CITY OF OPELIKA
PURCHASING DEPARTMENT

INVITATION TO BID

LILLIE FINLEY
PURCHASING-REVENUE MANAGER
OFFICE: (334) 705-5121
FAX: (334) 705-5128

BID DATA

BID NUMBER:	16017
COMMODITY TITLE:	Gasoline and Ultra Low Sulfur #2 Diesel
USER DEPARTMENT:	Public Works/ Automotive Shop
BUYER:	Lillie Finley
BUYER TELEPHONE:	(334) 705-5121
ISSUE DATE:	May 4, 2016

BID OPENING

DAY/DATE:	May 31, 2016
TIME:	2:00 PM
LOCATION:	Opelika City Hall Conference Room
MAILING ADDRESS:	City of Opelika Purchasing Department PO Box 390 Opelika, AL 36803-0390

The City of Opelika Purchasing Department will receive bids for the purchase of **Gasoline and Ultra Low Sulfur #2 Diesel Fuel** as specified herein. Bids must be received by 2:00 PM on May 31, 2016. Late bids will not be considered nor returned.

BIDS MAY BE MAILED TO:
City of Opelika
Purchasing Department
PO Box 390
Opelika, AL 36803-0390

BIDS MAY BE DELIVERED TO:
City of Opelika
Purchasing Department
204 S. 7th Street
Opelika, AL 36801

PART ONE
GENERAL TERMS AND INSTRUCTIONS

SECTION I TERMS AND CONDITIONS

1.0 The intent of these specifications is to set forth and convey to prospective bidders the general type, character and quality of the GASOLINE AND ULTRA LOW SULFUR DIESEL FUEL PROVISION SERVICES desired by the City of Opelika.

1.1 Any deviations from these specifications shall be clearly noted. Adequate information must be provided to allow the City to evaluate the exceptions.

1.2 Bid evaluation will be made on the following criteria:

a. Rack prices per gallon
b. Fixed overhead/profit charges per gallon

1.3 The City reserves the right to evaluate all bids, waive any technicalities or informalities and to reject any and/or all bids and proposals, and further specifically reserves the right to make the award and/or awards in the best interest of the City.

1.4 The City reserves the right to award bids as a whole unit or on an individual item basis, or such combination as shall, be in the best interest of the City.

1.5 The City may waive minor differences in specifications provided these differences do not violate the specification intent nor materially affect the operation for which the item or items are being purchased.

1.6 For additional technical information concerning this bid, contact the Public Works Department, at (334) 705-5460. For information concerning bid submission and awards, contact the Purchasing Department, at (334) 705-5121.

1.7 By signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.

1.8 Vendors not listed on the City bid list shall submit with their bid a completed W-9 form (attached).

SECTION II SPECIFIC REQUIREMENTS

2.0 The City desires to have a vendor supply gasoline and diesel fuel upon demand. The City estimates we will purchase approximately 215,000 gallons of **Unleaded 87 Octane** gasoline and approximately 175,000 gallons of **ULTRA LOW SULFUR #2 DIESEL FUEL** over the twelve-month contract period. The City believes these to be accurate estimates, but they are estimates and not a guarantee of the amounts to be purchased.

2.1 The contract shall be for a period of one (1) year with an option to extend it for two additional years. An extension shall be by mutual consent of both parties to the contract. The option to extend shall be executed annually.

2.1.1 This contract shall commence immediately upon award and terminate on June 30, 2017, unless extended.

2.2 Vendors shall quote a fixed rate of overhead, and profit. Vendor shall state the terminal from which he is bidding and supply a copy of the rack prices from that terminal with their bid. <u>Bids shall be based on the rack prices for May 30, 2016</u>. Failure to submit rack prices shall be cause for rejection of bid.

2.3 Invoiced amounts will be the exact cost per gallon from the lowest refinery that successful bidder is allowed to pull from that day. Successful vendor shall break down invoice by basic price, line item for each type of tax or inspection fee charged, pollution tax, etc. Also the successful bidder shall supply, the City, a copy of the rack prices for each delivery.

