

*****INVITATION TO BIDDERS*****

NOTICE IS HEREBY GIVEN THAT THE BOARD OF PUBLIC WORKS (BPW) OF THE CITY OF BLOOMINGTON, INDIANA (City) WILL RECEIVE SEALED BIDS FOR UNLEADED AND DIESEL FUEL. THE CITY PURCHASES APPROXIMATELY 160,000 GALLONS OF UNLEADED FUEL AND 115,000 GALLONS OF DIESEL FUEL PER YEAR.

All sealed bids shall be received in the City's Customer Service Office, Suite 120, in the Shower's Building, 401 North Morton Street, Bloomington, Indiana, at or before 5:00 p.m. local time on Tuesday, September 23, 2014. Bids will be publicly opened and read aloud by the Board of Public Works at their September 23, 2014, meeting at 5:30 p.m. in the City Hall Council Chambers. Any bids received after this designated time will be returned unopened. Bids will be reviewed and the award(s) may be made at that or a subsequent meeting of the Board of Public Works.

Specifications and all necessary bid forms may be obtained at the following location:

www.bloomington.in.gov/rfp

Each bidder shall file with his/her sealed proposal all documents required by the City and the State of Indiana, as set forth in the Instructions to Bidders. No bid bond shall be required.

Each bidder for contracts over \$10,000 must submit their written Affirmative Action Plan to the City **AT LEAST TWENTY-FOUR HOURS BEFORE THE BIDDING DEADLINE**. Each bidder must insure that all employees and applicants for employment are not discriminated against because of any race, religion, color, sex, national origin, ancestry or disability. All the protected classes must be included in your Affirmative Action Plan for it to be acceptable. In addition to other requirements, your Plan **MUST** include a workforce breakdown, an internal grievance procedure for implementation of the Plan, specific plans for recruitment of minorities, equal access to training programs, a non-retaliation statement, and an explanation of your methods of communicating the operations of Affirmative Action Plan to your employees and prospective recruits.

You should submit your Plan **SEPARATELY** from the sealed bid. The Contract Compliance Officer for the City of Bloomington is Barbara McKinney. **EACH BIDDER SHALL REVIEW HIS/HER AFFIRMATIVE ACTION PLAN WITH MS. MCKINNEY WELL IN ADVANCE OF THE BIDDING DEADLINE**. Her telephone number is (812) 349-3429. Her office hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday. **EACH BIDDER'S WORKFORCE BREAKDOWN FIGURES MUST BE UPDATED EVERY SIX MONTHS**. BIDDERS WHO FAIL TO SUBMIT ACCEPTABLE PLANS ARE SUBJECT TO DISQUALIFICATION.

The Board of Public Works reserves the right to waive any informality and to accept or reject any or all bids submitted. The Board intends to accept all responsible and responsive bids.

Bids may be held by the Board of Public Works for a period not to exceed sixty (60) days from the date of the opening of bids for the purpose of reviewing the bids and investigating the qualifications of the bidders prior to awarding contracts.

BOARD OF PUBLIC WORKS
CITY OF BLOOMINGTON
Charlotte Zietlow, President

Please run twice: Monday, September 8, 2014
 Monday, September 15, 2014

Invoice should be mailed to the Department of Public Works, P.O. Box 100, Bloomington, Indiana 47402.

INSTRUCTIONS TO BIDDERS

1. Bids must be submitted in a **SEALED ENVELOPE** addressed to the Board of Public Works with the return address of the bidder shown.
2. **All sealed bids are due in the City's Customer Service Office, 401 North Morton Street, Suite 120, in the Shower's Building by 5:00 P.M. on Tuesday, September 23, 2014.**
3. All bidders are required to submit their Affirmative Action Plan to the City's Contract Compliance Officer, Barbara McKinney, at least 24 hours before the bidding deadline. You must submit your Affirmative Action Plan separately from your bid. Instructions and a sample Affirmative Action Plan are included in this bid packet.
4. Please read and follow the Legal Notice, as well as all specifications, when completing the bid proposal. Should you have any questions regarding specifications, please contact the Fleet Maintenance Division of the Board of Public Works at (812) 349-3494.
5. Please return the following at least 24 hours before the bidding deadline:
 - a. Affirmative Action Plan
 - b. Workforce Breakdown Form
6. Please return the following in your sealed bids by Tuesday, September 23, 2014, at 5:00 P.M.:
 - a. Agreement for Purchase and Delivery of Fuel with your information filled into the supplier fields on page 5.
 - b. Bid, Offer or Proposal for Sale or Lease of Materials Form
 - c. Proof of insurance as stated in the Bid Specifications
 - d. E-Verify Affidavit
 - e. No Investment in Iran Affidavit



**City of Bloomington
Human Rights Commission**

2014

RE: Affirmative Action and Living Wage Ordinance

To Prospective Bidders:

Affirmative Action: All bidders with the City of Bloomington for projects in excess of \$10,000.00 must submit an affirmative action plan to my office. This plan must insure that applicants are employed and that employees are treated in a manner that provides equal employment opportunity and tends to eliminate inequality based upon race, religion, color, sex, national origin, ancestry or disability.

