

EXECUTIVE OFFICER'S REPORT

To The

Imperial Local Agency Formation Commission

Commissioner **David H. West** [Public]

Commissioner **Michael W. Kelley** [Supervisor]

Commissioner **Jason Jackson** [City] (Vice-Chair)

Commissioner **Ray Castillo** [Supervisor] (Chair)

Commissioner **Maria Nava-Froelich** [City]

Alternate Commissioner **Jesus E. Escobar** [Supervisor]

Alternate Commissioner **Jim Predmore** [City]

Alternate Commissioner **Ed Snively** [Public]

REPORT DATE: January 2, 2020

FROM: Jurg Heuberger, Executive Officer 

PROJECT: Extension of Water Service by HPUD to BFBC, LLC. (HPUD 1-19)

HEARING DATE: January 23, 2020

TIME: 08:30 a.m.

AGENDA ITEM NO: 6Biii

HEARING LOCATION: El Centro City Council Chambers, 1275 Main St., El Centro, CA 92243

RECOMMENDATION(S) BY THE EXECUTIVE OFFICER (In Summary & Order)

OPTION #1: Informational item only

ANALYSIS/REPORT

I: Legal Requirements:

Government Code 56133 (a) a city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval by the commission.

Government Code 56133 (d) in part states "When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meetings for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of requests made pursuant to this section to the executive officer "The commission or executive officer shall approve, disapprove, or approve with conditions the extended services."

II: Applicant

An application for an Extension of Water was received on September 5, 2019. **EXHIBIT A**
BFBC, LLC (applicant) proposes to obtain water by the Heber Public Utility District to utilize solely for the construction of the "El Centro 1 Pedestrian Fence Replacement" located on Highway 89 and Signal Road in Calxico, CA.

III: Capacity

Based on the Heber Public Utility Districts Service Area Plan dated January 2018, the district's current Water Treatment Plants capacity is 4.0 million gallons/day(MGD). The plants peak demand in the month of August (highest consumption month) was 1.4 MGD. The District has adequate capacity to serve this project.

IV. LAFCO Approval

The Executive Officer authorized the Extension of Water on September 10, 2019. **EXHIBIT B**
Resolution #2019-10.

V: District Approval

The District authorized the extension of water service on September 19, 2019. **EXHIBIT C**

LAFCO Policy

The proposed Extension of Service is consistent with the Cortese-Knox-Hertzberg Reorganization Act of 2000, and the Imperial LAFCO Policies and Procedures. Furthermore, the District agreed that according to and pursuant to LAFCO's authority granted to the Executive Officer, the request was approved by the Executive Officer.

Attachments:

Exhibit A: Application
Exhibit B: LAFCO Authorization
Exhibit C: District Authorization

CC: Applicant
HPUD
Files: HPUD 1-19

EXHIBIT A

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SEP 05 2019

Imperial County
Local Agency Formation Commission

APPLICATION

PETITION FOR PROCEEDINGS PURSUANT TO THE CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT OF 2000

The undersigned hereby petition(s) the Local Agency Formation Commission of Imperial County for approval of a proposed change of organization, and stipulate(s) as follows:

OWNER INFORMATION	
NAME <i>Laura Fischer</i>	COMPANY <i>Heber Public Utility District</i>
MAILING ADDRESS <i>1018 Dogwood rd., suite 103</i>	TELEPHONE NUMBER <i>760-482-2440</i>
CITY, STATE, ZIP <i>Heber, Ca. 92249</i>	EMAIL ADDRESS <i>lfischer@heber.ca.gov</i>
APPLICANT INFORMATION (IF DIFFERENT FROM THE OWNER)	
NAME <i>CODY O'HARE</i>	COMPANY <i>BFB, LLC</i>
MAILING ADDRESS <i>701 GOLD AVE</i>	TELEPHONE NUMBER <i>(406) 579-9321</i>
CITY, STATE, ZIP <i>BOZEMAN, MONTANA 59715</i>	EMAIL ADDRESS
PROJECT INFORMATION	
NAME OF PROPOSAL <i>EL CENTRO 7 PEDESTRIAN BRIDGE REPLACEMENT</i>	DATE <i>SEP. 5 2019</i>
PROJECT ADDRESS <i>HWY 98 / SIGNAL ROAD</i>	APN(S)
CITY, STATE, ZIP <i>CALEXICO, CA 92531</i>	TOTAL LAND AREA (ACRES)
THIS PROPOSAL IS MADE PURSUANT TO CALIFORNIA GOVERNMENT CODE (COMMENCING WITH SECTION 56000, CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT OF 2000).	
1	PROPOSED CHANGES OF ORGANIZATION: <input type="checkbox"/> ANNEXATION <input type="checkbox"/> SPHERE OF INFLUENCE <input type="checkbox"/> OTHER <input type="checkbox"/> DETACHMENT <input type="checkbox"/> CONSOLIDATION <input checked="" type="checkbox"/> <i>Temporary</i> <input type="checkbox"/> INCORPORATION <input type="checkbox"/> FORMATION OF _____ EXTENSION OF SERVICES
2	NAME OF THE CITY SPECIAL DISTRICT BEING AFFECTED <i>Heber Public Utility District</i>
3	THE PROPOSED BOUNDARIES OF THE TERRITORY(ES) INCLUDED IN THE PROPOSAL ARE AS DESCRIBED IN THE EXHIBIT(S) ATTACHED HERETO AND BY THIS REFERENCE INCORPORATED HEREIN. <input type="checkbox"/> YES, BOUNDARY EXHIBITS ARE ATTACHED - <i>service AUA plan on file</i>

