

INVITATION FOR BID

IFB 2016-010



Twenty Four Hour Gasoline Service

"Douglas - the premier southwestern border community."

Bid Notice

NOTICE IS HEREBY GIVEN that the Mayor and Common Council of the City of Douglas will receive sealed Bid Proposals until Four O'clock p.m. (4:00 p.m.) on the 2nd day of June, 2016 for the following.

Twenty Four Hour Gasoline Service

Specifications are on file and may be obtained at the office of Purchasing Agent, 425 10th Street, Douglas, Arizona, and our website www.douglasaz.org/bid. Bids will be received until the above hour specified and will be opened on said date and time at a Bid Opening to be conducted by the Purchasing Agent in the Council Chambers. Address all Bids to City of Douglas, City Clerk, Brenda Aguilar, 425 10th St., Douglas, Arizona 85607, specifying on the outside wrapper the nature of the Bid and reference IFB# 2016-010. The Council reserves the right to reject any Bid, defer action on Bids and to waive any informality thereof. Any late submissions will be returned to the sender.

Dated at Douglas, Arizona this May 16, 2016

Brenda Aguilar
City Clerk
City of Douglas

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PROPOSAL CHECK LIST

- 1. The proposal has been signed in the Proposer's Offer Section. (Proposals not signed in this section will not be considered.)
- 2. Any required drawings or descriptive literature have been included.
- 3. Any addendum has been included/noted in Offer Section.
- 4. The mailing envelope/package has been addressed to:

ADMINISTRATION DEPARTMENT
425 10th Street
Douglas, Arizona 85607
- 5. Proposal package/envelope has been identified with proposal number and title.
- 6. The proposal is mailed in time to be received and stamped in by Purchasing representative no later than specified time on designated date. (Otherwise the proposal cannot be considered.)

INSTRUCTIONS TO VENDORS

1. **Preparation of Solicitation:**
 - a. All responsive offers shall be on the forms provided in this solicitation. It is permissible to copy these forms as required. Telegraphic offers or mailgrams will not be considered.
 - b. The Offer document of the solicitation must be submitted with an original ink signature by the person authorized to sign the offer. Unsigned offers will be considered non-responsive and rejected.
 - c. Erasures, interlineations or other modifications in the offer must be initialed by a person authorized to sign the offer section of the solicitation.
 - d. In case of error in the extension of prices in the offer, the unit price will govern. No offer shall be altered, amended or withdrawn after the specified time and date for opening offers.
 - e. Periods of time, stated as a number of days, shall be calendar days.
 - f. It is the responsibility of all Offerors to examine the entire solicitation and seek clarification of any item or requirement that may not be clear to them and to check all responses for accuracy before submitting an offer.
 - g. No responsibility will be attached to a City employee for premature opening of an offer not properly addressed and identified in accordance with the solicitation documents.
 - h. A late submittal notification will be sent to the Offeror. Late offer submittals will not be considered under any circumstances.
 - i. Envelopes with insufficient postage may not be accepted by the City of Douglas.
2. **Prospective Offerors Conference:** A prospective offerors conference may be held. If scheduled, the date and time of this conference will be indicated on the cover page of this document. The purpose of this conference will be to clarify the contents of this solicitation in order to prevent any misunderstandings of the City's position. Any doubt as to the requirements of this solicitation or any apparent omission or discrepancy should be presented to the City at this conference. The City will then determine the appropriate action necessary, if any, and issue a written addendum to the solicitation. Oral statements or instructions will not constitute an addendum to this solicitation.
3. **Withdrawal of Bid/Proposal:** At any time prior to the specified time and date set for bid/proposal opening, an Offeror (or designated representative) may withdraw the offer. The offer may not be amended or withdrawn after due date and time.
4. **Addendum to Solicitation:** Receipt of a solicitation addendum must be acknowledged by the Offeror in the submittal.
5. **Discounts:** Payment discount periods will be computed from the date of receipt of goods or correct invoice, whichever is later, to the date payment is mailed. Unless freight and other charges are itemized, any discount provided will be taken on full amount of invoice. Payment discounts of twenty (20) calendar days or more will be deducted from the offer price in determining the low offer. However, the Buyer shall be entitled to take advantage of any payment discount offered by the Vendor provided payment is made within the discount period.
6. **Taxes** Sales Tax shall be included.
7. **Award of Contract:**
 - a. Unless the Offeror states otherwise, the Buyer reserves the right to award by individual line item, by group of line items, or as a total, whichever is deemed most advantageous to the City. If the Offeror's offer is an "All or nothing" offer, it must be so indicated on the Offer Sheet.
 - b. The City of Douglas, notwithstanding any other provisions of this solicitation (including attached documents), expressly reserves the right to:
 1. Waive any insignificant defect or informality in any offer or solicitation procedure;
 2. Reject any or all offers; or
 3. Cancel the solicitation.
 - c. An offer in response to a solicitation is an offer to contract with the City based upon the terms, conditions and specifications contained in the City's solicitation. Offers do not become contracts unless, and until, they are accepted by the City of Douglas. A contract is formed when the City Purchasing Office gives written notice of award(s) to successful offeror(s). In the absence of a provision to the contrary in the solicitation, the contract has its inception in the award as distinguished from a formal signing of a separate contract. For that reason, all of the terms and conditions of the procurement contract are contained in the solicitation.
8. **Vendor Registration:** Prior to the award of a contract, the successful Offeror should have registered as a vendor email rene.rios@douglasaz.gov

**CITY OF DOUGLAS
STANDARD TERMS AND CONDITIONS**

The following terms and conditions, as applicable, are an explicit part of the solicitation and any resultant contract. Any exceptions thereto must be specific and in writing.