In addition, pursuant to the **Responsible Bidders Ordinance**, all bidders with the City of Bloomington for public work bids of \$150,000 or more must include two additional protected categories in their affirmative action plan: sexual orientation and gender identity.

Even if your company already has a plan on file with the City, you must check with me to make sure that it complies with our current requirements. If you already have a plan, but it does not cover all of the City's current requirements, you may submit a separate supplement with your plan to fill any gaps.

You must submit your written affirmative action plan (or supplement) to me at least twenty-four hours before the bid deadline. You must submit your plan to me separately from your bid. The twenty-four hours will give me sufficient time to review your and the other bidders' plans. I recommend that you submit your affirmative action plan to me earlier, if possible, so that you and I will have time to work out any problems that may be in your plan. Bidders who fail to submit acceptable plans by the deadline are subject to disqualification.

I strongly advise you to confirm with me that I have received your plan and that it meets our requirements well before the bid deadline. We will make every effort to work with you to clear up problems. But it remains your responsibility to confirm that I received your plan and that it complies with our requirements. If you fail to confirm that I received and approved your plan, you risk losing your eligibility to bid. We will be glad to provide a receipt upon request. Please let us know if you want a receipt when you submit your plan.

You must insure that all the protected classes listed above are included in your plan. In addition to other requirements, your plan **MUST** include a workforce breakdown, an internal grievance procedure, a non-retaliation statement, designation of a person by name or position who is responsible for implementing the plan, applicability to both applicants and employees,

recruitment of minorities, equal access to training programs, and an explanation of your methods of communicating the operations of your affirmative action plan to your employees and prospective applicants.

Accompanying this letter you will find the following materials:

- (1) A workforce breakdown form. You MUST submit a workforce breakdown (sometimes called a "utilization report") with your Affirmative Action plan. This form is provided for your convenience. If you already have a current form you have completed for another jurisdiction that includes the same type of information, you may substitute a copy of that form instead of using our form. Your workforce breakdown figures must be updated every six months. Even if you already have an acceptable affirmative action plan on file with my office, you should submit a new workforce breakdown each time you bid for a City Contract, to be sure we have up-to-date figures.
- (2) An affirmative action plan checklist. I will use this checklist to review your affirmative action plan. If you compare your plan with this list, you should be able to tell whether your plan fulfills the City's requirements. If you omit any of the elements on the checklist, your plan will not be approved.
- (3) Two sample affirmative action plans: one for bidders covered by the Responsible Bidders Ordinance and one for all other bidders. These may be useful if your company has never designed an affirmative action plan before. Feel free to adopt one of these plans as your own or to amend them to meet your needs.

Additional materials, such as the City of Bloomington's Contract Compliance Regulations, are available from my office upon request.

Living Wage: Also, please be aware that you may be required to comply with the Bloomington Living Wage Ordinance. Whether the LWO applies to your project depends upon the size and type of your project and the number of people you employ. If you have questions about the applicability of the LWO, click on the LWO flow chart at www.bloomington.in.gov/livingwage or call me. For 2014, the living wage for covered employees is \$12.06 an hour.

If you have any questions, contact me at (812) 349-3429 or e-mail me at mckinneb@bloomington.in.gov. My office hours are Monday through Friday, 8-5. Thank you.

Barbara E. McKinney, Human Rights Director/Contract Compliance Officer

BLOOMINGTON HUMAN RIGHTS COMMISSION
Model Affirmative Action Plan
for
Bidders Covered by Responsible Bidder Ordinance

Policy Statement

_____, Inc., declares its policy to provide equal opportunity in employment, training and advancement, and to administer its employment practices without regard to race, color, religion, sex, national origin, ancestry, disability, sexual orientation or gender identity. Our policy of nondiscrimination will prevail throughout every aspect of our employment practices, including recruitment, hiring, training and all other terms and conditions of employment. We shall implement an affirmative action plan to make it widely known that equal employment opportunities are available on the basis of individual merit. We shall survey and analyze our employment workforce annually to determine what steps, if any, are needed to conform effectively with this equal employment policy.

Responsible Officer

Mr. or Ms. _____ (or the _____ officer) is the equal employment opportunity officer for our company and is responsible for implementing this affirmative action policy.

