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AGENDA ITEM REQUEST FORM

Hays County Commissioners Court

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

AGENDA ITEM

Discussion and possible action to authorize Special Counsel and the Development & Community Services Director to negotiate & retain services for all work and expenses related to repair or replacement of components of the fuel system located at the Hays County Sheriff's Office.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-MISCELLANEOUS	March 5, 2013	NTE-\$45,000

LINE ITEM NUMBER
001-645-00.5399

AUDITOR USE ONLY

AUDITOR COMMENTS:

PURCHASING GUIDELINES FOLLOWED: N/A **AUDITOR REVIEW:** N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
GARZA	COBB	N/A

SUMMARY

The Hays County Sherriff's office is in the process of making alterations to the existing fuel system and underground storage tanks at 1307 Uhland Road. Included in the new system will be pumps, card reader, and an underground storage tank monitoring system. The updated software and electronic reporting functionality will ensure the department is compliant with TCEQ regulations for reporting.



CORPORATE OFFICE
 PO Box 2346
 McAllen, TX 78502-2346
 Ph: (956) 686-9582
 Fax: (956) 686-0070
 www.petrolemsolutionsinc.com
 Registration Numbers: CRP000821, RCAS00149

PROPOSAL AND AGREEMENT FORM

PSI QUOTE # 3-RL-5F6WNYWQ-1
 DATE: 2/18/2013

Local PSI Contact Information:
 14833 Bulverde, San Antonio, TX 78247 (210) 661-2489

PURCHASER: Hays County Sheriffs Office

WORK TO BE PERFORMED AT: Hays County Sheriffs Office

CONTACT NAME: Julie Villapando

ADDRESS: 1307 Uhland Rd

PHONE: 512-393-7831

CITY, STATE, ZIP: San Marcos, Texas 78666

ADDRESS: 1307 Uhland Rd

FACILITY ID #:

CITY, STATE, ZIP: San Marcos, Texas 78666

FAX NUMBER:

CELL PHONE #:

TCEQ OWNER ID#:

email address: julie@co.hays.tx.us

PSI REPRESENTATIVE: Ralph Larribas

Scope of work: Replace pump, card reader, and tank monitor

Petroleum Solutions, Inc. (hereinafter "Seller") agrees to furnish the materials and labor to complete the work described below and in conformity with the specifications and drawings dated ____NA____ prepared by ____NA____ and incorporated herein by reference (collectively, the "Work"), subject to the general terms and conditions described below, in this agreement:

1. Provide TCEQ Construction Notification Form if needed. All other permits by others, unless detailed in this section.
2. Provide electrical permit and electrical resources to lock out tag out all electrical to fuel system and disconnect electrical from existing pump, card reader and tank monitor. Re-use conduits and wires if up to manufactory specifications for new equipment being installed.
3. Provide labor resources to disconnect and remove existing pump, existing card reader and existing tank monitor. Dispose of all old equipment.
4. Provide and install (1) Gasboy 9852 single product twin pump up to 15gpm and with (2) sets of hanging hardware.
5. Provide and install (1) Petro Vend K800 Hybrid card reader with proximity reader, pedestal, SQL software for sever.
6. Provide and install (1) Veeder Root 300C tank monitor with (1) probe, floats kit, cap & ring, CSLD, Ethernet card, overflow alarm and acknowledgement switch
7. Provide electrician run (1) 3-4" conduit and wires for new E-Stop button, and (1) 3/4" conduit from building to card reader for communications wires. Also run conduit and wires for overflow alarm and acknowledgment switch
8. Provide electrician re-connect existing electrical to newly installed pump, card reader and tank monitor equipment.
9. Provide technician to start up and calibrate pump and train how to use newly installed pump.
10. Provide technician to start up and program card reader, assist with loading software on to sever with IT department and train on programming system, and pulling reports.
11. Provide technician to start up and program tank monitor and train on pulling reports. IT to give IP address for polling system
12. Clean job site.

A credit application and review will be required for all customers that do not have a established account with Petroleum Solutions, Inc. . The credit review must be completed prior to the order of any capital equipment as part of this agreement. Failure to complete and submit the documents will delay the order and delivery of equipment or goods. A copy of the credit application is attached to this agreement.

EXCLUSIONS, Items which are not part of this proposal:

- a. Quote based on 2 trips to site for install and start up. Any additional trips will be billed as an extra at \$75.00 per hour and .65 cents per mile (labor, travel and mileage)
- b. Quote based on 7 hours of on site training and programming on all newly installed equipment. Any additional training labor will be billed as an extra at \$75.00 per hour
- c. Owner to provide IT person on site during starting up Card Reader and Tank Monitor.
- d. Owner to provide person or persons for training on Card Reader and Tank Monitor while PSI is on site.

e. All electrical and control wiring inside building done by others including but not limited to wiring, low voltage cabling, panels, fixtures, raceways. PSI will provide oversight assistance to electrician during installation but will not complete and hookup of wiring. Electrician is required to meet all codes in effect at the time of installation and provide specified wire type and gauge as indicated in wiring documents.

F. Quote based on re-using all existing conduits and wires for pumps, card reader, and tank monitor. Any additional electrical will be billed as an extra at \$80.00 per hour and .65 cents a mile (parts, labor, travel and mileage)

SUBJECT TO THE TERMS OF THIS AGREEMENT, PURCHASER AGREES TO PAY SELLER THE SUM OF Thirty Seven Thousand Six Hundred Forty Six and 76/100 Dollars (\$37,646.76) (the "Agreement Price") which does not include applicable sales tax for the completion of the Work. No Credit Card payments accepted on Contracts.

