



AGENDA REPORT

Meeting Date: August 19, 2014
Item Number: D-16
To: Honorable Mayor & City Council
From: Craig Crowder, Fleet Manager *UC*
Subject: APPROVAL OF AN AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND IPC (USA), INC. FOR SUPPLY OF GASOLINE AND DIESEL FUELS; AND
APPROVAL OF A PURCHASE ORDER IN THE NOT-TO-EXCEED AMOUNT OF \$800,000 TO IPC (USA), INC. FOR SUPPLY OF GASOLINE AND DIESEL FUELS
Attachment: 1. IPC Agreement

RECOMMENDATION

Staff recommends that the City Council move to: 1) Approve an Agreement between the City of Beverly Hills and IPC (USA), Inc. for supply of gasoline and diesel fuels; and 2) Approve a purchase order in the not-to-exceed amount of \$800,000.00 to IPC (USA), Inc. for the supply of the same.

INTRODUCTION

The City owns and operates a fleet consisting of approximately 390 vehicles and equipment. To support fleet operation, the City takes delivery of approximately 250,000 gallons of gasoline and diesel fuels annually. More encouraging, this annual volume, particularly in Diesel use, is gradually trending down as older heavy-duty vehicles are being replaced with alternative-fueled units.

This report is a request for City Council approval of an agreement between the City of Beverly Hills and IPC (USA), Inc. and issuance of a purchase order in the not-to-exceed amount of \$800,000.00 to IPC (USA), Inc. to provide for supply of subject fuels.

DISCUSSION

In order to get the best possible pricing for fuel, staff conducted a formal-bid solicitation by publishing "Bid 14-38" on the City's web site. This two-week solicitation garnered four proposals from various fuel suppliers. Summary of these proposals is as follows:

VENDOR NAME	OPIS INDEX DAILY GROSS CONTRACT AVERAGE (Margins - Plus or Minus)		
	<i>Fuel Types:</i>		
	Unleaded Gasoline	#2 Diesel, Clear	#2 Diesel, Dyed
<i>Projected Annual Usage (Gallons):</i>	150,000	95,000	2,000
IPC USA, INC.	-\$0.0265	+\$0.0105	+\$0.1325
MANSFIELD SOLUTIONS	-\$0.0272	+\$0.0246	+\$0.1639
SOUTHERN COUNTIES FUELS	-\$0.0322	+\$0.0139	+\$0.0189
TESORRO	+\$0.0246	+\$0.1500	+\$0.0346

After tabulating the above bid proposals, staff determined that IPC (USA), Inc.'s proposal is the lowest responsible bid. The positive feedback received by staff from two public-transit agencies that have had contracts with IPC also reaffirmed the vendor's responsible-bidder status as well as their past reliable performance as fuel supplier.

FISCAL IMPACT

Funding for this purchase will be provided from the following Council-approved fuel budget for Fiscal Year 2014/2015:

Fund	Program # / Description	Account # / Description
49	49010001 / Fuel Inventory	720900 / Auto Petroleum Products



George Chavez
Approved By

Attachment 1

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND
IPC (USA), INC. FOR SUPPLY OF GASOLINE AND DIESEL
FUELS

NAME OF CONTRACTOR: IPC (USA), Inc.

RESPONSIBLE PRINCIPAL OF CONTRACTOR: Hiroki Okinaga, CEO

CONTRACTOR'S ADDRESS: 20 Pacifica, Suite 650
Irvine, CA 92618
Attention: Blanca Hurtado, Manager, Bids
and Contracts

CITY'S ADDRESS: City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210
Attention: Craig Crowder, Fleet Manager

COMMENCEMENT DATE: July 1, 2014

TERMINATION DATE: June 30, 2015 and may be extended as
described in Section 2 of this Agreement

CONSIDERATION: Not to exceed \$ 900,000.00 per year and
more particularly described in Exhibit A and
Attachment 1

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND
IPC (USA), INC. FOR SUPPLY OF GASOLINE AND DIESEL
FUELS

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and IPC (USA), Inc. (hereinafter called "CONTRACTOR").

