

**FAUQUIER COUNTY GOVERNMENT AND PUBLIC SCHOOLS
CONTRACT SS-40-18smc
School Bus Fuel Site, Northern Fauquier**

This refueling service contract is made and entered into this 2nd day of **November, 2017**, by and between the County of Fauquier and the Fauquier County School Board, political subdivisions of the Commonwealth of Virginia, (individually referred to as "County" or "School Board" and collectively referred to as "OWNER") and Morgan Oil Corporation, having its principal place of business at 4195 Whiting Road, Marshall, Virginia 20116, (hereinafter referred to as "MOC").

WITNESSETH:

WHEREAS, MOC is engaged in the business of providing self-service refueling services and represents that it has the background and expertise necessary to provide the outlined services; and

WHEREAS, the OWNER and MOC wish to document their agreement concerning the respective obligations of the parties,

NOW THEREFORE, in consideration of the promises and mutual covenants contained herein, the MOC and the OWNER agree as follows:

SECTION 1: SCOPE OF SERVICES

OWNER shall have the right to use MOC's self-service refueling facility located at 4195 Whiting Road, Marshall, Virginia on a 24-hour, 7-day per week basis, for School Bus fueling, only. MOC shall provide at the refueling facility, Ultra Low Sulfur Diesel (ULSD) fuel as noted in 1.1, below. Fuel shall be dispensed through an automated dispensing system using a card system to capture daily transaction information. MOC shall provide the initial number of required refueling cards specified by OWNER; at this time it is estimated that up to twenty-five (25) cards are needed but the average amount of buses using the site should range from 20-25, total. MOC shall provide a house card that will be kept by the FCPS Lead Driver for this area; this card will be used for fueling substitute buses that do not normally fuel at the Northern/MOC site and, used for emergencies. (Although MOC fuel pumps may be available 24/7, the House Card must also be available 24/7 hence FCPS Lead Driver possession of card). All Northern bus drivers' PIN's will need to authorize the "house card". Additionally, MOC shall explain the fueling procedure for their site, to the Northern Lead Bus Driver, so they can train other drivers on the process.

- 1.1 USLD Specifications/ Standards: Diesel Fuel as provided herein must meet ASTM D975 standards with a minimum 45 Cetane rating. Diesel USLD Winter Blend: The MOC shall provide Diesel Winter Blend which must include a chemical additive that is in accordance with federally mandated requirements. The OWNER will not accept Fuel Oil #4 (Kerosene) as the additive used in the winter blend. The winter blend is required from October 15th to March 15th; if other than that timeframe, the Fleet Manager will determine when the Winter Blend is required and will make the MOC aware of the requirement at the time that their orders are placed.

SECTION 2: CONTRACT PERIOD

The contract period shall commence November 1, 2017 and expire October 31, 2018. It is understood that initially it may take a week or so to get cards into the Owner's possession so, actual fueling may not commence until the week of November 6, 2017, depending on card distribution. This contract may be renewed for four (4) additional one year terms upon written notice of OWNER to MOC of renewal, which notice shall be given not later than sixty days prior to the expiration of the contract period.

SECTION 3: DATA SUBMITTAL

- 3.1 A report documenting daily fuel transactions (sample page of Fuel Transition Detail Report – Sorted by Equipment Number attached as last two pages of the contract) for the OWNER’s Fleet Maintenance account shall be submitted to Fauquier County Fleet Maintenance Department no later than **10:00 A.M. Monday through Friday** for the previous day’s activity. Saturday, Sunday and holiday transactions shall be captured in the next business day report. These reports shall be delivered either electronically, via e-mail, or hand-delivered by MOC. A flat file of the weekly data is not required; a weekly e-mail in the format of the sample provided, shall suffice. *The “Employee code” noted on the sample report, is the Northern Bus Driver’s PIN number.*
- 3.2 For consistency with other fuel contracts relative to auditing of fuel, whereby other fuel contractors provide similar daily fuel reports, MOC shall furnish the Owner with a copy of the OPIS report pages that shows the clearly marked and applicable weekly Rack pricing for ULSD fuels. This weekly report page shall accompany the applicable daily transaction report that shall arrive no later than 10:00 A.M. Monday through Friday.
- 3.3 MOC shall furnish the OWNER with an annual report listing by account, total gallons and type purchased for the year, and total dollars expended. This annual report shall be generated at the end of each contract period (June), unless otherwise requested by the OWNER.

