

**REPORT/RECOMMENDATION TO THE BOARD OF DIRECTORS
OF SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT
AND RECORD OF ACTION**

December 7, 2021

FROM

DAN MUNSEY, Fire Chief/Fire Warden, San Bernardino County Fire Protection District

SUBJECT

Non-financial Mutual Aid Agreement Between San Bernardino County Fire Protection District and Edwards Air Force Base

RECOMMENDATION(S)

Acting as the governing body of the San Bernardino County Fire Protection District, approve a non-financial mutual aid **Agreement No. 21-981** with the Secretary of the Air Force, acting by and through the Commander at Edwards Air Force Base, for reciprocal mutual assistance on fire, rescue, and emergency response services, for a period of five years from the effective date, and automatically renews annually for a total term of 20 years.

(Presenter: Dan Munsey, Fire Chief/Fire Warden, 387-5779)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Provide for the Safety, Health and Social Service Needs of County Residents.

Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.

FINANCIAL IMPACT

Approval of this agreement will not result in the use of additional Discretionary General Funding (Net County Cost). This is a non-financial agreement that defines the responsibilities of the two entities regarding mutual aid response. However, in the event costs incurred are above the normal response, San Bernardino County Fire Protection District retains its right to claim reimbursement in accordance with any federal guidelines established in connection with an incident.

BACKGROUND INFORMATION

San Bernardino County Fire Protection District (SBCFPD) has numerous automatic/mutual aid agreements with local, state, and federal agencies. Mutual aid is provided on a voluntary basis and, under normal circumstances, at no cost to either party. The mutual aid assistance includes personnel, equipment, materials, supplies, and other services as needed to assist each party. The purpose of entering into mutual aid agreements is to provide the closest engine response within, adjacent or proximate to each party's designated boundaries and to provide the most expeditious response to suppress fires and render other emergency services to the community.

Approval of this agreement will continue mutual aid for emergency response services between SBCFPD and Edwards Air Force Base (AFB). The new mutual aid agreement supersedes Agreement No. 06-205 approved by the Board of Directors on March 14, 2006 (Item No. 21) and will remain in effect for a period of five years from the effective date and will automatically renew annually for a total term of 20 years. This mutual aid agreement will continue fire, fire

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prevention, hazardous material incidents, and rescue responses in all unincorporated areas at, or surrounding the Edwards AFB. The general area served by this agreement is the Highway 395 corridor (from north of the City of Adelanto to south of the community of Red Mountain) and Highway 58 (from the San Bernardino County line to the western boundary of the community of Hinkley). Either party may terminate this agreement during the term by sending notification of its intent to the other Party at least 180 days in advance of the proposed termination date.

The mutual aid agreement was prepared by Edwards AFB and includes terms that differ from the standard SBCFPD mutual aid agreement and omits certain SBCFPD standard agreement terms. The non-standard and missing terms include the following:

1. The agreement does not require Edwards AFB to indemnify SBCFPD, but instead generally provides that each party waives all claims against the other for compensation for any loss, damage, personal injury, or death occurring as a consequence of the performance of this agreement. Also, both parties agree that they will not hold each other liable or at fault for failing to respond to any request in a timely manner or with less than optimum equipment and/or personnel.
 - SBCFPD's standard agreement indemnity provision requires the other agency to indemnify, defend, and hold SBCFPD harmless from third party claims arising out of the acts, errors or omissions of any person. Also, SBCFPD's standard agreement does not include a release of claims.
 - Potential Impact: Edwards AFB is not required to defend, indemnify or hold SBCFPD harmless from any claims. In addition, the parties are generally waiving any claims they may or will have against each other subject to the reimbursement provision in Paragraph f of the agreement. As a result, SBCFPD could incur additional costs associated with this provision.
2. The agreement does not require Edwards AFB to meet SBCFPD's insurance standards as required pursuant to SBCFPD Policy 11-07.
 - SBCFPD Policy requires contractors to carry appropriate insurance at limits and under conditions determined by SBCFPD's Risk Management Department and set forth in the SBCFPD standard agreement.
 - Potential Impact: The agreement does not include SBCFPD standard insurance requirements. Because the agreement is with the United States Air Force, the risk of not including SBCFPD's standard insurance requirements is low.
3. The parties must first exhaust their administrative remedies to resolve disputes prior to the initiation of any formal litigation.
 - SBCFPD's standard agreement does not require the exhaustion of administrative remedies before initiation of litigation.
 - Potential Impact: This term may result in additional costs to resolve disputes and delay in the initiation of litigation.
4. Edwards AFB may assign the agreement without notice to SBCFPD and without SBCFPD's approval.
 - The agreement standard is that SBCFPD must approve any assignment of the agreement.

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- Potential Impact: Edwards AFB could assign the agreement to a third party or business; however, this risk is low since the agreement is with the United States Air Force.
5. The agreement does not address governing law or venue.
- The SBCFPD standard agreement provides that governing law is California and court venue is in San Bernardino County.
 - Potential Impact: Because the agreement will be performed in San Bernardino County, governing law should be California. If there is a dispute and court venue is in another county, SBCFPD may incur additional costs associated with venue in another county.

PROCUREMENT

N/A

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Scott Runyan, Supervising Deputy County Counsel, 387-5455) on November 12, 2021; Finance (Tom Forster, Administrative Analyst, 387-4635) on November 15, 2021; and County Finance and Administration (Diana Atkeson, Deputy Executive Officer, 387-5423) on November 16, 2021.

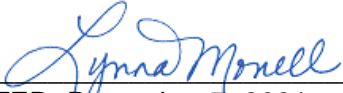
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Record of Action of the Board of Directors
San Bernardino County Fire Protection District

APPROVED (CONSENT CALENDAR)

Moved: Joe Baca, Jr. Seconded: Dawn Rowe
Ayes: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, SECRETARY

BY 
DATED: December 7, 2021



cc: SDD/SBCFPD- Munsey w/agree
Contractor- C/O SBCFPD w/agree
File- w/agree
LA 12/17/2021