

RESOLUTION NO. 5056

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE FALLBROOK PUBLIC UTILITY DISTRICT, SAN DIEGO COUNTY, CALIFORNIA, CALLING FOR THE PLACEMENT OF A MEASURE ON THE BALLOT AT THE NOVEMBER 7, 2023 SPECIAL DISTRICT ELECTION FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF A PROPOSED RESOLUTION DETACHING THE DISTRICT FROM THE SAN DIEGO COUNTY WATER AUTHORITY

WHEREAS, the Fallbrook Public Utility District ("District") is a California public agency/special district governed by an elected five-member Board of Directors ("Board") and is authorized and empowered by applicable law to serve as the retail water provider to residents and businesses located within the District's boundaries; and

WHEREAS, the District is a member public agency of and currently receives wholesale water supply from the San Diego County Water Authority, a California water authority duly organized and operating under California law (the "Water Authority"); and

WHEREAS, on December 9, 2019, the Board of the District unanimously adopted Resolution No. 4985, a Resolution of Application "Requesting the San Diego Local Agency Formation Commission to Commence Proceedings for the Detachment/ Exclusion of FPU from the San Diego County Water Authority and Annexation into the Eastern Municipal Water District" ("Resolution of Application"); and

WHEREAS, the District's Resolution of Application stated the reasons supporting the Resolution of Application, including, the desire to stabilize long-term water costs to address affordability and sustainability issues for the benefit of the District's ratepayers and the desire to better provide water supplies to those within its boundaries undertaking agricultural activities, in support of the local economy; and

WHEREAS, on March 19, 2020, the District filed, with the San Diego Local Agency Formation Commission ("SDLAFCO"), the Resolution of Application together with an application and other materials required under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and/or SDLAFCO ("Reorganization Application"); and

WHEREAS, on June 1, 2020, SDLAFCO approved the establishment of an advisory committee ("Ad Hoc Committee") to directly assist the SDLAFCO Executive Officer in the administrative review of the District's Reorganization Application; and

WHEREAS, the Ad Hoc Committee subsequently held 13 public meetings between December 2020 and April 2023, which meetings focused on review of issues related to water supply reliability, financial impacts, and potential exit fees, as related to the District's Reorganization Application; and

WHEREAS, on February 7 & March 7, 2022, SDLAFCO received and approved a final report on a scheduled municipal service review on the Fallbrook region and the local agencies operating therein subject to the Commission's oversight – including the District; and

WHEREAS, on July 10, 2023, SDLAFCO, acting in its established quasi-legislative capacity pursuant to authority delegated to it by the California Legislature, approved the District's Reorganization Application following consideration of the same at duly noticed public hearings held on both June 5, 2023 and July 10, 2023; and

WHEREAS, SDLAFCO's approval of the District's Reorganization Application imposed various terms and conditions, which terms and conditions must be satisfied no later than July 10, 2024, and which include, but are not limited to, a requirement that the District submit to its electors at a general or special election, the proposition of legally detaching from the Water Authority, pursuant to the provisions of the County Water Authority Act, California Water Code Appendix section 45-11(a)(2), regarding such election in effect at the time the SDLAFCO Executive Officer issued the Certificate of Filing for the District's Reorganization Application; and

WHEREAS, the SDLAFCO Executive Officer issued the Certificate of Filing for the District's Reorganization Application on May 26, 2023; and

WHEREAS, the District consists of approximately 28,193, acres and the geographic area where the existing District's powers are exercised shall remain unchanged following detachment from the San Diego County Water Authority and annexation into Eastern Municipal Water District; and

WHEREAS, as part of its action to approve the Resolution of Application on December 9, 2019, the Board of the District found that the detachment/exclusion of the District from the San Diego County Water Authority and annexation into the Eastern Municipal Water District is exempt from the California Environmental Quality Act ("CEQA") under CEQA Guidelines section 15320 and 15061(b)(3) and the District filed a Notice of Exemption on December 24, 2019; and

WHEREAS, Otay Water District brought a CEQA action challenging the District's exemption determination, which action was resolved through a stipulated judgment that left the District's exemption determination intact; and

WHEREAS, on July 10, 2023, SDLAFCO Commission independently concurred with the District's exemption finding, and found that the annexation of the District's territory to the Eastern Municipal Water District and detachment from the Water Authority is exempt from CEQA under CEQA Guideline section 15320 and SDLAFCO filed a Notice of Exemption on July 17, 2023; and

WHEREAS, the Board of Directors of the District desires to submit to the voters a measure that would legally detach/exclude the District as a member from the Water Authority; and

WHEREAS, California Water Code Appendix section 45-11(a)(2), provides that any public agency whose area is a part of any county water authority may obtain the exclusion of the agency's area with voter approval; and

WHEREAS, section 45-11(a)(2) states, in pertinent part:

"The governing body of any public agency may submit to the electors thereof at any general or special election the proposition of excluding from the county water authority the corporate area of the public agency. Notice of the election shall be given in the manner provided in subdivision (c) of Section 10. The election shall be conducted and the returns thereof canvassed in the manner provided by law for the conduct of elections in the public agency. If a majority of electors voting thereon vote in favor of withdrawal, the result thereof shall be certified by the governing body of the public agency to the board of directors of the county water authority. . . ."

