

**COMPETITIVE SEALED BID
CITY OF DICKINSON, TEXAS**



**CITY OF DICKINSON ANNUAL CONTRACT FOR
PURCHASE AND DELIVERY OF GASOLINE AND DIESEL
COMPETITIVE SEALED BID # 1210-04**

**BID OPENING DATE:
OCTOBER 28, 2011**

CONTRACT DOCUMENTS AND TECHNICAL SPECIFICATIONS
FOR
CITY OF DICKINSON ANNUAL CONTRACT FOR PURCHASE AND
DELIVERY OF GASOLINE AND DIESEL
COMPETITIVE SEALED BID # 1210-04

TABLE OF CONTENTS

CONTRACT DOCUMENTS

- Schedule Summary
- Invitation to Bid
- Scope of Work and Special Conditions
- Instructions to Bidders
- General Conditions of Bidding
- City of Dickinson Contractor Insurance Requirements
- Supplemental Information / Minority/Woman-Owned Business Participation
- Bid Form
- References
- Supplemental Information
- Conflict of Interest Questionnaire
- Bidder Reminder List
- Form Contract for Fuel
- Technical Specifications

BID OPENING DATE: October 28, 2011

COMPETITIVE SEALED BID # 1210-04 SCHEDULE SUMMARY

Thursday	October 13, 2011	Bid Documents Released and 1 st Legal Advertising for Bid
Thursday	October 20, 2011	2 nd Legal Advertising for Bid
Friday	October 21, 2011 10:00 am	Mandatory Pre-Submittal Conference
Tuesday	October 25, 2011	Last day for inquiries and clarifications
Friday	October 28, 2011 10:00 am 10:10 am	Deadline for Submission of Bids Opening of Bids
Tuesday	November 8, 2011	City Council Award of Bid

Note: This schedule is preliminary and may be modified at the discretion of the owner.

COMPETITIVE SEALED BID # 1210-04

**CITY OF DICKINSON ANNUAL CONTRACT FOR PURCHASE AND
DELIVERY OF GASOLINE AND DIESEL**

INVITATION TO BID

The City of Dickinson is accepting Competitive Sealed Bids for all supervision, materials, labor and equipment necessary to furnish and deliver Gasoline and Diesel fuels.

BIDS MUST BE RECEIVED BY THE CITY SECRETARY OF THE CITY OF DICKINSON NO LATER THAN 10:00 A.M. ON FRIDAY, OCTOBER 28, 2011. NO BID WILL BE ACCEPTED AFTER THAT DATE AND TIME. ALL BIDS RECEIVED AFTER THAT DATE AND TIME WILL BE CONSIDERED UNRESPONSIVE.

BIDS WILL BE PUBLICLY OPENED AND READ AT THE DICKINSON CITY HALL LOCATED AT 4403 STATE HIGHWAY 3, DICKINSON, TEXAS 77539 ON FRIDAY, OCTOBER 28, 2011, AT 10:10 A.M.

Bid documents may be downloaded from the Purchasing Page of the City of Dickinson's website at www.ci.dickinson.tx.us or obtained in person at Dickinson City Hall, 4403 State Highway 3, Dickinson, Texas. Minority and small business vendors or contractors are encouraged to submit bids on any and all City of Dickinson projects.

A mandatory pre-submittal conference will be held at 10:00 a.m. on Friday, October 21, 2011. Bid documents will be available for review at the pre-submittal conference.

All bids submitted for City consideration must include the original and one copy, be clearly marked on the outside of the sealed envelope with the words "Competitive Sealed Bid #1210-04, City of Dickinson Annual Contract for Purchase and Delivery of Gasoline and Diesel, Attention: Carolyn Anderson, City Secretary", and must contain the name of the company submitting the bid.

The City reserves the right to reject any or all bids and waive any or all irregularities or to proceed otherwise when in the best interest of the City. Bids shall be valid for a period of sixty (60) days from the date bids are opened.

1st Advertisement: Galveston Daily News, October 13, 2011

2nd Advertisement: Galveston Daily News, October 20, 2011

SCOPE OF WORK AND SPECIAL CONDITIONS

1. SCOPE OF WORK

The scope of work under this bid shall include all materials, labor, equipment, supervision and incidentals to furnish and deliver Gasoline and Diesel fuels and to provide four (4) one thousand (1,000) gallon tanks to the Public Works Department facility located at 3120 Deats Road, Dickinson, TX 77539. Of the four (4) one thousand (1,000) gallon tanks, two of the one thousand (1,000) gallon tanks will be for Gasoline and two of the one thousand (1,000) gallon tanks will be for Diesel. All fuel tanks provided to the City of Dickinson must be maintained in good working order and are to be cleaned out annually. All work shall be performed in accordance with the Technical Specifications provided herein.

2. RESPONSIBILITIES OF THE CONTRACTOR

The bidder must be capable of performing all responsibilities normally associated with providing Gasoline and Diesel fuels and tanks to the City in accordance with the Technical Specifications provided herein. The successful bidder will furnish all supervision, materials, labor, and equipment to furnish and deliver Gasoline and Diesel fuels and four (4) one thousand (1,000) gallon tanks to the City as delineated above.

3. USE OF SUBCONTRACTORS

The City specifically prohibits the use of subcontractors without written authorization. Authorized subcontractors are subject to the same insurance requirements as stated in the Contractor Insurance Requirements provided in this Bid.

4. CONTRACT TERM

The contract term will be for a twelve (12) month period beginning October 1, 2011 and ending September 30, 2012. Extension of this contract for an additional twelve (12) month period beyond the contract term may be negotiated with the successful bidder when services have been conducted to mutual satisfaction, and the fixed differential and conditions remained unchanged.

5. TESTING

Representative samples may be taken from any delivery by the City and tested for compliance with the specifications.

If the material so tested complies with the specifications, the expense of such test shall be borne by the City. If the materials so tested do not comply with the specifications, the Supplier will be required to remove said materials within twenty-four (24) hours after notification and replace it with a suitable product. Also, the Supplier will bear the cost of testing materials if such material fails to comply with the City specifications.

4. SAFETY REGULATIONS

This contract shall be carried out in strict accordance with the safety requirements of all applicable codes, OSHA, state, and local requirements. The supplier is fully responsible in its procedures for safety of all contracts, personnel and equipment involved in the discharge of his contract obligations.

5. QUANTITIES

The City will order materials in varying quantities on “as needed, when needed” basis. The City does not guarantee any minimum purchase amount and will pay only for material that is ordered and delivered.

