

Contract Number

SAP Number

San Bernardino County Fire Protection District

Department Contract Representative	Dan Munsey
Telephone Number	387-5779
Contractor	Fontana Rotary Club
Contractor Representative	John Roberts
Telephone Number	99-721-2796
Contract Term	
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.)

AGREEMENT BETWEEN SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT AND FONTANA ROTARY CLUB FOR TRANSFER OF EQUIPMENT

WHEREAS, San Bernardino County Fire Protection District (hereinafter "SBCFPD") has a surplus rescue engine, water tender, and fire engine and has no use for these items; and,

WHEREAS, SBCFPD has researched and found that no local agencies have a need for the equipment; and,

WHEREAS, the Fontana Rotary Club (hereinafter "Rotary") has a need to donate a rescue engine and water tender engine to a fire department in San Felipe, Mexico; and

WHEREAS, Rotary has a need to donate a fire engine to a local public school in Los Angeles County, California.

WHEREAS, in consideration of Rotary providing SBCFPD a full release for the equipment, SBCFPD is transferring the equipment at no cost to Rotary.

NOW THEREFORE, SBCFPD and Rotary agree to the following terms and conditions.

I. Agreement

- A. SBCFPD shall transfer at no cost to Rotary the following equipment: a 1990 Pierce Lance Rescue Engine (Equipment No. 99861/VIN 4P1CT02E6LA000538) (Rescue Engine); a 1980 Mack Water Tender (Equipment No. 193281/VIN MR686501252) (Water Tender Engine); and a 2000 International Fire Truck (Equipment No. 018378/VIN 1HTSDADR11H293716) (Fire Truck).
- B. Rotary understands that the Rescue Engine, Water Tender Engine and Fire Truck are outdated and may be in need of repair.
- C. Rotary accepts all responsibility for the Rescue Engine, Water Tender Engine, and Fire Truck and acknowledges that the Rescue Engine, Water Tender Engine and Fire Truck are provided in "as is" condition and without warranty.

II. General Terms and Conditions

1. Legality and Severability

The parties' actions under the Agreement shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Agreement are specifically made severable. If a provision of the 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.

2. Representation of the County and District

In the performance of the Agreement, Rotary, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County of San Bernardino or the San Bernardino County Fire Protection District.

3. Relationship of the Parties

Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

4. Duration of Terms

This Agreement, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Agreement.

5. Mutual Covenants

The parties to this Agreement mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

6. Attorney Fees and Costs

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.

7. Choice of Law

This Contract shall be governed by and construed according to the laws of the State of California.

8. San Bernardino County Fire Protection District Representative

The Fire Chief/Fire Warden or his/her designee shall represent SBCFPD in all matters pertaining to

the services to be rendered under this Contract, and shall be the final authority in all matters pertaining to the Agreement. The San Bernardino County Fire Protection District Board of Directors must approve all amendments to this Contract.

9. Venue

The venue of any action or claim brought by any party to this Agreement will be the Superior Court of California, County of San Bernardino, San Bernardino District. Each party hereby waives any law or rule of the court, which 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 and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino, San Bernardino District.

10. Improper Consideration

Rotary 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 County and SBCFPD in an attempt to secure favorable treatment regarding this Agreement.

Rotary shall immediately report any attempt by a County or SBCFPD officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Rotary. 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, SBCFPD is entitled to pursue any available legal remedies.

11. Improper Influence

Rotary shall make all reasonable efforts to ensure that no County officer or employee or SBCFPD officer or employee, whose position in the County or SBCFPD enables him/her to influence any award of the Agreement or any competing offer, shall have any direct or indirect financial interest resulting from this Agreement, or shall have any relationship to the Rotary or office or employee of the Rotary.

12. Release of Information

No news releases, advertisements, public announcements or photographs arising out of this Agreement or Rotary's relationship with SBCFPD may be made or used without prior written approval of SBCFPD.

III. Indemnity and General Release

Rotary releases SBCFPD and its employees, agents and contractors from all actions, claims or demands that Rotary and/or its assignees, heirs, distributees, guardians, and legal representatives have or may in the future have for all injury or damage resulting from the equipment identified in this agreement. In approving this release, Rotary agrees to and does hereby waive and relinquish all rights and benefits afforded under the provisions of Section 1542 of the Civil Code of the State of California, which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Rotary has carefully read this release and fully understands its contents. Rotary is aware that this is a release of liability and approves it on Rotary's own free will.

Rotary agrees to indemnify, defend (with counsel reasonably approved by SBCFPD) and hold harmless SBCFPD and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by SBCFPD on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall

apply regardless of the existence or degree of fault of indemnities. The Rotary indemnification obligation applies to SBCFPD's "active" as well as "passive" negligence but does not apply to SBCFPD's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

IV. Waiver of Subrogation Rights

The Rotary shall require the carriers of required coverages to waive all rights of subrogation against SBCFPD, its officers, employees, agents, volunteers, contractors, and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Rotary and Rotary's employees or agents from waiving the right of subrogation prior to a loss or claim. The Rotary hereby waives all rights of subrogation against SBCFPD.

V. Full Understanding

This contract represents the full and complete understanding of the parties with respect to the subject matter hereto, and this contract supersedes all prior oral and written agreements or understandings between the parties with respect to the subject hereto. This contract shall be governed by the laws of the State of California. Venue for any lawsuit pertaining to this contract shall be Superior Court of California, County of San Bernardino, San Bernardino Division. Any amendment to this contract shall be in writing, signed by both parties.

VI. Conclusion

This contract consisting of four (4) pages is the full and complete document describing the terms regarding the transfer of the equipment described herein.

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

FONTANA ROTARY CLUB

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

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

Name MICHAEL WELSH
(Print or type name of person signing contract)

Title PRESIDENT
(Print or Type)

Dated: _____

Address PO BOX 313
FONTANA, CA 92334

FOR COUNTY USE ONLY

Approved as to Legal Form

►
Scott Runyan, Deputy County Counsel

Date _____

Reviewed for Contract Compliance

►

Date _____

Reviewed/Approved by Department

►
Dan Munsey, Fire Chief/Fire Warden

Date _____