1. **CERTIFICATION.** By signature in the Offer section of the solicitation, the Vendor certifies that:
 - A. The Vendor has not paid nor agreed to pay any person, other than a bona fide employee, a fee or a brokerage resulting from the award of any contract resultant from this solicitation.
 - B. The prices in this solicitation have been arrived at independently without consultation, communication, or agreement, for the purpose of restricting competition as to any matter relating to such prices, with any other Vendor, or potential Vendor.
 - C. The Vendor shall not discriminate against any employee, or applicant for employment in violation of Federal Executive Order 11246 and State Executive Order No. 75.5 and A.R.S. Section 31-1461 et. seq.
2. **CONTRACT MODIFICATION.** No modification of this contract shall bind Buyer unless a formal Contract Amendment is executed between Buyer and Vendor.
3. **SHIPMENT UNDER RESERVATION PROHIBITED.** Vendor is not authorized to ship the goods under reservation and no tender of a bill of lading will operate as a tender of the goods.
4. **PACKING AND SHIPPING.** Vendor shall be responsible for industry standard packing, which conforms to requirements of carrier's tariffs and ICC regulations. Containers must be clearly marked as to lot number, destination, address and purchase order number.
5. **NO REPLACEMENT OF DEFECTIVE TENDER.** Every tender of goods must fully comply with all provisions of this contract as to time of delivery, quantity, assortment, quality and the like. If a tender is made which does not fully conform, this shall constitute a breach and Vendor shall not have the right to substitute a conforming tender.
6. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH.** Each installment or lot of this contract is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole contract and constitutes a breach of the contract as a whole.
7. **GRATUITIES.** The Buyer may, by written notice to the Vendor, cancel this Contract if it is found by Buyer that gratuities, in form of entertainment, gifts or otherwise were offered or given by the Vendor or any agent or representative of the Vendor, to any officer or employee of the City of Douglas with a view toward securing an order or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such order. In the event this Contract is canceled by Buyer pursuant to this provision, Buyer shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Vendor the amount of the gratuity.
8. **WARRANTIES.** Vendor warrants that all goods delivered under this contract will conform to the requirements of this contract (including all applicable descriptions, specifications, drawings, and samples), and will be free from defects in material and workmanship and will be free from defects in design and fit for the intended purposes. Any inspection or acceptance of the goods by Buyer shall not alter or affect the obligations of vendor or the right of Buyer under the foregoing warranties.
9. **ASSIGNMENT - DELEGATION.** No right or interest in this contract shall be assigned by Vendor without the written permission of Buyer, and no delegation of any duty of Vendor shall be made without permission of Buyer. Any attempted assignment of delegation shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.
10. **ASSIGNMENT - CLAIMS.** Vendor and the City of Douglas recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact borne by the City of Douglas. Therefore, Vendor hereby assigns to the City of Douglas any and all claims for such overcharges.

11. ADVERTISING. Vendor shall not advertise or publish, without Buyer's prior consent, the fact that Buyer has entered into this contract, except to the extent necessary to comply with proper requests for information as provided by appropriate statutes.
12. DELIVERY ORDERS. The City of Douglas shall issue a Purchase Order for the goods or services covered by this contract. All such Purchase Orders will reference the contract number as indicated on the solicitation.
13. TITLE AND RISK OF LOSS. The title and risk of loss of the goods shall not pass to Buyer until Buyer actually receives the goods at the point of delivery.
14. INSPECTION. All goods are subject to final inspection and acceptance by Buyer. Material failing to meet the requirements of this Contract will be held at Vendor's risk and may be returned to the Vendor. If so returned, the cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses are the responsibility of the Vendor.
15. LIENS. All goods delivered and labor performed under this Contract shall be free of all liens, and if Buyer requests, a formal release of all liens will be delivered to Buyer.
16. REMEDIES AND APPLICABLE LAW. This Contract shall be governed by the law of the State of Arizona, and Buyer and Vendor shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this contract or in statutes pertaining specifically to the State. This contract shall be governed by the law of the State of Arizona, and suits pertaining to this Contract may be brought only in the courts of the State of Arizona.
17. CONFLICT OF INTEREST. Pursuant to A.R.S. Section 38-511, a municipality may, within three (3) years after its execution, cancel any contract, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the municipality is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.
18. FORCE MAJEURE. 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; floods; lockouts, injunctions-intervention-acts, or failures or refusal 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. The force majeure shall be deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure and shall be deemed to continue as long as results or effects of the force majeure prevent the party from resuming performance in accordance with this Agreement.

Force majeure shall not include the following occurrences:

- A. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences.
- B. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this Force Majeure term and condition. 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.
 - (1) If either party is delayed at any time in the progress of the work by force majeure, then the delayed party shall notify the other party in writing of such delay within forty-eight (48) hours commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand 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 modification

for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this contract.

19. **RIGHT TO ASSURANCE.** Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, he may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

20. **INTERPRETATION - PAROLE EVIDENCE.** This Contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to objection. Whenever a term defined by the Uniform Commercial Code is used in this contract, the definition contained in the Code is to control.

21. **COMPLIANCE OF LAWS.** The final contract must be in compliance with all Federal, Arizona and City of Douglas laws and regulations and is subject to termination by the City, termination for non-availability of funding and for prepayment, without penalty. In addition, all agreements are subject to review by the City Attorney.

CHOICE OF LAW. The parties hereby agree that Agreement was negotiated, made and entered into in Arizona and under the laws of Arizona.