2.3.1 Increase or decreases may be in fractions of a cent.

2.4 Due to fluctuating usage, delivery shall be required within twenty-four (24) hours from the time notification is dispatched to the vendor. **Deliveries shall be made to the City of Opelika between 7:00 AM – 11:30 AM CST. Pricing for the delivery shall be provided the SAME DAY as delivered no later than 2:00 PM CST.**

2.5 Deliveries shall be made to:
City of Opelika
Automotive Shop
700 Fox Trail
Opelika, AL 36801

2.5.1 There is one 12,500-gallon underground storage tank for gasoline and one 12,500-gallon underground storage tank for diesel fuel at this location.

2.5.2 Delivery shall be in transport loads of **7,500** gallons.

2.6 The delivery shall be billed as net gallons during the life of the contract. However, gross gallon information shall also be shown on the billing.

2.7 **In the case of a fuel shortage the City of Opelika shall be first priority due to the fact that the supply is used by fire, rescue and police vehicles. Any delays on delivery would cause a threat to public safety.**

2.8 The successful vendor shall comply with all City Ordinances, State Laws, Federal Executive Orders and Federal Statues

SECTION III INSURANCE

3.1 Unless otherwise required by Special Conditions of this Invitation to Bid, if a contract is awarded, the successful bidder will be required to purchase and maintain during the life of the contract, Comprehensive General Liability insurance, comprehensive Automobile Liability insurance, and Workman's Compensation insurance with limits of not less than those set forth below.

3.1.1 Comprehensive General Liability Insurance; Liability limits of a minimum of $1,000,000.00 each occurrence and $1,000,000.00 aggregate.

3.1.2 Comprehensive Automobile Liability Insurance: Liability limit of a minimum $1,000,000.00 any one accident.

3.1.3 Workman's Compensation Insurance: Statutory coverage.

3.2 The bidder shall provide the City with Certificates of Insurance evidencing the coverage required above. Such certificates shall provide that the City be given at least 30 days prior written notice of any cancellation of, intention to not renew, or material change in such coverage. Bidder shall provide Certificates of Insurance before commencing work in connection with the contract.

3.3 The providing of any insurance required herein does not relieve the bidder of any of the responsibilities or obligations assumed by the bidder in the contract awarded or for which the bidder may be liable by law or otherwise.

3.4 Failure to provide and continue in force such insurance as required above shall be deemed a material breach of the contract and shall operate as an immediate termination thereof.

3.5.1 The City of Opelika provides gasoline to agencies that must comply with the following Federal Administration Clause. Therefore vendors who sell gasoline to the City of Opelika must sign the following agreement.

Acknowledge of Inclusion of Federal Administration Clauses

The parties to the Fuel Contract entered into on _____, 20__ agree to incorporate the attached Federal Transit Administration clauses into the purchase agreement. The addendum is effective as of _____, 2016.

_____
Vendor

_____
Agency

_____
Date

ALL FTA-ASSISTED THIRD PARTY CONTRACTS AND SUBCONTRACTS

No Federal Government Obligations to Third Parties. In connection with the Project, the Recipient agrees that, absent the Federal Government's express written consent, the Federal Government shall not be subject to any obligations or liabilities to any sub recipient, lessee, third party contractor, or other participant at any tier of the Project, or other person or entity that is not a party to the Grant Agreement or Cooperative Agreement for the Project. Notwithstanding that the Federal Government may have concurred in or approved any solicitation, sub agreement, lease, third party contract, or arrangement at any tier, the Federal Government has no obligations or liabilities to any entity other than the Recipient, including any sub recipient, lessee, third party contractor, or other participant at any tier of the Project.

False or Fraudulent Statements or Claims. The Recipient acknowledges and agrees that:
(1) Civil Fraud. 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 the Recipient's activities in connection with the Project. By executing the Grant Agreement or Cooperative Agreement for the Project, the Recipient certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project. In addition to other penalties that may apply, the Recipient also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government, the Federal Government reserves the right to impose on the Recipient the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, to the extent the Federal Government deems appropriate.