RECITALS

A. CITY desires to have certain services and/or goods provided as set forth in Exhibit A (the "Scope of Work"), attached hereto and incorporated herein.

B. CONTRACTOR represents that it is qualified and able to perform the Scope of Works.

NOW, THEREFORE, the parties agree as follows:

Section 1. CONTRACTOR's Scope of Work. CONTRACTOR shall perform the Scope of Work described in Exhibit A in a manner satisfactory to CITY and consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. CITY shall have the right to order, in writing, changes in the Scope of Work. Any changes in the Scope of Work by CONTRACTOR must be made in writing and approved by both parties. The cost of any change in the Scope of Work must be agreed to by both parties in writing.

Section 2. Time of Performance. (Check Box if Applicable)

CONTRACTOR shall commence its services under this Agreement upon receipt of a written notice to proceed from CITY. CONTRACTOR shall complete the performance of services by the Termination Date set forth above and/or in conformance with the project timeline established by the City Manager or his designee.

The City Manager or his designee may extend the time of performance in writing for two additional one-year terms or such other term not to exceed two years from the date of termination pursuant to the same terms and conditions of this Agreement.

Section 3. Compensation. (Check the Applicable Box)

(a) Compensation [check applicable provision]

If compensation is based on an hourly rate

CITY agrees to compensate CONTRACTOR for the services and/or goods provides under this Agreement, and CONTRACTOR agrees to accept in full satisfaction for such services, a sum not to exceed the Consideration set forth above and more particularly described in Exhibit B, attached hereto and incorporated herein, based on the hourly rates set forth in Exhibit B.

If compensation is based on a flat fee

CITY agrees to compensate CONTRACTOR for the services and/or goods provided under this Agreement, and CONTRACTOR agrees to accept in full satisfaction for such services, a sum not to exceed the Consideration set forth above and more particularly described in Exhibit B, attached hereto and incorporated herein.

(b) Expenses [check applicable provision]

If no reimbursable expenses

The amount set forth in paragraph (a) shall include reimbursement for all actual and necessary expenditures reasonably incurred in the performance of this Agreement (including, but not limited to, all labor, materials, delivery, tax, assembly, and installation, as applicable). There shall be no claims for additional compensation for reimbursable expenses.

If CITY reimburses for certain expenses in addition to compensation

CONTRACTOR shall be entitled to reimbursement only for those expenses expressly set forth in Exhibit B. Any expenses incurred by CONTRACTOR which are not expressly authorized by this Agreement will not be reimbursed by CITY.

(c) Additional Services. CITY may from time to time require CONTRACTOR to perform additional services not included in the Scope of Services. Such requests for additional services shall be made by CITY in writing and agreed upon by both parties in writing.

Section 4. Method of Payment. Unless otherwise provided for herein, CONTRACTOR shall submit to CITY a detailed invoice, on a monthly basis or less frequently, for the services performed pursuant to this Agreement. Each invoice shall itemize the services rendered during the billing period and the amount due. Within 30 days of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice. CITY shall pay CONTRACTOR said Consideration in accordance with the schedule of payment set forth in Exhibit B, attached hereto and incorporated herein.

Section 5. Independent Contractor. CONTRACTOR is and shall at all times remain, as to CITY, a wholly independent contractor. Neither CITY nor any of its agents shall have control over the conduct of CONTRACTOR or any of CONTRACTOR's employees, except as herein set forth. CONTRACTOR shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

Section 6. Assignment. This Agreement shall not be assigned in whole or in part, by CONTRACTOR without the prior written approval of CITY. Any attempt by CONTRACTOR to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

Section 7. Responsible Principal(s)

(a) CONTRACTOR's Responsible Principal set forth above shall be principally responsible for CONTRACTOR's obligations under this Agreement and shall serve as principal liaison between CITY and CONTRACTOR. Designation of another Responsible by CONTRACTOR shall not be made without prior written consent of CITY.

