



CITY OF DELRAY BEACH
100 NW 1st AVENUE, DELRAY BEACH, FL 33444

AMENDMENT NO. 1 TO
SOLICITATION NO. 2014-22
GAS, CARBON DIOXIDE, (FOOD GRADE) PURCHASE AND DELIVERY
TERM CONTRACT

AIRGAS USA, LLC

CITY OF DELRAY BEACH
AMENDMENT NO. 1 TO
GAS, CARBON DIOXIDE, (FOOD GRADE) PURCHASE AND DELIVERY TERM CONTRACT

THIS AMENDMENT NO. 1 to the Gas, Carbon Dioxide, (Food Grade) Purchase and Delivery Term Contract dated June 17, 2014, by and between City of Delray Beach, a municipal corporation of the State of Florida (City), and Airgas USA, LLC (Contractor), is entered into this ____ day of ____, 2017.

WITNESSETH:

WHEREAS, on June 17, 2014 the City entered into a three year contract with Contractor for the purchase and delivery of carbon dioxide (Contract); and

WHEREAS, on January 24, 2017, an Assignment and Assumption Agreement was executed to release and discharge Airgas Carbonic, Inc. from any further liability under the Contract and to look solely to Airgas USA, LLC as the responsible party under the Contract for all liabilities or obligations; and

WHEREAS, Solicitation No. 2014-22 provides for two one-year renewal periods of the Contract, subject to mutual acceptance by City and Contractor; and

WHEREAS, City desires to add the purchase and delivery of oxygen to the Contract; and

WHEREAS, City determines that it is in the best interest of the City to approve this Amendment No. 1 to renew the Contract through June 16, 2018 and add the purchase and delivery of oxygen to the Contract; and

WHEREAS, Contractor agrees to continue to provide goods and services to City in accordance with the terms and conditions of the Contract.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, the parties do agree that the Contract is amended as follows:

1. The above recitals are true and correct and are incorporated herein.
2. This Amendment No. 1 renews the Contract, under the same terms and conditions, for the period of June 17, 2017 through June 16, 2018 for an annual not-to-exceed amount of \$135,000.
3. Article 11: Public Records Law is deleted in its entirety from the Contract and is replaced with the following Article 11 Public Records.

11. Public Records

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE
APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE
CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS**

RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY OF DELRAY BEACH, CITY CLERK, 100 N.W. 1ST AVE., DELRAY BEACH FLORIDA. THE CITY CLERK'S OFFICE MAY BE CONTACTED BY PHONE AT 561-243-7050 OR VIA EMAIL AT CITYCLERK@MYDELRAYBEACH.COM.

a. Contractor shall comply with public records laws, specifically to:

- i. Keep and maintain public records required by the City to perform the service.
- ii. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statute or as otherwise provided by law.
- iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to the City.
- iv. Upon completion of the Contract, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
- v. If the Contractor does not comply with this section, the City shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this contract in accordance with state law.

4. The following section is added to this Contract:

15. The continuation of this Contract beyond the end of any fiscal year shall be subject to both the appropriation and the availability of funds in accordance with Florida law.

5. The purchase and delivery of oxygen is hereby added to the contract at the unit price of five dollars (\$5) per each "Medical D" oxygen tank refilled, fifteen dollars (\$15) per each "Medical M" oxygen tank refilled, and twenty-five cents (\$0.25) per day for each rented oxygen tank.
6. Except as provided herein, all other terms and conditions of the Contract remain in full force and effect and are hereby confirmed. The Contract and this Amendment No. 1 represent the entire understanding between the parties on the issues contained herein, either written or oral, and may only be amended by written instrument signed by both parties.

IN WITNESS WHEREOF, the City and Contractor hereto have set their hands and corporate seals on this _____ day of _____, 2017.

ATTEST:

CITY OF DELRAY BEACH

City Clerk

BY: _____
Cary D. Glickstein, Mayor

Approved as to form for legal sufficiency:

R. Max Lohman, City Attorney

CONTRACTOR

By: _____

Printed Name _____

Title _____

(SEAL)

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 3RD day of MAY, 2017, by Jim FORD, as AVP (name of officer or agent, title of officer or agent), of Airgas USA, LLC (name of corporation acknowledging), a DELAWARE (state or place of incorporation) corporation, on behalf of the corporation. He/She is personally known to me or has produced _____ (type of identification) as identification



JULIE M. MILLER
NOTARY PUBLIC
STATE OF FLORIDA
Comm# FF219161
Expires 4/9/2019

Julie M. Miller
Notary Public – State of Florida