

Contract Number

SAP Number

San Bernardino County Fire Protection District

Department Contract Representative Dan Munsey
Telephone Number 387-5779

Contractor Morongo Valley Community
Services District and Fire
Department

Contractor Representative _____
Telephone Number _____
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 FOR THE EMERGENCY PROVISION OF SERVICES ON A TEMPORARY BASIS ASSOCIATED WITH RESPONSE TO EMERGENCY CALLS FOR FIRE RESCUE AND ADVANCED LIFE SUPPORT SERVICES

THIS AGREEMENT, dated as of December __, 2021 is entered into by and between the Morongo Valley Community Services District and Fire Department hereinafter referred to as the "DISTRICT," and the San Bernardino County Fire Protection District, hereinafter referred to as the "SBCFPD," the promises and agreements of each being in consideration of the promises and agreements of the other.

WITNESSETH

WHEREAS, DISTRICT is a community services district for Parks, Street Lights, and Fire Protection; and

WHEREAS, DISTRICT's Fire Department is an all-risk agency providing response to emergency calls for Advanced Life Support emergency medical services, as well as fire rescue and fire suppression services (hereafter referred to as "ALS and Fire Services") to the community of Morongo Valley, and the surrounding areas (hereafter "DISTRICT's jurisdiction" and further defined in Exhibit I); and

WHEREAS, DISTRICT is unable to provide responses to emergency calls for ALS and Fire Services within DISTRICT's jurisdiction and is in an immediate and emergency need of SBCFPD to provide these services; and

WHEREAS, SBCFPD is willing to respond to emergency calls for ALS and Fire Services in DISTRICT's jurisdiction on an emergency and temporary basis for DISTRICT as provided in this agreement.

NOW THEREFORE, SBCFPD and DISTRICT mutually agree to the following:

1. Term:

- A. The term of this Agreement shall be from December __, 2021, through January __, 2022 ("Initial Term") and shall automatically renew in two (2) thirty (30) calendar day increments (the first automatic renewal being at the end of the Initial Term, and then the second being at the end of the first thirty (30) day increment) thereafter unless notice is given five (5) calendar days prior to the start of the first or second automatic renewal. The total term of this Agreement (Initial Term plus the two (2) thirty (30) calendar day automatic renewals) shall not exceed ninety (90) calendar days.
- B. Either party may, by written notice to the other party, terminate this Agreement at any time and without cause by giving written notice to the other party of such termination, and specifying the effective date thereof, at least fifteen (15) calendar days after the date of such notice.

2. Scope of Services:

- A. SBCFPD agrees to provide ALS and Fire Services (sometimes collectively referred to as "Services").

In providing the Services SBCFPD shall:

- 1) Respond to emergency calls for ALS and Fire Services in DISTRICT's jurisdiction and provide ALS and Fire Services to those calls as provided in this Agreement ("Services"). The type and level of ALS and Fire Services SBCFPD will provide DISTRICT under this Agreement will be substantially similar to the ALS and Fire Services SBCFPD provides to the SBCFPD jurisdiction adjacent to DISTRICT's jurisdiction. No other SBCFPD services will be provided under this Agreement. If the demands of the DISTRICT exceed the services which the SBCFPD can provide, the SBCFPD may use mutual aid agreements, if available, to supplement the SBCFPD's vehicles, equipment, apparatus, and personnel.
 - 2) Maintain continuous (twenty-four (24) hours per day, seven (7) calendar days per week) and uninterrupted ALS and Fire Services. Under no circumstance is the SBCFPD liable to the DISTRICT for an interruption or failure of service caused by acts of God, unavoidable accident, or other circumstances beyond the control of the SBCFPD through no fault of its own.
- B. The DISTRICT agrees that the SBCFPD shall provide services in accordance with State and Federal laws and the SBCFPD agrees to provide services in accordance with such laws.
 - C. The SBCFPD agrees to provide the DISTRICT with regular reports and evaluations of the ALS and Fire Services on a monthly basis and in a format agreed upon by both entities.
 - D. For purposes of this Agreement, "DISTRICT's jurisdiction" is defined in Exhibit I that is attached hereto and incorporated herein by reference.

