



**PROCUREMENT DIVISION**  
401 Clematis St. 5<sup>th</sup> Floor  
West Palm Beach, FL 33401  
TEL: (561) 822-2100  
FAX: (561) 822-1564

**Addendum No. 1**  
**ITB 09/10-31**

### **Annual Contract for Liquid Carbon Dioxide**

Each recipient of this Addendum No. 1 to the Invitation to Bid (hereinafter "ITB") who responds to the ITB acknowledges all of the provisions set forth in the ITB and agrees to be bound by the terms thereof. This addendum shall modify, clarify, change or add information and clarification and become part of the above referenced ITB.

#### **CHANGE IN DUE DATE:**

The bid due date shall be changed

**FROM:** Thursday, February 25, 2010, at 11:00 AM

**TO:** **TUESDAY, March 2, 2010, at 11:00 AM**

#### **REVISIONS:**

Page 22. Statement of Small Business Participation (Form SB01); Page 23. SubSuppliers Listing (Form SB02); and Page 24. Letter of Intent (Form SB03) **shall be deleted.**

**Page 12., Section 14. SMALL BUSINESS PROGRAM shall be deleted and replaced with:**

#### **14. SMALL BUSINESS PROGRAM**

The City of West Palm Beach, in an effort to encourage small business participation in the City's procurement process, has adopted Ordinance No. 3790-04 (Small Business Program Ordinance). This Ordinance is incorporated hereto by reference. However, bidders are encouraged to read it in its entirety. Any conflicts between the SB Ordinance and these specifications shall be interpreted pursuant to the SB Ordinance. Please note that, regardless of whether a goal is established or not, the City encourages small business participation in *all* of its procurements.

The Small Business Division is responsible for monitoring compliance with the SB Ordinance. Questions relating to the SB Ordinance requirements or procedures should be directed to: Procurement Division, Attn: Small Business Compliance Specialist, PO Box 3366, West Palm Beach, FL 33402, tel. (561) 822-1277 Fax: (561) 822-1564.

**In accordance with the SB Ordinance, no goal for SB participation has been set on ITB 09/10-31.**

#### **QUESTION AND ANSWER:**

**Question 1:** What is the start and end date defining the TERM of ITB 09/10-31?

**Answer 1:** Please refer to Page 2. Conditions of Contract: The successful bidder shall be awarded a contract for twelve (12) months with the option to renew for two (2) additional twelve (12) month periods. The start date shall be the date of contract execution.

**Question 2:** If we are not a small business are the forms SB01-SB-03 applicable?

**Answer 2:** The Small Business goal has been waived and no SB Forms are required to be submitted.

**Question 3:** We have an existing agreement through 11/1/10 - Since your document is an Invitation to Bid, can this existing agreement be used if awarded the business? Note: We would submit all the bid documents and pricing per your bid package requirements.

**Answer 3:** The City's existing contract is a nonexclusive contract and the City reserves the right to purchase Product from other suppliers during the term of this Contract.

**Question 4:** The bid states that 'bid proposal on vendor letterhead or quotation forms will not be accepted', if we need to clarify our procedures and/or request modifications to language contained in the bid package, how would these be addressed? Will you accept a cover letter on our letterhead that clarifies our procedures, request modification to the requirements in your bid or provides contractual language we wish you to include as part of the contractual obligations between us and the City?

**Answer 4:** Complete and submit Pages 16 thru 21 of the Invitation to Bid. Due to the nature of this ITB, Bidder can submit an additional letter on Company letterhead that requests modifications to procedures or contractual language, for the City's consideration. The City will not accept a revision to the requirements stated in the Technical Specifications, Pages 4 thru 7. The City will not consider proposed modifications that will impact prices bid. The City in its sole discretion may, but is not obligated to, accept proposed modifications. The City may consider the extent of proposed modifications in determining the best value to the City.

**Question 5:** We do not supply an MSDS document with each delivery. We maintain a webpage to access current documents. Driver's carry an MSDS in their handbook, stored in the delivery vehicle that would be available at the time of delivery - in essence the MSDS accompanies the delivered product. Any revisions to the current MSDS on our webpage will be sent directly to our customers at the time of revision. Will the City accept this MSDS process of maintaining a current copy of the MSDS in the delivery vehicle as meeting the 'availability' requirements of Chapter 442 Florida Statutes?

**Answer 5:** Submit a request for a process modification on company letterhead as stated in Answer 4.

**Question 6:** We provide language in our standard municipal agreement that covers contractual obligations for which we do NOT wish to 'remain silent' (e.g. indemnification, warranty, and liability, contingency.) These have been addressed in our current agreement with the City. If our current agreement cannot be extended and adhered to, how are the gaps between our language and your bid requirements addressed?

**Answer 6:** Submit a request for a process modification on company letterhead as stated in Answer 4.

**Question 7:** Is there a point in your process, of awarding the ITB, where can we discuss these gaps?

**Answer 7:** Upon selection and notice of intent to award, the City will address proposed modifications with the selected vendor. If no agreement can be reached, the City will attempt to negotiate a contract with the next best value vendor.

**Question 8:** There are several requirements in the bid that state "Supplier shall provide...", does that indicate the information is ONLY required upon award of the business?

**Answer 8:** Please specify where you are referring to.

**Question 9:** Is Chapter 66 Procurement of the West Palm Beach ordinances what governs this bid?

**Answer 9:** Yes.

**Question10:** It is not our policy to accept limitless risk obligations. Would the City be willing to accept any of the following?

10a: A cap dollar value pertaining to damages to persons or property? **Y/N?** See Answer #4

10b: Allow these obligations to 'remain silent'. **Y/N?** See Answer #4

10c: Cross indemnification? **Y/N?** No

10d: Incorporation of our standard municipal liability language into the contract? **Y/N?** See Answer #4.

**Question 11:** Below are requested changes we would like to make to the carbon dioxide bid contract language:

**24. DAMAGE TO PERSONS OR PROPERTY**

The responsibility for all damage to person or property arising out of or on account of **supplier's negligence regarding** work done under this Contract shall rest upon the Supplier, and he/she shall save the City and political unit thereof harmless from all claims made on account of such damages.

**25. INDEMNIFICATION/HOLD HARMLESS**

Bidder shall indemnify, defend, save and hold harmless the City, its officers, agents and employees from all suits, claims, actions or damages of any nature brought because of, arising out of, or due to breach of the agreement by Bidder, its sub Bidders, suppliers, agents, or employees or due to any negligent act or occurrence (delete) or any omission or commission of Bidder, its sub Bidders, suppliers, agents or employees provided however bidder liability hereunder shall not extend to claims, suites, actions or damages attributable to the City, its officers, agents or employees.

**Answer 11:** Proposed changes to contractual language can be submitted on Company letterhead with as stated in Answer 4.

Proposers must acknowledge receipt of this Addendum No. 1 in the space provided below. This Addendum forms an integral part of the ITB documents and therefore must be executed. Failure to return this addendum with your proposal submittal may be cause for disqualification.

Issued By: City of West Palm Beach  
Procurement Division  
February 19, 2010

Signed By:   
Nora W. Laudermilk  
Procurement Official

**PROPOSER:** Signed By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_