Publication of Policy

Our employees will be made aware of our commitment to affirmative action through the following procedures:

- posting notices on employee bulletin boards,
- including our policy statement and plan in our personnel manual,
- regularly sending out notice of our policy in paycheck envelopes,
- and training supervisors to recognize discriminatory practices.

We will make potential employees aware of our policy through the following procedures:

- including the words "Equal Opportunity Employer" in all of our advertisements and notices for job openings,
- notifying employment agencies about our commitment, and
- sending notice of our policy to unions.

Implementing Our Policy

Our affirmative action plan will be implemented by widening our recruitment sources. We shall advertise in newspapers and other media that reach people in protected classes. We shall send job notices to schools with large percentages of students in the protected classes and to local groups that serve these classes.

We shall examine our hiring practices periodically to insure that we consider only job-related qualifications in filling our positions. We shall discard irrelevant educational requirements and unnecessary physical requirements. We shall retain only job-related questions on our employment application.

We shall keep affirmative action information on each applicant, but separate from his or her application. We shall keep records on our hiring decisions to evaluate the success of our affirmative action measures. We shall decide placement, duties, benefits, wages, training prospects, promotions, layoffs and terminations without regard to race, sex, religion, color, national origin, ancestry, disability, sexual orientation or gender identity.

Grievance Procedure

If an employee feels he or she has been discriminated against on the basis of race, sex, religion, color, national origin, ancestry, disability, sexual orientation or gender identity he or she may bring the complaint to his or her Immediate supervisor. If the complaint is not resolved readily at that level, he or she may submit it to _____ (personnel officer, corporate president, other) who will make a final decision on its validity. This grievance process does not preclude his or her complaining to local, state or federal civil rights agencies. We will not retaliate against an employee or applicant for voicing a grievance or for filing a complaint with the appropriate agency.

Our current workforce breakdown is shown on the attached form.

Corporate President

Date

AFFIRMATIVE ACTION PLAN CHECKLIST

NOTE: This is not an Affirmative Action Plan

Effective Date: _____

Contractor: Plan MUST Include:	Yes	No	Comments:
Policy statement of equal employment opportunity	<input type="checkbox"/>	<input type="checkbox"/>	
Covers:			
Applicants for employment	<input type="checkbox"/>	<input type="checkbox"/>	
Employees	<input type="checkbox"/>	<input type="checkbox"/>	
On basis of:			
Race	<input type="checkbox"/>	<input type="checkbox"/>	
Religion	<input type="checkbox"/>	<input type="checkbox"/>	
Color	<input type="checkbox"/>	<input type="checkbox"/>	
Sex	<input type="checkbox"/>	<input type="checkbox"/>	
National Origin	<input type="checkbox"/>	<input type="checkbox"/>	
Ancestry	<input type="checkbox"/>	<input type="checkbox"/>	
Disability	<input type="checkbox"/>	<input type="checkbox"/>	
Sexual Orientation*	<input type="checkbox"/>	<input type="checkbox"/>	
Gender Identity*	<input type="checkbox"/>	<input type="checkbox"/>	
Designates a person responsible for implementation of the Plan	<input type="checkbox"/>	<input type="checkbox"/>	
Provides for communication of the policy:			
Within the Organization	<input type="checkbox"/>	<input type="checkbox"/>	
Outside the Organization (e.g., recruitment sources, unions)	<input type="checkbox"/>	<input type="checkbox"/>	
Applies to all terms and conditions of employment (e.g., hiring, placement, promotion, duties, wages, benefits, use of facilities, layoff, discipline, termination)	<input type="checkbox"/>	<input type="checkbox"/>	
Provision for: Recruitment from minority groups	<input type="checkbox"/>	<input type="checkbox"/>	
Provision for: Equal access to training programs	<input type="checkbox"/>	<input type="checkbox"/>	
Grievance Procedure	<input type="checkbox"/>	<input type="checkbox"/>	
Prohibits retaliation for filing grievances	<input type="checkbox"/>	<input type="checkbox"/>	
Workforce Breakdown (figures up to date within 6 months)	<input type="checkbox"/>	<input type="checkbox"/>	

**BID SPECIFICATIONS
FOR THE CITY OF BLOOMINGTON'S PURCHASE OF
UNLEADED AND DIESEL FUEL**

Introduction

The intent of this bid is to establish the general specifications for supplying the City of Bloomington (City) with both unleaded and diesel fuel. The bids submitted shall incorporate all features listed in this Specification.