The quantities listed in the bid documents are estimated annual requirements and are not to be construed as a guaranteed quantity of volume to be purchased under the terms of the contract.

Actual quantities purchased under this agreement vary depending upon the actual needs of user departments. The City is not limited to the number of shipments or quantity on each shipment.

6. MARKET PRICE FORMULA

Supplier agrees to supply and deliver, as requested, the grades of gasoline at the bid price of the fixed differential – added to or subtracted from – the following formula: the average of prices posted for regular unleaded gasoline and Number 2 diesel fuel as listed in the Oil Price Information Service (OPIS) Pad 3 of Houston, Texas Rack Prices. The last report published prior to delivery will provide the formula for the price of the product delivered to the City. Supplier agrees to furnish the City a copy of said report with the invoice. The report shall be as published by OPIS.

Actual price for each delivery shall be determined by the formula, plus or minus the bid price as the fixed differential above or below this rate.

The bid price of the fixed differential above or below OPIS shall be a firm price for the duration of the contract term.

7. INVOICING

All invoices shall be submitted in duplicate, itemized as to the type of motor fuel delivered, quantity, unit cost of each item, and delivery location. The invoices must be accompanied by one copy of the delivery ticket showing the same information as outlined above, except for the unit cost. The delivery ticket must also show the signature of the City of Dickinson representative receiving delivery. This copy of the delivery ticket shall be in addition to the delivery ticket left with the City representative receiving the delivery.

Invoices and OPIS reports shall be mailed to the following address:

City of Dickinson
ATTN: Accounts Payable
4403 Highway 3
Dickinson, TX 77539

The City reserves the right to review all payments made to the Supplier by auditing at a later date. Subject to such audit, any over-payment may be recovered from the Supplier.

8. PERMITS AND LICENSES

The Supplier shall procure at its own expense all necessary licenses and permits that may affect its operations. The Supplier shall obey all laws, ordinances, rules and regulations bearing on the conduct

of the work as specified. If the Supplier performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, it shall bear all costs arising there from.

9. HAULING OF MATERIAL

Any vehicle, truck, truck-tractor, trailer or semi-trailer or combination of such vehicles, when used to deliver materials to the City, shall comply with the State law concerning the gross weight of such vehicle or combinations of such vehicles and load, unless authorized by permit to exceed the legal weight.

10. DELIVERY

All prices quoted on the Bid Form shall include transportation and delivery within the city limits of the City of Dickinson. Trucks making the deliveries shall be equipped with the proper ticket printers, meters, or State of Texas certified tank truck markings to assure accurate measure.

Supplier shall deliver fuel covered in this proposal to the location stated at the time the order is placed within **48 hours** maximum after the City places the order. In the event that the delivery is not made within this specified time, the City reserves the right to purchase said material in the open market. Deliveries shall be made on a net gallon basis, temperature connected to sixty (60) degrees Fahrenheit.

11. STOCK AVAILABILITY

Supplier shall have sufficient stock to fill any order within the stated delivery time. Supplier agrees to notify the City when out of stock on any items due to circumstances beyond its control. The City is authorized to use other sources to purchase stock if it is not available from the supplier.

12. LOADING AND OFF-LOADING PROCEDURES

- 1) Supplier will load the delivery truck at the fuel terminal and record the following minimum information on the delivery document:
 - Date
 - Gross gallons loaded
 - Temperature of product loaded
 - Net gallons loaded
 - Name of Dickinson city staff person to receive fuel
- 2) Upon arrival at the City storage tank, driver and City's representative will measure the number of inches of fuel in the City tank by the use of a calibrated dip stick and gasoline gauging paste. The tank shall be checked for the presence of any water. The results of both measurements shall be recorded on the delivery document and initialed by the driver and the City representative.
- 3) The fuel will be transferred from the delivery truck to the storage tank using proper vapor recovery procedures as required by law.
- 4) The City shall be diligent in checking the available capacity of the storage tank before ordering fuel. However, if the Supplier delivers more fuel than the tank can hold (for

whatever reason), the Supplier shall return the excess, meter it off the truck, and credit the City for the undelivered quantity.

- 5) The City will accept deliveries during normal hours of operation of the City, Monday through Friday, unless prior approval for late delivery has been obtained. During times of emergency or other distress, the City reserves the right to request and accept deliveries at any hour.

13. EMERGENCY OPERATIONS DELIVERIES

During times of emergency or other distress, the City may have a need for additional Gasoline and Diesel fuel as well as portable tanks with manual pumps in order to provide the most effective response and in order to ensure economic recovery of the Dickinson community. In the event that it is required by the City, Supplier will be required top off each of the City's fuel storage tanks and generators within 24 hours of notice before the emergency and within 6 to 8 hours after the emergency. The City's generators are located at the Dickinson Police Station, 4000 Liggio Street, Dickinson, Texas, at the Central Fire Station, 4500 FM 517 East, Dickinson, Texas, and at the Public Works Facility, 3120 Deats Road, Dickinson, Texas. Additionally, Supplier will be required to stage a tanker truck of Gasoline and a minimum of ten (10) 55-gallon drums of Diesel fuel with manual pump at the Public Works Facility at 3120 Deats Road, Dickinson, Texas, within 24 hours of notice provided by the City before the emergency. Supplier will also be required to provide a minimum of six (6) 55-gallon drums of Gasoline with manual pump at the Dickinson Police Station, 4000 Liggio Street, Dickinson, Texas, within 24 hours of notice provided by the City before the emergency for use in filling emergency response vehicles. The City will work with the Supplier to ensure that the City's needs are communicated with as much notice as possible.

INSTRUCTIONS TO BIDDERS

READ THIS ENTIRE DOCUMENT CAREFULLY AND FOLLOW ALL INSTRUCTIONS. YOU ARE RESPONSIBLE FOR FULFILLING ALL REQUIREMENTS STATED HEREIN. THE INSTRUCTIONS AND CONDITIONS APPLY TO ALL BIDS/PROPOSALS AND BECOME A PART OF THE TERMS AND CONDITIONS OF ANY BID/PROPOSAL SUBMITTED AND ANY AGREEMENT ENTERED INTO SUBSEQUENT THERETO, UNLESS EXCEPTION IS TAKEN IN WRITING BY BIDDER WHEN SUBMITTING BID.

1. BIDS, PREPARATION AND SUBMITTAL

Bidders must utilize the Bid Form and must submit an original and one (1) copy of the sealed bid/written quote/proposal to the City Secretary prior to the response due date and time as described in the Invitation to Bidders. Failure to submit the additional copy may result in the bid being declared unresponsive to specification and may not be further evaluated.

