

SAN DIEGO LOCAL AGENCY FORMATION COMMISSION
FIRE PROTECTION CONTRACTUAL SERVICE AGREEMENT APPLICATION

The following information must be submitted to evaluate a request for fire protection contract approval with the San Diego Local Agency Formation Commission (LAFCO). Respond to the following checklist and application questionnaire.

- 1. Completed Fire Protection Contractual Service Agreement Application.
- 2. A certified copy of the approved initiating resolution of the legislative body of the public agency proposing to provide new or extended services outside the public agency's current service area.
- 3. A copy of either: (a) a map and/or Geographical Information System shapefiles recognized by San Diego LAFCO to determine if the contract affects 25% of the service area; or (b) budgetary documents which include current employment statistics to determine if the contract affects 25% of the area's employment status.
- 4. Environmental documentation to comply with the California Environmental Quality Act (CEQA); submit documents for applicable category only:
 - (a) INITIAL STUDY: Submit completed form (available from LAFCO) if no environmental review has been conducted;
 - (b) CATEGORICAL EXEMPTION: Submit document if an agency has certified that the project qualifies for a categorical exemption from CEQA;
 - (c) NEGATIVE DECLARATION (ND): Submit document with certifying resolution and Initial Study*; and
 - (d) ENVIRONMENTAL IMPACT REPORT (EIR): Submit 15 copies of the Final EIR and certifying resolution, plus one copy of the EIR Appendix*.

* For an ND or EIR, a copy of the receipt for the fee paid to the California Department of Fish and Game must be submitted.
- 5. A copy of the contract or agreement stipulating the terms and conditions of extending fire protection service to the affected agency(ies).
- 6. A copy of the plan for service addressing the statutory requirements according to Government Code Section 56134. Refer to LAFCO Legislative Policy L-110. (www.sdlafco.org/forms/Legislative_Policy_L_110.pdf) and the Fire Protection Contract Guidelines (www.sdlafco.org/forms/Fire_Contract_Guide.pdf).
- 7. A copy of the independent comprehensive fiscal analysis prepared by contract in accordance to Government Code Section 56134.
- 8. LAFCO processing fees. The San Diego LAFCO Fee Schedule is available at (www.sdlafco.org/document/feeschedule.pdf), or contact LAFCO staff.

It is recommended that the San Diego Local Agency Formation Commission be contacted to determine whether the proposed contract will require LAFCO approval. A pre-application discussion is also recommended to address any possible issues associated with the provision of fire protection services.

SAN DIEGO LOCAL AGENCY FORMATION COMMISSION
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FIRE PROTECTION CONTRACTUAL SERVICE AGREEMENT APPLICATION

The information in this application is used by LAFCO staff to evaluate fire protection contracts and agreements. Please respond to **all** items in this form, indicating "NA" when an item does **not** apply.

AFFECTED AGENCY(IES) (City, District, or Public Agency)	PROPOSED ACTION (New or Extended Fire Protection Services)
1. _____	1. _____
2. _____	2. _____
3. _____	3. _____
4. _____	4. _____

As part of this application for contractual fire protection services, the applicant(s) (city, district, or public agency), agree to defend, indemnify, hold harmless, and release the San Diego LAFCO, its agents, officers, attorneys, and employees from any claim, action, or proceeding brought against any or all of them, the purpose of which is to attack, set aside, void, or annul the approval of this application or denial of this application or adoption of or refusal to adopt the environmental document which accompanies it or any other action San Diego LAFCO takes with respect to this application. This defense and indemnification obligation shall include, but not be limited to, attorneys' fees and other costs of defense, damages, costs, and expenses, including attorneys' fees payable to another party. The person signing this application will be considered the proponent for the proposed action(s) and will receive all related notices and other communications. San Diego LAFCO's acceptance of this application is sufficient to make this agreement a binding, bilateral contract between us.

I acknowledge that extension of fire protection services may result in the imposition of taxes, fees and assessments **existing within the affected agencies** on the effective date of new or extended services outside the public agency's current service area. Any rights to a hearing, assessment ballot proceeding or an election on those existing taxes under Articles XIII C and XIII D of the State Constitution (Proposition 218) are waived.

