



Contract Number

SAP Number

San Bernardino County Fire Protection District

Department Contract Representative	<u>Dan Munsey</u>
Telephone Number	<u>(909) 387-5779</u>
Contractor	<u>City of Upland</u>
Contractor Representative	_____
Telephone Number	_____
Contract Term	<u>5/24/22 to 6/30/25</u>
Original Contract Amount	_____
Amendment Amount	_____
Total Contract Amount	_____
Cost Center	_____

IT IS HEREBY AGREED AS FOLLOWS:

(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and addenda, if any.)

**FIRE AND LIFE SAFETY PROTECTION AGREEMENT
BY AND BETWEEN
SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT
AND
CITY OF UPLAND**

The San Bernardino County Fire Protection District, herein called SBCFPD and the City of Upland, herein called CITY, enter into the following agreement:

Whereas, the current edition of the California Fire Code (CFC), as adopted and amended by SBCFPD (currently the 2019 edition of the CFC and otherwise known as Ordinance No. FPD 20-01), as well as standards, conditions and exhibits entered into this Agreement, establishes regulations for experienced fire personnel to enforce minimum mandates for public safety during events located in public areas pursuant to CFC Chapter 4 Emergency Planning and Preparedness, Section 403, Emergency Preparedness Requirements; and

Whereas, SBCFPD is a duly formed public entity organized under the laws of the State of California, with power to contract to provide fire and life safety protection services to the CITY, and with the power to contract for services necessary to achieve its purpose; and

Whereas, CITY is located within the Valley Service Zone, which is within SBCFPD's jurisdiction, and operates the various city sponsored events; and

Whereas, CITY recognizes that the CITY events require on-site fire protection which will impact the existing fire and life safety services for surrounding areas, and that various fire and life hazards can occur in operation of CITY events; and

Whereas, CITY wishes to mitigate such hazards by contracting for supplemental fire and life safety protection services from SBCFPD and reimbursing SBCFPD for these services; and

Whereas, CITY recognizes the various fire and life hazards that can occur during CITY events and shall provide representatives of SBCFPD access to all areas under the direction of the SBCFPD Fire Prevention Special Events Coordinator or Incident Commander; and

Whereas, SBCFPD is familiar with CITY events and the fire and life hazards related to CITY events; and

Whereas, SBCFPD has sufficient fire personnel and trained staff to provide the services described herein and in Exhibit "A" to CITY without reducing the level of service within SBCFPD.

THEREFORE, it is mutually agreed as follows:

TERMS OF AGREEMENT

1. SBCFPD personnel and equipment described in this Agreement, including Exhibits "A," "B," and "C," attached hereto and incorporated herein by reference, which shall be supplied by SBCFPD for CITY events. For each CITY event and subject to availability (as determined by SBCFPD's Fire Chief in the Fire Chief's sole discretion), the SBCFPD personnel, including hours, and equipment shall be agreed upon between SBCFPD's Fire Chief and CITY's Event Coordinator.
2. Except as provided in Section 2.A., below, the payment for said personnel and equipment will be based on SBCFPD Board of Directors approved fees in effect at the time of providing the service.
 - A. Exhibit "B" identifies the SBCFPD fees applicable to the specific classifications listed for services rendered for the period of May 24, 2022, to June 30, 2023. Effective July 1, 2023, payment for services from the classifications identified in Exhibit "B" will be based on SBCFPD Board of Directors approved fees.
3. The SBCFPD Board of Directors approved fees are subject to change annually on July 1st of each year.
4. SBCFPD reserves the right to request additional personnel and/or equipment for any event if the SBCFPD Community Safety Division's Special Events Coordinator or Incident Commander in charge of the event deems it necessary in his/her reasonable discretion.

COMPENSATION

5. SBCFPD will invoice CITY within sixty (60) days after the close of each event and the CITY shall submit payment no later than forty-five (45) days after the date of the invoice.
6. The sum of money paid under this Agreement to SBCFPD shall be used to reimburse SBCFPD for the compensation of SBCFPD's personnel and equipment during the time spent in providing such services during the CITY events described in this Agreement. SBCFPD personnel shall perform functions in which their title requires during normal SBCFPD working hours, under the direction of the SBCFPD Fire Chief/Fire Warden.

