

WINTER HAVEN

The Chain of Lakes City

January 26, 2012

INVITATION TO BID
ITB-12-29

Sealed Bids marked "**SEALED BID – ANNUAL CONTRACT - AWT CHEMICALS - ALUM** " will be received by the City of Winter Haven until **2:00 P.M., February 15, 2012**, at the office of the Procurement Services Division, 401 6th St. SW, Winter Haven, Florida 33880, for the following:

"Annual Contract – AWT Chemicals – Alum"

At that time, bids will then and there be publicly opened and read aloud in the Procurement Services Office.

The products specified shall be furnished in accordance with the Invitation To Bid, Specifications, and Terms and Conditions attached hereto and made a part hereof as if fully set forth herein and any other documents prepared for this bid.

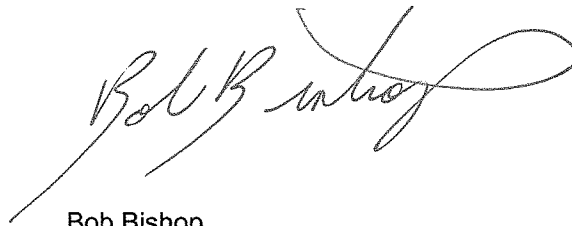
Questions concerning this bid must be submitted in writing on or before 2:00 p.m., February 8, 2012 to Terry Carver at tcarver@mywinterhaven.com Questions received after this time may not be answered.

Bidders shall submit bids on the Proposal and Bid form furnished by the City. Please note the NON-COLLUSION AFFIDAVIT OF PRIME BIDDER form which must also be completed. **W-9** must be attached to the bid when returned by the responding vendor. Payment will be rendered to the name and ID appearing on the W-9.

The City of Winter Haven reserves the right to reject any and all bids, to waive informalities, to re-advertise, and to enter into a contract determined to be in its best interest, in accordance with the Terms and Conditions referenced herein above. The City's EEO plan is available and can be viewed at <http://www.mywinterhaven.com/documents/2010-2011%20EEO%20Report.pdf>

Sincerely,

CITY OF WINTER HAVEN



Bob Bishop
Procurement Services Division Director

Enclosures

Alum Bid Specifications

General Requirement

Under this schedule, the Contractor shall furnish Alum (48.5% dry chemical, 4.3% metal, 11.1 pounds per gallon). Alum usage is approximately 260,000 gallons per year. For questions concerning this bid, please contact Terry Carver via e-mail at Tcarver@mywinterhaven.com

Bidder Qualification/Submittals

For purposes of this Bid, the term "Bidder" shall be defined as the company submitting the proposal and shall include all subsidiaries, affiliates, and subcontractors. As such, any requested documentation shall apply to all subsidiaries and affiliated companies as well as any subcontractors. In the event that a company is using a subcontractor to either manufacture or deliver the product, the requested items (e.g., references, terminations, and safety incidents) shall apply to the subcontractor as well.

Each prospective Bidder shall submit a list of at least three (3) references to include phone numbers that use or have used its chemical in the past two years.

Each prospective Bidder shall submit a list of any subcontractors or affiliates used in the manufacturing and delivery of the product.

Each prospective Bidder shall provide a list of any terminations/disbarments it has received in last five years. This list is also required for any subcontractor or affiliates used in the manufacturing and delivery process.

Each prospective Bidder shall provide copies of any fines, correspondence, and consent orders relating to the operation of all of its manufacturing and distribution facilities.

As part of its Emergency Preparedness Planning and Spill Response Plan, each prospective Bidder shall submit a list with 24-hour access phone numbers to provide emergency support services on a 24/7 basis in the event of a spill, equipment failure or other emergency. Failure to submit this list including all the requirements of the list or to adhere to these requirements will result in Bidder being disqualified from bidding on this product.

Bid Evaluation

The Proposal Evaluation shall consider many factors including, but not limited to; price, product quality, previous performance, safety, reliability, and reference checks.

Commercial Conditions (Pricing, Term and Payments)

The price of the chemicals shall be fixed for the term of this Purchase Order and shall not be subject to any price escalation or fuel surcharges during the term of the Purchase Order. Bid shall include price per gallon delivered, which includes freight prepaid, F.O.B. the City of Winter Haven facilities. This price shall include all cost associated with delivering this product to the City's facilities, including, but not limited to, the associated cost outlined in this document. The term shall be one (1) year. The contract(s), if awarded, may be extended an additional four (4) years with the written mutual consent of the City and the firm(s).

Delivery Requirements

Contractor shall make "normal" deliveries within two (2) calendar (i.e., not "working" days) days after receipt of order and must make "emergency" deliveries within 24 hours. An emergency delivery is defined as a delivery which is necessary in order to prevent the Purchaser from running out of chemicals in less than 36 hours. Purchaser shall endeavor to minimize the number of "emergency" deliveries.

The City's wastewater treatment plants will call in their orders as needed due to the varying chemical demands. The City reserves the right to change quantities and delivery dates at its discretion with a 24-hour notice

The Contractor shall be responsible for any spills resulting from the failure of its or its subcontractor's delivery equipment or from failure of attendant delivery personnel in the proper performance of their duties. Proper performance shall require attendant delivery personnel's constant inspection and observation of unloading operations and knowledgeable response to problems or emergencies, which would most commonly be expected to occur. The Purchaser reserves the right to refuse any and all deliveries made with equipment that is poorly maintained and/or leaking chemicals.

The tanks or trailers shall be clean and free of residue that may contaminate the Contractor's product or impede the unloading process. It is the Contractor's responsibility to verify the cleanliness of the transporting equipment before loading. All appurtenant valves, pumps, and discharge hoses used for the delivery of chemicals shall be supplied by the Contractor and shall be clean and free from contaminating material. The Purchaser may reject a load if the equipment is not properly cleaned. The Contractor shall furnish an approved, leak-free connection device between the trailer and the Purchaser's intake receptacle. The Contractor shall observe the entire filling operation at each delivery site and shall immediately report any spills caused during the filling operations. The Contractor shall take immediate and appropriate actions to clean up any spilled liquid chemicals. If the spill is not cleaned up, the Purchaser will hire a certified hazardous material handling company to clean up the spill, and the cost of such service will be charge to the Contractor and deducted from the amount due to the Contractor. If the Purchaser's unloading equipment, such as pipe, valves or level indication and alarms should fail and the spillage is not the fault of the Contractor or its subcontractor, the Contractor shall be relieved of cleanup of the spill.

