



**CONFIRE**

## STAFF REPORT

**DATE: May 30, 2023**

**FROM: Tim McHargue, Chair County Project Sub-Committee  
Nathan Cooke, Interim Director**

**TO: Board of Directors**

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**SUBJECT: County Clarification Project (CCP) Actions Items**

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### Recommendation

Approve and/or adopt the following components of the County Clarification Project (each taken as separate items):

1. Approve draft agreement between San Bernardino County and CONFIRE for the provision of certain County services to CONFIRE. Authorize the CONFIRE Admin Chiefs and/or Director to fully execute the agreement pending final review and approval by CONFIRE legal counsel to be effective July 1, 2023.
2. Adopt Resolution 2023-01 – Requesting Membership in the California Intergovernmental Risk Authority (CIRA) and participation in the CIRA Workers’ Compensation Program, and Designation of the Authorized Board Representatives and Their Authority effective July 1, 2023.
3. Adopt Resolution 2023-02 – Approving CONFIRE JPA joining San Bernardino County Employees’ Retirement Association (SBCERA) as an SBCERA Participating Employer effective July 1, 2023.

### Background Information for Item 1 – Draft Agreement for Services by the County for CONFIRE:

In 1990, the agencies previously operating as “Comm Center” opted to reorganize from a contracting arrangement to a jointly owned and operated emergency communication facility. The Consolidated Fire Agencies of the East Valley (CONFIRE) was formed as an independent government organization operating under a Joint Powers Authority (JPA). The original agreement and by-laws stipulated that the County Fire Department would provide administrative and support services functions to the (CONFIRE JPA) consisting of personnel administration, facility site usage, purchasing, payroll, and related functions.”

Over the years, as the County Fire District consolidated, expanded, and reorganized, and County and CONFIRE managers came and went, various arrangements, agreements and protocols were established

informally with minimal documentation, evaluation or assessment in terms of the types and costs of services rendered. As a result, CONFIRE was “lumped” into the County Fire fold administratively at all levels. This “worked” for many years until the cost saving benefits of this arrangement began to appear in the form of poor management succession planning, dilapidated facilities, and crumbling technology infrastructure amidst a rapid expansion of service demands.

A new Director hired in 2014 and was tasked to assess and prioritize CONFIRE needs, it became apparent that many “solutions” would involve various departments with the County of San Bernardino, including Information Services Division, Real Estate Services, Human Resources, Risk Management, County Fire, and others. Suffice to say, it was a lengthy process of ‘discovery’ for all involved.

In 2020, the County Fire Chief and the next CONFIRE Director worked with the CAO’s office to initiate a process of identifying and addressing lingering issues that continued to stymie and frustrate staff in both agencies. The objective from the start was to “make it better for the next group of leaders.”

In the summer of 2022, the CAO’s office took the lead in driving the matter forward and produced a first draft of an agreement for services the County currently provided that were not already contained in existing agreements. This moved the process along considerably and has resulted in a series of iterations of that agreement that has led to the one presented at this meeting.

The agreement has been vetted by a CONFIRE sub-committee made of two members from the Board of Directors and three Chiefs from the CONFIRE Administrative Committee. CONFIRE and CAO staff have been working with their respective legal counsel and internal leadership to vet and revise the agreement as comments have been made through each version.

At the May 11 meeting of the CONFIRE sub-committee the 4<sup>th</sup> draft of the agreement was reviewed with CONFIRE legal counsel and was supported in general by the group with direction given to CONFIRE staff to bring the draft document forward to the Board of Directors for consideration. That document is what is being presented at the May 30 Board meeting. CONFIRE staff will evaluate the services provided by the County and keep the Board apprised over the course of the agreement.

It is recommended that after reviewing the attached draft agreement, which is near its final iteration, the CONFIRE Board of Directors approve the draft, with any noted corrections and authorize the CONFIRE Admin Committee and/or Director to execute the agreement upon completion of remaining matters including pricing, final review and sign off by CONFIRE legal counsel and to complete this process prior to the July 1, 2023 effective date. If items that may substantially alter the terms in the draft agreement arise, it will be brought back to the Board for further consideration.

### **Fiscal Impacts of Item 1:**

#### **Agreement for Services Contract**

Current cost – Approximately \$140,000

Proposed cost – (To be determined) Estimated-\$300,000

### **Background Information for Item 2 - Workers Comp Resolution 2023-01:**

An important distinction that has emerged from this process is that CONFIRE is, in fact a separate legal governmental entity that has the ability and authority to hire employees (which it has for many years,

with County HR assistance). CONFIRE employees cannot be covered by the County's work comp program nor be included in their retirement benefit systems and actuaries.

Thus, the County informed CONFIRE staff it needed to explore options for acquiring appropriate workers compensation insurance and it needed to transition its employees from the County Employee pool at SBCERA into a different pool (assumption of fiscal risk is involved in this as well).

CONFIRE staff, initiated inquiries to its existing liability insurance provider regarding the provision for workers compensation coverage. Staff also made additional inquiries of other providers including those providing similar coverage for member agencies.