This is notification that this agreement is a separated contract in compliance with Texas Comptroller of Public Accounts rules. The total cost for the project is provided, but is not a lump sum contract. Owner will be provided separated invoices for labor, materials, equipment, and applicable sales tax

TOTAL PROJECT COST: \$37,646.76

PAYMENT SCHEDULE:

PO # due upon signing for the amount of: \$37,646.76 100.00%

FACILITY EQUIPMENT: \$27,357.62 (includes and is due as follows)

Gasboy, Petro Vend, Veeder Root equipment will be invoiced upon shipment from Gasboy, Petro Vend, Veeder Root factory. Invoice due and payable 7 days from invoice date without retainage.

FACILITY MATERIALS: \$272.98

Facility material is subject to invoice and shall be due and payable within 20 days upon receipt of such invoice and subject to payment in full without retainage.

FREIGHT CHARGES: \$462.56

LABOR, EQUIPMENT AND SUBCONTRACTORS: \$9,553.60 (includes and is due as follows)

50% due upon installation Gasboy pump. 40% due upon completion of Veeder Root. 10% is due upon completion. Change Orders and additional charges billed upon completion and shall be due and payable within 30 days upon receipt of such invoice.

Applicable Sales Tax: \$0.00

Finance Option Provided by:



***Total Estimated Monthly Payment (60 month term): \$794.35

***Note:

Actual Monthly payment is calculated by Patriot Capital Corporation and is subject to their qualifications to acquire this payment structure. Payment could fluctuate based on size of transaction, credit of borrower, and time in business. Please contact Gordon Davis at 770.314.0058 for further assistance or information.

THIS AGREEMENT IS SUBJECT TO THE FOLLOWING GENERAL TERMS AND CONDITIONS:

1. ACCEPTANCE: This offer when accepted by Purchaser will constitute a bona fide contract subject to these terms and conditions and approval by Seller's authorized representative. Delivery of the materials/equipment herewith, installation of specified equipment, Purchaser's acceptance hereof (either in writing, in electronic format or orally in person or over the telephone), reliance on any of Seller's work, and/or the issuance of an invoice, constitutes a binding acceptance by Purchaser of the terms of Seller's proposal outlined above and these General Terms and Conditions, regardless of the terms of any subsequently issued document. This agreement is the entire undertaking of the parties for the subject matter hereof, and there are no promises, agreements, or understandings, oral or written, not specified herein.

2. PARTIES AND SCOPE OF WORK: Seller shall include said company or its particular division, subsidiary or affiliate performing the Work as defined above, Purchaser's acceptance thereof and these General Terms and Conditions. Additional work ordered by Purchaser shall also be subject to these General Terms and Conditions. If Purchaser is ordering the Work on behalf of another, Purchaser represents and warrants that it is the duly authorized agent of said party for the purpose of ordering and directing said Work. Unless otherwise stated in writing, Purchaser assumes sole responsibility for determining whether the quantity and the nature of the work ordered by Purchaser are adequate and sufficient for Purchaser's intended purpose. Purchaser shall communicate these General Terms and Conditions to each and every third party to whom Purchaser transmits any part of Seller's work. Seller shall have no duty or obligation to any third party greater than that set forth herein, Purchaser's acceptance thereof and these General Terms and Conditions.

3. PRICES; TERMS OF SALE; CREDIT: a. All prices are quoted in good faith; however, from time to time, manufacturers may change prices without notice prior to shipment, Seller may quote an incorrect price, or applicable taxes may increase, in which case any price or tax increase may be added to Purchaser's price. Prices quoted are based on current prices and are subject to change by the manufacturer. Prices quoted shall be firm for seven (7) days from the date of this offer, unless indicated otherwise. Unless otherwise stated in this agreement, prices are F.O.B. place of manufacture. Unless otherwise stated, the freight rate in existence at the date of acceptance of this agreement shall apply but any change in freight rate in effect on shipment date shall result in a corresponding change in price.

b. Unless otherwise specified above, terms are net 7 days on delivery of equipment and net 30 days on completion of services or installation. For equipment ordered for this project, the Purchaser will be invoiced the date the equipment is delivered (shipped from manufacturer) to Seller's warehouse for purposes of convenience or coordination and shall be considered "delivery" for billing purposes. Payment for all such equipment is due upon delivery without retainage. A deposit may be required on all installation agreements. Invoices are due and payable in McAllen, Hidalgo County, Texas to Petroleum Solutions, Inc., P.O. Box 2346, McAllen, Texas 78502. Purchaser further agrees to pay interest on all amounts invoiced and not paid as required under this agreement at the rate of eighteen (18) percent per annum (or the maximum interest rate permitted under the applicable law), until paid.

c. Purchaser shall be responsible for and shall pay all sales, use, excise, governmental surcharge, and other taxes (including penalties and interest) levied in connection with this sale. If payment is not made promptly when due, Purchaser shall pay all costs and expenses of collection, including but not limited to, courts costs and reasonable attorney's fees. Seller may revoke any credit extended to Purchaser because of its failure to pay when due or for any other reason.