Chemical consumption is estimates only and Purchaser shall not be bound by these amounts in any Purchase Order or Contract. Actual quantities will be based on the needs of the facilities. Delivery sites and quantities are subject to deletions or additions as necessary to meet the water and wastewater demands of the City of Winter Haven.

Occupational Health and Safety

Contractor Safety Requirements

Contractor must ensure delivery personnel's compliance with all OSHA requirements, including personal protective equipment for Contractor delivery personnel, including without limitation chemical goggles, transparent face shield and hard hat, rubber gloves, rubber boots, and rubber or plastic-coated fabric apron or slicker suit. Contractor delivery personnel must wear at minimum, chemical goggles and rubber gloves when handling hoses and valves.

Contractor delivery personnel must remain within a safe proximity while the transfer is in progress and continuously monitor for leaking hoses, connections, or other problems. It is the responsibility of Contractor delivery personnel to contain leaks and to report any and all spills.

Bidder's Checklist

The Bidder shall ensure the following information is included in their proposals:

- Pricing for the chemical
- List of References (three)
- List of Subcontractors or Affiliates
- List of Terminations/Debarments (Last Five Years)
- Copies of any fine, correspondence and consent orders relating to the operation of all of its manufacturing and distribution facilities.

1) GENERAL CONDITIONS:

- a) Bidders are required to submit their proposals subject to and upon the following express conditions:
- b) Bidders shall thoroughly examine the specifications, instructions, all other Contract Documents, visit the site of this project (if applicable) and fully acquaint itself, at its own risk, with all conditions which may affect completion of this project and/or delivery of bid items.
- c) These Terms and Conditions and any contract documents related hereto are subject and subordinate to any existing or future state, federal, or local law, regulation, or written policy, which may be applicable hereto, including any applicable building codes.
- d) It shall be understood and agreed that by the submission of a proposal, the Bidder, if awarded a contract, shall save harmless and fully indemnify the City and any of its officers, or agents from any and all damages that may, at any time, be imposed or claimed for infringement of any patent right, trademark, or copyright of any person or persons, association, or corporation, as the result of the use of such articles by the City, or any of its officers, agents, or employees, and of which articles the Contractor is not the patentee, assignee, licensee, or lawfully entitled to sell same.
- e) It is the intent of the City of Winter Haven that this Invitation to Bid promotes competitive bidding. It shall be the bidder's responsibility to advise the Procurement Services Division at the address noted on the cover letter, if any language, requirements, etc. inadvertently limits the requirements stated in this Invitation to Bid to a single source. Such notification must be received in writing by the Procurement Services Division not later than ten (10) days prior to the bid opening date.
- f) Bidders must possess any applicable business, contractor, or occupational licenses at the time of submission of the Bid. The City may request proof of such licensure. Bidders shall also obtain all permits required for this project.
- g) The City shall be entitled to rely on the written representations of the Bidder. No claims shall be paid by the City unless in writing and approved by the City. Additionally, sovereign immunity is not waived as to any verbal representations or comments made by the City.

2) DEFINITIONS

Whenever used in any of the Contract Documents, the following meanings shall be given to the terms herein defined:

- a) **ACCEPTANCE:** The Seller shall be bound by the Purchase Order and its terms and conditions when it delivers the goods ordered or renders the services ordered by the City.
- b) **APPLICABLE LAW:** Any contract entered into pursuant to this bid shall be construed in accordance with the laws of the State of Florida. Venue for any action or proceeding concerning this contract shall be in the State Courts of Polk County, Florida.
- c) **CHANGES:** The City, without invalidating the Contract, may order changes, including additions, deletions, or modifications. The Parties recognize that said changes may affect price and time for performance, in which event appropriate adjustments will be considered. All such changes in the work shall be authorized in writing, signed by the City Manager or his designee, or the Procurement Services Division Director in a manner consistent with contract documents. The price and the time for performance may be changed only by Change Order Request. By written instructions to the Contractor, the City may make minor changes in the work which are consistent with the purpose of the work and which do not change the contract price or time for completion. The Procurement Services Division is to be notified of any proposed changes in: (a) materials used, (b) manufacturing process, or (c) construction. However, changes shall not be binding upon the City unless evidenced by a Change Order Request issued and signed by the Procurement Services Division Director.
- d) **CITY:** The City of Winter Haven, Florida or its authorized representative.
- e) **CONTRACT:** The Contract executed by the City and the Contractor, and shall include all Contract and Bid Documents.
- f) **CONTRACTOR:** The successful bidder who enters into a Contract with the City to complete the project.
- g) **DEFAULT:** Default in promised delivery of supplies, completion of project, or failure to meet specifications authorizes the City to terminate the Contractor's right to proceed with the order/work by giving the Contractor written notice. The defaulting

Contractor may, at the discretion of the City, be charged the increase in costs of obtaining the goods/services elsewhere.

