

TO: Thomas Frutchey, City Manager
Dick McKinley, Public Works Director

FROM: Freda Berman, Maintenance Superintendent

SUBJECT: Contract for Janitorial Services

DATE: September 6, 2016

NEEDS: For City Council to consider contracts for janitorial services at City facilities and park restrooms.

FACTS: 1. The adopted City budget for Fiscal Year 2016/17 includes \$140,000 for janitorial services at (1) City facilities and (2) park restrooms. Because of dissimilar service requirements, two separate bid document and specification packages were prepared.

2. Both maintenance contracts were advertised for bid, and at the bid opening on August 16, 2016, three bids were received for each project:

Janitorial Services for City Facilities

All Ways Clean	\$102,660
Brendler Janitorial	115,440
Service Master	125,832

Cleaning Park Restrooms

All Ways Clean	\$ 75,000
Service Master	109,932
Brendler Janitorial	131,460

3. Section 7 of the Instruction to Bidders provides that bid forms shall be completely filled out with strict conformity to the requirements of the bid and contract documents. Based on this language, each bidder was required to complete correctly and submit the bid forms included in the bid specifications in order for their bid to be deemed responsive. As a threshold matter, the City has broad discretion to determine responsiveness and accept a responsive bid even if there are minor irregularities or mistakes, as long as such

mistakes are immaterial. (See *Menefee v. County of Fresno* (1985) 163 Cal. App. 3d 1175; *Ghilloti Construction Co. v. City of Richmond* (1996) 45 Cal.App.4th 897.) However, the City has no authority to waive errors that make the bid materially different than intended. (See *Valley Crest Landscape, Inc. v. City of Davis* (1996) 41 Cal.App.4th 1432.) A bid is materially different than intended if the discrepancy affects the amount of the bid. (*Ghilloti Construction Co. v. City of Richmond* (1996) 45 Cal.App.4th 897.)

4. All Ways Clean did not submit correct bids in accordance with bid specifications and should be deemed non-responsive. All Ways Clean failed to submit the correct Bid Addendum with the bid for cleaning park restrooms and failed to complete each bid schedule with a yearly contract cost. Additionally, All Ways Clean made mathematical errors on its bid for janitorial services for City facilities, thus creating an ambiguity as to the actual intended bid amounts. These mathematical discrepancies affect the amount of the bids and are, therefore, material bid errors that renders All Ways Clean's bids nonresponsive.
5. The bids submitted by Brendler Janitorial for City facilities and Service Master for park restrooms are correct and responsive bids.
6. Bid documents included deductive alternate amounts. Deductive alternates were developed to allow the City to meet budget constraints if base bids were higher than expected. The following deductive alternates were specified:

Janitorial Services for City Facilities

Delete City Hall Annex
Delete Senior Center
Delete Veterans Center
Delete Public Safety Center

Cleaning Park Restrooms

Delete Train Station

7. City staff will continue to cover the janitorial for any deductive alternates not included in the final contracts.

ANALYSIS &

CONCLUSION: The bids submitted by All Ways Clean include material bid errors that render the bids nonresponsive and subject to rejection. Brendler Janitorial is the lowest responsible bidder submitting a responsive bid for Janitorial Services at City Facilities. Service Master is the lowest responsible bidder submitting a responsive bid for Cleaning Park Restrooms.

POLICY

REFERENCE: Public Contract Code

FISCAL IMPACT: Acceptance of all deductive alternates is recommended.

Janitorial Services for City Facilities

Delete City Hall Annex scope <\$4,680>
Delete Senior Center scope <\$6,240>
Delete Veterans Center scope <\$3,120>
Delete Public Safety Center scope <\$46,800>

Cleaning Park Restrooms

Delete Train Station scope <\$4,488>

DEDUCT: <\$65,328>

An additional \$10,320 in cost savings is available because the scope for park restrooms includes closing and locking the buildings. This service is currently being provided by an outside contractor and will be cancelled.

The total recommended deduct of \$75,648 brings the overall cost to \$149,724, \$9,724 over the approved allocation. Additional funds are proposed to be allocated from General Fund Reserves.