23. **DISPUTE RESOLUTION.** All claims, disputes and other matters in question between Owner and Contractor arising out of, or relating to the Contract Documents, or the breach thereof will be decided by binding, unappealable arbitration, if the claim for compensation, costs and expenses or damages is equal or less than \$50,000.

Nothing herein contained shall be so construed as to preclude the Contractor from commencing a legal action in relation to claims in excess of \$50,000, but the Contractor's sole legal remedy in relation to claims of \$50,000 or less shall be binding, unappealable arbitration as prescribed.

All arbitration of claims shall be conducted in Douglas, Arizona, in accordance with the Uniform Rules of Procedure for Arbitration adopted by the Arizona Supreme Court (Uniform Rules), except for any rules therein allowing or concerning appeal. Where necessary to allow arbitration to proceed, the Owner and Contractor shall execute an Agreement of Reference consistent with the provisions of this paragraph and the Uniform Rules as modified by this paragraph.

If any provision of the Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

Should either party to the Agreement bring an action to enforce any provision of the Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs in connection therewith.

Except as otherwise specifically provided in the Contract Documents, no action or failure to act by the Owner, Engineer or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract Documents, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder.

24. **QUANTITIES.** As shown in the bid form are estimates only based upon available information. The City reserves the right to adjust the quantities as necessary to meet its need.

25. **FUNDS APPROPRIATION.** If funds are not appropriated to continue this agreement and for the payment of charges hereunder, the City may terminate this agreement at the end of the fiscal period. The City agrees to give written notice of termination to the contractor at least thirty (30) days prior to the end of its current fiscal period and will pay to the contractor all charges incurred through the end of such period.

26. **BID/PROPOSAL AND/OR PERFORMANCE BONDS SHALL BE REQUIRED AS SPECIFIED.** Vendors failing to supply a bond as specified in the solicitation will be considered non-responsive and their offer will not be considered. Unless otherwise specified in the solicitation, performance bonds can be requested from successful bidders at the sole discretion of City of Douglas. Vendor failing to supply performance bond as required will forfeit his offer, bond, if any, and the award. Performance bonds shall be furnished within fifteen (15) calendar days of the notification of award; date of U.S. Postmark will be accepted as date of delivery of performance bond.
27. **PATENTS.** Seller agrees to defend Buyer at seller's own expense, in all suits, actions or proceedings in which buyer is made a defendant for actual or alleged infringement of any United States of America or foreign letters patent resulting from buyer's use of the goods purchased as a result of this solicitation. Seller further agrees to pay and discharge any and all judgments or decrees, which may be rendered in any such suit, action or proceedings against Buyer.

Seller agrees to indemnify and hold harmless the Buyer from any and all license, royalty and proprietary fees or costs, including legal costs, which may arise out of Buyer's purchase and use of goods supplied by the seller. Vendor will indemnify Buyer against all claims for damages to persons or property resulting from defects in materials or workmanship. It is expressly agreed by seller that these covenants are irrevocable and perpetual.
28. **BID PRICE.** Price offered shall be made F.O.B. Douglas, delivered to the designated delivery points within the metropolitan area. Items will be delivered at the location designated by the City.
29. **NO-COLLUSION.** The Vendor will be required to complete, notarize and submit as part of this solicitation package the attached "No-Collusion Affidavit". Failure of the Vendor to submit a properly executed affidavit may be grounds for rejection of the offer.
30. **CONTRACT AWARD.** If contract award is over \$50,000.00, it will be at the discretion of the City Council as to whether or not to make award, to whom, or to reject offers.
31. **STANDARDS.** The specifications attached herein this solicitation shall be considered minimum acceptable to City standards. Offers for lower standard materials, products or services will be justification for rejection of offer(s) by the City.
32. **INFORMATION ON ITEMS.** Supplies and materials offered shall be of current design and meet specifications. Offeror must identify the manufacturer of each product being offered. Offeror should supply all information necessary for the City to determine (a) whether the product offered meets the requirements of the specifications, and (b) exactly what the offeror proposes to furnish. The offeror must certify that the material offered meets all technical specifications of the solicitation documents. Offeror may be requested to furnish samples of items proposed at no cost to the City. The City reserves the right to call for samples from any Offeror to assist in the evaluation. The City shall be the sole judge of whether the samples submitted meet the specifications.
33. **CLARIFICATION OF REQUIREMENTS.** It is the intent and purpose of the City of Douglas that this request permits competitive bidding. It shall be the Offeror's responsibility to advise the City Purchasing Office if any language, requirements, etc., or any combinations thereof, inadvertently restricts or limits competition, and/or are not clearly stated and easily understood. Such notification must be submitted in writing and must be received by the City Purchasing Office not later than ten (10) days prior to the solicitation opening date. A review of such notifications will be made.
34. **OBLIGATION OF OFFEROR.** At the time of the opening of submittals, each Offeror will be presumed to have studied in detail the work scope and work sites and to have read and to be thoroughly familiar with the specifications and contract documents, including all amendments(s). The failure or omission of any Offeror to examine form, instrument, document or site shall in no way relieve any Offeror of any obligations in respect to their offer.
35. **QUALIFICATIONS OF OFFERORS.** The City may make such investigations as it deems necessary to determine the ability of any Offerors to perform the work, and the Offeror shall furnish to the City all such information and data for this solicitation as the City may request. The City reserves the right to reject any offers if the evidence submitted by, or investigation of, such Offeror fails to satisfy the City that such Offeror is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein. Conditional offers will not be accepted.