(2) Criminal Fraud. If the Recipient makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government or includes a false, fictitious, or fraudulent statement or representation in any agreement with the Federal Government in connection with a Project authorized under 49 U.S.C. chapter 53 or any other Federal law, the Federal Government reserves the right to impose on the Recipient the penalties of 49 U.S.C. § 5323(l), 18 U.S.C. § 1001, or other applicable Federal law to the extent the Federal Government deems appropriate.

Access to Third Party Contract Records. The Recipient agrees to require, and assures that its sub recipients require, their third party contractors and third party subcontractors at each tier to provide to the U.S. Secretary of Transportation and the Comptroller General of the United States or their duly authorized representatives, access to all third party contract records as required by 49 U.S.C. § 5325(g). The Recipient further agrees to require, and assures that its sub recipients require, their third party contractors and third party subcontractors, at each tier, to provide sufficient access to third party procurement records as needed for compliance with Federal laws and regulations or to assure proper Project management as determined by FTA.

Federal Laws, Regulations, and Directives. The Recipient agrees that Federal laws and regulations control Project award and implementation. The Recipient also agrees that Federal directives, as defined in this Master Agreement, provide Federal guidance applicable to the Project, except to the extent that FTA determines otherwise in writing. Thus, FTA strongly encourages adherence to applicable Federal directives. The Recipient understands and agrees that unless the recipient requests FTA approval in writing, the Recipient may incur a violation of Federal laws or regulations, its Grant Agreement or Cooperative Agreement, or this Master Agreement if it implements an alternative procedure or course of action not approved by FTA.

The Recipient understands and agrees that Federal laws, regulations, and directives applicable to the Project and to the Recipient on the date on which the FTA Authorized Official awards Federal assistance for the Project may be modified from time to time. In particular, new Federal laws, regulations, and directives may become effective after the date on which the Recipient executes the Grant Agreement or Cooperative Agreement for the Project, and might apply to that Grant Agreement or Cooperative Agreement. The Recipient agrees that the most recent of such Federal laws, regulations, and directives will apply to the administration of the Project at any particular time, except to the extent that FTA determines otherwise in writing.

FTA's written determination may take the form of a Special Condition, Special Requirement, Special Provision, or Condition of Award within the Grant Agreement or Cooperative Agreement for the Project, a change to an FTA directive, or a letter to the Recipient signed by the Federal Transit Administrator or his or her duly authorized designee, the text of which modifies or conditions a specific provision of the Grant Agreement or Cooperative Agreement for the Project or this Master Agreement. To accommodate changing Federal requirements, the Recipient agrees to include in each agreement with each sub recipient, each lease, each third party contract, and other similar document implementing the Project notice that Federal laws, regulations, and directives may change and that the changed provisions will apply to the Project, except to the extent that FTA determines otherwise in writing. All standards or limits in the Grant Agreement or Cooperative Agreement for the Project, and in this Master Agreement are minimum requirements, unless modified by FTA.

CIVIL RIGHTS

The Recipient agrees to comply with all applicable civil rights laws and regulations, in accordance with applicable Federal directives, except to the extent that the Federal Government determines otherwise in writing. These include, but are not limited to, the following:

a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to comply, and assures the compliance of each sub recipient, lessee, third party contractor, or other participant at any tier of the Project, with the provisions of 49 U.S.C. § 5332, which prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.

b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to comply, and assures the compliance of each sub recipient, lessee, third party contractor, or other participant at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d *et seq*., and with U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21. Except to the extent FTA determines otherwise in writing, the Recipient agrees to follow all applicable provisions of the most recent edition of FTA Circular 4702.1A, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," and any other applicable Federal directives that may be issued.

c. Equal Employment Opportunity. The Recipient agrees to comply, and assures the compliance of each sub recipient, lessee, third party contractor, or other participant at any tier of the Project, with all equal employment opportunity (EEO) provisions of 49 U.S.C. § 5332, with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq*., and implementing Federal regulations and any later amendments thereto. Except to the extent FTA determines otherwise in writing, the Recipient also agrees to follow all applicable Federal EEO directives that may be issued. Accordingly:

