

AI-31370

4.

**DRAINAGE DISTRICT**

**Meeting Date:** 03/13/2012

Submitted By: Jaime Salazar, DRAINAGE DISTRICT

Department: DRAINAGE DISTRICT

Information

CAPTION

A. Recommending award of bid and approval of contract to lowest bidder meeting all required specifications for RFB No. 12-007-02-29 "GASOLINE, ON & OFF HIGHWAY DIESEL FUEL." (Oil Patch Fuel & Supply Inc.)

B. Recommending award of bid and approval of Construction Contract to lowest bidder meeting all required specifications for RFB No. 12-006-02-24 "WEST MAIN DRAIN III WIDENING, EXCAVATION & HAULING OF SAID IMPROVEMENTS AT LOS EBANOS ROAD." (McAllen Construction Inc.)

C. Requesting approval of Division Order from Dewbre Petroleum Corporation as it relates to the following:

388.0 acres of land, more or less, being out of Lots 1,2,3, and 4 and part of lots 5 and 6, situated north of the flood control levee in the A. Wayne Wood Subdivision No. 1, El Gato Grant, J.J. Trevino Survey, A-22; and all of Lot 3 and 5 of Ebony Groves Subdivision in the La Blanca Grant, Hidalgo County, Texas and being more particularly described in Designation of Pooled Unit-Louise DeGoche Gas Unit, dated September 14, 2010 recorded as Document No. 2010-2138614, Official Records of Hidalgo County, Texas.

BACKGROUND

Attachments

FUEL BID TAB

Agreement - Fuel

Bid Tabulation - Excavation

Agreement - Construction

DIVISION ORDER

Form Review

Inbox	Reviewed By	Date
Budget & Management	Merlen P. Munoz	03/07/2012 11:30 AM
Perla Lopez	Perla Lopez	03/08/2012 02:02 PM
Final Approval	Monica Badillo	03/09/2012 03:36 PM
Form Started By: Jaime Salazar		Started On: 03/07/2012 10:19 AM
Final Approval Date: 03/09/2012		

**HIDALGO COUNTY DRAINAGE DISTRICT NO. 1  
GASOLINE, ON & OFF HIGHWAY DIESEL FUEL  
BID NO.: 12-007-02-29  
TABULATION SHEET- USING 02/22/2012 OPIS REPORT**

APPROXIMATE QUANTITIES	OIL PATCH FUEL & SUPPLY INC.	GOLD STAR PETROLEUM INC.	SUSSER PETRO
<b>UNLEADED PLUS GASOLINE</b>	UNIT PRICE	UNIT PRICE	UNIT PRICE
OPIS PRICE	3.1179	3.1179	3.1225
STATE TAX	.2000	.2000	.2400
MARGIN OF PROFIT	-.01	0.0197	00.019
<b>TOTAL PRICE PER GALLON</b>	<b>3.3079</b>	<b>3.3376</b>	<b>3.3815</b>

<b>SUPER UNLEADED GASOLINE</b>	UNIT PRICE	UNIT PRICE	UNIT PRICE
OPIS PRICE	3.2575	3.2575	3.2628
STATE TAX	.2000	0.2000	.2400
MARGIN OF PROFIT	-.01	0.0197	00.019
<b>TOTAL PRICE PER GALLON</b>	<b>3.4475</b>	<b>3.4772</b>	<b>3.5218</b>

<b>UNLEADED GASOLINE</b>	UNIT PRICE	UNIT PRICE	UNIT PRICE
OPIS PRICE	3.0503	3.0503	3.0625
STATE TAX	.2000	.20000	.2400
MARGIN OF PROFIT	-.01	0.0197	00.019
<b>TOTAL PRICE PER GALLON</b>	<b>3.2403</b>	<b>3.2700</b>	<b>3.3215</b>

**HIDALGO COUNTY DRAINAGE DISTRICT NO.1**  
**GASOLINE, ON & OFF HIGHWAY DIESEL FUEL**  
**BID NO.: 12-007-02-29**  
**TABULATION SHEET- 02/29/2012 OPIS REPORT**

APPROXIMATE QUANTITIES	OIL PATCH FUEL & SUPPLY INC.	GOLD STAR PETROLEUM INC.	SUSSER PETRO
<b>OFF HIGHWAY DIESEL FUEL</b>	<b>UNIT PRICE</b>	<b>UNIT PRICE</b>	<b>UNIT PRICE</b>
Opis Price	3.2940	3.2940	3.2940
State Tax	.00	n/a	.2400
Margin of Profit	-.01	0.0197	00.019
<b>Total Price Per Gallon</b>	<b>3.2840</b>	<b>3.3137</b>	<b>3.5530</b>