36. **BID MODIFICATION.** The City shall not permit any bid to be modified once the sealed bid has been publicly opened by the City at the bid opening. Modifications proposed after the bid opening to make a product conform to the specifications will not be considered.
37. **PREPARATION OF SPECIFICATIONS BY PERSONS OTHER THAN CITY PERSONNEL.** All specifications shall seek to promote overall economy for the purposes intended and encourage competition and not be unduly restrictive in satisfying the City's need. No person preparing specifications shall receive any direct or indirect benefit from the utilization of specifications, other than fees paid for the preparation of specifications.
38. **COST OF OFFER PREPARATION.** The City will not reimburse the cost of developing, presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner.
39. **SILENCE OF SPECIFICATIONS.** The apparent silence of these specifications and any supplemental specifications as to any details or the omission from it of any detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail. All workmanship shall be made on the basis of this statement.
40. **LICENSES.** Contractor shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this contract.
41. **INDEMNIFICATION.** The Contractor agrees to indemnify, defend, and save harmless the City of Douglas, its Mayor and Council, appointed boards and commissions, officials, officers, employees, individually and collectively; from all losses, claims, suits, actions, payments and judgments, demands, expenses, attorney's fees, defense costs, or actions of any kind and nature resulting from personal injury to any person, including employees of the Contractor or of any sub-contractor employed by the Contractor (including bodily injury and death) or damages to any property, arising or alleged to have arisen out of the negligent performance of the Contractor for the work to be performed hereunder, except any such injury or damages arising out of the sole negligence of the City, its officers, agents, or employees. IT IS THE INTENTION OF THE PARTIES to this contract that the City of Douglas, its Mayor and Council, appointed boards and commissions, officials, officers, employees, individually and collectively, are to be indemnified against their own negligence unless and except their negligence is found to be the sole cause of the injury to persons or damages to property.
- The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.
42. **VENDOR RESPONSIBILITY.** If, in the judgment of the City, the offer or the offeror is not responsible, it shall be considered sufficient grounds for rejection of the entire offer.
- Any offeror shall furnish upon request, two (2) copies of the Offeror's most recent financial statement and/or other evidence of his qualifications as may be requested by the City. If an offeror fails to furnish in a timely manner the information requested, it shall be considered sufficient grounds for rejection of such offeror's entire offer.
43. **CLARIFICATIONS.** The City reserves the right to obtain offeror clarifications where necessary to arrive at full and complete understanding of offeror's product, service, and/or solicitation response.
44. **PROTESTS.** A protest must be in writing and filed with the Purchasing Office. A protest of a solicitation must be received before the solicitation opening date. A protest of a proposed award must be filed before the City Council Meeting that the recommendation will be voted upon. If the award is less than \$50,000, City Council approval is not needed and protests must be submitted with ten (10) days after the protestor knows or should have known the basis of the protest. The City shall determine whether to issue a written response or hold an administrative hearing. The City shall also determine whether to continue the council agenda item to a future City Council Meeting, as applicable.

A protest must include:

The name, address and telephone number of the protestor;
The signature of the protestor or its representative;
Identifications of the project and the solicitation or contract number;

A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and the form of relief requested.

45. APPROVALS. All work shall be done to the satisfaction of and be approved by the Purchasing and Material Manager, or his representative. All work, except final acceptance, shall be considered accepted by the City if the Contractor is not otherwise advised in writing within sixty (60) days after the last item is submitted.
46. LAWS AND REGULATIONS. The vendor's attention is directed to the fact that all applicable State laws, municipal ordinances, and the rules and regulations of all having jurisdiction over services performed for the project shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full.
47. NON-EXCLUSIVENESS OF CONTRACT. It is not agreed that the Contractor shall have the exclusive right, during the term of this contract and all renewals thereof, to provide the product(s) and/or services as described herein.
48. SIGNATURE. Bidders/Proposers are required to sign offer in the Offer Section of the solicitations. Bidders/Proposers failing to sign offer will be considered non-responsive and their offer will not be considered.
49. PUBLIC RECORD. All offers submitted in response to this solicitation and all offer evaluation related records shall become property of the City and shall become a matter of public record for review, subsequent to publication of the proposed award by the City Clerk's Office of the agenda for the City Council Meeting or award by the appropriate approving authority.

Request for nondisclosure of data such as trade secrets and other proprietary data, must be made known to the City in proposals submitted.

The City will NOT insure confidentiality of any portion of the solicitation documents that are submitted in the event that a public record request is made.

The City will provide 48 hours' notice before releasing materials identified by the offeror/bidder as confidential or proprietary in order that the offeror/bidder can obtain a court order blocking the release of the information.

The City will protect the confidential and proprietary documents it has in its possession and will not release this information to unauthorized personnel unless ordered to do so by the appropriate authority.

50. CHANGE ORDERS. Change orders may be written to the contract for addition or deletion of services or equipment. Change orders will be processed in accordance with City change order procedures.
51. CONDUCT. Contractor's employees, officers and subcontractors shall not identify themselves as being employees of the City of Douglas. Employees shall conduct themselves in such a manner as to avoid embarrassment to the City of Douglas, and shall be courteous to the public.
52. DRIVER'S LICENSE. Employees driving the Contractor's vehicles shall at all times possess and carry a license issued by the State of Arizona to operate the appropriate vehicle(s) and/or equipment.
53. ORDERING INSTRUCTIONS. Authorization for purchases under the terms and conditions of this contract will be made only upon issuance of a purchase document signed by an authorized agent. The purchase order will specify the items ordered, delivery instructions and any other pertinent information required. All City and vendor documents must reference the resultant contract number.
54. CONTRACT TERMINATION. This contract may be discontinued without default by either party by providing a written sixty (60) day notice of termination to the other party.
55. COOPERATIVE USE OF CONTRACT. In addition to the City of Douglas and with approval of the contracted vendor, this contract may be extended for use by other municipalities, school districts and government agencies of the State. Any such usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity.

