

**COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
SENERGY PETROLEUM, LLC**

THIS COOPERATIVE PURCHASING AGREEMENT (this “Agreement”) is entered into as of October 15, 2015, between the Town of Fountain Hills, an Arizona municipal corporation (the “Town”), and Senergy Petroleum, LLC, an Arizona limited liability company (the “Vendor”).

RECITALS

A. After a competitive procurement process, the State of Arizona, by and through its Department of Transportation (the “State”), entered into Contract No. ADOT12-017277, dated January 31, 2012, as amended by that certain Amendment No. 1 dated October 18, 2012, with Union Distributing Company of Tucson, an Arizona corporation (“UDC”), for UDC to provide bulk fuel (collectively, the “UDC Contract”). The UDC Contract was transitioned to the State Procurement Office in January 2013, and issued Contract No. ADSPO13-037520.

B. UDC merged with Brown Evans Distributing Co. on August 1, 2013, forming Vendor. The UDC Contract was assigned to Vendor effective August 8, 2013, issued Contract No. ADSPO14-052198 and was subsequently amended by that certain Change Order No. 1, dated November 18, 2013, that certain Change Order No. 2, dated February 13, 2014, that certain Change Order No. 3, dated November 18, 2014, that certain Change Order No. 5, dated June 19, 2015, and that certain Change Order No. 6, dated September 23, 2015 (collectively, the “State Contract”). A copy of the State Contract is attached hereto as Exhibit A and incorporated herein by reference, to the extent not inconsistent with this Agreement.

C. The Town is permitted, pursuant to Section 3-3-27 of the Town Code, to make purchases under the State Contract, at its discretion and with the agreement of the awarded Vendor, and the State Contract permits its cooperative use by other public entities, including the Town.

D. The Town and the Vendor desire to enter into this Agreement for the purpose of (i) acknowledging their cooperative contractual relationship under the State Contract and this Agreement, (ii) establishing the terms and conditions by which the Vendor may provide the Town with bulk fuel, as more particularly set forth in Section 2 below on an “as-required” basis (the “Materials”) and (iii) setting the maximum aggregate amount to be expended pursuant to this Agreement related to the Materials.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Vendor hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until January 30, 2016 (the "Initial Term"), unless terminated as otherwise provided in this Agreement or the State Contract. After the expiration of the Initial Term, this Agreement may be renewed for one successive one-year term (a "Renewal Term") if (i) it is deemed in the best interests of the Town, subject to availability and appropriation of funds for renewal in the subsequent year, (ii) the term of the State Contract has not expired, (iii) at least 30 days prior to the end of the then-current term of this Agreement, the Vendor requests, in writing, to extend this Agreement for an additional one-year term and (iv) the Town approves the additional one-year term in writing (including any price adjustments approved as part of the State Contract, as evidenced by the Town Manager's signature thereon, which approval may be withheld by the Town for any reason. The Vendor's failure to seek a renewal of this Agreement shall cause this Agreement to terminate at the end of the then-current term of this Agreement; provided, however, that the Town may, at its discretion and with the agreement of the Vendor, elect to waive this requirement and renew this Agreement. The Initial Term and any Renewal Term are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

2. Purchase of Materials. This is an indefinite quantity and indefinite delivery Agreement for Materials under the terms and conditions of the State Contract. The Town does not guarantee any minimum or maximum number of purchases will be made pursuant to this Agreement. Purchases will only be made when the Town identifies a need and proper authorization and documentation have been approved. For purchase(s) determined by the Town to be appropriate for this Agreement, the Vendor shall provide the specific Materials to the Town in such quantities and configurations as may be agreed upon between the parties, in the form of a written invoice, quote, materials order or other form of written agreement describing the materials to be delivered (each, a "Materials Order"). Each Materials Order shall (i) contain a reference to this Agreement and the State Contract and (ii) be attached hereto as Exhibit B and incorporated herein by reference. A Materials Order submitted without referencing this Agreement and the State Contract will be subject to rejection. Vendor acknowledges and agrees that a Materials Order containing unauthorized exceptions, conditions, limitations, or provisions in conflict with the terms of this Agreement, other than Town's project-specific requirements, is hereby expressly declared void and shall be of no force and effect.

2.1 Inspection; Acceptance. Materials are subject to final inspection and acceptance by the Town. Materials failing to conform to the requirements of this Agreement and/or the State Contract will be held at the Vendor's risk and may be returned to the Vendor. If so returned, all costs are the responsibility of the Vendor. Upon discovery of non-conforming Materials, the Town may elect to do any or either of the following by written notice to the Vendor: (i) waive the non-conformance or (ii) bring Materials into compliance and withhold the cost of same from any payments due to the Vendor.

2.2 Cancellation. The Town reserves the right to cancel any Materials Order within a reasonable period of time after issuance. Should a Materials Order be canceled, the Town agrees to reimburse the Vendor, but only for actual and documentable costs incurred by the Vendor due to and after issuance of the Materials Order. The Town will not reimburse the Vendor for any costs incurred after receipt of the Town notice of cancellation, or for lost profits,

shipment of product prior to issuance of a Materials Order or for anything not expressly permitted pursuant to this Agreement.

3. Compensation. For the Initial Term, the Town shall pay the Vendor an aggregate amount not to exceed \$42,000.00 for the Materials at the unit rates set forth in the State Contract. Thereafter, for the subsequent Renewal Term, if any, the Town shall pay the Vendor an annual aggregate amount not to exceed \$70,000.00 for the Materials at the unit rates set forth in the State Contract. The maximum aggregate amount for this Agreement, including the Renewal Term, shall not exceed \$112,000.00.

4. Payments. The Town shall pay the Vendor monthly, based upon acceptance and delivery of Materials, and upon submission and approval of invoices. Each invoice shall (i) contain a reference to this Agreement and the State Contract and (ii) document and itemize all Materials delivered and accepted to date. The invoice statement shall include a record of materials delivered, time expended and work performed in sufficient detail to justify payment. Additionally, invoices submitted without referencing this Agreement and the State Contract will be subject to rejection and may be returned.

5. Conflict of Interest. This Agreement may be canceled by the Town pursuant to ARIZ. REV. STAT. § 38-511.

6. Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and a suit pertaining to this Agreement may be brought only in courts in Maricopa County, Arizona.

7. Agreement Subject to Appropriation. The Town is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the Town's then current fiscal year. The Town's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the Town concerning budgeted purposes and appropriation of funds. Should the Town elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the Town shall be relieved of any subsequent obligation under this Agreement. The parties agree that the Town has no obligation or duty of good faith to budget or appropriate the payment of the Town's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The Town shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The Town shall keep Vendor informed as to the availability of funds for this Agreement. The obligation of the Town to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the Town. Vendor hereby waives any and all rights to bring any claim against the Town from or relating in any way to the Town's termination of this Agreement pursuant to this section.

8. Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, any Town-approved Materials Order, the State Contract and invoices, the documents shall govern in the order listed herein. Notwithstanding the foregoing,

and in conformity with Section 2 above, unauthorized exceptions, conditions, limitations or provisions in conflict with the terms of this Agreement or the State Contract (collectively, the “Unauthorized Conditions”), other than the Town’s project-specific requirements, are expressly declared void and shall be of no force and effect. Acceptance by the Town of any Materials Order or invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement or under the State Contract shall not alter such terms and conditions or relieve Vendor from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement.

9. Rights and Privileges. To the extent provided under the State Contract, the Town shall be afforded all of the rights and privileges afforded to the State and shall be the “State” (as defined in the State Contract) for the purposes of the portions of the State Contract that are incorporated herein by reference.

10. Indemnification; Insurance. In addition to and in no way limiting the provisions set forth in Section 9 above, the Town shall be afforded all of the insurance coverage and indemnifications afforded to the State to the extent provided under the State Contract, and such insurance coverage and indemnifications shall inure and apply with equal effect to the Town under this Agreement including, but not limited to, the Vendor’s obligation to provide the indemnification and insurance. In any event, the Vendor shall indemnify, defend and hold harmless the Town and each council member, officer, employee or agent thereof (the Town and any such person being herein called an “Indemnified Party”), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys’ fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever (“Claims”), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or services of the Vendor, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement.

11. Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the Town: Town of Fountain Hills
 16705 East Avenue of the Fountains
 Fountain Hills, Arizona 85268
 Attn: Grady E. Miller, Town Manager

With copy to: GUST ROSENFELD P.L.C.
 One East Washington Street, Suite 1600
 Phoenix, Arizona 85004-2553
 Attn: Andrew J. McGuire, Esq.

If to Vendor: Senergy Petroleum, LLC
622 South 56th Avenue
Phoenix, Arizona 85043
Attn: Mark Panzica

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“Town”

TOWN OF FOUNTAIN HILLS,
an Arizona municipal corporation



Grady E. Miller, Town Manager

ATTEST:

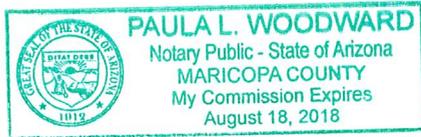


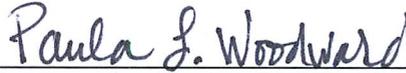
Bevelyn J. Bender, Town Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On October 15th, 2015, before me personally appeared Grady E. Miller, the Town Manager of the TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the Town of Fountain Hills.





Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

EXHIBIT A
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
SENERGY PETROLEUM, LLC

[State Contract]

See following pages.



Contract Change Order Summary

Contract No.: ADSP014-052198

Change Order No.: 06

Date: September 23, 2015

State of Arizona
State Procurement Office
100 N. 15TH Avenue, Suite 201
Phoenix, AZ 85007

The above-mentioned contract is hereby amended as follows:

- A. In accordance with the Special Terms and Conditions Section 19, Insurance Requirements, updated Insurance Certificates can be found in the attachments tab titled Senergy Bulk Fuel COI – Expires 08.01.16
- B. Shipping Line Item No. 1-100 and 104-153 NIGP Code has been changed from 405-09 or 405-15 to 962-86, Tax Line Item No. 103 NIGP Code has been changed from 405-15 to 963-79, Credit Card Fee Line Item No. 155 NIGP Code has been changed from 405-15 to 963-38, Rate for Emergency Orders Line Item No. 101 NIGP Code has changed from 405-15 to 962-86

ALL OTHER REQUIREMENTS, SPECIFICATIONS, TERMS AND CONDITIONS REMAIN UNCHANGED

ACKNOWLEDGEMENT AND AUTHORIZATION

This change order shall be fully executed upon the approval electronically in ProcureAZ by an authorized representative of the Contractor and applied to the contract by the Procurement Officer or delegate.



Contract Change Order Summary

Contract No.: ADSPO14-052198

Change Order No.: 05

Date: June 19, 2015

State of Arizona
State Procurement Office
100 N. 15TH Avenue, Suite 201
Phoenix, AZ 85007

The above mentioned contract is hereby amended as follows;

Vendor is allowing for p-card purchases. Line Item 155 has been added to account for p-card purchases. Price will be based on the OPIS weekly contract average formula, plus the adder or subtractor, plus 3.09% for credit card fees.