<b>ON HIGHWAY DIESEL FUEL</b>	<b>UNIT PRICE</b>	<b>UNIT PRICE</b>	<b>UNIT PRICE</b>
Opis Price	3.3048	3.3048	3.3048
State Tax	.2000	0.2000	.2400
Margin of Profit	-.01	0.0197	00.019
<b>Total Price Per Gallon</b>	<b>3.4948</b>	<b>3.5245</b>	<b>3.5638</b>

**\* LOW BID HIGHLIGHTED IN YELLOW**

## REQUIREMENTS AGREEMENT

HCDD1-12-007-03-13

THIS AGREEMENT (the "Agreement") is entered into effective as of **March 13, 2012** by and between **Oil Patch Fuel & Supply, Inc.**, a Corporation ("Seller") and **Hidalgo County Drainage District No. 1**, Hidalgo County, Texas ("Buyer").

WHEREAS, Buyer has solicited proposals for the supply of its requirements of Hidalgo County Drainage District No.1 "**Gasoline, On/Off Highway Diesel Fuel**", as further described in Exhibit "A" which is attached hereto and incorporated herein by reference for all purposes (the "Products") for a period of one year; and

WHEREAS, Seller has submitted a proposal to supply Buyer's requirements; and

WHEREAS, Buyer has determined that Seller has submitted the lowest and best bid to meet Buyer's requirements for the Product.

NOW THEREFORE, for and in consideration of the mutual covenants and conditions hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Buyer agrees to purchase from Seller, and Seller agrees to sell and deliver to Buyer, all of the Products that Buyer may require for use by Buyer in Hidalgo County Drainage District No. 1 projects for a period of one year from the effective date of this Agreement, and it is agreed that the Products will meet the specifications set forth in Exhibit "A" hereto.

2. When Buyer determines that it needs a quantity of the Products to be delivered, it will, according to its Purchasing Policies, complete and submit to Seller a Purchase Order describing the type and quantity of the Products required. The Products are to be delivered by Buyer to the location specified by the Hidalgo County Drainage District No.1 in its Purchase Order.

3. Buyer agrees to pay Seller for each Purchase Order based on the prices set out in Exhibit "B". Seller shall render invoices for each Purchase Order, and the invoices shall be paid by Buyer on or before the 30th day following receipt of the invoice.

4. General Provisions.

a. **Conflict with Applicable Law.** Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between any provision of this Agreement and any present or future law, ordinance or administrative, executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflict exists.

b. **No Waiver.** No waiver by Buyer of any breach of any provision of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.

c. **Entire Agreement.** This Agreement contains the entire contract between the parties hereto, and each party acknowledges that neither has made (either directly or through any agent or representative) any representations or agreements in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by Buyer and Seller, and not otherwise.

d. **Texas Law to Apply.** This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hidalgo County, Texas. The parties hereby consent to personal jurisdiction in Hidalgo County, Texas.

e. **Notice.** Except as may be otherwise specifically provided in this Agreement, all notices, demands, requests or communications required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to Buyer: Hidalgo County Drainage District No.1  
Attention: Manager  
902 N. Doolittle  
Edinburg, TX 78541

If to Seller: Oil Patch Fuel & Supply, Inc.  
Veronica Martinez  
4004 N. Cage Blvd  
Pharr, TX 78577

Each notice, demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

f. **Additional Documents.** The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.

g. **Successors.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.

h. **Assignment.** This Agreement shall not be assignable.

i. **Headings.** The headings and captions contained in this Agreement are solely for convenient reference and shall not be deemed to affect the meaning or interpretation of any provision or paragraph hereof.

j. **Gender and Number.** All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate.

k. **Authority to Execute.** The execution and performance of this Agreement by Buyer and Seller have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of Buyer and Seller in accordance with its terms.

l. **Commitment of Current Revenues Only.** In the event that, during any term hereof, the Commissioners Court does not appropriate sufficient funds to meet the obligations of Buyer under this Agreement, Buyer may terminate this Agreement upon ninety (90) days written notice to Seller. Buyer agrees, however, to use reasonable efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of Buyer pursuant to the provisions of Tex. Loc. Govt. Code Ann. § 271.903 (Vernon Supp. 1996).

m. **Termination.** Either party may terminate this agreement upon giving written notice ninety (90) days prior to effective date of said termination.

n. **Purchasing Ethics.** Seller represents and warrants it has not, during the process of being awarded this contract violated the following ethical standards of Buyer and, upon and after the execution of this Agreement, agrees to abide by the following ethical standards of Buyer:

(1) It shall be a breach of ethics to offer, give or agree to give any elected official, department head or employee, or former elected official, department head or employee, of Hidalgo County Drainage District No.1 or for any elected official, department head or employee or former elected official, department head or employee of Hidalgo County Drainage District No.1, to solicit, demand, accept or agree to accept from another person, entity or organization, a gratuity or an officer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advise, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before any department or agency of Hidalgo County Drainage District No. 1 .

