

AGREEMENT BETWEEN OWNER AND CONTRACTOR

THIS AGREEMENT, made on the ____ day of _____, 2021 by and between the City of Douglas, Wyoming, a municipal corporation, and _____, hereinafter called the Contractor.

WITNESSETH, that the Contractor and the Owner, for the consideration hereinafter named agree as follows:

ARTICLE I - SCOPE OF WORK

The Contractor hereby agrees to furnish all of the materials and all of the equipment and labor necessary, and to perform all of the described in the specifications for (project description):

The purchase and delivery of unleaded gasoline and diesel fuel; for an annual contract that anticipates the purchase of approximately twenty-six thousand six hundred (26,600) gallons of unleaded fuel, and twenty thousand (20,000) gallons of diesel fuel, to be used in City of Douglas owned and operated vehicles and equipment; and delivered to 710 E. Richards St. and 874 Olds Road, Douglas, WY.

and other additional work to be made in accordance with the requirements and provisions of the contract documents which are hereby a part of the contract including the following documents which are incorporated by this reference:

Check if Included	Document Description
	1. Proposal Instructions and Summary (Legal Advertisement and Detailed Notice)
	2. Bid Forms:
X	a. Bid -Schedule of Prices
X	b. Signature Page
	c. Non-Collusion Affidavit
	d. Bid Bond - Construction
	e. Bidder’s Checklist
	3. General Provisions
	4. Supplemental Conditions
	5. Wyoming Public Works Standard Specifications – included by reference
	6. Special Provisions
	7. Drawings
	8. Addenda
X	9. Notice of Award - General
X	10. Agreement Between Owner and Contractor
	11. Performance/Contractor's Bond
X	12. Notice to Proceed
	13. Other:

The work is generally described as follows (detailed project description):

Sale of Bulk Fuel for City Equipment and Vehicles

ARTICLE II – TERM

The term of this Agreement shall be for a period of one year, commencing February 1, 2021, and ending January 31, 2022.

ARTICLE III - THE CONTRACT SUM

1. Except for adjustments as provided herein, the Owner shall pay the Contractor for the performance of the work, the unit price bid in the proposal, which amount shall be known as the contract sum.
2. The contract sum shall be equitably adjusted to cover changes in the work ordered by the Owner. Such increases or decreases in the contract sum shall be determined by agreement between the Owner and the Contractor as outlined in these specifications.
3. Owner shall pay Contractor in current funds for performance of the work in accordance with the contract documents the contract price of values based on the unit and lump sum prices listed in the bid schedule as follows:

Fuel Type	Rack Price Per Gallon	Bidders' Mark Up Per Gallon	Subtotal Bid Per Gallon
87 Octane Unleaded			
Clear Diesel			
Dyed Diesel - Landfill			
Dyed Diesel - Public Works			

- a) The price per gallon shall be figured as follows based upon the approved Schedule of Prices as listed above:
 1. Contractor’s markup is not adjustable and shall remain firm for the contract period.
 2. The Contractor’s cost per gallon (Rack or terminal price) quoted on the proposal is subject to changes by Contractor’s supplier and will be increased and decreased in an amount equal to such changes.
 3. It will be required of the CONTRACTOR that he or his suppliers of fuel furnish to the City of Douglas, Wyoming, **a written notice of the date and the amount of such changes.**
 4. **The written notice shall be submitted with each invoice submitted to the City for payment. This notice must include the date, amount, and price charged by the Contractor’s supplier which was used to compute the amount due and owing from the City.**

ARTICLE IV - PAYMENT PROCEDURES

1. Contractor shall submit Invoices for Payment in accordance with City's policies and procedures. Invoices will be processed by the City's Representative.

ARTICLE V – OTHER SPECIFICATIONS

1. Contractor's cost per gallon shall be figured as of November 30, 2020.
2. All fuel furnished shall be a regular product of a recognized and approved refinery and shall be the same product normally supplied for retail sale to the general public. Attached to these specifications is a copy of the amendment to the Wyoming Gasoline Tax Law.
3. Certification of compliance to minimum octane ratings shall be supplied with the bid for regular and premium fuel.

ARTICLE VI – AREA OF DELIVERY

1. Fuel furnished shall be delivered to the Public Works Annexation Building, 710 E. Richards Street, and to the Douglas Landfill, 874 Olds Road, both in Douglas, Wyoming.
2. All deliveries shall be made on weekdays between the hours of 7:00 a.m. and 4:00 p.m. unless otherwise directed by the Public Works Director.
3. Deliveries shall be made within twenty-four (24) hours of notification.
4. The successful bidder shall be directly responsible for any and all delivery charges.
5. Any State, Local or Federal Excise Taxes shall be paid for by the vendor. It will be the duty of the vendor to apply for and request any refunds from the government where these taxes are concerned.

ARTICLE VII - GENERAL PROVISIONS

1. **Amendments.** Any changes, modifications, revisions or amendments to this Contract which are mutually agreed upon by the parties to this Contract shall be incorporated by written instrument, executed and signed by all parties to this Contract.
2. **Applicable Law/Venue.** The construction, interpretation and enforcement of this Contract shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Contract and the parties, and the venue shall be the Eighth Judicial District, Converse County, Wyoming.
3. **Compliance with Laws.** Contractor shall keep informed of and comply with all applicable federal, state and local laws and regulations in the performance of this Contract.
4. **Entirety of Contract.** This Contract, including any documents referenced and incorporated herein, represents the entire and integrated Contract between the parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

5. **Ethics.** Contractor shall keep informed of and comply with the Wyoming Ethics and Disclosure Act (Wyo. Stat. §9-13-101, et seq.), and any and all ethical standards governing Contractor’s profession.

6. **Force Majeure.** Neither party shall be liable for failure to perform under this Contract if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.

7. **Indemnification.** Contractor will indemnify, defend and hold harmless parties indemnified under this provision for all Contractors’ acts, actions, and neglects, but we will not indemnify, defend or hold harmless any other party for their acts, actions or negligence. Any claim involving contributory negligence shall be handled so each party is responsible and liable for its share of the damages in proportion to its share of negligence. Both parties waive their rights to consequential damages arising out of this agreement.

8. **Independent Contractor.** Contractor shall function as an independent contractor for the purposes of this Contract and shall not be considered an employee of City for any purpose. Contractor shall assume sole responsibility for any debts or liabilities that may be incurred by Contractor in fulfilling the terms of this Contract and shall be solely responsible for the payment of all federal, state and local taxes which may accrue because of this Contract. Nothing in this Contract shall be interpreted as authorizing Contractor to incur any obligation of any kind on the behalf of City or its staff. Contractor agrees that no health/hospitalization benefits, workers’ compensation and/or similar benefits available to City employees will inure to the benefit of Contractor or Contractor’s agents and/or employees as a result of this Contract.

9. **Government Immunity.** City does not waive sovereign immunity by entering into this Contract and specifically retain immunity and all defenses available to them as sovereigns pursuant to Wyo. Stat. § 1-39-104(a) and all other state law.

IN WITNESS WHEREOF the parties hereto have executed this Agreement, the day and year first above written.

CITY OF DOUGLAS – OWNER

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged.

By: _____
SIGNATURE

By: _____
SIGNATURE

Name/Title: Jonathan Teichert, City Admin

Printed Name: _____

Title: _____

Please sign and send back to: City of Douglas, Attn:
City Clerk, P.O. Box 1030, Douglas, WY 82633