4	PLEASE LIST ANY OTHER DOCUMENTS BEING SUBMITTED WITH THE APPLICATION (EXCEPT THOSE ALREADY REQUIRED BY LAFCO)	
5	THE TERRITORY(IES) INCLUDED IN THE PROPOSAL IS ARE:	<input type="checkbox"/> UNINHABITED <input type="checkbox"/> INHABITED (12 OR MORE REGISTERED VOTERS)
6	CURRENTLY, THE TERRITORY(IES) INCLUDED IN THE PROPOSAL IS ARE:	<input type="checkbox"/> DEVELOPED <input type="checkbox"/> UNDEVELOPED
7	IS THIS PROPOSAL CONSISTENT WITH THE SPHERE OF INFLUENCE OF THE AFFECTED CITY AND OR DISTRICT?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
8	PLEASE DESCRIBE IN DETAIL, THE REASONS FOR THE PROPOSED CHANGE OF ORGANIZATION (ANNEXATION, DETACHMENT, ETC) - USE ATTACHED SHEET IF NECESSARY	
9	THE PROPOSED CHANGE OF ORGANIZATION IS REQUESTED, SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:	
10	WOULD THIS PROPOSAL CREATE AN ISLAND OF UNINCORPORATED TERRITORY? IF YES, PLEASE EXPLAIN.	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
11	IS THERE A GOOD LIKELIHOOD OF A SIGNIFICANT INCREASE IN POPULATION IN THE SUBJECT AREA WITHIN THE NEXT TEN YEARS?	
IN UNINCORPORATED AREAS? <input type="checkbox"/> YES <input type="checkbox"/> NO IN INCORPORATED AREAS? <input type="checkbox"/> YES <input type="checkbox"/> NO ESTIMATED ADDITIONAL POPULATION _____		
12	WHAT IS THE EXISTING ZONING? _____ WHAT IS THE PROPOSED ZONING? _____	
13	HAS OR IS THE AREA BEEN BEING PRE-ZONED? <input type="checkbox"/> YES <input type="checkbox"/> NO	
WHAT IS THE PRE-ZONING CLASSIFICATION? _____		
WHAT DATE WAS THIS PRE-ZONED? _____		

14	WHAT IS THE PLANNED GENERAL PLAN DESIGNATION OF THE AREA BY THE AFFECTED CITY? <hr/> <hr/>
15	DESCRIBE ANY SPECIAL LAND USE CONCERNS EXPRESSED IN THE ABOVE PLANS <hr/> <hr/>
16	SPECIFY ANY AND ALL EXISTING LAND USES _____ <hr/> WHAT ARE THE PROPOSED LAND USES? _____ <hr/> DESCRIBE YOUR PROJECT IN DETAIL _____ <hr/> <hr/>
17	DOES THE APPLICATION CONTAIN 100% WRITTEN CONSENT OF EACH PROPERTY OWNER IN THE SUBJECT TERRITORY? <input type="checkbox"/> YES <input type="checkbox"/> NO
18	WILL THE ANNEXED TERRITORY BE LIABLE FOR ITS SHARE OF EXISTING BONDED INDEBTEDNESS? <input type="checkbox"/> YES <input type="checkbox"/> NO
19	WILL THE ANNEXED TERRITORY BE INCLUDED WITHIN ANY PARTICULAR TAX DIVISION OR ZONE OF THE ANNEXING TERRITORY? PLEASE SPECIFY <hr/> <hr/>
20	IF THE PROPOSAL INCLUDES THE CONSOLIDATION OF SPECIAL DISTRICTS, THE PROPOSED NAME OF THE CONSOLIDATED DISTRICT IS: <hr/> <hr/>
21	IF AN INCORPORATION IS INCLUDED IN THE PROPOSAL: (A) THE NAME PROPOSED FOR THE NEW CITY IS _____ (B) PROVISIONS ARE REQUESTED FOR APPOINTMENT OF: (i) CITY MANAGER <input type="checkbox"/> YES <input type="checkbox"/> NO (ii) THE CITY CLERK AND CITY TREASURER <input type="checkbox"/> YES <input type="checkbox"/> NO

