



Gregg County Purchasing Department

Kelli L. Davis, CPPB, NIGP-CPP, Purchasing Agent

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September 19, 2022

Steven Wixon
Dial Lubricants, Inc/DBA WOI Petroleum

Mr. Wixon,

I am pleased to inform you that the Gregg County Commissioners Court awarded a contract for Bulk Fuel Services (Contract RFP# 2022-18) on September 19, 2022 to your firm/business.

I want to thank you for Qualification Statement; Gregg County looks forward to working with you.

If you have any questions or problems throughout the contract period; please feel free to contact my office.

Regards,

Kelli Davis, CPPB, NIGP-CPP
Gregg County Purchasing Agent
Longview, Texas

BULK FUEL AND SUPPLIES, RFP#2022-18

THIS CONTRACT is made and entered into by and between **Gregg County, Texas** (hereinafter "County"), a political subdivision of the State of Texas, acting herein by and through its governing body, and **WOI Petroleum** (hereinafter "Contractor") a private corporation with its corporate offices located in Farmers Branch, Texas.

1.

Services to be provided: The County agrees to contract and does hereby contract with, **WOI Petroleum** as an independent contractor, to provide Bulk Fuel and Supplies for Gregg County, Texas as listed below and as needed.

Contractor shall:

- Provide bulk fuel and supplies as specified in Gregg County RFP# 2022-18 and **Exhibit B** to this contract.
- Have sufficient back-up capabilities to handle the supply and demands of Gregg County to avoid disruption in services.
- Provide a single point of contact for day to day needs.
- Notify Gregg County if a scheduled time will be delayed.
- Supply fuel only from EPA approved terminals.
- Check in with location office prior to unloading fuel.
- List current rack rate on all delivery tickets.

Service Locations:

Gregg County Precinct 1
1179 FM 449
Longview, Texas 75605

Gregg County Precinct 3
6174 FM 2206
Longview, Texas 75604

Gregg County Precinct 4
710 Martin L. King Blvd.
Kilgore, Texas 75663

Gregg County Airport
269 Terminal Circle
Longview, Texas 75603

2.

Term: This agreement will commence on September 28, 2022 for two (2) years. This contract shall automatically renew for subsequent one (1) year terms, unless either party provides written notice to the other of its intent to terminate this contract not less than thirty (30) days before the end of the then current term.

3.

Incorporated Documents: Gregg County Standard Terms and Conditions are included as part of this agreement and are attached as **Exhibit A**. All bid submission documents submitted by Contractor are incorporated herein and adopted as if copied in full as **Exhibit B**.

4.

Criminal Background Checks: Criminal background checks may be performed on all Contractor employees who enter/work in any sensitive security areas at any of Gregg County's Facilities.

- Contractor will provide information, including, but not limited to, name, date of birth, and driver's license number for each individual who will be performing work on Gregg County property.
- When requested, Contractor employees who perform work on Gregg County property must submit to and pass a Sheriff's Department Criminal Background Check. Status of the background check must be maintained by all Contractor personnel entering County buildings for the duration of the contract.
- Criminal Background checks will be conducted by Gregg County. The County reserves the right to conduct additional Criminal Background Checks, as it deems necessary.
- Any Contractor personnel who cannot pass a Criminal Background Check will not be authorized to work at any Gregg County facilities. The Criminal Background Check applies to the individual and not the company.

5.

Labor, Materials, Tools, & Misc. Items: Contractor shall provide or cause to be provided and shall pay for labor, materials, equipment, tools, construction equipment and machinery, utilities, transportation and any other items or services necessary for proper execution and completion of the services, whether temporary or permanent and whether or not incorporated or to be incorporated in the services. Contractor shall enforce strict discipline and good order among their respective employees and other persons carrying out the contract. Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

6.

Compliance with all Laws: Contractor agrees, in connection with the services or any related items to the subject matter of the contract, to comply with any and all local, state or federal requirements, including but not limited to compliance with regulations of the Texas Commission on Environmental Quality and the Occupational Safety and Health Administration.

