

CUNNINGHAM FIRE PROTECTION DISTRICT

RESOLUTION NO. 2019-12

RESOLUTION AND ORDER OF EXCLUSION

WHEREAS, Cunningham Fire Protection District (“Excluding District”) is a quasi-municipal corporation and political subdivision of the State of Colorado and a duly organized and existing special district pursuant to Title 32, Colorado Revised Statutes; and

WHEREAS, the South Metro Fire Rescue Fire Protection District (“Including District”) is a quasi-municipal corporation and political subdivision of the State of Colorado and a duly organized and existing special district pursuant to Title 32, Colorado Revised Statutes; and

WHEREAS, the Including District and the Excluding District (jointly, the “Districts”) have entered into that certain South Metro/Cunningham Fire Rescue Authority Creation and Pre-Unification Agreement dated November 16, 2017 (“Creation Agreement”), which created the South Metro/Cunningham Fire Rescue Authority (“Authority”); and

WHEREAS, the Creation Agreement sets forth a process for permanently integrating the Districts into a single fire protection district utilizing the procedures available under Section 32-1-501(1.5), C.R.S.; and

WHEREAS, the Excluding District wishes to take initial action to begin such integration; and

WHEREAS, the Board of Directors of the Excluding District has determined that it is beneficial to exclude the real property described on Exhibit A attached hereto and incorporated herein by this reference (“Property”) from the Excluding District pursuant to the provisions of Sections 32-1-501(1.5) and 32-1-501(4), C.R.S., and the Creation Agreement on the condition that the Property thereafter immediately be included within the Including District; and

WHEREAS, by Resolution dated June 10, 2019, a copy of which is attached hereto as Exhibit B and incorporated herein by this reference (“Inclusion Resolution”), the Including District has agreed to include the Property into the Including District immediately after the effective date of the Court’s Order excluding the Property from the Excluding District, and to provide the same services to the Property as provided by the Excluding District, which Inclusion Resolution will be filed with the District Court of Arapahoe County, Colorado, as required by Section 32-1-501(4)(a)(II)(B), C.R.S.; and

WHEREAS, pursuant to the Creation Agreement, the mill levy assessed by the Including District against all property within its boundaries will, as of the effective date of the Court's Order excluding the Property, be equal to or less than the mill levy assessed by the Excluding District, and as a result, no election for the exclusion of the Property from the Excluding District and inclusion of the Property into the Including District is required pursuant to Section 32-1-501(4)(c)(I), C.R.S.; and

WHEREAS, the Board of Directors, having reviewed all relevant information related thereto, hereby determines that, as contemplated by the Creation Agreement:

A. The exclusion of the Property will be in the best interests of all of the following: (i) the Property itself; (ii) the Excluding District; and (iii) the county in which the Excluding District is located;

B. The relative costs and benefits to the Property justify exclusion from the Excluding District and inclusion within the Including District;

C. The ability of the Excluding District to provide economical and sufficient service to both the Property to be excluded and all of the properties within the Excluding District's boundaries are the same;

D. The Excluding District is able to provide services to the Property, but the costs of providing services by the Including District are less than the cost of providing services solely by the Excluding District;

E. Other than the reduction of property taxes within the boundaries of the Excluding District if the Resolution is adopted, there will be no effect on employment and other economic conditions in the Excluding District and surrounding area if the Resolution is or is not finally adopted;

F. Other than the reduction of property taxes within the boundaries of the Excluding District if the Resolution is adopted, there will be no economic impact on the region or on the Excluding District, surrounding area, or State as a whole if the Resolution is or is not finally adopted;

G. There are no economically feasible alternative services available except from the Including District;

H. There will be no additional cost levied on other property within the Excluding District as a consequence of the exclusion; and

I. The Excluding District currently has no outstanding bonded indebtedness for which the Property is liable.

WHEREAS, letter notification of the public hearing of the Board of Directors to consider final adoption of this Resolution was mailed to the fee owners of 100% of all the real property proposed to be excluded, as listed on the records of the County Assessor, not more than 45 days and no less than 30 days prior to such public hearing, pursuant to Section 32-1-501(1.5)(b)(I), C.R.S.; and

WHEREAS, notice of the public hearing to consider final adoption of this Resolution was published in the Aurora Sentinel in Arapahoe County, a newspaper of general circulation within the Excluding District, on July 4, 2019, and the public hearing was held August 5, 2019, pursuant to Section 32-1-501(2), C.R.S.; and

WHEREAS, the exclusion of the Property was initially considered by the Board of Directors at a meeting held June 3, 2019; and

WHEREAS, no person has filed a written objection to this exclusion pursuant to Section 32-1-501(2), C.R.S.; and

WHEREAS, the exclusion of the Property is deemed in the best interest of the health and safety, prosperity, security and general welfare of the Property owners and inhabitants of the Property and of the Excluding District, and for the orderly and uniform administration of the Excluding District's affairs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of Cunningham Fire Protection District, pursuant to the provisions of Sections 32-1-501(1.5) and 32-1-501(4), C.R.S., and the Creation Agreement, hereby approves the exclusion of the Property from the boundaries of Cunningham Fire Protection District; and

IT IS THEREFORE ORDERED that:

1. As contemplated by Section VI. of the Creation Agreement, the Including District and the Excluding District have agreed that 2019 mill levy rates for each shall be certified at 9.25 mills for collection in 2020.
2. The Property described in Exhibit A attached hereto and incorporated herein shall be excluded from Cunningham Fire Protection District.
3. The boundaries of Cunningham Fire Protection District shall be altered by the exclusion of the Property.
4. Such exclusion shall be contingent upon the District Court of Arapahoe County, Colorado, in which Court an Order was entered establishing this District, being

requested to enter an Order that such real property be excluded from Cunningham Fire Protection District and thereafter the District Court of Douglas County, Colorado, in which Court an Order was entered establishing the Including District, immediately Order the Property included within the South Metro Fire Rescue Fire Protection District, pursuant to Section 32-1-501(4)(b), C.R.S.

The foregoing Resolution and Order of Exclusion was initially adopted by a vote of 5 in favor and 0 against at a meeting of the Board of Directors of Cunningham Fire Protection District, duly called and held on June 10, 2019, at the hour of 5:30 p.m., in anticipation that all actions recited herein to be taken as of the final approval shall be taken as of the final approval, but have not yet been taken as of the initial approval.

CUNNINGHAM FIRE PROTECTION
DISTRICT

By: Mark L. Lampert
Mark L. Lampert, Chairman

ATTEST:

Patricia Shaver
Patricia Shaver, Secretary

The foregoing Resolution and Order of Exclusion was finally adopted by a vote of 3 in favor and 0 against at a meeting of the Board of Directors of Cunningham Fire Protection District, duly called and held on December 2, 2019, at the hour of 6:00 p.m.

CUNNINGHAM FIRE PROTECTION
DISTRICT

By: Mark L. Lampert
Mark L. Lampert, Chairman
Muriel Williams-Thompson

ATTEST:

Patricia Shaver
Patricia Shaver, Secretary
KEN BENSON
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EXHIBIT A TO
RESOLUTION AND ORDER OF EXCLUSION

Description of Property to be Excluded

All real property located within the boundaries of Cunningham Fire Protection District
(the Excluding District).

EXHIBIT B TO
RESOLUTION AND ORDER OF EXCLUSION
Inclusion Resolution