

Contract Number
24-540

SAP Number

San Bernardino County Fire Protection District

Department Contract Representative	<u>Fire Chief Dan Munsey</u>
Telephone Number	<u>(909) 387-5779</u>
Contractor	<u>San Bernardino County Risk Management</u>
Contractor Representative	<u>Paul D. Kiehl</u>
Telephone Number	<u>909-386-8621</u>
Contract Term	<u>July 1, 2024, through June 30, 2029</u>
Original Contract Amount	<u>Estimated total contract amount \$3,430,240</u>
Amendment Amount	_____
Total Contract Amount	_____
Cost Center	_____

AGREEMENT BETWEEN SAN BERNARDINO COUNTY AND THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT RELATED TO THE COUNTY BUILDING INSPECTION PROGRAM

WHEREAS, San Bernardino County, through its Risk Management Department (County), is in need of fire and life inspection services for all County and Board-Governed Special District buildings; and

WHEREAS, San Bernardino County Fire Protection District (SBCFPD) has the expertise to provide fire and life inspection services to the County; and

WHEREAS, SBCFPD and the County now desire to enter into this Agreement for the County Building Inspection Program to be provided to and paid for by the County (the "Agreement").

NOW, THEREFORE, in consideration of the above, the County and SBCFPD agree as follows:

1. SBCFPD RESPONSIBILITIES

- a. SBCFPD will conduct annual fire and life inspections of all County and Board-Governed Special District buildings ("Services") identified and assigned to SBCFPD, in writing, by the County's Risk Management Department, currently estimated to be 1,477, including leased space.
- b. As part of the Services, SBCFPD will inspect and report on the functioning of fire protection systems, as well as identify potential hazards and risks.

- c. SBCFPD shall provide the County dedicated staff to deliver the Services, currently determined to be three (3) Fire Prevention Officers (FPOs).
- d. FPOs tasked with delivering the Services will generally not work on any other assignment other than those related to the Services. If an FPO tasked with the delivery of the Services is assigned to a non-related task, SBCFPD shall not bill the County for those hours. SBCFPD is responsible for ensuring that FPOs tasked with the delivery of the Services properly document their time when assigned to perform duties other than the Services. SBCFPD shall not add additional staffing to execute the Services without the explicit consent of the County's Director of the Risk Management Department.
- e. SBCFPD shall only seek a transfer for actual costs of the positions assigned to deliver the Services, as well as the related services and supplies costs. SBCFPD shall provide the County source documentation for all costs incurred when seeking an allocation or transfer.

2. COUNTY RESPONSIBILITIES

- a. County agrees to only request Services of the FPOs that is consistent with their classification and this Agreement.
- b. County will provide access to information, staff, and records necessary to complete Services.
- c. County, through its Risk Management Department, shall identify and assign to SBCFPD in writing on at least an annual basis a list of all County and Board-Governed Special District buildings, including leased space, that will receive the Services. The County will provide any updates to this list to SBCFPD as necessary within a reasonable period of time.
- d. County shall make available such supplies, space and other support reasonably necessary for the FPOs to perform the Services under this Agreement.
- e. County shall identify a designated fiscal contact for the processing of SBCFPD requests for reimbursement in accordance with the terms set forth in Section 6, "Fiscal Provisions," of this Agreement.
- f. County shall identify a designated contact to receive and facilitate the receipt of inspection reports from SBCFPD in accordance with the terms set forth in Section 7, "Deliverables and Reporting Requirements," of this Agreement.
- g. County shall provide written notice to SBCFPD of any changes to the designated contacts within three (3) business days.

3. MUTUAL RESPONSIBILITIES

- a. SBCFPD and County agree to establish methods for exchange of information procedures that enable each party to perform its duties and functions under this Agreement in accordance with applicable State and Federal laws and regulations.
- b. SBCFPD and County agree to resolve problems with a procedure that permits escalation through SBCFPD and County chains of command, as deemed necessary.

4. GENERAL PROVISIONS

- a. Input from County will be considered by the SBCFPD in the prioritization and execution of the Services.
- b. Neither party will use or disclose confidential information for any purpose other than carrying out the obligations under this Agreement.

5. VEHICLES

- a. SBCFPD will purchase a vehicle for each assigned SBCFPD FPO to use when providing Services. SBCFPD shall provide County the Vehicle Identification Number (VIN) for each vehicle purchased within thirty (30) calendar days of purchase.
- b. The purchase price for each vehicle purchased by SBCFPD pursuant to paragraph 5.a. shall not exceed \$50,000.