- h) **DOCUMENTS:** The Bid Documents consist of the Invitation to Bid, Terms and Conditions, Construction Agreement, Contract Bond, Special Provisions, Specifications, Technical Specifications, Proposal and Bid Form, Engineering Plans or Drawings prepared for a project, Addenda issued during the bidding period, and Change Orders issued after the Contract is let.
- i) **INDEMNIFICATION:** Bidder/Contractor shall hold harmless, indemnify, and defend the City, its elected officials, appointed officers, and employees, representatives, or agents, against any claims, action, loss, damage, injury, liability, tax, assessment, cost or expense of whatever kind (including, but not by way of limitation, attorneys' fees and court costs (in both trial and appellate matters in any judicial and/or administrative tribunal) arising out of or incidental to Bidder/Contractor's performance of this contract. Other specific references to the Bidder/Contractor's duty to indemnify the City and hold it harmless, which may be set forth herein, shall be construed as in addition to, and not as a limitation of the requirements of this section. The City shall be entitled to recover its reasonable attorneys' fees, including trial and appellate, and court costs in the event judicial and/or administrative enforcement of this Bidder/Contractor indemnity is required.
- j) **INSPECTION:** The goods and services purchased are subject to the inspection and approval of the initiating department. The City reserves the right to reject goods and services which do not conform to provisions of the Purchase Order.
- k) **INSURANCE:** As specified in the bid documents.
- l) **LIMITATION ON MUNICIPAL INDEMNITY:** To the extent that the contract or agreement calls for the City to indemnify any party thereto, the following sentence shall be appended to the indemnity and shall control the indemnity as if set forth therein:
 - i) "Provided, however, that regardless of whether any such obligations incurred hereunder are based on tort, contract, statute, strict liability, negligence, product liability or otherwise, the obligations of the City of Winter Haven under this indemnification provision shall be limited in the same manner that would have applied if such obligations were based on, or arose out of, an action at law to recover damages in tort and were subject to section 768.28, Florida Statutes, as that section existed at the inception of this Contract or Agreement." Provided further, no waiver of the City's sovereign immunity is intended to be made herein.
 - ii) The addition of this language shall not be construed to create City indemnifications where none are expressly made in the terms and conditions of the contract or agreement.
- m) **STATEMENT OF ASSURANCE:** No bids submitted shall be considered unless the Bidder warrants that upon execution of a Contract with the City it will:
 - i) not engage in employment practices that have the effect of discriminating against employees or prospective employees because of race, color, religion, sex, national origin, age, handicap, or marital status
 - ii) will submit such reports as the City may thereafter require to assure compliance.
- n) **SUB-CONTRACTOR:** An individual, firm, company, corporation, association, society or group which enters into a contract with the Contractor to do a portion of the work on this project.
- o) **TITLE:** The risk of loss of goods covered by the Purchase Order shall remain with the Seller until the goods have been delivered to a designated site and actually received by the City. Any damage to the material and equipment, or loss of any kind, occasioned in transit shall be borne by the Seller.
- p) **WARRANTY:** The Contractor shall not incorporate in the work of a project any materials or equipment subject to a chattel mortgage, a conditional sales contract, or any other agreement permitting a Vendor to retain an interest. The Contractor shall warrant clear title to all materials and equipment incorporated in the work; when the project is completed, the Contractor shall deliver to the City the improvements it has incorporated free of any lien or claim. The provisions of this section shall be included in all contracts with Vendors and Sub-Contractors. Vendors who furnish materials without a formal contract shall be given notice, by Contractor, that this provision exists.

3) **INTERPRETATIONS OR ADDENDA:**

- a) No oral interpretation will be made to any Bidder as to the meaning of the Contract Documents or any part thereof--to include any error, omission, discrepancy or vagueness. Every request for such an interpretation shall be made in writing to

the City Procurement Services Division Director. Any inquiry received prior to the cut-off time and date for questions will be given consideration. Where necessary, interpretations made to a Bidder will be in the form of an Addendum to the Contract Documents, and when issued, will be on file in the office of the City Procurement Services Division. In addition, all Addenda will be posted for review by the General Public on the City web site:

<http://www.egovlink.com/winterhaven/postings.asp?listtype=BID>

- b) A notification will be emailed to vendors who are registered for that particular bid on the web site.
- c) The City shall not be responsible for the safe delivery of the Addenda/email notification. It shall be the Bidders' responsibility to make inquiry as to the Addenda issued. All such Addenda shall become part of the Contract Documents and all Bidders shall be bound by such Addenda, whether received or not.

4) MANUFACTURER'S NAMES AND APPROVED EQUIVALENTS:

- a) Unless specifically set forth in the specifications, any manufacturer's names, trade names, brand names, information and/or catalog numbers listed in a specification are for information and not intended to unfairly limit competition. The bidder may offer any brand for which they are an authorized representative, which meets or exceeds the specification for any item(s). If bids are based on equivalent products, indicate on the bid form, the manufacturer's name and number. Bidder shall submit with their proposal descriptive literature, and/or complete specifications. Reference to literature submitted with a previous bid will not satisfy the provision. The bidder shall also explain in detail the reasons why the proposed equivalent will meet the specifications and not be considered an exception thereto. Bids which do not comply with these requirements are subject to rejection within the discretion of the City.
- b) **Alternate bids will not be considered unless alternate bids are specifically required by the technical specifications. (For purposes of these Terms and Conditions, Alternate bids shall mean any bid which deviates from the specific type of product; method of construction; or plans specified in the Invitation to Bid.)**

5) SAMPLES:

- a) Samples of products, when called for, must be furnished free of expense and may, upon request, be returned at the Bidder's expense. Each individual sample must be labeled with Bidder's name, manufacturer's name brand name and number, bid number and item reference. Unsuccessful Bidders can reclaim samples upon payment of postage, delivery, or pick-up charges, if any. Successful Bidder's samples shall remain with the City until performance under the contract has been completed. If forwarding instructions, or pick-up, is not made by Bidder within ninety (90) days of the bid opening, the commodities shall be disposed of by the City.