Bidders must bid on fuel and equipment provided for normal operations and emergency operations of the City separately. Bidders' bids for Fixed Differential and Prices Per Tank as reflected in the first box on the Bid Form must only reflect the bid for normal deliveries to the City. If there are additional costs in order to provide the services identified in Section 13, Emergency Operations Deliveries, of the Scope of Work and Special Conditions of this Bid, Bidders must identify those costs in the "Emergency Operations Deliveries" and "Emergency Equipment" Sections of the Bid Form. Additionally, Bidders must include any mobilization or demobilization fees in the prices submitted on the Bid Form.

All figures must be written in ink or typed. Figures written in pencil or erasures are not acceptable. However, mistakes may be crossed out, corrections inserted and initialed in ink by the person signing the Bid Form. No oral, telegraphic, telephonic, e-mailed or facsimile bids will be considered. All bids must be submitted in a sealed envelope. Bidders must provide all documentation required with the bid response. Failure to provide this information may result in rejection of bid. For additional instructions related to Bid Preparation, please see the General Conditions of Bidding contained herein.

If you do not wish to bid at this time, but wish to remain on the bid list for this service or commodity, please submit a "No Bid" by the same time and date at the same location as stated for bidding. If you wish to be removed from the bid list, or changed to the bid list for another commodity, please advise us in writing.

2. INTENT OF BID DOCUMENTS

Bidders should fully inform themselves as to all conditions and matters that can in any way affect the costs thereof. Should a bidder find discrepancies in, or omission from, the bid documents, or should there be any doubt as to a document's meaning and intent, the Bidder should notify the City at once and obtain clarification prior to submitting a bid.

The submission of a bid by Bidder shall be conclusive evidence that the Bidder is fully acquainted with and satisfied as to character, quality and quantity of equipment and/or services to be furnished.

3. MANDATORY PRE-SUBMITTAL CONFERENCE

A pre-submittal conference will be held at 10:00 a.m. on Friday, October 21, 2011, in the Council Chambers at Dickinson City Hall, 4403 State Highway 3, Dickinson, Texas 77539. Bid documents will be available for review at the pre-submittal conference. Additionally, City representatives will answer any questions with regard to the scope and intent of these services. This is a **mandatory** meeting.

4. DELIVERY OF BIDS

Bids received prior to the time of the opening will be kept securely unopened. Bids received after the time specified in the Invitation to Bid shall be considered late and shall be returned unopened. The person whose duty it is to open the bids will decide when the specified time has arrived for the opening of the bids. No responsibility will be attached to an officer of the City for the premature opening of a bid not properly addressed and identified. No oral, telegraphic, telephonic, e-mailed or facsimile bids will be considered.

5. SIGNATURES

All bid responses are required to be signed by an authorized representative of the bidding entity. Bid responses received unsigned will result in the bid being declared unresponsive to specification and may not be further evaluated.

6. BID ALTERATION/WITHDRAWAL

Bids cannot be altered or amended after the submission deadline. The signer of the bid, guaranteeing authenticity, must initial any interlineations, alteration, or erasure made before bid opening time. Bids may be withdrawn by written request signed by the bidder prior to the time fixed for bid opening; however, such written request must be received by the City in the normal course of business and prior to the time fixed for bid opening. Negligence on the part of the bidder in preparing the bid represents no right for withdrawal after the bid is opened. No bids may be withdrawn for a period of sixty (60) calendar days after opening of the bids.

7. DISQUALIFICATIONS OF BIDDERS

The bidders may be disqualified and their bids and proposals not considered for the following reasons, including, but not limited to:

- Reason for believing collusion exists between bidders.
- The bidder being an interested party in any litigation against the City.
- Failure to use the Bid Form furnished by the City.
- Failure to comply with any of the requirements contained herein.
- Lack of signature by an authorized representative on the Bid Form.
- Failure to properly complete the Bid Form.
- Bidder is indebted to the City.

8. BID OPENINGS

All bids submitted will be opened publicly in the City Hall Council Chambers, at the date and time shown in the Invitation to Bidders. However, the reading of a bid at bid opening should not be

construed as a comment on the responsiveness of such bid or as any indication that the City accepts such bid as responsive.

The City will make a determination as to the responsiveness of bids submitted based upon compliance with all applicable laws, City of Dickinson Purchasing Guidelines, and project documents, including, but not limited to, the project specifications and contract documents. The city will notify the successful bidder upon award of the contract, and, according to State law, all bids received will be available for inspection at that time, unless otherwise provided by law.

9. BASIS OF AWARD

It is the intent of the City to award the Contract to the bidder(s) submitting the most efficient and/or most economical for the City. It shall be based on all factors, which have a bearing on price and performance of the items in the user environment. All bids are subject to re-tabulation. Compliance with all bid requirements, delivery and needs of the using department are considerations in evaluating bids.

The City of Dickinson reserves the right to contact any offer or, or at any time, to clarify, verify or request information with regard to any bid. Unless stipulated in the attached bid specifications, the contract will be awarded to the lowest responsible bidder or to the bidder who provides goods and services specified herein at the best value for the City of Dickinson in compliance with Section 252.043 of the Texas Local Government Code. The City reserves the right to waive any formality or irregularity, to make awards to more than one offer or, or to reject any or all bids.

10. BID TABULATION

Bidders desiring a copy of the bid tabulation may request it by enclosing a self-addressed, stamped envelope with the bid. BID RESULTS WILL NOT BE GIVEN BY TELEPHONE. You may also download a copy on the City of Dickinson's website from the Purchasing Page at www.ci.dickinson.tx.us.

11. PROTESTS

All protests regarding the bid solicitation process must be submitted in writing to the City within five (5) working days following the opening of the bids. This includes all protests relating to advertising of bid notices, deadlines, bid opening, and all other related procedures under the Texas Local Government Code, as well as any protests relating to alleged improprieties or ambiguities in the specifications.

This limitation does not include protests relating to staff recommendations as to award of this bid. Protests relating to staff recommendations may be directed to the City Administrator within five (5) working days of the staff recommendation memo. Unless otherwise provided by law, all staff recommendations will be made available for public review prior to consideration by the City Council.

GENERAL CONDITIONS OF BIDDING

This Bid does not commit the City of Dickinson to award a contract or to pay any costs incurred as a result of preparing such a response. The City reserves the right to accept or reject any and all responses received in response to this request, to negotiate with all qualified respondents or to cancel in part or in its entirety this Bid if it is in the best interest of the City.

