



INVITATION TO BID

NAME OF COMPANY SUBMITTING BID _____

SECTION I - GENERAL INFORMATION AND OFFER/ACCEPTANCE

The enclosed **INVITATION TO BID** (ITB) and accompanying specifications and bid forms are for your convenience in bidding the enclosed referenced products and/or services. Bidders are cautioned that the Smith County ESD2 Support Services Department *is the sole point of contact* for Smith County ESD2 (the District) during this process. Any oral statement by any representative of the District, modifying or changing any conditions of this ITB, is an expression of opinion only and confers no right upon the bidder. If additional information is needed to interpret the specifications, **written** questions will be accepted by:

Smith County Emergency Services District 2
Support Services Division
PO Box 780
Whitehouse, TX 75791

PHONE (903) 617-6578
Support.Services@smithcountyfire.org

Sealed bids will be received no later than: 9:00 A.M. April 3rd, 2023

MARK ENVELOPE: **BID NO. 23-SS-08, Bulk Fuel Delivery Services**
RETURN BID TO: **DISTRICT SUPPORT SERVICES OFFICE**
PO BOX 780
WHITEHOUSE, TEXAS 75791

Smith County ESD2 appreciates your time and effort in preparing a bid. Please note that all bids must be received at the designated location by the deadline shown. Bids received after the deadline will not be considered for award, and shall be considered void. Opening is scheduled in Support Services Building at the Administration Offices at 14128 Highway 110 South, Whitehouse, Texas 75791 on April 3rd at 9:30 a.m. You are invited to attend. Award will be made approximately two weeks after the bid opening date. The District reserves the right to award contracts on an individual item or lump sum basis, whichever is the best interest of the District. To obtain results please contact the Director of Support Services at the address above or phone (903) 617-6578.

Return all pages of your bid. Bidders shall sign and date pages with signature lines. Incomplete bids or bids which are not signed and dated as stated may be rejected.



SmithCounty

Emergency Services District 2

INVITATION TO BID

Cut along the outer border and affix this label to your sealed bid envelope to identify it as a "Sealed Bid". Be sure to include the name of the company submitting the bid.



SEALED BID ● DO NOT OPEN

Bulk Fuel Delivery Services

BID No. 23-SS-08

BID OPENING: April 3rd 2023 @ 9:30 A.M. CST

For Information Contact:

Larry Locke

(903) 617-6578 x 606

Support.Services@smithcountyfire.org

Company

Name: _____

Contact

Name: _____

Telephone

Number: _____

Bids must be addressed to:

OR

Delivered by hand to

**Larry O. Locke
Director of Support Services
PO Box 780
Whitehouse, TX 75791**

**Larry O. Locke
Director of Support Services
14128 Highway 110 South
Whitehouse, TX 75791**

SECTION II – INSTRUCTIONS AND GENERAL TERMS

By order of the Director of Support Services of Smith County ESD2, sealed bids will be received for:

Bulk Fuel Delivery Services – For Smith County ESD2 Facilities

2.00 THE PURPOSE OF THIS DOCUMENT IS TO PROVIDE for a contract for the services specified. The term of this contract will be one (1) year or until satisfactory completion of all of the goods and services specified. The District reserves the right to extend this contract for four (4) additional one-year periods as it deems to be in the best interest of the District. The District reserves the right to purchase additional units of the types of goods and services specified, provided pricing, terms and conditions remain the same.

2.01 IT IS UNDERSTOOD that the District reserves the right to reject any or all bids for any or all goods and services covered in this bid request and to waive informalities or defects in bids or to accept such bids as it deems in the best interests of the District.

2.02 BIDS MUST BE submitted on the pricing forms included for that purpose in this packet. Bids shall be placed in a sealed envelope and appropriately signed by a person having the authority to bind the firm in a contract. The bid number and title shall be marked clearly on the outside as shown below. Elaborate binding or binders are discouraged. ***FACSIMILE TRANSMITTALS or ELECTRONIC SUBMISSIONS WILL NOT BE ACCEPTED.***

2.03 SUBMISSION OF BIDS: The District requests **one original and one copy of your bid.** Include all pages of this document in submitting your bid. Sealed bids shall be submitted to:

**SMITH COUNTY ESD2
SUPPORT SERVICES OFFICE
PO BOX 780 – 14128 Highway 110 South
WHITEHOUSE, TX 75791**

2.04 LATE BIDS: ALL BIDS MUST BE RECEIVED IN THE DISTRICT'S SUPPORT SERVICES OFFICES BEFORE BID OPENING DATE AND TIME. Bids received in the District Support Services Office after the submission deadline will be considered void and unacceptable. The District is not responsible for lateness or non-delivery of mail, carrier, etc., and the date/time stamp in the Support Services Office will be the official time of receipt.

2.05 FUNDING: Funds for payment have been provided through the District budget approved by the District's Commissioners for this year only. Texas statutes prohibit the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. Any anticipated orders or other obligations that may arise past the end of the current District fiscal year will be subject to budget approval.

2.06 ALTERING BIDS: Bids cannot be altered or amended after the submission deadline. Any interlineations, alteration, or erasure made before opening must be initialed by the signer of the bid.

2.07 WITHDRAWAL OF BID: A bid may not be withdrawn or canceled by the bidder without the permission of the District for a period of ninety (90) days following the date designated for the receipt of bids, and bidder so agrees upon submittal of a bid. For the purpose of proper bid evaluation and approval, all prices, costs and conditions shall remain firm and valid for a ninety (90) day period, commencing on the day of the bid opening. Upon award of contract all prices shall be firm and valid for the duration of the contract.

2.08 SALES TAX: The District is exempt by law from payment of Texas Sales Tax and Federal Excise Tax. Bidders shall be responsible to report and pay all applicable taxes, if any, promptly.

2.09 BID AWARD: The District will review all bids for responsiveness and compliance with these specifications. Bids are awarded either to the responsive, responsible bidder who submits the best value bid based on the specifications published herein or to the responsive bidder who provides goods or services at the best value for the district. In selecting the bidder to whom the contract will be awarded, the District also reserves the right to consider the location of the bidder's principal place of business as provided by section 271.905 or section 271.9051 (as applicable) of the Texas Local Government Code. The District may negotiate additional work as deemed appropriate and consistent with state law and with the intent and terms of the resulting contract. The District reserves the right to award the bid in parts by category.