**ALL OTHER REQUIREMENTS, SPECIFICATIONS, TERMS AND CONDITIONS REMAIN UNCHANGED
ACKNOWLEDGEMENT AND AUTHORIZATION**

This change order shall be fully executed upon the approval electronically in ProcureAZ by an authorized representative of the Contractor and applied to the contract in ProcureAZ by the Procurement Officer or delegate.

June 16, 2015

Jennifer Wenger
Senior Procurement Specialist
Strategic Contracts
State Procurement Office
100 North 15th Avenue
Phoenix, Az. 80557

As an addendum to fuel contract ADSPO14-0521981, and in order to accommodate the State's desire to select its payment method, Senergy Petroleum LLC will continue to offer a cash/check/EFT discount price as currently contracted. An additional line item will be added as Senergy's posted price. The posted price will be based on the OPIS weekly contract average formula, plus the adder or subtractor, plus 3.09% to the invoice. The posted price is used for all other forms of payment. All other terms of the contract will remain unchanged.



Contract Change Order Summary

Contract No.: ADSPO14-052198

Change Order No.: 3

Date: November 18, 2014

Arizona Department of
Administration
State Procurement Office
100 N. 15th Avenue, Suite 201
Phoenix, AZ 85007

Bulk Fuel

Senergy Petroleum LLC

6. In accordance with Special Terms and Conditions Paragraph 2, Contract Extension, the above mentioned contract is hereby amended as follows:
- a. The term of the contract shall be extended an additional twelve (12) months through January 30, 2016.

**ALL OTHER REQUIREMENTS, SPECIFICATIONS, TERMS AND CONDITIONS REMAIN UNCHANGED
ACKNOWLEDGEMENT AND AUTHORIZATION**

This change order shall be fully executed upon the approval electronically in ProcureAZ by an authorized representative of the Contractor and applied to the contract in ProcureAZ by the Procurement Officer or delegate.



Contract Change Order Summary

Contract No.: ADSPO14-052198

Change Order No.: 02

Date: February 13, 2014

State of Arizona
State Procurement Office
100 N. 15TH Avenue, Suite 201
Phoenix, AZ 85007

Bulk Fuel Senergy Petroleum LLC

1. Change Order #2 created to add line item #154 for agencies utilizing the Receipt Method of Dollars. Line item shall read "Generic line item to be used by agencies using Receipt Method in Dollars".

ALL OTHER REQUIREMENTS, SPECIFICATIONS, TERMS AND CONDITIONS REMAIN UNCHANGED

ACKNOWLEDGEMENT

THIS CHANGE ORDER WAS PROCESSED AS A UNILATERAL CHANGE ORDER. ALL CONTRACT SPECIFICATIONS, TERMS AND CONDITIONS AND REQUIREMENTS SHALL REMAIN UNCHANGED. NO ACKNOWLEDGEMENT OR APPROVAL IS NECESSARY.



Contract Change Order Summary

Contract No.: ADSPO14-052198

Change Order No.: 01

Date: November 18, 2013

State of Arizona
State Procurement Office
100 N. 15TH Avenue, Suite 201
Phoenix, AZ 85007

Bulk Fuel

Senergy Petroleum LLC

1. In accordance with Special Terms and Conditions Paragraph 2, Contract Extension, the above mentioned contract is hereby amended as follows:

- a. The term of the contract shall be extended an additional 12 months through January 30, 2015.

ALL OTHER REQUIREMENTS, SPECIFICATIONS, TERMS AND CONDITIONS REMAIN UNCHANGED

ACKNOWLEDGEMENT AND AUTHORIZATION

This Change Order shall not be binding on the State until it is acknowledged and accepted electronically in ProcureAZ by an authorized representative of the Contractor and accepted by and authorized representative of the State.



Contract Change Order Summary

Contract No.: ADSPO13-037520

Change Order No.: 1

State of Arizona
State Procurement Office
100 N. 15TH Avenue, Suite 201
Phoenix, AZ 85007

Bulk Fuel

1. In accordance to the Consent to Assignment form (attached), Contract ADSPO13-037520 with Union Distributing Company of Tucson will now be assigned to Contract ADSPO14-052198 with Senergy Petroleum LLC.
2. All other terms, conditions and provisions remain unchanged.

ACKNOWLEDGEMENT

THIS CHANGE ORDER WAS PROCESSED AS A UNILATERAL CHANGE ORDER. ALL CONTRACT SPECIFICATIONS, TERMS AND CONDITIONS AND REQUIREMENTS REMAIN UNCHANGED. NO ACKNOWLEDGEMENT OR APPROVAL IS NECESSARY.

STATE OF ARIZONA 	CONSENT TO ASSIGNMENT	STATE OF ARIZONA
	Contract No. ADSP013-037520	State Procurement Office Department of Administration 100 N. 15th Avenue #201 Phoenix, Arizona 85007

Union Distributing Company of Tucson hereinafter referred to as the "ASSIGNOR," hereby represents and warrants that the ASSIGNOR desires to assign Contract No. ADSP013-037520 for Bulk Fuel, hereinafter the "CONTRACT" to Senergy Petroleum LLC, hereinafter referred to as the "ASSIGNEE"

ASSIGNOR warrants and represents ASSIGNOR has full right and authority to transfer the CONTRACT and the contract rights upon execution of this document.

THEREFORE, essential to the STATE consenting to the assignment of the Contract from ASSIGNOR to ASSIGNEE, ASSIGNOR and ASSIGNEE represent, warrant, and agree with the STATE to the following statements:

1. ASSIGNEE represents and warrants that:
 - (a) it has read and understands the terms and conditions of the Contract;
 - (b) it has thorough knowledge of all work performed by ASSIGNOR under the Contract; and
 - (c) any remaining work under the Contract can and shall be performed in a timely and satisfactory manner for the remaining Term of the Contract.
2. ASSIGNOR warrants and represents that the CONTRACT is in full force and effect and is fully assignable.
3. ASSIGNOR and ASSIGNEE hereby acknowledge and agree with the STATE that upon the date of signatures that neither ASSIGNOR nor ASSIGNEE have basis for filing any claim against the STATE in connection with the CONTRACT; and that no event has occurred which itself constitutes or would in the future constitute a default under the terms of the CONTRACT.
4. ASSIGNEE understands and agrees that it shall assume and be responsible for all obligations of ASSIGNOR under the CONTRACT, including but not limited to those pertaining to the quality and workmanship of all work performed by ASSIGNOR, and shall fully warrant such work in accordance with the requirements of the CONTRACT.
5. ASSIGNOR hereby releases and discharges the STATE from any and all claims and liabilities relating to or arising out of the CONTRACT. Further, ASSIGNOR understands and agrees that this consent shall not relieve ASSIGNOR of any of the obligations to be observed and performed by ASSIGNOR under the CONTRACT and that this consent shall not be construed as a waiver or limitation of any right the STATE has or may have against ASSIGNOR, and all rights of the STATE under the CONTRACT and/or under the law are expressly reserved.

As witnessed below the ASSIGNOR and ASSIGNEE have executed this Agreement.

ASSIGNOR: Union Distributing Company of Tucson

ASSIGNEE: Senergy Petroleum LLC

TIN: 10-115287-C
Taxpayer Identification Number as it appears on IRS Form W-9

TIN: 46-3658218
Taxpayer Identification Number as it appears on IRS Form W-9

By: James C. Kasikie 8-7-13
Authorized Representative Signature Date

By: [Signature] 8/7/13
Authorized Representative Signature Date

JAMES C. KASIKIE / SUPPLY MGR
Printed Name / Title

CHRIS LINDBLUM PRESIDENT & CEO
Printed Name / Title

Contract No. ADSP013-037520 is without modification and remains on the terms contained and shall hereinafter be assigned Contract No. ADSP014-052198.

The STATE hereby consents to this Assignment, effective as of this 8 day of August, 2013.

THE STATE OF ARIZONA
 DEPARTMENT OF ADMINISTRATION
 STATE PROCUREMENT OFFICE

By: [Signature] 8/8/13
Procurement Specialist Date

Procurement Specialist



Master Blanket Purchase Order ADSP014-052198

Header Information

Purchase Order Number:	ADSP014-052198	Release Number:	0	Short Description:	Bulk Fuel
Status:	3PS - Sent	Purchaser:	Jennifer Wenger	Receipt Method:	Quantity
Fiscal Year:	2014	PO Type:	Blanket	Minor Status:	
Organization:	State of Arizona	Location:	SPO - State Procurement Office	Type Code:	Statewide
Department:	ADSP0 - State Procurement Office	Entered Date:	07/17/2013 09:18:30 AM	Control Code:	
Alternate ID:	ADSP013-037520, ADOT12-017277	Retainage %:	0.00%	Discount %:	0.00%
Days ARO:	0	Print Dest Detail:	If Different	Release Type:	Direct Release
Catalog ID:		Release Type:	Direct Release	Pcard Enabled:	Yes
Contact Instructions:	jennifer.wenger@azdoa.gov	Tax Rate:		Actual Cost:	\$0.00
Master Blanket/Contract End Date (Maximum):	01/30/2017 12:59:59 PM				
Project No.:					
Building Code:					
Cost Code:					
Special Purchase Types:					
PIJ NUMBER:					
Coop Spend To Date:					
Commodity Reference Id:					
PO External Doc Type:					
Agency Attachments:	PO Terms & Conditions - OLD Solicitation ADOT12-00001284.zip 02 - Contract ADSP013-037520 - ADSP014-052198~1.zip Change Order Summary 1 - ADSP014-052198.pdf Change Order Summary 2 - ADSP014-052198.pdf ADSP014-052198 Renewal~1.pdf ADSP014-052198 Change Order 5 Summary ADSP014-052198 Change Order 6 Summary Senergy Bulk Fuel COI - Expires 8.1.16				

Vendor Attachments:

Agency Attachment Forms:

Vendor Attachment Forms:

Primary Vendor Information & PO Terms

Vendor: 000034372 - Senergy Petroleum LLC
 Mark Panzica
 622 S. 56th Ave
 Phoenix, AZ 85043
 US
 Email: mpanzica@gosenergy.com
 Phone: (602)272-6795

Payment Terms:

Shipping Terms:

Shipping Method:

Freight Terms:

PO Acknowledgements:

Alt. Reference	Notifications	Acknowledged Date/Time
20001		
Purchase Order	Emailed to mpanzica@gosenergy.com at 08/12/2013 12:43:31 PM	08/13/2013 01:51:21 PM
Change Order 1	Emailed to mpanzica@gosenergy.com at 11/18/2013 03:56:52 PM	
Change Order 2	Emailed to mpanzica@gosenergy.com at 02/13/2014 11:24:23 AM	10/28/2014 02:54:25 PM

Master Blanket/Contract Vendor Distributor List

Vendor ID	Alternative ID	Vendor Name	Preferred Delivery Method	Vendor Distributor Status
000034372	PZ000034372	Senergy Petroleum LLC	Email	Active

Master Blanket/Contract Controls

Master Blanket/Contract Begin Date: 01/31/2012 **Master Blanket/Contract End Date:** 01/30/2016
Cooperative Purchasing Allowed: Yes

Organization	Department	Dollar Limit	Dollars Spent to Date	Minimum Order Amount
ALL ORG - Organization Umbrella Master Control	AGY - Agency Umbrella Master Control	\$0.00	\$3,716,449.70	\$0.00

