

FINANCIAL IMPACT

The financial impact is \$1,200,000 per year to the Vehicle Maintenance operating budget. This is not to exceed the amount of \$3,600,000 for three years.

RECOMMENDATION

It is recommended that City Council:

- Approve piggybacking on the City of Huntington Beach Bid# 07-0719;
- Approve the attached agreement with i.i. Fuels Inc., in the amount of \$3,600,000 for three (3) years, with an option to extend for an additional two (2) years, at a cost of \$1,200,000 per option year, for a total of \$6,000,000 over five (5) years for the purchase of fuel; and
- Authorize the City Manager to execute the agreement on behalf of the City and make minor modifications as necessary.


WILLIAM E. MURRAY, P.E.
Public Works Director/City Engineer

By: Phillip Carter
Equipment Maintenance Supervisor

Attachment: Agreement

Recommended for Approval


Matthew Fertal
City Manager

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 2012, by the **CITY OF GARDEN GROVE**, a municipal corporation, ("CITY") and **i.i. FUELS, INC.**, a California corporation, herein after referred to as "CONTRACTOR".

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Garden Grove COUNCIL AUTHORIZATION, DATED _____.
2. CITY desires to utilize the services of CONTRACTOR to **Furnish all materials, equipment, and labor for fuel procurement and management services.**
3. CONTRACTOR is qualified by virtue of experience, training, education and expertise to accomplish services.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term and Termination.** The term of the agreement shall be for period of three (3) years from full execution of the agreement, with an option to extend said agreement additional two (2) years, for a total performance period of five (5) years. Option years shall be exercised one (1) year at a time, at the sole option of the CITY. This agreement may be terminated by the CITY without cause at any time. In such event, the CITY will compensate CONTRACTOR for fuel delivered and work performed to date in accordance with Section 3, below, and Contractor's Proposal which is attached as Attachment A and is hereby incorporated by reference. Contractor is required to present evidence to support performed work.
2. **Services to be Provided.** The services to be performed by CONTRACTOR shall consist of tasks as set forth in the Proposal, including, without limitation, managing the procurement of fuel for the City of Garden Grove, procuring and delivering and/or arranging for delivery of fuel as directed by CITY, and assisting CITY with compliance with related regulatory and reporting requirements. The Proposal is attached as Attachment A, and is incorporated herein by reference. The Proposal and this Agreement do not guarantee any specific amount of work or fuel purchased.

3. **Compensation.** CONTRACTOR shall be compensated as follows:

- 3.1 **AMOUNT.** In consideration of all services provided by CONTRACTOR pursuant to this Agreement, CONTRACTOR shall be compensated at the fixed fee rate of \$0.015 per gallon of fuel delivered, payable in arrears and in accordance with the Proposal. In addition, CITY shall reimburse CONTRACTOR for all fuel purchased and delivered by CONTRACTOR on behalf of CITY at the cost paid by CONTRACTOR.
- 3.2 **Payment.** For work under this Agreement, payment shall be made per invoice for work completed. For extra work not a part of this Agreement, a written authorization by CITY will be required, and additional compensation for such extra work shall be allowed only if prior written approval from CITY is obtained.
- 3.3 **Records of Expenses.** CONTRACTOR shall keep complete and accurate records of all costs and expenses incidental to fuel and services covered by this Agreement. These records will be made available at reasonable times to CITY.
- 3.4 **Termination.** CITY shall have the right to terminate this agreement, without cause, by giving thirty (30) days written notice of termination. If the Agreement is terminated by CITY, then the provisions of paragraph 3 would apply to that portion of the work completed.

4. **Insurance requirements.**

- 4.1 **INSURANCE AMOUNTS.** CONTRACTOR shall maintain the following insurance for the duration of this Agreement:
- (a) Commercial general liability in the amount of \$2,000,000 per occurrence; coverage to include XCU (**claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable to CITY and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the CITY. Endorsements for primary and non-contributory.
 - (b) Automobile liability in the amount of \$2,000,000 combined single limit; Policy must be endorsed to delete pollution exclusion. (**claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable to CITY and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the CITY.
 - (c) Automobile pollution in an amount of \$2,000,000 per occurrence; (**claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable

to CITY and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the CITY.

- (c) Professional liability in the amount of \$1,000,000 per occurrence; Insurance companies must be acceptable to CITY and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the CITY. If the policy is written on a "claims made" basis, the policy shall be continued in full force and effect at all times during the term of the agreement, and for a period of three (3) years from the date of the completion of services provided. In the event of termination, cancellation, or material change in the policy, professional/consultant shall obtain continuing insurance coverage for the prior acts or omissions of professional/consultant during the course of performing services under the term of the agreement. The coverage shall be evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier.