(b) CITY's Responsible Principal shall be the City Manager or his designee set forth above who shall administer the terms of the Agreement on behalf of CITY.

Section 8. Personnel. CONTRACTOR represents that it has, or shall secure at its own expense, all personnel required to perform CONTRACTOR's Scope of Work under this Agreement. All personnel engaged in the work shall be qualified to perform such Scope of Work.

Section 9. Permits and Licenses. CONTRACTOR shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of services under this Agreement, including a business license.

Section 10. Interests of CONTRACTOR. CONTRACTOR affirms that it presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of the Scope of Work contemplated by this Agreement. No person having any such interest shall be employed by or be associated with CONTRACTOR.

Section 11. Insurance.

(a) CONTRACTOR shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

(1) A policy or policies of Comprehensive General Liability Insurance, to include Pollution Liability, with minimum limits of Five Million Dollars (\$5,000,000) for each occurrence, combined single limit, against any personal injury, death, loss or damage resulting from the wrongful or negligent acts by CONTRACTOR.

(2) A policy or policies of Comprehensive Vehicle Liability Insurance covering personal injury and property damage, with minimum limits of Five Million Dollars (\$5,000,000) per occurrence combined single limit, covering any vehicle utilized by CONTRACTOR in performing the Scope of Work required by this Agreement.

(3) Workers' compensation insurance as required by the State of California.

(4) Professional Liability Insurance [check if applicable]

A policy or policies of Professional Liability Insurance (errors and omissions) with minimum limits of One Million Dollars (\$1,000,000) per claim and in the aggregate. Any deductibles or self-insured retentions attached to such policy or policies must be declared to and be approved by CITY. Further, CONTRACTOR agrees to maintain in full force and effect such insurance for one year after performance of work under this Agreement is completed.

(b) CONTRACTOR shall require each of its sub-contractors to maintain insurance coverage which meets all of the requirements of this Agreement.

(c) The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least a B+;VII in the latest edition of Best's Insurance Guide.

(d) CONTRACTOR agrees that if it does not keep the aforesaid insurance in full force and effect CITY may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, CITY may take out the necessary insurance and pay, at CONTRACTOR's expense, the premium thereon.

(e) At all times during the term of this Agreement, CONTRACTOR shall maintain on file with the City Clerk a certificate or certificates of insurance on the form set forth in Exhibit C, attached hereto and incorporated herein, showing that the aforesaid policies are in effect in the required amounts. CONTRACTOR shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general liability insurance shall contain an endorsement naming the CITY as an additional insured. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to CITY, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

(f) The insurance provided by CONTRACTOR shall be primary to any coverage available to CITY. The policies of insurance required by this Agreement shall include provisions for waiver of subrogation.

(g) Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, CONTRACTOR shall either reduce or eliminate the deductibles or self-insured retentions with respect to CITY, or CONTRACTOR shall procure a bond guaranteeing payment of losses and expenses.

Section 12. Indemnification. CONTRACTOR agrees to indemnify, hold harmless and defend CITY, City Council and each member thereof, and every officer, employee and agent of CITY, from any claim, liability or financial loss (including, without limitation, attorneys fees and costs) arising from any intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONTRACTOR or any person employed by CONTRACTOR in the performance of this Agreement.

Section 13. Termination.

(a) CITY shall have the right to terminate this Agreement for any reason or for no reason upon five calendar days' written notice to CONTRACTOR. CONTRACTOR agrees to cease all work under this Agreement on or before the effective date of such notice.

(b) In the event of termination or cancellation of this Agreement by CITY, due to no fault or failure of performance by CONTRACTOR, CONTRACTOR shall be paid based on the percentage of work satisfactorily performed at the time of termination. In no event shall CONTRACTOR be entitled to receive more than the amount that would be paid to CONTRACTOR for the full performance of the services required by this Agreement. CONTRACTOR shall have no other claim against CITY by reason of such termination, including any claim for compensation.