- c. SBCFPD shall be the owner of the vehicles purchased pursuant to Section 5.a. and responsible for the registration, licensing, insurance, repairs, and maintenance of all vehicles purchased for the provision of the Services. County shall reimburse SBCFPD for the cost of these expenses.
- d. Upon termination of this Agreement, including early termination, SBCFPD shall reimburse the County for the depreciated value (based on the County's depreciation method) of each vehicle purchased under Section 5.a. for the provision of Services at the time of the termination date, and ownership of the vehicles shall remain with SBCFPD, unless otherwise agreed to by the County and SBCFPD by amendment to this Agreement. This term shall apply to each vehicle until the vehicle has been fully depreciated.
- e. All reimbursements from the County to SBCFPD as outlined in this section shall be made in accordance with the terms set forth in Section 6, "Fiscal Provisions," of this Agreement.
- f. In the event there is a total loss of a vehicle purchased pursuant to Section 5.a. and SBCFPD is, in whole or in part, at fault, SBCFPD shall be responsible for vehicle replacement at SBCFPD expense. Additionally, in such circumstances, SBCFPD shall reimburse the County for the depreciated value (based on the County's depreciation method) of the lost vehicle that was purchased pursuant to Section 5.a. Any loss of a vehicle purchased pursuant to Section 5.a. where SBCFPD is not at fault, the replacement vehicle shall be purchased pursuant to Section 5.a.

6. FISCAL PROVISIONS

- a. SBCFPD shall submit a request for reimbursement semi-annually, covering the periods of July to December and January to June, to the designated County fiscal contact via email. The request shall include all necessary source documentation required for the County to process the reimbursement by verifying all claims expenses were related to the Services.
- b. County shall be responsible for inputting and processing the reimbursement through the County's financial system.
- c. The designated County contact for all matters pertaining to the processing of SBCFPD reimbursement requests at the start of this Agreement is as follows:

County: Deputy Director
Name: Paul D. Kiehl
Department: Risk Management
Phone Number: 909-386-8621
Email Address: pkiehl@rm.sbcounty.gov

7. DELIVERABLES AND REPORTING REQUIREMENTS

- a. SBCFPD shall provide a quarterly summary report of all buildings and leased space inspected during the respective quarters of the County's fiscal year. The report shall include pertinent details, such as building names, addresses, inspection dates, and a summary of all findings, identified hazards or risks, recommendations for mitigation, and confirmation of compliance or non-compliance with fire and life safety regulations.
- b. The quarterly reporting periods include: July to September (Q1), October to December (Q2), January to March (Q3), and April to June (Q4).
- c. In addition to the quarterly summary report, SBCFPD shall provide a detailed individual inspection report for each building/leased space inspection. These reports shall contain detailed information on the findings, any identified hazards or risks, recommendations for mitigation, and confirmation of compliance or non-compliance with fire and life safety regulations.
- d. The quarterly summary reports, as outlined in this section, including detailed inspection reports, shall be due to the County designated contact on the fourth (4th) Wednesday of the month following the end of each quarter.

- e. URGENT FINDINGS: In the event SBCFPD identifies any condition or circumstance during inspections that pose an immediate threat to life, property, or public safety, SBCFPD shall report such condition or circumstance immediately to the designated County contact. Urgent conditions or circumstances may include but are not limited to fire hazards, structural deficiencies, malfunctioning fire protection systems, or any other conditions that require immediate attention to mitigate risks. SBCFPD shall provide detailed information regarding the nature of the urgent findings and any recommended actions to address them. The designated County contact shall promptly assess the situation and initiate appropriate measures to address the identified risks in a timely manner.
- f. The designated County contact for all matters pertaining to the receipt and facilitation of inspection reports and any urgent findings, as outlined in this section, at the start of this Agreement is as follows:

County: Deputy Director
Name: Paul D. Kiehl
Department: Risk Management
Phone Number: 909-386-8621
Email Address: pkiehl@rm.sbcounty.gov

- 8. This Agreement may be terminated without cause upon ninety (90) calendar days' written notice by either party. Upon such termination, payment will be made by County to SBCFPD for services rendered and expenses reasonably incurred prior to the effective date of termination. This Agreement may also be terminated immediately by either party in the event of a breach of the Agreement terms by the other party. In such event, the non-breaching party shall be entitled to pursue any available remedies authorized by law or regulations.
- 9. Unless this Agreement is terminated early, the term of this Agreement is from July 1, 2024, to June 30, 2029. Section 5.d., herein, shall survive the termination of this Agreement.
- 10. County agrees to indemnify, defend (with counsel reasonably approved by SBCFPD) and hold harmless SBCFPD and its officers, employees, agents, and volunteers from any and all claims, actions or losses, damages, and/or liability resulting from the County's negligent acts or omissions which arise from County's performance of its obligations under this Agreement.