A contract based on the awarded bid will be executed. The successful bidder must begin work in accordance with the construction schedule to be developed by City and the successful bidder. This should be considered and reflected in the Bid.

BIDDING

1. **PRICING:** Price(s) quoted must be held firm for a minimum of ninety (90) days from the date of bid closing. In the case of estimated requirement contract bid, the prices must remain firm for the period as specified in the bid. "Discount from list" bids are not acceptable unless specifically requested in the bid.
2. **QUANTITIES:** In the case of estimated requirements, contract bid quantities appearing are estimated as realistically as possible. However, the City reserves the right to increase, decrease or delete any item or items of material to be furnished while continuing to pay the price quoted on this bid regardless of quantity. The successful bidder shall have no claim against the City for anticipated profits for the quantities called for, diminished, or deleted.
3. **ERROR-QUANTITY:** Bids must be submitted on units of quantity specified, extended, and show total. In the event of discrepancies in extension, the unit prices shall govern.
4. **F.O.B./DAMAGE:** Quotations shall be bid freight on board (F.O.B.) delivered to the designated job site in Dickinson, Texas and shall include all delivery and packaging costs. The City assumes no liability for goods delivered in damaged or unacceptable condition. The successful bidder shall handle all claims with carriers, and in case of damaged goods, shall ship replacement goods immediately upon notification by the City.
5. **DELIVERY PROMISE-PENALTIES:** Bids **MUST** show the number of calendar days required to place the material in the possession of the City. Do not quote shipping dates. When delivery delay can be foreseen, the bidder shall give prior written notice to the City, who shall have the right, in its sole discretion, to extend the delivery date if reasons for delay appear acceptable. Default in promised delivery, without acceptable reasons, or failure to meet specifications, authorizes the City to purchase the goods elsewhere, and charge any increase in cost and handling to the defaulting bidder.
6. **DESCRIPTIONS:** Any reference to model and/or make/maker used in bid/proposal specifications is descriptive, not restrictive. It is to be used to indicate the type and quality desired. Qualifications on items of like quality will be considered.
7. **EXCEPTIONS/SUBSTITUTIONS:** All submittals meeting the intent of this bid/request for proposal will be considered for award. Bidders taking exception to the specifications, or offering substitutions, shall state these exceptions in the section provided or by attachment as part of the qualifications. The absence of such a list shall indicate that the Bidder has not taken exceptions and shall hold the Bidder responsible to perform in strict accordance with the specifications of

the invitation. The City of Dickinson reserves the right to accept any and all or none of the exception(s)/substitution(s) deemed to be in the best interest of the City.

8. PROPRIETARY INFORMATION: If a bid contains proprietary information, the Bidder must declare such information as proprietary if Bidder does not want information to become public. Any proprietary information must be indicated in the index and clearly identified in the qualifications.
9. CORRESPONDENCE: The bid number assigned to this Project must appear on ALL correspondence, inquiries, bid submittal documents, etc. pertaining to this Invitation for Bid.
10. ADDENDA: Any interpretations, corrections or changes to this Invitation for Bid and specifications will be made by addenda. Sole issuing authority of addenda shall be vested in the City of Dickinson Director of Public Works. An attempt will be made to mail, fax, or e-mail any addenda to all who are known to have received a copy of this Invitation for Bid. Bidders shall acknowledge receipt of all addenda in the designated area on the bid document. It is the responsibility of the bidder to ensure receipt of all addenda and to include the changes in this bid document.
11. CHANGE ORDERS: No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change orders to the contract will be made in writing by the City.
12. INQUIRIES: Any inquiries concerning the bid documents shall be addressed to Kellis George, Director of Public Works, by telephone (281) 337-6267 or e-mail kgeorge@ci.dickinson.tx.us. Any attempt on the part of a bidder or his representative to contact an elected official regarding this bid or its award will disqualify the bidder.

PERFORMANCE

13. MINIMUM STANDARDS FOR RESPONSIBLE PROSPECTIVE BIDDERS: A prospective bidder must affirmatively demonstrate bidder's responsibility. A prospective bidder must meet the following requirements:
 - A. Have adequate financial resources, or the ability to obtain such resources as required;
 - B. Be able to comply with the required or proposed delivery schedule;
 - C. Have a satisfactory record of performance;
 - D. Have a satisfactory record of integrity and ethics; and
 - E. Be otherwise qualified and eligible, as determined by the City, to receive an award.

The City may request representation and other information sufficient to determine bidder's ability to meet these minimum standards listed above.
14. ASSIGNMENT: The successful bidder shall not sell, assign, transfer or convey this contract in whole or in part, without the prior written consent of the City.
15. SPECIFICATION-SAMPLES: Any catalog, brand name, or manufacturer's reference used is considered to be descriptive, not restrictive, and is indicative of the type and quality the City desires to purchase. Bids on brands of like nature and quality may be considered unless specifically excluded. If bidding on other than reference, bid must certify article offered is

equivalent to specifications and it is subject to approval by the using department and the Purchasing Division. Samples, if required, shall be furnished free of expense to the City. **SAMPLES SHOULD NOT BE ENCLOSED WITH BID UNLESS REQUESTED.**

16. **TESTING:** An agent so designated by the City, without expense to the City, may perform testing at the request of the City or any participating entity.
17. **PACKAGING:** Unless otherwise indicated, items will be new, unused, and in first class condition in containers suitable for damage-free shipment and storage.
18. **DELIVERY:** Deliveries will be acceptable only during normal working hours at the designated City Municipal Facility or Job Site. The place of delivery shall be set forth in the purchase order. The terms of this agreement are “no arrival, no sale”.
19. **TITLE AND RISK OF LOSS:** The title and risk of loss of goods shall not pass to the City until the City actually receives and takes possession of the goods at the point(s) of delivery.
20. **PATENT RIGHTS:** The Bidder agrees to indemnify and hold the City harmless from any claim involving patent right infringement or copyrights on goods supplied.
21. **ETHICS:** The respondent shall not offer or accept gifts or anything of value nor enter into any business arrangement with any employee, official or agent of the City of Dickinson.