6) PROTEST PROCEDURES:

The City of Winter Haven encourages prompt and fair handling of all complaints and disputes with the business community. In order to resolve disputed matters in an equitable manner without fear of retribution on the part of a vendor or person, the following shall apply:

- a) All formal Invitations To Bid shall include the following statement: **“NOTE: THE FAILURE TO FOLLOW THE BID PROTEST PROCEDURE REQUIREMENTS WITHIN THE TIME FRAMES PRESCRIBED HEREIN AS ESTABLISHED BY THE CITY OF WINTER HAVEN, FLORIDA, SHALL CONSTITUTE A WAIVER OF BIDDERS PROTEST AND ANY RESULTING CLAIMS.”**
- b) **RIGHT TO PROTEST:** Any aggrieved, actual or prospective bidder in connection with a solicitation or pending award of a bid or contract may protest to the Procurement Services Division Director.
- c) **NOTIFICATION:** The Procurement Services Division shall post all recommendation of awards available for review by the General Public on the City web site: <http://www.egovlink.com/winterhaven/postings.asp?listtype=BID> . A notification will be emailed to vendors who are registered for that particular bid on the web site.
- d) **INITIAL NOTICE:** Any person adversely affected by an intended decision or action with respect to the initial recommendation of award of any bid or action shall file with the City's Procurement Services Division Director a written notice of intent to file a protest. For the purpose of computation, the initial notice of intent to file a protest must be received by the Procurement Services Division Director no later than three o'clock (3:00) p.m. on the third (3rd) workday following the e-mailing date of the notice of the initial recommendation of award (excluding Saturdays, Sundays and legal City holidays).

In addition, a non-refundable protest bond (the "Bond") in the amount of one thousand dollars (\$1,000.00) in the form of a cashier's check payable to the City of Winter Haven must be submitted with the initial notice of intent to file a protest. The initial notice of intent to file protest must be in writing and shall state the basis of the protest (recommendation of award protest or other) and clearly indicate that its purpose is to serve as the initial notice of intent to file a protest. Failure to clearly indicate its intent or failure to provide a Bond shall constitute a waiver of the right to seek any remedy provided under these protest procedures. Upon the timely receipt of an initial notice of intent to file a protest and the required Bond, the Procurement Services Division Director shall toll (put on hold) any further actions related to the recommendation of award (except as noted below). Should the affected party decide to withdraw its initial notice of intent to file a protest during the tolled action the Bond will be refunded in full. This is the only reason the City will refund the Bond other than a finding in favor of the protestor.

- i) If during tolled action, the City Manager determines that an Emergency Purchase is necessary, as defined in this Procurement Manual, action may be taken to secure the goods or services.
- e) **FORMAL NOTICE:** Any person who has filed an initial notice of intent to file a protest, as described above, shall file a formal written protest within ten (10) calendar days after the date of the filing of the initial notice of intent to file a protest. Any amendment to the formal written protest shall be in writing and received by the Procurement Services Division Director within ten (10) calendar days of the date of the initial notice of intent to file a protest. No amendments to the protest will be allowed after the ten (10) calendars day period has expired. The formal written protest shall contain the following:
 - i) City bid number and/or title (if applicable).
 - ii) Name and/or address of the City department, division or agency affected (if known).
 - iii) The name and address of the affected party, and the title or position of the person submitting the protest.
 - iv) A statement of disputed issues of material fact. If there are no disputed material facts, the written letter must so indicate.
 - v) Concise statement of the facts alleged and of the rules, regulations, statutes ordinances and constitutional provisions entitling the affected party to the relief requested.
 - vi) The statement shall indicate the relief to which the affected party deems himself/herself entitled.
 - vii) Such other information as the affected party deems to be material to the issue.
- f) **PROTEST MEETING:** The Procurement Services Division Director will notify all parties and schedule a protest meeting. The protest will be presented to the Protest Committee, which shall be made up of three (3) members consisting of the Assistant to the City Manager or designee who will serve as the Chairperson, the Assistant Director of Financial Services or designee and the Procurement Services Division Director or designee. The City Attorney or designee shall be present and act in an advisory capacity to the Protest Committee. The Protest Committee shall meet with the protesting party within fourteen (14) workdays (excluding Saturdays, Sundays and legal City holidays) of receipt of the formal written protest. The response time may be extended, if necessary. All affected parties will be notified of the location, date and time of the Bid Protest meeting and will be allowed the opportunity to make their presentation to the Bid Protest Committee. The parties may bring a representative if they so choose. The Procurement Services Division Director or designee shall present the background for the protest to the Committee. The purpose of the protest meeting is: 1) to question and review the basis of the protest; 2) to evaluate the facts and merits of the protest and 3) gather information in order to submit a recommendation to the City Manager. The agenda for the protest meeting will be:
 - i) The User Department will present the background as to why the recommendation for award was made or why the vendor was not selected.
 - ii) The protesting party or their representative will speak to how they were adversely affected by the decision of the City of Winter Haven.
 - iii) Any other affected parties or their representative will be given the opportunity for rebuttal and to present any facts that they deem are relevant to the protest.
 - iv) During the meeting, the Protest Committee may ask questions of all parties as necessary.
- g) The Protest Committee will render their recommendation in writing to the City Manager within five (5) workdays of the bid protest meeting. The City Manager may conduct an evidentiary hearing, if there are disputed issues of material fact. The City Manager will conduct a review and make a final written decision within ten (10) workdays after receipt of the recommendation; date of the hearing; or the review, whichever is later. The City Manager's decision shall be final and binding. No further protests of the action in question will be heard by the City.
- h) Any person who is aggrieved by the final and binding decision of the City Manager shall be entitled to a review of the final and binding decision by the 10th Judicial Circuit Court of Polk County, Florida by filing an appropriate petition with the Clerk of the Court within 30 calendar days following the rendering of the City Manager's final and binding decision.