56. AWARD OF CONTRACT CONTINGENT ON SALE AND DELIVERY OF BONDS. As the sole source for payment of the amounts due under the contract, the City will sell bonds and deposit the bond funds in a special fund to be used thereafter to pay progress payments and incidental expenses. To guard against the possibility that the City will be unable to sell or deliver the bonds for any reason, the award of the contract and the performance by the City of its obligations under the contract is conditioned upon the actual sale and delivery of the City's bonds in an amount which is sufficient to produce the amount required to meet the payments due under the contract. The City reserves the right to rescind the award of the contract and terminate the contract, if executed, without incurring expenses or liability for such termination or rescission if it is unable to provide funding through the sale of its bonds for any reason. Notwithstanding an award of the contract, the contractor or vendor should not perform any work or incur any expense pursuant to the contract until such time as the contractor or vendor has received notice from the City that bond funds are held by the City in an amount sufficient to pay the amounts due under the contract.
57. IMMIGRATION REFORM AND CONTROL ACT. The contractor shall comply with the Immigration Reform and Control Act of 1986 (IRCA). Contractor understands and acknowledges the applicability of the IRCA to contractor. Contractor agrees to comply with the IRCA in performance of any resultant contract and to permit City inspection of their personnel records to verify such compliance.

To the extent applicable under ARIZONA REVISED STATUTE SECTION §41-4401, the Contractor and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under ARIZONA REVISED STATUTE SECTION §23-214 (A). The Contractor or subcontractor's breach of the above-mentioned warranty shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by the City of Douglas. The City of Douglas retains the legal right to randomly inspect the papers and records of the Contractor and its subcontractors who work on the contracts ensure that the Contractor and its subcontractors are complying with the above-mentioned warranty.

The Contractor and its subcontractors warrant to keep the papers and records open for random inspection during normal business hours by the City of Douglas. The Contractor and its subcontractors shall cooperate with the City of Douglas random inspections including granting the City of Douglas entry rights onto its property to perform the random inspections and waiving their respective rights to keep such papers and records confidential.

FEDERAL TRANSIT ADMINISTRATION CONDITIONS

No Obligation by the Federal Government

(1) The City and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the City, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the Federal Transit Administration (FTA). It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

Program Fraud and False or Fraudulent Statements or Related Acts

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq .and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Access to Records

The Contractor agrees to provide the City, the Arizona Department of Transportation (ADOT) , the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the City, ADOT, FTA Administrator, Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11) or 2 CFR 200.333-337.

Federal Changes

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement at <https://www.transit.dot.gov/grants/> between ADOT and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Civil Rights

The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

Incorporation of Federal Transit Administration Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (USDOT), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by USDOT, as set forth in FTA Circular 4220.1F at <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/third-party-contracting-guidance> are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any City requests which would cause City to be in violation of the FTA terms and conditions.

Energy Conservation

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

Debarment and Suspension

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the City. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the City and ADOT, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Breaches and Dispute Resolution

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the City. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the City. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the City shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by City, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the City and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the City is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available there under shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach there under, except as may be specifically agreed in writing.

Clean Air and Water

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq* and the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq*. The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

Lobbying

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the City.

GENERAL TERMS AND CONDITIONS
Twenty-Four Hour Gasoline Service
IFB 2016-010

1. Instructions for Proposals

City of Douglas is soliciting written bids for Twenty Four Hour Non-Automated Gasoline Services, in accordance with the specifications, terms and conditions set forth herein. The intent of this solicitation is to establish blanket purchase orders for approximately one year with the possibility of renewal. The City makes no guarantee of any annual amount of fuel purchased.

The proposals must be signed by an authorized officer of the firm who is empowered by corporate resolution to enter into an agreement with the City of Douglas.

Interested offerors are requested to submit their proposal to the City Clerk's Office, City of Douglas, 425 10th Street, Douglas, Arizona 8607.

2. Receipt and Registration of Proposals

Proposals and modifications shall be time-stamped upon receipt and held in a secure place until the established due date and time. Proposals shall be opened publicly but only the proposer's company name will be read aloud. No prices or other parts of the offer shall be revealed at the time of the Proposal Opening. After the time and date established for receipt of proposals, a Register of Proposals shall be prepared which shall include the name of each offeror. The Register of Proposals shall be open to public inspection but Vendor proposals shall not be open to public inspection until award of the contract. Proposals and modifications shall be shown only to City of Douglas personnel having a legitimate interest in them.

3. Proposals and Contracts

Offerors are cautioned to verify their proposals before submission, as withdrawal of proposals submitted after time specified for opening of proposals may not be considered.

4. Addendum(s)

In the event changes must be made to the Invitation for Bid, an addendum(s) will be prepared and issued to all offerors who have received the original Invitation for Bid (IFB).

5. Definition

The term "Contractor" shall hereinafter be defined and used interchangeable with the term "Offeror", "Contractor", "Vendor" or "Proposer". The term "Owner" shall hereinafter be defined and used interchangeably with the term "City of Douglas", "Buyer", "Owner" or "City".

6. Confidential Data

Request for nondisclosure of data such as trade secrets and other proprietary data, must be made known to the City in proposals submitted. The City will follow the procedures listed below in the event a proposal is noted as "Confidential" and/or "Proprietary".