d. In addition to the contractual relationship herein created between the Purchaser and Seller, this agreement is further intended by the parties to be a SECURITY AGREEMENT, and as such does hereby create a purchase money security interest in all those certain items of property, equipment and fixtures herein described, which is the COLLATERAL of this Security Agreement. The collateral is given to secure the payment of the agreement price described above, together with all additions thereto and modifications thereof, and all costs and expenses, including but not limited to, courts costs and reasonable attorney's fees incurred by Seller in the collection of the agreement price, or the enforcement of this Contact and Security Agreement. Purchaser further grants Seller a security interest in and to all proceeds, increases, substitutions, replacements, additions and accession to the Collateral. Purchaser agrees that it will pay the Agreement Price secured hereby in accordance with the terms and provisions hereof, and failure to so pay will be considered DEFAULT hereunder, giving rise to the remedies hereinafter set forth. Additionally, it shall be considered DEFAULT hereunder if at any time Seller believes that the prospect of payment of the obligations secured hereby, or the performance of this Agreement and Security Agreement is impaired. d. In addition to the contractual relationship herein created between the Purchaser and Seller, this agreement is further intended by the parties to be a SECURITY AGREEMENT, and as such does hereby create a purchase money security interest in all those certain items of property, equipment and fixtures herein described, which is the COLLATERAL of this Security Agreement. The collateral is given to secure the payment of the agreement price described above, together with all additions thereto and modifications thereof, and all costs and expenses, including but not limited to, courts costs and reasonable attorney's fees incurred by Seller in the collection of the agreement price, or the enforcement of this Contact and Security Agreement. Purchaser further grants Seller a security interest in and to all proceeds, increases, substitutions, replacements, additions and accession to the Collateral. Purchaser agrees that it will pay the Agreement Price secured hereby in accordance with the terms and provisions hereof, and failure to so pay will be considered DEFAULT hereunder, giving rise to the remedies hereinafter set forth. Additionally, it shall be considered DEFAULT hereunder if at any time Seller believes that the prospect of payment of the obligations secured hereby, or the performance of this Agreement and Security Agreement is impaired. All terms used herein which are defined in the Uniform Commercial Code of Texas (Texas Business and Commercial Code) shall have the same meaning herein as in said Code.

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e. Intentionally omitted.

f. Seller shall not be bound by any provision or agreement requiring or providing Seller to waive any rights to any lien, including a mechanic's lien, or any provision conditioning Seller's right to receive payment for its work upon payment to Purchaser by any third party.

4. DELIVERY; SHIPMENT TERMS; FREIGHT DAMAGE CLAIMS:

a. Shipping dates are approximate; delivery assurances are based on manufacturers' material suppliers to maintain schedules. Delivery promises are contingent upon fires, strikes, accidents, lockout, work stoppages, war, riot, availability of materials, acts of God, governmental action or regulation, or for other causes beyond Seller's control. The Seller shall have no liability for any delay, failure to deliver, loss of business, liquidated damages or other loss or damages which might result therefrom. The Seller will endeavor to maintain schedules, but cannot guarantee to do so. Delivery, unless otherwise stated, does not include unloading. Seller shall not be liable for damage in transit of any materials furnished. The Purchaser shall make a secure area (the "Secured Area") available to Seller if requested by Seller. Any necessary relocation of equipment or installation materials from the Secured Area will be at Purchaser's expense.

b. The shipping terms, including the F. O. B. point (such as "shippers dock" or a designated destination), may be indicated on the face of this agreement. The shipping terms should also include whether freight is "collect" or to be "prepaid and added". If these terms are not indicated, they may be chosen by Seller at Seller's sole discretion. Whenever merchandise is delivered to the designated F.O.B. point, by common carrier (by manufacturer or Seller), or is received by Purchaser, whichever is earlier, Seller's responsibility ceases and full risk of loss (including transportation delays and losses) and title passes to Purchaser, and Purchaser shall be liable to Seller for the full price of the merchandise. Delivery to Seller's facility for purposes of convenience, coordination or price protection shall be considered "delivery" for invoice purposes.

c. If any damage is evident upon delivery, Purchaser must make a notation on the freight bill of lading and have the carrier's agent sign upon delivery for claim record. Purchaser must immediately notify Seller and file a claim with the carrier, as Seller assumes no responsibility for goods damaged in shipment. Shortages and hidden damages or defects to goods must be reported to Seller and carrier within 30 days of receipt of shipment. The quoted prices do not include the cost of unloading, which is Purchaser's responsibility.

5. SCHEDULING OF WORK: The services set forth in Seller's proposal above and Purchaser's acceptance will be accomplished in a timely, workmanlike and professional manner by Seller's personnel. If Seller is required to delay commencement of the Work or if, upon embarking upon its Work, Seller is required to stop or interrupt the progress of its Work as a result of changes in the scope of the Work requested by Purchaser, to fulfill the requirements of third parties, interruptions in the progress of construction, or other causes beyond the direct reasonable control of Seller, additional charges shall be applicable and payable by Purchaser.

6. ACCESS TO SITE: Purchaser will arrange and provide such access to the Site as is necessary for Seller to perform the Work. Seller shall take reasonable measures and precautions to minimize damage to the Site and any improvements located thereon as the result of its Work or the use of its equipment; however, Seller has not included in its fee the cost of restoration of damage which may occur. If Purchaser desires or requires Purchaser to restore the Site to its former condition, upon written request, Seller will perform such additional work as is necessary to do so and Purchaser agrees to pay to Seller for the cost.

7. PURCHASER'S DUTY TO NOTIFY SELLER: Purchaser represents and warrants that it has advised Seller of any known or suspected hazardous materials, utility lines and pollutants at any site at which Seller is to do work hereunder, and unless Seller has assumed in writing the responsibility of locating subsurface objects, structures, lines or conduits, Purchaser agrees to defend, indemnify and hold Seller harmless from all claims, suits, citations, fines, losses, costs and expenses, including reasonable attorney's fees, as a result of personal injury, death or property damage occurring with respect to Seller's performance of its Work and resulting to or caused by contact with subsurface or latent objects, structures, lines or conduits where the actual or potential presence and location thereof were not revealed to Seller by Purchaser.

