

Iowa Department of Agriculture and Land Stewardship

Contracts Declaration & Execution Page

Contract Number 25FUEL1-001	Title of Contract Fuel Lab Equipment	Award Amount \$2,228,075.00
This Contract is entered into between the State of Iowa (by and through its agency, the Department of Agriculture and Land Stewardship) and the Contractor named below:		
State Agency's Name and Address:		Contractor's Name and Address:
Iowa Department of Agriculture and Land Stewardship ("Department") 502 E. 9 th Street Des Moines, IA 50319		Iowa Central Community College – Fuel Lab ("Contractor") 4 Triton Circle Fort Dodge, IA 50501
The Department and Contractor may be referred to individually herein as the "Party" or collectively as the "Parties".		
Department Point of Contact for purposes of this contract:		Contractor Point of Contact for purposes of this contract:
Casey Johnson Accounting Bureau Chief (515) 281-6149 Casey.Johnson@Iowaagriculture.gov		Mitchell Lewis Director of Finance (515) 574-1062 lewis@iowacentral.edu
The Contractor has been classified by the Department for 2 CFR §200.331 purposes as:		<input type="checkbox"/> Contractor <input checked="" type="checkbox"/> Subrecipient
Contract Term:		
July 1, 2024 or upon complete execution by both Parties, whichever occurs later through	June 30, 2026 unless terminated earlier in accordance with with the Termination Section of this contract.	
The Parties agree to comply with the terms and conditions and attachments which are by this reference made a part of the Contract:		

IN WITNESS WHEREOF, in consideration of the mutual covenants set forth below and for other goods and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the Parties have entered into the below Contract and have caused their duly authorized representatives to execute this Contract.

Iowa Department of Agriculture and Land Stewardship	Contractor
Authorized Signature: 	Authorized Signature:
Date:	Date:
Printed Name: Grant Menke	Printed Name: Mark Crimmins
Title: Deputy Secretary of Agriculture	Title: Chairman of Iowa Central Board

SECTION 1. PURPOSE.

The Iowa Central Fuel Testing Laboratory at Iowa Central Community College (“Contractor”) serves as the official fuel testing laboratory for the State of Iowa pursuant to Iowa Code section 214A.2B. The ability to conduct fuel testing is an integral part of the Department’s role in its fuel quality assurance program. This contract will allow Contractor to procure fuel testing equipment to facilitate the expansion of fuel testing capabilities and capacity for ethanol, biodiesel and sustainable aviation fuels.

Equipment additions and upgrades will ensure that the state of Iowa maintains a rapid response capability in the case of major disruptions in fuel quality, thereby minimizing the negative impacts experienced by the end users. Not only will the additional funds update and enhance the Contractor’s capabilities, the addition of the Cetane and Octane Rating Units will provide timely results for important fuel quality data without the risk of having to rely on outside facilities which may or may not have full capabilities during a national crisis such as with Covid-19.

The Contractor must follow all requirements of the federal subaward imposed upon them by federal laws, statutes, regulations, and the provisions of the prime grant agreement.

The federal award is identified with the following:

Subrecipient Name	Iowa Central Community College
Subrecipient Federal Tax Identification Number/ Employer Identification Number (EIN)	41-0906391
Subrecipient Unique Entity Identification (UEI)	C1DMKNDLEXH9
Period of Performance for Subaward Start and End Dates	July 1, 2024 through June 30, 2025
Amount of Federal Subaward Funds for this contract	\$2,228,075.00
Total Amount of Funds Obligated from This Federal Award, Including This Action (total dollar amount <i>contracted</i> to this subrecipient from this federal award) Previous year(s)+ this contract	\$2,228,075.00
Total Amount of Federal Award Committed to Subrecipient (total dollar amount <i>intended</i> for this subrecipient from this federal award) Previous year(s)+ this contract +future awards	\$2,228,075.00
Federal Award Project Description (FFATA)	American Rescue Plan Act (ARPA), Assistance Listing # 21.027

	(Coronavirus State and Local Fiscal Recovery Funds)
Pass-through Entity	Iowa Department of Agriculture and Land Stewardship
Point of Contact for Pass-Through Entity	Colin Tadlock
Is award R&D?	No
Contractor's Indirect Cost Rate for the Federal Award	0

SECTION 2. DEFINITIONS.

