

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: General Services Agency

BOARD AGENDA # \*B-3

Urgent  Routine

AGENDA DATE May 17, 2011

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval to Enter into an Agreement with Stan Boyett & Son, Inc. of Modesto, California for Fuel Card Services Using the Participation Clause of an Existing City of Modesto Agreement for Fuel Card-Lock Services

STAFF RECOMMENDATIONS:

1. Approve a county wide agreement with Stan Boyett & Son, Inc., for fuel card services using the participation clause of an existing City of Modesto agreement for card lock fuel services.
2. Authorize the General Services Agency Director/Purchasing Agent to execute the county wide agreement and any subsequent amendments on behalf of the County during the term of the agreement.

FISCAL IMPACT:

The Fleet Services Division of the General Services Agency (GSA) oversees the card lock fuel program for all county departments except Public Works and the Department of Environmental Resources Landfill Division. These departments purchase fuel in bulk. Fuel purchase expenses are billed to County Departments by GSA monthly.

(CONTINUED)

BOARD ACTION AS FOLLOWS:

No. 2011-293

On motion of Supervisor O'Brien, Seconded by Supervisor Chiesa

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Withrow, DeMartini, and Chairman Monteith

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1)  Approved as recommended

2)  Denied

3)  Approved as amended

4)  Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

**FISCAL IMPACT (CONTINUED):**

For Fiscal Year 2010-2011, GSA estimated \$845,613 for the purchase 272,088 gallons of unleaded and/or diesel fuel, calculated at base cost plus a mark up margin of \$0.04 per gallon as required under the current agreement, which expires at the end of May 2011. Under the proposed participation agreement with the City of Modesto, the County will secure a competitive rate of base cost plus a mark up margin of \$0.09 per gallon. The impact to the current year is a nominal increase of \$888. Due to a 17.24% reduction in miles traveled by County vehicles in Fiscal Year 2010 – 2011, GSA has reduced projections for fuel purchases in Budget Year 2011 – 2012 from 272,088 to 213,035 gallons. The impact to Budget Year 2011-2012 is estimated to be an increase of \$10,652.

**DISCUSSION:**

The General Services Agency (GSA) entered into an agreement for fuel card services with Stan Boyett & Son, Inc. (Boyett) as a result of Invitation to Bid 03-60 BLS in 2003. The agreement was for an initial period of four years, and has been continued on a month-to-month basis to date. Pricing under the agreement was determined by an established mark-up over cost and has not increased since the agreement went into effect.

On October 21, 2010, GSA issued RFP 10-52 TRS for County Card Lock Fuel Services. This RFP closed on December 9, 2010 and GSA received 2 proposals, including one from Boyett. The pricing submitted by Boyett was base cost plus a mark up margin of \$0.09 per gallon. The pricing submitted by the other proposal was significantly higher than the current pricing and the pricing set forth in the competitively bid contract between Boyett and the City of Modesto (City). After a thorough review of each proposal GSA elected to reject all proposals, cancel RFP 10-52 TRS and continue the existing month-to-month agreement with Boyett. GSA elected to reject all proposals, cancel RFP 10-52 TRS and continue the existing month-to-month agreement with Boyett.

In January, however, GSA received correspondence from Boyett indicating that Boyett will not extend the existing agreement beyond May 31, 2011. GSA then reviewed the City's contract and noted that the scope of work set forth in the City's contract was more comprehensive than the scope set forth in RFP 10-52 TRS and that the pricing was the same as the pricing submitted by Boyett in its response to RFP 10-52 TRS. The scope of work was more comprehensive in that it included an on-line program to control card usage and provide real-time reporting. With Boyett's consent, GSA has elected to pursue participation in the existing City of Modesto Fuel Card Services Agreement.

Approval to Enter into an Agreement with Stan Boyett & Son, Inc. of Modesto, California  
for Fuel Card Services Using the Participation Clause of an Existing City of Modesto  
Agreement for Fuel Card-Lock Services  
Page 3

At this time GSA is requesting Board approval to enter into a County-Wide Agreement with Boyett based upon RFP No. 0809-21 issued by the City of Modesto and awarded on October 6, 2009.

