

# THE CITY OF MURFREESBORO

## INVITATION TO BID

The City of Murfreesboro ("City") will receive and publicly open sealed bids in the City Manager's Office, Post Office Box 1139, 111 West Vine Street, Murfreesboro, Tennessee 37133-1139, telephone number (615) 849-2629. This Invitation to Bid (ITB) is subject to the instructions, conditions, specifications, addenda, and any other elements of this ITB, including those incorporated by reference.

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**DATE ISSUED:** August 14, 2014

**BID TITLE:** Bulk Purchase of Lubrication Products

**CITY CONTACT PERSON:** Jack Hyatt, Director  
City of Murfreesboro  
Fleet Services Department  
4753 Florence Road  
Murfreesboro, TN 37129

**TELEPHONE NUMBER:** (615) 217-3037

**FAX NUMBER:** (615) 494-4591

**E-MAIL ADDRESS:** [jhyatt@murfreesborotn.gov](mailto:jhyatt@murfreesborotn.gov)

**All bid responses must be received and acknowledged in the City Manager's Office on or before the day and time listed below, at which time all bids will be publicly opened and read aloud.**

**SUBMIT BID RESPONSE IN SEALED ENVELOPE TO:**

City of Murfreesboro  
City Manager's Office – ATTN: Bulk Purchase of Petroleum Products  
Located on the First Floor of City Hall  
Post Office Box 1139  
111 West Vine Street  
Murfreesboro, Tennessee 37133-1139

Bid envelope must include the bid title, bid opening date, and the bidder's name. Failure to provide this information on the envelope may result in the bid not being considered. Do not submit bids by fax or electronically. Bids submitted by fax or electronically cannot be accepted or considered for award. Sealed bids are required.

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**BID OPENING DATE:** September 3, 2014

**BID OPENING TIME:** 3:00 p.m., Murfreesboro Tennessee local time

**Department**  
**Murfreesboro, Tennessee**  
**Invitation to Bid**  
**BID TITLE**

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# 1. INSTRUCTIONS AND CONDITIONS

## 1.1. *Invitation to Bid*

- 1.1.1. The City of Murfreesboro is seeking bids for the bulk purchase of the petroleum products specified in Section 2. Sealed bids will be received by the City of Murfreesboro at the Office of the City Manager, located on the first floor of City Hall, Post Office Box 1139, 111 West Vine Street, Murfreesboro, Tennessee 37133-1139, until 3:00 p.m. local time on **September 3, 2014**, at which time the bids will be opened.
- 1.1.2. Bids may be mailed or delivered to the City of Murfreesboro, Office of the City Manager, City Hall, Post Office Box 1139, 111 West Vine Street, Murfreesboro, TN 37133-1139. Attached are the specifications and bid form for the bulk purchase of petroleum products. All bids shall be submitted on the attached bid form in sealed envelopes with "Bulk Purchase of Petroleum Products" on the outside of the envelope. All bids must be signed. Failure of a bidder to sign a bid proposal removes the bid from consideration. A typed name will not be acceptable without the person's written signature as well. The City will not accept bid responses submitted by fax or electronic mail.
- 1.1.3. Bid responses must be received and acknowledged in the City Manager's Office on or before the date and time specified for the receipt of bid responses. A bid opening date has been set for **September 3, 2014** at 3:00 p.m. local time in the Office of the City Manager located on the first floor of City Hall. No bids received after closing time will be accepted. All late bid responses will be returned unopened to the bidder. Bids postmarked on the bid opening date but received in the City Manager's Office after the specified time will be considered late and will be returned unopened. The City shall not be responsible for bid responses that are mailed or sent via private delivery services.
- 1.1.4. These documents constitute the complete set of specification requirements and bid response forms. The bidder is responsible for insuring that all pages and all addenda are received. The City advises all bidders to closely examine this ITB package, and to immediately direct any questions regarding the completeness of this ITB package and any addenda thereto to the City's Contact Person.
- 1.1.5. Any prospective bidder desiring an explanation or interpretation of this ITB, drawings, specifications, etc., must request such explanation in a written form received by the contact person no later than two (2) calendar days prior to the bid opening date.
- 1.1.6. There may be one or more amendments to this ITB. If you desire to receive copies or notices of any such amendments, you must complete and submit the Contact Information Form included in the ITB. Please send this information to the contact person listed above via fax or e-mail. The City will send amendments only to those firms which timely complete and return this form via fax or provide the requested information by timely e-mail.

