

FIRE PROTECTION SERVICES CONTRACT

THIS CONTRACT is made and entered this July 1, 2021, by and between the CITY OF HAYWARD, hereinafter referred to as “Hayward” and the FAIRVIEW FIRE PROTECTION DISTRICT, hereinafter referred to as “Fairview” (collectively, the “Parties”).

WITNESSETH

WHEREAS, Fairview wishes to contract with Hayward to provide through the Hayward Fire Department the hereinafter described fire protection functions within Fairview’s boundaries;

WHEREAS, Hayward is agreeable to rendering such services on the terms and conditions hereinafter set forth; and

NOW, THEREFORE, the parties agree as follows:

1. TERM OF CONTRACT/REPLACEMENT OF PRIOR CONTRACT:

The Contract period is for a term of 5 years commencing July 1, 2021 and terminating on June 30, 2026. This Contract supersedes and substitutes in its entirety the existing agreement between the Parties of the same subject matter, as of the date of this Agreement. Both Parties acknowledge and agree that this provision does not trigger any rights specific to termination that might be available under the prior existing agreement. Upon mutual agreement, this Contract can be extended for an additional 5 years.

2. SCOPE OF DUTIES: Hayward agrees to provide fire protection and emergency services within the boundaries of the Fairview Fire Protection District to the extent and in the manner hereinafter set forth including the current level of related administrative support as further described in the adopted Governance Policy for Fairview.

3. SERVICE AND STAFFING LEVELS: Hayward shall provide Fairview with the same level of service that Hayward provides to the territory within Hayward’s corporate limits. The services to be performed hereunder include emergency medical service and other fire services including initial response service for hazardous materials calls which will include one fire company located at 25862 Five Canyons Parkway, Castro Valley, California (“Fairview Fire Station”). Services shall also include but not be limited to extant regional and local disaster programs and shall include offering the same education and training programs to the citizens of

Fairview that are offered to the citizens of Hayward including the Emergency / Disaster Preparedness Programs (CERT Classes).

The level and quality of service provided will be measured through the following performance metrics:

- a) Response Time: The Hayward Fire Department will adhere to the NFPA (Section 1710) standard of responding to 90% of the calls in the District within 5 minutes, 50 seconds, with the balance of a first alarm assignment arriving on scene in under 8 minutes – ninety percent (90%) of the time.
- b) Fire Prevention Activities: Fire Prevention Office staff will inspect all applicable occupancies within the District annually.
- c) Weed Abatement: All applicable parcels within the District will be inspected by Hayward Fire Department personnel and followed up by Fire Prevention Office staff (as needed) at least annually.
- d) Hazardous Materials: Hazardous Materials staff will inspect and follow-up on all industrial generators within the District at least annually.

Administrative and professional staff support will remain consistent with the Governance Policy throughout the term of this contract without lapse. Hayward shall not modify staffing levels affecting Fairview without prior written request of Hayward to Fairview and subsequent written consent of Fairview. If such consent is granted by Fairview for staffing modifications or if Hayward cannot otherwise meet its service levels described above, the parties agree to promptly renegotiate Fairview's financial obligation provided for in Section 11 of this Contract in order to make an equitable adjustment. In the event that Hayward is unable to meet its service or staffing levels, Fairview may also pursue its right to early termination of this Contract and any other legal remedies that may be available to it.

4. RESPONSIBILITY FOR PROVIDING RESOURCES:

- (a) For the purpose of performing services under this contract, Hayward shall furnish and supply all labor, supervision, equipment, communication facilities and supplies necessary to provide the level of service to be rendered hereunder. The direction, control and discipline of employees and

other matters incident to the performance of services shall be solely the right and responsibility of Hayward.

- (b) Notwithstanding subsection (a), it is agreed that whenever stationery, notices, forms or other similar supplies must be issued using the name of Fairview, they shall be made available by Fairview as needed.