(2) It shall be a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for Hidalgo County Drainage District No. 1 or any person associated therewith, as an inducement for the award of a subcontract or order.

EXECUTED effective as of the day and year first above written.

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1

By: \_\_\_\_\_  
Ramon Garcia, Chairman Of the Board

COMPANY: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name : \_\_\_\_\_

Title: \_\_\_\_\_

Approved by Board of Directors Court on: \_\_\_\_\_

APPROVED AS TO FORM: Atlas & Hall, L.L.P.

By: \_\_\_\_\_ Date: \_\_\_\_\_



**HIDALGO COUNTY DRAINAGE DISTRICT No. 1**  
**BID TAB**

**RFB No.: 12-006-02-24**

**“WEST MAIN DRAIN III WIDENING, EXCAVATION & HAULING  
OF SAID IMPROVEMENTS AT LOS EBANOS RD.”**

<i>SUBMITTED BY</i>	<i>ITEM DESCRIPTION</i>	<i>UNIT PRICE (PER CUBIC YARD)</i>	<i>APROXIMATE QUANTITY</i>	<u>TOTAL BID PRICE</u>
McAllen Construction Inc. 4700 N. Ware Rd. McAllen, Texas 78502	CHANNEL EXCAVATION	\$ .001	<u>97,801 Cubic Yards</u>	\$ 97.80
Asago Construction LLC 2113 Pecos St. Mission, Texas 78572	CHANNEL EXCAVATION	\$ 3.67	<u>97,801 Cubic Yards</u>	\$ 358,929.67
Williams Equipment Service P.O. Box 640 Anacoco, La 71403	CHANNEL EXCAVATION	\$ 4.49	<u>97,801 Cubic Yards</u>	\$ 439,126.49
The 5125 Company 1008 Doherty Mission, Texas 78572	CHANNEL EXCAVATION	\$ 5.50	<u>97,801 Cubic Yards</u>	\$537,905.50

**CONSTRUCTION CONTRACT**  
**HCDD1- 12-006-03-20**

This Agreement, entered into this 13<sup>th</sup> day of March, 2012 by and between Hidalgo County Drainage District No. 1 (hereinafter called the "OWNER," and McAllen Construction Inc. (a Texas corporation), of County of Hidalgo, and State of Texas, hereinafter called "CONTRACTOR".

**WITNESSETH**

That for and in consideration of the payments and agreement hereinafter mentioned, to be made and performed by the OWNER, the CONTRACTOR hereby agrees with the OWNER to commence and complete the construction described as follows:

**WEST MAIN DRAIN III WIDENING, EXCAVATION & HAULING OF SAID  
IMPROVEMENTS AT LOS EBANOS ROAD.**

Hereinafter called the project, for the sum of Ninety Seven Dollars and Eighty Cents and all extra work in connection therewith, under the terms and stated in the General and Special Conditions of the Contract; and at his (its or their) own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Proposal, the General Conditions and Special Conditions printed or written explanatory matter thereof, the specifications and contract documents therefore as prepared by Jose N. Saldivar, P.E. Hidalgo County Drainage District No.1 Engineer, entitled the Engineer, and as enumerated in Paragraph 26 of the General Conditions, all of which are made a part hereof and collectively evidence and constitute the contract.

The CONTRACTOR hereby agrees to commence work under this contract on or after a date to be specified in written "Notice to Proceed" of the OWNER and to fully complete the project within **30** consecutive calendar days thereafter. The CONTRACTOR further agrees to pay, as liquidated damages, the sum of \$100.00 for each consecutive calendar day thereafter.

The OWNER agrees to pay the CONTRACTOR in current funds for the performance of the contract, subject to additions and deductions, as provided in the General Conditions of the contract, and to make payments on account thereof as provided in Paragraph 21 of the General Conditions.

IN WITNESS WHEREOF, the parties to these present have executed this contract in four (4) counterparts, each of which shall be deemed an original, in year and day first above mentioned.

APPROVED BY BOARD OF DIRECTORS ON, \_\_\_\_\_, 2012.