An Additional Insured Endorsement, **ongoing and completed operations**, for the policy under section 4.3 (a) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to city's requirements, as approved by the CITY.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for automobiles owned, leased, hired, or borrowed by the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

MSC 90 Endorsement for the policy under section 4.3 (c) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

For any claims related to this Agreement, CONTRACTOR's insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, or volunteers shall by excess of the CONTRACTOR's insurance and shall not contribute with it.

5. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable to CONTRACTOR in the event of any default or breach by CITY, or for any amount which may become due to CONTRACTOR.

6. **Non-Discrimination.** CONTRACTOR covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.

7. **Independent Contractor.** It is agreed to that CONTRACTOR shall act and be an independent contractor and not an agent or employee of the CITY, and shall obtain no rights to any benefits which accrue to CITY'S employees.

8. **Compliance with Law.** CONTRACTOR shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.

9. **Notices.** All notices shall be personally delivered or mailed to the below listed address, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.
 - a. (Contractor)
 - i.i. Fuels
 Attn: Ken Bishop
 7436 Paloma Drive
 Huntington Beach, CA 92648

 - b. (Address of CITY)

City of Garden Grove 11222 Acacia Parkway Garden Grove, CA 92840	(with a copy to): Garden Grove City Attorney 11222 Acacia Parkway Garden Grove, CA 92840
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10. **CONTRACTOR'S PROPOSAL.** This Agreement shall include CONTRACTOR'S proposal or bid which shall be incorporated herein by reference. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.

11. **Licenses, Permits, and Fees.** At its sole expense, CONTRACTOR shall obtain a Garden Grove Business License, all permits, and licenses as may be required by this Agreement.

12. **Familiarity with Work.** By executing this Agreement, CONTRACTOR warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the facilities, difficulties, and restrictions of the work under this Agreement. Should Contractor discover any latent or unknown conditions

materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY of this and shall not proceed, except at CONTRACTOR'S risk, until written instructions are received from CITY.

13. **Time of Essence.** Time is of the essence in the performance of this Agreement.
14. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability, and reputation of CONTRACTOR, its principals and employees were a substantial inducement for CITY to enter into this Agreement. CONTRACTOR shall not contract with any other entity to perform the services required without written approval of the CITY. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of CITY. If CONTRACTOR is permitted to subcontract any part of this Agreement, CONTRACTOR shall be responsible to CITY for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and CITY. All persons engaged in the work will be considered employees of CONTRACTOR. CITY will deal directly with and will make all payments to CONTRACTOR.
15. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.
16. **Indemnification.** CONTRACTOR agrees to protect, defend, and hold harmless CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with performance of the Agreement by CONTRACTOR, CONTRACTOR'S agents, officers, employees, subcontractors, or independent contractors hired by CONTRACTOR. The only exception to CONTRACTOR'S responsibility to protect, defend, and hold harmless CITY, is due to the sole negligence of CITY, or any of its elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONTRACTOR.

IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

Date: _____

**"CITY"
CITY OF GARDEN GROVE**

By: _____
City Manager

ATTESTED:

City Clerk

Date: _____

**"CONTRACTOR"
i.i. FUELS, INC.**

By: _____

Name: Ken Bishop

Title: President

Date: 3/1/2012

Tax ID No. 330316199

Contractor's License: 703190

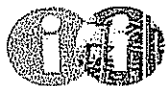
Expiration Date: 2/26/2013

If CONTRACTOR is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to CITY.

APPROVED AS TO FORM:

James H. Eggert for
Garden Grove City Attorney

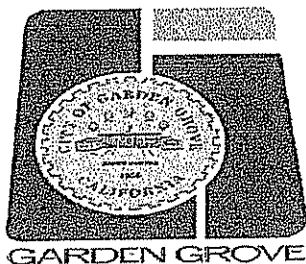
3/1/12
Date



FUELS INC.

i.i. Fuels

Fuel Management • Strategies & Support • UST/AST Maintenance • UST/AST Compliance



Fuel Management Proposal to City of Garden Grove

February 9, 2012

Submitted to:

Phillip Carter
City of Garden Grove
Public Works Supervisor
Equipment Maintenance Section

Submitted by:

Ken Bishop
Ericka Zenz
i.i. Fuels, Inc.
714-960-2978
877-4438357
www.iifuels.com
www.FuelSight.com

Executive Overview

i.i. Fuels, Inc. is pleased to present this proposal to City of Garden Grove (CGG) to be your fuel champion. Whether we can automate your current Veeder Root TLS System for communication or not, CGG has a slow moving tank so that refill data can be collected manually and all of our cost savings programs can still be maximized.