I. Instruction for Bidders

- Send pertinent questions or specifications to Mike Young at (812) 349-3494 or by email at youngm@bloomington.in.gov.
- All bids shall be properly signed and sealed. Bids shall be submitted in sealed envelopes addressed to City Department of Public Works and marked on the outside with the Bidder's name and address and with the following statement in red: "Sealed Proposal Authorized Opening Only."
- Bids shall be delivered to the City's Customer Service Office at 401 North Morton Street, Suite 120, Bloomington, Indiana 47404, or mailed to the following address:

City of Bloomington
Department of Public Works
P.O. Box 100
Bloomington, Indiana 47402

- The issuance of this Bid Request does not create any obligation on the part of the City to enter into any contract or undertake any financial obligations with respect to the purchase of fuel herein described.
- All bids shall be publicly opened by the Board of Public Works at their September 23, 2014, meeting at 5:30 p.m. local time in the City Hall Council Chambers.
- After evaluation of all bids received, the City Board of Public Works (BPW) anticipates that all responsible and responsive bids will be accepted in accordance with Indiana Code 5-22-17-10.
- The City reserves the right to reject any and all bids and to waive any non-conformity, whenever such actions are in its best interest, as determined solely by the City.

- Any bid received after 5:00 p.m. local time on September 23, 2014, shall be returned unopened.

II. Process for Purchasing Fuel

- Each time the City needs to purchase fuel, whether it be diesel or unleaded, all accepted bidders will be contacted via facsimile and will have an opportunity to quote their current best price for each of the following fuels within two (2) hours of receiving the facsimile:
 - ❖ 89 Midgrade Unleaded (No Ethanol)
 - ❖ 89 Midgrade Unleaded (E10)
 - ❖ 87 Low Grade (No Ethanol)
 - ❖ 87 Low Grade (E10)
 - ❖ E85
 - ❖ Diesel, with Premium 50 Cetane Minimum & 100% Soy Methyl Ester for Biodiesels
 - ❖ B20
 - ❖ B10
 - ❖ B5
 - ❖ B2
 - ❖ Premium Diesel
 - ❖ #2 Diesel, 44 Cetane Minimum Required
- If a bidder cannot provide a price for each of the above-noted fuel types, said bidder should still provide a price for any of the fuel-types it does have available. The City will award the purchase to the lowest timely quote for whichever fuel type it needs when the quote is requested.
- All bidders who receive a facsimile as described above shall return the form, whether the bidder is bidding or not. If a bidder does not return the facsimile three (3) times in a row, the City is no longer required to continue to send the form via facsimile to the bidder and the bidder's contract with the City will be deemed terminated and void.
- The Fuel Specification Sheet created by the City shall be completed and submitted with each bid.
- Bids shall not include state sales or federal taxes or trade discounts.
- The lowest timely quote, which is compliant with the specifications noted, for whichever fuel type the City needs will be awarded the purchase each time.

III. Fuel Delivery

- Request for Quote (Not an Order) Form shall be required with each fuel delivery.
- All deliveries shall be made and billed on net gallons at the time of delivery to the City.
- The bidder awarded a sale shall contact the City by phone when on site to deliver fuel.
- The bidder awarded a sale shall provide a computer generated Bill of Lading describing terminal, net gallons, and proper product delivery, and must be turned into City personnel prior to leaving City premises. The City will only pay for the net gallons of fuel received in the tanks.
- All bidders shall guarantee to make delivery of the purchased fuel by noon the following day of the City placing its order.
- Bidder shall be liable for any loss of product or damage incurred during the filling process.
- Delivered fuel shall be free of objectionable foreign material, suspended matter or similar substances likely to damage the fuel pump.

IV. Non-Negotiable Terms in Any Awarded Contract

- Bidder agrees to indemnify and hold harmless the City and its officers, agents, officials and employees for any and all claims, actions, causes of action, judgments and liens arising out of any negligent act or omission by the Bidder or any of its officers, agents, officials, employees, or subcontractors or any defect in materials or workmanship of any supply, materials, mechanism or other product or service which it or any of its officers, agents, officials, employees, or subcontractors has supplied to the City or has used in connection with the Contract and regardless of whether or not it is caused in part by a party indemnified herein under. Such indemnity shall include attorney's fees and all costs and other expenses arising there from or incurred in connection therewith and shall not be limited by reason of the enumeration of any insurance coverage required herein.
- Default: If the Bidder breaches this Agreement or fails to perform the work in an acceptable manner, he shall be considered in default. Any one or more of the following will be considered a default:

- ❖ Failure to provide the purchased fuel by noon the following day of its purchase.
 - ❖ Failure to provide the type of fuel purchased.
 - ❖ Failure to provide a Fuel Specification Sheet upon delivery of the fuel.
 - ❖ Failure to provide fuel free of objectionable foreign material, suspended matter or similar substances likely to damage a fuel pump.
 - ❖ Failure to contact Department via phone when fuel is on site.
 - ❖ If, for any other reason, the Bidder breaches the Contract or fails to carry on the work in an acceptable manner.
- The Contract may be terminated by either party upon seven (7) days written notice to the other party for any reason.
 - No portion of the Contract shall be sublet, assigned, transferred or otherwise disposed of by the Bidder except with the written consent of the City being first obtained. Consent to sublet, assign, transfer, or otherwise dispose of any portion of this Agreement shall not be construed to relieve the Bidder of any responsibility of the fulfillment of this Agreement.
 - The Bidder shall, as a prerequisite to the Contract, purchase and thereafter maintain such insurance as will protect him from the claims set forth below which may arise out of or result from the Bidder's operations under the Contract, whether such operations be by the Bidder or by anyone directly or indirectly employed by the Bidder, or by anyone for whose acts any of them may be liable:

<u>Coverage</u>	<u>Limits</u>
A. Worker's Compensation & Disability	Statutory Requirements
B. Employer's Liability Bodily Injury by Accident	\$100,000 each accident
Bodily Injury by Disease	\$500,000 policy limit
Bodily Injury by Disease	\$100,000 each employee
C. Commercial General Liability (Occurrence Basis) Bodily Injury, personal injury, property damage, contractual liability, products-completed operations, General Aggregate Limit (other than Products/Completed Operations)	\$1,000,000 per occurrence and \$2,000,000 in the aggregate
D. Comprehensive Auto Liability (single limit, owned, hired and non-owned)	\$1,000,000 each accident

- Certificates of Insurance showing such coverage then in force (but not less than the amount shown above) shall be on file with the City prior to commencement of work. These Certificates shall contain a provision that coverages afforded under the policies will not be canceled or non-renewed until at least sixty (60) days' prior written notice has been received by the City. The City shall be named as an additional insured on the Commercial General Liability and Automobile Liability. The Bidder shall agree to a waiver of subrogation on its Worker's Compensation policy.
- Bidder agrees to comply with all federal, state, and local laws, rules and regulations applicable to the Bidder in performing work pursuant to the Contract, including, but not limited to, discrimination in employment, prevailing wage laws, conflicts of interest, public notice, accounting records and requirements. The Contract shall be governed by the laws of the United States, and the State of Indiana, and by all Municipal Ordinances and Codes of the City of Bloomington. Venue of any disputes arising under the Contract shall be in the Monroe Circuit Court, Monroe County, Indiana.
- The Bidder shall not discriminate against any employee or applicant for employment, to be employed in the performance of the Contract, with respect to hire, tenure, terms, training, conditions or privileges of employment, because of race, sex, color, religion, national origin, ancestry, or disability.
- Bidder agrees that should it fail to deliver the fuel the City purchased from it, at the price quoted by the Bidder, and the City has to purchase fuel at a higher price from a different vendor, the Bidder shall reimburse the City for the additional expense the City incurred in purchasing fuel from a different vendor.

V. Other Information

- All expenses incurred in the preparation of a response to this Invitation to Bid shall be borne by the bidder.
- All submitted bids shall become the property of the City of Bloomington.
- The City is exempt from the payment of state sales and federal taxes.



CITY OF BLOOMINGTON

FLEET MAINTENANCE

REQUEST FOR QUOTE (NOT AN ORDER)

Please complete this sheet by presenting a quote for each fuel type you are capable of providing and fax to 812.349.3490

Date: _____

Time: _____

Requesting:

Fuel Type

Gallons

Location

Unleaded _____ Adams Henderson

Diesel _____ Adams Henderson

(Adams: 545 South Adams Drive Henderson: 1969 South Henderson Street)

Company: _____

Contact Name: _____ Contact Number: _____

Unleaded	Price Per Gallon
89 Midgrade	
No Ethanol	
E10	
87 Low Grade	
No Ethanol	
E10	
E85	

Diesel	Price Per Gallon
<i>With Premium 50 Cetane Minimum & 100 % Soy Methyl Ester for Biodiesels</i>	
B20	
B10	
B5	
B2	
Premium Diesel	
#2 Diesel <i>(44 Cetane Minimum Required)</i>	

PLEASE RETURN BY: _____.

Delivery must be made between 6:30am - noon on _____. If delivery needs to be made same day, please call for further instructions.

Comments: _____

Fleet Maintenance is to be contacted as to the time of delivery and Fleet Maintenance personnel must be on site during delivery.