2.10 CONTRACT: This bid, when properly accepted by the District, shall become a contract equally binding between the successful bidder and the District. No different or additional terms will become a part of this contract with the exception of Change Orders.

2.11 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 Support Services Agent.

2.12 IF DURING THE life of the contract, the successful bidder's net prices to other customers for goods and services provided hereunder are reduced below the contracted price, it is understood and agreed that the benefits of price reduction shall be extended to the District.

2.13 A PRICE adjustment may be considered by the District only at the anniversary date of the contract and shall be substantiated in writing (e.g., Wage/Labor rates, Consumer Price Index, etc.). The District reserves the right to accept or reject any/all of the price redetermination as it deems to be in the best interest of the District.

2.14 DELIVERY: All delivery and freight charges (FOB District) are to be included in the bid price. Unless actual date is specified (or if specified delivery cannot be met), show number of days required to make delivery after receipt of purchase order in space provided. Delivery time may become a basis for making an award (see Special Conditions). Delivery shall be Monday through Friday, 8:00 a.m. to 11:30 a.m. and 1:00 p.m. to 4:00 p.m., excluding District holidays, unless otherwise specified.

2.15 CONFLICT OF INTEREST: No public official shall have interest in this contract, in accordance with Local Government Code Title 5, Subtitle C, Chapter 171. District policy prohibits Council members and other officers and employees of the District from taking any direct or indirect interest in the profits or emoluments of any contract, job, work, or service for the District.

2.16 ETHICS: The bidder shall not offer or accept gifts or anything of value nor enter into any business arrangement with any employee, official or agent of the District.

2.17 EXCEPTIONS/SUBSTITUTIONS: Bidders taking exception to the specifications, or offering substitutions, shall state these exceptions in the section provided or by attachment as part of the bid. 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 District 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 District.

2.18 DESCRIPTIONS: Any reference to model and/or make/maker used in bid specifications is descriptive, not restrictive. It is used to indicate the type and quality desired. Bids on items of like quality will be considered.

2.19 ADDENDA: Any interpretations, corrections or changes to this specification will be made by addenda. Sole issuing authority of addenda shall be vested in the District's Support Services Agent. Addenda can be found on the District's website SmithCountyFire.org/SCESD2/Bids. Addenda can also be obtained by calling District Support Services office at 903-617-6578. It is the responsibility of the bidder to obtain a copy of all addenda pertaining to this ITB.

2.20 BID MUST COMPLY with all federal, state, District and local laws concerning types of products specified.

2.21 DESIGN, STRENGTH, QUALITY of materials must conform to the highest standards of manufacturing practice.

2.22 MINIMUM STANDARDS FOR RESPONSIBLE BIDDERS: A prospective bidder must affirmatively demonstrate responsibility and must meet the following requirements:

1. Have adequate financial resources, or the ability to obtain resources required;
2. be able to comply with the required or proposed delivery schedule;
3. have a satisfactory record of performance;
4. have a satisfactory record of integrity and ethics;
5. be otherwise qualified and eligible to receive an award.

The District may request clarification or other information sufficient to determine bidder's ability to meet these minimum standards listed above. Failure to respond to such requests shall be cause for removal from consideration.

2.23 REFERENCES: The District requests bidders to supply a list of three (3) references where like services or products have been supplied by their firm. Include names of firms, addresses, telephone numbers and names.

2.24 BIDDER SHALL PROVIDE with this bid response, all documentation required by this ITB. Failure to provide information specifically requested may result in rejection of your bid.

2.25 INDEMNIFICATION: The contractor agrees and shall indemnify and hold harmless the District, its officers, agents, employees, and elected officials from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all, but not limited to, expenses of litigation, court costs, and attorney's fees, for injury to or death of any person, or damage to any property, arising out of or in connection with the acts and/or omissions of contractor under this contract.

2.26 WAGES: Successful bidder shall pay or cause to be paid, without cost or expense to the District, all Social Security, Unemployment and Federal Income Withholding Taxes of all employees and all such employees shall be paid wages and benefits required by Federal and/or State Law.

2.27 TERMINATION OF CONTRACT: This contract shall remain in effect until the contract expires, until acceptance of performance of goods and services ordered or until terminated by either party with a thirty (30) days written notice prior to any cancellation. The successful bidder must state therein the reasons for such cancellation. The District reserves the right to award canceled contracts to the next lowest and best bidder or to the remaining responsive bidder who provides the goods and services at the best value for the municipality, as the District deems to be in the best interest of the District. District reserves the right to hold original contractor responsible for any resultant increase in cost.

2.28 TERMINATION FOR DEFAULT: The District 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 District in the event of breach or default of this contract. The District reserves the right to terminate the contract immediately in the event successful bidder fails to:

1. meet schedules;
2. defaults in the payment of any fees; or
3. otherwise perform in accordance with these specifications.

Breach of contract or default authorizes the District to exercise any or all rights. The District may exercise any right or pursue any remedy available at law or in equity for breach of this contract. The exercise of any right or pursuit of any remedy by the District for breach of this contract shall no prevent the District from exercising any other right or pursuing any other remedy available under this contract, under law, or in equity.

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, District 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 District within two (2) 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 District shall not be liable to prosecution for damages in the event that the District declares the bidder in default.

2.29 NOTICE: Any notice provided by this bid (or required by Law at the address so provided) to be given to the successful bidder by the District shall be conclusively deemed to have been given and received on the next day after such written notice has been deposited in the mail in Whitehouse, Texas, by Registered or Certified Mail with sufficient postage affixed thereto, addressed to the successful bidder at the address so provided; provided this, shall not prevent the giving of actual notice in any other manner.

2.30 CONTRACT ADMINISTRATOR: Under this contract, the District may appoint a contract administrator with designated responsibility to ensure compliance with contract requirements, such as but not limited to, acceptance, inspection and service performance. The contract administrator will serve as liaison between the District Support Services Department and the successful bidder.