- 1.1.7. Any discrepancies, errors, omissions, or ambiguities in this bid, the specifications or addenda (if any) should be reported to the contact person for the City. If necessary, a written addendum will be issued to bidders on record and the addendum will be incorporated in the bid and will become part of the purchase agreement. The City will NOT be responsible for any oral instructions, clarifications or other communications and no such oral communication may be relied on by any bidder.

## **1.2. Bid Responses**

- 1.2.1. Bid responses must be submitted in a sealed envelope that includes the bid title, bid opening date, and the bidder's name. Failure to provide this information on the envelope may result in the bid not being considered.
- 1.2.2. All bid responses should be typewritten. If not typewritten, they must be written in ink and clearly legible, and numbers must be expressed in both words and figures. All bids must be signed by an individual authorized to bind the bidder. Signatures are required where indicated; failure to comply with this requirement shall be cause for rejection of bid response. Erasures, white-outs and type-overs, and other modifications should be initialed. Bidders are cautioned to verify their bid response prior to submission. Failure of a bidder to sign a bid proposal removes that bid from consideration. A typed name will not be acceptable without the person's written signature.
- 1.2.3. Certain mistakes may be corrected so long as the intended correct bid response is clearly evident. In the event of a disagreement between unit price and extended price, the unit price will control.
- 1.2.4. Specifications furnished in the request for bid are intended to establish a desired quality or performance level, or other minimum requirements, which will provide the City with the best product available at the lowest possible price. Should the bidder wish to bid on items which exceed the minimum specifications, the bidder is encouraged to attach a separate sheet providing a description of such components.
- 1.2.5. Bidders must specify manufacturer's name for all products proposed and show the unit price on each individual item as specified. Prices quoted must be the price for new (not reconditioned or remanufactured) merchandise direct from the manufacturer that is free from defects. If bidding a substitute article, a bidder must provide the manufacturer's name, brand, model, make and catalogue reference, specifications for the substituted article, and/or other information that will enable the City to make the determination of similarity, serviceability and suitability of the substitute. The City reserves the right to be the sole judge in making such determination.
- 1.2.6. If bidding a substitute article, the bidder may, no less than five (5) working days in advance of the bid opening, request a determination from the City whether the substituted item is equal and/or better and of comparable quality as specified. The City will attempt to give the bidder notice of City's determination no later than two

(2) working days in advance of the bid opening. Bidder is not required to seek such pre bid approval but the bid may be rejected for failure to meet specifications if the proposed substitute is unacceptable to City.

- 1.2.7. Where more than one item is listed, any item(s) not bid upon should be indicated "No Bid". Any and all items left blank will be considered a "No Bid" for that item.
- 1.2.8. A bidder desiring to bid "No Charge" for an item must so indicate by writing "no charge" or "N/C". Bidders shall not leave an item blank since it will be construed as incomplete and may be rejected.
- 1.2.9. Bid responses may only be withdrawn until bid opening after which time no bids may be withdrawn for a period of ninety (90) calendar days after bid opening.
- 1.2.10. Bid responses may be modified by written notice received and acknowledged by the City Manager's Office prior to the date and time for public opening of bids. Late modifications cannot be considered.
- 1.2.11. The City will not be liable for any costs incurred by the bidder in preparing a response to this solicitation. Bidders will submit responses at their own risk and expense. All responses and their accompanying documentation will become the record of the City.
- 1.2.12. The City is exempt from federal and state taxes. Upon request, the City will provide a sales tax exemption certificate to the awarded bidder. Vendors doing business with the City shall not be exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations to the City, nor shall any vendor be authorized to use the City's Tax Exemption Number in securing such materials.