5. **HOLD HARMLESS AND INSURANCE:** Hayward shall provide an insurance program for Fairview which encompasses those activities of Fairview contemplated by this Contract in accordance with the following standards:

- (a) Hayward agrees to hold harmless, indemnify and to defend Fairview, its Board of Directors, officers and employees and agents from all claims for injury or damage of whatever type brought by or on behalf of any third party arising from or connected with acts or omissions in the performance of this contract by Hayward.
- (b) Fairview shall continue to be named as an insured on Hayward's commercial general and auto liability and property insurance policies to the same extent of coverage applied to Hayward, it being understood that said policies have a current maximum limit of \$5,000,000 (five million dollars) and \$1,000,000,000 (one billion dollars), respectively, and subject to any self-insured retention and/or deductibles. Hayward shall bear the costs of any self-insured retention requirement and/or deductible. Fairview shall also be named as a loss payee on Hayward's property insurance policies. Hayward shall provide Fairview written notice of any change either in the current amounts of Hayward's insurance limits or applicable self-insured retentions and/or deductibles. Hayward shall provide written proof of insurance for its own policies and the policies described herein and in (c) below. Such policies shall be presented within thirty (30) days following annual policy renewal.
- (c) Hayward's insurance coverage shall include replacement cost coverage for the improvements to real property (including all buildings, fixtures and

structures), equipment and vehicles (including but not limited to fire trucks) provided by Fairview to Hayward for use in connection with this contract. Coverage for contents and personal property located at any time in such real property, equipment and vehicles shall be included.

- (d) Fairview, at its sole option, may maintain insurance it deems necessary to wrap around the protection afforded by the Hayward's insurance.

6. COST TO FAIRVIEW FOR ELECTRIC AND GAS BILLS: Fairview shall assume financial responsibility for the electric and gas bills associated with the Fire Stations, as defined below.

7. PROPERTY AND EQUIPMENT: Fairview shall continue to own its improved real property located at 25862 Five Canyons Parkway, Castro Valley, California and 24200 Fairview Avenue, Hayward, California ("Fire Stations") and its furnishings, equipment and vehicles during the terms of this Contract unless otherwise set forth. Fairview shall make the following available to Hayward at no cost:

- (a) The real property including but not limited to the Fire Stations structure(s) and grounds.
- (b) All furnishings and equipment. Equipment (other than vehicles, which are discussed below) that is consumed, broken, worn-out, lost, obsolete, etc. shall be replaced at Hayward's discretion and at Hayward's expense and will revert to Fairview should this Contract be terminated. Hayward shall provide Fairview's bookkeeper with sufficient information for the bookkeeper to generate a quarterly statement of any changes in capital property owned by Fairview.
- (c) Fairview agrees to replace vehicles and other capital assets as described in their annually approved Capital Improvement Program (CIP). The parties shall modify Attachment #3 accordingly when and if vehicles are replaced. Vehicles shall normally be replaced at 10-year life expectancy.
- (d) Hayward agrees to maintain, repair and insure all of the real property,

furnishings, equipment and vehicles listed in (a), (b), and (c) above during the term of this contract. Hayward shall insure all vehicles owned by Fairview in accordance with section 5 (b) and (c).

8. PERSONNEL/LIABILITY: Fairview shall not assume any liability for the direct payment of any salaries, wages, or other compensation to any Hayward personnel performing services hereunder for Fairview or any other liability other than that provided for in this Contract. Fairview shall not be liable for compensation of or indemnity to any Hayward employee for injury or sickness arising out of his or her employment.

9. FIRE CODES: Fairview is subject to the California Fire Code based on the International Fire Code and Hayward's amendments to such Fire Codes shall be adopted at the discretion of the Fairview Board of Directors, following adoption by the City of Hayward. Hayward will advise Fairview of any plans to adopt Fire Codes or amendments to Fire Codes so that Fairview can review and adopt such Fire Codes or amendments as it deems prudent as close in time as possible to Hayward's adoption. Hayward shall enforce the Weed Abatement standards set forth in FFPD Ordinances.

10. FIRE HYDRANTS: Hydrant maintenance, within Fairview, on East Bay Municipal Utility District (EBMUD) hydrants, shall remain the responsibility of the East Bay Municipal Utility District. However, Hayward shall maintain responsibility for overseeing this maintenance program. The intent of this program shall be to ascertain whether said hydrants are mechanically operable and capable of delivering water. Hayward shall notify the water purveyor, in writing; of any maintenance required as soon as possible any time Hayward becomes aware of maintenance or repair requirements. Hayward shall maintain liaison with Fairview's water purveyors for water needs during emergencies.