The RFP process followed by the City is similar to that used by the County and focuses on a broad range of award criteria such as: qualifications, location of service stations, experience, warranties, company history, and other pertinent criteria (along with price) as opposed to the bid process, which focuses solely on pricing. In the City's RFP, however, pricing and experience were the heavily weighted criteria.

The methodology used in the evaluation of Boyett as the County's preferred vendor for fuel card-lock services was as follows:

- GSA reviewed the scope of work used in the City's RFP for fuel card-lock services and determined that this scope of work exceeded the County's scope of work contained in the current agreement;
- The City's RFP included "Participation" language, allowing other government agencies to contract with Boyett using the same scope of work and rates. GSA approached Boyett with the same scope of work and requested Boyett to quote the County fuel card-lock services for all County departments and facilities.
- Government Code § 6502 and § 6508.2 allow public agencies to jointly exercise any power common to the contracting parties (see Tucker Land Co. v. State of California (2001) 94 Cal. App. 4th 1191).
- GSA also compared contract pricing set forth in the City's contract and found it equivalent to the pricing submitted by Boyett in response to GSA's October 2010 RFP outreach.

If approved, the agreement will be effective June 1, 2011 and will continue through June 30, 2012, with the option of a one-year renewal. The proposed new agreement will cover card lock fuel services for all county vehicles and will give priority to County's emergency and law enforcement vehicles in case of a fuel shortage or state of emergency.

**POLICY ISSUE:**

The request for approval to participate in the existing City of Modesto Card Lock Fuel Services Agreement supports the Board of Supervisor's stated priorities of Efficient

Approval to Enter into an Agreement with Stan Boyett & Son, Inc. of Modesto, California  
for Fuel Card Services Using the Participation Clause of an Existing City of Modesto  
Agreement for Fuel Card-Lock Services

Page 4

Delivery of Public Services and Effective Partnerships by improving efficiencies and  
securing the most competitive price for the purchase of fuel.

**STAFFING:**

Existing GSA staff will manage the agreement for fuel card services.

**CONTACT:**

Steve DeMass, GSA Fleet Services Manager Telephone: 649-5483

**AGREEMENT  
FOR  
INDEPENDENT CONTRACTOR SERVICES**

This Agreement for Independent Contractor Services (the "Agreement") is made and entered into by and between the County of Stanislaus ("County") and Stan Boyett & Son, Inc., a California corporation doing business as Boyett Petroleum and CRUISE Americard ("Contractor") as of June 1, 2011.

**Recitals**

WHEREAS, the County has a need for retail fuel card services; and

WHEREAS, the Contractor is specially trained, experienced and competent to perform and has agreed to provide such services;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

**Terms and Conditions**

1. **Scope of Work**

1.1 The Contractor shall furnish to the County upon execution of this Agreement or receipt of the County's written authorization to proceed, those services and work set forth in **Exhibit A**, attached hereto and, by this reference, made a part hereof.

1.2 All documents, drawings and written work product prepared or produced by the Contractor under this Agreement, including without limitation electronic data files, are the property of the Contractor; provided, however, the County shall have the right to reproduce, publish and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Contractor may copyright the same, except that, as to any work which is copyrighted by the Contractor, the County reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so.

1.3 Services and work provided by the Contractor at the County's request under this Agreement will be performed in a timely manner consistent with the requirements and standards established by applicable federal, state and County laws, ordinances, regulations and resolutions, and in accordance with a schedule of work set forth in Exhibit A. If there is no schedule, the hours and times for completion of said services and work are to be set by the Contractor; provided, however, that such schedule is subject to review by and concurrence of the County.

2. **Consideration**

2.1 County shall pay Contractor as set forth in Exhibit A.

2.2 Except as expressly provided in Exhibit A of this Agreement, Contractor shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

2.3 County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Contractor under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

2.4 Pursuant to Penal Code section 484b and to Business and Professions Code section 7108.5, the Contractor must apply all funds and progress payments received by the Contractor from the County for payment of services, labor, materials or equipment to pay for such services, labor, materials or equipment. Pursuant to Civil Code section 1479, the Contractor shall direct or otherwise manifest the Contractor's intention and desire that payments made by the Contractor to subcontractors, suppliers and materialmen shall be applied to retire and extinguish the debts or obligations resulting from the performance of this Agreement.