- a. The City will NOT insure confidentiality of any portion of the proposal documents submitted in the event a public request is made.
- b. The City will provide 48 hours' notice before releasing materials identified by the proposer as confidential or proprietary in order that the proposer can obtain a court order blocking the release of the information.
- c. The City will protect the confidential and proprietary documents it has in its possession and will not release this information to unauthorized personnel unless ordered to do so by the appropriate authority.

This procedure is being taken as it would be difficult for the City to judge what is and what is not confidential or proprietary for all submittals.

This is the only notification given to potential bidders and that fact should be taken into consideration prior to submitting a proposal.

7. Clarification

Additional information or clarification of any of the instructions or information contained herein may be obtained from Purchasing Office. It is the intent of the City of Douglas that this request permits competitive proposals. Any proposer or proposer's finding any discrepancy in or omission from the specifications, in doubt as to their meaning, or feeling that the specifications, any language, etc., are discriminatory, shall notify the City's Purchasing Office in writing not less than ten (10) days prior to the scheduled opening of proposals. Exceptions as taken in no way obligate the City to change the Specifications. The City's Purchasing Office will notify all proposers in writing, by amendment duly issued, of any interpretations made of specifications on instructions.

The City will assume no responsibility for oral instruction or suggestion. All official correspondence in regard to the specifications should be directed to and will be issued by the City's Purchasing Office.

8. Contract Applicability

Offeror must substantially conform to the terms, conditions, specifications and other requirements found within the text of this specific proposal. All previous agreements, contracts, or other documents, which have been executed between the offeror and the City of Douglas, are not applicable to this proposal or any resultant contract.

9. Rejection of Proposal

The City reserves the right to make award on the basis of accepting the proposal that is most advantageous to the City based on service, price, materials or other evaluation factors as set forth herein; to waive any informalities in the proposal; or may reject all proposals.

10. Discussion with Responsible Offerors and Revisions to Proposal

Discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors. The purposes of such discussions shall be to:

- A. Determine in greater detail such offerors qualifications, and
- B. Explore with the offeror the scope and nature of the project, the offers proposed method of performance, and the relative utility of alternate methods of approach;
- C. Determining that the offeror will make available the necessary personnel and facilities to perform within the required time;
- D. Agreeing upon compensation, which is fair and reasonable, taking into account the estimated value of the required services, and the scope, complexity and nature of such services.

11. Award of Contract

If compensation, contract requirements and contract documents can be agreed upon with the best-qualified offeror, the contract shall be awarded to that offeror. If compensation, contract requirements, or contract documents cannot be agreed upon with the best qualified offeror, a written

record stating the reasons therefore shall be placed in the file and offeror shall be advised of the termination of negotiations which shall be confirmed by written notice within seven (7) working days.

Upon failure to negotiate a contract with the best-qualified offeror, the City may enter into negotiations with the next most qualified offeror. If compensation, contract requirements and contract documents can be agreed upon, then the contract shall be awarded to that offeror. If negotiations fail, negotiations shall be terminated as described above and commenced with the next most qualified offeror.

The discretion as to whether or not a proposal (over \$50,000) is awarded, or to reject all proposals, rests with the City Council. Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the City taking into consideration price and the evaluation factors set forth in the Invitation For Bid.

The City may award a contract based on initial proposals received, without discussion of such proposals. Accordingly, each proposal should be submitted on the proposer's most favorable terms.

12. Disadvantaged Business Enterprises (DBE'S)

It is the policy of the Department that socially and Economically Disadvantaged Business Enterprises (DBE's) shall have an equal opportunity to participate as consultants, sub consultants, suppliers or vendors in the performance of contracts.

13. Contract Administration

This contract shall be administered by an authorized representative of the Purchasing Division and the primary user department. All disputes and/or questions regarding this contract shall be referred to an administrator for resolution as stated in "Breaches and Dispute Resolution" section of the Federal Transit Administration Conditions and Section 23 of the Standard Terms and Conditions.

14. Change Orders

The City, without invalidating the Contract, may order extra work or make changes by alternating, adding to, or deducting from the work, the Contract sum being adjusted accordingly. All such work shall be executed under the conditions of the original Contract, except that any claims for extension of time caused thereby shall be adjusted by at the time of ordering such change. No changes in the work covered in the approved contract documents shall be made without having prior written consent of the City, and written acceptance by the Vendor of the terms and conditions of the change.

Change orders shall be executed in accordance with procedure required by the City and no work involving the change shall be done by the Contractor until a copy of the approved change order has been received by him. Verbal change orders may be authorized by the City only where loss of life or property appears imminent. Such changes shall further be reduced to writing within ten (10) days of the verbal order being given.

15. Non-Compliance

Acceptance of the work of this Vendor upon completion of the project shall not preclude the City from requiring strict compliance with the contract Documents that this Vendor complete or correct upon discovery any faulty, incomplete or incorrect work not discovered at the time of acceptance. The one-year limit specified in the Warranty shall not void or limit this requirement.

16. Claims

Payment of any claim shall not preclude the Owner from making claim for adjustment on any item found not to have been in accordance with general condition and specifications.

17. Assignment

This contract shall not be assignable except at the written consent of the parties hereto; and it shall extend to and be binding upon the heirs, executors, administrators, successors, and assignees of the parties hereto.

18. Defective Products

City's remedy for any defect in the equipment for which Vendor is responsible shall be for Vendor to repair, replace, or find other equipment that is compatible to the equipment at no cost to the City. This includes labor, parts, installation, testing, freight, and other related costs.