7.

Cleaning Up: Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under this contract. During the work, Contractor shall remove waste materials, rubbish, garbage, and unwanted materials. If Contractor fails to keep the service areas clean, the cost thereof shall be charged to Contractor by deducting from final fee or as necessary.

8.

No Agency Relationship & Indemnification: It is understood and agreed that Contractor shall not in any sense be considered a partner or joint venture with the County, nor shall Contractor in any manner hold themselves out as an agent or official representative of the County. Contractor shall be considered an independent contractor for the purpose of this agreement and shall in no manner incur any expense or liability on behalf of the County other than what may be expressly allowed under this agreement. The County will not be liable for any loss, cost, expense or damage, whether indirect, incidental, punitive, exemplary, and consequential of any kind whatsoever for any acts by Contractor or failure to act relating to the services being provided. Contractor agrees to indemnify, hold harmless, and defend the County resulting from any services Contractor performs on behalf of the County.

9.

Contractor Employees: Contractor covenants and agrees that all personnel shall be employees of Contractor and Contractor shall pay all salaries, and all Social Security taxes, Federal and State Unemployment Insurance, Worker's Compensation Insurance and any similar taxes or expenses related to such employees, including, but not limited to, license fees, insurance premiums and outfitting expenses. Contractor shall be responsible for complying with all Federal, State and Local laws, ordinances and regulations regarding its employees, including all Occupational Safety and Health Administration regulations. Contractor shall be responsible for the supervision, control and direction of the day-to-day activities for the personnel provided hereunder and shall provide close supervision on a continual basis.

10.

Payments: The rules regarding overdue interest charges and payments of overdue interest as set forth in Tex. Gov't code Chapter 2251 are incorporated herein as if copied in full. See e.g., **Tex. Gov't 2251025 & 2251.027**. Monthly invoices shall be submitted with a log detailing the service performed by the Contractor, including location, date, and time the services are performed. Contractor understands that the County uses a Purchase Order System. Contractor shall not perform any work without approval by a County Purchase Order. Only in the case of an Emergency can Contractor proceed without the Purchase Order.

11.

Posted Terminal Rack Rate: Contractor is to guarantee that when invoicing, this part of the price is the posted terminal rack price at the terminal from which the fuel is supplied, the day fuel is delivered. Contractor is also to indicate on each item, as part of their bid, their price for Freight, their price for Profit, and their price for Loading Fees.

12.

The County's Decision to Withhold Payment: The County may withhold a payment in whole or in part to the extent reasonably necessary to protect the County due to the County's determination that the work is not being done to the point indicated in the contract documents, or because the quality of work is not in accordance with the contract documents. The County may also withhold a payment or, because of subsequently discovered evidence, may nullify the whole or a part of any request for payment to such extent as may be necessary to protect the County from loss for which Contractor is responsible, including loss resulting from acts and omissions, because of the following:

1. Defective work not remedied;
2. Third-party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the County;

3. Failure of Contractor, to make payments properly to contractors or for services, labor, materials or equipment;
4. Reasonable evidence that work cannot be completed for the unpaid balance of the contract sum;
5. Damage to the County;
6. Reasonable evidence that the work will not be completed within the contract time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
7. Persistent failure to carry out the work in accordance with the contract documents.

13.

Warranty: Contractor warrants to the County that any vehicles, materials and equipment furnished under this agreement will be of good quality and new unless otherwise required or permitted by the County, that the work will be free from defects not inherent in the quality required or permitted by law or otherwise, and that the work will conform to the requirements of the contract documents. Work not conforming to these requirements, including substations not properly approved and authorized, may be considered defective.

14.

Taxes: Contractor shall pay all sales, consumer, use and similar taxes for the work provided by Contractor which had been legally enacted on the date of the Agreement, whether or not yet effective or merely scheduled to go into effect.

15.