7) PROPOSALS

- a) The Bid must contain a manual signature of an authorized representative of Bidder in the space provided on the proposal form. Each Bidder shall be responsible for the accuracy of his proposal. Bidders cannot obtain relief by pleading that it made an error in its bid.
- b) Submittals must be received by the Procurement Services Division no later than the time and date, and at the location specified for submission in the Bid Documents. No bid shall be accepted after the specified deadline or at any location other than the Procurement Services Division office. Any bid received late because of submittal to another location shall be maintained unopened in the bid file. Bids shall be opened at the time and place stated in the public notices.
- c) The Procurement Services Division Director may elect to cancel or postpone a bid at any time prior to the time and date set to open bids.
- d) Sealed bids, proposals, or replies received by the City pursuant to an Invitation to Bid are exempt from disclosure under s.119.07(1) and s.24(a), Art. I of the State Constitution until such time as the City provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.
- e) If the City rejects all bids, proposals, or replies submitted in response to an Invitation to Bid and the City concurrently provides notice of its intent to reissue the Invitation to Bid, the rejected bids, proposals, or replies remain exempt from disclosure under s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the City provides notice of an intended decision concerning the reissued Invitation to Bid or until the City withdraws the reissued Invitation to Bid. A bid, proposal, or reply is not exempt for longer than 12 months after the initial City notice rejecting all bids, proposals, or replies.
- f) Bid and a non-collusion affidavit shall be submitted on forms furnished by the City and completed by the Bidder without additions, modifications, deletions, and erasures. Bids not submitted on attached bid form shall be rejected. Bids must be typed or printed in ink. All corrections made by Bidder to their bid must be initialed. Each Bidder shall deliver its sealed proposal to the Procurement Services Division office at the location specified on the Invitation To Bid, in an envelope bearing the name of the Bidder, the name of the bid and the time and date of the bid opening. It is the Bidder's responsibility to assure that its bid is delivered at the proper time and place of the bid opening. Bids which are not received, as set forth herein, may not be considered. **The official time shall be the time that is displayed on the Procurement Services Division Directors' wall telephone.**
- g) Telegraph, telephone, or facsimile (FAX) bids will not be considered. Bids, however, may be modified, in writing, provided such modification is received by the Procurement Services Division prior to the time and date set for the bid opening. Each Bidder shall be solely responsible for the costs associated with preparation and submittal of its bid.
- h) **BIDS RECEIVED AFTER THE TIME AND DATE SET FOR THE BID OPENING WILL NOT BE CONSIDERED.**

8) PRICES, TERMS, AND PAYMENT:

- a) Prices shall be firm and good for ninety (90) days after the bid opening and shall include all labor, materials, supplies, equipment, overhead, profit, insurance, applicable taxes, packing, shipping charges, and delivered to any point designated by the City.
- b) **Taxes:** (For purchase of products only) - Bids shall not include federal excise or state sales taxes in bid prices of products only as these are not applicable to municipalities.
- c) **Discounts:** Bidders may offer a cash discount for prompt payment; however, such discounts shall NOT be considered in determining the lowest net cost for bid evaluation purposes. Bidders are encouraged to reflect cash discounts in the unit prices quoted. Any discount offered shall allow no less than fifteen (15) days for payment.

9) Mistakes; Inaccuracies; Incomplete Information:

- a) Bidders are expected to examine the specifications, delivery schedule, bid prices, and all instructions pertaining to supplies and services. Failure to do so will be at bidder's risk.
- b) **In the procurement of goods or supplies, without labor, where the bid contains a mistake in extension or total bid amount, the unit price will govern.** The City shall be entitled to presume that a mistake has been made where the unit price and total or extension do not equate.

- c) The City reserves the right to contact bidders, telephonically or in writing, to clarify inconsistent, inaccurate, or confusing information regarding the proposal submitted. As well, the City reserves the right to demand the execution or re-execution of the proposal, affidavits, or certification required to be accompanied with the bid proposal, when it appears to the City that the deficiency was an oversight in good faith. It shall be presumed that proposals submitted without a single signature on an affidavit or on the proposal is non-responsive and shall not be considered for clarification or correction.

10) Safety Standards:

- a) Unless otherwise stipulated in the bid, all manufactured items and fabricated assemblies shall comply with applicable requirements of federal, state, and local law, including, but not limited to the Occupational Safety and Health Act and regulations or standards thereunder.

11) Invoicing and Payment:

- a) The Contractor shall be paid upon submission of proper invoices to the City at the prices stipulated in the contract at the time the order is placed, after delivery and acceptance of the goods, less deductions, if any, within thirty (30) calendar days after approval of invoice by ordering department and the Finance Department of the City. If a cash discount is taken by the City on a prompt payment invoice, payment shall be made within the time specified, but not less than fifteen (15) days. Contractor(s) shall include the purchase order number on invoices for purchases against any contract resulting from this bid. An original and one (1) copy of the invoice shall be submitted. Failure to follow these instructions may result in delay in processing invoices for payment. In addition, the purchase order number must appear on bills of lading, packages, cases, delivery lists and correspondence. No overcharge will be paid. In the event the successful bidder submits an invoice with an overcharge, a credit memo must be submitted by the bidder to correct such overcharge. Any applicable discounts that apply as a result of this contract will be taken even though the allowable time has lapsed due to the time awaiting credit memorandums.

12) WITHDRAWAL OF PROPOSALS:

- a) A bidder may withdraw its proposal prior to the time fixed for the bid opening, if proper written notification is received by the Procurement Services Division prior to the time fixed for the bid opening. A bidder may also withdraw its proposal if the City does not accept it within ninety (90) calendar days after the date fixed for the bid opening after proper written notification is received by the Procurement Services Division. Notwithstanding any withdrawal, all bid documents received by the City shall remain the property of the City of Winter Haven.

13) NONCOLLUSION AGREEMENT:

- a) Each Bidder submitting a bid for any project on which bidding is based, shall execute and submit with its bid a noncollusion affidavit which states that it has not entered into a collusive agreement with any other person, firm or corporation in regard to any bid submitted.

14) REJECTION OF BIDS:

The City may reject a bid if:

- a) The Bidder mis-states or conceals any material fact in the bid, or if,
- b) The bid does not strictly conform to the law or the requirements (including the terms and conditions set forth herein) of the bid, or if,
- c) The Bidder's bid is submitted in a manner to limit competition.
 - i) Within applicable Spending Approval Thresholds, a Department Director, the Procurement Services Division Director, the City Manager and the City Commission shall have the right to reject all bids and request the entire transaction be rebid in the best interests of the City. The City may also waive any minor informalities, irregularities or technicalities in any bid.