PURCHASE ORDERS AND PAYMENT

22. **PURCHASE ORDERS:** A purchase order(s) shall be generated by the City to the successful bidder. The purchase order number must appear on all itemized invoices and packing slips. The City will not be held responsible for any work orders placed and/or performed without a valid current purchase order number. Payment will be made for all services rendered and accepted by the contract administrator for which a valid invoice has been received.
23. **BID SECURITY/BOND REQUIREMENTS:** If required, bid security shall be submitted with bids. Any bid submitted without required bid bond, or cashiers/certified check, shall be considered non-responsive and will not be considered for award. Performance and/or payment bonds, when required, shall be submitted to the City, prior to commencement of any work pursuant to the agreement provisions.
24. **APPROPRIATION CLAUSE:** The City of Dickinson is a Texas home-rule municipal corporation operated and funded on an October 1 to September 30 basis. Accordingly, the City reserves the right to terminate, without liability to the City, any contract for which funding is not available.
25. **TAXES:** The City is exempt from Federal Manufacturer’s Excise, and State sales taxes. **TAX MUST NOT BE INCLUDED IN BID PRICING.** Tax exemption certificates will be executed by the City and furnished upon request by the Director of Finance.
26. **PAYMENT TERMS:** Payment terms are Net 30 upon receipt and acceptance by the City for item(s) and/or service(s) ordered and delivered after receipt of a valid invoice, in accordance with the State of Texas Prompt Payment Act, Chapter 2251, Texas Government Code. Prompt

payment discounts may be used by the City in determining the lowest responsible bidder. Successful respondent is required to pay subcontractors within ten (10) days of work performed.

27. **INVOICES:** Invoices must be submitted by the successful bidder in duplicate to the City of Dickinson, Finance Department, 4403 State Highway 3, Dickinson, Texas 77539.

CONTRACT

28. **CONTRACT PERIOD/RENEWAL OPTIONS:** In the case of an annual contract bid, the contract shall be for a predetermined period as specified in the Invitation for Bids. If a clause for option to renew for additional period(s) is(are) included, renewal(s) will be based solely upon the option and written agreement between both the City and the Contractor. Either party dissenting will terminate the contract in accordance with its initial specified term.
29. **INTERLOCAL AGREEMENT:** Successful bidder agrees to extend prices to all entities that have entered into or will enter into joint purchasing Interlocal Cooperation Agreements with the City. The City has executed Interlocal Agreements, as permitted under Section 791.025 of the Texas Government Code with certain other governmental entities in Harris and/or Galveston Counties authorizing participation in a cooperative purchasing program. The successful bidder may be asked to provide products/services, based upon bid price, to any other participant in which the City has entered into an Interlocal Agreement for purchasing.
30. **AUDIT:** The City reserves the right to audit the records and performance of successful bidder during the term of the contract and for three (3) years thereafter.
31. **SUCCESSFUL BIDDER SHALL:** Defend, indemnify and save harmless the City and all its officers, agents and employees and all entities, their officers, agents and employees who are participating in this contract from all suits, actions or other claims of any character, name and description brought for or on account of any injuries, including death, or damages received or sustained by any person, persons, or property on account of any negligent act or fault of the successful bidder, or of any agent, officer, director, representative, employee, subcontractor or supplier in the execution of, or performance under, any contract which may result from bid award. Successful bidder shall pay any judgment with cost which may be obtained against the City and participating entities growing out of such injury or damages.
32. **TERMINATION FOR DEFAULT:** The City reserves the right to enforce the performance of this contract in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of this contract. The City reserves the right to terminate the contract immediately in the event the successful Bidder fails to: (1) meet delivery schedules; or (2) otherwise performs in accordance with these specifications.

In the event the successful Bidder shall fail to perform, keep or observe any of the terms and conditions to be performed, kept or observed, the City of Dickinson shall give the successful Bidder written notice of such default; and in the event said default is not remedied to the satisfaction and approval of the City within seven (7) working days of receipt of such notice by the successful Bidder, default will be declared and all the successful Bidder's rights shall terminate. Bidder, in submitting this bid, agrees that the City of Dickinson shall not be liable to prosecution for damages in the event that the City declares the Bidder in default.

Breach of contract or default authorizes the City to, among other things, award to another bidder, purchase elsewhere and charge the full increase in cost and handling to the defaulting successful Bidder.

33. **ACCEPTABILITY:** All articles enumerated in the bid shall be subject to inspection by a City officer or employee designated for the purpose. If found inferior to the quality called for, or not equal in value to the specifications, deficient in workmanship or otherwise, this fact shall be certified to the City Administrator who shall have the right to reject the whole or any part of the same. Work determined to be contrary to specifications must be replaced by the bidder and at its sole expense. All disputes concerning quality of supplies utilized in the performance of this bid will be determined solely by the City Administrator or designated representative.
34. **REMEDIES:** The successful bidder and the City agree that each party has all rights, duties, and remedies available as stated in the Uniform Commercial Code and any other available remedy, whether in law or equity.
35. **VENUE:** This contract will be governed and construed according to the laws of the State of Texas. This contract is performable in Galveston County, Texas.
36. **SILENCE OF SPECIFICATION:** The apparent silence of these specifications as to any detail or to the apparent omission from it of a detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of these specifications shall be made on the basis of this statement.
37. **NO PROHIBITED INTEREST:** The bidder acknowledges and represents they are aware of the laws regarding conflicts of interest. In compliance with Local Government Code §176.006, as amended, all bidders shall submit a completed conflict of interest questionnaire as provided herein with their bid submittal.
38. **DECEPTIVE TRADE PRACTICES/UNFAIR BUSINESS PRACTICES:** By submission of a bid response, the bidder represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Tex. Bus. & Com. Code Chapter 17 or allegations of any unfair business practice in any administrative hearing or court suit that the bidder has not been found to be liable for such practices in such proceedings.
39. **FELONY CRIMINAL CONVICTIONS:** The bidder represents and warrants that neither the bidder nor the bidder's employees have been convicted, or have a pending felony criminal offense, or that, if such a conviction has occurred, the bidder has fully advised the City of Dickinson as to the facts and circumstances surrounding the conviction.
40. **SEVERABILITY:** If any section, subsection, paragraph, sentence, clause, phrase or word of these requirements or specifications shall be held invalid, such holding shall not affect the remaining portions of these requirements and the specifications and it is hereby declared that such remaining portions would have been included in these requirements and the specifications as though the invalid portion had been omitted.
41. **FORCE MAJEURE:** If, by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this contract, then such party shall give notice and full particulars of such Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving

such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals, or other causes not reasonable within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.

CITY OF DICKINSON CONTRACTOR INSURANCE REQUIREMENTS

Contractors providing good, materials and services for the City of Dickinson shall, during the term of the contract with the City or any renewal or extension thereof, provide and maintain the types and amounts of insurance set forth herein. All insurance and certificate(s) of insurance shall contain the following provisions:

1. Name the City, its officers, agents, representatives, and employees as additional insured's as to all applicable coverage with the exception of workers compensation insurance.
2. Provide for at least thirty (30) days prior written notice to the City for cancellation, non-renewal, or material change of the insurance.
3. Provide for a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance.