Signature: _____ Date: _____

Print/Type Name: _____ Title: _____

Agency Name: _____ Telephone: () _____

Address: _____

Indicate below if anyone, in addition to the person signing this application, is to receive notices of these proceedings.

Name: _____

Address: _____

_____ Telephone: () _____

Name: _____

Address: _____

_____ Telephone: () _____

FIRE PROTECTION CONTRACT/AGREEMENT CHECKLIST

1. Did the Executive Officer determine the proposed fire protection contract to be exempt from LAFCO purview? Yes No
 - a. If yes, a Certificate of Exemption must be signed and filed by the LAFCO Executive Officer and it will not be necessary to respond to any further questions in this application.

2. Will the proposed fire protection contract / agreement transfer responsibility for providing services in more than 25% of the area within the jurisdictional boundaries of any public agency affected by the contract or agreement? Yes No

Refer to the **adopted** guidelines (www.sdlafco.org/forms/Fire_Contract_Guide.pdf) and (www.sdlafco.org/forms/Legislative_Policy_L_110.pdf) for the required documentation related to this threshold.

Discuss your response: _____

3. Will the proposed fire protection contract / agreement changes the employment status of more than 25% of the employees of any public agency affected by the contract or agreement?
 Yes No

Refer to the **adopted** guidelines (www.sdlafco.org/forms/Fire_Contract_Guide.pdf) and (www.sdlafco.org/forms/Legislative_Policy_L_110.pdf) for the required documentation related to this threshold.

Discuss your response: _____

4. Was a written agreement, validated and executed by each affected public agency and recognized employee organization that represents firefighters of the existing and proposed service provider consenting to the fire protection contract submitted with this application?
 Yes No

- a. If yes, provide a copy of the contract with your LAFCO application.

5. Was a written notice, regarding the initiating resolution, provided at least 30 days prior to the hearing to each affected public agency and recognized employee organization that represents firefighters of the existing proposed service providers of the proposed fire protection contract?
 Yes No

- a. If yes, provide a copy of the mailed notice document.
(Please note: the notice shall, at minimum, include a full copy of the proposed contract)

6. Did the public agency interested in providing new or extended fire services conduct an open and public hearing on the resolution pursuant to the Ralph M. Brown Act or the Bagley-Keene Open Meeting Act, as applicable? Yes No

- a. If yes, provide a copy of the staff report and / or hearing documents.

7. Does the Plan for Service address the following:

- a. Total estimated cost to provide the new or extended fire protection services in the affected territory: Yes No
- b. Total estimated cost to provide the new or extended fire protection services in the affected territory: Yes No
- c. Total estimated cost of the new or extended fire protection services to customers in the affected territory: Yes No
- d. An identification of existing service providers, if any, of the new or extended services proposed to be provided and the potential fiscal impact to the customers of those existing providers: Yes No
- e. Plan for financing the exercise of the new or extended fire protection services in the affected territory: Yes No
- f. Alternatives for the exercise of the new or extended fire protection services in the affected territory: Yes No
- g. An enumeration and description of the new or extended fire protection services proposed to be extended to the affected territory: Yes No
- h. The level and range of new or extended fire protection services: Yes No
- i. Indication of when the new or extended fire protection services can feasibly be extended to the affected territory: Yes No
- j. Indication of any improvements or upgrades to structures, roads, sewer or water facilities, or other conditions the public agency would impose or require within the affected territory if the fire protection contract is completed: Yes No
- k. Determination supported by documentation, that the proposed fire protection contract meets either 25% threshold. The documentation must include a copy of the proposed contract. In addition, if the contract affects 25% of the service area, a map and/or Geographic Information System (GIS) shapefiles recognized by the San Diego LAFCO must be provided in order for data verification by LAFCO. If the contract changes the employment status of, budgetary documents disclosing employment statistics must be provided to LAFCO:
 Yes No

8. Does the Independent Comprehensive Fiscal Analysis address the following:

- a. A thorough review of the plan for services submitted by the public agency: Yes No
- b. How the costs of the existing service provider compare to the costs of services provided in service areas with similar populations and of similar geographic size that provide a similar level and range of services and make a reasonable determination of the costs expected to be borne by the public agency providing new or extended fire protection services:
 Yes No
- c. Any other information and analysis needed to support the findings required by the Commission's determinations: Yes No

FIRE PROTECTION CONTRACT / AGREEMENT QUESTIONNAIRE

1. Why is this contractual service agreement for the exercise of new or extended fire protection services outside a public agency’s jurisdictional boundaries?