11. COST OF SERVICES: Fairview would pay the City of Hayward the following amount for all services to be provided by the City of Hayward without exception and consistent with the level of services provided in the present Contract.

- (a) For the Fiscal Year 2021/22, the Contract price shall be \$3,328,858, which is the contract price for Fiscal year 2020/2021 of \$3,206,992 plus the

increase in the Consumer Price Index (“CPI”) - All Urban Consumers for the San Francisco Bay Area (San Francisco-Oakland-San Jose) from May 2020 to April 2021, which was 3.8%.

- (b) For the Fiscal Year 2022/23, the Contract price shall be the contract price for Fiscal year 2021/22 of \$3,328,858 plus the increase in the CPI - All Urban Consumers for the San Francisco Bay Area (San Francisco-Oakland-San Jose) from May 2021 to April 2022. Should the increase in the aforementioned CPI be greater than 4 percent, then the maximum annual increase applied to the previous year's contract will be 4 percent (ceiling).

For example, assume that the May 2021 to April 2022 CPI is 2.5%, then the Contract cost calculation for FY 2022/2023 shall be:

$$(\$3,328,858.00 \times 2.5\%) + \$3,328,858.00 =$$

$$\$83,221.45 + \$3,328,858.00 = \$3,412,079.45 \text{ as the FY 2022/23 Contract Price.}$$

- (c) For the Fiscal Year 2023/24, the Contract price shall be the previous year's contract plus the increase in the Consumer Price Index (CPI) – All Urban Consumers for the San Francisco Bay Area (San Francisco-Oakland-San Jose) from May 2022 to April 2023. Should the increase in the aforementioned CPI be greater than 4 percent, then the maximum annual increase applied to the previous year's contract will be 4 percent (ceiling). The cost calculation for Fiscal Year 2023/2024 shall be:

FY 2022/2023 Contract price from paragraph (b) above multiplied by the 2022/2023 CPI; this total is then added to FY 2022/2023 Contract price to determine the FY 2023/2024 Contract price.

- (d) For the Fiscal Year 2024/25, the Contract price shall be the previous year's contract plus the increase in the Consumer Price Index (CPI) – All Urban Consumers for the San Francisco Bay Area (San Francisco-Oakland-San

Jose) from May 2023 to April 2024. Should the increase in the aforementioned CPI be greater than 4 percent, then the maximum annual increase applied to the previous year's contract will be 4 percent (ceiling). The cost calculation for FY 2024/2025 shall be:

FY 2023/2024 Contract price from paragraph (c) above multiplied by the 2023/2024 CPI; this total is then added to the FY 2023/2024 Contract price to determine the FY 2024/2025 Contract price.

- (d) For the Fiscal Year 2025/26, the Contract price shall be the previous year's contract plus the increase in the Consumer Price Index (CPI) – All Urban Consumers for the San Francisco Bay Area (San Francisco-Oakland-San Jose) from May 2024 to April 2025. Should the increase in the aforementioned CPI be greater than 4 percent, then the maximum annual increase applied to the previous year's contract will be 4 percent (ceiling). The cost calculation for FY 2025/2026 shall be:

FY 2024/2025 Contract price from paragraph (d) above multiplied by the 2024/2025 CPI; this total is then added to FY 2024/2025 Contract price to determine the FY 2025/2026 Contract price.

Fairview will pay the Contract price in annual installment, for the current year, no later than April 1 of each year.

12. RECORDS AND REPORTS: Hayward shall provide Fairview with monthly reports covering monthly financial expenditures; quarterly performance measures reports, monthly alarm activities and monthly fire prevention plan check reviews, conducted within Fairview's boundaries. If Hayward does not meet performance levels in any given month, its monthly report will identify the non-compliance, provide an explanation for the non-compliance and/or a plan for corrective action. Hayward agrees to make available to Fairview during normal business hours at such location as the records are kept, its records concerning its fire budget, the cost of providing fire services, and any other records reasonably necessary to determine the costs and revenues of the Hayward Fire Department and the specific costs of providing services to Fairview under this

contract. Fairview shall also be provided with advance notification of requests for new construction inspections within Fairview boundaries in order to participate in the process if appropriate.

13. ANNUAL CONTRACT REVIEW: On or before July 1 of each year during the term of the Contract, representatives from Fairview and Hayward Fire Department will meet to discuss the level and quality of service provided during the previous fiscal year, especially as it pertains to the performance metrics noted in Section 3.

