



CITY COUNCIL ACTION REPORT

October 19, 2009

TO: John Szerlag, City Manager

FROM: Mark F. Miller, Acting Assistant City Manager/Economic Development Services
Susan A. Leirstein, Purchasing Director
Timothy L. Richnak, Public Works Director

SUBJECT: Contract Award: Informal Quote Process – Snow Removal Rental Equipment Including Operators

Background

- On September 28, 2009, quotes were electronically received for seasonal requirements of snow removal rental equipment including operators with an option to renew for one (1) additional season.
- An informal quote process was conducted using the MITN system with 211 vendors notified.
- A total of six (6) responses were received, as well as one no bid. Of the six responses, one vendor requested to withdraw due to prior contract commitments and another vendor could not be considered due to their current default status.
- Contract pricing was set by the company(s) offering the lowest price for each piece of equipment.
- All four (4) vendors agreed to meet all the set contract prices with the exception of ABC Paving Company, who would only agree to the pricing for the truck with a 10' snow plow.

Financial Considerations

- Funds are available in the operating budgets of the Streets Division for snow and ice control for local, major and county roads.
- The contract pricing for these services has remained consistent since the 2005 season.

Legal Considerations

- RFQ-COT 10-10000112, Seasonal Requirements of Snow Removal Rental Equipment including Operators with an option to renew for one (1) additional season was opened on September 28, 2009. The informal quote process resulted in six (6) vendors responding.
- Due to the variability of weather and fluctuating equipment availability, many companies do not bid on snow removal services. Therefore, the City hires additional contractors based upon the emergency provision powers of the City Manager.
- The award is contingent upon contractor's submission of properly executed proposal and contract documents, including agreements, insurance certificates and all other specified requirements.

October 19, 2009

To: John Szerlag, City Manager
Re: Contract Award – Snow Removal Rental Equipment

Recommendations

- City management recommends awarding contracts for one (1) season of snow removal rental equipment including operators with an option to renew for one (1) additional season to the following responsive vendors: Florence Cement Company, Diponio Contracting, Sterling Topsoil and Grading, and ABC Paving Company at unit prices listed in Appendix A.

Reviewed as to form and legality:

Lori Grigg Bluhm, City Attorney

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APPENDIX A

Equipment	Hourly Rate/Unit	Number of Units Company Can Provide			
		ABC Paving Company	Diponio Contracting	Sterling Topsoil and Grading	Florence Cement Company
Road Grader - 20,000 GVW	\$ 150.00			1	2
Front end Loader - 3 yd Capacity	\$ 130.00		2	1	
Front end Loader - 4 yd Capacity	\$ 135.00			1	
Front end Loader - 5 yd Capacity	\$ 140.00		2		8
Truck w/minimum 10ft Snow Plow	\$ 120.00	4			
Pick up w/minimum 8ft Blade	\$ 85.00		2		2

No Bid: Redburn's Snow Plowing & Lawn Maintenance Inc.

Withdrew: Metro Detroit Landscaping & Snow Removal

Defaulted: Metropolitan Contracting

All four company's listed were awarded a contract for snow removal rental equipment (including operators). Each company has agreed to the same pricing schedule for each piece of equipment listed. Each vendor will supply the equipment listed below their company name at the quantities stated.

AGREEMENT FOR SNOW REMOVAL SERVICES

THIS AGREEMENT entered into on _____, 2009, between the CITY OF TROY, 500 W. Big Beaver, Troy, Michigan, hereinafter referred to as the City, and _____ hereinafter referred to as the CONTRACTOR,

WITNESSETH:

In consideration of CITY granting to the CONTRACTOR the privilege and right of providing snow removal services on an emergency basis, the CONTRACTOR agrees as follows:

1. **SCOPE**. This Contract incorporates by reference the Request for Quotation and CONTRACTOR'S Response to Request for Quotation as though fully set out herein. These documents constitute the entire Contract and any changes thereto shall be in writing signed by both parties unless otherwise set out in the Contract.

2. **RATES**: CONTRACTOR shall be paid by CITY for snow removal services, which includes the equipment, the operator and all related expenses at the agreed upon hourly rates(s) as contained in the attached Appendix A. Hourly rates apply to actual hours of snow removal operation. CITY will pay a straight rate only. Any premium for overtime, Sundays or Holidays are the responsibility of the CONTRACTOR. Rates shall be firm for the term of the Contract. CITY agrees to call CONTRACTOR for snow removal service only where CITY estimates that there is at least eight hours of snow removal work. However, the City will not be responsible to CONTRACTOR for any hours that CONTRACTOR is not able to engage in snow removal due to equipment failure, inadequate employee coverage or employee down time

3. **EMERGENCY CONDITIONS**: CONTRACTOR may, under emergency conditions, be required to operate equipment continuously for 24 hours a day until the

end of the emergency. CONTRACTOR should insure that there is sufficient staffing to accommodate emergency conditions in compliance with the law.

4. DAMAGE RESPONSIBILITY: CONTRACTOR assumes responsibility for property damage caused by CONTRACTOR's operators. Such property damage includes, but is not limited to: damage to sidewalks, curbs, signs, mailboxes, turf, vehicles, trees, shrubs, or sprinklers.

5. NON-ASSIGNMENT/INDEPENDENT CONTRACTOR. CONTRACTOR shall have no authority or power to assign, sublet, or transfer any rights, privileges, or interests without obtaining prior written permission from the City. CONTRACTOR acknowledges that it is an independent contractor with no authority to bind CITY to any contracts or agreements, written or oral.