3. Compensation:

- A. Except for Extraordinary Services, as defined below, DISTRICT shall pay SBCFPD the amount of \$18,000 for every thirty (30) calendar days (\$600 for each calendar day) while this Agreement is in effect.
- B. As part of the Services provided by SBCFPD to DISTRICT under this Agreement, SBCFPD may provide DISTRICT Extraordinary Services. Extraordinary Services are Services that involve a response at a site

that lasts more than four (4) hours. Extraordinary Services are not included in the amount identified above, but instead are in addition to that amount and will be charged by SBCFPD and paid by DISTRICT in accordance with SBCFPD's fee ordinance in effect on the date of providing the Extraordinary Services.

- C. SBCFPD shall invoice DISTRICT on a monthly basis and DISTRICT shall pay SBCFPD within fifteen (15) calendar days from the date DISTRICT receives the invoice.
 - D. None of the provisions of this Agreement shall be construed to create in the DISTRICT any right, interest, or ownership in any real or personal property of the SBCFPD during this Agreement.
 - E. None of the provisions of this Agreement shall be construed to create in the SBCFPD any right, interest, or ownership in any real or personal property of the DISTRICT during this Agreement.
4. Audit: DISTRICT or any authorized representative shall have access to any books, documents, and records of SBCFPD which are pertinent to this contract for the purposes of making an audit or examination. All books, records and supporting detail shall be retained for a period of five (5) years after the term of this agreement.
5. Emergency Communications: Dispatch services are not part of this Agreement. DISTRICT shall be responsible to provide or contract to provide dispatch services.
6. Indemnification: DISTRICT 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 the performance of this Agreement by DISTRICT, and/or its officers, employees, agents, contractors or volunteers, including the acts, errors, or omissions of DISTRICT 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 indemnitees. DISTRICT's 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.
7. Insurance: SBCFPD is an authorized self-insured public entity and warrants that through its program of self-insurance and insurance, it has adequate coverage or resources to protect against liabilities arising out of the performance of the term, conditions, or obligations of this Agreement. DISTRICT agrees to the following insurance terms:
- a) Additional Insured
All policies, except for Worker's Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming SBCFPD and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for SBCFPD to vicarious liability but shall allow coverage for SBCFPD to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.
 - b) Waiver of Subrogation Rights
DISTRICT 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 DISTRICT and DISTRICT's employees or agents from waiving the right of subrogation prior to a loss or claim. DISTRICT hereby waives all rights of subrogation against SBCFPD.
 - c) Policies Primary and Non-Contributory

All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by SBCFPD.

- d) **Severability of Interests**
DISTRICT agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between DISTRICT and SBCFPD or between SBCFPD and any other insured or additional insured under the policy.
- e) **Proof of Coverage**
DISTRICT shall furnish Certificates of Insurance to SBCFPD Department administering the Contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and DISTRICT shall maintain such insurance from the time DISTRICT commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, DISTRICT shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.
- f) **Acceptability of Insurance Carrier**
Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".
- g) **Deductibles and Self-Insured Retention**
Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.
- h) **Failure to Procure Coverage**
In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, SBCFPD has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by SBCFPD will be promptly reimbursed by DISTRICT or SBCFPD payments to DISTRICT will be reduced to pay for SBCFPD purchased insurance.
- i) **Insurance Review**
Insurance requirements are subject to periodic review by SBCFPD. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of SBCFPD. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against SBCFPD, inflation, or any other item reasonably related to SBCFPD's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. DISTRICT agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of SBCFPD to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of SBCFPD.

DISTRICT agrees to provide insurance set forth in accordance with the requirements herein. If DISTRICT uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, DISTRICT agrees to amend, supplement or endorse the existing coverage to do so.

- j) Without in anyway affecting the indemnity herein provided and in addition thereto, DISTRICT shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

Workers' Compensation/Employer's Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of DISTRICT and all risks to such persons under this contract.

With respect to contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

Commercial/General Liability Insurance – DISTRICT shall carry General Liability Insurance covering all operations performed by or on behalf of DISTRICT providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- a. Premises operations and mobile equipment.
- b. Products and completed operations.
- c. Broad form property damage (including completed operations).
- d. Explosion, collapse and underground hazards.
- e. Personal injury.
- f. Contractual liability.
- g. \$2,000,000 general aggregate limit.

Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If DISTRICT is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If DISTRICT owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

Abuse/Molestation Insurance – DISTRICT shall have abuse or molestation insurance providing coverage for all employees for the actual or threatened abuse or molestation by anyone of any person in the care, custody, or control of any insured, including negligent employment, investigation and supervision. The policy shall provide coverage for both defense and indemnity with liability limits of not less than one million dollars (\$1,000,000) with a two million dollars (\$2,000,000) aggregate limit.