Venue and Applicable Law: Venue of this contract shall be Gregg County, Texas, and the laws of the State of Texas shall govern all terms and conditions.

16.

No Assignment: Contractor may not assign this contract. Any subcontractors must be approved by the County, and Contractor has a duty to have any subcontractor sign any indemnification agreement to protect the County.

17.

Severability: In case any one or more of the provisions contained in this agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or enforceability shall not affect any other provision in this agreement and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

18.

Confidentiality: Contractor expressly agrees that they will not use any incidental confidential information they may obtain while being in a governmental building for their own benefit, and agrees that they will not enter unauthorized areas or access confidential information, and they will not disclose any information to unauthorized third parties, and will take care to guard the security of the information at all times. Contractor further agrees to expressly require any subcontractors it may hire to assist Contractor in the completion of this agreement to fully comply with the confidentiality requirements set forth in this section.

19.

Termination: This agreement may be terminated at any time at the option of the County, without future or prospective liability for performance upon giving thirty (30) days written notice thereof. Services performed through the date of termination shall be paid based on the percentage of services rendered.

20.

Signature for the County: The presiding officer of the County's governing body who is authorized to execute this instrument may execute this contract on behalf of the County.

21.

Service Conditions: The Contractor shall provide and pay for all materials, supplies, machinery, equipment, tools, superintendence, labor, services, insurance, and all water, light, power, fuel, transportation and other items or services necessary for the execution and completion of the services covered by the contract Documents.

22.

On-Site Representative for Work Monitoring: The County may appoint an on-site project representative to observe the services being performed. If the County so desires, it may seek written adequate assurance that the service is handled on-time and pursuant to terms and conditions of this agreement and all related contract documents.

23.

Character of Workers: The Contractor agrees to employ only orderly and competent workers, skillful in the performance of the type of work required under this contract, to do the work; and agrees that whenever the County shall inform Contractor in writing that any workers on the job are, in County's opinion, incompetent, unfaithful or disorderly, such workers shall be discharged from the work and shall not again be employed on the work without the County's written consent.

24.

Protection against accident to Employees and the Public: The Contractor shall at all times exercise reasonable precautions for the safety of employees and others on or near the work and shall comply with all applicable provisions of Federal, State, and Municipal safety laws and building and construction codes. All machinery and equipment and other physical hazards shall be guarded in accordance with the "Manual of Accident Prevention in Construction" of the Associated General Contractors of America except where incompatible with Federal, State, or Municipal laws or regulations. The Contractor shall provide such machinery guards, safe walkways, ladders, bridges, gangplanks, and other safety devices if necessary. The safety precautions actually taken and their adequacy shall be the sole responsibility of the Contractor, acting at his discretion as an independent contractor.

25.

Protection of adjoining properties: The said Contractor shall take proper means to protect the adjacent or adjoining property or properties in any way encountered, which might be injured or seriously affected by any services undertaken under this Agreement, from any damage or injury by reason of said process of waste service; and he shall be liable for any and all claims for such damage on account of his failure to fully protect all adjoining property. The Contractor agrees to indemnify, save and hold harmless the County against any

claim or claims for damages due to any injury to any adjacent or adjoining property, arising or growing out of the performance of the contract; but any such indemnity shall apply to any claim of any kind arising out of the existence or character of the work.

26.

Payments withheld: The County may, on account of subsequently discovered evidence, withhold payment to such extent as may be necessary to protect itself from loss on account of:

- (a) Defective service not remedied.
- (b) Claims filed or reasonable evidence indicating probable filing of claims.
- (c) Failure of the Contractor to make payments properly to subcontractors or for Material or labor.
- (d) Damage to another contractor.
- (e) Reasonable doubt that the work can be completed for the unpaid balance of the contract amount.
- (f) Reasonable indication that the services will not be completed within the contract time.

27.