(1) General. The Recipient agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Recipient agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotions or transfers, recruitment or recruitment advertising, layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
(2) Equal Employment Opportunity Requirements for Construction Activities. For activities determined by the U.S. Department of Labor (U.S. DOL) to qualify as "construction," the Recipient agrees to comply and assures the compliance of each sub recipient, lessee, third party contractor, or other participant, at any tier of the Project, with all requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 *et seq.*; with implementing Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, and with other applicable EEO laws and regulations, and also agrees to follow applicable Federal directives, except as the Federal Government determines otherwise in writing.

d. Disadvantaged Business Enterprise. To the extent authorized by Federal law, the Recipient agrees to facilitate participation by Disadvantaged Business Enterprises (DBEs) in the Project and assures that each sub recipient, lessee, third party contractor, or other participant at any tier of the Project will facilitate participation by DBEs in the Project to the extent applicable as follows:
(1) The Recipient agrees and assures that it shall comply with section 1101(b) of SAFETEA-LU, 23 U.S.C. § 101 note, and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26.

(2) The Recipient agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of any sub agreement, lease, third party contract, or other arrangement supported with Federal assistance derived from U.S. DOT in the administration of its DBE program and shall comply with the requirements of 49 C.F.R. Part 26. The Recipient agrees to take all necessary and reasonable steps as set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all sub agreements, leases, third party contracts, and other arrangements supported with Federal assistance derived from U.S. DOT. As required by 49 C.F.R. Part 26, the Recipient's DBE program approved by U.S. DOT, if any, is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. The Recipient agrees that it has a legal obligation to implement its approved DBE program, and that its failure to carry out that DBE program shall be treated as a violation of the Grant Agreement or Cooperative Agreement for the Project and this Master Agreement. Upon notification by U.S. DOT to the Recipient of the Recipient's failure to implement its approved DBE program, U.S. DOT may impose the sanctions as set forth in 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter to the appropriate Federal authorities for enforcement under 18 U.S.C. § 1001, or the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801 *et seq.*, or both.

e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and with implementing U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. Part 25, that prohibit discrimination on the basis of sex.

f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with all applicable requirements of:

(1) The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and with implementing U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. Part 90, which prohibit discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal financial assistance.

(2) The Age Discrimination in Employment Act (ADEA) 29 U.S.C. §§ 621 through 634 and with implementing U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. Part 1625, which prohibits discrimination against individuals on the basis of age.

g. Access for Individuals with Disabilities. The Recipient agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Recipient also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of programs or activities receiving

Federal financial assistance; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable. In addition, the Recipient agrees to comply with applicable implementing Federal regulations, and any later amendments thereto, and agrees to follow applicable Federal implementing directives, except to the extent FTA approves otherwise in writing. Among those regulations and directives are:

(1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;

(2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;

(3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;

(4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;

(5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;

(6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;

(7) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;

(8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F;

(9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194;

(10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and (11) Federal civil rights and nondiscrimination directives implementing the foregoing Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.

h. Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections. To the extent applicable, the Recipient agrees to comply with the confidentiality and civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq*., the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq*., and the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2, and any amendments thereto.

i. Access to Services for Persons with Limited English Proficiency. The Recipient agrees to facilitate compliance with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and follow applicable provisions of U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 *Fed. Reg*. 74087, December 14, 2005, except to the extent that FTA determines otherwise in writing.

j. Environmental Justice. The Recipient agrees to facilitate compliance with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note, except to the extent that the Federal Government determines otherwise in writing.

k. Other Nondiscrimination Laws. The Recipient agrees to comply with applicable provisions of other Federal laws and regulations, and follow applicable Federal directives prohibiting discrimination, except to the extent the Federal Government determines otherwise in writing.