14. FAIRVIEW BOARD MEETINGS: Fairview agrees to notify the Hayward Fire Chief of the time and place of its Board meetings. Hayward agrees that the Hayward Fire Chief or his/her designee shall attend all Board meetings when requested to do so by Fairview, or at any time that the Hayward Fire Chief deems necessary.

15. EARLY TERMINATION: In the event that Hayward fails to meet its service or staffing levels and fails to cure all material non-compliance within 60 days following Written Notice of Non-compliance by Fairview, the parties agree to promptly renegotiate Fairview's financial obligation as set forth in Section 11 of this Contract in order to make an equitable adjustment. If Fairview and Hayward cannot reach agreement on a renegotiated financial obligation within 90 days of the Written Notice of Non-Compliance from Fairview, Fairview may provide written notice of termination of this Contract to be effective 12 months from the date of the written notification, unless Fairview and Hayward mutually agree upon any other termination date. Fairview reserves the right to pursue any other legal remedies that may be available to it.

16. ATTACHMENTS: All attachments referred to in and attached to this Contract are hereby made a part of this Contract by reference and are incorporated herein.

17. NOTICES: Notice to the parties hereunder shall be in writing by certified mail or personal service as follows:

Fairview Fire Protection District

President, Board of Directors

Specific address to be provided for then current President of Board

City of Hayward


City Manager

777 'B' Street
Hayward, California 94541

18. AMENDMENTS: This Contract may not be amended except in a written document approved by the legislative bodies of both parties and executed by authorized representatives of both parties.

IN WITNESS WHEREOF, Fairview by motion, duly adopted by its Board of Directors, authorized this contract to be signed by its President of the Board and attested by its Secretary and by Hayward by resolution, duly adopted by its City Council, authorized this contract to be signed by its City Manager and attested by its Clerk on the day and year which follows:

FAIRVIEW FIRE PROTECTION DISTRICT


DocuSigned by:

DC48C0763BDE427...

President of the Board

Melissa Dimic

Print Name

CITY OF HAYWARD

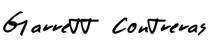
DocuSigned by:

38D5F24F5EE4F8...

City Manager

Kelly McAdoo

Print Name

RECOMMENDED BY

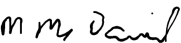
DocuSigned by:

8988F28FE0FB45C...

Fire Chief

Garrett Contreras

Print Name

ATTEST:


DocuSigned by:

F384010FA90047A...

Board Secretary

Mark McDaniel

Print Name

ATTEST:


DocuSigned by:

0022A42DA1F540D...

City Clerk

Miriam Lens

Print Name

APPROVED AS TO FORM:

DocuSigned by:

FCB5815BFD474CB...

Fairview Attorney

APPROVED AS TO FORM:

DocuSigned by:

FB80EC4EC3F24B7...

City Attorney

Conor Kennedy

Print Name

Michael S. Lawson

Print Name

Attachments:

Attachment 1 – 1 page, Vehicles

Attachment 2 – 1 page, Map of District

Attachment 3 – Fairview Governance Policy

ATTACHMENT NO. 1

VEHICLES:

Engine 605 Type VI – 2008 Ford F550 4 x 4
VIN 1FDAW57R58ED28433, Hayward Corp Yard #794

Engine 609 Type VI - 2020 Ford 550 4 x 4
VIN 1FD0W5HT8LEC50146, Hayward Corp Yard #798, Engine 609