Insurance Company Qualification: All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service.

Certificate of insurance: A certificate of insurance evidencing the required insurance shall be submitted with the contractor's bid or response to proposal. If the contract is renewed or extended by the City, a certificate of insurance shall also be provided to the City prior to the date the contract is renewed or extended.

Type of Contract

Type and amount of Insurance

Fuel Service Providers

Statutory Workers compensation insurance as required by laws and regulations applicable to and covering employees of Contract engaged in the performance of the work under this agreement;

Employer's Liability Insurance protecting contractor against common law liability, in the absence of statutory liability, for employee bodily injury arising out of the master-servant relationship with limit of not less than \$1 Million Dollars;

Comprehensive General Liability Insurance including products/completed operation with limits of not less than: Bodily Injury \$1 Million Dollars per each person, \$1 Million Dollars per each occurrence/aggregate; Property Damage \$1 Million Dollars per each occurrence;

Excess Liability Insurance Comprehensive General Liability, Comprehensive Automobile Liability and coverage's afforded by the policies above, with minimum limits of \$1 Million Dollars excess of specified limits.

Special Events

General Liability insurance for personal injury (including death) and property damage with a minimum of \$1 Million Dollars per occurrence and \$2 Million Dollars aggregate,

including coverage for advertising injury and products coverage

Statutory Workers compensation insurance as required by state law

(If the contractor serves alcoholic beverages) Liquor Liability with a minimum of \$1 Million Dollars per Occurrence and \$2 Million Aggregate.

(If high risk or dangerous activities) Umbrella Coverage or Liability Excess Coverage of \$ 2 Million Dollars

(If automobile or limousine service is involved even if volunteers)
Automobile Liability with a minimum of \$1 Million Dollars combined single limit.

Public Works and Construction

General Liability insurance for personal injury (including death) and property damage with a minimum of \$1 Million Dollars per occurrence and \$2 Million Dollars aggregate, including advertising injury, products coverage and (XCU) Explosion, collapse and underground (If high risk or dangerous activities) Umbrella Coverage or Excess Liability Coverage of \$2 Million Dollars Statutory Workers compensation insurance as required by state law

Professional Services

Professional Liability Insurance with a minimum of \$1 Million Dollars per occurrence and \$2 Million Dollars aggregate.

(If size or scope of project warrant)
Umbrella Coverage or Excess Liability Coverage of \$2 Million Dollars

SUPPLEMENTAL INFORMATION

Texas Government Code Section 2252.002 Non-resident bidders. A governmental entity may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located.

In order to make this determination, please answer the following questions:

1. Address and phone number of your principal place of business:

2. Name and address of principal place of business, and phone number of your company's majority owner:

3. Name and address of principal place of business, and phone number of your company's ultimate parent company:

MINORITY/WOMAN-OWNED BUSINESS PARTICIPATION

It is the policy of the City of Dickinson to involve small businesses and qualified minority/women-owned businesses to the greatest extent possible in the procurement of goods, equipment, services and construction projects. To assist us in our record keeping, please list below the names of the minority or woman-owned firms you would be utilizing in this bid, and note the monetary involvement:

NAME OF FIRM	TELEPHONE #	\$ INVOLVEMENT

**CITY OF DICKINSON, TEXAS
 BID FORM**

COMPETITIVE SEALED BID # 1210-04

**CITY OF DICKINSON ANNUAL CONTRACT FOR PURCHASE AND
 DELIVERY OF GASOLINE AND DIESEL**

***NOTE – BE SURE TO INCLUDE MOBILIZATION AND DEMOBILIZATION IN YOUR PRICES. ***

Item #	Estimated Quantity (in gallons)	Description	Fixed Differential (+) or (-)	Extension [Quantity times (+) or (-)]
1	60,000	Regular Unleaded Gasoline – 87 Octane (OPIS Pad 3 of Houston, Texas Rack Prices)		\$ _____
2	25,000	Ultra Low Sulphur Diesel – Grade #2 (OPIS Pad 3 of Houston, Texas Rack Prices)		\$ _____
Item #	Quantity	Description	Price Per Tank	Total
3	4	1,000 Gallon Tanks (2 for Gasoline and 2 for Diesel)	\$ _____	\$ _____
TOTAL BID AMOUNT		\$ _____ dollars And _____ cents		\$ _____

Texas Ground Water Fees:

<u>Gallons</u>	<u>Fee</u>
_____	_____
_____	_____
_____	_____
_____	_____

List any other fees that apply and explain:

Emergency Operations Deliveries:

- a. In order to provide the most effective response to an emergency, the City of Dickinson will order fuel (unleaded and diesel) before the emergency (i.e. tropical storms or hurricanes) as possible.
- b. In order to ensure economic recovery to the City of Dickinson community, the City of Dickinson will need emergency deliveries before and after the disaster as outlined in Section 13 of the Scope of Work and Special Conditions of this Bid. Mark the box below if your company would provide this service to the City.

_____ Yes

_____ No

- c. In the event that Emergency Operations Deliveries of fuel are needed and there will be a different Fixed Differential associated with such Emergency Operations Deliveries, please provide the Fixed Differential that will apply to Emergency Operations Deliveries.

Regular Unleaded Gasoline – 87 Octane: _____

Ultra Low Sulphur Diesel – Grade #2: _____

Emergency Equipment

- d. In order to ensure economic recovery to the City of Dickinson community, the City of Dickinson may have a need for additional portable fueling tanks with manual pumps and tanker trucks as outlined in Section 13 of the Scope of Work and Special Conditions. Mark the box below if your company would provide this service to the City.

_____ Yes

_____ No

If yes, what size tank and pump would be provided? _____.

If yes, what is the charge per tank and pump? _____ ea.