22	<p>IF THE FORMATION OF A NEW DISTRICT(S) IS INCLUDED IN THE PROPOSAL:</p> <p>(A) THE PRINCIPAL ACT(S) UNDER WHICH SAID DISTRICT(S) IS ARE PROPOSED TO BE FORMED IS ARE</p> <p>_____</p> <p>_____</p> <p>(B) THE PROPOSED NAME(S) OF THE NEW DISTRICT(S) IS ARE</p> <p>_____</p> <p>_____</p> <p>(C) THE BOUNDARIES OF THE PROPOSED NEW DISTRICT(S) ARE AS DESCRIBED IN EXHIBITS _____, INCORPORATED HEREIN.</p>
23	<p>THE PERSON(S) SIGNING THIS PETITION HAVE SIGNED AS _____ (CHECK ONLY ONE)</p> <p><input type="checkbox"/> REGISTERED VOTERS</p> <p><input type="checkbox"/> OWNERS OF LAND</p>
24	<p>AS REQUIRED, THE FOLLOWING ITEMS ARE ENCLOSED WITH THIS APPLICATION:</p> <p><input checked="" type="checkbox"/> DEPOSIT \$2,000- <input type="checkbox"/> LEGAL DESCRIPTION</p> <p><input checked="" type="checkbox"/> INDEMNIFICATION AGREEMENT <input type="checkbox"/> ANNEXATION MAP (10 COPIES)</p>

Laura Jocher
 APPLICANT SIGNATURE

9.3.19
 DATE

Please complete the names and addresses of **additional** persons (**not including** the owner/applicant previously listed at the beginning of the application) who are requesting to have furnished copies of the agenda and Executive Officer's Report and/or mailed notices of the hearing of this proposal. Please attach additional pages if necessary.

PERSON 1	REQUESTS: <input type="checkbox"/> AGENDA COPIES <input type="checkbox"/> PUBLIC NOTICE OF HEARING <input type="checkbox"/> HEARING PACKAGE HARD COPY <input type="checkbox"/> HEARING PACKAGE ON CD
NAME	COMPANY
MAILING ADDRESS	TELEPHONE NUMBER
CITY, STATE, ZIP	EMAIL ADDRESS

PERSON 2	REQUESTS: <input type="checkbox"/> AGENDA COPIES <input type="checkbox"/> PUBLIC NOTICE OF HEARING <input type="checkbox"/> HEARING PACKAGE HARD COPY <input type="checkbox"/> HEARING PACKAGE ON CD
NAME	COMPANY
MAILING ADDRESS	TELEPHONE NUMBER
CITY, STATE, ZIP	EMAIL ADDRESS

NOTICE:

*Prior to the effective date of any jurisdictional change (i.e. annexation, detachment, etc.) the governing bodies of all agencies whose service areas or service responsibilities would be altered by such change shall meet to determine the amount of property tax revenues to be exchanged between and among such affected agencies. Notwithstanding any other provisions of law, no such jurisdictional change shall become effective until each county and city included in such negotiation agrees, **BY RESOLUTION**, to accept the negotiated exchange of property tax revenues.*

NOTE:

The resolutions referred to above shall be attached to this application prior to filing with the Local Agency Formation Commission. The Executive Officer of the Local Agency Formation Commission shall not issue a Certificate of Completion (COC) until such resolution is filed with LAFCO.

Wherefore, petitioner(s) request(s) that proceedings be taken in accordance with the provisions of Section 56000, et seq. of the Government Code and herewith affix signature(s) as follows:

Chief Petitioners (not to exceed three):

_____ PRINT NAME	_____ DATE
_____ SIGNATURE	_____ RESIDENCE ADDRESS
_____ PRINT NAME	_____ DATE
_____ SIGNATURE	_____ RESIDENCE ADDRESS
_____ PRINT NAME	_____ DATE
_____ SIGNATURE	_____ RESIDENCE ADDRESS

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Imperial County
Local Agency Formation Commission



INDEMNIFICATION AGREEMENT

As part of this application, applicant and real party in interest, if different, agree to defend, indemnify, hold harmless, and release the Imperial County Local Agency Formation Commission, its agents, officers, attorneys, and employees (including consultants) from any claim, action, or proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney fees, or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of this application, whether or not there is concurrent negligence on the part of the Imperial County Local Agency Formation Commission, its agents, officers, attorneys, or employees (including consultants).