15) STATEMENT OF BIDDER'S QUALIFICATIONS:

- a) Each bidder shall, upon request of the City, submit a statement of the Bidder's qualifications, its experience record in furnishing a particular commodity or constructing any type of improvements embraced in the Agreement, its organization and equipment available for the work contemplated, and, when specifically requested by the City, appropriate financial

information which would assist in determining bidders ability and solvency to perform work contemplated by the Agreement. The Bidder may also be requested to furnish references which the City may use to verify claims of competency. The City shall have the right to take such steps as it deems necessary to determine the ability of the Bidder to perform its obligations under the Contract; and the Bidder shall furnish the City all such information and data for this purpose as it may request. The right is reserved to reject any Bid where an investigation of the available evidence or information does not satisfy the City that the Bidder is qualified to carry out properly the terms of the Contract.

16) AWARD OF CONTRACT:

Notwithstanding the provisions of the Local Preference Ordinance:

- a) The City reserves the right to award contract(s) to more than one Bidder, to split awards, to award contracts by item or group of items, to make partial awards, or to decrease or increase any or all quantities that is in the City's best interest.
- b) The Bidder may qualify its bid for acceptance by the City on an "All or None" basis. An "All or None" basis bid must include all items upon which bids are invited. Bidders are hereby notified that a bid submitted on an "All or None" basis is at risk for rejection in instances where the City may deem it necessary to split or divide a project as set forth herein. Bidders shall denote on the front page of the bid proposal as to whether the bid is an "All or None" bid.
- c) A written award of acceptance or a signed Purchase Order mailed or otherwise furnished to the successful Bidder results in a binding contract without further action by either party. The signed Purchase Order authorizes the Bidder to submit the product(s).
- d) After issuance of a notice of intent to award and no protests having been timely filed, award shall be made to the lowest, responsive and responsible bidder (or as specified in the bid documents). Additional criteria as set forth in the ITB will be considered in the award of the bid. The lowest responsive and responsible bidder will be determined after evaluation of the bid by the user department/division and their consultants, when applicable. In determining the lowest responsive and responsible bidder, in addition to price, the following may be considered as criteria if noted in the bid documents:
 - i) Contractor evaluations – quality of performance on previous projects.
 - ii) Ability, capacity, equipment and skill of the bidder to fulfill the contract.
 - iii) Ability of bidder to fulfill the contract within the time specified, without delay or interference.
 - iv) Character, integrity, reputation, judgment, experience and efficiency of the bidder.
 - v) Previous compliance by the bidder with laws and ordinances relating to the contract.
 - vi) Sufficiency of the financial resources to fulfill the contract to provide the goods and/or services.
 - vii) Quality, availability and adaptability of the supplies or contractual services to the particular use required.
 - viii) Ability of the bidder to provide future maintenance and service, as required or needed.
 - ix) Number and scope of conditions attached to the bid.
 - x) City Commission shall make bid awards for purchases of \$50,000.00 or greater, if funds are budgeted and there is no successful bid protest. Work shall not begin until issuance of a Purchase Order, Notice to Proceed, or a contract is executed by the City Manager, as applicable.

17) LOCAL PREFERENCE ORDINANCE

- a) **THE CITY OF WINTER HAVEN, FLORIDA HAS ENACTED ORDINANCE NO. O-10-17, RELATING TO A POLICY OF LOCAL PREFERENCE IN CONJUNCTION WITH THE PURCHASE OF GOODS AND SERVICES;**
- b) Where competitive bids are received for the purchase, or contract for, personal property or contractual service, the city commission, city manager or purchasing agent may give local preference to local vendors as defined herein and shall implement such policy in the following manner:
- c) Except as exempted in this policy, local vendors, defined as any business having a physical location within the City of Winter Haven's utility service area at which employees are located and from which business is regularly transacted, shall be given preference in the procurement of goods and services when bids are sought as follows:
 - i) When bids are received and the lowest bid price does not exceed \$15,000.00 and the vendor offering the low bid is located outside of the City of Winter Haven's utility service area, and the next lowest price is offered by a vendor located within the City of Winter Haven's utility service area and is within 6% of the lowest price offered, then the Winter Haven vendor shall be given the opportunity to match the lowest price offered, and if agreed to, the Winter Haven vendor will be awarded the bid as long as the Winter Haven vendor is otherwise fully qualified and meets all bid requirements as determined by the City, or

- ii) When bids are received and the lowest bid price does not exceed \$25,000.00 and the vendor offering the low bid is located outside of the City of Winter Haven's utility service area, and the next lowest price is offered by a vendor located within the City of Winter Haven's utility service area and is within 5% of the lowest price offered, then the Winter Haven vendor shall be given the opportunity to match the lowest price offered, and if agreed to, the Winter Haven vendor will be awarded the bid as long as the Winter Haven vendor is otherwise fully qualified and meets all bid requirements as determined by the City, or
 - iii) When bids are received and the lowest bid price does not exceed \$50,000.00 and the vendor offering the low bid is located outside of the City of Winter Haven's utility service area, and the next lowest price is offered by a vendor located within the City of Winter Haven's utility service area and is within 4% of the lowest price offered, then the Winter Haven vendor shall be given the opportunity to match the lowest price offered, and if agreed to, the Winter Haven vendor will be awarded the bid as long as the Winter Haven vendor is otherwise fully qualified and meets all bid requirements as determined by the City, or
 - iv) When bids are received and the lowest bid price does not exceed \$150,000.00 and the vendor offering the low bid is located outside the City limits of Winter Haven, and the next lowest price is offered by a vendor located within the City of Winter Haven's utility service area and is within 3% of the lowest price offered, then the Winter Haven vendor shall be given the opportunity to match the lowest price offered, and if agreed to, the Winter Haven vendor will be awarded the bid as long as the Winter Haven vendor is otherwise fully qualified and meets all bid requirements as determined by the City, or
 - v) When bids are received and the lowest bid price does not exceed \$250,000.00 and the vendor offering the low bid is located outside of the City of Winter Haven's utility service area, and the next lowest price is offered by a vendor located within the City of Winter Haven's utility service area and is within 2% of the lowest price offered, then the Winter Haven vendor shall be given the opportunity to match the lowest price offered, and if agreed to, the Winter Haven vendor will be awarded the bid as long as the Winter Haven vendor is otherwise fully qualified and meets all bid requirements as determined by the City, or
 - vi) When bids are received and the lowest bid price exceeds \$250,000.00 and the vendor offering the low bid is located outside of the City of Winter Haven's utility service area, and the next lowest price is offered by a vendor located within the City of Winter Haven's utility service area and is within 1% of the lowest price offered, then the Winter Haven vendor shall be given the opportunity to match the lowest price offered, and if agreed to, the Winter Haven vendor will be awarded the bid as long as the Winter Haven vendor is otherwise fully qualified and meets all bid requirements as determined by the City.
- d) The provisions of this ordinance shall not apply to the procurement of goods and services by the City of Winter Haven involving the following entities and/or situations as follows:
- i) Purchase and or sale of real property,
 - ii) Bids for contracts that are being funded by an outside source or agency that does not allow for a local preference, or that stipulates the award criteria,
 - iii) Proposals related to Florida Statute 287.055 (Consultants Competitive Negotiation Act).
 - iv) The purchase of personal property to the extent governed by Florida Statute 287.084.
 - v) Any other purchases that are determined by the City to be exempt from the local preference policy established herein.