### 3. Term

3.1 The term of this Agreement shall be from the date of approval of this Agreement until completion of the agreed upon services unless sooner terminated as provided below or unless some other method or time of termination is listed in Exhibit A.

3.2 Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party, at that party's option, may terminate this Agreement by giving written notification to the other party.

3.3 This Agreement shall terminate automatically on the occurrence of (a) bankruptcy or insolvency of either party, (b) sale of Contractor's business, (c) cancellation of insurance required under the terms of this Agreement, and (d) if, for any reason, Contractor ceases to be licensed or otherwise authorized to do business in the State of California, and the Contractor fails to remedy such defect or defects within thirty (30) days of receipt of notice of such defect or defects.

3.4 The County may terminate this agreement upon 30 days prior written notice to the Contractor. Termination of this Agreement shall not affect the County's obligation to pay for all fees earned and reasonable costs necessarily incurred by the Contractor as provided in Paragraph 2 herein, subject to any applicable setoffs.

### 4. Required Licenses, Certificates and Permits

Any licenses, certificates or permits required by the federal, state, county or municipal governments for Contractor to provide the services and work described in Exhibit A must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by Contractor at no expense to the County.

### 5. Office Space, Supplies, Equipment, Etc.

Unless otherwise provided in Exhibit A, Contractor shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Contractor to provide the services identified in Exhibit A to this Agreement. County is not obligated to reimburse or pay Contractor for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

6. Insurance

6.1 Contractor shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

6.1.1 General Liability. Comprehensive general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Contractor under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

6.1.2 Automobile Liability Insurance. If the Contractor or the Contractor's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury, property damage and transportation related pollution liability with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.

6.1.3 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Contractor certifies under section 1861 of the Labor Code that the Contractor is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Contractor will comply with such provisions before commencing the performance of the work of this Agreement.

6.2 Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Contractor shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The County, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the Contractor agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Contractor's defense and indemnification obligations as set forth in this Agreement.

6.3 The Contractor shall obtain a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, if any, naming the County and its officers, officials and employees as additional insureds regarding: (a) liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Contractor, including the insured's general supervision of its subcontractors; (b) services, products and completed operations of the Contractor; (c) premises owned, occupied or used by the Contractor; and (d) automobiles owned, leased, hired or borrowed by the Contractor. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County and its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Contractor.

6.4 The Contractor's insurance coverage shall be primary insurance regarding the County and County's officers, officials and employees. Any insurance or self-insurance maintained by the County or County's officers, officials and employees shall be excess of the Contractor's insurance and shall not contribute with Contractor's insurance.

6.5 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials, employees or volunteers.

6.6 The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6.7 Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days' prior written notice has been given to County. The Contractor shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.

6.8 Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide acceptable to the County; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance. A Best's rating of at least A-VII shall be acceptable to the County; lesser ratings must be approved in writing by the County.

6.9 Contractor shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional insureds under its insurance policies.

6.10 At least ten (10) days prior to the date the Contractor begins performance of its obligations under this Agreement, Contractor shall furnish County with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Contractor. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

6.11 The limits of insurance described herein shall not limit the liability of the Contractor and Contractor's officers, employees, agents, representatives or subcontractors.

## 7. Defense and Indemnification

7.1 To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend the County and its agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees, arising out of, resulting from, or in connection with the performance of this Agreement by the Contractor or Contractor's officers, employees, agents, representatives or subcontractors and resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use; provided, however, such indemnification shall not extend to or cover loss, damage or expense arising from the sole negligence or willful misconduct of the County or its agents, officers and employees.



7.2 Contractor's obligation to defend, indemnify and hold the County and its agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

## 8. Status of Contractor

8.1 All acts of Contractor and its officers, employees, agents, representatives, subcontractors and all others acting on behalf of Contractor relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer or employee of the County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not be construed or considered under any circumstances to create an employer-employee relationship or a joint venture.

8.2 At all times during the term of this Agreement, the Contractor and its officers, employees, agents, representatives or subcontractors are, and shall represent and conduct themselves as, independent contractors and not employees of County.