**AGREEMENT FOR
PURCHASE AND DELIVERY OF FUEL**

This Agreement, entered into on this _____ day of _____, 2014, by and between the City of Bloomington Department of Public Works (hereinafter referred to as the "Department") and _____ (hereinafter referred to as "Supplier"),

WITNESSETH:

WHEREAS, the Department wishes to potentially purchase fuel, diesel and/or unleaded, from the Supplier;

WHEREAS, it is in the public interest that such fuel be purchased; and,

WHEREAS, the Supplier is willing and able to provide fuel to the Department;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

Article 1. Purchase of Fuel:

(a) Each time the City needs to purchase fuel, whether it be diesel or unleaded, the Supplier, along with all other suppliers under contract with the City, will be contacted via facsimile and provided the Request for Quote (Not an Order) Form, attached hereto and incorporated herein by reference as Exhibit A. All suppliers will have an opportunity to quote their current best price for each of the following fuels within two (2) hours of receiving the facsimile:

- 89 Midgrade Unleaded (No Ethanol)
- 89 Midgrade Unleaded (E10)
- 87 Low Grade (No Ethanol)
- 87 Low Grade (E10)
- E85
- Diesel, with Premium 50 Cetane Minimum & 100% Soy Methyl Ester for Biodiesels
- B20
- B10
- B5
- B2
- Premium Diesel
- #2 Diesel, 44 Cetane Minimum Required

(b) If the Supplier cannot provide a price for each of the above-noted fuel types, the Supplier shall still provide a price for any of the fuel-types it does have available. The City will

award the purchase to the lowest timely quote for whichever fuel type it needs when the quote is requested.

- (c) The Supplier shall return the above-described form, whether the Supplier is bidding or not. If the Supplier does not return the facsimile three (3) times in a row, the City is no longer required to continue to send the form via facsimile to the Supplier, and this Agreement may be deemed terminated and void with that Supplier.
- (d) The Request for Quote (Not an Order) Form, created by the City, shall be completed and submitted by the Supplier with each bid.
- (e) The Supplier shall not include state or federal taxes or trade discounts with its bid.

Article 2. Standard of Care: Supplier shall be responsible for delivery of any fuel purchased in a sufficient manner to meet high professional standards. The Department shall be the sole judge of the adequacy of Supplier's work in meeting such standards. However, the Department shall not unreasonably withhold its approval as to the adequacy of such performance. If the Supplier's performance does not meet the approval of the Department, then the Department may avail itself of its termination rights in Article 9.

Article 3. Responsibilities of the Department: The Department shall provide all necessary information regarding requirements for the fuel to be purchased. The Department shall furnish such information as expeditiously as is necessary for the orderly progress of the work, and Supplier shall be entitled to rely upon the accuracy and completeness of such information. The Department shall designate who is authorized to act on its behalf with respect to this Agreement.

Article 4. Term of Agreement: The term of this Agreement shall commence on _____, 2014, and shall continue for one year, (the "Operating Term"), expiring on _____, 2015. This Agreement may be renewed annually for an additional one-year term, provided Supplier does not give written notice to the City, at least sixty (60) days prior to the expiration of the Agreement Term, that it does not wish to renew the Agreement.

Article 5. Delivery of Fuel:

- (a) A Request for Quote (Not an Order) Form shall be required with each fuel delivery.
- (b) All deliveries shall be made and billed on net gallons at the time of delivery to the City.
- (c) The Supplier shall provide a computer generated Bill of Lading describing terminal, net gallons, and proper product delivery, and must be turned into City personnel prior to leaving City premises. The City will only pay for the net gallons of fuel received in the tanks.
- (d) The Supplier shall guarantee to make delivery of the purchased fuel by noon the following day of the City placing its order.

- (e) Supplier shall contact Department via phone when fuel delivery is on site.
- (f) The Supplier shall be liable for any loss of product or damage incurred during the filling process.
- (g) Delivered fuel shall be free of objectionable foreign material, suspended matter or similar substances likely to damage the fuel pump.

Article 6. Compensation: Upon the submittal of approved claims, via the use of a Bill of Lading, the Department shall compensate the Supplier accordingly.

Article 7. Compensation for Failure to Deliver Fuel: The Supplier agrees that should it fail to deliver the fuel the City purchased from it, at the price quoted by the Supplier, and the City has to purchase fuel at a higher price from a different vendor, the Supplier shall reimburse the City for the additional expense the City incurred in purchasing fuel from a different vendor.

Article 8. Appropriation of Funds: Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the Department are at any time not forthcoming or are insufficient, through failure of any entity, including the Department itself, to appropriate funds or otherwise, then the Department shall have the right to terminate this Agreement without penalty as set forth in Article 9 herein.

Article 9. Termination: The Agreement may be terminated for any reason by either party upon seven (7) days written notice to the other party.