2.31 PURCHASE ORDER: A purchase order(s) shall be generated by the District to the successful bidder. The purchase order number must appear on all itemized invoices. The District will not be held responsible for any orders placed/delivered without a valid current purchase order number.

2.32 EACH INVOICE shall be numbered and show (1) name and address of the successful bidder, (2) name and address of receiving department and/or delivery location, (3) District Purchase Order number, and (4) descriptive information as to the goods and services delivered.

2.33 PAYMENT will be made upon receipt and acceptance by the District of the item(s) ordered and receipt of a valid invoice, in accordance with the State of Texas Prompt Payment Act, Texas Government Code Chapter 2251. The District's standard payment terms are net 30, i.e. payment is due in 30 days.

2.34 ITEMS, if any, supplied under this contract shall be subject to the District 's approval. Items found defective or not meeting specifications shall be picked up and replaced by the successful bidder at the next service date, at no expense to the District. If the item(s) is not picked up within one (1) week after notification, the item(s) may be removed at the owner's expense at the discretion of the District.

2.35 SAMPLES: When requested, samples shall be furnished free of expense to the District. Samples will be returned on request.

2.36 WARRANTY: The successful bidder shall warrant that all items/services shall conform to the proposed specifications.

2.37 REMEDIES: The successful bidder and the District agree that both parties have all rights, duties and remedies available as stated in the Uniform Commercial Code.

2.38 APPLICABLE LAW AND VENUE: This agreement will be governed and construed according to the laws of the State of Texas. This agreement is performable in Whitehouse, Texas. Venue for actions arising under this agreement in federal courts shall lie exclusively in the Eastern District of Texas, Tyler Division, and for state courts shall lie exclusively in Smith, County, Texas.

2.39 EQUAL EMPLOYMENT OPPORTUNITY: The successful bidder shall comply with all applicable provisions of regulations of the U.S. Department of Commerce (Part A of Sub-title 15 of the code of Federal regulations) issued pursuant to the Civil Rights act of 1964, in regard to nondiscrimination in employment because of race, religion, color, sex, handicap, or national origin. The bidder shall comply with all applicable Federal, State, and local laws, rules and regulations concerning equal employment opportunity.

2.40 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 District.

2.41 SILENCE OF SPECIFICATION: The apparent silence of these specifications as to any detail or to the apparent omission of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail. Interpretations of these specifications shall be made on the basis of this statement.

2.42 PROPRIETARY INFORMATION: The responders to any inquiry or bid request shall state any restrictions on the use of data contained in their responses. Proprietary information will be handled in accordance with applicable law, regulations and policy of this jurisdiction. By submitting a bid in response to this ITB, the bidder agrees that any information not clearly marked as proprietary is not confidential and may be publicly released. The District is subject to the Texas Public Information Act (Texas Government Code Chapter 552), and any and all agreements awarded pursuant to this ITB and any other documents related thereto will be public information. Bidder further agrees that the interest rate offered by bidder and the amounts of other fees and charges proposed in response to this ITB are all public information and bidder consents to the release of such information to the public.

2.43 This section not used.

2.44 BEST VALUE: THE DISTRICT WILL AWARD THE CONTRACT SOUGHT BY THIS ITB EITHER TO THE LOWEST RESPONSIBLE BIDDER OR TO THE BIDDER WHO PROVIDES GOODS OR SERVICES AT THE BEST VALUE FOR THE DISTRICT. IN SELECTING THE BIDDER TO WHOM THE CONTRACT WILL BE AWARDED, THE DISTRICT ALSO RESERVES THE RIGHT TO CONSIDER THE LOCATION OF THE BIDDER'S PRINCIPAL PLACE OF BUSINESS AS PROVIDED BY SECTION 271.905 AND/OR SECTION 271.9051 OF THE TEXAS LOCAL GOVERNMENT CODE.

In determining the best value for the District, the District may consider:

1. the purchase price;
2. the reputation of the bidder and of the bidder's goods or services;
3. the quality of the bidder's goods or services;
4. the extent to which the goods or services meet the District's needs;

5. the bidder's past relationship with the District;
6. the impact on the ability of the District to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
7. the total long-term cost to the District to acquire goods or services; and
8. any relevant criteria specifically listed in the request for bids or proposals.

2.45 NONRESIDENT BIDDERS: Texas state law requires that the District give preference to Texas resident bidders at an amount that a Texas resident bidder would be required to underbid a nonresident bidder in order to obtain a comparable contract in the state in which the nonresident's principal place of business is located. Preferences may or may not apply but will be enforced as prescribed in Texas Government Code Chapter 2252, subchapter A. Bidders must certify that they are resident or nonresident in order to meet specifications. Failure to do so on the provided response forms will disqualify that bidder. Certification is included in the Bid Affidavit to follow."

2.46 OZONE ACTION DAYS – The successful bidder shall observe and follow District Policy in regard to operating equipment and providing goods and services on Ozone Action Days.

2.47 ANY QUESTIONS concerning the ITB shall be directed to the Support Services Department in writing. You may e-mail to Support.Services@smithcountryside.org. Reference the section and page in question.

2.48 SUBCONTRACTING: The awarded vendor shall not subcontract without the written approval of the District. It is expressly understood and shall be agreed by both the District and vendor that the District is contracting with the successful vendor as independent contractor. No part of this contract shall be subcontracted out, without proper notification AND written consent from the District.

2.49 INCLEMENT WEATHER: In case of inclement weather or any other unforeseen event causing the District to close for business on the date a bid/proposal submission deadline, the bid closing will automatically be postponed until the next business day the District is open. If inclement weather conditions or any other unforeseen event causes delays in carrier service operations, the District may issue an addendum to all known vendors interested in the project to extend the deadline. It will be the responsibility of the vendor to notify the District of their interest in the project if these conditions are impacting their ability to turn in a submission within the stated deadline. The District reserves the right to make the final judgment call to extend any deadline.