CGG purchases approximately 216,000 gallons of bulk fuel a year. Fuel is purchased on demand or just-in-time; that is, when the tanks reach a certain level. No Fuel Market positioning is considered when placing refill orders.

CGG's current situation is characterized by:

- Higher than desired fuel costs and operating expenditures
- Traditional fuel purchasing practices

i.i. Fuels - Proposed Goals

- Reduce Total Fuel Expenditures

As part of our proposed program i.i. Fuels will implement cost savings measures across the entire fuel supply chain.

- Improve operational efficiencies

By outsourcing fuel procurement and management to i.i. Fuels, CGG will gain access to industry best practices and technology solutions that increase efficiencies. For example, i.i. Fuels will handle all fuel refill decisions, selecting the optimal Fuel Market timing and price for each load.

- Increase control over documentation of environmental requirements

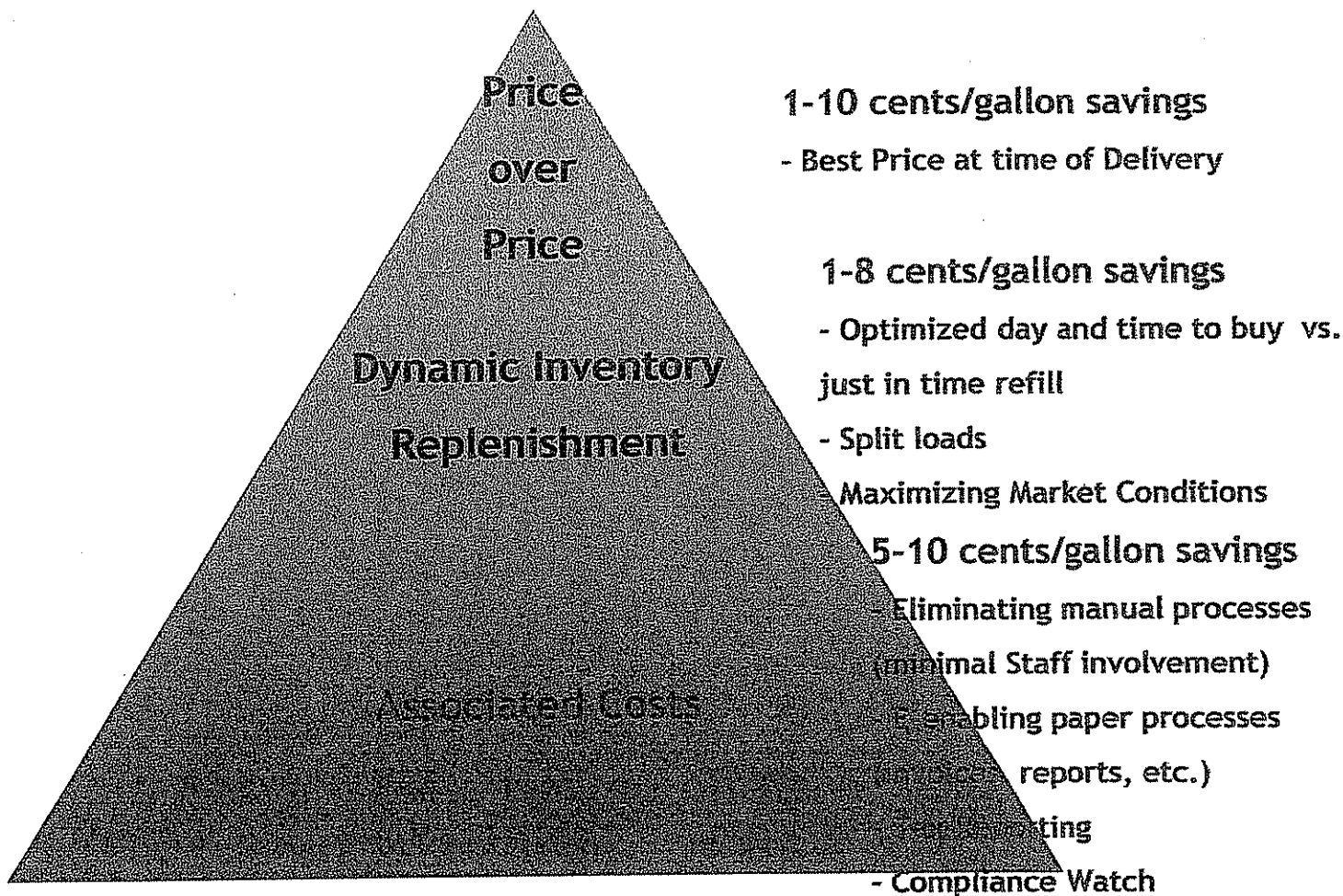
Given the potential liability if a site is not adequately prepared for an EPA inspection, i.i. Fuels offers an exceptional environmental support program, which includes tank monitoring(where available), electronic documentation of alarms and corrective actions and consolidated data capture through a secure Web interface. All tank testing documentation is stored electronically and can be accessed through a password protected web site 24/7. i.i. Fuels will also schedule and perform all testing so that no testing is ever late.