; and

WHEREAS, pursuant to California Water Code Appendix section 45-11(a)(2), the Board of Directors is authorized to place this detachment/exclusion measure on the next special election date provided by law to be considered by District voters; and

WHEREAS, pursuant to California Elections Code section 1000(e), the next available special election date will be November 7, 2023; and

WHEREAS, the legal deadline to place measures on the ballot is 88 days prior to the scheduled election, which for the November 7, 2023 election date is August 11, 2023; and

WHEREAS, on August 11, 2023, the Board of Directors held a public meeting regarding calling an election on a ballot measure approving detachment/exclusion of the District from the Water Authority; and

WHEREAS, the terms of the District's detachment/exclusion from the Water Authority are described and provided for in the Resolution to be considered by the

qualified voters, attached hereto as Exhibit "A" (the "Measure") and by this reference made an operative part hereof, and in accordance with all applicable laws.

NOW, THEREFORE, BE IT RESOLVED BY the Board of Directors of the Fallbrook Public Utility District as follows:

1. Findings. The Board of Directors finds that all of the preceding recitals are true and correct and are hereby incorporated and adopted as findings and determinations by the Board of Directors as if fully set forth herein.

2. Submission of Measure. Pursuant to California Water Code Appendix section 45-11(a)(2) and any other applicable requirements of the laws of the State of California relating to the District, the Board of Directors, by a majority vote, hereby orders the Measure to be submitted to the voters of the District at the Special District Election to be held on Tuesday, November 7, 2023.

3. The ballot question for the Measure shall be presented and printed upon the ballot submitted to the voters in the manner and form set forth in this Section 3. On the ballot to be submitted to the qualified voters at the Special District Election to be held on Tuesday, November 7, 2023, in addition to any other matters required by law, there shall be printed substantially the following:

<p>"FALLBROOK PUBLIC UTILITY DISTRICT DETACHMENT MEASURE:</p> <p>Shall the detachment of Fallbrook Public Utility District from San Diego County Water Authority, as approved by the San Diego Local Agency Formation Commission on July 10, 2023 by adoption of Resolution No. 2023-11 - "Fallbrook PUD Reorganization," subject to the terms and conditions specified in the Resolution, which terms and conditions include payment of an exit fee by Fallbrook Public Utility District to San Diego County Water Authority, all as more particularly described and set forth in the Resolution, be confirmed?"</p>	<p>YES</p> <p>NO</p>
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4. Conduct of Election. The District's Board Secretary, in coordination with the San Diego County Registrar of Voters/Elections Official, is authorized, instructed, and directed to procure and furnish or cause to be procured and furnished, any and all official ballots, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding special district elections.

5. Notice of Election. Notice of the time and place of holding the election is hereby given, and the Registrar of Voters/Elections Official is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

6. Impartial Analysis. Pursuant to California Elections Code section 9313, the Board of Directors hereby directs the Elections Official to transmit a copy of the Measure as set forth herein to the San Diego County Counsel's Office. The County Counsel's Office shall prepare an impartial analysis of the Measure, not to exceed 500 words in length, showing the effect of the Measure on the existing law and the operation of the measure, and transmit such impartial analysis to the Registrar of Voters/Elections Official not later than the date set by the Registrar of Voters/Elections Official, who shall cause the analysis to be published in the voter information guide along with the Measure as provided by law. The impartial analysis shall include a statement indicating whether the Measure was placed on the ballot by a petition signed by the requisite number of voters or by the Board of Directors. In the event the entire text of the Measure is not printed on the ballot, or in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-font bold type, the following: **"The above statement is an impartial analysis of Measure ____". If you desire a copy of the measure, please call the election official's office at (800) 696-0136 and a copy will be mailed at no cost to you."**

7. Certification. The District's Board Secretary shall certify to the adoption of this Resolution.

8. Filing with County. The District's Board Secretary shall file with the County Registrar of Voters/Elections Official of the County of San Diego, State of California, a certified copy of this Resolution.

9. Public Examination. Pursuant to California Elections Code section 9380, this Measure will be available for public examination for ten (10) calendar days prior to being submitted for printing in the voter information guide. The District's Board Secretary shall post notice in the District's Board Secretary's office of the specific dates that the examination period will run.