2.50 STORM WATER MANAGEMENT: Contractor shall implement best management practices (BMPs) to prevent stormwater pollution to the maximum extent practicable in accordance with the District 's Stormwater Management Program. These BMP's include at a minimum:

- Performing regular inspections and maintenance on vehicles and equipment to prevent fluid leaks.
- Implement standard operating procedures (SOPs) for spill prevention and cleanup that include at a minimum the following:
 - (1) arrival of the responsible person or response personnel hired by the responsible person at the site of the discharge or spill;
 - (2) initiating efforts to stop the discharge or spill; including maintaining onsite spill kits
 - (3) minimizing the impact to the public health and the environment;
 - (4) neutralizing the effects of the incident;
 - (5) removing the discharged or spilled substances; and
 - (6) managing the wastes.
- Training and equipping all employees who are present on District property in appropriate actions in accordance with the SOP.
- Provide upon request records of onsite inspections and BMP's.

2.51 PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL: Chapter 2270 of the Texas Government Code prohibits the District from entering into a contract with a company unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The term "boycott Israel" has the meaning assigned by Section 808.001 of the Texas Government Code. The required verification is included with and made a part of this ITB, and the same or substantially similar language must be made a part of the final contractual agreement between the District and the successful bidder.

2.52 DISCLOSURE OF INTERESTED PARTIES: Section 2252.908 of the Texas Government Code may require the successful bidder to file Form 1295 promulgated by the Texas Ethics Commission disclosing information about certain parties with a business interest in the successful bidder. If Form 1295 is required, the District cannot enter into a contract with the successful bidder unless the successful bidder submits Form 1295 at the time the successful bidder submits the signed lease-purchase contract to the District. Generally, the process for filing Form 1295 is as follows:

- i Prior to award by the District's Commissioners, the successful bidder will be required to log in to the Texas Ethics Commission, https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm, and fill out the Electronic Filing Application.
- ii Once submitted, the system will generate an electronic Form 1295 displaying a "Certificate Number." The successful bidder must print and sign Form 1295.
- iii Within seven (7) business days from notification of pending award by the District Support Services Department, the completed Form 1295 must be submitted to the District.
- iv The successful bidder will need to repeat this process and obtain a separate Form 1295 each time the successful bidder enters into a new contract, renews a contract or makes modification and/or amendments to a District contract.

Instructions and information are available at <https://www/ethics.state.tx.us/tec/1295-Info.htm> or you may call the Texas Ethics Commission at (512) 463-5800.

BY SUBMITTING A BID YOUR FIRM AGREES TO ADHERE TO SECTION 2252.908 OF THE TEXAS GOVERNMENT CODE REFERENCED ABOVE.

Please Note: No action is required until notification of potential award by the District Support Services Department.

The Immigration Reform and Control Act (IRCA) requires employers to verify the identity and employment eligibility of all employees hired after November 6, 1986, by completing the Employment Eligibility Verification (I-9) Form, and reviewing documents showing the employee's identity and employment authorization.

In compliance with federal law, contractors will be required to verify identity and eligibility to work in the United States for all persons hired to work in any and all District facilities. As a prerequisite to working in District facilities, the contract employer will require employees to complete the required employment eligibility verification document form.

The District reserves the right to audit this verification at any time.

SECTION III - SPECIAL PROVISIONS

3.00 BID SECURITY: A bid security is not required.

3.01 SUPPORTING INFORMATION: When requested bidders are required to provide technical brochures or pre-published literature sufficient to verify that your products and/or services meet or exceed these specifications. Failure to include supporting data specifically requested may be cause for rejection of your bid.

- a) Warranty - Include warranty information with your bid. Warranties may be a consideration of bid award. Only standard pre-published warranties will be considered.
- b) Technical Literature - Include pre-published drawing, brochures, or engineering data sufficient to ensure that your product meets or exceeds minimums specified.

3.02 INSURANCE: All bidders proposing to provide services to the District are required to have and maintain Workman's Compensation Insurance. The successful bidder shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, including without limitation the definition of "Workers' compensation insurance coverage" set forth in Section 401.011(44) for all employees of the successful bidder providing services to the District for the duration of the contract. A certificate of coverage must be provided prior to the awarding of the contract. If the certificate of coverage expires during the contract duration, the successful bidder must file a new certificate of coverage with the District showing coverage has been extended. Subcontractors, if used,

must also provide proof of coverage to the District listing all persons providing services under this contract. The successful bidder shall retain all required certificates of coverage for the duration of the contract and for one year thereafter. The successful bidder shall notify the District in writing within ten (10) days of any change that materially affects the provision of coverage of any person providing services under the contract and required to be covered. The successful bidder shall post on each site notice, in the text, form and manner prescribed by the Texas Workman's Compensation Commission. The successful bidder shall contractually require each person with whom it contracts to provide service under the contract to:

1. Provide coverage for the duration of the contract term, based on proper reporting of classification codes and payroll which meets the statutory requirement of the Texas Labor Code, including and without limitation the definition of "Workers' compensation insurance coverage" set forth in Section 401.011(44) for all employees providing services under the contract.
2. Provide to the District prior to that person beginning work under the contract, a certificate of coverage showing that coverage is being provided for the duration of the contract for all employees of the person providing services under the contract.
3. Provide prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period ends during the duration of the contract.
4. Obtain from each other person with whom it contracts, certificate and extensions necessary to provide for coverage to all persons providing services under the contract.
5. Retain all certificates on file for the duration of the contract and for one year thereafter.
6. Notify the District in writing by certified mail of any changes affecting provisions for coverage of any person providing services under the contract.
7. Contractually require each person with whom it contracts to perform as required in subparagraphs 1 - 7, with the certificates of coverage to be provided to the person for whom they are providing services.

By signing this contract and providing a certificate of coverage, the successful bidder is representing to the District that all employees of the successful bidder who will provide services will be covered by workman's compensation for the duration of the contract. Failure to comply with any of these provisions is breach of contract by the successful bidder which entitles the governmental entity to declare the contract void if the successful bidder does not remedy breach within ten (10) days after receipt of notice of breach from the District.