19. Cancellation/Termination

A. The City reserves the right to cancel the whole or any part of this contract due to failure of the Contractor to carry out any term, promise, or condition of the contract. The City will issue a written ten (10) day notice of default to the Contractor for acting or failing to act including, but not limited to, in any of the following situations:

- (1) In the opinion of the City, the Contractor provides material that does not meet the requirements of the contract;
- (2) In the opinion of the City, the Contractor fails to perform adequately the services required in the contract;
- (3) In the opinion of the City, the Contractor attempts to impose on the City material, products, service, or workmanship which is of an unacceptable quality.
- (4) The Contractor fails to complete the required work or furnish the required materials within the time stipulated in the contract;
- (5) In the opinion of the City, the Contractor fails to make progress in the performance of the requirements of the contract and/or gives the City a positive indication that the Contractor will not or cannot perform to the requirements of the contract;
- (6) If the Contractor fails to provide adequate insurance coverage.
- (7) Have a conflict of interest.
- (8) Violates federal, state or local laws and regulations.

B. Upon receipt of a termination notice, the Contractor shall:

- (1) promptly discontinue all services affected (unless the notice directs otherwise); and
- (2) deliver or otherwise make available to the City all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Contractor in performing the contract, whether completed or in progress.

C. If termination for convenience is effected by the City, an equitable adjustment shall include a reasonable profit for services or other work performed. An equitable adjustment for any termination shall provide for payment to the Contractor for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the Contractor relating to commitments which had become firm prior to the termination.

D. Upon termination pursuant to the above Paragraph, the City may take over the work and prosecute the same to completion by agreement with another party or otherwise.

E. If, after termination for failure of the Contractor to fulfill contractual obligation, it is determined that the Contractor had not so failed, the termination shall be deemed to have been effected for the convenience of the City. In such event, adjustment of the price provided for in the contract shall be made as provided above.

- F. The rights and remedies of the City and the Contractor provided in this clause are in addition to any other rights and remedies provided by law or under the contract.

20. Remedies

The City may resort to any single or combination of the following remedies in addition to any other remedies provided by law:

- A. Cancel any contract for any of the above stated reasons.
- B. Reserve all rights or claims to damage for breach of any covenants of the contract.
- C. Perform any test or analysis on materials as to whether they conform in all respects to the specifications of the contract. If the results indicate non-compliance with the specifications, any actual expense of testing will be borne by the Contractor.
- D. In case of default, the City reserves the right to purchase in the open market, or to complete the required work, at the expense of the Contractor. The City may recover any actual excess costs by:
- (1) Deduction from an unpaid balance.
 - (2) Collection against the surety and/or performance bond, or:
 - (3) Any combination of the aforementioned remedies or any other remedies as provided by law.

21. Contract Documents

The order of precedence in contract documents is as follows:

- Memorandum of Agreement
- Addenda to Request for Proposal
- City's Request for Proposal
- Contractor's Proposal

SPECIAL TERMS AND CONDITIONS
Twenty-Four Hour Gasoline Service
IFB 2016-010

1. Intent
City of Douglas is soliciting written bids for Twenty-Four Hour Non-Automated Gasoline Services, in accordance with the specifications, terms and conditions set forth herein. The intent of this solicitation is to establish blanket purchase orders for approximately one year with the possibility of renewal. The City makes no guarantee of any annual amount of fuel purchased.
2. Submission:
IFB's shall be signed by the offeror where applicable and delivered as designated no later than the date and time indicated on the first page of the document.
3. Inquires:
All inquiries must be submitted in writing to the Solicitation contact person, and within seven (7) days before the Offer due date and time to allow sufficient time for question review and response.
4. Identification:
Offeror agrees to provide a federal identifier (EIN or SSN) for the purposes of reporting to the appropriate taxing authorities, monies paid by the City under this contract.
5. Opening:
This is a formal bid, which will be read at a public opening.
6. Bid Rejection:
The City reserves the right to reject any, or all, bids, combination of items, or lot, and to waive defects or informalities.
7. Erasures:
Erasures, inter-lineation or other modifications must be initialed by the individual signing the Request for Quotation.
8. Brand Name:
Any manufacturer's names, trade names, brand names, trade names or catalog numbers used in the specifications are for the purpose of describing and establishing the general quality level, design and performance desired. Such references are not intended to limit or restrict bidding by other vendors but are intended to approximate the quality design or performance, which is desired. Any bid that proposes like quality, design or performance will be considered. If the description of your offer differs in any way, you must give a complete detailed description of your quotation including pictures and literature where applicable. Unless a specific exception is made, the assumption will be that you are bidding exactly as specified on Request for Quotation.
9. Unit Price:
In case of error in the extension prices in the Quotation the unit price will govern. No Quotation shall be altered amended or withdrawn after the specific date and time for receiving Quotations. Negligence by the vendor in preparing the Quotation confers no right for the withdrawal of the quotation after it has been opened.
10. Evaluation:
Award shall be made to the lowest responsible and responsive bidder whose bid conforms in all material and services respect to the requirements set forth in the request, in determining whether a bid is lowest and responsive, and the bidder responsible, the following may be considered by the City:

- a. Ability to perform the service required within the specific time
- b. Reputation, judgment and experience
- c. The quality of performance in previous contracts
- d. Previous compliance with laws, as well as employment practices
- e. Financial ability to perform the contract

11. Additional Terms and Conditions:

- I. Submission of additional terms, conditions or agreements with the bid document may result in bid rejection.