The following definitions also apply to this Contract:

“Project” means the procurement and receipt of fuel testing equipment identified in Attachment A, “Equipment List and Budget” to expand testing capabilities and capacity for ethanol biodiesel fuels and sustainable aviation fuel.

“Quarter” or “Quarterly” means a three month, consecutive and continuous period of time, and are identified as the following three month periods for this Contract as:

- July 1-September 30
- October 1-December 31
- January 1-March 31, and
- April 1-June 30.

SECTION 3. SCOPE OF SERVICES.

The Contractor must:

3.1. Complete the Project no later than June 30, 2025.

3.1.1. Upon written request by the Contractor, the Department may grant an extension if the Contractor can provide evidence of demonstrable progress on the Project. The Department shall have sole discretion as to whether or not to grant an extension.

3.1.2. Any extensions requests must be received in writing by the Department on or before May 15, 2025.

3.1.3. Any extension shall be executed through a written amendment to this Contract and must be completely executed by both Parties prior to June 30, 2025.

3.2. Fulfill reporting required by the Department:

3.2.1. Submit Quarterly reports to the Department identifying the progress of the Project including the equipment procured and equipment installed, identification of any challenges and any circumstances that may impact the progress of the Project.

3.2.2. Quarterly reports shall be due to the to the Department Point of Contact by 4:30 pm within 15 calendar days of the completion of the Quarter.

3.2.3. Quarterly reports shall be due until the Project has been completed.

3.2.4. Within 30 calendar days of the completion of the Project, Contractor must submit to the Department Point of Contact a comprehensive final report of the Project.

3.2.4.1. The final report shall include the number and type of fuel tests conducted since the installation of the equipment and the date on which equipment included in Attachment A, "Equipment List and Budget" began operation.

3.3. Participate in meetings as reasonably requested by the Department. Meetings may be held by phone call or video conference and will be held at a mutually agreed upon time. Contractor should be prepared to discuss progress on Project.

3.4. Cooperate with the Department, as needed, in obtaining data, records, or information required for Project evaluation and Contract compliance.

3.5. Submit invoices for services to the Department by the required deadlines outlined in Section 6.

SECTION 4. PERFORMANCE MEASURES

The Contractor's performance will be evaluated based on completion of deliverables defined in Section 3 Scope of Services. Adequate performance shall be determined by the Department through review of documents submitted and Contractor's response to Department inquiries or requests for additional information, if needed.

SECTION 5. MONITORING AND REVIEW

5.1. Monitoring

5.1.1. The Department will review documentation required and may request information on Contract outcomes, processes, and progress at any time.

5.1.2. The Department will review and verify accuracy of submitted invoices and required submissions.

5.1.3. The Contractor must make all applicable documentation, financial or otherwise, available to the Department, upon request, for monitoring within 5 business days.

5.1.3.1. This obligation shall continue following the expiration of the contract for a period of three (3) full years.

5.1.4. Contractor shall allow the Department, its internal or external auditors, the Auditor of the State of Iowa, the Treasurer of the State of Iowa, the Attorney General of the State of Iowa, and the Iowa Division of Criminal Investigation, to inspect the Project facilities at all reasonable times in order to monitor and evaluate performance with the terms of this Contract and Iowa law.

5.2. Review Clause.

5.2.1. The Department will use the results of monitoring activities and other relevant data to assess the Contractor's overall performance and compliance with the Contract.

Reviews may occur at the Department's discretion. Reviews may include the following:

- 5.2.1.1. The Department may require the Contractor to provide additional data, may perform on-site reviews, may review records and associated documentation, and may consider information from other sources.
- 5.2.1.2. The Department may require one or more meetings to discuss the outcome of a review.
- 5.2.1.3. Meetings may be held in person or via videoconference.
- 5.2.1.4. During the review meetings, the parties will discuss the Deliverables that have been provided or are in process under this Contract, achievement of the performance measures, and any concerns identified through the Department's contract monitoring activities.
- 5.2.2. Should any deficiencies be identified by the Department, the Department may require the Contractor to develop and comply with a plan acceptable to the Department to resolve the deficiencies. The Department may require follow up meetings at the discretion of the Department.
- 5.2.3. Failure to complete modifications, changes, alterations or remedy any deficiency within the allotted timeframe identified by the Department may result in Termination for Cause in accordance with this Contract.