SECTION 4: FEES AND PAYMENT:

- 4.1 **Fees:** The MOC agrees to provide fuel based on the “OPIS” price plus fourteen cents (\$.140) per gallon, using the daily Rack average pricing based on the Fairfax Terminal. Prices will be adjusted daily upon receipt of the new price listing from “OPIS” submitted by MOC to the Owner by 10:00 A.M. daily. Replacement refueling cards will be charged at \$5.00 per card. Initial refueling cards or replacement cards for a new dispensing system shall be provided at “No Charge”.
- 4.2 **Method of Payment:** Invoices shall be submitted to the OWNER weekly with payment being made within thirty (30) days from receipt of proper invoice. The MOC shall deliver invoices by mail, email or in person only.

SECTION 5: ADDITIONAL PROVISIONS

- 5.1 **MOC’s Responsibilities:** The MOC shall be responsible for completely supervising and directing the work under this contract and all subcontractors that she may utilize, using her best skill and attention. Subcontractors who perform work under this contract shall be responsible to the MOC. The MOC agrees that she is as fully responsible for the acts and omissions of her subcontractors and of persons employed by them as she is for the acts and omissions of her own employees.
- 5.2 **Applicable Law and Courts:** This contract shall be governed in all respects by the laws of the Commonwealth of Virginia, and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The MOC shall comply with applicable federal, state and local laws, rules and regulations.

5.3 **Anti-Discrimination:** The MOC shall conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and §2.2-4311 of the *Virginia Public Procurement Act*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Code of Virginia, §2.2-4343.1(1))

In every contract over \$10,000 the provisions in A and B below apply:

- A. During the performance of this contract, the MOC agrees as follows:
1. The MOC will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the MOC.
 2. The MOC, in all solicitations or advertisements for employees placed by or on behalf of the MOC, will state that such MOC is an equal opportunity employer.
 3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this Section.
- B. The MOC will include the provisions of 5.3.A.1 in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

5.4 **Compliance With Federal, State and Local Laws and Federal Immigration Law:** The MOC shall not during the performance of this contract knowingly employ an authorized alien as defined in the federal Immigration Reform and Control Act of 1986.

5.5 **Anti-trust:** By entering into a contract, the MOC conveys, sells, assigns, and transfers to the OWNER, all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the OWNER under said contract.

5.6 **Payment:**

- A. To MOC:
1. Billing shall be directed to the OWNER Using Department for which services are rendered. Invoices for items ordered, delivered and accepted shall be submitted by the MOC directly to the payment address shown on the purchase order/contract. All invoices shall show the contract number and purchase order number. Invoices shall describe product dispensed, OPIS daily base rate, differential markup and the total price per gallon times the number of gallons dispensed with a total amount on the invoice being submitted for payment.
 2. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
 3. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail.

- B. To Subcontractors:**
1. The MOC is hereby obligated:
 - (a) To pay the subcontractor(s) within seven (7) days of the MOC's receipt of payment from the OWNER for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
 - (b) To notify the OWNER and the subcontractor(s), in writing, of the MOC's intention to withhold payment and the reason.
 2. The MOC is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the MOC that remain unpaid seven days following receipt of payment from the OWNER, except for amounts withheld as stated in (b) above. The date of mailing of any payment by U.S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay any interest charge to a subcontractor may not be construed to be an obligation of the OWNER.

5.7 Assignment of Contract: A contract shall not be assignable by the MOC in whole or in part without the written consent of the Procurement Manager.