Section 14. CITY's Responsibility. CITY shall provide CONTRACTOR with all pertinent data, documents, and other requested information as is available for the proper performance of CONTRACTOR's Scope of Work.

Section 15. Information and Documents. All data, information, documents and drawings prepared for CITY and required to be furnished to CITY in connection with this Agreement shall become the property of CITY, and CITY may use all or any portion of the work submitted by CONTRACTOR and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

Section 16. Records and Inspections. CONTRACTOR shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of three (3) years. CITY shall have access, without charge, during normal business hours to such records, and the right to examine and audit the same and to make copies and transcripts therefrom, and to inspect all program data, documents, proceedings and activities.

Section 17. Changes in the Scope of Work. The CITY shall have the right to order, in writing, changes in the scope of work or the services to be performed. Any changes in the scope of work requested by CONTRACTOR must be made in writing and approved by both parties.

Section 18. Notice. Any notices, bills, invoices, etc. required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during the receiving party's regular business hours or by facsimile before or during the receiving party's regular business hours; or (b) on the second business day following deposit in the United States mail, postage prepaid to the addresses set forth above, or to such other addresses as the parties may, from time to time, designate in writing pursuant to this section.

Section 19. Attorney's Fees. In the event that either party commences any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorney's fees, costs and necessary disbursements, in addition to such other relief as may be sought and awarded.

Section 20. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and CONTRACTOR, and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both CITY and CONTRACTOR.

Section 21. Exhibits; Precedence. All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail.

Section 22. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 23. CITY Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than CONTRACTOR.

Section 24. Severability. Invalidation of any provision contained herein or the application thereof to any person or entity by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions, or provisions hereof, or the application thereof to any other person or entity, and the same shall remain in full force and effect.

EXECUTED the ____ day of _____ 201__, at Beverly Hills,
California.

CITY OF BEVERLY HILLS
A Municipal Corporation

LILI BOSSE
Mayor

ATTEST:

BYRON POPE
City Clerk

CONTRACTOR: IPC (USA), INC.

4 _____
HIROKI OKINAGA
Chief Executive Officer

JIM TAKEUCHI
Chief Financial Officer

APPROVED AS TO FORM:

LSW (DH)

LAWRENCE S. WEINER
City Attorney

APPROVED AS TO CONTENT:

GCH

GEORGE CHAVEZ
Director of Public Works Services

KARL KIRKMAN
Risk Manager

EXHIBIT A
SCOPE OF WORK

CONTRACTOR shall provide the gasoline and Diesel fuels as more particularly described in Attachment 1, Bid Document No. 14-38, attached hereto and incorporated herein.

A. CONTRACTOR shall deliver and deposit to the CITY fuel tanks listed on Attachment 1, unleaded minimum 87 octane gasoline and Ultra-Low-Sulfur (ULS) #2 Diesel fuels regardless of whether deliveries call for full load, short load or pump-off. VENDOR shall deliver the quantities ordered in writing by CITY to the location specified by CITY and shall deposit full load, short load, or pump-off into the specified fuel tank.

B. CONTRACTOR shall ensure that gasoline sold to the CITY is unleaded, minimum 87 octane, exclusive of additives and meets or exceeds all rules and requirements of ASTM D439, as last revised, and complies with all rules and requirements of the SCAQMD, state and/or federal regulations.

C. CONTRACTOR shall maintain a sufficient stock of unleaded gasoline and ULS #2 Diesel fuel required by this Agreement in the Los Angeles Metropolitan Area to enable delivery of at least 25% of the total capacity listed on Attachment 1 within forty-eight hours of order notification.