### **1.3. Bid Award**

- 1.3.1. Any contract awarded pursuant to this ITB shall be awarded to the lowest responsive and responsible bidder whose bid response meets the requirements and criteria set forth in this ITB. A "responsive bidder" means a person who has submitted a bid response, which conforms in all material respects to the ITB. A "responsible bidder" means a person who has the capacity, reputation and experience in all respects to perform fully the contract requirements and the integrity and reliability, which will assure good faith performance within the time specified without delay or interference.

The City may make such investigations as deemed necessary to determine the ability of the bidder to provide the products and services required by the bid package.

- 1.3.2. This solicitation in no manner obligates the City to the purchase described, implied or which may be proposed, until confirmed by a written contract. Progress toward this end is solely at the discretion of the City and may be terminated at any time prior to the signing of a contract. The City reserves the right to make revisions to

any quantity shown on the bid form dependent upon bid prices and available funding. Prices bid on each item shall be firm regardless of the actual quantity of item(s) purchased.

- 1.3.3. **Pricing for each item specified in Section 3 shall be effective for one (1) year from date of bid award.** If in the bidder's opinion, additional goods or services are necessary to make the specified goods fully operational, bidder shall include an appropriate explanation in the bid. It is requested that bidders raise any such questions in advance of submitting a bid to the City. To submit a bid implies consent to the terms as set forth in this bid.
- 1.3.4. Any items bid deemed not of equal and/or better and of comparable quality and similar in design as that specified shall be cause for rejection of bids. In addition to the price, the following aspects will also be considered in the award of a contract:
- a. The ability of the bidder to perform the contract or to provide the material for service required;
  - b. Whether the bidder can perform the contract and provide the material or service promptly or within the time specified without delay or interference;
  - c. The character, integrity, reputation, experience and efficiency of the bidder;
  - d. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
  - e. The ability of the bidder to provide future maintenance and/or service for the subject of the contract;
  - f. Terms and conditions stated in bid;
  - g. Compliance with specifications or the ITB;
  - h. Utilization of the format set forth in Section 3 for submittal of a bid; and,
  - i. Bidder's past performance with the City.
- 1.3.5. The City reserves the right to reject any and all bids, to waive any irregularities in a bid, to make awards to more than one bidder, to accept any part or all of a bid, or to accept the bid (or bids) which in the judgment of the governing body is in the best interest of the City.
- 1.3.6. No bidder may withdraw its response for a period of ninety (90) calendar days after the date and time set for the opening of the responses. In the event the City shall award a contract to a bidder and if during such ninety (90) day period the City determines that such bidder will be unable to properly perform the contract, the City reserves the right to terminate the contract and award the contract to the next best offer without being required to re-advertise the Bid.

- 1.3.7. The contract awarded may be terminated upon any of, but not limited to, the following occurrences: a) bankruptcy or insolvency of the bidder or one or more of the bidder's principal owners; b) unauthorized substitution of products other than those identified in the specifications or specifically approved by the City as a substitute prior to award of the contract; c) unsatisfactory performance of products supplied by the bidder or services provided by the bidder; d) fraud and e) any other breach of the terms of the bid specifications or contract.
- 1.3.8. Bidder, by signing and making this bid, does further declare, in determining the prices and/or amounts of the bid, that bidder has not colluded with any other person, firm, corporation or association in arriving at said prices and/or amounts or in any way violated the terms, conditions and/or spirit of the provisions of 15 U.S.C. 1 through 7 (Sherman Anti-Trust Act).

#### **1.4. Terms and Conditions**

A representative copy of a City contract is included with this bid package. It immediately follows the Invitation to Bid document. Any bidder who is awarded a contract pursuant to this invitation to bid agrees to be bound by the terms and conditions set forth in the attached City Contract (Attachment A). **If the bidder objects to any contract terms or proposes any additional terms, such objections and terms must be set forth in the bid.** Rejection of any proposed City Contract terms may be a basis for rejection of the bid. If an award is made, any contract resulting from this ITB will be effective on the date the contract is signed by all required parties.

