

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

215



FROM: FIRE

**SUBMITTAL DATE:
May 24, 2010**

SUBJECT: Approval of the Bauer Fill Station Use Agreement between the Riverside Community College District and the Riverside County Fire Department.

RECOMMENDED MOTION: Move that the Board approve and authorize the Chairman to sign the attached Agreement between the County and the Riverside Community College District.

BACKGROUND: The Riverside Community College District has purchased a Bauer Unicis III Cylinder Recharging Station. The Fill Station is used to fill breathing apparatus bottles. The Fill Station will be utilized by employees of CAL FIRE, Riverside County Fire Department, and students of RCCD. It is located at Ben Clark Training Center. RCCFD will procure and pay for a Maintenance Agreement with an outside vendor to maintain and repair said Fill Station. The term of this agreement shall be in effect as of the day and year approved herein and continue thereafter for five (5) years.

FORM APPROVED COUNTY COUNSEL
BY: Synthia M. Gunzel DATE: 6-16-10
SYNTHIA M. GUNZEL Departmental Concurrence

John R. Hawkins, County Fire Chief

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 1,920.00	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 460.80	Budget Adjustment:	No
	Annual Net County Cost:	\$ 460.80	For Fiscal Year:	2010/2011

SOURCE OF FUNDS:	General Funding 24%	Positions To Be Deleted Per A-30	<input type="checkbox"/>	
	Structural Taxes 32%		Requires 4/5 Vote	<input type="checkbox"/>
	Contract Revenue 44%			<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY:
Robert Tremaine

County Executive Office Signature

- Consent
- Policy
- Consent
- Policy

Dept Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.: None | District: ALL | Agenda Number: **3.18**

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

BAUER FILL STATION USE AGREEMENT
Between the Riverside Community College District
and the Riverside County Fire Department

This Agreement is entered into this 15th day of May, 2010, by and between RIVERSIDE COMMUNITY COLLEGE DISTRICT, a special district, (hereinafter referred to as "RCCD"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, on behalf of the Fire Department (hereinafter referred to as "RCFD").

In consideration of the mutual covenants contained herein, the parties hereto agree as follows:

A. SCOPE OF AGREEMENT

RCCD has purchased a Bauer Unicus III Cylinder Recharging Station, at a cost of \$60,417.24 (hereinafter referred to as "FILL STATION"). This FILL STATION is used to fill breathing apparatus bottles. The FILL STATION will be utilized for any and all employees of CAL FIRE, RCFD, as well as students of RCCD. RCFD will procure and pay for a Maintenance Agreement with an outside vendor to maintain and repair said FILL STATION.

B. OWNERSHIP

RCCD shall maintain ownership of said FILL STATION, including but not limited to hardware, accessories, and warranty if any.

C. USE AND CONTROL

To RCFD, RCCD assigns the use and control of the said equipment, which will be located at Ben Clark Training Center located at 16902 Bundy Avenue, Riverside, CA 92518. The FILL STATION is not to be removed from this facility, unless the removal is for maintenance and/or repair, or written permission has been obtained in advance from RCCD.

RCFD hereby agrees to keep said equipment in good repair and operating condition. RCFD will procure a maintenance agreement with an outside vendor, and pay for all expenses of normal maintenance and repair which will include labor, material, parts, and similar items for normal, reasonable wear and tear.

The FILL STATION will be utilized to fill or recharge breathing apparatus bottles for any and all employees of CAL FIRE, RCFD, as well as students of RCCD.

D. PROCEDURE FOR TRACKING EQUIPMENT

RCCD agrees that the FILL STATION has been installed in a secure location. RCCD and RCFD will agree what personnel will utilize and be responsible for the FILL STATION as well as the procedures for the use of the FILL STATION.

E. BILLING AND PAYMENTS

There will be no rental fees assessed for the use of the FILL STATION.

The maintenance agreement procured by RCFD will be the responsibility of RCFD. The invoicing will be directly billed to RCFD and payment made accordingly.

F. MAINTENANCE AND/OR REPLACEMENT

RCFD agrees to maintain the daily care and usage of the FILL STATION with due diligence. RCCD will be liable for repairs of the FILL STATION if damage is clearly caused by negligent and/or wrongful misuse by RCCD. RCFD agrees at its discretion to repair or replace all or any parts as needed for reasonable wear and tear, or for unforeseen and unintentional damage or loss caused by RCFD, otherwise not covered under warranty.

G. TERM

This Agreement shall be in effect as of the day and year hereinabove first written, and shall continue thereafter for five (5) years, unless sooner terminated as provided for below.

In the event the parties intend to renew this agreement at the end of the term above, and the parties have not yet finalized a renewal agreement, the terms and conditions of this agreement will continue in full force and effect, on a month-to-month basis, not to exceed one (1) year, until a new agreement can be completed, approved, and signed by the parties.

H. TERMINATION

Either party may terminate this Agreement by giving thirty (30) days notice, in writing, to the other party or by mutual agreement. Upon termination of this agreement, RCFD agrees to return the FILL STATION with any and all accessories that were received with said machine when first received to RCCD on original purchase date.