Item Information

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[1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#) [10](#)

Print Sequence # 1.0, Item # 129: MARICOPA COUNTY - Bulk Fuel Delivery- Unleaded - Pricing shall be submitted for quantities of 0 to 1,000 Gallons - DO NOT INCLUDE TAX 3PS - Sent

NIGP Code: 962-86
 Transportation of Goods and Other Freight Services

Receipt Method	Qty	Unit Cost	UOM	Discount %	Total Discount Amt.	Tax Rate	Tax Amount	Total Cost
Quantity	0.0	\$0.3529	GAL - Gallon	0.00	\$0.00		\$0.00	\$0.00

Manufacturer: Brand: Model:
 Make: Packaging:
 Project No.:
 Building Code:

Cost Code:
Property Number:

Print Sequence # 2.0, Item # 130: MARICOPA COUNTY - Bulk Fuel Delivery - Unleaded - Pricing shall be submitted for quantities of over 1,000 to 4,000 Gallons - DO NOT INCLUDE TAX 3PS - Sent

NIGP Code: 962-86
Transportation of Goods and Other Freight Services

Receipt Method	Qty	Unit Cost	UOM	Discount %	Total Discount Amt.	Tax Rate	Tax Amount	Total Cost
Quantity	0.0	\$0.0661	GAL - Gallon	0.00	\$0.00		\$0.00	\$0.00

Manufacturer: Brand: Model:
Make: Packaging:
Project No.:
Building Code:
Cost Code:
Property Number:

Print Sequence # 3.0, Item # 131: MARICOPA COUNTY - Bulk Fuel Delivery - Unleaded - Pricing shall be submitted for quantities of over 4,000 to 10,000 Gallons - DO NOT INCLUDE TAX 3PS - Sent

NIGP Code: 962-86
Transportation of Goods and Other Freight Services

Receipt Method	Qty	Unit Cost	UOM	Discount %	Total Discount Amt.	Tax Rate	Tax Amount	Total Cost
Quantity	0.0	-\$0.0101	GAL - Gallon	0.00	\$0.00		\$0.00	\$0.00

Manufacturer: Brand: Model:
Make: Packaging:
Project No.:
Building Code:
Cost Code:
Property Number:

Print Sequence # 4.0, Item # 132: MARICOPA COUNTY - Bulk Fuel Delivery - Unleaded Oxygenated - Pricing shall be submitted for quantities of 0 to 1, 000 Gallons - DO NOT INCLUDE TAX 3PS - Sent

NIGP Code: 962-86
Transportation of Goods and Other Freight Services

Receipt Method	Qty	Unit Cost	UOM	Discount %	Total Discount Amt.	Tax Rate	Tax Amount	Total Cost
Quantity	0.0	\$0.3529	GAL - Gallon	0.00	\$0.00		\$0.00	\$0.00

Manufacturer: Brand: Model:
Make: Packaging:
Project No.:

Building Code:
Cost Code:
Property Number:

Print Sequence # 5.0, Item # 133:		MARICOPA COUNTY - Bulk Fuel Delivery- Unleaded Oxygenated -			3PS -				
		Pricing shall be submitted for quantities of over 1,000 to 4,000 Gallons			Sent				
		- DO NOT INCLUDE TAX							
NIGP Code: <u>962-86</u>									
Transportation of Goods and Other Freight Services									
Receipt Method	Qty	Unit Cost	UOM	Discount %	Total Discount Amt.	Tax Rate	Tax Amount	Total Cost	
Quantity	0.0	\$0.0661	GAL - Gallon	0.00	\$0.00		\$0.00	\$0.00	
Manufacturer:		Brand:		Model:					
Make:		Packaging:							
Project No.:									
Building Code:									
Cost Code:									
Property Number:									

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1 2 3 4 5 6 7 8 9 10

Exit

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**CONTRACT AMENDMENT NO. ONE (1)
CONTRACT NO. ADOT12-017277**



ARIZONA DEPARTMENT OF TRANSPORTATION
Administrative Services Division
Procurement Group
1739 West Jackson Street, Suite A
Phoenix, Arizona 85007-3276
Phone: (602) 712-7211



Responsible Procurement Officer: Joseph Graves
Description: Bulk Fuel

In accordance with the provisions of the above referenced contract, the contract is amended as follows:

1. CONTRACT EXTENSION

The above contract is hereby mutually extended from January 31, 2013 through January 30, 2014 unless terminated, canceled or extended as otherwise provided in the contract.

Union Distributing Company of Tucson
ATTN:
622 S. 56th Avenue
Phoenix, AZ 85043
Telephone:
Facsimile:
E-Mail: jim@uniondistributing.com

c: File

ALL OTHER PROVISIONS OF THE CONTRACT SHALL REMAIN IN THEIR ENTIRETY.

Contractor hereby acknowledges receipt of and agreement with the amendment. A signed copy must be filed with the ADOT Procurement Office. If you need to make changes to your address, correct the address above and initial.

The above referenced Contract Amendment is hereby executed this 18th Day of OCTOBER 20 12, at Phoenix, Arizona.

James C. Kaskie 10-18-12
Signature Date

Joseph Graves
PROCUREMENT OFFICER

JAMES C. KASKIE / SUPPLY MGR.
Typed/Printed Name and Title

**ATTACHMENT 1
OFFER AND CONTRACT AWARD**



ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 W. Jackson Street Suite A - MD 100P
Phoenix, Arizona 85007
Phone: (602) 712-7211



SOLICITATION NO. ADOT12-00001284

**Submit this form with an original signature to the Department
OFFER**

TO THE STATE OF ARIZONA:

The bidder hereby offers and agrees to perform in compliance with all terms, conditions, specifications and amendments of this solicitation and any written exceptions in the offer. Signature also acknowledges receipt of all pages indicated in the Table of Contents.

Arizona State Transaction Privilege Tax License Number

No.: 10-115287-C

Federal Employer Identification

No.: 86-0556151

For clarification of this offer, contact:

James Kaskie
Printed Name

jim@uniondistributing.com
Email Address

Union Distributing Company of Tucson
Offeror's (Company) Name

622 S 56th Ave
Address

info@uniondistributing.com
Company Email Address

Phoenix AZ 85043
City State Zip

[Signature]
Signature of Person Authorized to Sign Offer

(602) 272-6795
Phone

DAVID P. LUE TH
Printed Name Date

(602) 484-9038
Facsimile

PRESIDENT
Title

ACCEPTANCE OF OFFER AND CONTRACT AWARD (FOR STATE OF ARIZONA USE ONLY)

Your bid is hereby accepted.

The contractor is now bound to perform based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the contractor's bid as accepted by the state.

This contract shall henceforth be referred to as Contract No. ADOT 12-017277.

BULK FUEL

The contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until contractor receives a purchase order document.

State of Arizona

Effective this 31st day of January 2012

[Signature]
Susanna Hernandez, CPPB
As Procurement Officer and not personally

1/27/12
Awarded Date



STATE OF ARIZONA
ARIZONA DEPARTMENT OF TRANSPORTATION
PROCUREMENT GROUP



NOTICE OF INVITATION FOR BID
SOLICITATION NUMBER: ADOT12-00001284

BID OPENING DATE : December 27, 2011 **AT 3:00 P.M. MST**

DESCRIPTION: BULK FUEL

PRE-BID CONFERENCE: A PRE-BID CONFERENCE WILL NOT BE HELD

Bid Submittal Location: State of Arizona e-Procurement System - ProcureAZ
<https://procure.az.gov/bs/login.jsp>

In accordance with A.R.S. §41-2533, Invitation For Bid for the materials or services specified will be received by the Arizona Department of Transportation Procurement Group at the above specified location until the time and date cited. Bids received by the correct time and date will be publicly posted on the State of Arizona e-Procurement System - ProcureAZ.

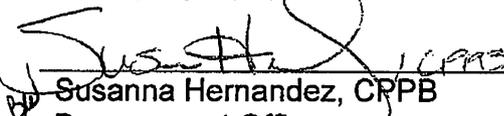
Requests for submittals after the specified date and time to the State of Arizona e-Procurement System will not be considered.

Additional instructions for preparing a bid are provided in the Uniform and Special Instructions to Offerors as contained within this solicitation.

BIDDERS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION.

Designated Agency: Arizona Department of Transportation and All Eligible Agencies
Type of Contract: Term Justifiable Adjustment Allowed – Indefinite Quantity
Term of Contract: One Year with option to extend forty-eight (48) months

Phone: 602-712-7205
Email: shernandez@azdot.gov


Susanna Hernandez, CPPB
Procurement Officer

“An Equal Employment Opportunity Agency”

The Arizona Department of Transportation is committed to the principles of Equal Employment Opportunity. To ensure dissemination of the Equal Opportunity program throughout all levels of the department, the ADOT Civil Rights Deputy Administrator serves as the Equal Opportunity Administrator for the Arizona Department of Transportation.

The Arizona Department of Transportation, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C 200d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidden that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

SECTION 1 SPECIFICATIONS

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 W. Jackson Street Suite A - MD 100P
Phoenix, Arizona 85007
Phone: (602) 712-7211

SOLICITATION NO. ADOT12-00001284

1. PURPOSE

The Arizona Department of Transportation (ADOT), on behalf of the State of Arizona (hereinafter referred to as the State), intends to establish a statewide contract for the purchase and delivery of **Bulk Fuel**, including unleaded gasoline, diesel, bio-diesel (B5, B20), Ethanol 85 (E-85), and propane (LPG); to be utilized by all State of Arizona agencies, accounts, boards and participating political subdivisions (a.k.a. eligible agencies or using agency).

2. BACKGROUND

The estimated dollar volume of fuel products purchased under the proposed contract is \$12 Million annually, based on historical usage data and anticipated volumes. This is only an estimate and the State makes no guarantee as to actual dollars spent under any resultant contract.

The State of Arizona currently utilizes a e-procurement system, ProcureAZ which allows cooperative members to purchase contracted items electronically through contractor maintained websites. It's the intent of the State to utilize the current e-procurement system, ProcureAZ for ordering of bulk fuel.

3. CONTRACTOR RESPONSIBILITIES

Contractor shall be required, upon delivery, to pump all fuels from containers into the using agency's storage tanks. It is the responsibility of the Contractor to supply pumps, hoses, etc. to appropriately pump the fuels to the storage tanks.

Contractor shall send copies of all delivery tickets as outlined in paragraph 6 of this section, to the individual identified on the using agency's purchase order via email or fax within two (2) business days of delivery.

Contractor shall ensure delivery of correct quantities ordered. Any delivery in excess of actual quantities ordered shall be refused.

Contractor shall be responsible for any damage to equipment resulting from the delivery of fuel and from fuel product.

Contractor shall be responsible for all spillage, which may occur during transit, loading or unloading operations. Definition of a spill is any amount of fuel that can puddle on the ground; also the spill bucket or spill box must be free of debris and fuel at completion of the delivery.

Contractor shall immediately report any spillage or damage to the using agency. Clean up of spillage and/or repairs to the damaged equipment shall be performed in accordance with EPA and State of Arizona guidelines. (See paragraph 7 for ADOT requirements)

Fuel delivery trucks shall at all times comply with current State of Arizona and Federal regulations pertaining to fuel vapor control.