All bidders who are awarded contracts agree to be bound by these terms and conditions set forth below:

- 1.4.1. Should awarded bidder fail to fulfill, in a timely and proper manner, its obligations under the contract, or if it should violate any of the terms of the contract, the City shall have the right to immediately terminate the contract upon written notice to the bidder. The City may terminate the contract at any time, with or without cause, upon written notice to bidder. Should funding for the contract be discontinued, the City shall have the right to terminate the contract immediately upon written notice to the awarded bidder.
- 1.4.2. Liquidated damages for failure to meet installation and/or supply schedules shall be in the amount of fifty dollars (\$50.00) per calendar day.
- 1.4.3. The City, at its option, and in lieu of immediate termination, may request that the awarded bidder repair or replace any defective goods or correct performance by written notice to awarded bidder. In that event, awarded bidder shall take corrective action within the amount of time specified by the City in the written notice. Exercise of this option shall not relieve awarded bidder of any liability to the City for damages sustained by virtue of awarded bidder's breach.
- 1.4.4. The contract may be modified only by written amendment executed by all parties and their signatories hereto.

- 1.4.5. No waiver of any provision of the contract shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
- 1.4.6. Awarded bidder agrees that, in the event either party deems it necessary to take legal action to enforce any provision of the contract, and in the event the City prevails, awarded bidder shall pay all expenses of such action including the City's attorney fees, expenses, and costs at all stages of the legal action and/or alternative dispute resolution process, if any.
- 1.4.7. The validity, construction and effect of the contract, and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee.
- 1.4.8. Should any provision of the contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of the contract. Any action between the parties arising from this agreement shall be maintained in the courts of Rutherford County, Tennessee.
- 1.4.9. Contractor shall indemnify and hold harmless the City, its officers, agents and employees from: i) any claims, damages, costs, and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omission of awarded bidder, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of this contract; and ii) any claims, damages, penalties, costs, and attorney's fees arising from any failure of awarded bidder, its officers, employees and/or agents, including its sub or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- 1.4.10. Awarded bidder shall maintain insurance sufficient to cover any claims arising from the acts of the awarded bidder in connection with the performance of this contract and subject to the approval of the City.
- 1.4.11. The bidder shall furnish to the City all such information and data for this purpose as the City may request. Such information shall be submitted to the City within five (5) calendar days of the City's written request. The City does hereby expressly reserve the right to reject any and all bid responses, the right to request additional information, the right to clarify bids, the right to award a contract for only some but not all the articles or items in the bid, and does further expressly reserve the right to waive minor irregularities. The City does not warrant or guarantee that a contract will be awarded as a result of this ITB.

## **1.5. Standards**

Bidder, by signing and making this bid, makes the following affirmative declaration and statement as of the date said bid is signed, to wit:

- 1.5.1. Bidder affirms that by its employment policy, standards and practices, it does not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to the individual's race, creed, color, national origin, age or sex and it is not in violation of and will not violate any applicable laws concerning the employment of individuals with disabilities.
- 1.5.2. It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this contract, Contractor certifies and warrants it will comply with this policy.
- 1.5.3. Bidder understands that it shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefore.
- 1.5.4. A breach of ethical standards could result in civil and/or criminal sanctions and/or debarment or suspension from being a contractor or subcontractor under City contracts.

## **1.6. *Payment and Delivery***

- 1.6.1. Payment will be made by the City after goods and/or services have been received, accepted, and properly invoiced as indicated in the contract and/or purchase order. Invoices must bear the purchase order number.
- 1.6.2. All items must be available for delivery within two calendar days of bid award. Forty-eight (48) hours advance notice should be given prior to delivery and installation. With delivery, any required installation shall begin and continue day to day until complete.
- 1.6.3. Deliveries of all items shall be made as stated in the bid specifications. In the appropriate blank on the bid response form, the Bidder must indicate the best delivery date after receipt of order. Deliveries resulting from this ITB are to be made during the normal working hours of the City, 8:30 a.m. through 4:30 p.m., Monday through Friday. Time is of the essence and the bidder's delivery date must be specified and adhered to. Should the awarded bidder fail to deliver items on or before its stated date, the City reserves the right to cancel the order or contract.