5.8 Changes to the Contract: Changes can be made to the contract in any of the following ways:

- A. The parties may agree to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract. All modifications to this contract shall be made in writing.
- B. The OWNER may order changes within the general scope of the contract at any time by written notice to the MOC. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The MOC shall comply with the notice upon receipt. The MOC shall be compensated for any additional costs incurred as the result of such order and shall give the OWNER a credit for any savings. Said compensation shall be determined by one of the following methods:
 1. By mutual agreement between the parties in writing; or
 2. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the MOC accounts for the number of units of work performed, subject to the OWNER's right to audit the MOC's records and/or determine the correct number of units independently; or
 3. By ordering the MOC to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The MOC shall present the OWNER with all vouchers and records of expenses incurred and savings realized. The OWNER shall have the right to audit the records of the MOC as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the OWNER within thirty (30) days from the date of receipt of the written order from the OWNER. If the parties fail to agree on an amount of adjustment, the questions of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for relieving disputes provided by the Disputes Clause of this contract. Neither the existence of a claim nor a dispute resolution

process, litigation or any other provision of this contract shall excuse the MOC from promptly complying with the changes ordered by the OWNER or with the performance of the contract generally.

- 5.9 **Default:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the OWNER, after due oral or written notice, may procure them from other sources and hold the MOC responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the OWNER may have.
- 5.10 **Disputes:** Contractual claims, whether for money or other relief, shall be submitted in writing to the Superintendent of Schools (if the claim is against the Fauquier County School Board) or the County Administrator (if the claim is against the County of Fauquier) no later than sixty (60) days after final payment; however, written notice of the MOC's intention to file such claim shall have been given at the time of the occurrence or beginning of the Work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amount agreed due in the final payment. A written decision upon any such claims will be made by the School Board (if the claim is against the Fauquier County School Board) or the County Board of Supervisors (if the claim is against the County of Fauquier) within sixty (60) days after submittal of the claim. The MOC may not institute legal action prior to receipt of the School Board or Board of Supervisor's (whichever is applicable) decision on the claim unless the applicable party fails to render such decision within sixty (60) days. The decision of the School Board or Board of Supervisor's (as applicable) shall be final and conclusive unless the Consultant within six (6) months of the date of the final decision on a claim, initiates legal action as provided in Section 2.2-4364 of the Code of Virginia. Failure of the School Board or Board of Supervisors to render a decision within sixty (60) days shall not result in the MOC being awarded the relief claimed nor shall it result in any other relief or penalty. Should the School Board or Board of Supervisors (as applicable) fail to render a decision within sixty (60) days after submittal of the claim, the MOC may institute legal action within six (6) months after such 60-day period shall have expired, or the claim shall be deemed finally resolved. No administrative appeals procedure pursuant to Section 2.2-4365 of the Code of Virginia has been established for contractual claims under this contract.
- 5.11 **Protection of Persons and Property:**
- 5.11.1 MOC shall take every precaution at all times for the protection of persons and property, including OWNER employee's and property and its own. The MOC shall take all necessary precautions for the safety of employees and shall comply with all applicable provisions of local safety laws, ordinances, and building codes to prevent accidents or injury to persons on, about or adjacent to the premises. MOC shall maintain at all times, safeguards for the protection of employees and the public. *The MOC shall provide their spill cleanup procedures so that Northern Bus Drivers are aware of what is expected in the event of any fuel spill.*
- 5.11.2 Precaution shall be exercised at all times for the protection of person, including both employees of the MOC and OWNER's representatives, and property, belonging to both MOC and OWNER. MOC shall be responsible for any and all damage to OWNER's property or equipment caused by MOC performance; conversely, to extent permitted by law, the OWNER shall be responsible for any and all damage to MOC's property resulting from inappropriate usage of MOC's facilities.
- 5.12 **Audit:** The MOC agrees to retain all books, records and other documents relative to this contract for five (5) years after final payment, or until audited. The OWNER, its authorized

agents and/or auditors shall have full access to and the right to examine any of said materials during said period.

- 5.13 **Insurance Requirements:** By this contract, MOC certifies that it will have the insurance coverage required in Attachment A during the term of the contract. The OWNER requires MOC to furnish a compliant Certificate of Insurance within five business days of request. MOC further certifies that they will maintain the specified coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

During the period of the contract, the OWNER reserves the right to require MOC to furnish certificates of insurance for the coverage required.

- 5.14 **Termination:** Subject to the provisions below, the contract may be terminated by the OWNER upon thirty (30) days advance written notice to the other party; but if services hereunder are in progress, but not completed as of the date of termination, then this contract may be extended upon written approval of the OWNER and until said services are completed and accepted.

5.14.1 **Termination for Convenience:** In the event that the contract is terminated or canceled upon request and for the convenience of the OWNER, without the required thirty (30) days advance notice, then the OWNER shall be responsible for payment of services up to the termination date.