SECTION 1 SPECIFICATIONS

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 W. Jackson Street Suite A - MD 100P
Phoenix, Arizona 85007
Phone: (602) 712-7211

SOLICITATION NO. ADOT12-00001284

4. STATE RESPONSIBILITIES

The State will ensure access to the fuel locations during normal business hours.

The State will make an effort to ensure proper staff is on site when fuel is delivered in order to sign and date fuel delivery tickets.

The State of Arizona Department of Environmental Quality (ADEQ) reserves the right to test fuels for compliance. Contractor's failure to meet fuel compliance may be cause for contract cancellation.

5. BULK FUEL DELIVERY METHOD

The method of delivery is either "Tank Wagon" "Truck", "Pump Truck" "Tanker Truck" or "Truck/Trailer" for the locations identified on **Exhibit 4, Delivery Locations.xls**. This has been determined by tank capacity, location of tanks and/or frequency of deliveries for the smaller tanks before larger tanks can accept a sizeable load.

Above ground tanks have been noted on **Exhibit 4, Delivery Locations.xls** where information was available. Contractor shall be prepared, upon delivery, for pumping into these types of tanks.

6. BULK FUEL DELIVERY TICKET

A delivery ticket which delineates the Contractor's name, address, type of fuel, grade of fuel and dip stick reading prior to unloading and following unloading shall be provided at the time of each delivery and left at each fuel site. A copy of the same delivery ticket shall be emailed or faxed to the individual listed on the using agencies' purchase order within two (2) business days of delivery. The State shall only authorize payment for the actual (net) quantity of fuel delivered to each site.

7. ARIZONA DEPARTMENT OF TRANSPORTATION REQUIREMENTS

The following requirements shall apply to the Arizona Department of Transportation (ADOT) only:

- 7.1 Specific locations listed within Exhibit 1 will require a Winter Blended Diesel Fuel with a "pour point additive" which will take it to -40° below zero from October 1st to April 1st. Splash blending is not acceptable at these sites from October 1st to April 1st.
- 7.2 Exhibit 2 summarizes locations requiring reformulated/oxygenated fuel.
- 7.3 Exhibit 3 lists aboveground tanks requiring the Contractor to provide pump with hose.
- 7.4 Contractor must contact Ruth Kish at 602-712-4808 or Lucy Carr at 602-712-6528 at ADOT Fuel Systems Management when spillage as defined in paragraph 3 of this section occurs.

**SECTION 1
SPECIFICATIONS**

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 W. Jackson Street Suite A - MD 100P
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SOLICITATION NO. ADOT12-00001284

8. FUEL SPECIFICATIONS

GASOLINE AND OXYGENATED FUELS		RESPONSE
8.1	All gasoline shall conform to American Society for Testing and Materials (ASTM) Standard Specification #D4814-01a for the State of Arizona and any ASTM revision thereafter, subject to the rules, regulations and Clean Air Act waivers of the U.S. Environmental Protection Agency (EPA), and Arizona State Statutes which require the use of reformulated oxygenated gasoline and specify maximum vapor pressures for certain areas.	<i>Agree</i>
8.2	All regular grade unleaded gasoline fuel shall have a minimum octane (RON plus MON/2) of 87.	<i>Agree</i>
8.3	All oxygenated or blended fuels shall conform to the ASTM D4814 standard specifications for the State of Arizona and meet any EPA waivers for oxygenated or blended fuels.	<i>Agree</i>
8.4	All fuels shall be blended for climatic conditions and local requirements at each delivery site, i.e. summer/winter blends.	<i>Agree</i>
8.5	Gasoline fuel shall have a maximum shelf life of one (1) year.	<i>Agree</i>
8.6	All gasoline fuel shall be guaranteed against any damage to equipment resulting from the proper use of the product.	<i>Agree</i>
DIESEL FUEL		
8.7	All diesel fuel shall conform to ASTM D975-02 standard specifications for No. 2 diesel fuel for the State of Arizona and any ASTM revisions thereafter, and EPA's Ultra Low Sulfur Diesel (ULSD) fuel standards.	<i>Agree</i>
8.8	All fuels shall be blended for climatic conditions and local requirements at each delivery site, i.e. summer/winter blends.	<i>Agree</i>
8.9	Diesel fuel shall have a maximum shelf life of one (1) year.	<i>Agree</i>
8.10	All diesel fuel shall be guaranteed against any damage to equipment resulting from the proper use of the product.	<i>Agree</i>
8.11	Winter Blended Diesel Fuel will contain a "pour point additive" which will take it to -40° below zero from October 1 st to April 1 st . Bidder shall identify type of additive offered.	<i>Agree</i>

**SECTION 1
SPECIFICATIONS**

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
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SOLICITATION NO. ADOT12-00001284

BIO-DIESEL		RESPONSE
8.12	All bio-diesel fuel shall be 100% virgin and conform to the most current published revision of their respective American Society for Testing and Materials ("ASTM") specifications. The fuel shall be of the highest quality and subject to inspection and acceptance by each entity. Any fuel of inferior quality or found to contain contamination will be rejected. The Contractor will maintain on file for the State's review Certificates of Analysis, confirming the Biodiesel's conformance to ASTM D 6751, for all Biodiesel blended into Biodiesel blends supplied under any resultant contract. Splash blending is permissible.	<i>Agree</i>
8.13	Bio-diesel shall conform to ASTM D6751 specifications for use in diesel engines.	<i>Agree</i>
8.14	Bio-diesel blends (B5, B10, B20, B100, etc) shall be delivered with a maximum tolerance of 1% plus or minus by volume of the required bio-diesel / diesel mixture.	<i>Agree</i>
8.15	All bio-diesel fuel shall conform to State and Federal standards.	<i>Agree</i>
LIQUID PROPANE GAS (LPG)		
8.16	All propane shall conform to ASTM D1835-97 standard specifications and be automotive grade, "LPG-HD5" and all State and Federal regulations.	<i>No Bid</i>
8.17	<u>Provision of tank</u> : If required, Contractor shall provide and install the appropriate sized tank (with dispenser if needed) for locations requesting propane. All requested tanks shall be new.	<i>No Bid</i>
8.18	Tanks must comply with all Federal, State and Local safety standards and code requirements.	<i>No Bid</i>
8.19	Pricing for the rental of a new tank and one dispenser (1 Gallon meter), if required, shall be based on a one-time yearly fee.	<i>No Bid</i>
8.20	Contractor shall be responsible for obtaining all permits required for installation of an above ground LPG fuel site.	<i>No Bid</i>
ETHANOL 85 (E-85)		
8.21	Ethanol products (s) shall be provided in compliance with U.S. Department of Energy, Energy Policy Act of 1992, and all State and Federal regulations and must conform to ASTM D 5798 standard specifications and any ASTM revisions thereafter.	<i>No Bid</i>

**SECTION 3
SPECIAL TERMS AND CONDITIONS**

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 W. Jackson Street Suite A - MD 100P
Phoenix, Arizona 85007
Phone: (602) 712-7211

SOLICITATION NUMBER: ADOT12-00001284

1. TERM OF CONTRACT

The term of any resultant contract shall commence on the effective day of award and shall continue for a period of twelve (12) months thereafter, unless terminated, cancelled or extended as otherwise provided herein.

2. CONTRACT EXTENSION

The State reserves the right to unilaterally extend the period of any resultant contract for thirty-one (31) days beyond the stated expiration date. In addition, by mutual written contract amendment, any resultant contract may be extended for supplemental periods of up to (48) months.

3. CHANGES

The State reserves the right to revise significant changes in the scope, character, and/or complexity of the work and may be negotiated if it is mutually agreed that such changes are desirable and necessary. Contract changes defining and limiting the work and compensation must be documented in a written Contract Amendment, as defined by A.R.S. §41-2503, R-2-7-101(15) and signed by the Procurement Officer.

4. ELIGIBLE AGENCIES

Any contract resulting from this solicitation shall be for the use of all State of Arizona departments, agencies and boards. In addition, eligible universities, political subdivisions and nonprofit educational or public health institutions may participate at their discretion. In order to participate in any resultant contract, a university, political subdivision or nonprofit educational or public health institution must have entered into a cooperative purchasing agreement with the State Procurement Office as required by Arizona Revised Statutes §41-2632.

5. NON-EXCLUSIVE CONTRACT

Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the State. The State reserves the rights to obtain like goods or services from another source when necessary. The Chief Procurement Officer may only approve off-Contract Purchase Authorization. Approval shall be at the discretion of the Chief Procurement Officer and shall be conclusive, however, approval shall be granted only after a proper review and when deemed to be appropriate. Off-contract procurement shall be consistent with the Arizona Procurement Code.

6. ORDERING PROCESS

Upon award of a contract any designated Agency may procure the specific material and/or service awarded by the issuance of a contract purchase order to the appropriate Contractor. Each contract purchase order must cite the correct contract number. The award of a contract shall be in accordance with the Arizona Procurement Code and all transactions and procedures required by the Code for public bidding shall be complied with. A contract purchase order for the awarded material and/or service that cites the correct contract number is the only document required for the using agency to order and the Contractor to deliver the material and/or service.

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Any attempts to represent any material and/or service not specifically awarded as being under contract is a violation of the contract and the Arizona Procurement Code. Any such action is subject to the legal and contractual remedies available to the State inclusive of but not limited to contract cancellation, suspension and/or debarment of the Contractor.

7. SHIPPING TERMS

Contractor shall retain title and control of all goods until they are delivered and the contract of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the Contractor. All claims for visible or concealed damage shall be filed by the Contractor. The State will notify the Contractor promptly of any damaged goods and shall assist the Contractor in arranging for inspection.

8. DELIVERY

Deliveries shall be made within 72 hours of receipt of a contract release order/purchase order.

9. BILLING/INVOICES

All billing notices or invoices shall be sent to the eligible using agency whose address appears on the purchase order as the Bill To address and should contain, at a minimum, the following information.

- Name and address of the Contractor;
- Both the contract number and purchase order number;
- The Contractor's federal tax identification number;
- The Contractor's remittance address;
- A description of the goods or services provided;
- Quantity and delivery/service timeframe;
- Itemized (if applicable) and total invoice pricing. Pricing shall be the contract price inclusive of any all-applicable discounts.

All invoices must clearly outline: type of fuel, rack price, contracted price, (plus or minus rack), and applicable taxes. Invoices showing "winter blended" fuel must clearly define the price used for each fuel, diesel 1 and diesel 2 or ULSD pricing.

Invoices not sent to the proper address, or not containing the necessary and required information may delay payment to the Contractor. A Contractor whose payments are delayed due to improper invoicing shall make no claim against the using agency or the State for late or finance charges.

The State will make every effort to process payment for the purchase of product within thirty (30) calendar days after the State has conducted the necessary reviews, and inspections as described herein. COMPLETION OF THE SERVICES PROVIDED TO THE STATE DOES NOT CONSTITUTE ACCEPTANCE, THEREFORE, ONLY THE STATE ACCEPTANCE DATE WILL BE A VALID DATE FOR STARTING THE THIRTY (30) CALENDAR DAY PAYMENT PERIOD.

**SECTION 3
SPECIAL TERMS AND CONDITIONS**

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SOLICITATION NUMBER: ADOT12-00001284

10. PRICE REDUCTION

A price reduction adjustment may be offered at any time during the term of a contract and shall become effective upon notice.