Provide the electrical requirements for the use of the portable tanks with pumps:

1. In submitting this Bid, Bidder represents the following:

- a. Bidder has examined copies of these bidding and contract documents and of the following Addenda (receipt of which is hereby acknowledged):

Addenda:

Date: _____ Signature: _____

- b. Bidder has familiarized itself with the nature and extent of these documents, and all local conditions and Laws and Regulations that in any manner may affect cost of fulfilling the terms of contract.
 - c. Bidder has given the City written notice of all conflict, errors, or discrepancies that it has discovered in these documents and the written resolution thereof by the City is acceptable to Bidder.
 - d. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or titles of any group, association, organization or corporation. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid. Bidder has not solicited or induced any person, firm, or corporation to refrain from bidding. Bidder has not sought by collusion to obtain for itself any advantage over any other bidder or over the City.
 - e. Bidder hereby certifies that the bid prices contained in this bid have been carefully reviewed and are submitted as correct and final.
 - f. This Bid will remain open and subject to acceptance for sixty (60) days after the day of Bid opening.
2. Bidder further certifies and agrees to furnish any and/or all product/service upon which prices are extended at the price offered, and accepts all of the terms and conditions of the Invitation to Bid, Specifications, Instructions to Bidders, General Conditions for Bidding and any Special Conditions contained herein.
 3. Bidder hereby certifies that, if this bid is accepted, the undersigned Bidder shall enter into a contract with the City of Dickinson to furnish the services, materials and/or equipment as specified or indicated in these Bid documents for the price indicated in this Bid and in accordance with the other terms and conditions of such contract documents.

BID FORM

BIDDER:

Company: _____ Date: _____

Signature: _____

Printed Name: _____ Title: _____

Address: _____

City, State & Zip: _____

Telephone Number: _____ Fax: _____

E-mail address: _____

Federal EID #/SSN #: _____

Cash Discount Terms: _____

REFERENCES

Each Bidder is to provide a minimum of three (3) verifiable commercial business references for which the Bidder has performed work.

1. Company Name: _____
Address: _____
Contact Person: _____
Telephone: _____
Brief description of project. _____

2. Company Name: _____
Address: _____
Contact Person: _____
Telephone: _____
Brief description of project. _____

3. Company Name: _____
Address: _____
Contact Person: _____
Telephone: _____
Brief description of project. _____

SUPPLEMENTAL INFORMATION

Please provide the following information for contract development.

Is your firm?

- 1. Sole Proprietorship YES NO
- 2. Partnership YES NO
- 3. Corporation YES NO

If company is a sole proprietorship, list the owner's full legal name:

If company is a partnership, list the partner's full legal name(s):

If company is a corporation, list the full legal name as listed on the corporate charter:

Is this firm a minority, or woman-owned business enterprise?

NO YES If yes, specify () MBE () WBE

Has this firm been certified as a minority/woman-owned business enterprise by any governmental agency? NO YES

If yes, specify governmental agency: _____

Date of certification: _____

CONFLICT OF INTEREST QUESTIONNAIRE

CONFLICT OF INTEREST QUESTIONNAIRE	FORM CIQ
<p>This questionnaire is being filed in accordance with Chapter 176 of the Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with the City of Dickinson and the person meets the requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the City Secretary of the City of Dickinson not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.</p> <p>A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.</p>	OFFICE USE ONLY
<p>Date Received:</p>	
<p>1. Name of person who has a business relationship with the City of Dickinson.</p>	
<p>2. <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the City Secretary not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)</p>	
<p>3. Name of local government officer with whom filer has employment or other business relationship.</p> <hr style="border: 0.5px solid black;"/> <p style="text-align: center;">Name of Officer</p> <p>This section must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.</p> <p>A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of questionnaire?</p> <p style="text-align: center;">Yes _____ No _____</p> <p>B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not from the City of Dickinson?</p> <p style="text-align: center;">Yes _____ No _____</p> <p>C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?</p> <p style="text-align: center;">Yes _____ No _____</p> <p>D. Describe each employment or business relationship with the local government officer named in this section.</p>	
<p>4.</p> <p>_____</p> <p style="display: flex; justify-content: space-between;"> Signature of person doing business with the government entity Date </p>	

BIDDER REMINDER LIST:

REQUIRED DOCUMENTATION INCLUDED?

ORIGINAL AND ONE (1) COPY INCLUDED?

**ALL BLANKS COMPLETED ON BID FORM AND
OTHER REQUIRED DOCUMENTS?**

**COMPLETE CONFLICT OF INTEREST
QUESTIONNAIRE?**

COMPLETED COMPANY PROFILE/REFERENCES?

COMPLETED SIGNATURE?

Form Contract for Fuel

COUNTY OF GALVESTON § **CONTRACT BETWEEN THE**
 § **CITY OF DICKINSON, TEXAS**
STATE OF TEXAS § **AND _____**
 § **FOR PURCHASE AND DELIVERY OF**
 § **GASOLINE AND DIESEL – CSB # 1210-04**

This Contract made this _____, 20____, by and between _____ (hereinafter referred to as "Contractor"), and the City of Dickinson, Texas, 4403 State Highway 3, Dickinson, Texas 77539 (hereinafter referred to as "City").

For and in consideration of the covenants and agreements contained herein, and of the mutual benefits to be obtained hereby, the parties agree as follows:

ARTICLE 1.

SCOPE OF WORK

Contractor shall provide all materials, labor, equipment, supervision and incidentals to furnish and deliver Gasoline and Diesel fuels and to provide four (4) one thousand (1,000) gallon tanks to the Public Works Department facility located at 3120 Deats Road, Dickinson, TX 77539 (hereinafter "FUEL").

Such Fuel shall be provided in accordance with the terms and conditions of the City's Specifications for same, a copy of which is attached hereto and incorporated herein for all purposes as Exhibit "A", and the Contractor's Proposal in response thereto, (hereinafter "Contractor's Proposal"), a copy of which is attached hereto and incorporated herein for all purposes as Exhibit "B". The Contract consists of the following:

- (a) This Contract by and between the City and Contractor (hereinafter "Contract");
- (b) The City's Specifications for the Fuel, (Exhibit "A"); and
- (c) The Contractor's Proposal dated _____ (Exhibit "B").

In the event there exists a conflict between any of the terms, clauses, or phrases in the foregoing documents, priority of interpretation shall be in the following order: this Contract, City's Specifications, Contractor's Proposal. These documents shall be referred to collectively as "Contract Documents."

ARTICLE 2.

DURATION OF CONTRACT

The contract term will be for a twelve (12) month period beginning October 1, 2011 and ending September 30, 2012. Extension of this contract for an additional twelve (12) month period

Form Contract for Fuel

beyond the contract term may be negotiated with the successful bidder when services have been conducted to mutual satisfaction, and the fixed differential and conditions remained unchanged. In the event that the Contract is renewed beginning October 1, 2012, the Contract shall be in effect through September 30, 2013.

ARTICLE 3. FUEL PRICE

Compensation for Fuel provided hereunder shall be in an amount not to exceed Contractor's rates therefor as contained in Contractor's Proposal, attached hereto as Exhibit "B." Such compensation for Fuel as reflected in Exhibit "B" shall apply in the event that the Contract is automatically renewed pursuant to the provisions of Article 2 above.