8. INSURANCE, LIMITED WARRANTY, INDEMNITY AND HOLD HARMLESS:

a. Seller does not extend any warranties to Purchasers of materials and equipment. The products sold by Seller may be warranted by the manufacturer of the product but only to the extent of any warranty offered by the manufacturer. Purchaser shall register equipment warranties with the manufacturer. MANUFACTURERS OR SELLER HAVE NO LIABILITY WHATSOEVER FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, including but not limited to lost profits, down time, loss of material or product, clean up costs associated with loss of product, or damage to other equipment, unless said damage is proven to have been caused by Seller's sole negligence. No warranty is extended where equipment is improperly installed by Purchaser, its employees, agent, representative or contractor. Seller represents that it will convey good title to the items purchased, however, except as modified in the next paragraph, SELLER MAKES NO OTHER WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED BY SELLER.

b. Seller extends to Purchaser a limited warranty for Seller's work performed under this Agreement that such work will be rendered in accordance with good commercial practice for a limited period of ninety (90) days from the date of Seller's completion of such work, unless otherwise required by applicable law or unless amended by an instrument in writing signed by the parties; HOWEVER, IF DURING THIS PERIOD, THERE IS A MALFUNCTION DUE TO SELLER'S IMPROPER OR SUBSTANDARD PERFORMANCE, SELLER'S LIABILITY IS LIMITED TO THE COST OF REPAIR OR REPLACEMENT OF SUCH EQUIPMENT (PROVIDED THAT SELLER IS GIVEN THE OPTION OF PERFORMING SUCH REPAIR OR REPLACEMENT WORK). THIS LIMITED WARRANTY IS NULL AND VOID IN THE EVENT THAT THE PURCHASER OR A THIRD PARTY PERFORMS SUBSEQUENT WORK ON THE EQUIPMENT INSTALLED OR REPAIRED BY SELLER. UNDER NO CIRCUMSTANCES IS SELLER LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, DOWN TIME, LOSS OF MATERIAL OR PRODUCT, CLEAN UP COSTS ASSOCIATED WITH LOSS OF PRODUCT, OR ANY DAMAGE TO EQUIPMENT NOT SERVICED, REPAIRED, OR INSTALLED BY SELLER. IN THE EVENT THAT SELLER SHALL BE LIABLE TO PURCHASER FOR DAMAGES ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, WHETHER ARISING BY NEGLIGENCE, INTENDED CONDUCT (BUT NOT INTENTIONAL MISCONDUCT), PURCHASER MAY RECOVER FROM SELLER DIRECT DAMAGES NOT TO EXCEED THE AGGREGATE AMOUNT OF PURCHASE PRICE PAID BY PURCHASER FOR THE PARTICULAR GOODS OR SERVICES TO WHICH A CLAIM OF LIABILITY IS ASSERTED.

c. Purchaser agrees to hold Seller harmless from and defend and indemnify it against any of Seller's or Purchaser's losses in connection with any property damage, personal injury or death, whether same is related to any claim, penalty, or fine by government agency for pollution, environmental damage, cleanup, or otherwise, or whether any claim is made by any third party against Seller or Purchaser or said damage, personal injury or death is claimed or sustained by Purchaser or Purchaser's employee or made against Purchaser or Seller in connection therewith, including but not limited to damages, costs, expenses, and attorneys fees, except to the extent that said damage, personal injury or death is proven to have been caused by the negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of the contract of the Seller, its agent or employee or any third party under the control or supervision of the Seller, other than the Seller or its agent, employee or subcontractor of any tier. Where a penalty, fine or claim for pollution damage or cleanup is made against Seller in connection with installation of materials or equipment, Purchaser agrees to hold Seller harmless from and defend and indemnify it against same, except to the extent that said fine or claims is proven to have been caused by the negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of the contract of the Seller.

d. Seller shall have NO LIABILITY under this warranty if equipment malfunctions or other problems result, directly or indirectly, from accident (not caused by Seller), subsequent work on equipment by Purchaser or third party, improper operation of equipment, inadequate maintenance, and/or failure to protect properly the equipment from environmental hazards. Seller does not assume any liability and Purchaser agrees to hold Seller harmless from and defend and indemnify Seller for losses or claims for tanks(s) that emerge from their set position and/or are lost after installation due to improper ballasting, ground water, high water tables, or hydrostatic pressure, unless proper anchorage is provided for under terms of this agreement, and Purchaser shall at all times provide adequate ballast.

e. NO EMPLOYEE OR REPRESENTATIVE OF SELLER IS AUTHORIZED TO CHANGE THIS WARRANTY IN ANY WAY.

f. Purchaser will defend and indemnify Seller against any claims for damages for profits arising from infringements of patents, designs, trade secrets, copyrights, trade names, and/or trademarks with respect to goods manufactured, either in whole or part, to Purchaser's specifications, except to the extent that said claims are proven to have been caused by the negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of the contract of the Seller.. Purchaser will defend and indemnify Seller against any claims for damages for profits arising from infringements of patents, designs, trade secrets, copyrights, trade names, and/or trademarks with respect to goods manufactured, by Seller and modified by Purchaser, except to the extent that said claims are proven to have been caused by the negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of the contract of the Seller. Seller assumes no liability for sales engineering or application information extended by its personnel. Purchaser agrees to hold Seller and its representatives harmless from and indemnify them against any and all claims, losses, damages, judgments, and costs, whether direct or indirect, or by reason of any reliance upon said representatives concerning sales, engineering or application information provided by Seller and/or its representatives, except to the extent that said claims, losses, damages, judgments, and costs are proven to have been caused by the negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of the contract of the Seller.