11. PRICE ADJUSTMENT

The State will review **fully documented** requests for price increase after any contract has been in effect for twelve (12) months. Fully documented means that the request shall present detailed information and calculations that make it clear how the claimed increase has an impact on the contract unit prices. All assumptions regarding cost factors that have an impact on the requested increase shall also be clearly identified and justified. The requested price increase must be based upon a cost increase that was clearly unpredictable at the time of the offer and can be shown to directly affect the price of the item concerned. Any price increase adjustment will only be made at the time of contract extension and will be a factor in the extension review process. The State will determine whether the requested price increase or an alternate option, is in the best interest of the State.

12. SAFETY STANDARDS

All items and services supplied under this contract shall comply with the current applicable Occupational Safety and Health Standards of the State of Arizona Industrial Commission, the National Electric Code, the National Fire Protection Association Standards, the Department of Environmental Quality, the Federal Drug-Free Workplace Act of 1998 41-USC§701 and Arizona Administrative Code R2-11-102 Alcoholic Beverages.

13. VENDOR REGISTRATION

Prior to issuance of a Purchase Order and subsequent payment, the Contractor shall have and maintain a completed **Substitute W-9 form, Attachment 8**, on file with the Arizona Department of Transportation Procurement Section. No payments shall be made until the forms are on file. Questions regarding the W-9 form shall be directed to Bonnie Hartley at (602) 712-8520.

14. CONTRACT ADMINISTRATION

Following award the Contractor shall contact the Arizona Department of Transportation Procurement Group for guidance or direction in matters of contract interpretation or problems regarding the terms, conditions or scope of the contract. Only the Procurement Officer or his/her authorized designee is authorized to change or amend the specific terms, conditions or provisions of the agreement.

15. NOTICES

All notices, requests, demands, consents, approvals, and other communications which may or are required to be served or given hereunder (for the purposes of this provisions collectively called "Notices"), shall be in writing and shall be sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the party or parties to receive such notice as follows:

**SECTION 3
SPECIAL TERMS AND CONDITIONS**

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 W. Jackson Street Suite A - MD 100P
Phoenix, Arizona 85007
Phone: (602) 712-7211

SOLICITATION NUMBER: ADOT12-00001284

a. If intended for the State, to:

Arizona Department of Transportation, Procurement Group
1739 W. Jackson Street, Suite A MD-100P
Phoenix, Arizona 85007-3276
Attention: Susanna Hernandez, CPPB – Procurement Officer

b. If intended for the Contractor, to:

The Contractor Name, Address, City, State, Zip, Attention:

Or to such other address as either party may from time to time furnish in writing to the other by notice hereunder. Any notice so mailed shall be deemed to have been given as of the date such notice is received as shown on the return receipt. Furthermore, such notice may be given by delivering personally such notice, if intended for the State, to the Arizona Department of Transportation, Chief Procurement Officer and, if intended for the Contractor, to the person named on the Offer & Contract Award of this contract, or to such other person as either party may from time to time furnish in writing to the other by notice hereunder. Any notice so delivered shall be deemed to have been given as of the date such notice is personally delivered to the other party.

16. CANCELLATION FOR POSSESSION OF WEAPONS ON ADOT PROPERTY

The contract may be cancelled if Contractor or any subcontractors or others in the employ or under the supervision of the Contractor or subcontractors is found to be in possession of weapons.

Possession of weapons (firearms, explosive device, knife or blade of more than three inches, or any other instrument designed for lethal or disabling use) is prohibited on ADOT property pursuant to ADOT Policy, PER 6.04, "Weapons in the Workplace." Such property includes ADOT owned or leased office building, yards, parking lots, construction sites or state owned vehicles.

Further, if the Contractor or any subcontractors or others in the employ or under the supervision of the Contractors or subcontractors are asked by an ADOT official to leave the ADOT property, they are advised that failure to comply with such a request shall result in cancellation of the contract and anyone who refuses, whether armed or not, is subject to prosecution under A.R.S. § 13-1502, "Criminal trespass in the third degree; classification."

17. CONTRABAND

Any person who takes into or out of, or attempts to take into or out of a correctional facility or the grounds belonging to or adjacent to a correctional facility, any item not specifically authorized by the correctional facility shall be prosecuted under the provisions of the Arizona Revised Statutes. All person, including employees and visitors, entering upon these confines are subject to routine searches of their person, vehicles, property or packages.

**SECTION 3
SPECIAL TERMS AND CONDITIONS**

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Phone: (602) 712-7211

SOLICITATION NUMBER: ADOT12-00001284

DEFINITION – A.R.S. §13-2501

Contraband means any dangerous drug, narcotic drug, intoxicating liquor of any kind, deadly weapon, dangerous instrument, explosive or any other article whose use or possession would endanger the safety, security, or preservation of order in a correctional facility or any person therein. (Any other article includes any substance which could cause abnormal behavior, i.e. marijuana, non-prescription medication, etc.).

PROMOTING PRISON CONTRABAND A.R.S. §13-2505

A. A person, not otherwise authorized by law, commits promoting prison contraband:

1. By knowingly taking contraband into a correctional facility or the grounds of such a facility; or
2. By knowingly conveying contraband to any person confined in a correctional facility; or
3. By knowingly making, obtaining or possessing contraband while being confined in a correctional facility.

B. Promoting prison contraband is a Class 5 Felony.

18. INDEMNIFICATION CLAUSE

The parties to this contract agree that the State of Arizona, its departments, agencies, boards, commissions and universities shall be indemnified and held harmless by the Contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

This indemnity shall not apply if the Contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

19. INSURANCE REQUIREMENTS

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The *insurance requirements* herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

**SECTION 3
SPECIAL TERMS AND CONDITIONS**

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Procurement Group
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Phoenix, Arizona 85007
Phone: (602) 712-7211

SOLICITATION NUMBER: ADOT12-00001284

Within **FIVE (5)** days of notification, the offeror shall submit a copy of the attached **Certificate of Insurance, Exhibit 5**, or a State approved alternate form showing insurance in the following amounts to:

Arizona Department of Transportation, Procurement Group
Attention: Susanna Hernandez, CPPB
1739 W. Jackson Suite A - MD 100P
Phoenix, Arizona 85007

A. MINIMUM SCOPE AND LIMITS OF INSURANCE: Contractor shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Blanket Contractual Liability – Written and Oral \$1,000,000
- Fire Legal Liability \$ 50,000
- Each Occurrence \$1,000,000

a. The policy shall be endorsed to include the following additional insured language: ***“The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor”.***

b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. Pollution Legal Liability

- Per Occurrence \$1,000,000
- Annual Aggregate \$2,000,000

a. The policy shall be endorsed to include the following additional insured language: ***“The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor”.***

b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

**SECTION 3
SPECIAL TERMS AND CONDITIONS**

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 W. Jackson Street Suite A - MD 100P
Phoenix, Arizona 85007
Phone: (602) 712-7211

SOLICITATION NUMBER: ADOT12-00001284

3. Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: **“The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor”.**
- b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

4. Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$ 500,000
Disease – Each Employee	\$ 500,000
Disease – Policy Limit	\$1,000,000

- a. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- b. This requirement shall not apply to: Separately, EACH Contractor or subcontractor exempt under A.R.S. 23-901, AND when such Contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

B. ADDITIONAL INSURANCE REQUIREMENTS: The policies shall include, or be endorsed to include, the following provisions:

- 1. The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required. Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.
- 2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.

**SECTION 3
SPECIAL TERMS AND CONDITIONS**

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 W. Jackson Street Suite A - MD 100P
Phoenix, Arizona 85007
Phone: (602) 712-7211

SOLICITATION NUMBER: ADOT12-00001284

3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. NOTICE OF CANCELLATION: Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the State of Arizona. Such notice shall be sent by certified mail, return receipt requested and shall be sent directly to:

Arizona Department of Transportation, Procurement Group
Attention: Susanna Hernandez, CPPB, Procurement Officer
1739 W. Jackson Suite A – MD 100P
Phoenix, AZ 85007

D. ACCEPTABILITY OF INSURERS: Insurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. VERIFICATION OF COVERAGE: Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to:

Arizona Department of Transportation, Procurement Group
Attention: Susanna Hernandez, CPPB
1739 W. Jackson Suite A – MD 100P
Phoenix, AZ 85007

The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT SECTION.**

F. SUBCONTRACTORS: Contractors' certificate(s) shall include all subcontractors, as insureds under its policies or Contractor shall furnish to the State of Arizona separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

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G. APPROVAL: Any modification or variation from the *insurance requirements* in this Contract shall be made by the Department of Administration, Risk Management Section, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

H. EXCEPTIONS: In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the Contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

20. LICENSES, PERMITS, CERTIFICATIONS, FEES

Contractor and any subcontractor shall at their own expense, possess or obtain, and retain in force without any violations, complaints, or suspensions during the term of this contract, all licenses, permits, certifications, or fees, which are required by law. They shall comply with all federal, state, local and tribal laws, statutes, ordinances, rules, and regulations and the acts, codes, orders, and decrees of any administrative bodies, councils, or tribunals in any manner affecting the performance of the contracted services herein.

21. PROTECTION OF FACILITIES AND GROUNDS

The Contractor shall provide the product contained herein in such a manner that does not result in damage to State and eligible using agency facilities, grounds, landscaping, utilities, or structures. In the event that damage does occur during the performance of this contract, the Contractor shall repair or replace the damage at no cost to the State or eligible using agency as specified. Should the Contractor fail or refuse to make proper repairs or replacements, the Contractor shall be liable for the cost thereof which may be deducted from unpaid invoices or by any other means provided by law.

22. PRICING

The price for all gasoline and diesel fuels shall be the margin price (in cents, to a required four decimal places) for each line item, to be added to, or subtracted from, the weekly average rack price for the type of fuel required, as published by the Oil Price Information Service (O.P.I.S.) or Butane-Propane News (BPN) for propane. The price published by O.P.I.S. each Monday shall be in effect for purchases through Saturday of that week. If O.P.I.S. does not publish a price for the type of fuel required in the current week, the most recent published price shall prevail.

The contracted pricing shall include all costs required to deliver and unload fuel into the requesting agency's storage tank.

The choice of O.P.I.S. rack (Phoenix, Tucson, etc) to be used as the resultant contract pricing basis is to be identified on **Attachment 4, Weekly Rack Indicator** and shall remain consistent for the life of the contract.

Winter Blended Diesel: The price for Winter Blend Diesel Fuel will be based on the O.P.I.S. price for ULSD; plus or minus the contract price margin.

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Propane Pricing: The price for propane shall be the margin price (in cents, to a REQUIRED four decimal places) for each line item, to be added to, or subtracted from, the Principal Average Mont Belvieu price, as published weekly by Butane-Propane News (BPN) in the "Weekly Propane Newsletter" or as published by the Oil Price Information Service (O.P.I.S.), in order to determine the actual purchase price.

The price published by BPN each Monday shall be in effect for purchases through Saturday of that week. If BPN does not publish a price for Mont Belvieu in the current week, the most recent published price shall prevail.

Pricing for the rental of a new tank and one dispenser (1 Gallon meter), if required, shall be based on a one-time yearly fee. The use of this item is optional. Requesting entity may purchase this option at their discretion.