2. Identify existing dispatch providers and discuss all changes in providers or amendments to existing communications agreements that would be required.

3. Describe any proposed changes to paramedic service that may be required.

4. How would the service contract affect exclusive operating areas (EOA) for any of the affected agencies?

5. Please identify current and proposed staffing:

	Service Provider		Affected Agency	
	Current	Proposed	Current	Proposed
Safety				
Number of paid personnel				
Number of paid reserves				
Number of non-paid reserves				
Non-Safety				
Number of Admin/Support				

6. List specific position classifications and personnel that would be added or eliminated as a result of the contractual service agreement.

7. List the fire protection services currently provided within the proposal area.

8. Briefly discuss any new or extended fire protection services that would be provided.

9. List existing automatic or mutual agreements and indicate which agreements may need to be amended to accommodate this proposed fire protection contract.

10. Discuss how the fire protection contract will affect opportunities for furthering efficiencies, such as usage of joint powers agreements, joint powers authorities, regional planning opportunities, etc. List current shared activities with other service providers, including shared facilities and staff and the affected agency is planning to provide. Discuss how the proposal will further these efforts.

11. Please identify current data for the following:

	Service Provider	Affected Agency
District Population		
Registered Voters		
Acres / Square Miles		
Most recent ISO rating		

12. Describe prevalent land uses in each agency; list predominant General Plan designations.

13. Briefly describe if new equipment or equipment upgrades would be required to implement proposal. Provide cost estimates and explain how capital funds will be available for purchase.

14. List any terms and conditions that are requested for this proposal.

15. List all agencies, groups and individuals contacted regarding this proposal.

16. Are there any jurisdictional issues / conflicts associated with this proposal? Yes No
(If yes, please complete the Policy L-107 form at www.sdlafco.org/forms/Legislative_Policy_L_107.pdf)

Subject

REVIEW AND APPROVAL OF FIRE PROTECTION CONTRACTS AND AGREEMENTS

Purpose

To provide guidance to the San Diego Local Agency Formation Commission (LAFCO) in reviewing fire protection contracts or agreements for the exercise of new or extended fire protection services outside a public agency's boundaries per Government Code Section 56134.

Background

Senate Bill No. 239 (Hertzberg) was approved in 2015 and became effective on January 1, 2016. SB 239 amended Government Code Sections 56017.2 and 56133, and added Section 56134. Per SB 239, public agencies, under specified circumstances, must receive written approval from the LAFCO in an affected county before providing new or extended fire protection services outside the agencies' jurisdictional boundaries, if the contract results in either of the following conditions: (1) transfers responsibility for providing services in more than 25% of the area within the jurisdictional boundaries of any public agency affected by the contract or agreement; or (2) changes the employment status of more than 25% of the employees of any public agency affected by the contract or agreement.

The new law places added responsibilities on local and state agencies, plus LAFCO. Since there are many uncertainties with respect to implementation of SB 239, the San Diego LAFCO adopted implementation guidelines on February 1, 2016. The adopted guidelines have been incorporated by reference into Legislative Policy L-110 and together, these two documents (guidelines and policy), will assist the Commission in following a consistent approach for the review and approval of fire protection contract applications.

Policy

It is the policy of the San Diego Local Agency Formation Commission to use a multi-step process for the review of fire protection contracts and agreements. The process begins with pre-application consultation; application review; commission consideration; and commission action. This process will be guided by the following

provisions:

1. *Pre-Application Review and Discussion:* Prior to submission of a proposal requesting LAFCO consideration, the Commission encourages public agencies and service recipients to participate in a pre-application discussion with LAFCO staff. As part of the pre-application discussion, the Executive Officer shall determine whether the proposed fire protection contract or agreement is subject to or exempt from LAFCO purview. A Certificate of Exemption shall be issued by the Executive Officer if the contract or agreement is exempt from LAFCO purview. The San Diego LAFCO and/or Executive Officer will consider the following contracts and agreements exempt from LAFCO purview per its adopted guidelines:
 - a. Renewal of existing contracts, unless the renewal included amendments or the inclusion of new territory that triggered the 25% change in service area or employment status.
 - b. Ambulance service agreements.
 - c. Pre-hospital emergency medical services.
 - d. Mutual or automatic aid agreements.
 - e. Subordinate or subsidiary fire protection activities including, but not limited to the following: ambulance services; pre-hospital emergency medical services; mutual or automatic aid agreements; major/minor subdivision review, major Use Permit review, administrative permit review and inspections; fire alarm system plan review and inspections; defensible space inspections and enforcement; business/occupancy inspections in existing structures; vehicle maintenance and repair; sharing of management or other personnel between or among multiple agencies; sharing or loaning of equipment or property between or among multiple agencies.
2. *Application Review:* The Executive Officer shall within 30 days of receipt of a fire contract or agreement determine whether the associated contract application is complete and acceptable for filing. The Executive Officer shall notify the applicant if the application is incomplete and the manner in which the application can be rectified if determined to be incomplete.
 - a. Once the application is ready for Commission consideration, the Executive

Officer shall give mailed notice of the hearing, at least 21 days prior to the hearing date, to each affected local agency or affected county and to any interested party who has filed a written request for notice.

- b. The Executive Officer shall also publish the notice of hearing in a newspaper of general circulation that is circulated within the territory affected by the proposal and shall post the notice on LAFCO's website at least 21 days prior to the hearing date.
3. *Commission Consideration:* The Commission shall not approve a proposed fire protection contract unless it determines, based on the entire record, all of the following:
- a. The public agency will have sufficient revenues to carry out the exercise of the new or extended fire protection services outside its current area. The Commission may approve an application where the Commission has determined that the public agency will not have sufficient revenue to provide the proposed new or different functions of services, if the Commission conditions its approval on the concurrent approval of sufficient revenue sources.
 - b. The proposed exercise of new or extended fire protection services outside a public agency's current service area is consistent with the intent of SB 239, LAFCO's state mandates and established policies and procedures.
 - c. The Commission has reviewed the plan for service.
 - d. The Commission has reviewed the comprehensive fiscal analysis.
 - e. The Commission has reviewed any testimony presented at the public hearing.
 - f. The proposed affected territory is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following the effective date of the contract or agreement between the public agencies to provide the new or extended fire protection services.
4. *Commission Action:* The Commission may approve, approve with condition(s), or disapprove, the contract for new or extended services upon closure of the associated LAFCO hearing and/or administrative proceeding.
- a. *Approval-*If the Commission determines all the requirements under

Government Code Section 56134 have been met, the Commission shall adopt a resolution of approval or other associated document. For contracts that receive consensus from all affected agencies, the Commission may delegate the approval process to the Executive Officer. Any administratively-approved fire contract shall be scheduled as an informational item at the next available LAFCO hearing and may be subject to ratification, as necessary.

- b. *Approval with Conditions*-If the Commission or Executive Officer approves the contract or agreement with conditions, the Commission shall adopt a resolution of approval or other document with the conditions listed. For contracts that receive consensus from all affected agencies, the Commission may delegate the approval process to the Executive Officer. Any administratively-approved fire contract shall be scheduled as an informational item at the next available LAFCO hearing and may be subject to ratification, as necessary.
- c. *Disapproval*-If the Commission or Executive Officer disapproves the contract or agreement, termination proceedings mirroring the procedures outlined in Government Code Section 57090 shall be followed. Pursuant to Government Code Section 57090(a), if a proposal is terminated, no substantially similar proposal for a change or organization of the same or substantially the same territory may be filed with the commission within one year after the date of the certificate of termination. This waiting period may be waived by the Commission if public health, safety, or welfare issues are present.
- d. *Reconsideration*-The Commission establishes a 30-day request for reconsideration period tolled from when a fire protection contract is considered by the Commission or Executive Officer. The request for reconsideration must be in writing and shall be subject to LAFCO's reconsideration rules and payment of associated processing fees.

Adopted: June 2, 2016