Additional insurance is required. The successful bidder shall obtain and maintain for the full term of the contract the following insurance minimums written by a company licensed to conduct business in the state of Texas.

Workers' Compensation and Employers' Liability

\$1,000,000.00 per accident/occurrence.

Comprehensive General Liability (including Premises-Operations; Independent Contractor's Protective; Broad 'Form Property Damage, Contractual Liability and Personal Injury.)

\$500,000 each
occurrence

\$1,000,000 annual
aggregate

Products and Completed
Operations

\$500,000 each
occurrence

\$1,000,000 annual
aggregate

Comprehensive Automobile Liability:

Bodily Injury and Property Damage
Combined Single Limit:

\$1,000,000 "CSL" each occurrence

The successful bidder shall include the District and its officers, agents, employees and elected officers as additional insured on all required Comprehensive General Liability and Comprehensive Automobile

liability Insurance policies. Each insurance policy to be furnished by successful bidder shall include, by endorsement to the policy, a statement that a notice shall be given to the District by certified mail thirty (30) days prior to cancellation or upon any material change in coverage.

Note: The State of Texas has a "Financial Responsibility Law". The Vendor shall be certain that coverage is provided which conforms to any specific stipulation in the law.

COPIES OF INSURANCE CERTIFICATES ARE REQUIRED WITH THE BID

3.03 NON-RESIDENT BIDDERS: Texas state law requires that the District give preference to Texas resident bidders at an amount that a Texas resident bidder would be required to underbid a non-resident bidder in order to obtain a comparable contract in the state in which the non-resident's principal place of business is located. Preferences may or may not apply but will be enforced as prescribed in Texas Law. Bidders must certify that they are resident or non-resident in order to meet specifications. Failure to do so on the provided response forms will disqualify that bidder.

No part of this contract shall be subcontracted out, without proper notification AND written consent from the District.

SECTION IV - Scope of Work

The District seeks proposals for Bulk Fuel and Petroleum Products for the District. The purpose of these specifications is to describe the requirements of the District for the contract. This contract is intended for routine and continuous usage. Emergency services and/or equipment provider will, by acceptance of this contract award, agree to perform emergency fuel management services on an "as-needed" or emergency contingency basis until such a time that the District can resume normal purchasing, bidding and contracting activities. The District does not guarantee to provide such work to the Contractor nor is there a guarantee for any particular amount of work. No payment shall be made for these services or equipment until Contractor is officially notified by the District to commence emergency services.

The successful proposer will, at minimum, satisfy the District's requirements for supply of 87 Octane Unleaded Reformulated Gasoline with 10% Ethanol and Ultra-Low Sulphur #2 Diesel with Low Emissions used in Texas in accordance with these specifications, all federal regulations and Texas Commission on Environmental Quality (TCEQ) requirements; satisfy the requirement for optimum emergency fuel management and equipment solutions; and may assist the District with the overall management of fuel including, but not limited to, cost control measures and scheduling deliveries based on consumption and utilization.

All quantities are based on estimated needs of the District on an annual basis. These estimates are not intended to set forth minimum or maximum quantities for this contract. Therefore, the

District reserves the right to purchase more or less than the estimated quantities used in this solicitation for any or all items or services listed.

A. ITEMS AND ESTIMATED QUANTITIES

Gasoline

Unleaded 87 Octane RFG with 10% Ethanol (Meets ASTM Designation D439)	34,440 gallons
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Diesel

Texas Low Emission, Ultra Low Sulfur Diesel	48,600 gallons
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The formulation for various fuel types specified herein is subject to change during the terms of this Agreement as a result of changes made by the refinery or in federal, state and/or local regulations (“Alternate Formula Fuel”)

B. DELIVERIES

After receipt of order, response time must be within 24 hours. The District may require a shorter delivery time. In the event the vendor cannot deliver within the specified time, the District reserves the right to purchase item(s) on the open market, with any cost in excess of the contract price paid by the vendor.

Order sizes may vary, and deliveries may need to be split between multiple locations. All deliveries are to be coordinated with District personnel. Fuels are to be delivered as directed by the District on each order placed. Additional delivery sites may be designated at the option of the District. The District also reserves the right to delete delivery locations.

B. MONITORING

Vendor shall provide, install, and service a fuel tank monitoring system for each bulk fuel storage tank. The system should be web based and the district must be provided a login to view current and historical fuel levels. The system must be able to define a minimum quantity threshold per fuel tank. When the fuel level reaches the minimum quantity threshold an email shall be sent to an email address designated by the District. Ideally the monitoring systems should be capable of central monitoring that allows all of the District’s fuel tanks to be monitored from one webpage.

B. MINIMUM QUANTITY

A minimum quantity must be established by the vendor for each fuel tank in the district. The goal of the minimum quantity threshold must be to ensure adequate time is provided to the vendor so to place an order and make delivery without jeopardizing fuel availability while minimizing delivery trips.

Bulk Fuel Locations and Fuel Storage Tank Capacities*

*It is possible that over the term of the contract, bulk fuel may be consolidated to and/or an additional location will be added

Address	Tank Size	Type	Estimated Usage
190 S Main St, Arp, Texas 75750	500	Gasoline	350/Month
190 S Main St, Arp, Texas 75750	500	Diesel	400/Month
215 S Houston St, Bullard, Texas 75757	500	Gasoline	100/Month
215 S Houston St, Bullard, Texas 75757	500	Diesel	375/Month
13801 County Rd 220, Tyler, Texas 75707	500	Gasoline	300/Month
13801 County Rd 220, Tyler, Texas 75707	500	Diesel	350/Month
584 County Rd 1143, Tyler, Texas 75704	500	Gasoline	250/Month
584 County Rd 1143, Tyler, Texas 75704	500	Diesel	400/Month
11029 County Rd 40, Flint Texas 75762	500	Gasoline	400/Month
11029 County Rd 40, Flint Texas 75762	500	Diesel	300/Month
19832 TX-31, Tyler Texas 75705	500	Gasoline	120/Month
19832 TX-31, Tyler Texas 75705	500	Diesel	300/Month
16619 TX-155 South, Tyler, Texas 75703	500	Gasoline	200/Month
16619 TX-155 South, Tyler, Texas 75703	500	Diesel	375/Month
11047 FM 14, Tyler, Texas 75706	500	Gasoline	400/Month
11047 FM 14, Tyler, Texas 75706	1,000	Diesel	600/Month
204 E Wilkinson Dr, Troup, Texas 75789	500	Gasoline	100/Month
204 E Wilkinson Dr, Troup, Texas 75789	500	Diesel	200/Month
20510 Highway 110 Troup Texas 75789	500	Gasoline	350/Month
20510 Highway 110 Troup Texas 75789	500	Diesel	250/Month
11525 TX-155 North, Tyler, Texas 75708	500	Gasoline	300/Month
11525 TX-155 North, Tyler, Texas 75708	500	Diesel	500/Month