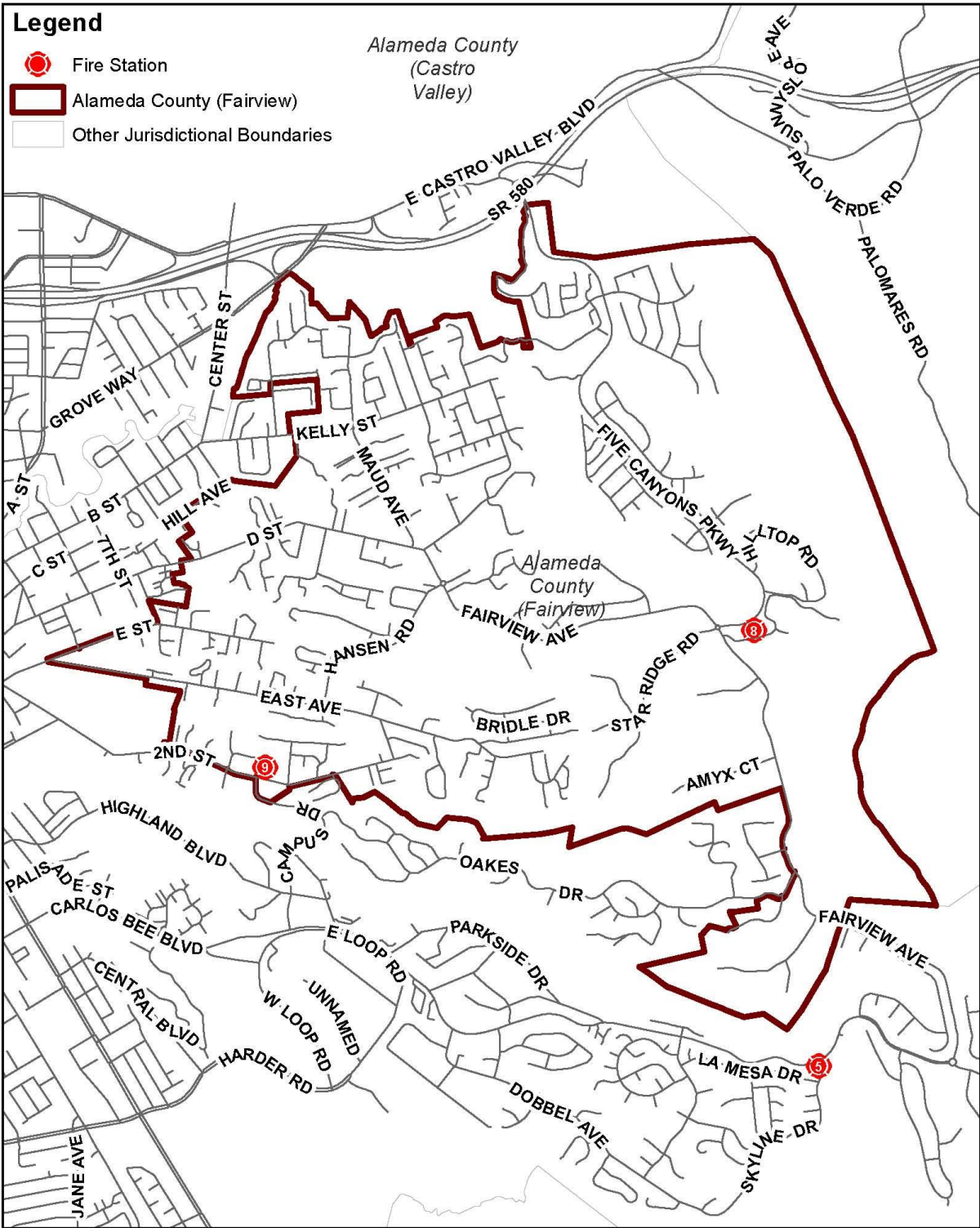
Engine 308 2020 Type III Engine, International/Boise Mobile Equipment
VIN 3HAEETAR3LL149415, Hayward Corp Yard #797

Engine 8 2014/Type I Engine/Pumper, Manufacturer: Seagrave
VIN 1F9EM28T8ECST2021, Hayward Corp yard #796

Engine 303 2009 Type III Engine, Westmark/International
VIN 1HTWEAZNX9J108281 ,Hayward Corp Yard #795

ATTACHMENT NO. 2

Fairview Fire Protection District



ATTACHMENT NO. 3



FAIRVIEW

FIRE PROTECTION DISTRICT

POLICY	NUMBER: 103.1 EFFECTIVE: 1/28/2020 PAGE 1 OF 4 PAGES
GOVERNANCE	

I Purpose

The purpose of this Policy is to outline the roles, responsibilities, and working relationships of the Board of Directors, General Manager, contracted Administrative Staff, and Fire Chief.

II Policy

A. Fairview Fire Protection District Board of Directors

The Fairview Fire Protection District (“FFPD”) Board of Directors’ duties are legislative in nature, formulating and collectively adopting policies for the operation, budget, and guidance of the District. The FFPD Board is not directly involved in the technical fire and emergency operations of the District, as this is overseen by the Fire Chief serving the District by contract or direct hire.