- Seek innovation in purchasing and managing fuel

As an innovator in the industry, i.i. Fuels is continually exploring new ways of reducing costs throughout the supply chain.

ATTACHMENT "A"

In summary, i.i. Fuels is a one-of-a-kind, revolutionary fusion of fuel industry expertise, cutting-edge innovation, and exceptional client care make us the right fuel partner for CGG.



These standards of excellence have achieved savings for our clients of 15%-25% on their bottom line.

Proposed Fuel Outsourcing Solution

Optimizing Fuel Procurement

Making the Refill Decision

Currently, the decision to purchase fuel is based on demand or just-in-time; that is, when a tank reaches a certain inventory level. Based on an extensive audit of invoices and conversations with CGG, there is an opportunity to optimize fuel buying through modifying the buying schedule to take advantage of price fluctuations in the market. We have found that our clients lose market leverage when they order fuel based on inventory levels alone.

Our online tank monitoring system enables i.i. Fuels to make smarter refill decisions by monitoring fuel prices and evaluating short-term market trends, forecasting demand based on your historic usage patterns, then determining the optimum day and time to buy your fuel. Our Dynamic Inventory Replenishment process results in reduced fuel costs as compared to your historical purchasing pattern - buying based on a specific tank level.

Performance benchmarks include:

- Reduced fuel costs through:
 - Improved market timing
 - Improved inventory management

Streamlining Operations

Tax Reporting

The process of collecting the information needed to generate the fuel tax returns is paper and time intensive. i.i. Fuels can support collection of the information needed to manage tax reporting, reducing the time your organization spends on this activity. This results in increased reporting accuracy.

Performance benchmarks include:

- Significant reduction in time spent in preparing tax reporting documentation
- Increase in reporting accuracy

Regulatory Compliance and Reporting

California has strict regulations regarding testing for above and below ground tanks. This is a concern for any agency, given the potential liability if a site is not adequately prepared for an EPA inspection. i.i. Fuels offers an exceptional environmental support program. We will help you set priorities for record keeping and data tracking, on a site-by-site basis. We also will electronically document safety procedures, tank monitor alarms and any corrective actions. Then, our multi-function Web interface will consolidate this information with all of your other fuel activity, delivering all your critical data to your desktop.