Motor fuels shall be delivered by the Contractor in appropriate vehicles and all transportation and delivery charges shall be borne by Contractor. Successful proposer shall be required, upon delivery, to pump all fuel into the District's storage tanks or as otherwise directed. It is the responsibility of the successful proposer to supply pumps, hoses and any

other necessary equipment necessary to appropriately discharge the fuels in the storage tanks.

Delivery trucks shall, at all times, comply with current State of Texas and Federal Regulations including those pertaining to fuel vapor control.

Contractor must provide a delivery ticket for each fuel delivery. The delivery ticket must indicate the time and place of loading; and number of gross and net gallons delivered into the storage tank. Failure to provide a signed delivery ticket with each fuel delivery may be grounds for nonpayment of the invoice.

All deliveries will be made Monday through Friday no earlier than 7:30 am or later than 5:00 pm.

Orders that require delivery in less than 24 hours would be by exception only. The District's expectation is that delivery methods/equipment is suited to the quantities ordered and most economical way possible. The areas to be serviced currently operated independently of each other.

There is preference as to pulling directly from storage tanks in lieu of product racks so long as quality of supply and pricing formula are not negatively impacted. The District is more concerned with equipment availability and uninterrupted access to quality fuel products and facilities. If delivery is to be subcontracted, the District will require transparency as to the relationship between supplier and carrier so as to help determine stability and consistency of supply. Contractor shall be responsible for all aspects of subcontractor performance and qualifications including licensing and safety, same standards as Contractor.

The District reserves the right to deny delivery vehicles that are leaking fuel or another hazardous material access to District property. The vendor shall be notified of any denied access and shall make delivery within 1 working day of notification.

C. EMERGENCY RESPONSE PLAN

In order to provide the most effective response to an emergency, the District may order bulk fuel (unleaded gasoline and diesel), or top off tanks forty-eight (48) to seventy-two (72) hours prior to an anticipated event, such as hurricane landfall. The District may order direct fuel delivery service (unleaded gasoline and diesel) to any address in Smith County as needed to support ongoing large emergency incidents. During emergency incidents direct fuel delivery services must be on scene within 4 hours of notification. **In case of a major event or hurricane, the successful contractor shall deem the District as a priority for the delivery of unleaded, diesel and petroleum products.**

Proposal must include an emergency plan, explaining how emergency operations are handled at your company, how maintaining service to the District would be prioritized during emergency situations and detailing procedures for continuity of staffing,

communications, and product delivery, pre and post event. Failure to include an Emergency Response plan will result in disqualification.

D. **CONTRACTOR'S RESPONSIBILITY**

At the time of the opening of bids, each Contractor shall be presumed to have inspected the sites (if applicable) and to have read and be thoroughly familiar with the contract requirements. The failure or omission of any Contractor to examine any form, instrument, document or site shall in no way relieve any bidder from any obligation in respect to this bid.

1. Product Quality and Testing

All products provided under this contract will be free from impurities including but not limited to water, dirt, harmful oils, fibrous materials or other contaminants. Any product found to be contaminated or cross contaminated through the Vendors negligence or which does not meet specifications will be replaced by the Vendor immediately upon notification by the District, at the Vendor's expense. Disposal of contaminated fuels and cleaning of affected vehicle fuel and storage tanks will be the responsibility of the Vendor and must be done immediately upon notification by the District. In case of damage directly traceable to contamination, cross contamination or inferior fuel, the Vendor will be responsible for all damages and costs incurred by the Owner for any repairs. Deliveries of fuel under this contract are subject to testing, to ensure compliance with specifications. All tests shall be made as per methods specified or approved by the American Society of Testing Material, unless otherwise specified. When the test analysis shows fuel meeting specification, the District will pay for said test. When test analysis shows fuel does not meet specification, Vendor will pay for said test. In addition, Vendor agrees to be liable for all charges necessary to satisfactorily bring contaminated tanks within limits, pump out fuel and replace as necessary.

2. Spillage and Clean Up

The Vendor will be responsible for fuel spillage attributable to their negligence which may occur during transit, loading or unloading operations. All associated costs including materials and labor to clean the spill will be borne by the Vendor. Vendor shall immediately notify a representative of the District and appropriate authorities as required by law based on the volume of spillage. Clean-up efforts shall begin within 24 hours of the time of spillage, or other time period as specified by the District. Clean-up must be performed in accordance with EPA and State of Texas guidelines and requirements and to the satisfaction of the District. Failure to do so will initiate corrective action by the District and charge back to the vendor any costs incurred. The District reserves the right to deny delivery vehicles that are leaking fuel or another hazardous materials access to District property. The vendor will be notified of any denied access and shall employ an alternative delivery at no additional charge within 1 (one) working day of notification. If delivery is not accomplished within the time frame specified, the District reserves the right to make the purchase on the open market, with any cost in excess of the contract price

paid by the vendor, in addition to any other damages, director consequential, incurred by the District as a result thereof.

3. Shortages and Allocation or Catastrophic Conditions

The nature of utilizing a contract resulting from this solicitation is such that public safety might be jeopardized if fuels are not delivered as ordered in the event of fuel shortages or catastrophic conditions. Vendor agrees that delivery of products covered by this solicitation will be made in a priority manner to the exclusion of nongovernmental agencies during times of shortages and/or catastrophes. Vendor is to contact Owners and the District's purchasing division in the event of fuel shortages and/or the implementation of an allocation program.