5.3. Industry Standards.

Services rendered pursuant to this Contract must be performed in a professional and workmanlike manner in accordance with the terms of this Contract and the standards of performance considered generally acceptable at other institutions of higher learning for similar tasks and projects. In the absence of a detailed specification for the performance of any portion of this Contract, the parties agree that the applicable specification must be the generally accepted industry standard.

SECTION 6. COMPENSATION/REIMBURSEMENT

6.1. Pricing

The Contractor will be reimbursed for the services described in the Scope of Services in an amount not to exceed \$2,228,075.00 in accordance with Attachment A, "Equipment List and Budget".

- 6.1.1. Reimbursement costs included in Attachment A, "Equipment List and Budget" may deviate by up to ten (10) percent by line item without prior approval of the Department. Deviations in excess of ten (10) percent must receive prior, written approval by the Department. Notwithstanding the foregoing, total expenditures shall not exceed the total budget amount of the Contract.

6.2. Billings

6.2.1. Invoices.

The Contractor shall submit an itemized invoice to the Department Point of Contact for services rendered in accordance with this Contract. The invoice shall include evidence to justify the reimbursement request, including any invoices received by the Contractor, or any other documents the Department, in its sole discretion, determines are acceptable records for the invoice.

6.2.2. Payments

All invoices shall comply with all applicable rules concerning payment of such claims. The Department must pay all approved invoices in arrears and in conformance with Iowa Code section 8A.514. The Department may pay in less than sixty (60) days, as provided in Iowa Code section 8A.514. However, an election to pay in less than sixty (60) days shall not act as an implied waiver of Iowa Code section 8A.514.

Unless otherwise agreed in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the State for any goods or services provided by or on behalf of the Contractor under this Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under this Contract.

6.3. Unallowable Costs.

If the Department determines at any time, whether through monitoring, audit, closeout procedures or other means that Contractor has received funds or requested reimbursement for costs which are unallowable under the terms of this Contract, Contractor shall immediately repay to the Department any and all unallowable costs.

6.4. Delay of Payment Due to Contractor's Failure.

If the Department in good faith determines that the Contractor has failed to perform or deliver any service or product as required by this Contract, the Contractor shall not be entitled to any compensation under this Contract until such service or product is performed or delivered. In this event, the Department may withhold that portion of the Contractor's compensation, which represents payment for service or product that was not performed or delivered.

6.5. Withholding Payments.

In addition to pursuing any other remedy provided herein or by law, the Department may withhold compensation or payments to Contractor, in whole or in part, without penalty to the Department or work stoppage by Contractor, in the event the Department determines that:

- 6.5.1.** Contractor has failed to perform any of its duties or obligations as set forth in this Contract; or
- 6.5.2.** Any Deliverable has failed to meet or conform to any applicable specifications or contains or is experiencing a deficiency. No interest shall accrue or be paid to

Contractor on any compensation or other amounts withheld or retained by the Department under this Contract.

6.6. Set-Off Against Sums Owed by the Contractor.

In the event that Contractor owes the State any sum under the terms of this Contract, any other contract or Contract, pursuant to a judgment, or pursuant to any law, the State may, in its sole discretion, set off any such sum against:

6.6.1. Any sum invoiced by, or owed to, Contractor under this Contract, or

6.6.2. Any sum or amount owed by the State to Contractor, unless otherwise required by law.

The Contractor agrees that this provision constitutes proper and timely notice under any applicable laws governing setoff.

6.7. The State has established rules for limitations on reimbursement expenses.

Please reference Department of Administrative Services - State Accounting Enterprise Procedure 210-245 (accessible on the internet) for limits on travel expenses.

SECTION 7. TERMS AND CONDITIONS.