8. Discrimination: During the term of the Agreement, the parties shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. The parties shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.
9. Waiver of Breach: A waiver of breach of any provision of this Agreement by either party shall not operate as a waiver of any subsequent breach of the same or any other provisions of this Agreement.
10. Applicable Laws: At all times during the term of this Agreement, the SBCFPD and the DISTRICT shall comply with all applicable laws, ordinances, rules and regulations of the United States of America, the State of California including all agencies and subdivisions thereof.
11. General Provisions: Unless otherwise specifically prescribed in this Agreement, the following provisions shall govern its interpretation and construction.
 - A. When consistent with the context of the Agreement, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.
 - B. Time is of the essence of this Agreement. Neither the SBCFPD nor the DISTRICT shall be relieved of its obligation to comply promptly with any provisions of this Agreement by any failure of the other party to enforce prompt compliance with any of its provisions.
 - C. Every duty and every act to be performed by either party imposes an obligation of good faith on the party to perform such.
12. Dispute Resolution: The parties desire, if possible, to resolve disputes, controversies, and claims (“Dispute”) arising out of this Agreement without litigation. To that end, at the written request of a party, each party shall appoint a knowledgeable, responsible management representative to meet and negotiate in good faith to resolve any Dispute arising under this Agreement.
 - A. If the negotiations do not resolve the Dispute within sixty (60) calendar days of the initial written request, the Dispute shall be submitted to non-binding mediation with a mediator chosen by mutual agreement of the parties or, in the absence of such agreement, with a mediator appointed by the presiding judge of the Superior Court for San Bernardino County.
 - B. Each party shall bear its own cost of these Dispute Resolution procedures. The parties shall equally share the fees of the mediation and the mediator.
13. Notice: All notices, reports, or demands required to be given in writing under this Agreement shall be deemed to be given when delivered personally to the person designated below, or his successor, or when five (5) calendar days have elapsed after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid, or on the next addressed business day if sent by express mail or overnight air courier to the party to which the notice is being given, as follows:

For DISTRICT

Gayl Swarat
President, Morongo Valley Community Services
District
11207 Ocotillo Street
Morongo Valley, CA 92256

For SBCFPD

Dan Munsey
Fire Chief, San Bernardino County Fire Protection
District
157 West Fifth Street, 2nd Floor
San Bernardino, CA 92415-0450

Either party upon written notice may change such addresses to the other party given as provided in this section.

14. Captions: The paragraph captions and headings in this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

15. Time Computation: Where the performance or doing of any act, duty, matter, payment, or thing is required hereunder and the period of time or duration for the performance is prescribed and fixed herein, the time shall be computed so as to exclude the first and the last day of the prescribed or fixed period or duration of time. When the last day of the period falls on Saturday, Sunday, or a legal holiday, that day shall be omitted from the computation.

16. Representatives:

- A. "DISTRICT's Representative" The DISTRICT hereby designates the DISTRICT'S President or his or her designee, to act as its representative for the performance of this agreement. DISTRICT's Representative shall have the power to act on behalf of the District for all purposes under this agreement.
- B. "SBCFPD's Representative." The SBCFPD hereby designates the San Bernardino County Fire Protection District's Fire Chief or his or her designee, to act as its representative for the performance of this agreement. SBCFPD's Representative shall have the full authority to represent and act on behalf of the SBCFPD for all purposes under this agreement. SBCFPD's Representative shall supervise and direct the services, using their best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the services under this agreement.

17. Venue:

The venue of any action or claim brought by any party to the Agreement will be the Superior Court of San Bernardino County. 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 the 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 San Bernardino County.

18. Standard of Care – Performance of Employees: SBCFPD shall perform all services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professions in the same discipline in the State of California. SBCFPD represents and maintains that it is skilled in the profession calling necessary to perform the services. SBCFPD warrants that all employees and subcontractors shall have sufficient skill and experience to perform the services assigned to them. Finally, SBCFPD represents that it, its employees and subcontractors have all licenses, permits, qualification and approvals of whatever nature that are legally required to perform the services.