PASSED AND ADOPTED by the Board of Directors of the Fallbrook Public Utility District at a special meeting of the Board held on the 11th day of August, 2023, by the following vote:

AYES:	Directors Baxter, DeMeo, Endter, McDougal, and Wolk
NOES:	None
ABSTAIN:	None
ABSENT:	None



President, Board of Directors

ATTEST:



Secretary, Board of Directors

**FALLBROOK PUBLIC UTILITY DISTRICT
BOARD OF DIRECTORS**

CERTIFICATE

I, Lauren Eckert, Executive Assistant/Board Secretary of the Board of Directors of the Fallbrook Public Utility District, do hereby certify that the attached and foregoing is a full, true, and correct copy of Resolution No. 5056 of said Board passed and adopted at a special meeting of the Board of Directors of the Fallbrook Public Utility District on the 11th day of August, 2023.

Executed this 11th day of August, 2023, at Fallbrook, California.





Executive Assistant/Board Secretary
Fallbrook Public Utility District

Exhibit “A”

RESOLUTION NO. _____

MEASURE “ _____ ”

A RESOLUTION OF THE PEOPLE OF THE FALLBROOK PUBLIC UTILITY DISTRICT, CALIFORNIA, APPROVING THE DETACHMENT/EXCLUSION OF THE DISTRICT’S TERRITORY FROM THE SAN DIEGO COUNTY WATER AUTHORITY.

NOW, THEREFORE, BE IT RESOLVED BY THE PEOPLE OF THE FALLBROOK PUBLIC UTILITY DISTRICT AS FOLLOWS:

1. **Voter Approval of Detachment/Exclusion of Territory.** The proposition of detaching all territory within the boundaries of the Fallbrook Public Utility District (“District”) from the San Diego County Water Authority (“CWA”) is hereby approved by the voters, subject to the terms and conditions imposed by the San Diego County Local Agency Formation Commission (“SDLAFCO”), as set forth in its Resolution Making Determinations, Approving, And Ordering A Reorganization (Resolution No. 2023-11) adopted July 10, 2023 (“SDLAFCO Resolution”).

2. **SDLAFCO Terms and Conditions of Detachment/Exclusion of Territory.** The following terms and conditions of the detachment shall be satisfied as required by the SDLAFCO Resolution by July 10, 2024 unless otherwise specified in the SDLAFCO Resolution:

- A. The 30-day reconsideration period provided under Government Code 56895 was completed on August 9, 2023;
- B. District shall submit to SDLAFCO a final map and geographic description of its territory;
- C. District shall submit checks made payable to SDLAFCO for the reimbursement of various fees, and to the State Board of Equalization for processing fees, as required by the SDLAFCO Resolution;
- D. District executed an obligation to indemnify and hold harmless SDLAFCO, its officers, agents, employees and volunteers in the manner required by the SDLAFCO Resolution on July 31, 2023; and
- E. District shall pay an exit fee of \$8,506,750.00 to CWA in five annual installments of \$1,701,350.00, with the first installment to be paid within 30 days of the certification of the results of the election, and the remaining installments to be paid on the anniversary of the initial payment.

3. **Effective Date.** Pursuant to California Water Code Appendix section 45-11(a)(2) and California Elections Code section 9320, if a majority of the qualified voters voting in the election on Measure “___” vote in favor of the adoption of such Measure, this Resolution shall be deemed valid and binding and shall be considered as adopted upon the date that the vote is declared by the Board of Directors. Pursuant to the SDLAFCO Resolution and Government Code section 57202, the detachment/exclusion shall not be effective until the San Diego Local Agency Formation Commission executes and records a certificate of completion confirming its order of the change of organization after all terms set forth in the SDLAFCO Resolution have been completed as attested by the SDLAFCO Executive Officer.

4. **California Environmental Quality Act Compliance.** The District and LAFCO made separate determinations that the proposed Reorganization is exempt from the California Environmental Quality Act, with the District filing a Notice of Exemption on December 24, 2019 and SDLAFCO filing a Notice of Exemption on July 17, 2023.

5. **Severability.** If any section, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Resolution. The People of the Fallbrook Public Utility District hereby declare that they would have adopted this Resolution and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

6. **Certification/Summary.** Following the certification by the Registrar of Voters/Elections Official that the voters of the District have approved this Resolution, the President shall sign this Resolution and the District Secretary shall cause the same to be entered in the book of original resolutions of said District.

APPROVED and **ADOPTED** this 7th day of November, 2023.

President of the Board of Directors
Fallbrook Public Utility District

ATTEST:

Secretary, Board of Directors
Fallbrook Public Utility District