Federal Standards. The Recipient agrees to comply with applicable third party procurement requirements of 49 U.S.C. chapter 53 and Federal laws in effect now or subsequently enacted; with applicable U.S. DOT third party procurement regulations at 49 C.F.R. § 18.36 or 49 C.F.R. §§ 19.40 through 19.48, and with other applicable Federal regulations pertaining to third party procurements and later amendments thereto. The Recipient also agrees to follow the provisions of the most recent edition and revisions of FTA Circular 4220.1F, "Third Party Contracting Guidance," and any later revision thereto, except to the extent FTA determines otherwise in writing. The Recipient agrees that it may not use FTA assistance to support its third party procurements unless its compliance with Federal laws and regulations is satisfactory. Although the FTA "Best Practices Procurement Manual" provides additional third party contracting information, the Recipient understands and agrees that the FTA "Best Practices Procurement Manual" may omit certain Federal requirements applicable to specific third party contracts.

Preference for Recycled Products. To the extent applicable, the Recipient agrees to comply with the U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. Part 247, which implements section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962. Accordingly, the Recipient agrees to provide a competitive preference for products and services that conserve natural resources, protect the environment, and are energy efficient, except to the extent that the Federal Government determines otherwise in writing.

AWARD EXCEEDING $10,000

RIGHT OF THE FEDERAL GOVERNMENT TO TERMINATE

Upon written notice, the Recipient agrees that the Federal Government may suspend or terminate all or any part of the Federal assistance to be provided for the Project if the Recipient has violated the terms of the Grant Agreement or Cooperative Agreement for the Project including this Master Agreement, or if the Federal Government determines that the purposes of the laws authorizing the Project would not be adequately served by the continuation of Federal assistance for the Project. The Recipient understands and agrees that any failure to make reasonable progress on the Project or any violation of the Grant Agreement or Cooperative Agreement for the Project, or this Master Agreement that endangers substantial performance of the Project shall provide sufficient grounds for the Federal Government to terminate the Grant Agreement or Cooperative Agreement for the Project. In general, termination of Federal assistance for the Project will not invalidate obligations properly incurred by the Recipient before the termination date to the extent those obligations cannot be canceled. If, however, the Federal Government determines that the Recipient has willfully misused Federal assistance by failing to make adequate progress, by failing to make reasonable and appropriate use of Project property, or by failing to comply with the terms of the Grant Agreement or Cooperative Agreement for the Project including this Master Agreement, the Federal Government reserves the right to require the Recipient to refund the entire amount of Federal assistance provided for the Project or any lesser amount as the Federal Government may determine. Expiration of any Project time period established for the Project does not, by itself, constitute an expiration or termination of the Grant Agreement or Cooperative Agreement for the Project.

Energy Conservation. The Recipient agrees to comply with applicable mandatory energy efficiency standards and policies of applicable State energy conservation plans issued in accordance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. §§ 6321 *et seq.,* except to the extent that the Federal Government determines otherwise in writing. To the extent applicable, the Recipient agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA assistance, as provided in FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. Part 622, Subpart C.

AWARDS EXCEEDING $25,000

Debarment and Suspension. The Recipient agrees to comply, and assures the compliance of each sub recipient, lessee, third party contractor, or other participant at any tier of the Project, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 C.F.R. Part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement)," 2 C.F.R. Part 180. The Recipient agrees to, and assures that its sub recipients, lessees, third party contractors, and other participants at any tier of the Project will, review the "Excluded Parties Listing System" at http://epls.gov/ before entering into any sub agreement, lease, third party contract, or other arrangement in connection with the Project.