The awarded bidder(s) shall be responsible for making any and all claims against carriers for missing or damaged items.

- 1.6.4. Delivered items will not be considered “accepted” until an authorized agent for the City has, by inspection or test of such items, determined that they fully comply with specifications. The City may return, for full credit and at no expense to the City, any item(s) received which fail to meet the specifications as stated in this ITB.
- 1.6.5. All deliveries made pursuant to this ITB, and the contract award, must be made pursuant to written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Unless otherwise specified in this ITB, delivery and freight charges are to be prepaid and included in the bid price.
- 1.6.6. Unless otherwise specified every item bid shall have a manufacturer’s warranty against defects in parts or workmanship for a minimum of one (1) year.

## 2. SPECIFICATIONS

### 2.1 Overview

- 2.1.1 It is the intent of these specifications to secure petroleum products, available for bulk purchase, for use by the City of Murfreesboro Fleet Department in servicing and maintaining the wide-range of motor vehicles and equipment owned and operated by the City of Murfreesboro. It is not the intent of these specifications to eliminate any bidder, but rather to insure that the Fleet Services Department will receive quality products at a competitive price.
- 2.1.2 All products bid must meet the specifications in Section 2.2 so as to meet the demands of the City of Murfreesboro's Fleet Services Department.
- 2.1.3 Each bidder shall show a unit price on each item and an extended price on estimated quantities.
- 2.1.4 Purchase orders will be issued for one or more items as needed at the contract unit price. Quantities could be more or less than estimated. The City does not guarantee the purchase of any specific or minimum quantity of any items during the term of this agreement. Similarly, the City is not obligated to purchase the estimated quantity but shall not purchase bid items awarded to one vendor from other vendors during the contract term unless the successful vendor is unable to meet service and delivery requirements.
- 2.1.5 The City is not subject to sales tax.
- 2.1.6 The City reserves the right to make an award or awards based on the Total Bid Price or on the annual price bid for an individual item or items.
- 2.1.7 **Awarded bidder(s) will honor price(s) for other local governments.**
- 2.1.8 The initial term of this contract shall be one (1) year from the date the contract is executed by both parties. The contract shall be subject to automatic renewal at the price(s) bid for up to an additional three (3) one-year periods, for a total contract term up to four (4) years, unless the City exercises its right to terminate the contract. The City may terminate the contract in whole or in part if it is dissatisfied with the bidder's product, service or delivery, or if the bidder, without clear documentation of an increase in the cost or materials or labor costs, imposes an increase in the price of any item which the City is unwilling to accept. **A successful bidder shall submit any proposed price increases for each subsequent term (years 2, 3, and 4) at least sixty (60) days prior to the Contract's anniversary date for approval and acceptance by the City Council.**
- 2.1.9 The City reserves the right to reject any bid if, in the sole discretion of the City, the investigation or information requested fails to satisfy the City that such bidder is

properly qualified and capable of carrying out the obligation of the contract and bid documents and provide the product and service contemplated therein.

## **2.2 Specifications of Petroleum Products**

- 2.2.1 15W40 Motor Oil: API-CJ4 spec.
- 2.2.2 Oil Analysis Kits for Heavy Duty Trucks
- 2.2.3 5W20 Motor Oil: API-SN with Resource Conserving (ILSAC: GF-5)
- 2.2.4 5W30 Motor Oil: API-SN with Resource Conserving (ILSAC: GF-5)
- 2.2.5 Automatic Transmission Fluid-Multivehicle: Must meet and exceed transmission fluid requirements for GM transmissions prior to 2005 and Ford Mercov V transmissions.
- 2.2.6 Hydraulic Oil AW 68: Must meet and exceed Vickers (Eaton) I-286-S
- 2.2.7 Hydraulic Oil AW 32: Must meet and exceed Vickers (Eaton) I-286-
- 2.2.8 Grease: Must be lithium complex thickened NIGL-GC-LB certified and have a dropping point of no less than 500° Fahrenheit.
- 2.2.9 Antifreeze: Must meet or exceed ASTM D-3306, ASTM D-4985 and ASTM D- Must be compatible with any and antifreeze/coolant in any vehicle regardless of color.
- 2.2.10 Diesel Exhaust Fluid: must meet ISO22241.

