Item 1 **File 11-0933** *(Continued from October 5, 2011)*	**Department(s):** Office of Contract Administration (OCA)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would authorize the City and County of San Francisco, through the Office of Contract Administration (OCA), to execute the Fifth Amendment to the existing agreement with Western States Oil to increase the not-to-exceed amount by $27,800,000, from the existing not-to-exceed amount of $50,500,000 to the proposed not-to-exceed amount of $78,300,000. The $27,800,000 would be expended during the second one-year option period under the existing agreement from September 1, 2011 through August 31, 2012.

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Key Points

- The existing agreement between OCA and Western States Oil, under which Western States Oil provides gasoline, diesel, and biodiesel fuels to the City for over 6,000 vehicles and over 700 pieces of equipment, including generators, used by various City departments, had an original term of one year from September 1, 2009 through August 31, 2010 with four one-year options to extend, through August 31, 2014.

- On July 1, 2011, OCA executed the Fourth Amendment to the existing agreement, which was not subject to Board of Supervisors approval. The Fourth Amendment exercised the second option under the existing agreement to extend the agreement by one year from September 1, 2011 through August 31, 2012 and to increase the not-to-exceed amount by $500,000 from $50,000,000 to $50,500,000 to allow Departments to encumber funding to cover monthly invoices until OCA could request the additional amount of the total funding needed for the second option.

Fiscal Impact

- The funding source for the proposed Fifth Amendment are monies previously appropriated by the Board of Supervisors in the City Departments’ FY 2011-2012 budgets for purchasing fuel including the Municipal Transportation Agency, the Public Utilities Commission, the Airport, the Police Department, the Fire Department, the Sheriff Department, the Port, the Department of Public Works, the Recreation and Park Department, and the City’s Central Shops.

- The Budget and Legislative Analyst estimates that the needed amount under the proposed Fifth Amendment to the existing agreement for the second one-year option period from September 1, 2011 through August 31, 2012 is $27,800,000.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT/ BACKGROUND

Mandate Statement

In accordance with Charter Section 9.118(b), City agreements with anticipated expenditures of $10,000,000, or more or amendments to such City agreements with anticipated expenditures of more than $500,000 are subject to approval by the Board of Supervisors.

Award of Existing Agreement to Western States Oil

On March 27, 2009, the Office of Contract Administration (OCA) issued an Invitation to Bid for a new agreement to provide the City and County of San Francisco with gasoline, diesel and biodiesel fuel for over 6,000 vehicles and over 700 pieces of equipment, including generators, used by various City Departments including the Municipal Transportation Agency, the Public Utilities Commission, the Fire Department, the Department of Public Works, the Recreation and Park Department, and the City's Central Shops, which handles all other Department vehicle needs including the Police Department and Airport.

OCA received four bids and awarded the City's primary fuel provider[1] agreement to Western States Oil on August 26, 2009 as the lowest bidder, based on fixed prices expressed as a markup or markdown from the daily price per gallon published by the industry group, known as the Oil Price Information Services (OPIS).[2] The bid prices are fixed for the entire term of the agreement, including options to extend, and include all overhead and/or delivery of fuel costs. OCA multiplied each bidder's markdown or markup price per gallon for each type of fuel by the City's estimated number of gallons needed per year, resulting in the total bid price.

The existing agreement between the OCA and Western States Oil, which was previously approved by the Board of Supervisors on August 11, 2009 (Resolution No. 345-09), was for one year, from September 1, 2009 through August 31, 2010, and included four one-year options to extend or through August 31, 2014, for a not-to-exceed annual amount of $25,000,000. The not-to-exceed annual amount of $25,000,000 (a) assumed an average annual consumption of 9,052,000 total gallons of fuel, or an average price of $2.76 per gallon, and (b) was consistent with the City's average actual expenditures on gasoline and diesel fuel in the two fiscal years

[1] In addition to the City's primary vendor, the Invitation to Bid requested secondary and tertiary fuel vendors, as back-up fuel vendors in case of emergency or in case the primary vendor was not able to satisfactorily perform. Under the existing agreement, Western States Oil, as the primary vendor, receives 100 percent of the City's business for the various types of fuel. If the primary vendor cannot perform in whole or in part the responsibilities under the existing agreement, then the City's secondary fuel vendor, Nella Oil Company, LLC, would receive business from the City on an as-needed basis. The same process would apply to the tertiary fuel vendor, Golden Gate Petroleum. These secondary and tertiary fuel vendors entered into separate agreements with OCA which were not subject to approval by the Board of Supervisors.