Article 10. Default: If the Supplier breaches this Agreement or fails to perform the work in an acceptable manner, he shall be considered in default. Any one or more of the following will be considered a default:

- (a) Failure to provide the purchased fuel by noon the following day of its purchase.
- (b) Failure to provide the type of fuel purchased.
- (c) Failure to provide a Fuel Specification Sheet upon delivery of the fuel.
- (d) Failure to provide fuel free of objectionable foreign material, suspended matter or similar substances likely to damage a fuel pump.
- (e) Failure to contact Department via phone when fuel is on site.
- (f) If, for any other reason, the Supplier breaches the Contract or fails to carry on the work in an acceptable manner.

Article 11. Indemnification: The Supplier agrees to indemnify and hold harmless the City and its officers, agents, officials and employees for any and all claims, actions, causes of action, judgments and liens arising out of any negligent act or omission by the Supplier or any of its

officers, agents, officials, employees, or subcontractors or any defect in materials or workmanship of any supply, materials, mechanism or other product or service which it or any of its officers, agents, officials, employees, or subcontractors has supplied to the City or has used in connection with this Agreement and regardless of whether or not it is caused in part by a party indemnified herein under. Such indemnity shall include attorney's fees and all costs and other expenses arising there from or incurred in connection therewith and shall not be limited by reason of the enumeration of any insurance coverage required herein.

Article 12. Insurance: The Supplier shall, as a prerequisite to this Agreement, purchase and thereafter maintain such insurance as will protect him from the claims set forth below which may arise out of or result from the Supplier's operations under this Agreement, whether such operations be by the Supplier or by anyone directly or indirectly employed by the Supplier, or by anyone for whose acts any of them may be liable:

- (a) Workers compensation, Statutory Requirements
- (b) Employer's Liability Bodily Injury by Accident, \$100,000 each accident
- (c) Employer's Liability Bodily Injury by Disease, \$500,000 policy limit
- (d) Employer's Liability Bodily Injury by Disease, \$100,000 each employee
- (e) Commercial General Liability, \$1,000,000 per occurrence and \$2,000,000 in the aggregate
- (f) Comprehensive Auto Liability, \$1,000,000 each accident

Certificates of Insurance showing such coverage then in force (but not less than the amount shown above) shall be on file with the City prior to commencement of work. These Certificates shall contain a provision that coverages afforded under the policies will not be canceled or non-renewed until at least sixty (60) days' prior written notice has been received by the City. The City shall be named as an additional insured on the Commercial General Liability and Automobile Liability. The Supplier shall agree to a waiver of subrogation on its Worker's Compensation policy.

Article 13. Conflict of Interest: Supplier declares that it has no present interest, nor shall it acquire any interest, direct or indirect, which would conflict with this Agreement. The Supplier agrees that no person having any such interest shall be employed in the performance of this Agreement.

Article 14. Waiver: No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party's right to enforce that term. No waiver by any party of any term of this Agreement shall be considered to be a waiver of any other term or breach thereof.

Article 15. Severability: The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision to be held void. The parties further agree to amend this Agreement to replace any stricken

provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

Article 16. Assignment: Neither the Department nor the Supplier shall assign any rights or duties under this Agreement without the prior written consent of the other party; provided, however, Supplier may assign its rights to payment without the Department's consent. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement.

Article 17. Third Party Rights: Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Department and the Supplier.

Article 18. Governing Law and Venue: This Agreement shall be governed by the laws of the State of Indiana. Venue of any disputes arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

Article 19. Non-Discrimination: Supplier shall comply with City of Bloomington Ordinance 2.21.020 and all other federal, state and local laws and regulations governing non-discrimination in employment.

Article 20. Compliance with Laws: In performing the Services under this Agreement, Supplier shall comply with any and all applicable federal, state and local statutes, ordinances, plans and regulations, including any and all regulations for protection of the environment.

Article 21. Notices: Any notice required by this Agreement shall be made in writing to the addresses specified below:

Department of Public Works:

Mike Young
Department of Public Works
City of Bloomington
P. O. Box 100
Bloomington, IN 47402-0100

Supplier:

_____ (Name)
_____ (Company)
_____ (Address)
_____ (City, State, Zip)

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the Department and the Supplier.

Article 22. Intent to be Bound: The Department and the Supplier each bind itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners to the other party to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement.

Article 23. Integration and Modification: This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the Department and the Supplier. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject matter of this Agreement.

