

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

330



FROM: FIRE

SUBMITTAL DATE:
November 16, 2011

SUBJECT: Approval of the Fuel Use Agreement to provide Fuel for the Riverside Community College District on behalf of Moreno Valley College.

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Fuel Use Agreement between the County of Riverside on behalf of Riverside County Fire Department and the Riverside Community College District on behalf of Moreno Valley College; and
2. Authorize the Chairman of the Board to execute this Fuel Use Agreement on behalf of the County.

BACKGROUND: The Moreno Valley College desires to contract for Fuel with the Riverside County Fire Department, and as such, the two agencies have reached an agreement as to the

John R. Hawkins, County Fire Chief

FINANCIAL DATA	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:	11/12

SOURCE OF FUNDS: Contract revenue from the Riverside Community College District on behalf of Moreno Valley College	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: Robert Tremaine

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL
BY: Synthia M. Gunzel 10-6-11
SYNTHIA M. GUNZEL
Department DATE: concurrence

Consent Policy
 Consent Policy

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

Prev. Agn. Ref.: 3.48 09/29/10 | **District:** 1 | **Agenda Number:**

3.14

RE: RCCD Fuel Use Agreement
Date November 16, 2011
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BACKGROUND CONTINUED:

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 Community College District on behalf of Moreno Valley College, based on actual price paid by Riverside County Fire Department.

The term of this agreement shall be in effect as of the day and year hereinabove first written, and shall continue thereafter for one (1) year, or in an amount not to exceed Six Hundred Dollars (\$600.00) for gasoline and diesel fuel, and Eight Hundred Dollars (\$800.00) for propane, unless sooner terminated by either party giving written notice to the other party.

**FUEL AND PROPANE USE AGREEMENT
Between the Riverside Community College District
and the Riverside County Fire Department**

This Agreement, made and entered into this 19th day of August 2011, by and between RIVERSIDE COMMUNITY COLLEGE DISTRICT on behalf of the Moreno Valley College, (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").

WHEREAS, RCCD desires to purchase fuel and propane from RCFD from RCFD owned and maintained fuel pumps and propane tank at Ben Clark Training Center located at 16902 Bundy Avenue, Riverside, CA 92518. 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

RCCD has agreed to pay for gasoline, diesel fuel, (hereinafter referred to as "FUEL") and propane, (PROPANE). RCCD certifies that all users are employees of the department for which this Agreement is being submitted and that all FUEL or PROPANE dispensed at this location will be into a fuel tank of a motor vehicle, equipment, or other container owned and used by this department for the sole purpose of the Fire Academy Training Program.

B. EQUIPMENT

RCFD hereby agrees to maintain fueling and propane 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 RCFD personnel on a separate AO-78a form (fuel log) attached as Exhibit "FUA-1".

All AO-78a forms shall be submitted by the end of each month to RCFD Ben Clark Training Center at 16902 Bundy Ave., Riverside, CA 92518 Attention: Stacy Adams, Administrative Staff Analyst II.

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D. BILLING AND PAYMENTS

The billing for FUEL and PROPANE usage provided to the RCCD covered under this Agreement will be generated quarterly. The billing will be invoiced at One Hundred Fifty Dollars (\$150.00) for FUEL and Two Hundred Dollars (\$200.00) for PROPANE each quarter.

The total year billing shall not exceed Six Hundred Dollars (\$600.00) for gasoline and diesel fuel combined and Eight Hundred Dollars (\$800.00) for propane. These amounts are based on the previous year tracking, and have been mutually approved by both parties to this agreement.

RCCD will track the FUEL usage as stated in Section "C" above. RCCD will notify RCCD if the FUEL usage becomes within One Hundred Dollars (\$100.00) of the not to exceed dollar amounts listed above.

If the current year FUEL usage reaches the maximum not to exceed dollar amounts listed above before the expiration of this Agreement, RCCD shall cease receiving any FUEL until such time as a new amount is requested by RCCD in writing to RCFD.

These amounts may be amended as deemed necessary, by mutual consent of both parties to this agreement in writing.

A comprehensive invoice will be prepared by the RCFD and forwarded to RCCD. RCCD agrees to pay RCFD the invoiced amounts in the manner set forth above upon receipt of said invoice.

E. OWNERSHIP

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

F. MAINTENANCE AND/OR REPLACEMENT

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

G. RIGHT OF ENTRY

RCCD hereby grants to the Logistics and Operations Coordinator of the Moreno Valley College Fire Academy of RCCD and its agents, employees, the right to enter

onto the Property for the purpose of using the fuel pump and/or propane tank and for no other purpose. RCCD 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 RCCD, its employees, agents, or any subcontractors, agents or representatives of RCCD, 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. 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 one (1) year or in an amount not to exceed Six Hundred Dollars (\$600.00) for gasoline and diesel fuel combined and Eight Hundred Dollars (\$800.00) for propane, unless sooner terminated as provided for below.

In the event the parties intend to renew this agreement at the end of the term for another year period, 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 six (6) months, until a new agreement can be completed, approved and signed by the parties. In the event costs to the RCCD increase with the renewal agreement, once a renewal agreement has been signed, RCCD shall make up the difference between the current rate and the new rate.

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, RCCD agrees to pay RCFD for any FUEL or PROPANE 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

RCCD 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

RCCD hereby acknowledges that RCFD is not the manufacturer of the FUEL or PROPANE equipment.

L. INDEMNIFICATION

RCCD 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 RCCD, 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 RCCD, its officers, agents, employees, subcontractors, agents or representatives from this Agreement. RCCD shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and 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.

County of Riverside shall indemnify and hold harmless RCCD, its directors, officers, Board of Trustees, employees, agents and representatives from any liability whatsoever, based on or asserted upon any activities under this Agreement by County of Riverside, 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 the County of Riverside, its offices, agents, employees, subcontractors, agents or representatives from this Agreement. County of Riverside shall defend, at its sole expense, all costs and fees including, but not limited to, attorney fees, cost of investigation, defense and settlements or awards, RCCD, its directors, officers, Board of Trustees, 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 or 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 COMMUNITY COLLEGE
DISTRICT

Cordell Briggs, Dean, Public Safety
Education and Training
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: 10.27.11

RIVERSIDE COMMUNITY COLLEGE DISTRICT

By: Tom Harris
TOM HARRIS,
ACTING President, Moreno Valley College

Dated: 10/31/11

RIVERSIDE COMMUNITY COLLEGE DISTRICT

By: Cordeell A. Briggs
CORDELL BRIGGS,
Dean of Public Safety Education & Training

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: _____
Deputy

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

(SEAL)