[2] The OPIS purchase price is a standard market purchase price for a particular fuel and is not controlled by the City or the fuel distribution vendor. While the markup or markdown price will remain fixed, the OPIS price per gallon fluctuates daily. Therefore, the actual price that the City pays for fuel fluctuates throughout the term of the agreement.

preceding the existing agreement commencement date of September 1, 2009. The City expended $24,416,512 on gasoline and diesel fuel in FY 2007-2008 and $25,431,930 in FY 2008-2009.

First Two Amendments to the Existing Agreement

On October 9, 2009, OCA executed the First Amendment to the existing agreement to add Red Dye Diesel[3] for use by the San Francisco Fire Department and the Port for “over marine waters”. On February 12, 2010, OCA executed the Second Amendment to the existing agreement to add, Methanol[4] for the San Francisco Public Utilities Commission’s (PUC) Oceanside Plant. In accordance with Charter Sections 9.118(b) and (c), because the First and Second Amendments had no impact on the length or cost of the existing agreement with Western States Oil, the first two Amendments were not subject to Board of Supervisors approval.

Two of the Four One-Year Options to Extend the Existing Agreement Have Been Exercised

On August 3, 2010 the Board of Supervisors approved the Third Amendment to the existing agreement, which exercised the first option to extend the agreement by one year from September 1, 2010 through August 31, 2011 and increased the not-to-exceed amount of the existing agreement by $25,000,000 from a not-to-exceed $25,000,000 to a not-to-exceed $50,000,000.

On July 1, 2011, OCA executed the Fourth Amendment to the existing agreement which exercised the second option to extend the agreement by one year from September 1, 2011 through August 31, 2012 and increased the not-to-exceed amount by $500,000 from $50,000,000 to $50,500,000 to allow Departments to encumber funding to cover monthly invoices until OCA could request the total additional amount of funding needed for the second option. In accordance with Charter Section 9.118(b) and (c), because the Fourth Amendment did not result in expenditures in excess of $500,000 and did not extend the existing agreement by more than ten years, it was not subject to Board of Supervisors approval.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the City and County of San Francisco, through the Office of Contract Administration (OCA), to execute the Fifth Amendment to the existing agreement with Western States Oil to increase the not-to-exceed amount by $27,800,000, from a not-to-exceed amount of $50,500,000 to a not-to-exceed amount of $78,300,000. The $27,800,000 would be expended during the second one-year option under the existing agreement from September 1, 2011 through August 31, 2012.

[3] Red Dye Diesel is a diesel fuel with red pigment added that can only be used in non-road driven vehicles and equipment, such as lawn mowers and generators. According to Ms. Jennifer Browne, Assistant Director of OCA, because Red Dye Diesel cannot be used on roads, it is not taxed as heavily and therefore the City realizes a significant savings over regular diesel fuel.

[4] Methanol is a colorless, toxic, flammable liquid used as an antifreeze, a general solvent, a fuel, and a denaturant (a substance which changes by chemical or physical means, such as the action of acid or heat, to cause loss of solubility, biological activity, etc) for ethyl alcohol. Methanol may be used to produce biodiesel.

FISCAL IMPACTS

According to Ms. Jennifer Browne, Assistant Director of OCA, and as shown in Table 1 below, the City expended $23,023,840 under the existing agreement with Western States Oil for the ten-month period from September 1, 2010 through June 30, 2011 under the first one-year option of the existing agreement, which expired on August 31, 2011.

Table 1: Fuel Costs Under the Existing Agreement with Western States Oil September 1, 2010 through June 30, 2011

Fuel Type	Amount (in gallons)	Average Cost per gallon*	Total Cost (without Sales Tax)	Total Cost (with 9.5% Sales Tax)
B20 Biodiesel	3,203,296	$3.70	$11,852,195	$12,978,154
Diesel #2	1,374,635	3.14	4,316,353	4,726,407
B5 Biodiesel	948,427	3.76	3,566,087	3,904,865
Regular Gasoline	273,942	3.01	824,565	902,899
Premium Gasoline	34,877	3.41	118,930	130,228
Gasoline with Ethanol	31,443	3.11	97,788	107,078
Methanol	1,472	3.00	4,416	4,836
Biodiesel Additives	1,116	89.98	100,410	109,949
Surcharges**			145,594	159,425
Total	**5,869,208**		**$21,026,338**	**$23,023,840**

*Due to the fluctuation in prices, the cost per gallon listed by fuel type was calculated by averaging fuel prices paid from September 1, 2010 through June 30, 2011.