OTHER TERMS

7. This term of this Agreement shall be from May 24, 2022 through June 30, 2025, unless terminated by either party at any time with or without cause upon thirty (30) days written notice to the other party. The SBCFPD's Fire Chief/Fire Warden shall have the right to exercise SBCFPD's authority under this Agreement, including the right to give notice of termination on behalf of SBCFPD at his/her sole discretion. The City Manager for CITY shall have the right to exercise CITY's authority under this Agreement including the right to give notice of termination on behalf of CITY at his/her sole discretion.

INSURANCE AND INDEMNIFICATION

8. CITY 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.
9. SBCFPD agrees to indemnify and hold harmless the CITY its officers, employees, agents, volunteers from any and all claims, actions, 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.

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

In the event SBCFPD and/or CITY are found to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under this Agreement, SBCFPD and/or CITY, as applicable, shall indemnify the other to the extent of its comparative fault. Notwithstanding indemnification for any claim, action, loss, or damage involving a third party, SBCFPD and CITY hereby waive any and all rights of subrogation recovery against each other.

Furthermore, if SBCFPD or CITY attempts to seek recovery from the other for Workers' Compensation benefits paid to an employee, SBCFPD and CITY agree that any alleged negligence of the employee shall not be construed against the employer of that employee.

GENERAL TERMS AND CONDITIONS

10. No provision of this Agreement may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successor in interest, expressing by its terms an intention to modify this Agreement.
11. All terms, conditions and provisions contained herein shall inure to and shall bind the parties hereto, their heirs, representatives, assigns, or successors-in-interest. This Agreement may not be assigned by CITY without SBCFPD's written approval.
12. 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.
13. This Agreement shall be construed and interpreted in accordance with the laws of the State of California.
14. The parties acknowledge and agree that this Agreement was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue for any action or

claim brought by any party to this Agreement will be San Bernardino County. Each party hereby waives any law, statute (including but not limited to Code of Civil Procedure, section 394), or rule of court that would allow them to request or demand a change of venue. If any action or claim concerning this Agreement is brought by any third party, the parties hereto agree to use their best efforts to obtain a change of venue to the Central District of San Bernardino County.

15. If any legal action is instituted to enforce or declare any party's rights hereunder, each party, including the prevailing party, must bear its own costs and attorneys' fees.
16. In the event of a dispute, the parties shall use their best efforts to settle the dispute through negotiation with each other in good faith.
17. Any and all notices sent, or required to be sent, to the parties to this Agreement shall be mailed to the following addresses:

CITY OF UPLAND

460 N. Euclid Ave.
Upland, CA 91786
Attn: City Manager

SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT

157 West 5th Street, Second Floor
San Bernardino, CA 92415
Attn: Fire Chief/Fire Warden

Or to such other addresses as from time to time shall be designated by the parties.

18. This Agreement This Agreement contains the entire agreement between the Parties to this Agreement relating to the settlement and transactions contemplated hereby, and supersedes any and all prior agreements, understandings, representations, and statements between the Parties, whether oral or written, and whether by a Party or such Party' s legal counsel. The Parties are entering into this Agreement based solely on the representations and warranties herein and not based on any promises, representations, and/ or warranties not found herein. 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 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, this Agreement has been executed and approved and is effective and operative as to each of the parties are herein provided.

SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT

▶

Curt Hagman, Chairman, Board of Directors

Dated: _____
SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD
Lynna Monell, Secretary

By _____
Deputy

CITY OF UPLAND

(Print or type name of corporation, company, contractor, etc.)

By ▶ _____
(Authorized signature - sign in blue ink)

Name _____
(Print or type name of person signing contract)

Title _____
(Print or Type)

Dated: _____

Address _____

FOR COUNTY USE ONLY

Approved as to Legal Form
▶ _____
Scott Runyan, Principal Assistant County Counsel
Date _____

Reviewed for Contract Compliance
▶ _____
Date _____

Reviewed/Approved by Department
▶ _____
Date _____

**EXHIBIT A
PERSONNEL AND EQUIPMENT COVERAGE
FOR CITY EVENTS**

Event Coverage

The CITY and SBCFPD will mutually agree upon the equipment and personnel to be provided by SBCFPD for each CITY event with consideration to the particular needs of the event and/or size of the crowd.

The payment by CITY to SBCFPD for said personnel and equipment will be as provided in Section 2, including Section 2.A., of this Agreement.

SBCFPD reserves the right to specify more personnel and equipment as it deems appropriate for any event.

Events exceeding 500 participants or that present a special hazard as described in Exhibit "C" shall be submitted through the Community Safety Division of SBCFPD by application thirty (30) days prior to event. Exhibit "C" is attached hereto and incorporated into the Agreement by reference.