19. Signature:

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 signature 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

MORONGO VALLEY COMMUNITY SERVICES DISTRICT

(Print or type name of corporation, company, contractor, etc.)
By ► _____
(Authorized signature - sign in blue ink)

Name Gayl Swarat
(Print or type name of person signing contract)

Title President
(Print or Type)

Dated: _____

Address 11207 Ocotillo Street
Morongo Valley, CA 92256

FOR COUNTY USE ONLY

Approved as to Legal Form
►

Scott Runyan, Supervising Deputy County Counsel
Date _____

Reviewed for Contract Compliance
►

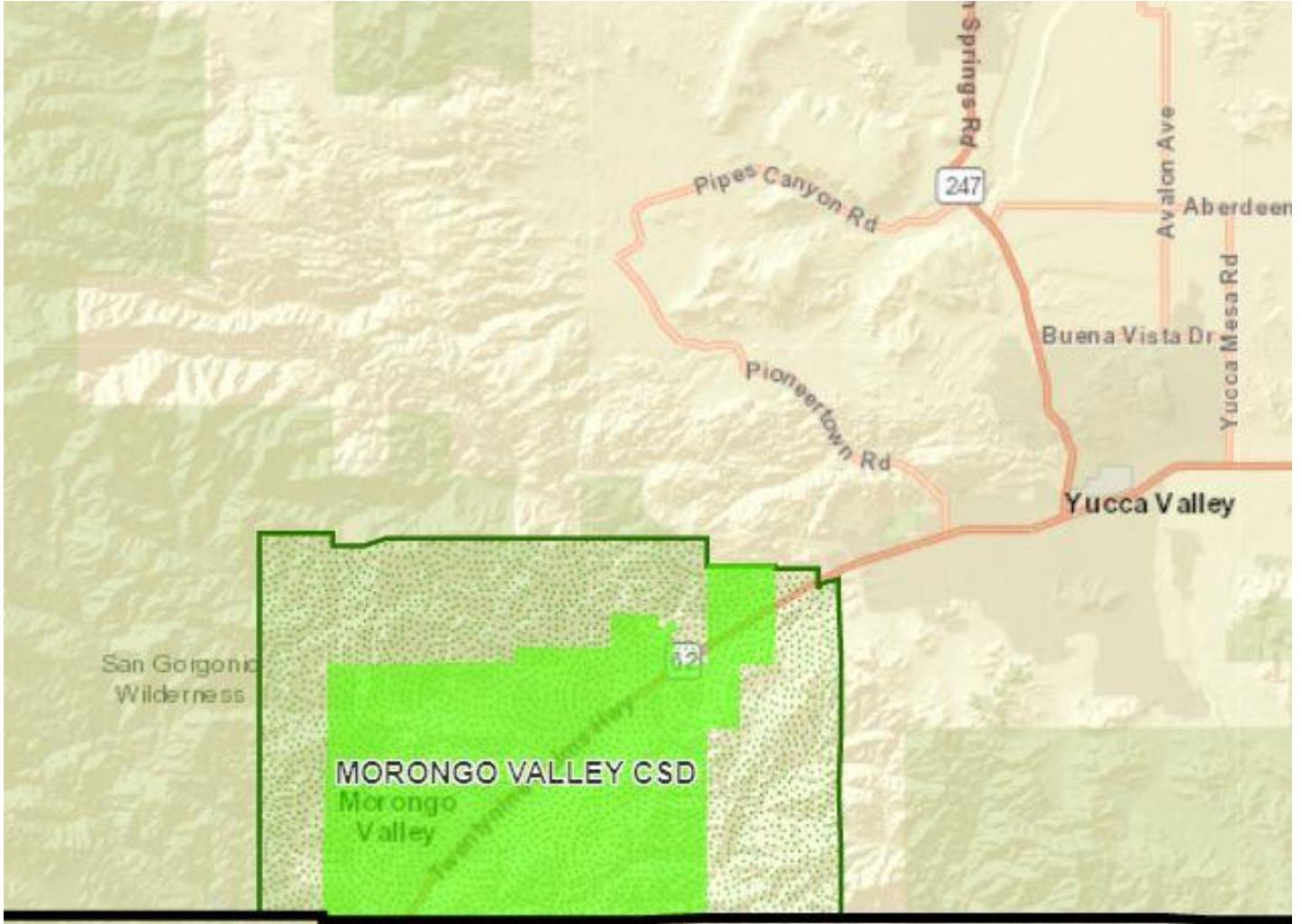
Date _____

Reviewed/Approved by Department
►

Date _____

EXHIBIT I

Morongo Valley Community Services District Map



Map courtesy of Local Agency Formation Commission for San Bernardino County
Community Services Districts Maps

<https://sbcounty.maps.arcgis.com/apps/MapSeries/index.html?appid=e1a0b6df610f490892a970b01952274d&entry=4>