ATTACHMENT 1

CITY OF BEVERLY HILLS

FUEL TANK LOCATIONS AND CAPACITY

LOCATION	NO. OF TANKS	CAPACITY (GL)	PRODUCT TYPE
9335 W. 3 rd STREET (CENTRAL FUELING FACILITY)	3	10,000	UNLEADED
		15,000	DIESEL (CLEAR)
		10,000	UNLEADED
445 NORTH REXFORD DRIVE	1	10,000	DIESEL (CLEAR)
455 NORTH REXFORD DRIVE	1	1,000	DIESEL (DYED)
464 NORTH REXFORD DRIVE	1	6,000	DIESEL (DYED)
9355 CIVIC CENTER DRIVE	1	1,000	DIESEL (DYED)
1100 COLDWATER CANYON RD.	1	1,000	DIESEL (DYED)
180 SOUTH DOHENY DRIVE	1	1,000	DIESEL (DYED)
905 LOMA VISTA	1	500	DIESEL (DYED)
405 WALKER DRIVE	1	1,000	DIESEL (DYED)

Attachment 1, listed as Exhibit 1 on page 15, in Bid No. 14-38

EXHIBIT B

SCHEDULE OF PAYMENT AND RATES

CITY shall compensate CONTRACTOR for services satisfactorily performed under the Agreement as set forth in Attachment 1, Section IV – BID FORM. After September 12, 2014, CONTRACTOR shall notify CITY in writing thirty (30) days prior to the effective date of any modification to the fuel rates. CONTRACTOR shall submit an itemized statement to CITY for its services performed for the prior month, which shall include documentation setting forth in detail a description of the services rendered. CONTRACTOR shall also submit with each invoice a copy of the OPIS price sheet for District #5, Los Angeles area, for the day fuel is delivered. CITY shall pay CONTRACTOR the amount of such billing within thirty (30) days of receipt of same.



EXHIBIT C
CERTIFICATE OF INSURANCE

This is to certify that the following endorsement is part of the policy(ies) described below:

NAMED INSURED _____

COMPANIES AFFORDING COVERAGE

- A. _____
- B. _____
- C. _____

ADDRESS _____

COMPANY (A. B. C.)	COVERAGE	POLICY NUMBER	EXPIRATION DATE	B.I.	LIMITS P.D.	AGGREGATE
	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> PRODUCTS/COMPLETED OPERATIONS <input type="checkbox"/> BLANKET CONTRACTUAL <input type="checkbox"/> CONTRACTOR'S PROTECTIVE <input type="checkbox"/> PERSONAL INJURY <input type="checkbox"/> EXCESS LIABILITY <input type="checkbox"/> WORKERS' COMPENSATION <input type="checkbox"/>					

It is hereby understood and agreed that the City of Beverly Hills, its City Council and each member thereof and every officer and employee of the City shall be named as joint and several assureds with respect to claims arising out of the following project or agreement:

It is further agreed that the following indemnity agreement between the City of Beverly Hills and the named insured is covered under the policy: Contractor agrees to indemnify, hold harmless and defend City, its City Council and each member thereof and every officer and employee of City from any and all liability or financial loss resulting from any suits, claims, losses or actions brought against and from all costs and expenses of litigation brought against City, its City Council and each member thereof and any officer or employee of City which results directly or indirectly from the wrongful or negligent actions of contractor's officers, employees, agents or others employed by Contractor while engaged by Contractor in the (performance of this agreement) construction of this project.

It is further agreed that the inclusion of more than one assured shall not operate to increase the limit of the company's liability and that insurer waives any right of contribution with insurance which may be available to the City of Beverly Hills.

In the event of cancellation or material change in the above coverage, the company will give 30 days written notice of cancellation or material change to the certificate holder.

Except to certify that the policy(ies) described above have the above endorsement attached, this certificate or verification of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

DATE: _____

BY: _____
Authorized Insurance Representative

AGENCY: _____

TITLE: _____
ADDRESS: _____

RM02.DOC REVISED 10/14/96.