The existing liability provider would not entertain work comp coverage for Fire/EMS operations. CONFIRE narrowed its search down to the California Interagency Risk Authority (CIRA), a self-insured JPA made up of various public entities in California. Rancho Cucamonga Fire uses CIRA for its liability and work comp programs.

CIRA provided timely responses and quotes for coverage, enabling CONFIRE to assess the viability of the program. CONFIRE applied for membership in the JPA which was reviewed by the CIRA Executive Committee on March 23 and was moved to its full Board for consideration on May 25.

On May 23, CONFIRE staff participated in an orientation to become familiar with CIRA's programs for work comp as well as general liability coverage. CIRA uses a third-party administrator (TPA) to manage its claims with an emphasis on facilitating a timely and effective response to the employee's injury to help them heal and return to work in a low-stress, high efficiency manner. CIRA also offers a list of proactive training opportunities in employee health and wellness and has programs to help fund equipment that improves workplace health and safety.

Using a Medical Provider Network (MPN), which includes Kaiser Permanente, CIRA works with qualified doctors and hospitals in the region familiar with work comp protocols and policies and that are geared toward resolving issues to enable employees to resume work activities in a timely fashion.

Being a JPA, membership with CIRA will require participation on their Board by a designated representative of CONFIRE. It is common practice and recommended here that CONFIRE appoint its director as its primary representative for the CIRA Board. It is also noted that the CIRA JPA requires only a 2/3 vote of its members to approve a matter. Also, the JPA requires a minimum 5-year commitment from new member agencies. After three years a member can opt out, but there would be a cost to do so.

The annual premium for the program for FY 23/24 is \$129,451. Additionally, CIRA is requiring a \$75,000 reserve to be held as a self-insurance retention (SIR) to fund the initial costs of claims to keep the premium lower. CONFIRE has the reserves available for the SIR which would be set aside in its Fund 5011 (Term Benefit Reserves Fund).

The issue of existing claims must still be resolved between CONFIRE, the County and CIRA. There are six existing claims that may or may not have future medical costs associated with them. Options include transferring those claims to the new provider (CIRA) and paying a one-time premium based on actuaries of those claims which preliminarily could amount to \$350,000. Another option would be for the County to retain those claims and either charge CONFIRE a similar premium or invoice CONFIRE

when there are expenditures for those claims. While the issue is yet to be resolved but does not impact an effective date for coverage of new claims starting July 1, 2023.

It is recommended that CONFIRE set aside the high estimate of \$350,000 from the appropriate reserve fund to cover the scenario of the open claims transitioning to CIRA while continuing to explore less expensive options being considered.

It is recommended that the Board adopt Resolution 2023-01 as written requesting membership into the California Interagency Risk Authority (CIRA) and participation in the CIRA Workers Compensation program and designate the authorized Board representative and their authority.

### **Fiscal Impacts of Item 2:**

#### **Participation in CIRA Work Comp program**

Current cost: \$75,000

Proposed cost: \$129,431 (annually) – Included in FY 23/24 budget proposal

Self-insured retention (SIR): \$75,000 (maintained in reserve fund, used only if needed, replenished each year if needed (included in FY 23/24 budget proposal)

Open Claims: High est. \$350,000 to be paid to CIRA to cover those claims if needed (included in FY 23/24 budget proposal)

Continue to explore option for the County to retain the claims and pay as we go as needed. Work with the County to close claims if possible.

### **Background Information for Item 3 - SBCERA Resolution 2023-02:**

As mentioned above, the County indicated its desire to remove CONFIRE from the County Fire District's pension rolls and establish CONFIRE as a stand-alone entity with SBCERA. CONFIRE staff has advocated this for years, however previous endeavors to do so were difficult to initiate due to potential costs and other factors.

The breakthrough on this matter occurred when SBCERA leadership put forth an option that recognized CONFIRE's historic involvement in SBCERA as part of the County General Pool through County Fire. Thus, their solution is more of an administrative adjustment which will remove the CONFIRE employees from the County Fire roll and establish CONFIRE as a separate participating employer in the County General Pool at SBCERA.

This is a process that has been used at SBCERA for other entities that made similar transitions. The result is there is no requirement for an actuary or an assessment to CONFIRE to 'join' SBCERA, since we have always been there.

The process will require approval by the SBCERA board, then an agreement will be drafted and approved by the Administrative Committee and executed by the CONFIRE Director. Administratively, CONFIRE employees will be transitioned from the County Fire rolls at SBCERA into CONFIRE as a "new" employer. A benefit of this process is that CONFIRE will finally get a full view of its pension obligations and have the opportunity to make informed decisions about its funding level and other matters going forward.

This transition also reflects what the CONFIRE JPA has already acknowledged and prescribed in Section 15b of its current agreement (2021) the intent and method by which the JPA and its member agencies are responsible for the collective pension liabilities incurred by CONFIRE. This section is in full compliance with current government code language pursuant to the passage of AB1912 in 2019 which details how agencies such as CONFIRE manage the pension obligations of jointly operated public organizations.

Thus, it is recommended that the CONFIRE Board of Directors adopted Resolution 2302-02 regarding CONFIRE's participation in San Bernardino County Employees' Retirement Association (SBCERA).

### **Fiscal Impacts of Item 3:**

There are no fiscal impacts related to this item