23. USAGE REPORTS

The Contractor shall furnish the State a usage report delineating the acquisition activity governed resultant contract. The format of the report shall be approved by the State and shall disclose the quantity and the dollar value of each contract item by individual purchasing unit.

The usage report shall be due at the end of each calendar quarter as follows:

- January through March (Q1)
- April through June (Q2)
- July through September (Q3)
- October through December (Q4)

24. DELIVERY LOCATIONS

The locations listed in the Attachments Tab within ProcureAZ titled **Exhibit 4 Delivery Locations.xls** do not reflect a complete list of delivery locations. The State reserves the right to add or delete locations at any time during the term of any resulting contract.

25. FEDERAL EXCISE TAX EXEMPTION CERTIFICATE

It is understood that the exemption from tax in the case of sales of articles to state agencies or political subdivisions thereof is limited to articles purchased for use in the exercise of essential government functions, and it is agreed that where articles purchased tax-free under this exemption certificate are used for purposes other than in the exercise of essential functions, or are sold to employees or others, the State will report such facts to the Contractor.

26. INVENTORY

The State has an ongoing requirement for the fuel products indicated in Section 1, Specifications. It is an express condition of any award that a Contractor shall maintain a reasonable stock on hand for delivery to the requesting agency. Failure to maintain such a stock may result in contract cancellation.

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27. STAND-BY CHARGES

A maximum stand-by charge of \$35.00 per hour shall be allowed for the time following the first one (1) hour of the unloading period. Stand-by charges shall be allowed only if the delay is a direct cause of the State and a State employee has signed the delivery ticket to acknowledge all the stand-by charges. If the charges are not authorized, the Contractor shall not receive payment for the additional charges.

It shall be the responsibility of the Contractor to determine the type of unloading method to be used for each delivery site.

28. EMERGENCY ORDERS

During a natural disaster, or homeland security event, there may be a need for the State to access the Contractor's business for products and/or services twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year. The need could be for a pick up or a delivery. For this purpose, a primary and secondary emergency representative name and phone number are required during the term of any resultant contract. It is critical to the State this information remains current at all times. All products or services provided to meet an emergency request are to be supplied as per the contract prices, terms and conditions. The Contractor shall be compensated for an after hours emergency opening of the business, if any, at the rate identified within the Line Items Tab on ProcureAZ.

**SECTION 5
SPECIAL INSTRUCTIONS TO OFFERORS**

ARIZONA DEPARTMENT OF TRANSPORTATION
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1. OFFER SUBMISSION, DUE DATE AND TIME

Offers in response to this solicitation shall be submitted within the State's e-Procurement system, ProcureAZ (<https://procure.az.gov>). Offers shall be received before the date/time listed in the "solicitation's 'Bid Opening Date' field. Offers submitted outside ProcureAZ, or those that are received on or after the date/time stated in the "Bid Opening Date" field, shall be rejected. Questions in this regard shall be directed to the Procurement Officer or to the ProcureAZ Help Desk (procure@azdoa.gov or 602-542-7600).

1.1. Electronic Copy

One electronic copy of the bid shall be submitted in the ProcureAZ e-procurement system on the attached forms and in the acceptable format specified in the solicitation. Acceptable formats include .doc document (Microsoft Word XP or 2003), xls spreadsheet (Microsoft Excel XP or 2003) and .pdf (Adobe Acrobat portable documents format, preferred).

1.2 Electronic Documents

The Solicitation document is provided in an electronic format. Any unidentified alteration or modification to any Solicitation documents, to any attachments, exhibits, forms, charts or illustrations contained herein shall be null and void. In those instances where modifications are identified, the original document published by the State shall take precedence. As provided in the Solicitation Instructions, Offerors are responsible for clearly identifying any and all changes or modifications to any Solicitation documents upon submission to the State.

1.3 Completing and Submitting Required Attachments

If any of the Attachments are required to be completed, use the following instructions:

1.3.1 Open and save the Attachment(s) to your own computer.

1.3.2 Complete the required information; save and re-attach the completed Attachments to ProcureAZ, adding the word "Offeror" before the word "Attachment".

NOTE: ProcureAZ will not save information entered directly on an Attachment.

1.4. In addition to any submission requirements of the ProcureAZ system, attachments for this IFB shall be submitted as specified below:

1.4.1 In order to respond to this solicitation, at a minimum, the attachments listed below must be downloaded, completed & submitted electronically via the Attachments tab. Acceptable formats are Word, Excel or PDF. Further instructions for the Attachments listed below are identified in paragraph 3.3 of this section.

Attachment 1, Offer and Contract Award
Attachment 2, Product Exception or Equivalent List
Attachment 3, Service Areas
Attachment 4, Weekly Rack Indicator
Attachment 5, References
Attachment 6, Representatives
Attachment 7, Non-Collusion Affidavit
Attachment 8, Substitute W-9

**SECTION 5
SPECIAL INSTRUCTIONS TO OFFERORS**

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1.5 ProcureAZ Support

To assist Vendors in the submission of a quote/offer, ProcureAZ offers a Help Desk with email (procure@azdoa.gov) and telephone support (602) 542-7600), and a Quick Reference Guide – Responding to Solicitations, <http://www.spo.az.gov/ProcureAZ/Vendors/default.asp> . Vendors are encouraged to submit any requests for assistance in a timely manner in order to meet the bid due date and time identified on the Notice Page.

2. **QUESTIONS**

With regards to Section 4 Uniform Instructions, Item B, "Inquiries", "Submission of Inquiries", questions relating to this solicitation shall be posted on ProcureAZ in the Q&A tab of the Bid utilizing "Add New Question".

3. **PREPARATION OF BID PACKAGE**

Only the following items shall be returned with the bid package. Failure to provide all of the items and the information requested may result in a bid being rejected. Submit the bid package in the order as listed below.

3.1. **SOLICITATION AMENDMENTS**

Complete and submit all information requested and sign, if any.

3.2. **SPECIFICATIONS**

Complete and submit all information requested from **Section 1, Specifications**. A response to each Specification statement is required and is to be entered on the lines provided in the Response column. If the product conforms to the Specification, enter the word "MEETS". If the product does not conform to the Specification in each category, indicate, "DEVIATES" and state the variance from the Specification on **Attachment 2, Product Exception or Equivalent List**.

3.3. **ATTACHMENTS**

3.3.1 **OFFER AND CONTRACT AWARD**

Complete and submit all information requested on **Attachment 1**.

3.3.2 **PRODUCT EXCEPTION OR EQUIVALENT LIST**

Bidders shall identify any variations between the product/item listed and the specification offered, on **Attachment 2, Product/Item Exception or Equivalent List**, or in a separate letter included in the offer. The product/item specified herein shall be such product/items provided in the stream of commerce.

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3.3.3 SERVICE AREAS

Bidder shall indicate the counties they are willing to deliver fuel on **Attachment 3, Service Areas**. By checking a specific county, bidder agrees to service all cities within that county specified or not.

3.3.4 WEEKLY RACK INDICATOR

Bidder shall indicate their choice of rack location on **Attachment 4, Weekly Rack Indicator**. See paragraph 4 of this section for further information.

3.3.5 REFERENCES

The bidder shall, on **Attachment 5, References**, provide references from at least three (3) organizations for which services of similar size and scope have been provided within the past thirty six (36) months.

3.3.6 REPRESENTATIVES

Complete and submit all information requested on **Attachment 6, Representatives**.

3.3.7 NON-COLLUSION AFFIDAVIT

Complete and submit all information requested on **Attachment 7, Non-Collusion Affidavit**. The requested information must be notarized.

3.3.8 SUBSTITUTE W-9

Complete and submit all information requested on **Attachment 8, Substitute W-9**. The requested information is for data collection purposes only and will not be used in the evaluation of the solicitation.

4. PRICING

Pricing shall be submitted under the Line Items tab within the State's e-Procurement system, ProcureAZ (<https://procure.az.gov>).

Due to factors such as multiple delivery locations, pricing advantage, compatibility, etc, pricing shall be submitted per county.

Pricing shall be submitted by county at the quantities designated for each type of product within the Line Items Tab on ProcureAZ. Bidder is not required to bid on all products however failure to submit pricing for all quantities within each specific product shall result in a bid being rejected. For example, if choosing to bid on Unleaded for Apache County, pricing must be submitted for each of the quantities listed on the Line Items (up to 1000, up to 4000 and over 4000) to be deemed responsive.

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The price for all gasoline and diesel fuels shall be the margin price (in cents, to a required four decimal places) for each line item, to be added to, or subtracted from, the weekly average rack price for the type of fuel required, as published by the Oil Price Information Service (O.P.I.S.) or Butane-Propane News (BPN) for propane. The price published by O.P.I.S. each Monday shall be in effect for purchases through Saturday of that week. If O.P.I.S. does not publish a price for the type of fuel required in the current week, the most recent published price shall prevail.

The pricing bid shall include all costs required to deliver and unload fuel into the requesting agency's storage tank.

The choice of O.P.I.S. rack (Phoenix, Tucson, etc) to be used as the resultant contract pricing basis is to be identified on **Attachment 4, Weekly Rack Indicator** and shall remain consistent for the life of the contract.

Winter Blended Diesel: The price for Winter Blend Diesel Fuel will be based on the O.P.I.S. price for ULSD; plus or minus the contract price margin.

Propane Pricing: The price for propane shall be the margin price (in cents, to a REQUIRED four decimal places) for each line item, to be added to, or subtracted from, the Principal Average Mont Belvieu price, as published weekly by Butane-Propane News (BPN) in the "Weekly Propane Newsletter" or as published by the Oil Price Information Service (O.P.I.S.), in order to determine the actual purchase price.

The price published by BPN each Monday shall be in effect for purchases through Saturday of that week. If BPN does not publish a price for Mont Belvieu in the current week, the most recent published price shall prevail.

Pricing for the rental of a new tank and one dispenser (1 Gallon meter) shall be submitted under the Line Items Tab within ProcureAZ, if required and shall be based on a one-time yearly fee. The use of this item is optional. Requesting entity may purchase this option at their discretion.

Prompt payment discounts of thirty (30) days or more set forth in an Offer shall be deducted from the offer for the purposes of evaluating that price. If a prompt payment discount is being offered you must indicate YES on the Questions Tab in ProcureAZ and proceed to the General Tab within your quote response to indicate the discount.

Bidder shall indicate if applicable, the biodiesel blender or mixture credit in accordance with the National Biodiesel Board (NBB) within the Questions Tab in ProcureAZ.

Bidder shall indicate, if applicable a rate for an after hours emergency opening of the business, within the Line Items Tab on ProcureAZ, per Special Terms and Conditions, Paragraph 29.

5. BID EVALUATION

In accordance with the Arizona Procurement Code A.R.S. §41-2533, Competitive Sealed Bidding, awards shall be made to the lowest responsible and responsive bidder whose offer conforms in all material respects to the requirements and criteria set forth in this Invitation for Bid. **Specific factors that may be considered by the Department include, but are not limited to:**

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Delivery time after receipt of an order must be stated in definite terms if it should vary from the timeframe identified in Section 3, Special Terms and Conditions, Paragraph 8, titled Delivery.