7.1. Headings or Captions.

Headings or captions contained in this Contract are included only for convenience of reference and do not define, limit, explain or modify this Contract or its interpretation, instruction or meanings and are in no way intended to be construed as part of this Contract.

7.2. Notices.

Notices required by this Contract shall be given to the party's Point of Contact, unless otherwise specified. Notice may be given by email, if acknowledged by the receiving party, by regular mail, or by telephone, if acknowledged by the receiving party.

7.3. Non-Exclusive Rights.

This Contract is not exclusive. The Department reserves the right to select other contractors to provide services similar or identical to the Scope of Services described in this Contract during the term of this Contract.

7.4. Indemnification.

To the extent permitted by law, including the Iowa Tort Claims Act, Iowa Code Chapter 669, each party shall indemnify and hold the other harmless from and against liabilities, losses, damages, claims, or causes of action, and any connected expenses that are caused, directly or indirectly, by or as a result of the negligent performance by each other (or by their agents or employees) of this Contract except that nothing herein shall be construed to require either Party to

indemnify the other Party from that Party's negligence.

7.5. Third Party Beneficiaries.

There are no third-party beneficiaries to this Contract. This Contract is intended only to benefit the State of Iowa, the Department and the Contractor.

7.6. Subcontracts.

All subcontracts shall be subject to prior approval by the Department for any services included in the performance of this Contract. For any subcontractor approved by the Department, Contractor must remain responsible for all services performed under this Contract. All restrictions, obligations and responsibilities of the Contractor under this Contract shall apply to any subcontractors retained by Contractor. The Department shall have the right to request the removal of any subcontractor from the Project for good cause. Subcontracts shall be submitted to the Department for approval before entry into force and effect.

7.7. Integration.

This Contract represents the entire Contract between the parties. The parties shall not rely on any representation that may have been made which is not included in this Contract.

7.8. Severability.

In the event any term or condition of this Contract is found to be prohibited by law, the remaining terms and conditions shall remain in full force and effect.

7.9. Not a Joint Venture.

Nothing in this Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, agent and principal relationship or other association of any kind between the Parties. Each Party shall be deemed to be an independent contractor contracting for services and acting toward the mutual benefits expected to be derived from this Contract. No Party, unless otherwise specifically provided for herein, has the authority to enter into any contract or create any obligation or liability on behalf of, in the name of, or binding upon another Party to this Contract.

7.10. Obligations Beyond Contract Term.

This Contract shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to this Contract. All obligations of the Department and the Contractor incurred or existing under this Contract as of the date of expiration, termination or cancellation will survive the termination, expiration or conclusion of this Contract.

7.11. Assignment and Delegation.

This Contract may not be assigned, transferred or conveyed in whole or in part without the prior written consent of the other party. For the purpose of construing this clause, a transfer of a controlling interest in the Contractor shall

be considered an assignment.

7.12. Compliance with the Law; Nondiscrimination in Employment.

The Contractor, its employees, agents, and subcontractors shall not engage in discriminatory practices which are forbidden by federal or state law, executive orders, and rules of the Iowa Department of Administrative Services. The Contractor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, orders when performing under the Contract, including without limitation, all laws applicable to the prevention of discrimination in employment (e.g., Iowa Code chapter 216 and section 19B.7) and the use of targeted small businesses as subcontractors and suppliers.

The Contractor, its employees, agents and subcontractors shall also comply with all federal, state, and local laws, including any permitting and licensure requirements, in carrying out the work performed under this Contract.

Notwithstanding anything in this Contract to the contrary, Contractor's failure to fulfill any requirement set forth in this section shall be regarded as a material breach of this Contract and the State may cancel, terminate, or suspend, in whole or in part, this Contract. The State may further declare the Contractor ineligible for future state contracts in accordance with authorized procedures or the Contractor may be subject to other sanctions as provided by law or rule.

If all or a portion of the funding used to pay for any deliverables is being provided through a grant from the Federal Government, Contractor acknowledges and agrees that pursuant to applicable federal laws, regulations, circulars and bulletins, the awarding agency of the Federal Government reserves certain rights including, without limitation a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes, any Deliverables developed under this Contract and the copyright in and to such deliverables.