g. Seller shall maintain worker's compensation insurance covering its own employees. Unless otherwise specified, Purchaser shall maintain general liability, completed operations and builder's risk insurance, and shall meet financial responsibility requirements of federal and state storage tank regulations sufficient to protect against claims that may arise under this agreement. Unless otherwise specified, Seller shall not be required to obtain fidelity or surety bonds, and the cost of any such bonds may be added to the price.

h. Seller, in furnishing services hereunder, is acting only as an independent contractor. Seller does not undertake by this agreement or otherwise to perform any obligations of Purchaser, whether regulatory or contractual, or assume any responsibility for Purchaser's business operations.

i. SHOULD SELLER OR ANY OF ITS PROFESSIONAL EMPLOYEES BE FOUND TO HAVE BEEN NEGLIGENT IN THE PERFORMANCE OF ITS WORK, OR TO HAVE MADE AND BREACHED ANY EXPRESS OR IMPLIED WARRANTY, REPRESENTATION OR CONTRACT, PURCHASER, ALL PARTIES CLAIMING THROUGH PURCHASER AND ALL PARTIES CLAIMING TO HAVE IN ANY WAY RELIED UPON SELLER'S WORK AGREE THAT THE MAXIMUM AGGREGATE AMOUNT OF THE LIABILITY OF SELLER, ITS OFFICERS, EMPLOYEES AND AGENTS SHALL BE LIMITED TO THE TOTAL AMOUNT OF THE FEE PAID TO SELLER FOR ITS WORK PERFORMED WITH RESPECT TO THE PROJECT.

j. NO ACTION OR CLAIM, WHETHER IN TORT, CONTRACT, OR OTHERWISE, MAY BE BROUGHT AGAINST SELLER, ARISING FROM OR RELATED TO SELLER'S WORK, MORE THAN TWO YEARS AFTER THE CESSATION OF SELLER'S WORK HEREUNDER.

9. RELATED WORK:

a. Labor, materials and outside services for electrical, concrete, asphalt, water, sewer and natural gas work are not included in this agreement unless specified. Anchors, foundations, footings and cathodic protection are not included in this agreement unless otherwise specified. If concrete slabs are placed and finished under this agreement, the Seller shall not be responsible for the slab if such slab is not protected from traffic by Purchaser for at least a minimum of seven (7) days.

b. Seller has not included in this bid any removal or disposal of contaminated soils. If contaminated soils exist on the Site, Purchaser will be advised and a supplemental fee agreed upon for the removal and disposal of such contaminated soils will be charged. No soil or water sampling is included in this proposal, unless otherwise stated.

c. Any electrical work expressly provided by Seller is regulated by the Texas Department of Licensing and Regulation, P. O. Box 12157, Austin, TX 78711, 1-800-803-9202, 512-463-6599; website: www.license.state.tx.us/complaints. TECL # 18579.

10. EXCAVATION: Installation is based on normal and stable soil conditions. In the event any underground structures, cables, electrical conduits, piping, storm sewers, debris, rock, environmental contamination, concrete foundations, water, running sand, caving walls, or similar non-visible obstructions are encountered, destroyed or damaged during the performance of the agreement, Seller shall not be held responsible and the Purchaser shall bear and agrees to pay any additional costs associated therewith. Additional cost or expense incurred by Seller resulting from conditions described above shall be borne by the Purchaser and shall include Seller's labor, material, equipment costs and overhead costs plus a reasonable markup as determined by Seller at its sole discretion. Log boring of the excavation site is not required of Seller under this agreement, except when a specific amendment is attached to the body of this agreement. This quotation is based on the walls of the excavation being vertical. If it is necessary for any reason to slope banks of the excavated area where the tanks are to be installed Purchaser agrees to pay an additional charge for excavation and extra backfill material. If any underground hazards listed above are encountered the Purchaser will be notified and will inspect the site and give the Seller written notice of his inspection results and will include the order to proceed. If it becomes necessary for Seller to abandon the site of excavation due to incurable excavation problems, contamination or notice not to proceed by the Purchaser, expenses to date covering the work completed, tear down and removal of materials and equipment, and restocking charge for material ordered will be borne and shall be paid by the Purchaser. All finish grades are to be established and verified by the Purchaser.

11. CANCELLATIONS AND RETURN OF GOODS: Purchaser may cancel an order only upon advance written approval of Seller and provided Purchaser pays freight charges and Seller's reasonable cancellation and restocking charges, which are based in part on manufacturer's charges. No merchandise may be returned without Seller's advance written consent, with shipping instructions furnished, and no merchandise will be accepted for credit without Seller's authorization. At the option of the Seller, the return of material prior to Purchaser receiving Seller's approval will result in the material remaining the property of Purchaser, and it will be stored at Purchaser's sole risk and expense. If such material is not picked up by Purchaser within ten (10) days from the date of the unauthorized return, Seller, may, at its sole option, declare Purchaser's interest and right to the material forfeited and retain all money Purchaser has paid as liquidated damages. This means, Purchaser shall have no further rights in the material and no money will be refunded or credit given. If Seller accepts the material in return for credit, a handling charge based in part on acceptance of the material for return by the manufacturer will be charged, and no credit shall be issued to Purchaser until credit from the manufacturer is received.