EXHIBIT B
PERSONNEL AND EQUIPMENT FEES

Personnel	Hourly Fee
Captain	\$112.45
Engineer	\$94.16
Fire Fighter Paramedic	\$74.85
Fire Fighter EMT	\$67.68

Equipment	Hourly Fee
Engine Type I or II	\$235.40
Engine Type III	\$149.42
Water Tender	\$245.88
Brush Patrol	\$169.29

NOTE: Equipment Standby Fees will be billed at 50% of the fee listed above.



EXHIBIT C Special Event Permit

This document outlines the requirements of the Special Event permit application process as well as special instructions that must be met for **ALL** Special Event shows and exhibits. Events that must meet Special Event requirements include, but are not limited to: Home shows, auto shows, rock and mineral displays, musical shows (i.e., rock music concerts, raves, etc.), circuses, racing events, carnivals, street fairs, fire work displays, commercial filming or photography (exception: news media), rodeos, wrestling, religious gatherings, and any other special event of public assemblage that may have an attendance of 200 people or more at one time.

Events with standard seating plans or floor plan arrangements that have been pre-approved or have a written agreement/contract with the San Bernardino County Fire Protection District (SBCFPD) with one or more of the following will require a Special Event Permit.

Application and permit:

- Use of Candles or Open Flames
- Bonfires, revivals or ceremonial events using open fires
- Use of fireworks, pyrotechnics or explosives
- Temporary Membrane Structures, such as any canopy or group of canopies over 700 square feet, or tent over 400 square feet
- Liquid or gas-fueled vehicles or equipment in assembly buildings
- Special Amusement (Includes Haunted Houses or similar)
- Commercial Filming or Photography
- Any event that is not the primary use of the facility

Throughout the remainder of the document, the occurrence being permitted will be called the "Event".

Special Event Application:

Applications must be submitted to SBCFPD at least thirty (30) days prior to the event for review and approval.

Exception: ALL commercial filming and photography must be submitted to the Inland Empire Film Commission by calling (909) 888-9011.

The application packet submitted to SBCFPD must include payment in addition to the following:

- Application Form/Cover Sheet
- Event Site Plan
- Event Description - Provide description and plans where necessary
- Certificate of Insurance and landowner's permission in writing

Applications and fee schedule may be obtained by visiting
<https://sbcfire.org/ofm/specialeventpermits/> and <https://sbcfire.org/financialsandreporting/> or

by visiting <https://ezop.sbcounty.gov/CitizenAccess/Default.aspx> or by calling (909) 386-8400. To submit an application package, please call (909) 386-8400.

Application Form/Cover Sheet (must include the following):

- Name of the Event
- Date(s) of the Event
- Set up and move-out dates.
- Estimated number of workers at any one time.
- Estimated number of persons to be in attendance at any one time.
- Event Coordinator contact information - Name, address, phone number(s)
- Note: This should include contacts for individual(s) that can provide detailed information about set-up and operation of the Event.

Event Site Plan (must include the following):

- Detailed physical layout of the Event to include exhibit/ booth floor plans
- Layout of all equipment: i.e., power sources, LPG storage, generators, fencing, etc.
- Food & vendor booths and consumption areas
- Tent & canopy locations, with dimensions
- Size and location of stage(s) or other performing area including circus ring, etc.
- First aid location
- Vendor & public parking areas
- Firefighting equipment: i.e., fire extinguishers, hose stations, fire alarm pull stations, etc.
- Evacuation points, exits and exit access points
- Street closures (including number of lanes to be closed), the direction of travel of any parade, race, run or walk, and all other proposed event activities

Event Description

Submit a detailed event description describing all aspects of the event including: logistics, schedule of events, changes from previous year's events, contact information for the Facility, Chairperson and Emergency Contact (24/7)

Certificate of Insurance

You must provide proof of liability insurance and a Letter of Endorsement (ISO form # CG-20-12-07-98 or AB-90-67-12-93 or equivalent) naming the SBCFPD as additionally insured for the amount of \$1 million.