SBCFPD agrees to indemnify, defend (with counsel reasonably approved by County), and hold harmless County and its officers, employees, agents, and volunteers from any and all claims, actions or losses, damages, and/or liability resulting from SBCFPD's negligent acts or omissions which arise from SBCFPD's performance of its obligations under this Agreement.

In the event the County and/or SBCFPD is found to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under the Agreement, the County and/or SBCFPD shall indemnify the other to the extent of its comparative fault.

- 11. County and SBCFPD are authorized self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability and Workers' Compensation and warrant that through their respective programs of self-insurance, they have adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this Agreement.
- 12. This Agreement shall be governed by the laws of the State of California. Any action or proceeding between the County and SBCFPD concerning the interpretation or enforcement of

this Agreement, or which arises out of or is in any way connected with this Agreement, shall be instituted and tried in the appropriate state court in the County of San Bernardino, California.

13. During the term of this Agreement, the County and SBCFPD shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. SBCFPD shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.
14. If any word, phrase, clause, sentence, paragraph, section, article, part or portion of this Agreement is or shall be invalid for any reason, the same shall be deemed severable from the remainder hereof and shall in no way affect or impair the validity of this Agreement or any other portion thereof.
15. The recitals of this Agreement are incorporated into the body of this Agreement by this reference.
16. Time is of the essence for each and every provision of this Agreement.
17. Since the parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any party.
18. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.
19. Nothing contained in this Agreement shall be construed as a relinquishment of any rights now held by the County or SBCFPD.
20. The parties' actions under this Agreement shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. If a provision of this Agreement is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.
21. SBCFPD will designate an individual to serve as the primary point of contact for this Agreement. SBCFPD or its designee must respond to County inquires within five (5) business days. SBCFPD shall not change the primary contact without written notification to and acceptance by the County. SBCFPD will also designate a back-up point of contact in the event the primary contact is not available.
22. Both parties shall notify the other party in writing of any change in mailing address within ten (10) business days of the change.
23. This Agreement is not assignable by either party, whether in whole or in part, without the consent of the other party.

24. Both parties agree any alterations, variations, modifications, or waivers of the provisions of the Agreement, shall be valid only when reduced to writing, executed and attached to the original Agreement and approved by the person(s) authorized to do so on behalf of SBCFPD and the County.
25. If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorneys' fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Section 10.
26. In the event of a problem or potential problem that could impact the quality or quantity of work, services, or the level of performance under this Agreement, the party with the problem or potential problem shall notify the other party within one (1) working day, in writing and by telephone.
27. Both parties shall make all reasonable efforts to ensure that none of their officers or employees, whose positions in their entities enable them to influence any award of this Agreement or any competing offer, shall have any direct or indirect financial interest resulting from the award of this Agreement or shall have any relationship to the other parties or officer or employee of the other parties.
28. County and SBCFPD shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the other party in an attempt to secure favorable treatment regarding this Agreement. Both parties, by written notice, may immediately terminate this Agreement if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the other party with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded. Both parties shall immediately report any attempt by an officer, employee or agent of the other party to solicit (either directly or through an intermediary) improper consideration from the party. The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Office. In the event of a termination under this provision, the parties are entitled to pursue any available legal remedies.

29. Any written notice provided pursuant to this Agreement shall be sent via interoffice mail to the following addresses:

County: Director of Risk Management
Department of Risk Management
Mail Code: 0016

SBCFPD: Dan Munsey, Fire Chief/Fire Warden
San Bernardino County Fire Protection District
Mail Code: 0451

30. No news releases, advertisements, public announcements, or photographs arising out of this Agreement or the parties' relationship with each other may be made or used without prior written approval of both parties.

31. Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

32. This Agreement and any other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Agreement not expressly set forth herein are of no force or effect. This Agreement is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Agreement and signs the same of its own free will.

33. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

IN WITNESS WHEREOF, San Bernardino County and the San Bernardino County Fire Protection District have each caused this Agreement to be subscribed by its respective duly authorized officers, on its behalf.

SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT

Dawn Rowe

Dawn Rowe, Chair, Board of Directors

Dated: JUN 25 2024

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD



Lynna Monell, Secretary

By *[Signature]*
Deputy

SAN BERNARDINO COUNTY

Dawn Rowe

Dawn Rowe, Chair, Board of Supervisors

Dated: JUN 25 2024

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD



Lynna Monell, Clerk

By *[Signature]*
Deputy

FOR SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT USE ONLY

Approved as to Legal Form

[Signature]
Scott Runyan, Principal Assistant County Counsel

Date 6/24/24

Reviewed for Contract Compliance

Date _____

Reviewed/Approved by District

Date _____