7.13. Conflict of Interest.

Contractor represents, warrants, and covenants that no relationship exists or will exist during the Contract period between the Department and the Contractor is a conflict of interest. No employee, officer or agent of Contractor shall participate in the selection or the award or administration of a subcontract if a conflict of interest, real or apparent, exists. The provisions of Iowa Code Ch. 68B shall apply to this Contract. If a conflict of interest is proven to the Department, the Department may terminate this Contract, and Contractor shall be liable for any excess costs to the Department as a result of the conflict of interest. Contractor shall establish safeguards to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being,

motivated by the desire for private gain for themselves or others with whom they have family, business, or other ties. Contractor shall report any potential, real, or apparent conflict of interest to Department.

7.14. Limitation of Liability

The Contractor expressly acknowledges that the Department, including its authority and programming, is subject to legislative change by either the federal or state government. Should either legislative body enact measures which alter the Department's authority, or ability to operate, and impact the Contract purpose or related Deliverables, the Contractor shall not hold the Department liable in any manner for the resulting changes. The Department shall use best efforts to provide thirty (30) days' written notice to the Contractor of any legislative change. During the thirty (30)-day period, the parties shall meet and make a good faith effort to agree upon changes to the Contract to address the legislative change. Nothing in this subsection shall affect or impair the Department's right to terminate the Contract pursuant to the termination provisions.

7.15. Repayment Obligation.

In the event that any State and/or federal funds are deferred and/or disallowed as a result of any audits of the Contractor's performance under the Contract or because the Contractor has expended funds in violation of the laws applicable to the expenditure of such funds, the Contractor shall be liable to the Department for the full amount of any claim disallowed and for all related penalties incurred. The requirements of this paragraph shall apply to the Contractor as well as any subcontractors.

7.16. Conveyance Of Project Property.

Contractor shall not sell, transfer, convey, assign, encumber or otherwise dispose of any portion of the Project or any items included in" property as described in Attachment A, "Equipment List and Budget without express written permission of the Department for period of at least three (3) years following the expiration of the Contract. Permission may be withheld in the sole discretion of the Department.

7.17. Choice of Law and Forum

The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Contract without regard to the conflict of law provisions of Iowa law. Any and all litigation commenced in connection with this Contract shall be brought and maintained solely in Polk County District Court for the State of Iowa, Des Moines, Iowa, or in the United States District Court for the Southern District of Iowa, Central Division, Des Moines, Iowa, wherever jurisdiction is appropriate. This provision shall not be construed as waiving any immunity to suit or liability including without limitation sovereign immunity in State or Federal court, which may be available to the Department or the State of Iowa.

7.15. Record Retention and Access.

The Contractor shall maintain books, records and documents which sufficiently and properly document and calculate all charges billed to the Department throughout the term of this Contract for a period of at least three (3) years following the contract expiration date or completion of any required audit, whichever is later. Records to be maintained include both financial records and service records. The Contractor shall permit the Auditor of the State of Iowa or any authorized representative of the State and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the Contractor relating to orders, invoices or payments or any other documentation or materials pertaining to this Contract, wherever such records may be located. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records.

7.16. Additional Federal Funding Requirements.

7.16.1. Byrd Anti-Lobbying Amendment. Grantees that apply or bid for an award exceeding \$100,000 must file the required certification. Each entity certifies to the entity 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 entity must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from entity to entity up to the non-Federal award.

7.16.2. Contract Work Hours and Safety Standards Act. Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

7.16.3. Clean Air Act (42 U.S.C. 7401-7671q) and The Federal Water

Pollution Act (33 U.S.C. 1251-1387). Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

7.16.4. SINGLE AUDIT. A non-federal entity that expends \$750,000 or more during the non-federal entity's fiscal year in the federal awards must have a single audit conducted, in accordance with 45 CFR section 75.514 ("Scope of Audit"), except when the entity elects to have a program-specific audit conducted, in accordance with 45 CFR part 75.501, section (c).