AWARD EXCEEDING THE SIMPLIFIED ACQUISTION THRESHOLD ($100,000)

Disputes, Breaches, Defaults, or Other Litigation. The Recipient agrees that FTA has a vested interest in the settlement of any dispute, breach, default, or litigation involving the Project. Accordingly:

a. Notification to FTA. The Recipient agrees to notify FTA in writing of any current or prospective major dispute, breach, default, or litigation that may affect the Federal Government's interests in the Project or the Federal Government's administration or enforcement of Federal laws or regulations. If the Recipient seeks to name the Federal Government as a party to litigation for any reason, in any forum, the Recipient agrees to inform FTA in writing before doing so. At a minimum, each notice to FTA under Section 54 of this Master Agreement shall be provided to the FTA Regional Counsel within whose Region the Recipient operates its public transportation system or implements the Project.
b. Federal Interest in Recovery. The Federal Government retains the right to a proportionate share of any proceeds derived from any third party recovery, based on the percentage of the Federal share awarded for the Project, except that the Recipient may return liquidated damages recovered to its Project Account in lieu of returning the Federal share to the Federal Government.
c. Enforcement. The Recipient agrees to pursue its legal rights and remedies available under any third party contract or available under law or regulations.
d. FTA Concurrence. FTA reserves the right to concur in any compromise or settlement of any claim involving the Project and the Recipient.
e. Alternative Dispute Resolution. FTA encourages the Recipient to use alternative dispute resolution procedures, as may be appropriate.

AWARD EXCEEDING $100,000 (BY STATUTE)

Lobbying Restrictions. (1) In compliance with 31 U.S.C. § 1352(a), it will not use Federal assistance to pay the costs of influencing any officer or employee of a Federal agency, Member of Congress, officer of Congress or employee of a member of Congress, in connection with making or extending the Grant Agreement or Cooperative Agreement;
(2) In addition, it will comply with other applicable Federal laws and regulations prohibiting the use of Federal assistance for activities designed to influence Congress or a State legislature with respect to legislation or appropriations, except through proper, official channels; and
(3) It will comply, and will assure the compliance of each sub recipient, lessee, third party contractor, or other participant at any tier of the Project with U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. § 1352, as amended.

Air Quality. Except to the extent the Federal Government determines otherwise in writing, the Recipient agrees to comply with all applicable Federal laws and regulations and follow applicable Federal directives implementing the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q. Specifically:
(1) The Recipient agrees to comply with the applicable requirements of subsection 176(c) of the Clean Air Act, 42 U.S.C. § 7506(c); to comply with U.S. EPA regulations, "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 C.F.R. Part 93, Subpart A; and to comply with any other applicable Federal conformity regulations that may be promulgated at a later date. To support the requisite air quality conformity finding for the Project, the Recipient agrees to implement each air quality mitigation or control measure incorporated in the applicable documents accompanying approval of the Project. The Recipient further agrees that any Project identified in an applicable State Implementation Plan (SIP) as a Transportation Control Measure will be wholly consistent with the design concept and scope of the Project described in the SIP.
(2) U.S. EPA also imposes requirements implementing the Clean Air Act as amended that may apply to public transportation operators, particularly operators of large public transportation bus fleets. Accordingly, to the extent they apply to the Project, the Recipient agrees to comply with U.S. EPA regulations, "Control of Air Pollution from Mobile Sources," 40 C.F.R. Part 85; U.S. EPA regulations, "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle

Engines," 40 C.F.R. Part 86; and U.S. EPA regulations "Fuel Economy of Motor Vehicles," 40 C.F.R. Part 600, and any revisions thereto.
(3) The Recipient agrees to comply with the notice of violating facility provisions of section 306 of the Clean Air Act, as amended, 42 U.S.C. § 7414, and facilitate compliance with Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

c. Clean Water. Except to the extent the Federal Government determines otherwise in writing, the Recipient agrees to comply with all applicable Federal laws and regulations and follow applicable Federal directives implementing the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377. Specifically:
(1) The Recipient agrees to protect underground sources of drinking water in compliance with the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §§ 300f through 300j-6.
(2) The Recipient agrees to comply with the notice of violating facility provisions of section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and facilitate compliance with Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