### 3. BID FORM

#### Bulk Purchases of Petroleum Products

All prices must include all costs. Costs included in the bid prices shall include parts, labor, accessories and any other standard equipment necessary to make this system operational, freight, delivery, installation, and training instructions. Pricing for each component shall be effective for one (1) year from date of bid award. The City is not subject to sales tax.

Explain type of warranty, length, coverage provided, bidder and purchaser liabilities and any associated costs. Specify any additions to the warranty coverage above the limits set forth in the attached specifications (attach additional pages if necessary).

For exceptions, if any, attach a separate sheet listing any exceptions to the specifications, with an explanation as to why the exception is equal to or better than the specification. Bidders may also submit with the bid a detailed description and specifications of the product(s).

**The City reserves the right to make a contract award or awards on either a Per Item Price or the Total Bid Price.**

Awarded bidder(s) will honor price(s) for other local governments.

In compliance with this ITB, and subject to all conditions thereof, the undersigned agrees that if this bid response is accepted it will furnish any or all of the items upon which price(s) are quoted, at the price set opposite each item unless otherwise specified.

A	B	C	D	E	F
Item	Description	Unit of Measure	Estimated Annual Usage	Unit Price	Annual Price (E x F)
1	15W40 Motor Oil	Bulk Delivery (gallons)	2,000 Gal.		
2	Oil Analysis Kits for Heavy Duty Trucks	1 Kit	350		
3	5W20 Motor Oil	Bulk Delivery (gallons)	1,000 Gal.		
4	5W30 Motor Oil	Bulk Delivery (gallons)	300 Gal.		
5	Automatic Transmission Fluid-Multivehicle	Bulk Delivery (gallons)	650 Gal.		
6	Hydraulic Oil AW 68	Bulk Delivery (gallons)	1,250 Gal.		
7	Hydraulic Oil AW 32	Bulk Delivery (gallons)	100 Gal.		
8	Grease	120 lbs. keg	10 Kegs		
9	Antifreeze	Drum (55 Gallon)	10 Drums		

10	Diesel Exhaust Fluid	Tote (330) Gallon	4 Totes		
<b>TOTAL BID PRICE</b>					

**THIS BID RESPONSE SHALL BE REJECTED IF NOT SIGNED WHERE INDICATED.**

Name of Firm:

\_\_\_\_\_

Form of Business:

\_\_\_\_\_

**Authorized Signature and Date:**

\_\_\_\_\_

Name Printed and Title:

\_\_\_\_\_

Address:

\_\_\_\_\_

\_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Delivery Date: \_\_\_\_\_

#### 4. CONTACT INFORMATION FORM

There may be one or more amendments to this Invitation to Bid. If your company desires to receive copies or notices of any such amendments, you must provide the information requested below to the City. Please send this information to the City's contact person listed above via mail or fax. The City will send amendments only to those firms that timely complete and return this form via mail or fax.

Bid Title \_\_\_\_\_

Company name \_\_\_\_\_

Mailing address \_\_\_\_\_  
\_\_\_\_\_

Phone number \_\_\_\_\_

Fax number \_\_\_\_\_

Company Contact Person \_\_\_\_\_

## ATTACHMENT A – SAMPLE CONTRACT

### CONTRACT BETWEEN CITY OF MURFREESBORO AND [INSERT CONTRACTOR NAME] FOR BULK PURCHASE OF PETROLEUM PRODUCTS

This contract is entered into on this [INSERT DATE], by and between **THE CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **[INSERT CONTRACTOR NAME]**, [INSERT TYPE OF ENTITY] of the State of Tennessee ("Contractor"). This contract consists of the following documents:

- *Invitation to Bid (ITB) issued* \_\_\_\_\_
- *Bid specifications issued* \_\_\_\_\_
- *Contractor's Bid Response dated* \_\_\_\_\_
- *This Contract*

In the event of conflicting provisions, all documents shall be construed according to the following priorities:

- *Any properly executed amendment or change order to this contract (most recent with first priority)*
- *This Contract*
- *Invitation to Bid & Bid Specifications*
- *Contractor's Bid Response*

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide and City agrees to purchase the **petroleum product(s)** set forth in the attached Bid Form and Specifications.
2. **Term.** The initial term of this contract shall be one (1) year from the date the contract is executed by both parties. The contract shall be subject to automatic renewal at the price(s) bid for up to an additional three (3) one-year periods, for a total contract term up to four (4) years, unless the City exercises its right to terminate the contract.
3. **Payment and Delivery.**
  - 3.1. Payment will be made by the City after goods and/or services have been received, accepted, and properly invoiced. Invoices must bear the purchase order number.
  - 3.2. Deliveries of all items shall be made within thirty (30) calendar days of order at the City of Murfreesboro Fleet Services Department located at 4753 Florence Road, Murfreesboro, TN 37129. Contact Person—Jack Hyatt (tel. 217-3037; fax 615-494-4591)—must be notified of delivery date and time within two (2) calendar days prior to delivery. Deliveries shall be made during the normal working hours of the City, Monday through Friday.
  - 3.3. Deliveries of all items shall be made as stated in the ITB and bid specifications. Should the Contractor fail to deliver items on or before its stated date, the City reserves the right to cancel the order or contract. The Contractor shall be responsible for making any and all claims against carriers for missing or damaged items.

- 3.4. Delivered items will not be considered “accepted” until an authorized agent for the City has, by inspection or test of such items, determined that they fully comply with specifications. The City may return, for full credit and at no expense to the City, any item(s) received which fail to meet the specifications as stated in the Invitation to Bid.
- 3.5. All deliveries made pursuant to the contract must be made pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Delivery and freight charges are to be prepaid and included in the bid price.
4. **Price.** The price for goods shall be invoiced at the prices and charges fixed by the Contractor as per Contractor’s bid attached hereto as Exhibit A. **Contractor shall submit any proposed price increases for each subsequent term (years 2, 3, and 4) at least sixty (60) days prior to the Contract’s anniversary date for approval and acceptance by the City Council.**
5. **Warranty.** Unless otherwise specified every item bid shall be fit for the particular purpose of the purchase, of merchantable quality and good workmanship, and free from defects. Contractor extends to the City all warranties allowed under the U.C.C.
6. **Taxes.** The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.
7. **Termination—Breach.** In the event that any of the provisions of the Contract are violated by the Contractor, the City may serve written notice upon the Contractor of its intention to terminate the Contract, and unless within seventy-two (72) hours after the serving of such notice upon the Contractor, such violation or delay shall cease and satisfactory arrangement for correction be made, the City may immediately terminate the Contract at anytime after said seventy-two (72) hours. Such termination shall not relieve Contractor of any liability to City for damages sustained by virtue of any breach by Contractor.
8. **Termination—Funding.** Should funding for this contract be discontinued, City shall have the right to terminate the contract immediately upon written notice to Contractor.
9. **Termination—Notice.** City may terminate this contract at any time upon thirty (30) calendar days written notice to Contractor. In that event, the Contractor shall be entitled to receive just and equitable compensation for any satisfactory authorized work completed as of the termination date.
10. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state and local laws and regulations.
11. **Maintenance of Records.** Contractor shall maintain documentation for all charges against City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by City or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles.