5.14.2 **Termination for Cause:** Termination by the OWNER for cause, default or negligence on the part of the MOC shall be excluded from the foregoing provision; termination costs, if any shall not apply. The thirty (30) days advance notice requirement is waived in the event of Termination for Cause.

5.14.3 **Termination Due to Unavailability of Funds in Succeeding Fiscal Years:** When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, the contract shall be canceled and, to the extent funds have been budgeted and appropriated, the MOC may be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the services delivered under the contract.

- 5.15 **Severability:** In the event any provision shall be adjudged or decreed to be invalid, such ruling shall not invalidate the entire Agreement but shall pertain only to the provision in question and the remaining provisions shall continue to be valid, binding and in full force and effect.

IN WITNESS WHEREOF, the parties have caused this contract to be duly executed intending to be bound thereby.

Morgan Oil Corporation

By: 

Title: CEO

Date: Nov. 7, 2017

Fauquier County and Fauquier County School Board

By: 
Susan R. Monaco, CPPB, CPPO

Title: Procurement Manager

Date: Nov. 7, 2017

DIVISION OF RISK MANAGEMENT INSURANCE CHECKLIST

Items marked "X" are required to be provided if award is made to your firm.

<u>Required</u>	<u>Coverage Required</u>	<u>Limits</u> <u>(figures denotes minimum)</u>
<u>X</u>	1. Workers' Compensation and Employers' Liability; Admitted in Virginia Employers' Liability All States Endorsement USL & H Endorsement Voluntary Compensation Endorsement Best's Guide Rating-A-VIII or better or its equivalent	1. Statutory Limits of the Commonwealth of VA Yes \$100,000/\$500,000/\$100,000 Statutory Statutory
<u>X</u>	2. Commercial General Liability General Aggregate Products/Completed Operations Personal and Advertising Injury Fire Legal Liability Best's Guide Rating-A-VIII or better or its equivalent	2. \$1,000,000 (CSL) Each Occurrence \$2,000,000 \$2,000,000 \$1,000,000 \$50,000 Per Occurrence
<u>X</u>	3. Automobile Liability Owned, Hired, Borrowed & Non-owned Motor Carrier Act End. Best's Guide Rating-A-VIII or better, or its equivalent	3. \$1,000,000 combined Single Limit Bodily Injury and Property Damage Each Occurrence (note, symbol "1" on liability coverage)
—	4. Prof. Errors and Omissions Best's Guide Rating-A-VIII or better or its equivalent	4. \$1,000,000 (CSL) Each Claim
—	5. Garage Liability	5. \$1,000,000 CSL Each Occurrence
—	6. Garage Keeper's Legal Liability Best's Guide Rating-A-VIII or better, Or its equivalent	6. a) Maximum Value of One Vehicle b) Maximum Value of All Vehicles Held by Contractor
—	7. Umbrella Liability Best's Guide Rating-A-VIII or better, or its equivalent.	7. \$1,000,000
<u>X</u>	8. Other Insurance:	
<u>X</u>	9. Auto and General Liability Policies shall be endorsed to name Fauquier County and Fauquier County Public School Board as additional insured (This coverage is primary to all other coverage The County and Schools may possess and must be shown on the certificate)	
<u>X</u>	10. The Contractor shall provide 30 days written notice of any policy cancellation for policies specified on this Checklist to Fauquier County and/or Fauquier County School Board in accordance with the timelines and stipulations in Code of Virginia Section 38.2-231.	
<u>X</u>	11. The Certificate must state Contract Number and Title.	
<u>X</u>	12. Contractor shall submit Certificate of insurance within five (5) business days from notification of award, and shall provide updated Certificates for the duration of the contract.	

OFFEROR STATEMENT

We understand the Insurance Requirements of these specifications and will comply in full.