Article 24. Verification of Employees' Immigration Status: Contractor is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists). Contractor shall sign an affidavit, attached as Attachment B, affirming that Contractor does not knowingly employ an unauthorized alien. "Unauthorized alien" is defined at 8 U.S. Code 1324a(h)(3) as a person who is not a U.S. citizen or U.S. national and is not lawfully admitted for permanent residence or authorized to work in the U.S. under 8 U.S. Code Chapter 12 or by the U.S. Attorney General. Contractor and any of its subcontractors may not knowingly employ or contract with an unauthorized alien, or retain an employee or contract with a person that the Contractor or any of its subcontractors learns is an unauthorized alien. If the City obtains information that the Contractor or any of its subcontractors employs or retains an employee who is an unauthorized alien, the City shall notify the Contractor or its subcontractors of the Agreement violation and require that the violation be remedied within thirty (30) calendar days of the date of notice. If the Contractor or any of its subcontractors verify the work eligibility status of the employee in question through the E-Verify program, there is a rebuttable presumption that the Contractor or its subcontractor did not knowingly employ an unauthorized alien. If the Contractor or its subcontractor fails to remedy the violation within the thirty (30) calendar day period, the City shall terminate the Agreement, unless the City determines that terminating the Agreement would be detrimental to the public interest or public property, in which case the City may allow the Agreement to remain in effect until the City procures a new contractor. If the City terminates the Agreement, the Contractor or its subcontractor is liable to the City for actual damages.

Contractor shall require any subcontractors performing work under this Agreement to certify to the Contractor that, at the time of certification, the subcontractor does not knowingly employ or contract with an unauthorized alien and the subcontractor has enrolled in and is participating in the E-Verify program. Contractor shall maintain on file all subcontractors' certifications throughout the term of this Agreement with the City.

Article 25. No Investment in Iran: Contractor is required to certify that it does not engage in investment activities in Iran as more particularly described in Indiana Code 5-22-16.5. (This is not required if federal law ceases to authorize the adoption and enforcement of this statute.) Contractor shall sign an affidavit, attached as Attachment C, affirming that Contractor is not engaged in said investment activities. Attachment C is attached hereto and incorporated herein by reference as though fully set forth.

This Agreement may be modified only by a written amendment signed by both parties hereto.

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

City of Bloomington

Supplier

By: _____
Susie Johnson, Director
Public Works

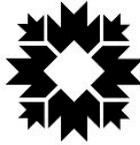
By: _____
Signature

By: _____
Mark Kruzan, Mayor

(Name of Supplier)

By: _____
Charlotte Zietlow, President
Board of Public Works

EXHIBIT A



CITY OF BLOOMINGTON

FLEET MAINTENANCE

REQUEST FOR QUOTE (NOT AN ORDER)

Please complete this sheet by presenting a quote for each fuel type you are capable of providing and fax to 812.349.3490

Date: _____ Time: _____

Requesting:

Fuel Type

Gallons

Location

Unleaded _____ Adams Henderson

Diesel _____ Adams Henderson

(Adams: 545 South Adams Drive Henderson: 1969 South Henderson Street)

Company: _____

Contact Name: _____ Contact Number: _____

Unleaded	Price Per Gallon
89 Midgrade	
No Ethanol	
E10	
87 Low Grade	
No Ethanol	
E10	
E85	

Diesel	Price Per Gallon
<i>With Premium 50 Cetane Minimum & 100 % Soy Methyl Ester for Biodiesels</i>	
B20	
B10	
B5	
B2	
Premium Diesel	
#2 Diesel (44 Cetane Minimum Required)	

PLEASE RETURN BY: _____.

Delivery must be made between 6:30am - noon on _____. If delivery needs to be made same day, please call for further instructions.

Comments: _____

Fleet Maintenance is to be contacted as to the time of delivery and Fleet Maintenance personnel must be on site during delivery.

EXHIBIT B

STATE OF _____)
) SS:
COUNTY OF _____)

AFFIDAVIT REGARDING E-VERIFY

The undersigned, being duly sworn, hereby affirms and says that:

1. The undersigned is the _____ of _____.
(job title) (company name)

2. The company named herein that employs the undersigned:
• has contracted with or is seeking to contract with the City of Bloomington to provide services; OR
• is a subcontractor on a contract to provide services to the City of Bloomington.

3. The undersigned hereby states that, to the best of his/her knowledge and belief, the company named herein does not knowingly employ an "unauthorized alien," as defined at 8 United States Code 1324a(h)(3).

4. The undersigned hereby states that, to the best of his/her knowledge and belief, the company named herein is enrolled in and participates in the E-verify program.

Signature

Printed name

STATE OF _____)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____ and acknowledged the execution of the foregoing this _____ day of _____, 2014.

Notary Public

Printed name

My Commission Expires: _____
County of Residence: _____