The insurance Certificate must read in the "Certificate Holder" box verbatim: **San Bernardino County Fire Protection District, 222 West Hospitality Lane, Third Floor, San Bernardino, CA 92415-0016.**

In the "Descriptions of Operations" box the following must read verbatim: **San Bernardino County Fire Protection District and its officers, employees, agents, and volunteers are additionally insured with respect to liabilities arising out of the CITY's performance of services hereunder.**

The Letter of Endorsement must read verbatim: **San Bernardino County Fire Protection District, 222 West Hospitality Lane, Third Floor, San Bernardino, CA 92415-0016 and The County of San**

Bernardino and their officers, employees, agents, and volunteers are additionally insured with respect to liabilities arising out of the CITY's performance of services hereunder.

Proof of Workers' Compensation Insurance is also required at state statutory limits.

An additional Insurance Certificate and Letter of Endorsement is required naming the San Bernardino County Fire Protection District as additionally insured for the amount of \$10 million in the event of the use of airplanes, helicopters, or any other aircraft.

The insurance Certificate must read in the "Certificate Holder" box verbatim: **San Bernardino County Fire Protection District, 222 West Hospitality Lane, Third Floor, San Bernardino, CA 92415-0016**

In the "Descriptions of Operations" box the following must read verbatim: **San Bernardino County Fire Protection District and its officers, employees, agents, and volunteers are additionally insured with respect to liabilities arising out of the CITY's performance of services hereunder.**

The Letter of Endorsement must read verbatim: **San Bernardino County Fire Protection District, 222 West Hospitality Lane, Third Floor, San Bernardino, CA 92415-0016 and The County of San Bernardino and its officers, employees, agents, and volunteers are additionally insured with respect to liabilities arising out of the CITY's performance of services hereunder.**

Please note: NO HAND-WRITTEN CERTIFICATES OR ENDORSEMENTS WILL BE ACCEPTED. A "Plan of Activities" (POA) and a FAA approval; in writing, is also required.

Fire Department Approval of Plans

Plans must be approved by the Fire Department prior to any event set-up unless the set-up is a standard arrangement pre-approved by the SBCFPD Community Safety Division. Approvals are subject to final inspection by an authorized SBCFPD Community Safety Division representative. A copy of approved plans will be kept on file with the SBCFPD Community Safety Division and with the Event Manager. No modification of the set-up shall occur once the approved plan has been established without prior written approval on the plans from the SBCFPD Community Safety Division. Inspections will be conducted according to the approved plans.

Inspection of the Event

In order to maintain compliance with the provisions related to the Fire and Life Safety requirements, periodic inspections shall be conducted by members of SBCFPD. These inspections may include:

- A walk-through inspection with the property manager or the authorized representative, the Events Coordinator and members of the Community Safety Division during the move-in/set-up period.
- Any violations noted shall be corrected immediately or within the time frame agreed upon.
- Daily visits by members of the Community Safety Division (once the Event has opened), as well as on-duty members of Fire Department Companies, as necessary. Cooking and motor vehicle display and use will be spot checked by the SBCFPD Community Safety Division personnel and requirements will be strictly enforced.
- During the closing (move-out) and removal of materials used in the Event, members from the SBCFPD Community Safety Division may inspect for maintenance of firefighting accessibility, i.e., exiting and fire lanes.

Special Inspections

Special inspections will be required for the following:

- All motorized vehicle displays: i.e., auto shows or sales, motorized vehicle events, monster trucks, mud bogs, motorcycles, etc. (See "Display of Motorized Vehicles" below.)
- All indoor cooking (See "Cooking and Warming Devices" below.)
- Pyrotechnic displays - A separate SBCFPD pyrotechnic permit is required. This must be submitted at least thirty (30) days prior to the planned event.
- Air-supported temporary membrane structures having an area in excess of 400 square feet (See "Structures and Exhibit Booths" below.)
- Any tent over 200 sq. ft., and/or canopy over 400 sq. ft.
- LPG use - Mechanical inspection permits may be required.

Standby Personnel

Whenever it is determined, in the opinion of the SBCFPD Code Official, that the safety of the public is imperiled, due to the number of the persons present or the nature of the activity, the owner, agent or lessee shall employ one or more Fire Department Personnel to perform the duties of standby. The Event will be billed at the current SBCFPD personnel standby rates.

Stopping Event

Upon finding any overcrowded condition or obstruction in aisle, passageways, or other means of egress (exiting), or upon finding any condition which constitutes a serious menace to life, or the terms of any established contract are violated, SBCFPD **SHALL** cause the performance, presentation, spectacle, or entertainment to be stopped until such condition or obstruction is corrected. Failure to comply may result in citation, criminal prosecution, and/or revocation of permit.