

# CONTRA COSTA LAFCO

## 3.16 – Provision of Service by Contract (Fire Protection Services)

### **Purpose**

To provide guidance to Contra Costa 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 ("GC") §56134.

### **Background and Authority**

Senate Bill (SB) 239 (Hertzberg) which was enacted on January 1, 2016, amended GC §§56017.2 and 56133 and added GC §56134.

Per SB 239, a public agency, under specified circumstances, must receive written approval from the LAFCO in an affected county before providing new or extended fire protection services outside the agency's 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.

### **Initiation of Proceedings**

A request by a public agency for commission approval of new or extended services provided pursuant to a fire protection contract shall be made by the adoption of a resolution of application as follows:

- (1) In the case of a public agency that is not a state agency, the application shall be initiated by the adoption of a resolution of application by the legislative body of the public agency proposing to provide new or extended services outside the public agency's current jurisdictional boundaries.
- (2) In the case of a public agency that is a state agency, the application shall be initiated by the director of the state agency proposing to provide new or extended services outside the agency's current jurisdictional boundaries and be approved by the Director of Finance.
- (3) In the case of a public agency that is a local agency currently under contract with a state agency for the provision of fire protection services and proposing to provide new or extended services by the expansion of the existing contract or agreement, the application shall be initiated by the public agency that is a local agency and be approved by the Director of Finance.

### **Requirements**

In addition to a resolution of application, the application must also include the following pursuant to GC §56134:

*A. Plan for Services* that includes the following information:

- (1) The total estimated cost to provide the new or extended fire protection services in the affected territory.
- (2) The estimated cost of the new or extended fire protection services to customers in the affected territory.
- (3) 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.
- (4) A plan for financing the exercise of the new or extended fire protection services in the affected territory.

- (5) Alternatives for the exercise of the new or extended fire protection services in the affected territory.
- (6) An enumeration and description of the new or extended fire protection services proposed to be extended to the affected territory.
- (7) The level and range of new or extended fire protection services.
- (8) An indication of when the new or extended fire protection services can feasibly be extended to the affected territory.
- (9) An 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.
- (10) A determination, supported by documentation, that the proposed fire protection contract meets the criteria established pursuant to subparagraph (A) or (B) of paragraph (1) or paragraph (2), as applicable, of subdivision (a).

*B. Independent Fiscal Analysis* that reviews and documents all of the following:

- (1) A thorough review of the plan for services submitted by the public agency pursuant to subdivision (e).
- (2) 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.
- (3) Any other information and analysis needed to support the findings required by subdivision (j).

### **Procedures**

Within 30 days of receipt of the application, the LAFCO executive officer shall determine whether the application is complete or incomplete. If the application is deemed incomplete, the executive officer shall notify the applicant, specifying those parts of the application that are incomplete.

Once the application is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete.

At least 21 days prior to the date of the hearing, the executive officer shall give mailed notice of that hearing to each affected public agency, and to any interested party who has filed a written request for notice with the executive officer. Also, at least 21 days prior to the date of that hearing, notice of the hearing will be published in a newspaper of general circulation and posted on the Commission's website.

### **Commission Proceedings**

At a noticed public hearing, the Commission considers information presented by the affected public agencies, public comment, and the LAFCO staff report and recommendations.

The Commission has authority to approve, approve with condition(s), or deny a fire protection services contract. If the Commission determines the requirements pursuant to GC §56134 have been met and approves the proposal, the Commission shall adopt a resolution of approval with or without terms and conditions.

*Reconsideration* – Following action by LAFCO, a person or agency may file a written request for reconsideration pursuant to GC §56895, LAFCO's local policies and procedures, and required fees. The request shall state the specific modification to the resolution being requested and shall state what new or different facts that could not have been presented previously are claimed to warrant the reconsideration.