CONTRACTOR: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Fed. I.D. # / S.S.##: \_\_\_\_\_

STATE OF TEXAS

COUNTY OF HIDALGO

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_,  
2012, by \_\_\_\_\_ Of and on behalf of \_\_\_\_\_  
(Title) (A corporation)

\_\_\_\_\_  
Notary Public-Signature

APPROVED AS TO FORM:  
ATLAS & HALL, LLP

BY: \_\_\_\_\_

**OWNER:  
HIDALGO COUNTY DRAINAGE DISTRICT No.1**

**BY: \_\_\_\_\_**

**Ramon Garcia, Chairman of the Board**

Aproved by Commissioner's Court

On \_\_\_\_\_

**DIVISION ORDER**

To: Dewbre Petroleum Corporation  
802 N. Carancahua, Suite 1800  
Corpus Christi, Texas 78401

Well Name: Louise DeGoche GU  
Effective: First day of production

The undersigned severally and not jointly certifies it is the legal owner of the interest set out below of all of the oil and gas and other gaseous or liquid hydrocarbons produced from the property described below:

*388.0 acres of land, more or less, being out of Lots 1, 2, 3 and 4 and part of Lots 5 and 6, situated north of the flood control levee in the A. Wayne Wood Subdivision No. 1, El Gato Grant, J. J. Trevino Survey, A-22; and out of Lot 8 of the A. Wayne Wood Subdivision No. 1, El Gato Grant, J. J. Trevino Survey, A-22; and all of Lot 3 and 5 of the Ebony Groves Subdivision in the La Blanca Grant, Hidalgo County, Texas and being more particularly described in Designation of Pooled Unit - Louise DeGoche Gas Unit, dated September 14, 2010, recorded as Document No. 2010-2138614, Official Records of Hidalgo County, Texas.*

Operator: Dewbre Petroleum Corporation

Well/Property Name: DeGoche #1

County: Hidalgo State: Texas

Owner Name: Hidalgo County Drainage District No. 1  
902 N. Doolittle Road  
Edinburg, Texas 78542

**DIVISION OF INTEREST**  
**ROYALTY INTEREST**  
**.00101124**

THIS AGREEMENT DOES NOT AMEND ANY LEASE OR OPERATING AGREEMENT BETWEEN THE INTEREST OWNERS AND THE LESSEE OR OPERATOR OR ANY OTHER CONTRACTS FOR THE PURCHASE OF OIL OR GAS.

The following provisions apply to each interest owner who executes this agreement:

**TERMS OF SALE:** The undersigned will be paid in accordance with the division of interests set out above. The payor shall pay all parties at the price agreed to by the operator for oil or gas or other hydrocarbons to be sold pursuant to this division order. Purchaser shall compute quantity and make corrections for gravity and temperature and make deductions for impurities.

**PAYMENT:** From the effective date, payment is to be made monthly by payor's check, based on this division of interest, for oil run during the preceding calendar month from the property listed above, less taxes required by law to be deducted and remitted by payor as purchaser. Payments of less than \$50 may be accrued before disbursement until the total amount equals \$50 or more, or until December 31 of each year, whichever occurs first. Payee agrees to refund to payor any amounts attributable to an interest or part of an interest that payee does not own.

**INDEMNITY:** The owner agrees to indemnify and hold payor harmless from all liability resulting from payments made to the owner in accordance with such division of interest, including but not limited to attorney fees or judgements in connection with any suit that affects the owner's interest to which payor is made a party.

**DISPUTE; WITHHOLDING OF FUNDS:** If a suit is filed that affects the interest of the owner, written notice shall be given to payor by the owner together with a copy of the

complaint or petition filed.

In the event of a claim or dispute that affects title to the division of interest credited herein, payor is authorized to withhold payments accruing to such interest, without interest unless otherwise required by applicable statute and made known to payor by owner, until the claim or dispute is settled.

**TERMINATION:** Termination of this agreement is effective on the first day of the month that begins after the 30<sup>th</sup> day after the date written notice of termination is received by either party.

**NOTICES:** The owner agrees to notify payor in writing of any change in the division of interest, including changes of interest contingent on payment of money or expiration of time.

No change of interest is binding on payor until the recorded copy of the instrument of change or documents satisfactorily evidencing such change are furnished to payor at the time the change occurs.

Any change of interest shall be made effective on the first day of the month following receipt of such notice by payor.

Any correspondence regarding this agreement shall be furnished to the addresses listed unless otherwise advised by either party.

In addition to the legal rights provided by the terms and provisions of this division order, an owner may have certain statutory rights under the laws of this state.

**Witnesses:**

**Signature:**

Hidalgo County Drainage District No. 1

By: \_\_\_\_\_

\_\_\_\_\_  
**Tax ID #**

Failure to furnish your Social Security/Tax I.D. number will result in withholding tax in accordance with federal law, and any tax withheld will not be refundable by payor.



Scale 1"= 4,000'

