



1042-2023 ADDENDUM 3

SUPPLY & SERVICE OF TRANSIT FUELING STATION WITH METHANOL TO HYDROGEN GENERATION

ISSUED: March 13, 2024
BY: Erin Cooke
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URGENT

PLEASE FORWARD THIS DOCUMENT TO WHOEVER IS IN POSSESSION OF THE BID/PROPOSAL

THIS ADDENDUM SHALL BE INCORPORATED INTO THE BID/PROPOSAL AND SHALL FORM A PART OF THE CONTRACT DOCUMENTS

Template Version: Add 2021-03-05

Please note the following and attached changes, corrections, additions, deletions, information and/or instructions in connection with the Bid/Proposal, and be governed accordingly. Failure to acknowledge receipt of this Addendum in Paragraph 10 of Form A: Bid/Proposal may render your Bid/Proposal non-responsive.

PART B – BIDDING PROCEDURES

- Revise: B2.1 to read: The Submission Deadline is 12:00 noon Winnipeg time, **March 19, 2024**.
- Revise: B14.5 (c) to read: Confirms the Proponent’s commitment to Substantial Completion by June 2, 2025.

PART D – SUPPLEMENTAL CONDITIONS

- Revise: D11.1(a) to read: a performance bond of a company registered to conduct the business of a surety in Manitoba, in the form attached to these Supplemental Conditions (Form H1: Performance Bond), in the amount of fifty percent (5%) of the Contract Price; or
- Revise: D11.1(b) to read: an irrevocable standby letter of credit issued by a bank or other financial institution registered to conduct business in Manitoba and drawn on a branch located in Winnipeg, in the form attached to these Supplemental Conditions (Form H2: Irrevocable Standby Letter of Credit), in the amount of fifty percent (5%) of the Contract Price; or
- Revise: D11.1(c) to read: a certified cheque or draft payable to “The City of Winnipeg”, drawn on a bank or other financial institution registered to conduct business in Manitoba, in the amount of fifty percent (5%) of the Contract Price.
- Revise: D15.1(b) to read: Substantial Completion by June 2, 2025.
- Revise: D16.1 to read: The contractor shall achieve Total Performance by June 2, 2026.
- Revise: D17.1(a) to read: Substantial Completion no later than Jun 2, 2025 – four hundred fifty hundred dollars (\$450);
- Add: D33 OWNERSHIP OF INFORMATION, CONFIDENTIALITY AND NON DISCLOSURE
- Add: D33.1 Notwithstanding C23.1 the City shall receive a perpetual license to use all intellectual property of Contractor and Subcontractors included in the Work; and Contractor and Subcontractors shall retain all ownership rights of the intellectual property owned and developed by Contractor and Subcontractors, respectively.
- Add: D33.2 For any software provided to the City, the City acknowledges that the applicable End User Licensing Agreement (EULA), is likely to be between the City and a third party. For

the avoidance of doubt, nothing agreed to, by the City as part of such EULA or associated documents (such as Terms of Service), modifies any of the Contractor's obligations under all relevant terms of the Contract.

QUESTIONS AND ANSWERS

- Q1: Can the C11.7 be revised as follows:
- a) If the Contract Administrator reasonably determines, after consultation with Contractor, that any Plant is defective, deficient or otherwise not in accordance with the Contract, the Contractor will first be given a reasonable opportunity to repair, replace, rebuild or otherwise remedy the defect or non-compliance before any other action may be taken by the Contract Administrator or the City.
- A1: C18. Event of Default clause requires the City to act reasonably and give the Contractor a certain amount of time to rectify the issue before the City can declare an Event of Default with respect to defective or deficient materials. As such, the City believes the requested protections are already built into the contract and will not make a change.
- Q2: Can C13.2.2 be deleted as C13.2.1 provides an adequate remedy -- which is to "toll" the warranty period for any time during which the units are inoperable and to extend the warranty period accordingly. We do not understand the requirement to add another year to the period if there happens to be downtime near the end of the warranty period.
- A2: Supplemental Conditions override the General Conditions. Please review D30. Warranty for clarity. D30.2 is already aligned with the requested change.
- Q3: Can the minimum time to correct a default in C18.2 be extended from "seven (7) Calendar Days" to "ten (10) Business Days".
- A3: C18.2 includes provisions for Contractors to negotiate an extended period of time to correct a default, the City will review extending this time frame on a case by case basis, but a change to the General Conditions is not necessary to provide the relief requested.
- Q4: Can the following language be added to C23.1, " provided, however; the City shall receive a perpetual license to use all intellectual property of Contractor and Subcontractors included in the Work; and Contractor and Subcontractors shall retain all ownership rights of the intellectual property owned and developed by Contractor and Subcontractors, respectively"
- A4: The City does not object to this change. Please see clauses D33 and D33.1 added via this addendum.
- Q5: Will the City Consider rising the payment terms to 30% upon award 60% at Beginning of Fabrication and 10% upon Completion of Testing and Documentation?
- A5: The City will not consider revised payment terms for this contract. Please review D29.3 which allows payment to be advanced by the City for 60% of the cost of some equipment upon receipt of purchase order, and 30% at delivery.
- Q6: Will the city reimburse 100% of the Project is cancelled once Fabrication begins?
- A6: As the project includes both goods and services, it is not possible for the City to reimburse 100% of the cost of the project once fabrication begins. To clarify Clause B26.9 would provide relief for the Contractor to be reimbursed for any cost occurred up to the point of termination including equipment that has begun fabrication. The City retains ownership of any equipment purchased under this agreement.
- Q7: Can section D17. Liquidated Damages be removed?
- A7: Liquidated damages cannot be removed as it is City's policy to include this in contracts. Liquidated damages are not intended to be punitive, and the City consider the cost of \$450/day reasonable considering daily forecasted demand of 200kg/day with the cost difference between hydrogen produced on site and market hydrogen and prolonged dependence on leased equipment and delivered fuel or

replacement of hydrogen vehicles with diesel vehicles. Additionally, Section D18 provides relief for supply chain disruptions that may impact completion date.

Q8: Can section D11. Contract Security be removed?

A8: Clause D11. Contract Security cannot be removed, but the amount required for Contract Security can be reduced. Please see changes to clauses D11.1(a)(b)(c) revised via this addendum