12. GOVERNMENTAL COMPLIANCE: Environmental compliance is Purchaser's responsibility. Purchaser's failure to comply strictly with applicable federal, state or local requirements, rules and/or regulations (including but not limited to those applicable to notice) shall completely void Seller's limited warranty as provided under Paragraph 8(b) of this Agreement. It is Purchaser's responsibility to report any inventory shortage or suspected release to federal, state and all other authorities having jurisdiction and to Seller within 24 hours of occurrence. Purchaser agrees to hold Seller harmless from and indemnify and defend Seller against any claims or liability relating to Purchaser's failure to comply strictly with all federal, state or local environmental requirements, rules and/or regulations, including those applicable to notice. If Purchaser fails to comply strictly with any federal, state or local environmental requirements, rules and/or regulations, including those applicable to notice, Purchaser hereby releases Seller its officers, directors, employees, agents, affiliates, subsidiaries, related entities, successors and assigns (collectively "Releasees") from any and all liabilities, claims, obligations, suits, proceedings, causes of action, whether known or unknown, suspected or unsuspected, both at law and in equity, which Purchaser ever had, now has or may hereafter have against any of the Releasees arising out of or relating to its failure to comply strictly with all federal, state or local environmental requirements, rules and/or regulations, including those applicable to notice. Unless otherwise specified herein, Purchaser or its agent shall furnish a state fire marshal's permit, if required, and all other permits, licenses, inspections fees or approvals, whether required by federal, state or local regulations. Purchaser shall register all new or replacement regulated storage tanks in accordance with applicable state and local regulations. Purchaser represents that no consent, approval, or authorization, declaration or filing with any third party or governmental agency is required in connection with the performance of the Purchaser's obligations hereunder or to permit Seller to perform its obligations hereunder, other than those approvals that have been previously obtained in writing by Purchaser.

13. MANUFACTURER INFORMATION: Seller may provide manufacturer's product information and installation instructions for informational purposes, but makes no representations regarding such information. Seller may also provide manufacturer's product operating manual when available.

14. HAZARDOUS MATERIALS: Nothing contained within this agreement shall be construed or interpreted as requiring Seller to assume the status of an owner, operator, generator, storey, transporter, treater or disposal facility as those terms appear within RCRA or within any Federal or State statute or regulation governing the generation, transportation, treatment, storage and disposal of pollutants. Purchaser assumes full responsibility for compliance with the provisions of the Resource Conservation and Recovery Act ("RCRA") and any other Federal or State statute or regulation governing the handling, treatment, storage and disposal of pollutants.

15. HARDWARE/ SOFTWARE COMPATIBILITY: In connection with this agreement, the parties assume that any fueling system hardware and software supplied by Purchaser is inherently compatible and requires only routine startup and programming. If on startup, it is discovered that the hardware/software is not compatible or has innate deficiencies that require additional configuration or upgrading, Seller shall be held harmless from any resulting delays in completion of the work, and shall be entitled to full payment of the Agreement Price. In the event Purchaser discovers that the hardware/software is not compatible or has innate deficiencies that require additional configuration or upgrading, and more than thirty (30) days from the date of Seller's completion of such work have not elapsed, Purchaser shall immediately notify Seller, within seven (7) calendar days from the date of such discovery(ies). Notification must be made by telephone contact, immediately followed by written confirmation within twenty-four (24) hours. If additional configuration is needed and timely notification is given to Seller as provided under this agreement and if Seller conducts the additional configuration or upgrading, Purchaser shall immediately compensate Seller for the labor and material required to make the system functional.

16. ADMINISTRATIVE PROVISIONS:

a. Changes. This agreement may be amended at the request of either party from time to time by written Change Order signed by both parties, setting forth the particular changes to be made and the effect of such changes on the price and on the time of completion, subject to Seller's approval. A charge may be made for changes in drawings and/or specifications after Purchaser and Seller have previously agreed upon same. The total charge will include order reprocessing costs, additional material and labor costs. The total charge for these changes will be agreed to after receipt of written Purchaser authorization or direction for these changes.

b. Record keeping. Purchaser is responsible to keep daily accurate inventory records on products stored in tanks, lines, and dispensing equipment. In the event of a shortage or leakage within seven (7) calendar days from date of installation, Purchaser shall immediately notify Seller. In no event shall Seller be responsible for shortages, clean-up or related costs incurred for said shortages or leakages prior to notification. Notification must be made by telephone contact, immediately followed by written confirmation within twenty-four (24) hours.

c. Contingencies. Seller shall be excused from performance under this agreement and will have no liability for any period it is prevented from performing any of its obligations, in whole or in part, as a result of delays caused by Purchaser or a third party or by and act of God, war, civil disturbance, fire, flood, frost, manufacturers' production schedules, installation schedules and coordination of trades, delays in transportation, acts of government agencies, accidents, court order, labor dispute, third party performance or nonperformance, or other cause beyond Seller's reasonable control, including failures and fluctuations in electrical power, heat, light, or telecommunications, and such nonperformance shall not be a default hereunder, or grounds for termination of this agreement. In no event shall an event of force majeure excuse the Purchaser from making any payment due hereunder.

d. Seller may take photographs (electronic and still) and video recording of all aspects of excavation and installation.

17. ENFORCEABILITY / SEVERABILITY, NON-WAIVER AND NON-ASSIGNABILITY: If any of the provisions hereof shall be deemed unenforceable by reason of law or court ruling, the remaining provisions shall be deemed enforceable. Any waiver of a breach of this agreement shall not be construed as a waiver of any other breach. Purchaser may not assign this agreement or any rights hereunder, in whole or part, without the prior written consent of Seller.

18. MANDATORY MEDIATION AND CHOICE OF LAW AND FORUM. ANY DISPUTE INVOLVING THE ENFORCEMENT OR INTERPRETATION OF THIS AGREEMENT IS SUBJECT TO MANDATORY, NON-BINDING MEDIATION UNDER THE CONSTRUCTION INDUSTRY MEDIATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION, THE COST OF WHICH IS TO BE BORNE BY THE PARTIES EQUALLY, PRIOR TO EITHER PARTY PURSUING ARBITRATION AS REQUIRED UNDER THIS AGREEMENT. THE PLACE OF THE MEDIATION SHALL BE IN HIDALGO COUNTY, TEXAS. All other provisions hereof and of all resulting orders are to be governed and construed under the laws of the State of Texas, and the courts of said state shall have sole jurisdiction over any dispute concerning this agreement.