4. Environmental Regulations

The District reserves the right to consider Supplier's history of citation and/or violations of environmental regulations in determining the Supplier's responsibility, and further reserves the right to declare a Supplier not responsible if the history of violations warrant such determination. **Supplier shall submit** with their bid a complete history of all citations and/or violations, notices and dispositions thereof. The non-submission of any such documentation shall be deemed to be an affirmation by Supplier that there are no citations or violations. Supplier shall notify the District immediately of notice of any citation or violation, which Supplier may receive after the bid opening date and during the time of performance of any contract awarded to Supplier.

5. Licensing

It shall be the sole responsibility of the awarded Vendor to maintain all licenses necessary to fulfill this agreement. Awarded Vendor will hold the District harmless of any copyright infringements or penalties.

E. **PRICING**

The basis for pricing will be established on a formula, consisting of a benchmark index and a market differential. The District intends to utilize a benchmark index to establish a verifiable baseline fuel price per gallon. This benchmark index will be based on data provided by the Oil Price Information Service (OPIS). Specifically, the 10:00 AM Eastern Time Published Rack Report for Houston, Texas Daily Published Benchmark, Contract Average Rack Price or fuel shall be considered the benchmark for said market. The benchmark index is based on the date of fuel delivery to the District. The market differential proposed is to be a four-digit decimal numerical value that is added to or subtracted from the benchmark index for a given fuel product by Rack market. The market differential is to include all cost and profit components determined by the Supplier but should exclude any applicable taxes and delivery charges to the District. The District is tax exempt and delivery charges are to be listed separately from the differential. A price proposal form is included in this solicitation. Proposers are required to use this price proposal form to submit their proposed market differential, delivery and any other fees for each fuel product in the rack market. Contract prices are firm for the term of the contract except when, by mutual written

agreement prior to any change, price revisions may be permitted. This solicitation is intended to establish a “living” contract that can be adapted to the changing needs of the District, within the scope of this solicitation for bulk fuels.

IV. Proposal Format

A. SUBMISSION PACKAGE CONTENT

1. Completed Proposal Cover Sheet
2. Tab A -Experience
3. Tab B - Emergency Response Plan
4. Tab C - Pricing and Fees (Attachment A)
5. Tab D - References (include Names, Addresses, Phone numbers, & Email addresses)
6. Tab E - Forms (Attachment A)
 - a. Proposal Certification and Addenda Acknowledgement
 - b. Public Information Act
 - c. Conflict of Interest Questionnaire (if required)
 - d. Federally Required Contract Clauses (Attachment C)

B. STATEMENT OF COMPLIANCE

By submission of a response to this RFP, proposer acknowledges full compliance with required specifications and all terms and conditions as detailed in the RFP.

C. TAB A – Experience

Provide a brief history of the company including current size and how many persons in the company are to be directly engaged in the proposed services. Also include the names, qualifications, years of experience and other detailed background information of the local management team directly responsible for local operation. Include relationship or buying power history with current fuel providers and how you manage those relationships to provide quality services to your customers.

Discuss the company’s prior service experience in providing the proposed service to other organizations of comparable size. Provide a list of all municipal customer contracts in Texas where fuel and petroleum services were provided. Experience with municipalities in the East Texas Region should be included.

D. TAB B – Emergency Response Plan

Include the Emergency Response Plan detailing how services will be provided before, during, and after an emergency, and how the District will be prioritized for fuel delivery. Failure to include an Emergency Response Plan may result in disqualification.

E. TAB C – Pricing and Fees

1. All rates and fees must be listed on the proposal cost sheet
2. Describe how and when the fees apply

3. Identify and list all special services and identify charges pertaining to such service.
4. The District will not be responsible for paying any fees not specifically listed. The fees and charges presented shall remain firm for the original term of the agreement.

F. TAB D – References (Attachment 1)

Proposer to provide at least three (3) references for governmental agencies for which you have provided this type of service. Include the name of the agency, contact name, telephone number, email address, date/length of the contract and a brief summary of work.

G. TAB E – Forms

1. Completed Cover Sheet
2. Completed Proposer's Cost Sheet (Attachment 4)
3. Completed Proposer Bid Affidavit (Attachment 2)
4. Completed Conflict of Interest Questionnaire (Attachment 3)

V. Contract Terms and Conditions

A. General

This will be a three (3) year contract, with two (2) one-year renewal terms available upon the mutual agreement of the parties. All rates/fees shall be fixed for the contract term and for any subsequent renewal terms. There will be no provision for price adjustments at any renewal, as the annually renewable agreement is meant as an option for either party to exit the contractual obligation at its discretion.

B. Indemnification

It is understood that any resulting contract executed will contain the following language: It is further agreed that the firm (separately and collectively the "Indemnitee") shall indemnify, hold harmless, and defend the District, its officers, agents, and employees from and against any and all claims, losses, damages, causes of action, suits and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person or for damage to any property arising out of or in connection with the work done by the firm under this contract. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits or liability arise in whole or in part from the negligence of the District, any other party indemnified hereunder, the Firm, or any third party.

C. Release

It is understood that any resulting contract executed will contain the following language:

The firm assumes full responsibility for the work to be performed hereunder and hereby releases, relinquishes, and discharges the District, its officers, agents, and employees from

all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person and any loss of or damage to any property that is caused by, alleged to be caused by, arising out of, or in connection with the firm's work to be performed hereunder.

This release shall apply regardless of whether said claims, demands, and causes of action are covered in whole or in part by insurance and regardless of whether such injury, death, loss, or damage was caused in whole or in part by insurance and regardless of whether such injury, death, loss or damage was caused in whole or in part by the negligence of the District, any other party released hereunder, the firm, or any third party.