6. LAWS AND REGULATIONS. CONTRACTOR shall at all times observe and comply with all Federal, State and local laws, ordinances and regulations. CONTRACTOR indemnifies and holds the CITY and all its officers, representatives, agents and employees harmless against any claim of liability arising from or based on the violation of any such law, ordinance, or regulation, whether by the CONTRACTOR, employees or any pre-approved subcontractors.

7. SAFETY. CONTRACTOR will provide snow removal services in a manner that will not create a hazard, nor hinder, restrict or impede traffic. CONTRACTOR must take all necessary steps to assure proper safety during the performance of CONTRACT. Public safety must be of prime concern for the CONTRACTOR.

8. DRIVING RECORDS OF EMPLOYEES. CONTRACTOR shall perform a complete driving history search on all employees or pre-approved sub-contractors that will be operating vehicles or equipment. Employees or sub-contractors with any convictions for Operating While Intoxicated (OWI- Intoxicated), Unlawful Blood Alcohol Level (UBAL), Operating While Impaired (OWI), Operating While Under the Influence of

a Narcotic or Controlled Substance or the Sale, Use and/or Possession of Marijuana or a Control Substance shall not be allowed to work in Troy at any time. If an employee or pre-approved sub-contractor is arrested or charged with such an offense, CONTRACTOR shall immediately stop that employee or sub-contractor from working in Troy. CONTRACTOR shall develop a plan/policy for screening criminal and driving records to make sure that all employees and pre-approved sub-contractors are compliant with the terms of this Agreement. The City shall be provided with a copy of that policy within ten (10) days after the execution of the Agreement. CONTRACTOR shall perform annual Motor Vehicle Record (MVR) checks on all drivers for compliance with the above point convictions and take appropriate action. All of these records are subject to examination by the CITY.

9. EMPLOYEE CONDUCT. CONTRACTOR will promptly investigate and act upon any allegation that any employee or pre-approved subcontractor has acted in an unprofessional or criminal manner and take the necessary corrective action to remedy the situation.

10. INSURANCE REQUIREMENTS. OPERATOR shall carry general liability insurance, automobile liability insurance, and workers compensation for any actions, claims, liability or damages caused to others arising out of the performance of this Contract in the amounts approved by CITY and set forth in the attached Sample Certificate of Insurance. Documentation demonstrating the required insurance coverage shall be provided to CITY's Risk Management Department immediately upon execution of this Contract. Cancellation of the insurance shall be considered a material breach of this Contract, and the Contract shall become null and void unless the CONTRACTOR immediately provides proof of renewal of continuous coverage to CITY's Risk Management Department. All of CONTRACTOR's insurance carriers shall

be licensed and admitted to do business in the State of Michigan and acceptable to CITY.

11. INDEMNIFICATION AND HOLD HARMLESS. To the fullest extent permitted by law, CONTRACTOR agrees to defend, pay on behalf of, indemnify, and hold harmless the City of Troy, its elected and appointed officials, employees and volunteers and others working on behalf of the City of Troy against any and all claims, demands, suits, or loss (including all costs connected therewith), and for any damages which may be asserted, claimed or recovered against or from the City of Troy, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Troy. This provision includes, but is not limited to claims of personal injury (including bodily injury or death) and/or property damage which arises out of or is in any way connected or associated with the execution of activities by CONTRACTOR under the terms of this Contract.

12. TERM OF AGREEMENT. This contract shall terminate April 15, 2010. However, the parties may mutually consent to renew the contract for an additional year, as long as there is written consent from each of the parties at least 90 days prior to the expiration of this Contract. The parties can also unilaterally cancel the contract, as long as the party desiring to terminate the Contract provides at least 90 days advance written notice to the other party. The Troy City Council is the authorizing entity for CITY.

13. TERMINATION: If CITY observes or learns that CONTRACTOR or any of CONTRACTOR's employees or pre-approved sub-contractors are engaging in unsafe or dangerous practices in the performance of this Contract, then CITY shall have the right to immediately terminate the Contract. In any such case, CITY shall have the right to assign the Contract to any other qualified entity, and Contractor shall be responsible for any difference in the hourly rate, as set forth in this Contract, and the hourly rate of

any subsequent Contractor, whose presence is necessitated by the unsafe or dangerous conduct of CONTRACTOR.

14. NOTICE: All written notices to be given under this Contract shall be mailed by first class mail to the other party at its last known address.

15. GOVERNING LAW AND JURISDICTION: This Agreement is made in and shall be governed by the laws of the State of Michigan. Any lawsuits under this Agreement shall be filed in the Oakland County Circuit Court, Michigan.

16. HEADINGS. Pronouns and relative words herein used shall be read interchangeably in the masculine, feminine or neuter, singular or plural as the respective case may be.

17. ENTIRE AGREEMENT. The foregoing constitutes the entire Contract between the parties and may be modified only by a written instrument signed by both parties.

18. AUTHORITY TO EXECUTE: By execution of this Contract, the respective parties acknowledge that each has executed this Contract with full and complete authority to do so.

WITNESSES:

1. _____
2. _____

CONTRACTOR:

CITY OF TROY:

By _____
Louise Schilling, Mayor

Tonni Bartholomew, City Clerk

City Manager or Designee

Resolution Number: _____

APPROVED AS TO FORM AND LEGALITY:

By _____

Lori Grigg Bluhm, City Attorney