8.3 Contractor shall determine the method, details and means of performing the work and services to be provided by Contractor under this Agreement. Contractor shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement. Contractor has control over the manner and means of performing the services under this Agreement. Contractor is permitted to provide services to others during the same period service is provided to County under this Agreement. If necessary, Contractor has the responsibility for employing other persons or firms to assist Contractor in fulfilling the terms and obligations under this Agreement.

8.4 If in the performance of this Agreement any third persons are employed by Contractor, such persons shall be entirely and exclusively under the direction, supervision and control of Contractor. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Contractor.

8.5 It is understood and agreed that as an independent Contractor and not an employee of County, the Contractor and the Contractor's officers, employees, agents, representatives or subcontractors do not have any entitlement as a County employee, and do not have the right to act on behalf of the County in any capacity whatsoever as an agent, or to bind the County to any obligation whatsoever.

8.6 It is further understood and agreed that Contractor must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Contractor's assigned personnel under the terms and conditions of this Agreement.

8.7 As an independent Contractor, Contractor hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

9. Records and Audit

9.1 Contractor shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this Agreement. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.

9.2 Any authorized representative of County shall have access to any writings as defined above for the purposes of making audit, evaluation, examination, excerpts and transcripts during the period such records are to be maintained by Contractor. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

10. Confidentiality

The Contractor agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided.

11. Nondiscrimination

During the performance of this Agreement, Contractor and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex, or sexual orientation. Contractor and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

12. Assignment

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience and training of Contractor and the Contractor's firm, associates and employees as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

13. Waiver of Default

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

14. Notice

Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Contractor or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County: Stanislaus County Purchasing Agent  
1010 10<sup>th</sup> Street, Suite 5400  
Modesto, CA

To Contractor: President, Stan Boyett & Son, Inc.  
601 McHenry Avenue  
Modesto, CA 95350

15. Conflicts

Contractor agrees that it has no interest and shall not acquire any interest direct or indirect which would conflict in any manner or degree with the performance of the work and services under this Agreement.

16. Severability

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or county statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

17. Amendment

This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

18. Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

19. Advice of Attorney

Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

20. Construction

Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

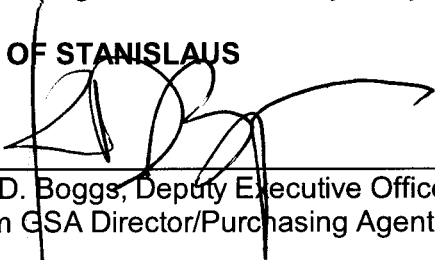
21. Governing Law and Venue

This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.

IN WITNESS WHEREOF, the parties or their duly authorized representatives have executed this Agreement on the day and year first hereinabove written.

**COUNTY OF STANISLAUS**

**STAN BOYETT & SON, INC.**

By:   
Keith D. Boggs, Deputy Executive Officer,  
Interim GSA Director/Purchasing Agent

By:   
Dale Boyett, President

"County"

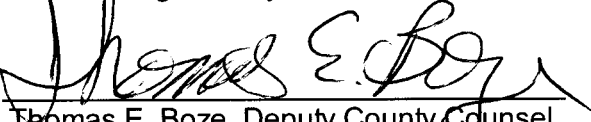
"Contractor"

APPROVED: May 17, 2011  
BOS Resolution # 2011-293

APPROVED AS TO CONTENT:  
General Services Agency – Fleet Svcs. Div.

By:   
Steven DeMass, Fleet Manager

APPROVED AS TO FORM:  
John R. Doering, County Counsel

By:   
Thomas E. Boze, Deputy County Counsel

V:\PUBLIC\Counsel\CONTRACT\IND-CON Agmt.wpd

## EXHIBIT A

### A. SCOPE OF WORK

The Contractor shall provide services under this Agreement as follows:

1. Contractor shall furnish fuel card-lock services (the Card System) for the purchase of fuel, on an ongoing basis, throughout the term of this agreement, within the County limits, and also providing a network of fueling stations throughout the state, as outlined in Exhibit "B", and in strict accordance with the conditions of this Agreement.
2. Fuel Card-lock Services:
  - a. Contractor shall provide all initial cards and any lost or stolen cards at no cost to the County during the life of this Agreement.
  - b. The Card System shall have the following features:
    - The ability to identify the equipment assigned to the card (i.e., assigned vehicle number);
    - The ability to identify the single person assigned to the card (i.e., personal identification; number, or PIN);
    - No keyed entry of operator identity or equipment identity shall be allowed.
    - Reporting system shall have the capability of identifying which cards are used for each transaction.
    - All County transactions shall be validated to cards issued to the County, and no other vendor card or PIN will access the County's account.
    - All cards issued to County personnel shall be from a validated list of County employees approved in writing by the County Fleet Manager.
    - The County shall have the ability to cancel (deactivate) employee PIN or vehicle card.
    - Employee, vehicle and mileage shall be validated on each transaction.
    - Transaction Limits shall be determined and implemented by the County's Fleet Manager.
3. Contractor will replace the current fueling card system "Pacific Pride" with a new fueling card system Cruise Americard Voyager". County may fuel vehicles at any gasoline service station accepting the Cruise Americard.
4. Contractor shall perform the services contemplated herein in a professional and workmanlike manner under the direction of and to the satisfaction of the County's Fleet Services Manager.
5. Contractor shall provide the services and deliverables set forth herein at the following contracted costs:

Item Description	Price per Gallon (Mark-Up Margin)
Unleaded, 87 Minimum Octane	\$0.09
Unleaded, 91 Minimum Octane	\$0.09
Diesel, No. 2 Clear, Ultra Low Sulfur	\$0.09
Surcharge for accessing a non-vendor owned fuel network	\$0.07
Web access for daily fuel card-lock transactions (real time)	-No Charge-

NOTE: All fuel prices shall be billed on Daily Average OPIS Unbranded Low Stockton

6. In the case of a fuel shortage, the County's emergency and law enforcement vehicles must have priority over all other vehicles.
7. All services provided by Contractor and the manner in which services are to be provided are more particularly set forth in Request for Proposal and Specification #0809-21 issued by the City of Modesto; the Contractor's responding proposal; Notice to Proposers; Information for Proposers; General Conditions, as well as any plans, specifications, addenda, and any documents particularly required or provided (as may be applicable), all of which are incorporated herein by reference and made a part hereof (collectively, the "RFP"). All of the foregoing documents, as may be applicable, together with this Agreement, comprise the contract and all services provided hereunder shall be performed in accordance therewith. In the event there is a conflict between the terms and conditions set forth in this Agreement, those set forth in the RFP, and those set forth in Exhibit A, then in such case, the terms and conditions shall control in this order: 1<sup>st</sup>, Exhibit A, 2<sup>nd</sup>, this Agreement, and 3<sup>rd</sup> the RFP.

**B. COMPENSATION**

The Contractor shall be compensated for the services and deliverables provided under this Agreement as follows:

1. Contractor shall submit itemized invoices to County twice monthly at the following address:  
  

Stanislaus County Fleet Services  
Attn: Steven DeMass  
448 E. Hackett Road  
Modesto, CA 95358
2. Itemization shall include: transaction details; date; time; location fueled; equipment; truck driver; fuel type, quantity of fuel; and cost of fuel.

3. The parties hereto acknowledge the maximum amount to be paid by the County for services provided shall not exceed \$950,000.00 including, without limitation, the cost of any subcontractors, consultants, experts or investigators retained by the Contractor to perform or to assist in the performance of its work under this Agreement.

**C. TERM**

Paragraph 3.1 of the body of this Agreement is amended to read as follows:

3.1 The term of this Agreement shall be from June 1, 2011 through May 31, 2012, unless otherwise terminated as provided below. This Agreement will not automatically renew but may be renewed for an additional one-year term (a "Renewal Term") by mutual, written agreement of the parties. Such renewal shall be in the form of an amendment to the Agreement.

**D. REPRESENTATIVES**

The parties' respective Project Managers shall be:

**For County:**

Steven DeMass, Fleet Manager  
Stanislaus County General Services Agency  
Fleet Services Division  
448 E. Hackett Road  
Modesto, CA 95356  
(209) 558-3659  
[DeMassS@stancounty.com](mailto:DeMassS@stancounty.com)

**For Contractor:**

Scott Castle, VP of Retail Operations  
Boyett Petroleum  
601 McHenry Road  
Modesto, CA 95350  
(209) 577-6000  
[scastle@boyett.net](mailto:scastle@boyett.net)