18) PERFORMANCE:

- a) Contractor shall keep the Procurement Services Manager advised at all times of status of order. Default in promised delivery of supplies, completion of project, or failure to meet specifications authorizes the City to terminate the Contractor's right to proceed with the order/work by giving the Contractor written notice, and to purchase supplies/services elsewhere, and charge full increase of cost and handling to defaulting Contractor.
- b) The Contract shall not be terminated nor the Contractor charged with liquidated damages (if otherwise provided for in the contract documents) because of any delays due to unforeseeable cause beyond the fault or negligence of the Contractor, including but not restricted to acts of God, acts of the City, fires, floods, epidemics, strikes, (with which the Contractor has no direct connections), and unusually severe weather. The Contractor shall, within ten (10) calendar days from the beginning of such delay, notify the City, in writing, of the cause for the delay. If, in the opinion of the City, the failure of Contractor to perform the conditions of this contract is occasioned by or is the result of acts or events over which the Contractor has no control, said delay in performance may be excused.

- c) The Contractor shall take into account all contingent work which has to be done by other parties, arising from any cause whatsoever, and shall not plead its want of knowledge of said contingent work as an excuse for delay in its work or for the non-performance thereof.

19) SERVICE AND WARRANTY:

- a) Unless otherwise specified, the Bidder shall define any warranty service and replacements that will be provided during and subsequent to this contract. Bidders must explain on an attached sheet to what extent warranty and service facilities are provided.

20) GOVERNMENTAL RESTRICTIONS:

- a) In the event any governmental restrictions may be imposed which would necessitate alteration of the materials, quality, workmanship or performance of the items offered on this proposal prior to their delivery, it shall be the responsibility of the contractor to notify the Procurement Services Division immediately after learning of such restriction, including indicating in writing the specific regulation which required an alteration. The City reserves the right to accept any such alteration, including any price adjustments occasioned thereby, or to cancel the Contract at no expense to the City.

21) PRICE AND ADJUSTMENTS:

- a) Any price decrease effectuated during the Contract period, either by reason of market change or on the part of the Contractor to other customers, shall be passed on to the City.

22) EQUAL EMPLOYMENT OPPORTUNITY:

- a) No bids submitted shall be considered unless the Bidder warrants that upon execution of a Contract with the City, it will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, religion, sex, national origin, age, handicap, or marital status, and will submit such reports as the City may thereafter require to assure compliance.

23) OCCUPATIONAL HEALTH AND SAFETY (FLORIDA RIGHT-TO-KNOW-LAW):

- a) In compliance with Chapter 442, Florida Statutes, any item delivered from a Contract resulting from this bid, which contains a toxic substance as listed on the FLORIDA SUBSTANCE LIST, shall be accompanied by a Material Safety Data Sheet (MSDS) which product shall be labeled as such as well. These MSDS shall be forwarded to: City of Winter Haven, Human Resources Division, P.O. Box 2277, Winter Haven, Florida 33883-2277.
- b) The MSDS shall be maintained by the City and must include the following information:
 - i) The Division/Department to which the material was shipped.
 - ii) The chemical name and the common name of the toxic substance.
 - iii) The hazards or other risks in the use of the toxic substance, including:
 - (1) The potential for fire, explosion, corrosivity, and reactivity;
 - (2) The known acute health effects and chronic health effects of risks from exposure to the toxic substance, including those medical conditions which are generally recognized as being aggravated by exposure to toxic substance; and
 - (3) The primary routes of entry and symptoms of overexposure.
 - iv) The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the toxic substances, including appropriate emergency treatment in case of overexposure.
 - v) The emergency procedures for spills, fire, disposal, and first aid.
 - vi) A description of the known specific potential health risks posed by the toxic substance, which description is written in lay terms and is intended to alert any person who reads this information.
 - vii) The year and month, if available, that the information was compiled and the name, address, and emergency telephone

number of the manufacturer responsible for preparing the information.

24) TIE BIDS:

- a) The Procurement Services Division Director shall make award of all tie bids. In accordance with Florida law, a firm which is a drug-free workplace shall have precedence. In the event that both or neither firm is a drug-free workplace, tie bids may be awarded to one of the bidders based on any of the criteria listed below (in descending order), or as otherwise directed by the Procurement Services Division Director to comply with all of the provisions of the procurement ordinance:
 - i) Where tie bids are between bidders, one of which is a business whose principal place of business is located in the Winter Haven utility service area and the other bidder is not, the recommended award shall be to the bidder located in the Winter Haven utility service area.
 - ii) Where tie bids are between bidders, one of which is a business whose principal place of business is located in Polk County and the other bidder is not, the recommended award shall be to the bidder located in Polk County.
 - iii) Availability or completion period.
 - iv) Previous vendor record on similar projects or requirements.
 - v) Business location closest to Winter Haven.