We agree to serve as a secondary vendor if not selected as the primary vendor: () yes () no

Submittals: To be declared responsive and receive consideration for award the following items must be submitted with the bid;

_____ **All pages of this document**

_____ **Insurance certificates or letter of insurability**

_____ **References (3)**

_____ **Bid Affidavit**

CONTACT INFORMATION:

Normal Working Hours: 8:00-5:00 Monday-Friday

Name _____ Telephone number: _____

Emergency Calls/Outside normal working hours

Name _____ Telephone number: _____

Pager number: _____

I have read and agree to the terms and conditions of this bid request.

NAME _____ TITLE _____

SIGNED _____

COMPANY _____

ADDRESS _____

PHONE _____ FAX _____

Email _____

ATTACHMENT I

REFERENCES

Each bidder shall provide a minimum of three (3) verifiable references in which the bidder has performed this or similar services.

Name _____

Address _____

Phone _____ Contact _____

Services provided _____

Name _____

Address _____

Phone _____ Contact _____

Services provided _____

Name _____

Address _____

Phone _____ Contact _____

Services provided _____

BID AFFIDAVIT

All pages in offeror's bid containing statements, letters, etc., shall be signed by a duly authorized officer of the company, whose signature is binding on the bid.

The undersigned offers and agrees to furnish all of the items/services upon which prices are stated in the accompanying bid. Further the undersigned certifies to having read and understands the terms of this invitation. The undersigned offers and agrees to furnish all of the items/services upon which prices are stated in the accompanying bid. Further the undersigned certifies to having read and understood the terms of this invitation. The period of acceptance of this bid will be 90 calendar days from the date of the bid opening.

STATE OF _____ COUNTY OF _____

BEFORE ME, the undersigned authority, a Notary Public in and for the State of _____
On this day personally appeared, who after being by me duly sworn, did depose and say:

"I, _____, am a duly authorized officer of/agent for _____
and have been duly authorized to execute the foregoing bid on behalf of the said company, agency or proprietorship.

I hereby certify that the foregoing bid has not been prepared in collusion with any other offeror or other persons engaged in the same line of business prior to the official receipt of this proposal. Further, I certify that the officer is not now, nor has ever been for the past six (6) months, directly or indirectly concerned in any pool or agreement or combination, to control the price of services/items offered, or to influence any person or persons to offer or not to offer thereon."

I further certify that my answers to the following are true and correct:

RESIDENT CERTIFICATION: Our principal place of business or corporate office is in the State of Texas.
YES _____ NO _____

LOCAL RESIDENT CERTIFICATION: Our principal place of business or corporate office is in the District.
YES _____ NO _____

NON-RESIDENT CERTIFICATION: Our principal place of business is _____ (give state).

Name and Address of offeror:

_____ Telephone Number _____

by: _____ Title: _____

Signature:

SUBSCRIBED AND SWORN to before me by the above-named

_____ on this the _____ day of _____ 20_____
(name of Notary)

Notary Public in and for the State of _____

ATTACHMENT III

NOTICE TO ALL DISTRICT VENDORS AND ALL POTENTIAL DISTRICT VENDORS:

On May 23, 2005, the Texas Senate passed House Bill 914, adding Chapter 176 to the Local Government Code, and imposing new disclosure and reporting obligations on vendors and potential vendors to local governmental entities beginning on January 1, 2006. Failure to abide by these new statutory requirements can result in possible criminal penalties. The District is requiring you to complete the attached Conflict of Interest Questionnaire (CIQ) Form, prepared by the Texas Ethics Commission, at the direction of the legislature and strongly recommends you become familiar with House Bill 914.

The District will not provide any further interpretation or information regarding these new requirements; however, you may contact the Texas Ethics Commission at

<http://www.ethics.state.tx.us> or at 1-800-325-8506.

Please remit the CIQ form with your bid.

Thank you.

CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ

This questionnaire is being filed in accordance with Chapter 176 of the Local Government Code by a person doing business with the governmental entity.

DATE RECEIVED

By law the questionnaire must be filed with the records administrator of the local government not later than the 7th business day after the person becomes aware of facts that require the statement be filed. See Section 176.006, Local Government Code.

1. Name of person doing business with the local governmental entity.

2. _____ Check this blank if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated complete questionnaire with the filing authority no later than September 1 of the year for which any activity described in Section 176.006 (a), Local Government Code, is pending and not later than the 7th day after the originally filed questionnaire becomes incomplete or inaccurate)

3. Name each employee or contractor of the local governmental entity who makes recommendations to a local government officer of the governmental entity with respect to expenditures of money and describe the affiliation or business relationship.

4. Name each governmental officer who appoints or employs local governmental officers of the governmental entity for which this questionnaire is filed and describe the affiliation or business relationship.

5. Name the local governmental officer with whom filer has affiliation or business relationship (Complete this section only if the answer to A, B, or C is yes)

A. Is the local governmental officer named in this section receiving or likely to receive taxable income from the filer of the questionnaire? yes _____ no _____
B. Is the filer of the questionnaire named receiving or likely to receive taxable income or at the direction of the local government officer named in the section AND the taxable income is not from the local governmental entity? yes _____ no _____
C. Is the filer of the questionnaire affiliated with a corporation or other business entity that the local government officer serves as an officer or director, or holds an ownership of 10 percent or more? yes _____ no _____
D. Describe each affiliation or business relationship.

6. _____ Date _____
Signature of person doing business with the governmental entity

Please type or print name _____

Price Proposal From Example

Fuel Type	Mark Up
Gasoline	
Diesel	

Item	Charge	UOM	Required	Total
500 / Gal Tank Rental	0.00	Monthly	20	\$0.00
1000 / Gal Tank Rental	0.00	Monthly	2	\$0.00
Monitoring Fee	5.00	Monthly	22	\$110.00
Trip/Delivery Fee	0.00	Trip	N/A	\$0.00
Temp Tank Fee	250	Occurrence	Unknown	\$250.00

Price Proposal From

Fuel Type	Mark Up
Gasoline	
Diesel	

Item	Charge	UOM	Required	Total
500 / Gal Tank Rental			20	
1000 / Gal Tank Rental			2	
Monitoring Fee			22	
Trip/Delivery Fee			N/A	
Temp Tank Fee			Unknown	