If any claim, action, or proceeding is brought against Imperial County Local Agency Formation Commission, its agents, officers, attorneys, or employees, to attack, set aside, void, or annul the approval of the application or adoption of the environmental document which accompanies it, then the following procedures shall apply:

1. The Executive Officer shall promptly notify the Commission of any claim, action or proceeding brought by an applicant challenging the Commission's action. The Commission, its agents, attorneys and employees (including consultants) shall fully cooperate in the defense of that action.
2. The Commission shall have final determination on how to best defend the case and may defend it with in-house counsel, or by retaining outside counsel. In either case applicant shall be fully responsible for all costs incurred. Applicant may request to provide his or her own counsel to defend the case, however prior written approval of the Commission shall be obtained. Said independent counsel shall work with LAFCO counsel to provide a joint defense and shall include a complete defense of LAFCO to the satisfaction of the Commission.

EXECUTED IN El Centro CALIFORNIA ON September 5 2019

APPLICANT

NAME (PRINT): Heber Public Utility District
TITLE: General Manager
SIGNATURE: Paula Graf
MAILING ADDRESS:
1078 Dogwood Rd., Suite 103
Heber, Ca. 92249

REAL PARTY IN INTEREST / PROPERTY OWNER
(IF DIFFERENT FROM APPLICANT)

NAME (PRINT): Ely Johnson
TITLE: Project Manager
SIGNATURE: Ely Johnson
MAILING ADDRESS:
223 S. Waterman Ave.
El Centro, CA 92243

FOR LAFCO USE ONLY

RECEIVED BY: Paula Graf

DATE RECEIVED: 9.5.19

PROJECT NO. HPUD 1.19

JHDEBIS:\LAFCO\FORMS\2014 Forms\Indemnification Agreement.doc Updated 06/30/2014

EXHIBIT B

RESOLUTION #2019-10

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF IMPERIAL MAKING A DETERMINATION ON THE EXTENSION OF WATER SERVICE FROM THE HEBER PUBLIC UTILITY DISTRICT TO BFBC, LLC ENTITLED HPUD 1-19

RESOLVED, by the Local Agency Formation Commission of Imperial, State of California, that

WHEREAS, a proposal to extend water service to BFBC, LLC for the construction of the "El Centro 1 Pedestrian Fence Replacement" located on Highway 98 and Signal Road in Calexico, CA was filed on September 5, 2019 with this Commission and the Executive Officer of this Commission pursuant to Title 5, Division 3, commencing with Section 56133 of the Government Code; and and the Executive Officer determined the application complete; and

WHEREAS, the Executive Officer conducted a full evaluation of the above referenced extension of water service; and

WHEREAS, the extension of water service is outside of the Heber Public Utility Districts service area; and

WHEREAS, the applicant will obtain water via water trucks; and

WHEREAS, the Heber Public Utility District approved the extension of water service for the proposed project; and

WHEREAS, the Executive Officer has been delegated the authority by the Commission to review and approve this type of project

NOW THEREFORE, BE IT DETERMINED, that the Local Agency Formation Commission by decision of the Executive Officer does find the conditions as follows:

- a) Authorize the Heber Public Utility District to extend water service to BFBC, LLC for the construction of the "El Centro 1 Pedestrian Fence Replacement".
- b) The extension of water service is limited to the proposed project and the applicant will obtain water via water trucks.
- c) The applicant/district shall provide to LAFCO the following items in order to complete the processing of the extension.
 1. Letter from Applicant/District to confirm that the applicant/district understands that the authorization by LAFCO is for a temporary extension of water.
 2. Letter from the District approving the extension of water.

Approved by the Executive Officer:

Dated: 9.10.19



Jurg Heuberger, Executive Officer

EXHIBIT C



Heber Public Utility District

1078 Dogwood Rd., Suite 103 • P. O. Box H
Heber, CA 92249
TEL. (760) 482-2440 • FAX (760) 353-9951
www.heber.ca.gov

September 20, 2019

Jurg Heuberger, Executive Officer
Imperial County LAFCO
1122 W. State Street # D
El Centro, CA 92243

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Imperial County
Local Agency Formation Commission

Re: Temporary Extension of Water Service for the construction of the "El Centro 1 Pedestrian Fence Replacement"

Dear Mr. Heuberger;

The Heber Public Utility District is in receipt of LAFCO Resolution 2019-10 which authorizes the temporary extension of water service from the HPUD to BFBC for the construction project "El Centro 1 Pedestrian Fence Replacement". As requested, the Heber Public Utility District is providing this written authorization to extend water service to BFBC, LLC for the construction of the "El Centro 1 Pedestrian Fence Replacement" project. We understand that water extension is a temporary water service and that the water used at this project site will be trucked from HPUD to the construction site.

The Heber Public Utility District Board of Directors has approved this letter of authorization at their Regularly Scheduled Board Meeting of September 10, 2019.

Should you have any questions or need additional information, please don't hesitate to contact my office.

Sincerely,

A handwritten signature in cursive script that reads "Laura Fischer".

Laura Fischer,
General Manager