

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: MARCH 28, 2018

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
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TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item 7 – Review and Consideration of Update to Policy and Procedure Manual Section IV – Application Processing, Chapter 5 Out of Agency Fire Protection Contracts and Related Application Form

RECOMMENDATION:

Staff recommends that the Commission:

1. Approve a revision to the Policy and Procedure Manual related to Application Procedures under Chapter 5: Out of Agency Fire Protection Contract, Section IV – Application Processing, as follows:

...

1. Application for Review:

The filing requirements for review of a fire protection contract shall include:

...

- D. A completed Application Form for Fire Protection Contracts including the submission of a copy of the fire protection contract that has been signed by one of the affected public agencies. Submission of additional map(s) showing the jurisdictional boundaries of the affected public agencies may also be required.

...

2. Approve a revision to the required exhibits to the Application Form for Fire Protection Contract as follows:

...

REQUIRED EXHIBITS TO THIS APPLICATION:

1. Copy of the agreement/contract signed by one of the affected public agencies.
...
3. Adopt LAFCO Resolution No. 3263 reflecting the updates to the Policy and Procedure Manual and direct the Executive Officer to distribute to affected and interested parties and to update the Commission Website.

BACKGROUND:

In August 2016, the Commission adopted policies and procedures including a related application form pursuant to provisions of Government Code Section 56134, which are provisions within the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 that relate to fire protection contracts.

However, staff realized that one of the filing requirements identified in reviewing a fire protection contract, which is the submission of a copy of the fire contract/agreement that has been signed by the affected public agencies, is—in staff’s view—inappropriately worded.

As currently written, a fully executed contract/agreement is required to be submitted since the fire protection contract has to be “...signed by the affected public agencies.” This can be problematic given that the Commission can deny a contract/agreement. If, in fact, the Commission denies a request for approval of a fire protection contract that is fully executed, then the affected public agencies will have a binding contract that is unenforceable. However, the Commission will also need some assurance that the contract/agreement has been fully vetted and agreed upon by the affected public agencies.

Therefore, staff is proposing a language revision requiring the contract/agreement be signed by one of the affected public agencies. Having only one of the affected agencies take its action will indicate that the contract/agreement is the agreed-upon version yet still not a binding contract/agreement since not all parties have signed. Therefore, the proposed revision is shown below with the additional language shown in red underlined text:

“ ...

1. Application for Review:

The filing requirements for review of a fire protection contract shall include:

...

- D. A completed Application Form for Fire Protection Contracts including the submission of a copy of the fire protection contract that has been signed by one of the affected public agencies. Submission of additional map(s)

showing the jurisdictional boundaries of the affected public agencies may also be required.

...”

Staff is also proposing that the language on the related application form be made consistent with the filing requirement for review of a fire protection contract. Therefore, the proposed revision is shown below with the additional language shown in red underlined text:

“...

REQUIRED EXHIBITS TO THIS APPLICATION:

1. Copy of the agreement/contract signed by one of the affected public agencies.

...”

CONCLUSION:

The proposed revisions may only be a few words; however, the requested change is deemed critical so as not to require a fully executed agreement prior to the Commission making a determination to approve, modify and approve, or deny a fire protection contract.

Therefore, staff recommends that the Commission approve the proposed revisions to the filing requirements for review of a fire protection contract as well as its related application form and circulate the revisions to affected and interested agencies as well as update the Policy and Procedure Manual posted on the Commission’s Website. Should the Commission have any questions, staff will be happy to answer them prior to or at the hearing.

KRM/sm

Attachments:

1. [Revised Chapter 5: Out of Agency Fire Protection Contract, Section IV –Application Processing \(with track changes\)](#)
2. [Revised Application Form for Fire Protection Contracts \(with track changes\)](#)
3. [Draft LAFCO Resolution No. 3263](#)