25) *NOTICE*

- a) **A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.**

26) UNAUTHORIZED ALIEN(S)

- a) The VENDOR agrees that unauthorized aliens shall not be employed nor utilized in the performance of the requirements of this solicitation. The City shall consider the employment or utilization of unauthorized aliens a violation of Section 274A(e) of the Immigration and Naturalization Act (8 U.S.C. 1324a). Such violation shall be cause for unilateral termination of this Agreement by the City. As part of the response to this solicitation, the successful vendor will complete and submit the attached form "AFFIDAVIT CERTIFICATION IMMIGRATION LAWS".
- b) Employers may avail themselves of a program by the U.S. Immigration and Customs Enforcement called E-Verify. E-Verify is an Internet-based system operated by U.S. Citizenship and Immigration Services (USCIS), part of the Department of Homeland Security (DHS), in partnership with the Social Security Administration (SSA). E-Verify is currently free to employers. E-Verify provides an automated link to Federal databases to help employers determine employment eligibility of new hires and the validity of their Social Security numbers.
- c) If your company wishes to avail themselves of this program, you can register online for E-Verify at <https://www.vis-dhs.com/EmployerRegistration>, which provides instructions for completing the registration process. At the end of the registration process, you will be required to sign a Memorandum of Understanding (MOU) that provides the terms of agreement between you as the employer, the SSA, and DHS. An employee who has signatory authority for the employer can sign the MOU. Employers can use their discretion in identifying the best method by which to sign up their locations for E-Verify. To find out more about E-Verify, please visit www.dhs.gov/e-verify or contact USCIS at 1-888-464-4218.

CERTIFICATION OF DRUG-FREE WORKPLACE

IDENTICAL TIE BIDS - Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
- 4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

DATE

NAME OF FIRM

TELEPHONE NUMBER

STREET ADDRESS

VENDOR'S SIGNATURE

CITY STATE ZIP

AFFIDAVIT CERTIFICATION
IMMIGRATION LAWS

CITY OF WINTER HAVEN WILL NOT INTENTIONALLY AWARD CITY CONTRACTS TO ANY CONTRACTOR WHO KNOWINGLY EMPLOYS UNAUTHORIZED ALIEN WORKERS, CONSTITUTING A VIOLATION OF THE EMPLOYMENT PROVISIONS CONTAINED IN 8 U.S.C. SECTION 1324 a(e) {SECTION 274A(e) OF THE IMMIGRATION AND NATIONALITY ACT ("INA").

CITY OF WINTER HAVEN MAY CONSIDER THE EMPLOYMENT BY ANY CONTRACTOR OF UNAUTHORIZED ALIENS A VIOLATION OF SECTION 274A(e) OF THE INA. **SUCH VIOLATION BY THE RECIPIENT OF THE EMPLOYMENT PROVISIONS CONTAINED IN SECTION 274A(e) OF THE INA SHALL BE GROUNDS FOR UNILATERAL CANCELLATION OF THE CONTRACT BY CITY OF WINTER HAVEN.**

BIDDER ATTESTS THAT THEY ARE FULLY COMPLIANT WITH ALL APPLICABLE IMMIGRATION LAWS (SPECIFICALLY TO THE 1986 IMMIGRATION ACT AND SUBSEQUENT AMENDMENTS).

Company Name: _____

Signature Title Date

STATE OF: _____
COUNTY OF: _____

The foregoing instrument was signed and acknowledged before me this _____ day of _____, 20____, by _____ who has produced
(Print or Type Name)

_____ as identification.
(Type of Identification and Number)

Notary Public Signature

Printed Name of Notary Public

Notary Commission Number/Expiration

NONCOLLUSION AFFIDAVIT OF PRIME BIDDER

State of _____

County of _____

_____, being first duly sworn, deposes and says that:
Name

(1) He is _____ of _____, the
Title Company
Bidder that has submitted the attached bid;

(2) He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

(3) Such Bid is genuine and is not a collusive or sham Bid;

(4) Neither the said Bidder nor any of his officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or has refrained from bidding in connection with such Contract; nor in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder; nor has fixed any overhead, profit or cost element of the Bid price, or the Bid price of any other Bidder; nor has secured through any collusion, conspiracy, connivance or unlawful agreement, any advantage against the City of Winter Haven or any person interested in the proposed Contract; and

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of it's agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) _____
Name

(Title)

Subscribed and sworn to before me this _____ day of _____, 20____

Signature

(Title)

My commission expires _____

ITB-12-29

A. The following Proposal is hereby made to the City of Winter Haven, Florida, hereinafter called the CITY. Proposal is submitted by:

(Company)

B. The undersigned, as Bidder, hereby proposes and offers to sell to the CITY, the following:

<u>Item</u>	<u>Estimated Quantity</u>	<u>Description</u>	<u>Unit Price/Per Gal</u>	<u>Total Price</u>
1.	260,000 Gallons	Alum	\$ _____	\$ _____

C. The undersigned agrees to deliver the above noted products, F.O.B., Winter Haven, Florida, within _____ () working days after receipt of contract award in accordance with the Invitation To Bid, Specification, and Terms and Conditions attached hereto and made a part hereof as if fully set forth herein, dated January 26, 2012.

D. The undersigned acknowledges receipt of the following addenda which are a part of the Invitation To Bid:

Addendum No. _____ Dated _____
Addendum No. _____ Dated _____

_____	_____
Date	Name of Company
_____	_____
Bidder's Signature	Address (Mailing)
_____	_____
Name/Title	City State Zip
_____	_____
Federal Employer I.D. # (FEID)	Telephone Number
_____	_____
Email Address	Fax Number