12. **Modification of Contract.** This contract may be modified only by written amendment executed by all parties and their signatories hereto. Depending upon the nature and amount of the amendment, the approval of the City Council may be required. Minor modifications to the contract may be executed by signature of the City Manager in lieu of the City's signatory hereto.
13. **Partnership/Joint Venture.** Nothing herein shall in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No party shall become liable for any representation, act or omission of any other party contrary to the terms of this paragraph.
14. **Waiver.** No waiver of any provision of this contract shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
15. **Employment.** Contractor shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, or which is in violation of applicable laws concerning the employment of individuals with disabilities.
16. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this contract, Contractor certifies and warrants it will comply with this policy.
17. **Indemnification and Hold Harmless.** Contractor shall indemnify and hold harmless City, its officers, agents and employees from:
  - 18.1. Any claims, damages, costs and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of Contractor, its officers, employees and/or agents, including its sub or independent Contractors, in connection with the performance of the contract, and,
  - 18.2. Any claims, damages, penalties, costs and attorney fees arising from any failure of Contractor, its officers, employees and/or agents, including its sub or independent Contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
  - 18.3. Contractor shall pay City any expenses incurred as a result of Contractor's failure to fulfill any obligation in a professional and timely manner under this Contract.
18. **Attorney Fees.** Contractor agrees that, in the event either party deems it necessary to take legal action to enforce any provision of the contract, and in the event City prevails, Contractor shall pay all expenses of such action including City's attorney fees and costs at all stages of the litigation.
19. **Assignment—Consent Required.** The provisions of this contract shall inure to the benefit of and shall be binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this contract, neither this contract nor any of the rights and obligations of Contractor hereunder shall be assigned or transferred in whole or in part without the prior written consent of City. Any such assignment or transfer shall not release Contractor from its obligations hereunder. NOTICE OF ASSIGNMENT OF ANY

RIGHTS TO MONEY DUE TO CONTRACTOR UNDER THIS CONTRACT MUST BE SENT TO THE ATTENTION OF CITY MANAGER, POST OFFICE BOX 1139, 111 WEST VINE STREET, MURFREESBORO, TENNESSEE 37133-1139.

20. **Entire Contract.** This contract, invitation to bid, bid specifications, and Contractor's bid response set forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.
21. **Force Majeure.** No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of war, order of legal authority, act of nature, or other unavoidable causes not attributed to fault or negligence of Contractor and/or City.
22. **Governing Law.** The validity, construction and effect of this contract and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee. Tennessee law shall govern regardless of any language in any attachment or other document that the Contractor may provide.
23. **Venue.** Any action between the parties arising from this agreement shall be maintained in the courts of Rutherford County, Tennessee.
24. **Severability.** Should any provision of this contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this contract.
25. **Notices.** Any notice to Contractor from the City relative to any part of the Contract shall be considered delivered and the service thereof completed when said notice is posted by registered mail, to the said Contractor at its last given address or delivered in person to said Contractor or its authorized representative on the work.

26.1. Notices to City shall be sent to:

**Department:** City of Murfreesboro Administration  
**Attention:** City Manager  
**Address:** Post Office Box 1139  
111 West Vine Street  
Murfreesboro, TN 37133-1139

26.2. Notices to Contractor shall be sent to:

**Contractor:** [INSERT CORRECT INFORMATION]  
**Attention:**

**Address:**

26. **Effective Date.** This contract shall not be binding upon the parties until it has been signed first by the Contractor and then approved by the City Council and signed by the Mayor. When it has been so signed, this contract shall be effective as of the date first written above.

**CITY OF MURFREESBORO**

**CONTRACTOR NAME**  
**[TYPE IN THE NAME OF THE COMPANY]**

By: \_\_\_\_\_  
Tommy Bragg, Mayor

**SAMPLE CONTRACT DO NOT SIGN**

By: \_\_\_\_\_  
[INSERT NAME & TITLE OF SIGNING  
AUTHORITY FOR CONTRACTOR]

Approved as to form:

STATE OF \_\_\_\_\_ )  
: ss  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_  
Susan Emery McGannon, City Attorney

Before me, the undersigned notary public, personally appeared \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged such person to be the \_\_\_\_\_, or other officer authorized to execute the foregoing instrument for the purposes therein contained.

\_\_\_\_\_  
Adam F. Tucker, Staff Attorney

WITNESS MY HAND and seal this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_