19. ARBITRATION. THE PARTIES FURTHER AGREE AS FOLLOWS:(a) UPON WRITTEN NOTICE BY SELLER OR PURCHASER TO THE OTHER, ANY AND ALL CONTROVERSIES BETWEEN THE PARTIES SHALL BE RESOLVED BY ARBITRATION IN ACCORDANCE WITH THE CONSTRUCTION INDUSTRY ARBITRATION ASSOCIATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION IN EFFECT AT THE TIME OF FILING, UNLESS THE CONSTRUCTION INDUSTRY ARBITRATION RULES CONFLICT WITH THIS PROVISION, AND IN SUCH EVENT THE TERMS OF THIS PROVISION SHALL CONTROL. ANY ARBITRATION HEREUNDER SHALL BE BEFORE AT LEAST THREE ARBITRATORS ASSOCIATED WITH THE AMERICAN ARBITRATION ASSOCIATION AND SELECTED IN ACCORDANCE WITH THE CONSTRUCTION INDUSTRY ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION. THE AWARD OF THE ARBITRATORS, OR A MAJORITY OF THEM, SHALL BE FINAL, AND JUDGEMENT UPON THE AWARD RENDERED MAY BE ENTERED IN ANY COURT, STATE OR FEDERAL, HAVING JURISDICTION. ERRORS OF LAW SHALL BE AN ADDITIONAL GROUND FOR VACATUR OF AN AWARD RENDERED PURSUANT TO THIS PROVISION.

(b) ARBITRABLE DISPUTES INCLUDE ANY AND ALL CONTROVERSIES OR CLAIMS BETWEEN THE PARTIES OF WHATEVER TYPE OR MANNER, INCLUDING WITHOUT LIMITATION, ANY CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, ALL PAST, PRESENT AND/OR FUTURE AGREEMENTS INVOLVING THE PARTIES, ANY TRANSACTIONS BETWEEN OR INVOLVING THE PARTIES, AND/OR ANY ASPECT OF ANY PAST OR PRESENT RELATIONSHIP OF THE PARTIES, SPECIFICALLY INCLUDING ANY ALLEGED TORT COMMITTED BY ANY PARTY.

(c) DEPOSITIONS MAY BE TAKEN AND OTHER DISCOVERY OBTAINED IN ANY ARBITRATION UNDER THIS PROVISION. WITHIN THIRTY (30) DAYS OF THE DATE A RESPONSIVE PLEADING IS FILED IN AN ARBITRATION PROCEEDING HEREUNDER, ALL PARTIES SHALL SERVE ON ALL OTHER PARTIES AN INITIAL DISCLOSURE AS WOULD BE REQUIRED BY RULE 26, FEDERAL RULES OF CIVIL PROCEDURE.

(d) FOR THE PURPOSES OF THIS PROVISION, "THE PARTIES" MEANS SELLER AND PURCHASER, AND ALL PERSONS AND ENTITIES SIGNING THIS AGREEMENT OR ANY OTHER AGREEMENTS EXECUTED HERETOFORE OR CONTEMPORANEOUSLY WITH AND AS PART OF THE SAME TRANSACTION WITH THIS AGREEMENT. "THE PARTIES" SHALL ALSO INCLUDE INDIVIDUAL PARTNERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND/OR REPRESENTATIVES OF ANY PARTY TO THOSE DOCUMENTS.

(e) THE PARTIES SHALL HAVE THE RIGHT TO INVOKE SELF-HELP REMEDIES (SUCH AS SET-OFF, SEIZURE AND/OR FORECLOSURE) BEFORE, DURING OR AFTER ANY ARBITRATION AND/OR PERFORMANCE, RECEIVER, INJUNCTION OR RESTRAINING ORDER, AND SEQUESTRATION) BEFORE OR AFTER ANY ARBITRATION. THE PARTIES NEED NOT AWAIT THE OUTCOME OF THE ARBITRATION BEFORE USING SELF-HELP REMEDIES. USE OF SELF-HELP OR ANCILLARY AND/OR PROVISIONAL JUDICIAL REMEDIES SHALL NOT OPERATE AS A WAIVER OF EITHER PARTY'S RIGHT TO COMPEL ARBITRATION.

(f) THE PARTIES AGREE THAT ANY ACTION REGARDING ANY CONTROVERSY BETWEEN THE PARTIES SHALL EITHER BE BROUGHT BY ARBITRATION, AS DESCRIBED HEREIN, OR BY JUDICIAL PROCEEDINGS, BUT SHALL NOT BE PURSUED SIMULTANEOUSLY IN DIFFERENT OR ALTERNATIVE FORUMS. A TIMELY WRITTEN NOTICE OF INTENT TO ARBITRATE PURSUANT TO THIS AGREEMENT STAYS AND/OR ABATES ANY AND ALL ACTION IN A TRIAL COURT, SAVE AND EXCEPT A HEARING ON A MOTION TO COMPEL ARBITRATION AND/OR THE ENTRY OF AN ORDER COMPELLING ARBITRATION AND STAYING AND/OR ABATING THE LITIGATION PENDING THE FILING OF THE FINAL AWARD OF THE ARBITRATORS.

