

216  
**SUBMITTAL TO THE BOARD OF SUPERVISORS  
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**FROM: FIRE**

**SUBMITTAL DATE:**  
 November 10, 2009

**SUBJECT:** Approval of the Fuel Use Agreement to provide Fuel for the Riverside County Regional Park & Open-Space District

**RECOMMENDED MOTION:** Move that the Board approve and authorize the Chairman to sign the attached Fuel Use Agreement between the Riverside County Fire Department and the Riverside County Park & Open-Space District.

**BACKGROUND:** The Riverside County Regional Park & Open-Space District desires to continue contracting for Fuel with the Riverside County Fire Department, and as such, the two agencies have reached an agreement as to the responsibilities of each party and reimbursement of said service. There is no net increase to County cost. The Agreement amount will be based on actual usage, invoiced back to Riverside County Regional Park & Open-Space District, based on actual price paid by Riverside County Fire Department.

*[Signature]*  
 John R. Hawkins, Riverside County Fire Chief

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2009/2010

<b>SOURCE OF FUNDS:</b>	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**

**APPROVE**

*[Signature]*  
 BY: Robert Tremaine  
 Robert Tremaine

**County Executive Office Signature**

FORM APPROVED COUNTY COUNSEL  
 BY: *[Signature]* M. Gunzel 11-23-09  
 SYNTHIA M. GUNZEL DATE:

Consent  
 Policy  
 Dept's Recomm.:  
 Per Exec. Ofc.:

Prev. Agn. Ref.: None | District: All | Agenda Number:

ATTACHMENTS FILED  
 WITH THE CLERK OF THE BOARD

3.15

**FIRE**

**SUBJECT: Fuel Use Agreement**

**November 10, 2009**

**Page: 2**

**BACKGROUND:**

The term of this agreement shall be in effect as of the day and year approved, and shall continue thereafter for three (3) years, unless sooner terminated by thirty (30) days written notice by either party.

**FUEL USE AGREEMENT**  
**Between the Riverside County Regional Park & Open-Space District**  
**and the Riverside County Fire Department**

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between RIVERSIDE COUNTY REGIONAL PARK & OPEN-SPACE DISTRICT, a public resource, (hereinafter referred to as "PARKS"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, on behalf of the Fire Department (hereinafter referred to as "RCFD").

WHEREAS, PARKS desires to purchase fuel from RCFD from RCFD owned and maintained fuel pumps at Bear Creek Station 75 located at 38900 Clinton Keith Road, Murrieta, CA 92562. The intent of this Agreement is to define the respective roles and responsibilities of each party.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

**A. SCOPE OF AGREEMENT**

PARKS has agreed to pay for gasoline and diesel fuels (hereinafter referred to as "FUEL"). PARKS certifies that all users are employees of the department for which this agreement is being submitted and that all FUEL dispensed at this location will be into a fuel tank of a motor vehicle or other container owned or used by this department.

**B. EQUIPMENT**

RCFD hereby agrees to maintain fueling equipment at said location, as well as any licenses, permits, inspections, and use taxes potentially subject to said equipment.

**C. PROCEDURE FOR TRACKING FUEL USAGE**

All fuel obtained by all parties must be tracked and submitted to Station 75 personnel on a separate AO-78a form (fuel log) attached as Exhibit "FUA-1".

Station 75 will submit all AO-78a forms at the end of each month to RCFD Headquarters at 210 W. San Jacinto Ave., Perris, CA 92570 Attention: Finance Dept., Michelle McKnight.

#### **D. BILLING AND PAYMENTS**

The billing for FUEL usage provided to the PARKS covered under this agreement will be generated during the month following the date of usage. The billing rate will be invoiced at the actual amount RCFD paid such vendor per gallon for said fuel.

A comprehensive invoice will be prepared by the RCFD and forwarded to PARKS.

PARKS agrees to pay RCFD the invoiced amounts in the manner set forth above upon receipt of said invoice.

#### **E. OWNERSHIP**

RCFD shall maintain ownership of each FUEL pump, including but not limited to hardware, accessories, and license/permit.

#### **F. MAINTENANCE AND/OR REPLACEMENT**

RCFD agrees to maintain the daily care and usage of each FUEL pump with due diligence. PARKS will be liable for each FUEL pump if clearly damaged by negligent and/or wrongful misuse. RCFD agrees at its discretion to repair or replace all or any FUEL pump as needed for reasonable wear and tear, or for unforeseen and unintentional damage or loss, not covered under warranty.

#### **G. RIGHT OF ENTRY**

RCFD hereby grants to PARKS and its agents, employees, the right to enter onto the Property for the purpose of using the fuel station and for no other purpose. PARKS shall defend, indemnify and hold harmless COUNTY, and its officers, employees, agents and representatives from all actions, claims, suits, penalties, obligations, liabilities of whatsoever kind and nature arising from death, personal injury, property damage or other cause asserted or based upon any act or omission of PARKS, its employees, agents, or any subcontractors, agents or representatives of PARKS, or the obligations contemplated by this agreement, to or in any way connected with the use of the property. Such indemnification shall include all costs and attorneys fees. The obligations set forth in this paragraph shall survive the termination of this agreement.

H. TERM

This Agreement shall be in effect as of the day and year hereinabove first written, and shall continue thereafter for three (3) years or in an amount not to exceed ten thousand dollars (\$10,000), unless sooner terminated as provided for below.

I. TERMINATION

Either party may terminate this Agreement by giving notice, in writing, to the other party or by mutual agreement. Upon termination of this agreement, PARKS agrees to pay RCFD for any FUEL usage not previously invoiced at the point of termination, as a final billing.

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.

J. ASSIGNMENT

PARKS 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.

K. ACKNOWLEDGEMENTS

PARKS hereby acknowledges that RCFD is not the manufacturer of the FUEL equipment.

L. INDEMNIFICATION

PARKS shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives from any liability whatsoever, based or asserted upon any activities under this Agreement by PARKS, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of PARKS, its officers, agents, employees, subcontractors, agents or representatives from this Agreement. PARKS shall defend, at its sole expense, all costs and fees

settlements or awards, the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives in any claim or action based upon such alleged acts or omissions.

**M. 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.

**N. 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.

**O. 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.

P. 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 COUNTY REGIONAL  
PARKS & OPEN-SPACE DISTRICT  
Director  
4600 Crestmore Road  
Riverside, CA 92509-66858

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: \_\_\_\_\_

RIVERSIDE COUNTY REGIONAL  
PARK & OPEN-SPACE DISTRICT

By:   
SCOTT BANGLE,  
Director

Dated: 10/29/09

RECOMMENDED APPROVAL:

By:   
JOHN R. HAWKINS,  
Riverside County Fire Chief

Dated: \_\_\_\_\_

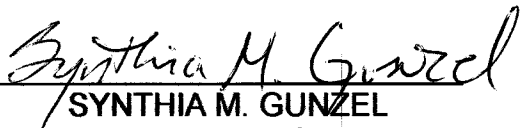
COUNTY OF RIVERSIDE

By: \_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST:

KECIA HARPER-IHEM  
Clerk of the Board

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

By:   
SYNTHIA M. GUNZEL  
Deputy County Counsel

By: \_\_\_\_\_  
Deputy

(SEAL)