FIRM

SIGNATURE

Revised 4/4/13, Proc/HR

RETURN THIS PAGE

(Sample Report Layout follows, next 2 pages)

Operational Cost Search Results

Search Criteria:

Records Found: 121

Records Viewable: 121

Tx Number	Eq Number	Date	Transaction Time	Fuel Type	Fuel Pum p	Quantity	Total Cost	Meters	Type	Employee Code
7	2PR012	10/14/2017	09:22:00	U	04	15.110	37.73	M 67897(Y)		
31	2PR012	09/27/2017	07:05:00	U	04	9.960	25.76	M 67657(Y)		
2	2PR012	09/14/2017	08:22:00	U	04	13.680	39.39	M 67469(A)		
19	2PR012	08/23/2017	07:01:00	U	04	9.930	24.35	M 67280	C	2012
3	2PR012	07/20/2017	13:12:00	U	04	18.800	45.59	M 66952(A)		
16	2PR012	06/29/2017	10:52:00	U	04	22.300	51.87	M 66509(A)		
9	2PR012	06/11/2017	10:19:00	U	04	15.450	36.30	M 66250(A)	C	2025
10	2PR012	05/24/2017	07:39:00	U	04	15.420	38.72	M 65970		
6	2PR012	05/09/2017	09:06:00	U	04	14.900	35.84	M 65780(A)		
33	2PR012	04/23/2017	10:14:00	U	04	15.960	40.13	M 65638(A)		
5	2PR012	04/11/2017	08:25:00	U	04	12.390	32.48	M 65720(Y)		
22	2PR012	03/26/2017	07:12:00	U	04	9.910	24.43	M 65340(A)		
41	2PR012	03/19/2017	10:00:00	U	04	10.640	26.22	M 65256(A)		
11	2PR012	03/12/2017	08:17:00	U	04	14.930	35.05	M 65125(A)		
13	2PR012	03/02/2017	11:01:00	U	04	15.550	37.40	M 64943(A)		
29	2PR012	02/15/2017	11:06:00	U	04	4.960	11.89	M 64836(A)		
9	2PR012	02/05/2017	13:42:00	U	04	10.270	26.32	M 64789		
17	2PR012	01/19/2017	09:23:00	U	04	12.740	30.33	M 64682(A)		

7	2PR012	12/22/2016	09:44:00	U	12	15.200	22.70	M 64518	3862
318	2PR012	06/27/2016	10:56:00	U	12	15.200	31.27	M 64288	1778
18	2PR012	12/20/2015	11:46:00	U	04	9.280	18.68	M 64051(A)	
18	2PR012	12/06/2015	08:56:00	U	04	5.950	12.19	M 63901(Y)	
7	2PR012	11/30/2015	15:56:00	U	04	12.510	26.03	M 63840(Y)	
11	2PR012	10/01/2015	16:30:00	U	04	3.970	9.03	M 63556	
43	2PR012	08/31/2015	12:42:00	U	04	3.690	8.22	M 63520(A)	
8	2PR012	08/03/2015	13:43:00	U	04	9.280	23.76	M 63412(A)	
3	2PR012	07/12/2015	07:33:00	U	04	10.070	27.64	M 63320(A)	
7	2PR012	06/07/2015	08:30:00	U	04	8.310	22.95	M 63244(A)	
7	2PR012	05/24/2015	11:20:00	U	04	13.780	38.51	M 63417	05/27/2015 001 001
44	2PR012	05/02/2015	10:44:00	U	04	13.010	35.30	M 62898	05/05/2015 001 001
23	2PR012	04/19/2015	08:55:00	U	04	15.050	39.15	M 62763	04/23/2015 001 001
3	2PR012	04/09/2015	07:17:00	U	04	14.060	33.90	M 62544	04/16/2015 001 001
9	2PR012	03/01/2015	09:35:00	U	04	10.500	25.03	M 62366	03/03/2015 001 001
20	2PR012	02/10/2015	14:06:00	U	04	16.160	35.67	M 62267	02/11/2015 001 001
9	2PR012	12/16/2014	10:29:00	U	04	3.780	8.08	M 62154	12/22/2014 001 001
10	2PR012	10/14/2014	13:11:00	U	04	15.160	41.06	M 61973	10/16/2014 001 001
13	2PR012	09/23/2014	10:28:00	U	04	14.240	43.86	M 61777	10/02/2014 001 001
8	2PR012	07/25/2014	09:26:00	U	04	10.830	34.07	M 61673	07/31/2014 001 001
9	2PR012	07/16/2014	11:14:00	U	04	14.280	45.72	M 61555	07/23/2014 001 001