SECTION IV VENDOR AND PRICE INFORMATION

PLEASE SUBMIT BIDS IN DUPLICATE

4.0 NAME OF VENDOR _____

4.1 VENDOR ADDRESS _____

4.2 E-MAIL ADDRESS _____

4.3 FEDERAL IDENTIFICATION NUMBER _____

4.4 TELEPHONE NUMBER OF SALES REPRESENTATIVE _____

4.5 TELEPHONE NUMBER TO PLACE ORDERS _____

4.6 NUMBER OF YEARS IN THIS BUSINESS _____

4.7 SIGNATURE OF AUTHORIZING VENDOR REPRESENTATIVE

_____

(MUST BE PROVIDED FOR BID TO BE VALID)

4.8 PRICING:

FOR EACH DELIVERY, VENDOR WILL SHIP THE LEAST EXPENSIVE GASOLINE OR DIESEL FUEL AVAILABLE (AS DETERMINED BY THE RACK PRICES FOR THE TERMINAL FROM WHICH THE BID WAS BASED. THE VENDOR WILL THEN ADD THEIR FIXED RATE OF PROFIT/OVERHEAD TO THE BASE PRICE.

4.8.1 **87 OCTANE UNLEADED GASOLINE FIXED RATE OF OVERHEAD/PROFIT SHALL BE: _____ PER GALLON**

4.8.2 **ULTRA LOW SULFUR #2 DIESEL FUEL FIXED RATE OF OVERHEAD/PROFIT SHALL BE: _____ PER GALLON**

4.9 All vendors submitting bids shall provide the City with a list of all taxes and fees to be charged for each delivery of gasoline or diesel fuel.

SECTION V LICENSES

5.0 City Ordinances mandate that anyone who transacts business within the City of Opelika by one or all of the following situations is subject to obtain a City Business license.

5.1 A representative of your company calls on customers or solicits business within the City.

5.2 Merchandise is delivered into the City on a vehicle other than common carrier.

BID #16017
ANTI-COLLUSION STATEMENT

THE BELOW SIGNED QUOTER HAS NOT DIVULGED TO, DISCUSSED OR COMPARED HIS QUOTE WITH OTHER QUOTERS AND HAS NOT COLLUDED WITH ANY OTHER QUOTER OR PARTIES TO A QUOTE WHATSOEVER. **NOTE:** NO PREMIUMS, REBATES OR GRATUITIES TO ANY EMPLOYEE ARE PERMITTED WITH, PRIOR TO, OR AFTER ANY DELIVERY OF MATERIALS. ANY SUCH VIOLATION WILL RESULT IN THE CANCELLATION AND/OR RETURN OF MATERIAL (AS APPLICABLE) AND THE REMOVAL FROM THE MASTER BIDDERS LIST.

_____
FIRM NAME

_____
BY (PRINTED)

_____
BY (SIGNATURE)

_____
TITLE

_____
ADDRESS

_____

BID NO.: 16017
STATEMENT OF NO BID/PROPOSAL

NOTE: If you <u>DO NOT</u> intend to bid on this commodity or service, please complete and Return this form immediately. Your response will assist us in evaluating all responses for this important project and to improve our bid solicitation process.

The Purchasing Division of the City of Opelika wishes to keep its bid list file up-to-date. If, for any reason you cannot supply the commodity/service noted in this bid/proposal solicitation, this form must be completed and returned to remain on the particular bid list for future projects of this type.

If you do not respond to this inquiry within the time set for the proposal opening date and time noted, we will assume that you can no longer supply this commodity/service, and your name will be removed from this commodity/service list.

_____ Specifications too "tight", i.e. geared toward one brand or manufacturer only.

_____ Specifications are unclear (explain below)

_____ We are unable to meet specifications.

_____ Insufficient time to respond to the Request for Proposal.

_____ Our schedule would not permit us to perform.

_____ We are unable to meet bond requirements.

_____ We are unable to meet insurance requirements.

_____ We do not offer this product or service.

_____ Remove us from your proposers list for this commodity or service.

_____ Other (specify below).

REMARKS _____

_____

SIGNED: _____ NAME: _____
(Type or Print)

TITLE: _____ DATE: _____

FIRM NAME: _____

PHONE: _____ FAX: _____

ADDRESS: _____
(Street address) (City) (State) (Zip)