SECTION 8. TERMINATION

8.1 Termination Upon Notice.

Following thirty (30) days written notice, the Department may terminate this Contract in whole or in part without the payment of any penalty or incurring any further obligation to the Contractor. Following termination upon notice, the Contractor shall be entitled to compensation, upon submission of invoices and proper proof of claim, for services provided under this Contract to the Department up to and including the date of termination.

8.2. Termination for Cause by the Department.

The Department may terminate this Contract upon written notice for the breach by the Contractor or any subcontractor of any material term, condition or provision of this Contract, if such breach is not cured within the time period specified in the Department's notice of breach (not less than 5 business days) or any subsequent notice or correspondence delivered by the Department to the Contractor, provided that cure is feasible. Failure to complete modifications, changes, alterations or remedy any deficiency within the allotted timeframe as required by the Contract shall constitute a breach. Notice shall be given to the Contractor's Point of Contact.

8.3. Immediate Termination by the State.

In addition, the Department may terminate this Contract effective immediately without penalty and without advance notice or opportunity to cure for any of the following reasons:

8.3.1. The Contractor or any of the Contractor's officers, directors, employees, agents, subsidiaries, affiliates, contractors or subcontractors become disbarred, suspended, or otherwise found ineligible for participating in or receiving state or federal funds;

- 8.3.2. Contractor's corporate existence or good standing in Iowa is suspended, terminated, revoked or forfeited, or any license or certification held by Contractor related to Contractor's performance under this Contract is suspended, terminated, revoked, or forfeited;
- 8.3.3. Contractor terminates or suspends its business;
- 8.3.4. The State determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, a person's life, health or safety to be jeopardized;
- 8.3.5. The Contractor fails to comply with confidentiality laws or provisions; or
- 8.3.6. The Contractor furnished any statement, representation or certification in connection with the Contract or the bidding process which is materially false, deceptive, incorrect or incomplete.

8.4. Termination Due to Lack of Funds or Change in Law

Notwithstanding anything in this Contract to the contrary, and subject to the limitations set forth below, the Department shall have the right to terminate this Contract without penalty and without any advance notice as a result of any of the following:

- 8.4.1. The legislature or governor fail in the sole opinion of the Department to appropriate funds sufficient to allow the Department to either meet its obligations under this Contract or to operate as required and to fulfill its obligations under this Contract; or
- 8.4.2. If funds are de-appropriated, reduced, not allocated, or receipt of funds is delayed, or if any funds or revenues needed by the Department to make any payment hereunder are insufficient or unavailable for any other reason as determined by the Department in its sole discretion; or
- 8.4.3. If the Department's authorization to conduct its business or engage in activities or operations related to the subject matter of this Contract is withdrawn or materially altered or modified; or
- 8.4.4. If the Department's duties, programs or responsibilities are modified or materially altered; or
- 8.4.5. If there is a decision of any court, administrative law judge or an arbitration panel or any law, rule, regulation or order is enacted, promulgated or issued that materially or adversely affects the Department's ability to fulfill any of its obligations under this Contract. The Department shall provide Contractor with written notice of termination pursuant to this section.

8.5. Termination for Cause by the Contractor.

The Contractor may only terminate this Contract for the breach by the Department of any material term of this Contract, if such breach is not cured within sixty (60) days of the Department's receipt of the Contractor's written notice of breach. Notice shall be given to the Department's Point of Contact.

8.5. Limitation of the State's Payment Obligations.

In the event of termination of this Contract for any reason by either party (except Termination for Cause by the Department) the Department shall pay only those amounts, if any, due and owing to the Contractor hereunder for Deliverables actually and satisfactorily provided in accordance with the provisions of this Contract up to and including the date of termination of this Contract and for which the Department is obligated to pay pursuant to this Contract. Payment will be made only upon submission of invoices as required by the Compensation/Reimbursement Section of this Contract and proper proof of the Contractor's claim. Notwithstanding the foregoing, this section in no way limits the rights or remedies available to the Department and shall not be construed to require the Department to pay any compensation or other amounts hereunder in the event of the Contractor's breach of this Contract or any amounts withheld by the Department in accordance with the terms of this Contract.