(g) ANY AGGRIEVED PARTY SHALL SERVE A WRITTEN NOTICE OF INTENT TO ARBITRATE TO ANY AND ALL OPPOSING PARTIES WITHIN 360 DAYS AFTER DISPUTE HAS ARISEN. A DISPUTE IS DEFINED TO HAVE ARISEN ONLY UPON RECEIPT OF SERVICE OF JUDICIAL PROCESS OR OF A COMPLAINT IN ARBITRATION. FAILURE TO SERVE A WRITTEN NOTICE OF INTENT TO ARBITRATE WITHIN THE TIME SPECIFIED ABOVE SHALL BE DEEMED A WAIVER OF THE AGGRIEVED PARTY'S RIGHT TO COMPEL ARBITRATION OF SUCH CLAIM. THE ISSUE OF WAIVER PURSUANT TO THIS AGREEMENT IS AN ARBITRABLE DISPUTE.

(h) ACTIVE PARTICIPATION IN PENDING LITIGATION DURING THE 360 DAY NOTICE PERIOD, WHETHER AS PLAINTIFF OR DEFENDANT, IS NOT A WAIVER OF THE RIGHT TO COMPEL ARBITRATION. ALL DISCOVERY OBTAINED IN THE PENDING LITIGATION MAY BE USED IN ANY SUBSEQUENT ARBITRATION PROCEEDING.

(i) THE PARTIES FURTHER AGREE THAT (i) NO ARBITRATION PROCEEDING SHALL BE CERTIFIED AS A CLASS ACTION OR PROCEED AS A CLASS ACTION, AND (ii) NO ARBITRATION PROCEEDING HEREUNDER SHALL BE CONSOLIDATED WITH, OR JOINED IN ANY WAY WITH, ANY OTHER ARBITRATION PROCEEDING.

(j) ANY ARBITRATOR SELECTED SHALL BE KNOWLEDGEABLE IN THE SUBJECT MATTER OF THE DISPUTE. EACH OF THE PARTIES SHALL PAY AN EQUAL SHARE OF THE ARBITRATION COSTS, FEES, EXPENSES, AND OF THE ARBITRATORS' FEES, COSTS, AND EXPENSES.

(k) ALL STATUTES OF LIMITATIONS WHICH WOULD OTHERWISE BE APPLICABLE SHALL APPLY TO ANY ARBITRATION PROCEEDING HEREUNDER AND THE COMMENCEMENT OF ANY ARBITRATION PROCEEDING TOLLS SUCH LIMITATIONS.

(l) IN ANY ARBITRATION PROCEEDING SUBJECT TO THIS PROVISION, THE ARBITRATORS, OR MAJORITY OF THEM, ARE SPECIFICALLY EMPOWERED TO DECIDE (BY DOCUMENTS ONLY, OR WITH A HEARING, AT THE ARBITRATORS' SOLE DISCRETION) PRE-HEARING MOTIONS WHICH ARE SUBSTANTIALLY SIMILAR TO PRE-HEARING MOTIONS TO DISMISS AND MOTIONS FOR SUMMARY ADJUDICATION.

(m) THIS ARBITRATION PROVISION SHALL SURVIVE ANY TERMINATION, AMENDMENT, OR EXPIRATION OF THE AGREEMENT IN WHICH THIS PROVISION IS CONTAINED, UNLESS ALL OF THE PARTIES OTHERWISE EXPRESSLY AGREE IN WRITING.

(n) THE ARBITRATORS, OR A MAJORITY OF THEM, SHALL AWARD ATTORNEY'S FEES AND ARBITRATION COSTS TO THE PREVAILING PARTY PURSUANT TO THE TERMS OF THIS AGREEMENT.

(o) VENUE OF ANY ARBITRATION PROCEEDING HEREUNDER SHALL BE IN HIDALGO COUNTY, TEXAS.

THE PARTIES MAY AGREE IN WRITING TO USE A DIFFERENT ARBITRATION GROUP BESIDES THE AMERICAN ARBITRATION ASSOCIATION.

20. ENTIRE AGREEMENT: This Agreement constitutes the entire understanding of the parties, and there are no representations, warranties or undertakings made other than as set forth herein; however, this agreement is subject to revision and may not be the final project cost. This agreement is further binding between the parties for all labor performed, materials supplied and/or work completed between the parties whether or not such work is included within the scope of the Work as defined herein this Agreement.

Acceptance: The above prices, specifications and conditions included and detailed above have been read and are hereby accepted, including the statement concerning this project is not a "lump sum" project. Purchaser is responsible for all sales, use and other governmental taxes and charges, which are not included in the price unless expressly stated. You are authorized to do the work as specified. Payment will be made as outlined above. Seller may revoke this offer before acceptance.

IN WITNESS THEREOF, THE PARTIES HAVE CAUSED THIS AGREEMENT TO BE EXECUTED BY THEIR DULY AUTHORIZED REPRESENTATIVES. This agreement is subject to revision and may not be the final project cost. Additions or deletions as defined by the owner will reflect the final project cost.

THIS OFFER MAY BE WITHDRAWN OR REVISED BY PETROLEUM SOLUTIONS, INC. IF NOT ACCEPTED WITHIN 7 DAYS OF THE DATE OF PETROLEUM SOLUTIONS, INC.'S SIGNATURE BELOW.

PETROLEUM SOLUTIONS, INC.

By: Ralph Larribas _____

PRINT NAME Ralph Larribas

Title: Sales Representative

DATE: 2/18/2013

ACCEPTED FOR: _____

(Company Name)

By: _____

Printed Name: _____

Title: _____

Date: _____

Phone Number: _____

FAX NUMBER: _____

Billing Address: _____

CITY: _____

STATE: _____

ZIP CODE _____