Notwithstanding the provision above, this Agreement may be terminated by either party upon the failure of the other party hereto to perform or fulfill, at the time and in the manner herein provided, and material obligation or condition required to be performed or fulfilled by such party hereunder. Any such failure, upon its occurrence, shall constitute a breach, and termination shall be effective immediately following not less than thirty (30) days after written notice thereof from the non-breaching party.

I. ASSIGNMENT

RCFD shall not have the right to assign or otherwise transfer any of its rights or obligations under this Agreement. Any prohibited assignment or attempted assignment shall be null and void.

J. ACKNOWLEDGEMENTS

RCFD hereby acknowledges that RCCD is not the manufacturer of the FILL STATION.

K. INDEMNIFICATION

RCCD shall indemnify and hold RCFD, its officers, agents, employees and independent contractors free and harmless from any claim or liability whatsoever, based or asserted upon any act or omission of RCCD, its officers, agents, employees, volunteers, subcontractors, or independent contractors, for property damage, bodily injury or death, or any other element of damage of any kind or nature arising out of the performance of this Agreement to the extent that such liability is imposed on RCFD by the provisions of California Government Code Section 895.2 or other applicable law, and RCCD shall defend at its expense, including attorney fees, RCFD, its officers, agents, and employees and independent contractors in any legal action or claim of any kind based upon such alleged acts or omissions.

RCFD shall indemnify and hold RCCD, its officers, agents, employees and independent contractors free and harmless from any claim or liability whatsoever, based or asserted upon any act or omission of RCFD, its officers, agents, employees, volunteers, subcontractors, or independent contractors, for property damage, bodily injury or death, or any other element of damage of any kind or nature arising out of the performance of this Agreement to the extent that such liability is imposed on RCCD by the provisions of California Government Code Section 895.2 or other applicable law, and RCFD shall defend at its expense, including attorney fees, RCCD, its officers, agents, and employees and independent contractors in any legal action or claim of any kind based upon such alleged acts or omissions.

L. FORCE MAJEURE

If either party's performance of any of its obligations hereunder are delayed or impaired by reason of any Act of God, or, civil disturbance, strike, adverse weather condition, inability to arrange for or delays in transportation, unavoidable casualty, inability to acquire of delays in acquiring any component from a manufacturer or supplier, inability to obtain or delays in obtaining any permits or any law, rule or order of any governmental agency or official or any cause not reasonably within either party's control including without limitation the non-renewal or termination of or inability to obtain license of any of the application programs, and not due to any fault, neglect, act or omission on the part of either party, shall be entitled to an extension of time for completion of same for a period equivalent to the time lost by reason thereof; provided, however, that such party gives the other party notice thereof within five (5) business days (unless circumstances require immediate notification) of the commencement of such claim of delay or impairment.

M. ENTIRE AGREEMENT

This Agreement, including any Exhibits attached hereto and by this reference incorporated herein, constitutes the entire Agreement between the parties with respect to the subject matter hereof, and supersedes all previous proposals, oral or written, and all negotiations, conversation or discussions between the parties related to this Agreement. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute a waiver of any other provision, whether or not similar. No waiver or consent shall constitute a continuing waiver or consent or commit either party to provide a waiver in the future except to the extent specifically set forth in writing. No waiver shall be binding unless executed in writing by the party making the waiver. In the event the agreement is determined to be void in part, the remainder of the agreement shall survive.

N. AMENDMENT AND MODIFICATION

This Agreement shall not be modified, amended, rescinded, canceled or waived, in whole or in part, except by written amendment signed by each of the parties hereto. Any modification or amendment to this Agreement shall be of no force and effect unless it is in writing and signed by both parties.

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O. DELIVERY OF NOTICES

Any notices to be served pursuant to this Agreement shall be considered delivered when deposited in the United States mail and addressed to:

RIVERSIDE COUNTY FIRE
DEPARTMENT

County Fire Chief
210 W. San Jacinto Ave.
Perris, CA 92570

RIVERSIDE COMMUNITY
COLLEGE DISTRICT

Cordell Briggs, Dean, PSET
16791 Davis Ave.
Riverside, CA 92518

Provisions of this section do not preclude any notices being delivered in person to the addresses shown above. Delivery in person shall constitute service hereunder, effective when such service is made.

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[Signature Provisions on following page]

IN WITNESS WHEREOF, the duly authorized officials of the parties hereto have, in their respective capacities, set their hands as of the date first hereinabove written.

Dated: May 12, 2010

RIVERSIDE COMMUNITY COLLEGE DISTRICT

By: Monte E. Perez
MONTE PEREZ,
President, Moreno Valley College

Dated: April 30, 2010

RIVERSIDE COMMUNITY COLLEGE DISTRICT

By: Cordeell Briggs
CORDELL BRIGGS,
Dean of PSET

Dated: May 28, 2010

RECOMMENDED APPROVAL:

By: John R. Hawkins
JOHN R. HAWKINS,
Riverside County Fire Chief

Dated: _____

COUNTY OF RIVERSIDE

By: _____
Chairman, Board of Supervisors

ATTEST:

APPROVED AS TO FORM:
PAMELA J. WALLS,
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By: Synthia M. Gunzel
SYNTHIA M. GUNZEL
Deputy County Counsel

By: _____
Deputy

(SEAL)