** Surcharges are the other taxes applied to Fuel Purchases such as Federal Leaking Underground Storage Tank Tax, Excise Taxes, Oil Spill Liability Taxes, AB 32 Fees, and Childhood Lead Poisoning Taxes.

OCA has not yet received data on fuel purchased in July and August of 2011, the last two months of the first one year option under the existing agreement from September 1, 2010 through August 31, 2011. According to Ms. Browne, that information will not be available until mid-October, 2011 at the earliest, depending on when individual City Departments make payments and enter these fuel transactions into the City's central data system maintained by the Controller's Office. Ms. Browne advises that based on the data for the first ten months of the existing agreement under the first one-year option which expired on August 31, 2011, the projected average cost for the last two months of the first one-year option period, from July 1, 2011 through August 31, 2011, will be approximately $4,604,768, including Sales Tax.[5] Therefore, the total estimated cost during the first one-year option to extend the existing agreement, from September 1, 2010 through August 31, 2011 is $27,628,608 ($23,023,840 (See Table 1 above) plus $4,604,768).

[5] This amount reflects the total expenditures on the agreement from September 1, 2010 through June 30, 2011 equal to $23,023,840 divided by ten months and multiplied by two months: $23,023,840/10 = $2,302,384/ month., $2,302,384 x 2 = $4,604,768 for July and August 2011.

Justification for Proposed Increase of $27,800,000 in Fuel Costs From September 1, 2011 through August 31, 2012

Based on an analysis by the Budget and Legislative Analyst, as shown in Table 2 below, the Budget and Legislative Analyst estimates that the total not-to-exceed increased amount for the second one-year option period from September 1, 2011 through August 31, 2012 is $27,800,000.

Table 2: Total Estimated Amount Needed For the Second One-Year Option Exercised Under the Existing Agreement From September 1, 2011 through August 31, 2012

	Amount of Increase Requested Under Proposed Resolution Based on Spending From July 1, 2010 through June 30, 2011	Amount of Increase Recommended Based on Spending From September 1, 2010 through August 31, 2011	Difference
Projected Fuel Costs	$24,640,331	$27,628,608	$2,988,277
Proposed Contingency	500,000	171,392	328,608
Total Currently Estimated Not-to-Exceed Amount of Increased Amount Needed	**25,080,000***	**27,800,000**	**$2,720,000**

* - Ms. Browne advises that OCA rounded the not-to-exceed amount increase to the nearest thousand, resulting in a request for an increase of $25,080,000 rather than $25,080,331.

Ms. Browne advises that the currently estimated increased need is primarily based on two factors: (1) the original projections to determine the not-to-exceed amount of $25,080,000 were based on fuel expenditures from July 1, 2010 through June 30, 2011, rather than fuel expenditures made during the second year of the existing agreement, from September 1, 2010 through August 31, 2011, which includes several recent months of higher fuel costs, and (2) the original projections mistakenly omitted fuel costs for the month of September, 2011.

As noted above, the existing agreement has a total not-to-exceed authorized amount of $50,500,000. According to Ms. Browne, the entire $50,500,000 has been expended or encumbered by Departments to date.

According to Ms. Browne, the funding source for the proposed Fifth Amendment are monies included in the City Departments' FY 2010-2011 budgets for purchasing fuel including the Municipal Transportation Agency, the Public Utilities Commission, the Airport, the Police Department, the Fire Department, the Sheriff Department, the Port, the Department of Public Works, the Recreation and Park Department, and the City's Central Shops.

POLICY CONSIDERATIONS

If the cost of fuel continues to increase as OCA believes it will, it becomes increasingly important that City Departments work to decrease their fuel consumption and/or move to more efficient or less expensive fuels. According to Ms. Browne, prices on all fuel types have increased in recent months. However, the City has a number of initiatives aimed at fuel conservation in place, including Car Share, Fleet Reduction, installation of Electric Vehicle Charging Stations and Term Contracts designed to encourage purchases of Fuel Efficient and

Hybrid Vehicles. Additionally, the Healthy Air & Clean Transportation Ordinance encourages City Departments with responsibility for fleet vehicles to use public transportation whenever possible, to reduce fleet size and to trade in older, less fuel efficient vehicles.

RECOMMENDATION

Approve the proposed resolution.