8.6 Contractor's Termination Duties.

Upon receipt of notice of termination or upon request of the Department, Contractor shall:

- 8.6.1** Cease work under this Contract and take all necessary or appropriate steps to limit disbursements and minimize costs.
- 8.6.2** Immediately deliver to the Department any and all deliverables for which the Department has made payment (in whole or in part) that are in the possession or under the control of the Contractor or its agents or subcontractors in whatever stage of development and form of recordation such property is expressed or embodied as that time.
- 8.6.3** Cooperate in good faith with the Department and its employees, agents and independent contractors during the transition period between the notification of termination and the substitution of any replacement service provider.

SECTION 9. PERFORMANCE AND FUTURE CONTRACTS

In awarding future contracts, the Department in its sole discretion may consider Contractor's success or failure, in whole or in part under this Contract, in (1) complying with Contract terms, (2) delivering satisfactory and timely services, and (3) delivering satisfactory and timely deliverables.

SECTION 10. REDLINING

Each party represents that it or its counsel has 'redlined' or otherwise called attention to all changes that it made and sent to the other party in previously- sent drafts of this Contract, including but not limited to drafts of any attachments, schedules, exhibits, addenda, etc.

No party to this Contract shall be considered the drafter of this Contract for the purpose of any statute, case law, or rule of construction that would or might cause any provision to be construed against the drafter.

SECTION 11.EXECUTION.

Authorization.

Contractor represents and warrants that it has the right, power and authority to enter into and perform its obligations under this Contract. Contractor further represents and warrants that it has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of this Contract, and this Contract constitutes a legal, valid and binding obligation upon itself in accordance with its terms.

Contractor represents and warrants its received all licenses, permits, and approvals of all Federal, state, local, and foreign governmental authorities, if any, necessary to conduct its businesses; no investigation or proceeding which, if adversely determined, could reasonably be expected to result in revocation or denial of any material license, permit, or approval is pending or, to the knowledge of the Contractor.

Contractor further represents and warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State. Contractor shall not be eligible for receipt of any funds under this Contract and shall be subject to reimbursement of any funds already dispersed if the Contractor is determined to be out of compliance with applicable local, state and federal regulations.

Counterparts and Signatures.

This Contract, including any amendments, may be executed in several counterparts, all of which when taken together shall constitute one contract binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.

Signatures on such documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures, with such scanned and electronic signatures having the same legal effect as original signatures.

Such documents may be accepted, executed, or agreed to through the use of an electronic signature in accordance with the Electronic Signatures in Global and National Commerce Act ("E-Sign Act"), Title 15, United States Code, Sections 7001 et seq., the Uniform Electronic Transaction Act, codified at Iowa Code chapter 554D ("UETA"), or any other applicable state law, rule, policy, standard, directive, or order.

Any document accepted, executed, or agreed to in conformity with such laws, rules, policies, standards, directives, or orders will be binding on the signing Party as if it were physically executed.

Contractor acknowledges and agrees it will not contest the validity or enforceability of any such document(s), including under any applicable statute of frauds, because they were accepted, signed, or transmitted in electronic form. Contractor further acknowledges and agrees that it will not contest the validity or enforceability of a signed scanned or facsimile copy of any such document(s) on the basis that it lacks an original handwritten signature, or on the basis that the Parties were not signatories to the same counterpart.

"Equipment List and Budget"

Equipment	Cost Estimate
Biodiesel/Ethanol Equipment Subtotal	\$1,971,653
Octane Engines (2)	\$1,211,012
Cetane Engine	\$519,000
Blending Equipment	\$65,778
Engine Site Preparation	0
Inductively Coupled Plasma Spectro. (ICP)	\$55,863
Sulfur Analyzer	\$120,000
Specific for Jet/SAF Subtotal	\$256,422
Freeze Point Apparatus	\$30,000
Refrig. Viscosity Bath	\$24,734
Thermal Oxidation Tester	\$81,070
TAG Flash Point Tester	\$29,586
Mercaptan Titration	\$9,000
Microseparometer	\$12,650
Steam Jet Gum Bath	\$33,902
Automatic Smoke Point	\$33,970
Conductivity Meter	\$1,510
Grand Total	\$2,228,075