly to the Trust) one-half its annual receipts from its cell tower leases for a five-year period not to exceed $200,000; and,

- 50% of the proceeds of prior year Ordinance #89 tax proceeds and fines and delinquencies on an annual basis shall be deposited.
The terms and conditions recommended by staff to address these items are:

- Upon the effective date of the reorganization, the San Bernardino County Fire Protection District (SBCF PD) South Desert Service Zone, as the Successor District to the fire protection and emergency medical response obligations of the Twentynine Palms Water District through divestiture of its fire function, shall succeed and/or be assigned all rights, duties, responsibilities, properties (both real and personal except as further described in conditions below), contracts, equipment, assets, liabilities (excluding California Public Employees Retirement Fund as detailed in condition e below), obligations, functions, executory provisions, entitlements, permits, and approvals of the Twentynine Palms Fire Department (a division of the Water District hereafter identified as 29 Palms Fire). All outstanding special parcel tax revenues attributable to the Twentynine Palms Water District Ordinance #89 for fire protection and emergency medical response including delinquent taxes and any and all other collections or assets of Twentynine Palms Water District Fire Department, shall accrue and be transferred to the Successor District pursuant to 56886(i). Said Successor Districts shall be subject to the terms and conditions contained herein.
Upon the effective date of the reorganization including annexation and divestiture, 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 29 Palms Fire employees (excluding the Fire Chief) shall transfer to the San Bernardino County Fire Protection District South Desert Service Zone with comparable position classifications, rates of pay, accrued vacation and sick leave, vacation and sick leave accrual rates, and seniority rights. Said employees 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.

Upon the effective date of the reorganization including annexation and divestiture, the Twentynine Palms Water District shall retain the obligations for PERS unfunded retirement obligations attributed to the safety portion of the District’s CalPERS plan, or other contractual obligations related to retirement approved by the District for all suppression and prevention District employees transitioning to County Fire. Prior to issuance of the Certificate of Completion a copy of the signed...
...contractual agreement between the Water District and the City of Twentynine Palms shall be provided to LAFCO. Such agreement shall address the full satisfaction of such unfunded liability, both during inactive status and upon termination of the safety portion of the District’s CalPERS plan, minus a lump sum payment of the estimated ongoing unfunded liability as of June 30, 2016 by the District out of the Fire Department fund balance made prior to the effective date of the reorganization. The remaining unfunded liability, both during inactive status and upon termination of the safety portion of the District’s CalPERS plan, shall be paid first from assets deposited in an irrevocable trust dedicated exclusively to the payment of such unfunded liability and consisting of, but not limited to:

(i) Fire Department fund balance at June 30, 2016 less amounts for payment of severance, compensated sick leave transfer to County Fire, payment of vacation buyouts and annexation costs specified in the contractual agreement;

(ii) receipts for the sale of the Fire Station to the City of Twentynine Palms; and

(iii) the payment of additional annual revenues as specified in the contractual agreement.

Any remaining unfunded liability not covered from assets in the irrevocable trust shall be provided for in full pursuant the terms of the contractual agreement;
• Prior to the issuance of the Certificate of Completion, the Twentynine Palms Water District shall provide to the Executive Officer of LAFCO documentation that it has obtained a Worker’s Compensation tailing insurance policy covering all worker compensation claims of all Twentynine Palms Water District fire suppression personnel transitioning to County Fire.

• Upon the effective date of the reorganization to include annexation and divestiture, Ordinance #89 for collections of a special tax upon the real property within the boundaries of the Twentynine Palms Water District for years 2016-17 and beyond shall be void.
Proposed Facility Transfer Conditions:

- Upon the effective date of the reorganization including annexation and divestiture, the Successor District shall accept all facilities transferred from the Twentynine Palms Water District 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, lands, buildings, real and personal property and appurtenances held by the Twentynine Palms Water District as identified in the Employee/Property Transition Plan identified as Exhibit “C” to this resolution, except for Fire Station #421 are to be transferred to the City of Twentynine Palms, for the purpose of providing fire protection and emergency medical response shall be transferred to the Successor District, the South Desert 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 Twentynine Palms Water District to be filed upon the effective date of the change with copies provided to LAFCO.
Proposed Facility Transfer Conditions:

- Prior to the issuance of the Certificate of Completion for the reorganization to include annexation and divestiture, pursuant to the provisions outlined in Government Code Section 56886 (i), (o) and (s), the Commission requires that the successor district, the South Desert Service Zone of SBCFPD and the City of Twentynine Palms enter into a lease agreement for the continuing use of Fire Station #421 and provide a copy to the Local Agency Formation Commission. The lease payments are identified by the affected parties to provide for payment of the following:

  1. Repayment for improvements at Station #421 funded by the City of Twentynine Palms with a seven-year payment schedule for a total of approximately $210,000; and,

  2. Transfer of 50% of the proceeds of prior Twentynine Palms Water District Ordinance #89 special fire taxes and fines, forfeitures and penalties attributable to the operations of the Twentynine Palms Water District to be placed in the Irrevocable Trust for Unfunded Retirement payments annually outlined in Condition e above.
QUESTIONS