Change Orders: Without invalidating this Agreement, the County may, at any time or from time to time, order deletions or revisions to the services needed; such changes will be authorized by the Purchasing Agent to be prepared by the County after formal approval of the Gregg County Purchasing Agent and/or the Gregg County Commissioners Court as appropriate. The Change Order shall set forth the basis for any change in contract price or service, as hereinafter set forth, and any change in contract time, which may result from the change.

28.

Examination of Service Sites: Contractor shall make a careful examination of the site of all the service locations.

29.

Safety:

- The Contractor alone will be solely and completely responsible for conditions of the service sites, including safety of all persons and property during performance of the service. This requirement will apply continuously and not be limited to normal working hours.
- The duty of the County to conduct review of the Contractor's performance is not intended to include review of the adequacy of the Contractor's safety measures, in, or on, or near the service sites.

30.

Existing Utilities and Service Lines: The Contractor shall be responsible for the protection of all existing utilities or service lines crossed or exposed by service operations. Where existing utilities or service lines are cut, broken or damaged by the Contractor, the contractor shall replace or repair the utilities or service lines with the same type of original material and construction, or better, at Contractor's cost and expense.

31.

Protection of Property: The Contractor shall, at no additional expense to the County, protect all County property along the line of service or affected directly by Contractor work, against damage and shall repair the damages or repay the injured County if such damage occurs.

32.

Contracts in Default: The County may declare a contract in default for any one or more of the following reasons:

- Failure to complete the service within the contract period or any extension thereof.
- Failure or refusal to comply with an order of the County within a reasonable time.
- Failure or refusal to remove rejected materials.
- Failure or refusal to perform anew any defective or unacceptable work.
- Bankruptcy or insolvency, or the making of an assignment for the benefit of creditors.
- Failure to provide a qualified superintendent, competent workmen or subcontractors to carry on the services in an acceptable manner or failure to prosecute the work according to the agreed schedule of completion.
- Disregard or violation of any other important provisions of the Contract Documents as determined by the County.

33.

Indemnity: Contractor shall indemnify and hold County harmless from any and all damages, injuries, lawsuits, administrative actions and other claims whether such claims are based on contract, statute or common law theories of recovery. This indemnity and hold harmless provision applies to all acts of alleged negligence, gross negligence and intentional acts on the part of any party to this contract, any officers, contractors, employees, elected employees, appointed employees, volunteers or reserve officers.

34.

Interpretation of Contract and Exhibit A: “Gregg County Standard Terms and Conditions” have traditionally been made part of every Gregg County Contract. To the extent that the “Gregg County Terms and Conditions” are found to be in direct conflict with any of the terms and conditions of this document, the terms of this document will control. Otherwise, the Parties agree that the this contract should be interpreted so that that the provisions of both documents supplement and support each other, with the greatest protections interpreted in favor of the County.

35.

Escalation/De-escalation Clause

In the event of a product cost increase, an escalation request shall be submitted to the Gregg County Purchasing Agent. Please be aware this measure is not intended to allow any increase in profit margin, only to compensate for an actual cost increase. Price decreases as well shall apply. If the Contractor’s prices are reduced for any reason, Gregg County shall receive the benefit of such reductions. Price increases and/or decreases will not be retroactive to orders already in-house or back-ordered. Orders will be filled at the price in effect of the date of the receipt of the order by the Contractor.

All requests for price increases must include the following information from the Contractor:

- a. Memo detailing price increase
- b. Justification of the price increase
- c. Change Order of the request

All requests for price decrease must include the following information from the Contractor:

- a. Memo detailing price decrease

b. Change Order of the request

Pursuant to section 271.060 of the Texas Local Government Code all contract Change Orders for price escalation or de-escalation must be approved in writing by the Gregg County Commissioners Court

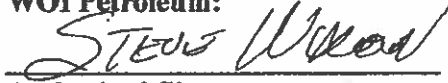
WITNESS the Signatures of all parties this is the 19th day of September 2022;

THE COUNTY OF GREGG:



Honorable Bill Stoudt
Gregg County Judge

WOI Petroleum:



Authorized Signature