Contractor's demonstrated ability to provide the necessary product within Section 1, Specifications to the service areas listed in **Attachment 3, Service Areas**. Section 1, Specifications and **Attachment 3, Service Areas** will be utilized for this purpose.

6. SUSPENSION OR DEBARMENT STATUS

If the firm, business or person submitting this bid or offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity with any federal, state or local government, the bidder or offeror must include a letter with its bid or offer setting forth the name and address of the governmental unit, the effective date of the suspension or debarment, the duration of the suspension or debarment. Failure to supply the letter or to disclose in the letter all pertinent information regarding a suspension or debarment shall result in rejection of the bid or offer or cancellation of a contract. The State also may exercise any other remedy available by law.

UNIFORM TERMS AND CONDITIONS

Version 8

1. Definition of Terms

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

- 1.1. "*Attachment*" means any item the Solicitation requires the Offeror to submit as part of the Offer.
- 1.2. "*Contract*" means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement of Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.
- 1.3. "*Contract Amendment*" means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
- 1.4. "*Contractor*" means any person who has a Contract with the State.
- 1.5. "*Days*" means calendar days unless otherwise specified.
- 1.6. "*Exhibit*" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
- 1.7. "*Gratuity*" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- 1.8. "*Materials*" means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.
- 1.9. "*Procurement Officer*" means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
- 1.10. "*Services*" means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.
- 1.11. "*Subcontract*" means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
- 1.12. "*State*" means the State of Arizona and Department or Agency of the State that executes the Contract.
- 1.13. "*State Fiscal Year*" means the period beginning with July 1 and ending June 30.

2. Contract Interpretation

- 2.1. Arizona Law. The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

- 2.2. Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 2.3. Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:
 - 2.3.1. Special Terms and Conditions;
 - 2.3.2. Uniform Terms and Conditions;
 - 2.3.3. Statement or Scope of Work;
 - 2.3.4. Specifications;
 - 2.3.5. Attachments;
 - 2.3.6. Exhibits;
 - 2.3.7. Documents referenced or included in the Solicitation.
- 2.4. Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 2.5. Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 2.6. No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 2.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3. Contract Administration and Operation

- 3.1. Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3.2. Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
- 3.3. Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
- 3.4. Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract.

The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

- 3.5. Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.
- 3.6. Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.
- 3.7. Property of the State. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.
- 3.8. Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.
- 3.9. Federal Immigration and Nationality Act. The contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the contractor.
- 3.10. E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.
- 3.11. Scrutinized Businesses. In accordance with A.R.S. § 35-391 and A.R.S. § 35-393, Contractor certifies that the Contractor does not have scrutinized business operations in Sudan or Iran.

3.12 Offshore Performance of Work Prohibited.

Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

4. Costs and Payments

4.1. Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

4.2. Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

4.3. Applicable Taxes.

4.3.1. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

4.3.2. State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

4.3.3. Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.3.4. IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

4.4. Availability of Funds for the Next State fiscal year. Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

4.5. Availability of Funds for the current State fiscal year. Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

4.5.1. Accept a decrease in price offered by the contractor;

4.5.2. Cancel the Contract; or

4.5.3. Cancel the contract and re-solicit the requirements.

5. Contract Changes

5.1. Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment

within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

- 5.2. Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.
- 5.3. Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6. **Risk and Liability**

- 6.1. Risk of Loss: The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.
- 6.2. Indemnification
 - 6.2.1. Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.
 - 6.2.2. Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnatee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnatee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers."
- 6.3. Indemnification - Patent and Copyright. The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.
- 6.4. Force Majeure.
 - 6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing,

force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2. Force Majeure shall not include the following occurrences:

6.4.2.1. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.4.2.3. Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.4.3. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.4.4. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

6.5. Third Party Antitrust Violations. The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7. Warranties

7.1. Liens. The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

7.2. Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:

7.2.1. Of a quality to pass without objection in the trade under the Contract description;

7.2.2. Fit for the intended purposes for which the materials are used;

7.2.3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

7.2.4. Adequately contained, packaged and marked as the Contract may require; and

7.2.5. Conform to the written promises or affirmations of fact made by the Contractor.

- 7.3. Fitness. The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.
- 7.4. Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.
- 7.5. Compliance With Applicable Laws. The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.
- 7.6. Survival of Rights and Obligations after Contract Expiration or Termination.
- 7.6.1. Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.
- 7.6.2. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8. State's Contractual Remedies

- 8.1. Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.
- 8.2. Stop Work Order.
- 8.2.1. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.
- 8.2.2. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
- 8.3. Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.
- 8.4. Nonconforming Tender. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default

under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

- 8.5. Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9. **Contract Termination**

- 9.1. Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.
- 9.2. Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.
- 9.3. Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.
- 9.4. Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.
- 9.5. Termination for Default.
- 9.5.1. In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

9.5.2. Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.

9.5.3. The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

9.6. Continuation of Performance Through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10. **Contract Claims**

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11. **Arbitration**

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).

12. **Comments Welcome**

The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona, 85007.

**SOLICITATION AMENDMENT NO. TWO (2)
SOLICITATION NO. ADOT11-00001284**



ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 West Jackson Street, Suite A 100P
Phoenix, Arizona 85007-3276
Phone: (602) 712-7211



Description: Bulk Fuel
Solicitation Due Date: January 4, 2012 until 3:00 P.M. MST

A signed copy of this amendment shall be included with your offer submitted via ProcureAZ prior to the solicitation due date and time.

After a review of the questions posted on the Q&A Tab within ProcureAZ, further clarification is required therefore this Solicitation is amended as follows in ***Underlined Bold Italicized Text***

1. CHANGES

- Section 5, Special Terms and Conditions, Page 4, paragraph 4 shall be deleted and now read:

Pricing shall be submitted under the Line Items tab within the State's e-Procurement system, ProcureAZ (<https://procure.az.gov>).

Due to factors such as multiple delivery locations, pricing advantage, compatibility, etc, pricing shall be submitted per county.

Pricing shall be submitted by county at the quantities designated for each type of product within the Line Items Tab on ProcureAZ. Bidder is not required to bid on all products however failure to submit pricing for all quantities within each specific product shall result in a bid being rejected. For example, if choosing to bid on Unleaded for Apache County, pricing must be submitted for each of the quantities listed on the Line Items (up to 1000, up to 4000 and over 4000) to be deemed responsive.

The price for all gasoline and diesel fuels shall be the margin price (in cents, to a required four decimal places) for each line item, to be added to, or subtracted from, the weekly average rack price for the type of fuel required, as published by the Oil Price Information Service (O.P.I.S.) or Butane-Propane News (BPN) for propane. The price published by O.P.I.S. each Monday shall be in effect for purchases through Saturday of that week. If O.P.I.S. does not publish a price for the type of fuel required in the current week, the most recent published price shall prevail.

The pricing bid shall include all costs required to deliver and unload fuel into the requesting agency's storage tank, including freight. Bidders are not to indicate freight within the Line Items Tab on ProcureAZ. Spill and LUST taxes are to be omitted from the bid price as taxes are not evaluated for bid award.

The choice of O.P.I.S. rack (Phoenix, Tucson, etc) to be used as the resultant contract pricing basis is to be identified on **Attachment 4, Weekly Rack Indicator** and shall remain consistent for the life of the contract.

Winter Blended Diesel: The price for Winter Blend Diesel Fuel will be based on the O.P.I.S. price for ULSD; plus or minus the contract price margin.

Propane Pricing: The price for propane shall be the margin price (in cents, to a REQUIRED four decimal places) for each line item, to be added to, or subtracted from, the Principal Average Mont Belvieu price, as published weekly by Butane-Propane News (BPN) in the "Weekly Propane Newsletter" or as published by the Oil Price Information Service (O.P.I.S.), in order to determine the actual purchase price.

The price published by BPN each Monday shall be in effect for purchases through Saturday of that week. If BPN does not publish a price for Mont Belvieu in the current week, the most recent published price shall prevail.

**SOLICITATION AMENDMENT NO. TWO (2)
SOLICITATION NO. ADOT11-00001284**



ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 West Jackson Street, Suite A 100P
Phoenix, Arizona 85007-3276
Phone: (602) 712-7211



Description: Bulk Fuel
Solicitation Due Date: January 4, 2012 until 3:00 P.M. MST

Pricing for the rental of a new tank and one dispenser (1 Gallon meter) shall be submitted under the Line Items Tab within ProcureAZ, if required and shall be based on a one-time yearly fee. The use of this item is optional. Requesting entity may purchase this option at their discretion.

Prompt payment discounts of thirty (30) days or more set forth in an Offer shall be deducted from the offer for the purposes of evaluating that price. If a prompt payment discount is being offered you must indicate YES on the Questions Tab in ProcureAZ and proceed to the General Tab within your quote response to indicate the discount.

Bidder shall indicate if applicable, the biodiesel blender or mixture credit in accordance with the National Biodiesel Board (NBB) within the Questions Tab in ProcureAZ.

Bidder shall indicate, if applicable a rate for an after hours emergency opening of the business, within the Line Items Tab on ProcureAZ, per Special Terms and Conditions, Paragraph 29.

2. REVISED

The solicitation due date of January 3, 2012 is changed to **January 4, 2012 until 3:00 p.m. MST**. Submittal location remains unchanged.

ALL OTHER PROVISIONS OF THE SOLICITATION SHALL REMAIN IN THEIR ENTIRETY.

Offeror hereby acknowledges receipt and understanding of the above amendment.	The above referenced Solicitation Amendment is hereby executed this 29 th of December 2011 at Phoenix, Arizona.
Signature: <u>DAVID P. LUETH</u>	Date: <u>1-4-2012</u>
Typed Name and Title: <u>DAVID P. LUETH, PRESIDENT</u>	
Company Name: <u>UNION DISTRIBUTING COMPANY</u>	
Address: <u>622 South 56th Ave</u>	
City, State, Zip: <u>Phoenix, AZ 85043</u>	
	Signature: <u>Susanna Hernandez</u> Susanna Hernandez, CPPB PROCUREMENT OFFICER

**ATTACHMENT 1
OFFER AND CONTRACT AWARD**



ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 W. Jackson Street Suite A - MD 100P
Phoenix, Arizona 85007
Phone: (602) 712-7211



SOLICITATION NO. ADOT12-00001284

Submit this form with an original signature to the Department

OFFER

TO THE STATE OF ARIZONA:

The bidder hereby offers and agrees to perform in compliance with all terms, conditions, specifications and amendments of this solicitation and any written exceptions in the offer. Signature also acknowledges receipt of all pages indicated in the Table of Contents.

Arizona State Transaction Privilege Tax License Number

No.: 10-115287-C

Federal Employer Identification

No.: 86-0556151

Union Distributing Company of Tucson
Offeror's (Company) Name

622 S. 56th Ave
Address

Phoenix AZ 85043
City State Zip

(602) 272-6795
Phone

(602) 484-9038
Facsimile

For clarification of this offer, contact:

James Kaskie
Printed Name

jime@uniondistributing.com
Email Address

info@uniondistributing.com
Company Email Address

[Signature]
Signature of Person Authorized to Sign Offer

DAVID P. LUE TH
Printed Name Date

PRESIDENT
Title

ACCEPTANCE OF OFFER AND CONTRACT AWARD (FOR STATE OF ARIZONA USE ONLY)

Your bid is hereby accepted.