The FFPD Board of Directors are elected by and accountable to the constituents served by the Fairview Fire Protection District. The Directors shall be accessible through the General Manager, contracted administrative staff, as well as electronically (*i.e.*, email, website, social media), USPS mail, and during the public comment portion of each FFPD District meeting.

The Directors are responsible for developing and updating the Strategic Plan, ensuring high quality fire and emergency services are delivered throughout the District, maintaining fiscal responsibility when approving FFPD budgets and expenditures, providing transparency, and conducting themselves as a welcoming and cohesive body.

On or before June 30 of each calendar year, the FFPD Directors shall adopt a preliminary budget and complete a final budget by October 1 of the same year.

The Board of Directors shall conduct all business and meetings in compliance with the Brown Act (Govt. Code §§ 54954 & 54957).

Should the FFPD District not participate in a Contract for Fire and Emergency services, the Board shall establish Personnel Policies & Procedures, which shall outline sound hiring practices, recruitment, selection, retention, evaluation, and termination of District employees. The FFPD Board shall always employ, or contract with, a qualified, specifically trained, and competent Fire Chief who shall administer and supervise the delivery of emergency medical and fire response within the District. The Fire Chief shall report to the Board.

B. General Manager

The General Manager (“GM”) conducts and coordinates the day-to-day business of the District and is responsible for providing managerial, analytical and administrative support to the Board in order to fulfill its duties. *See* Attachment A for job specification.

The GM shall be employed/contracted by the Board and serves at the will of the Board. The GM shall:

1. Implement the policies and directives established by the Board.
2. Serve as liaison between the Directors and the general public, the contracted Fire Protection Services provider, associated government agencies (*i.e.*, Alameda County, Local Agency Formation Commission, State Controller), community organizations, as well as oversee professionals who serve the District (*i.e.*, bookkeeper, auditor, insurance provider, and lawyer).
3. Develop meeting agendas for regular and special board meetings.
4. Ensure timely FFPD compliance with state, county, and local regulations.
5. Ensure the compliance and execution of the Strategic Plan and District Policies and Procedures.
6. Prepare oral and written communications representing the District as needed.
7. Review and authorize all budget approved expenditures up to \$5,000.
8. Consult with FFPD District legal counsel as needed.
9. Ensure up-to-date information on the FFPD District website.

C. Fire Protection Services Contractor

1. Fire Chief

The contracted or employed Fire Chief of the Fairview Fire Protection District shall serve in a manner consistent with California state law and regulations and ensure the delivery of fire and emergency medical services consistent with recognized accepted standards. The Fire Chief is responsible for day-to-day operational service delivery to the District, and meeting those conditions outlined in the Contract for Services as agreed and overseen by the FFPD Board of Directors.

2. Administrative Staff

The Administrative Staff provides clerical, organizational and administrative support to the FFPD Board of Directors, GM, and Fire Chief. Tasks include but are not limited to:

- a) Assemble and distribute FFPD Meeting Agenda packets and ensure public notification.
- b) Work with GM to develop and maintain annual budget documents, budget monitoring and projection tools, and process expenditures for payment.
- c) Liaison between agencies and residents to facilitate the annual FFPD service area Weed Abatement Program.

Board President Signature:



Date:

01/27/20

Attachment A

1. General Manager Criteria

Skills/Abilities

- Facilitate discussions/workshops with the Board.
- Liaison with various agencies/constituents/contractors.
- Maintain awareness of political/regulatory trends impacting the District.
- Prepare written and oral reports/communication.
- Maintain a positive working relationship with Directors, public, and contractors.
- Effectively utilize computers and software necessary for conduct of District business *i.e.* PowerPoint, Word, Excel, e-mail etc.
- Able to travel to and attend evening meetings.

Qualifications

- Minimum two (2) years working in administrative capacity in public sector, preferably a Special District supporting elected officials.
- Bachelor's degree in Public Administration, Management or related field is preferred.
- Able to work from home office.

2. Selection Process

An Ad Hoc Committee of the Board shall review resumes and interview prospective candidates and make recommendation to the whole Board. The Board may approve this recommendation or request the Ad Hoc Committee return with another recommendation.