ARTICLE 4. PAYMENT

Upon submission of an invoice by Contractor and verification of the charges submitted by City, the City shall remit payment within 30 days of receipt of the invoice.

ARTICLE 5. GENERAL PROVISIONS

- 5.1 **DELIVERY.** Contractor will deliver the requested Fuel to City within 48 hours maximum after the City places the order to 3120 Deats Road, Dickinson, Texas. During times of emergency or other distress, Contractor will provide Fuel and such other equipment as provided in Section 13 of the Scope of Work and Special Conditions of the City's Specifications for the Fuel attached hereto as Exhibit "A".
- 5.2 **DAMAGE OR LOSS.** City will return the Tanks, as describe in Article I, to Contractor in good condition except as noted when taking delivery of the Tanks. If the Tanks are damaged while in City's possession, City will be responsible for the cost of repair, up to the current value of the Tanks. If the Tanks are lost while in City's possession, City will pay its Contractor its current value.
- 5.3 **DISPUTE RESOLUTION.** The parties agree that they shall first attempt to resolve disputes hereunder by the use of non-binding mediation.
- 5.4 **TERMINATION.** City may terminate this Contract upon thirty (30) days prior written notice to Contractor.
- 5.5 **SAFETY.** The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall promptly remedy damages and

Form Contract for Fuel

loss to property caused in whole or in part by the Contractor, its employees, agents, subcontractors, or by any other third party for whose acts the Contractor may be liable.

- 5.6 VENUE.** The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Contract. The parties agree that this Contract is performable in Galveston County, Texas, and that exclusive venue shall lie in Galveston County, Texas.
- 5.7 SEVERABILITY.** The provisions of this Contract are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Contract is for any reason held to be contrary to the law or contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of the Contract. However, upon the occurrence of such event, either party may terminate this Contract by giving the other party thirty (30) days written notice.
- 5.8 ENTIRE AGREEMENT.** This Contract and its attachments embody the entire agreement between the parties and may only be modified in writing if executed by both parties.
- 5.9 CONTRACT INTERPRETATION.** Although this Contract is drafted by City, should any part be in dispute, the parties agree that the Contract shall not be construed more favorably for either party.
- 5.10 SUCCESSORS AND ASSIGNS.** This Contract shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns.
- 5.11 HEADINGS.** The headings of this Contract are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

IN WITNESS WHEREOF, the parties have executed this Contract by signing below.

CITY OF DICKINSON, TEXAS

By: _____
Printed Name: _____
Title: _____
Date: _____

ATTEST:

Carolyn E. Anderson, City Secretary
City of Dickinson, Texas

Form Contract for Fuel

CONTRACTOR

By: _____
Printed Name: _____
Title: _____
Date: _____

ATTEST:

Corporate Secretary

TECHNICAL SPECIFICATIONS

87 OCTANE UNLEADED GASOLINE

It is the intent of the specifications to describe Gasoline Fuel in sufficient detail to secure bids on comparable products. Bids proposed must meet or exceed the following minimum salient characteristics.

1. The lead content of the gasoline shall comply with all federal regulations in effect at the time of delivery of each order.
2. The gasoline will be refined from hydrocarbons only.
3. The product may contain blends of aliphatic ethers up to maximum of 2.7 (wt %) oxygen, as approved by the EPA.
4. All gasoline delivered to the Owner shall be certified as passing the "BMW Unlimited Mileage Test Procedures." This includes a requirement limiting intake valve deposits to no more than one hundred (100) milligrams per valve during the test.
5. On each delivery to the City, the Supplier shall certify the fuel contains deposit control additives which will maintain clean injectors and intake valves. Compliance with the BMW test requirements will also be noted.
6. Additives shall meet the EPA substantially similar rule and be registered with the EPA.
7. Detergent/corrosion – inhibitors shall contain no phosphorous.
8. The supplier shall insure the minimum 87 Octane Gasoline exhibits the following physical properties, and meet or exceed the test listed below. The standards listed in the test method shall be the latest edition in effect at the time of Notice of Award.

<u>Item</u>	<u>Test Method</u>	<u>Min</u>	<u>Max</u>
Gravity API @ 60°F	ASTM D-287 or ASTM D-1298		Report
Corrosion 3Hrs/122°F	ASTM D-130		1.00
Gum mg/100ml After wash	ASTM D-381		4.00
Lead gm/gal/origin	ASTM D-3237 or equal		0.03
Doctor Test	ASTM D-235		Neg.
Sulpher Wt %	ASTM D-1266		0.10%
Phosphorous gm/gal	ASTM D-3231		0.004
Oxidation Stability/mins	ASTM D-525	240	
Octane R + M/2		92.0	
Benzene Wt %	ASTM D-3606 or ASTM D-4053		4.90
Oxygen Wt %			2.70

9. The supplier shall ensure that the gasoline furnished shall meet the current ASTM D-4814 guidelines and EPA regulations for volatility specifications. In the event of a conflict between the specifications described above, the federal regulatory specifications shall take precedent.

TECHNICAL SPECIFICATIONS

DIESEL FUEL

It is the intent of the specifications to describe Diesel Fuel in sufficient detail to secure bids on comparable products. Bids proposed must meet or exceed the following minimum salient characteristics.

1. The No. 2 Diesel Fuel must meet federal diesel fuel requirements and the base specifications and tests listed below. The standards listed in the test method shall be the latest edition in effect at the time of Notice of Award. In the event one or more elements or features of one specification or test is more stringent than the comparable element or feature of the other listed or referenced specification or test, then the more stringent requirement shall take precedence.
2. Texas LED can be:
 - a. Processed with less than 10% by volume of aromatic hydrocarbons and a cetane rating of 48 or greater;
 - b. Produced using regular EPA diesel fuel with a max of 500 ppm sulfur, treated with an approved additive at the truck rack to reduce NOx by at least 5.7%. Total hydrocarbons must show a reduction of more than 20%; Carbon Monoxide will accordingly be reduced. Use of OR-LED would result in 6,000 less ton of NOx per year; or,
 - c. Supplies can submit an Alternative Emission Reduction Plan (AERP) to the TCEQ for consideration. This diesel must achieve equivalent emission reductions.

TxLED applies to low and high sulfur diesel fuel used for on-road and off-road equipment, locomotives and marine engines if the fuel is commercially known as number 1 or number 2 diesel meeting ASTM D-975 specifications. The TxLED regulations do not apply to marine distillate fuels designated as DXM, DMA, DMB, and DMC, as specified by the International Standard (ISO) 8217.