The contractor is now bound to perform based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the contractor's bid as accepted by the state.

This contract shall henceforth be referred to as Contract No. _____.

BULK FUEL

The contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until contractor receives a purchase order document.

State of Arizona

Effective this _____ day of _____ 2011

Susanna Hernandez, CPPB
As Procurement Officer and not personally

Awarded Date

ATTACHMENT 3 SERVICE AREAS

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 W. Jackson Street Suite A - MD 100P
Phoenix, Arizona 85007
Phone: (602) 712-7211

SOLICITATION NO. ADOT12-00001284

PLEASE MARK THE COUNTIES THAT WILL BE SERVICED UNDER ANY RESULTANT CONTRACT – BY MARKING A SPECIFIC COUNTY IT IS UNDERSTOOD THAT ALL CITIES WITHIN THAT COUNTY SHALL BE SERVICED WHETHER SPECIFIED OR NOT

APACHE COUNTY		COCONINO COUNTY		MOHAVE COUNTY	
Window Rock		Page		Bullhead City	
Chinle		Grand Canyon		Kingman	
Teec Nos Pos		Williams		Lake Havasu City	
Sanders		Flagstaff		Topoc	
Chambers		Seligman		Wikieup	
St. Johns		Fredonia			
Springerville					
Alpine		NAVAJO COUNTY		YAVAPAI COUNTY	
		Holbrook		Ashfork	
MARICOPA COUNTY	X	Winslow		Clarkdale	
Buckeye		Kayenta		Dewey	
Casa Grande		Keams Canyon		Prescott	
Chandler		Snowflake		Prescott Valley	
Glendale		Showlow		Sedona	
Phoenix		Pinetop		Wickenburg	
Scottsdale					
Tempe		GILA COUNTY	X	LA PAZ COUNTY	
		Cedar Creek		Blythe	
PINAL COUNTY	X	Globe		Parker	
Coolidge		Payson		Quartzsite	
Gilbert		Strawberry		Salome	
Globe		Young			
Kearny					
Superior				COCHISE COUNTY	X
				Bisbee	
PIMA COUNTY	X	YUMA COUNTY	X	Douglas	
Ajo		Somerton		ST. David	
Green Valley		Welton		San Simon	
Sells		Yuma		Sierra Vista	
Tucson				Willcox	
Why					
SANTA CRUZ COUNTY	X				
Elgin		GRAHAM COUNTY	X	GREENLEE COUNTY	X
Noglaes		Safford		Clifton	
Patagonia		Thatcher		Duncan	
Tubac				Hannigan Meadow	
				Morenci	

**ATTACHMENT 4
WEEKLY RACK INDICATOR**

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 W. Jackson Street Suite A - MD 100P
Phoenix, Arizona 85007
Phone: (602) 712-7211

SOLICITATION NO. ADOT12-00001284

	OPIS RACK	BPN RACK
APACHE COUNTY	No Bid	
COCHISE COUNTY	Tucson	
COCONINO COUNTY	No Bid	
GILA COUNTY	Phoenix	
GRAHAM COUNTY	Tucson	
GREENLEE COUNTY	Tucson	
LA PAZ COUNTY	No Bid	
MARICOPA COUNTY	Phoenix	
MOHAVE COUNTY	No Bid	
NAVAJO COUNTY	No Bid	
PINAL COUNTY	Phoenix	
PIMA COUNTY	Tucson	
SANTA CRUZ COUNTY	Tucson	
YAVAPAI COUNTY	No Bid	
YUMA COUNTY	Phoenix	

ATTACHMENT 5
REFERENCES

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 W. Jackson Street Suite A - MD 100P
Phoenix, Arizona 85007
Phone: (602) 712-7211

SOLICITATION NO. ADOT12-00001284

PLEASE LIST THE NAME, ADDRESS, CONTACT NAME, AND TELEPHONE NUMBER FOR THREE (3) ORGANIZATIONS FOR WHOM YOUR COMPANY HAS PROVIDED SERVICES OF A SIMILAR SIZE AND SCOPE WITHIN THE PAST 36 MONTHS. These references may be checked, so please make sure all information is accurate and current.

- A. ORGANIZATION: Maricopa County Equip. + Fuel Services
ADDRESS: 3325 W. Durango
CITY/STATE/ZIP CODE: Phoenix, AZ 85009
CONTACT: Mario Galaz
TELEPHONE NUMBER: (602) 506-4481
FAX NUMBER: (602) 506-7341
DATE OF CONTRACT INITIATION: 3/96
TYPE OF SERVICES PROVIDED: Fuel Delivery
- B. ORGANIZATION: Palice Construction, Inc.
ADDRESS: 2033 W. Mountain View Rd.
CITY/STATE/ZIP CODE: Phoenix, AZ 85021
CONTACT: Frank Alvarez
TELEPHONE NUMBER: (602) 944-2241
FAX NUMBER: (602) 870-3395
DATE OF CONTRACT INITIATION: 1/05
TYPE OF SERVICES PROVIDED: Fuel + Oil Delivery
- C. ORGANIZATION: M + P Transport Company
ADDRESS: 3635 S. 43rd Ave
CITY/STATE/ZIP CODE: Phoenix, AZ 85009
CONTACT: Scott Sharp
TELEPHONE NUMBER: (602) 272-2637
FAX NUMBER: (602) 278-8326
DATE OF CONTRACT INITIATION: 4/96
TYPE OF SERVICES PROVIDED: Fuel + Oil Delivery

ATTACHMENT 6
REPRESENTATIVES

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 W. Jackson Street Suite A - MD 100P
Phoenix, Arizona 85007
Phone: (602) 712-7211

SOLICITATION NO. ADOT12-00001284

PER SECTION 3, SPECIAL TERMS AND CONDITIONS, PLEASE LIST APPLICABLE INFORMATION FOR EMERGENCY ORDERS.

CONTACT: Jim Kaskie
ADDRESS: 622 S. 56th Ave
CITY/STATE/ZIP CODE: Phoenix, AZ 85043
TELEPHONE NUMBER: (602) 291-9423
FAX NUMBER: (602) 484-9038

CONTACT: Josh Kinsey
ADDRESS: 622 S. 56th Ave
CITY/STATE/ZIP CODE: Phoenix, AZ 85043
TELEPHONE NUMBER: (602) 291-6359
FAX NUMBER: (602) 358-2482

CONTACT: Juan Frias
ADDRESS: 622 S. 56th Ave.
CITY/STATE/ZIP CODE: Phoenix, AZ 85043
TELEPHONE NUMBER: (602) 291-9422
FAX NUMBER: (602) 484-9038

CONTACT: Cameron Lurie
ADDRESS: 4000 E. Michigan St.
CITY/STATE/ZIP CODE: Tucson, AZ 85714
TELEPHONE NUMBER: (520) 954-2603
FAX NUMBER: (520) 571-8722

State of Arizona Substitute W-9 & Vendor Authorization Form



Purpose: Establish or update a vendor account with the State of Arizona. This form meets the Federal requirements to request a taxpayer identification number (TIN), request certain certification and claims for exemption, as well as the State of Arizona requirements for vendor establishment.
Instructions: Complete form if 1. You are a U.S. person (including a resident alien); 2. You are a vendor that provides goods or services to a n Arizona state agency;
AND 3. You will receive payment from the State of Arizona.
Return completed form to the state agency with whom you do business, for review and authorization.
See instructions below or refer to the IRS instructions at www.irs.gov for details on completing this form.

Type of Request (Must select at least ONE)
New Request
New Location (Additional Mail Code)
Change (Select the type(s) of change from the following:
Tax ID
Legal Name
Entity Type
Minority Business Indicator
Main Address
Remittance Address
Contact Information

Taxpayer Identification Number (TIN) (Provide ONE Only)
Social Security Number (SSN)
OR Employer Identification Number (EIN) 86 - 0556151

Entity Name Must Provide Legal Name (*Must match SSN or FEIN given. If Individual OR Sole Proprietorship enter First, Middle, Last Name.)
Legal Name* Union Distributing Company of Tucson

Entity Type Must select one of the following (Coding (X#) is for internal purposes only)
Individual/Sole Proprietor or Sole Proprietor organized as LLC, PLLC (61)
Corporation NOT providing health care, medical or legal services (5A)
Corporation providing health care, medical or legal services (5M)
Partnership, LLP or Partnership organized as LLC or PLLC (5C)
An international organization or any of its agencies/instrumentalities (5U)
The US or any of its political subdivisions or instrumentalities (2G)
State of Arizona employee (1E) STATE HRIS EIN
LLC, PLLC organized as corporation NOT providing health care medical or legal services (5A)
LLC, PLLC organized as corporation providing health care medical or legal services (5M)
A state, a possession of the US, or any of their political subdivisions or instrumentalities (4G)
Other: Tax Reportable Entity (5P) Description
Other: Tax Exempt Entity (5H)

Minority Business Indicator Must select one of the following (Coding (X#) is for internal purposes only)
Small Business (01)
Small Business- African American (23)
Small Business- Asian (24)
Small Business- Hispanic (25)
Small Business- Native American (27)
Small Business- Other Minority (05)
Small, Woman Owned Business (06)
Small, Woman Owned Business- African American (29)
Small, Woman Owned Business- Asian (30)
Small, Woman Owned Business- Hispanic (31)
Small, Woman Owned Business- Native American (33)
Small, Woman Owned Business- Other Minority (11)
Woman Owned Business (03)
Woman Owned Business- African American (17)
Woman Owned Business- Asian (18)
Woman Owned Business- Hispanic (19)
Woman Owned Business- Native American (21)
Woman Owned Business- Other Minority (08)
Minority Owned Business- African American (04)
Minority Owned Business- Asian (32)
Minority Owned Business- Hispanic (74)
Minority Owned Business- Native American (15)
Minority Owned Business- Other Minority (02)
Non-Profit, IRC § 501(c) (88)
Non-Small, Non-Minority or Non-Woman Owned Business (00)
Individual, Non-Business (00)

Main Address Where tax information and general correspondence is to be mailed
DBA/Branch/Location Union Distributing Company
Address 622 S. 56th Ave.
City Phoenix State AZ Zip code 85043
Remittance Address Where payment is to be mailed Same as Main
DBA/Branch/Location
Address
City State Zip code

Vendor Contact Information
Name Jim Kaskie Title Supply Manager
Phone # (602)358-2411 Ext. Fax (602)484-9030 Email jim@uniondistributing.com

Certification Exempt from backup withholding
1. Under Penalties of perjury, I certify that:
2. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me) AND I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding AND
3. I am a U.S. person (including U.S. resident alien).
Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transaction, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN.
The Internal Revenue Service does not require your consent to any provision of this document other than the certification required to avoid backup withholding.

Signature Date 1-4-2012
Title President

STATE OF ARIZONA AGENCY USE ONLY - Agency Authorization
State HRIS EIN
Print Name
Signature
AGY Title Phone # Email Date

STATE OF ARIZONA GAO USE ONLY
Vendor Number
Processed by
Date Processed
IRS TIN Matching
Corporation Commission
HRIS
GAO-03
Other

EXHIBIT B
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
SENERGY PETROLEUM, LLC

[Materials Order(s)]

See following pages (to be attached subsequent to execution).