II. INSURANCE

The Contractor agrees to:

- A. Obtain insurance coverage of the types and amounts required in this section and keep such insurance coverage in force throughout the life of this contract. All policies will contain an endorsement providing that written notice be given to the City at least ten (10) calendar days prior to termination, cancellation, or reduction in coverage in any policy.
- B. The Employer's Liability and Commercial General Liability Insurance policies will include the City as an additional insured with respect to liability arising out of the performance of this contract. The Contractor agrees that the insurance hereunder will be primary and that any insurance carried by the City will be excess and not contributing.
- C. Provide and maintain minimum insurance limits as applicable:

<u>Coverage Afforded</u>	<u>Limits of Liability</u>
Worker's Compensation	Statute
Employer's Liability	\$100,000
Commercial General Liability	\$1,000,000 Bodily Injury
Insurance, including:	Combined Single Limit
(1) Products & Completed Operations	\$100,000 Property Damage
(2) Blanket Contractual	
(3) Personal Injury	

Contractor will present to the City written evidence (Certifications of Insurance) of compliance with Items A, B, and C above. Said evidence shall be to the City Procurement Director's satisfaction.

12. Offer Acceptance (90 days):

In order to allow for an adequate evaluation, the City requires an offer in response to this solicitation to be valid and irrevocable for ninety (90) days after the opening time and date.

Specifications/ Scope of Work

1. Background:

It is the desire of the City of Douglas to contract with a vendor to provide fuel service of approximately 100,000 gallons of total fuel on an “**as needed**” basis to be used by Administration, Aquatics, Facilities Maintenance, Housing Authority, Police, Fire, Parks, Cemetery, Public Works, Transit and Recreation departments. The City requires payment to be accepted via credit card or fuel cards at the pump card readers or with an attendant.

The quantities indicated herein are estimated and shall be used to evaluate the bid only. The quantities purchased will be those actually required by the City of Douglas to operate its fleet of vehicles and equipment.

2. Scope of Work:

The successful bidder will be required to meet the following:

(A) All diesel fuel must meet the following minimum specifications:

	<u>Diesel Fuel No. 1</u>	<u>Diesel Fuel No. 2</u>
Gravity, API	42.8	34.6
BTU/Gal., Gross	134,200	139,100
Sulfur, Total	15 ppm ULSD	15 ppm ULSD
Flash Point °F	142	185
Centane No. (index)	(52)	(41.5)

(B) Gasoline must meet the minimum rating of 87 octane.

(C) Gas prices shall be a discount per gallon from **the lowest pump price in the City of Douglas. Successful bidder shall produce a daily pricing report every month and provide to the City via email no later than 10 days after the end of the reporting month.**

(D) Prices will be monitored and audited bi-monthly.

(E) The City of Douglas is exempt from Federal Excise Tax, including the Federal Transportation Tax.

(F) The successful bidder shall accept credit card and fuel cards as a form of payment. City card users may pay at the pump card reader or with an attendant. The successful bidder shall furnish the City card user a receipt for each transaction at the time of the sale..

3. Protection of Persons and Property:

Contractor shall comply with federal, state and local laws, statutes, and ordinances relative to the execution of the services. This requirement includes, but is not limited to, applicable regulations concerning employment of labor, protection of public and employee safety and health, and similar subjects.

4. Invoice Requirements:

The City of Douglas shall invoice the Contractor on a monthly basis the difference in actual contracted price and the price charged to the City's credit card or fuel card at the time of sale. The actual contracted price is calculated by subtracting the discount per gallon price to the lowest pump price in the City. Invoice shall be due within 30 days of date of the invoice.

5. Warranty: Standard

6. Required Submittal:

- a. The Contractor shall submit the attached price sheet.

7. Notices, Correspondence, and Reports:

Notices, correspondence and invoices from the Contractor to City of Douglas Office shall be sent to:

City of Douglas
Purchasing Division
425 10th Street
Douglas, Arizona 85607
520-417-7317
520-417-7142 (Fax)

Notices, correspondence, reports, and payments from City of Douglas shall be sent to:

Vendor, please complete the requested information below:

Company Name: _____
Contact Person: _____
Address: _____
City, State, Zip Code: _____
Telephone No.: _____
Fax No.: _____
E-Mail: _____

BID PROPOSAL FORM

- 1. Twenty Four- hour (Unleaded Gas) Discount per gallon \$ _____
- 2. Twenty Four -hour (Diesel Fuel) Discount per gallon \$ _____

If discrepancies arise, The City of Douglas has the right to terminate the contract, and will award the contract to the next lowest bidder.

These discounts shall remain in effect from July 1, 2016 through June 30, 2017, at which time the contract can be extended on a yearly basis based on City of Douglas Council approval.

Company Name _____
Address _____
Telephone # _____

Firm Submitting Bid

Authorized Personnel (Please Print)

Authorized Signature

Title

Date: _____

**AFFIDAVIT BY VENDOR
CERTIFYING THAT THERE WAS
NO COLLUSION IN RESPONSE
TO SOLICITATION**

STATE OF ARIZONA)
)
CITY OF)

_____)
(Name of Individual)

BEING DULY SWORN, DEPOSES AND SAYS:

That he is _____)
(Title)

of _____)
(Name of Business)

That Pursuant to Section 34-253 of the Arizona Revised Statutes, he certifies as follows:

That neither he nor anyone associated with said

_____)
(Name of Business)

has directly, or indirectly, entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this project.

(Name)

(Title)

(Name of Business)

Subscribed and sworn to before me this _____ day of _____ 20____.

My commission Expires:

(Notary Public)

LOBBYING CERTIFICATION

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-contracts at all tiers and that all sub-contractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date