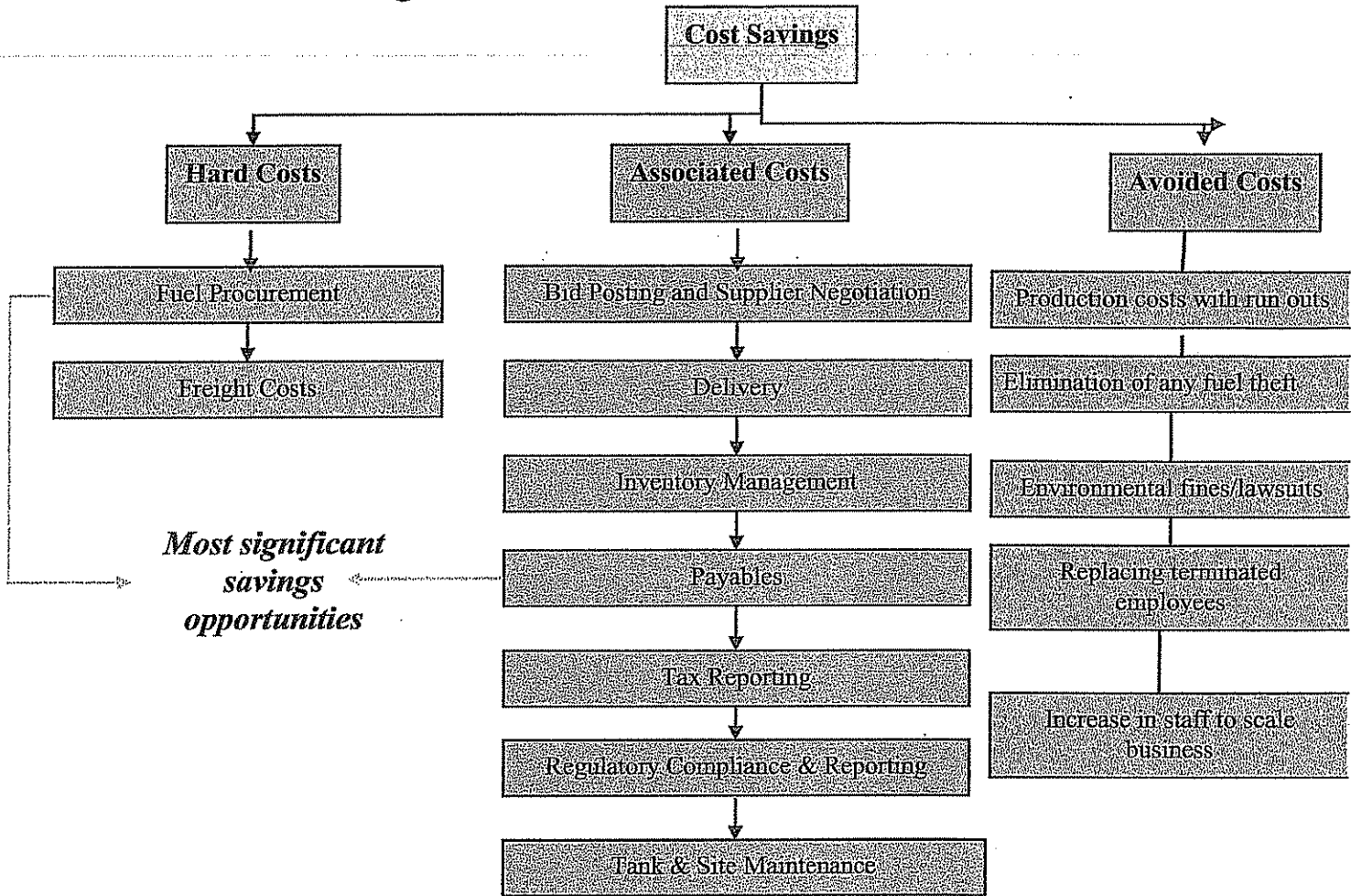
ATTACHMENT "A"

i.i. Fuels will document, schedule and perform all tank testing requirements.

Performance benchmarks include:

- Elimination of time involved in:
 - Manual documentation of required tests and corrective action
 - Manual documentation of corporate safety requirements
 - Scheduling all testing requirements
 - Increase in efficiency by viewing the total fuel picture through a single Web interface

Areas of Cost Savings



Implementation Plan

Automation of the Veeder Root is an option and not mandatory and requires purchase of fax modem card and designated analog phone line. Because you have weeks between deliveries it is not necessary to automate your tank. We can simply get data from you once or twice a week and we can create your tank profile that way, avoiding any additional costs.

Your customized 24/7 Tank Compliance System will still be available for you either way.

Additional key steps involved in the implementation process include the following:

- Optional Communication (existing Ethernet, phone line)
- Accounting/payables integration

Pricing

Option 1: Fuel Management Fee

i.i. Fuels will charge CGG a fixed per gallon management fee of \$.015 for all services described in this proposal per City of Huntington Beach Fuel Management Contract #07-0719. We estimate that outsourcing fuel procurement and management to i.i. Fuels will reduce CGG's total annual fuel costs between 15%-25%.

i.i. Fuels is the Right Fuel Partner for CGG

i.i. Fuels' one-of-a-kind, revolutionary fusion of fuel industry expertise, cutting-edge innovation, and exceptional client care ensure its continuing leadership as the premier fuel outsourcing solution.

i.i. Fuels saves its customers money each year by managing fuel needs throughout the supply chain. Our value proposition is simple: We manage your total fuel needs. You enjoy streamlined operations and cost savings.

As your fuel champion, i.i. Fuels:

- Optimizes your fuel procurement;
- Streamlines your fuel operations; and
- Reduces your overhead costs.

Optimizing Fuel Procurement

i.i. Fuels monitors fuel prices and evaluates short-term market trends, forecasts demand based on your historic usage patterns, then determines the optimum day and time to buy your fuel.

Streamlining Operations

From cost efficient refill decisions to payables to regulatory compliance, managing your fuel operations is cost and time intensive. Using patented systems and market expertise, we handle your fuel management processes for you, so that you can focus on mission critical activities. Key processes include:

- Fuel Supply Ordering
- 24/7 Tank Monitoring, where available
- Payables
- Tax reporting
- Regulatory compliance and reporting

Reducing Overhead Costs

Outsourcing fuel procurement and management to i.i. Fuels means that your people can focus on mission critical activities rather than on fuel-related issues.