OPTIONS:

- a. Approve Resolution No. 16-aaa:
 - 1. Rejecting both All Ways Clean bids as non-responsive due to the material errors discussed above;
 - 2. Authorizing the City Manager to enter into a contract with Brendler Janitorial in the amount of \$54,600 to provide Janitorial Services for City Facilities including the deduct alternates for the City Hall Annex, the Senior Center, the Veterans Center and the Public Safety Center;

3. Authorizing the City Manager to enter into a contract with Service Master in the amount of \$105,444 to Clean Park Restrooms including the deduct alternate for the Train Station;
 4. Authorizing the City Manager to make minor changes in each agreement, if necessary, to best meet City needs;
 5. Appropriating \$9,724 from General Fund Reserves to cover contract costs.
- b. Approve Resolution No. 16-bbb:**
1. Rejecting both All Ways Clean bids as non-responsive due to the material errors discussed above;
 2. Authorizing the City Manager to enter into a contract with Brendler Janitorial in the amount of \$115,440 to provide Janitorial Services for City Facilities without an deduct alternates;
 3. Authorizing the City Manager to enter into a contract with Service Master in the amount of \$109,932 to Clean Park Restrooms without any deduct alternates;
 4. Authorizing the City Manager to make minor changes in each agreement, if necessary, to best meet City needs;
 5. Appropriating \$75,052 from General Fund Reserves to cover contract costs.
- c. Reject all bids, re-evaluate the scope, and re-bid the projects.**
- d. Amend or modify any of the above options.**

Attachment:

1. Resolution 16-aaa
2. Resolution 16-bbb
3. BAR for 16-aaa
4. BAR for 16-bbb

RESOLUTION NO. 16-XXX (AAA)

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
REJECTING BOTH BIDS FROM ALL WAYS CLEAN, ALLOCATING \$9,724 FROM
GENERAL FUND RESERVES, AND AUTHORIZING THE CITY MANAGER TO ENTER
INTO A CONTRACT WITH BRENDLER JANITORIAL FOR JANITORIAL SERVICES FOR
CITY FACILITIES AND TO ENTER INTO A CONTRACT WITH SERVICE MASTER TO
CLEAN PARK RESTROOMS

WHEREAS, the adopted City budget for Fiscal Year 2016/17 includes \$140,000 for janitorial services at (1) City facilities and (2) park restrooms. Because of dissimilar service requirements, two separate bid document and specification packages were prepared; and

WHEREAS, both maintenance contracts were advertised for bid, and at the bid opening on August 16, 2016, three bids were received for each project:

Janitorial Services for City Facilities

All Ways Clean	\$102,660
Brendler Janitorial	115,440
Service Master	125,832

Cleaning Park Restrooms

All Ways Clean	\$ 75,000
Service Master	109,932
Brendler Janitorial	131,460; and

WHEREAS, Section 7 of the Instruction to Bidders provides that bid forms shall be completely filled out with strict conformity to the requirements of the bid and contract documents. Based on this language, each bidder was required to complete correctly and submit the bid forms included in the bid specifications in order for their bid to be deemed responsive. As a threshold matter, the City has broad discretion to determine responsiveness and accept a responsive bid even if there are minor irregularities or mistakes, as long as such mistakes are immaterial. (See *Menefee v. County of Fresno* (1985) 163 Cal. App. 3d 1175; *Ghilloti Construction Co. v. City of Richmond* (1996) 45 Cal.App.4th 897.) However, the City has no authority to waive errors that make the bid materially different than intended. (See *Valley Crest Landscape, Inc. v. City of Davis* (1996) 41 Cal.App.4th 1432.) A bid is materially different than intended if the discrepancy affects the amount of the bid. (*Ghilloti Construction Co. v. City of Richmond* (1996) 45 Cal.App.4th 897.); and

WHEREAS, All Ways Clean did not submit correct bids in accordance with bid specifications and should be deemed non-responsive. All Ways Clean failed to submit the correct Bid Addendum with the bid for cleaning park restrooms and failed to complete each bid schedule with a yearly contract cost. Additionally, All Ways Clean made mathematical errors on its bid for janitorial services for City facilities, thus creating an ambiguity as to the actual intended bid amounts. These mathematical discrepancies affect the amount of the bids and are, therefore, material bid errors that renders All Ways Clean's bids nonresponsive; and

WHEREAS, the bids submitted by Brendler Janitorial for City facilities and Service Master for park restrooms are correct and responsive bids; and

WHEREAS, bid documents included deductive alternate amounts. Deductive alternates were developed to allow the City to meet budget constraints if base bids were higher than expected. The following deductive alternates were specified:

Janitorial Services for City Facilities

Delete City Hall Annex
Delete Senior Center
Delete Veterans Center
Delete Public Safety Center

Cleaning Park Restrooms

Delete Train Station; and

WHEREAS, City staff will continue to cover the janitorial for any deductive alternates not included in the final contracts.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. An additional \$9,724 from General Fund Reserves is allocated to cover contract costs.

Section 2. Both bids from All Ways Clean are rejected as non-responsive due to material errors.

Section 3. Authorizing the City Manager to enter into a contract with Brendler Janitorial in the amount of \$54,600 to provide janitorial services for City facilities.

Section 4. Authorizing the City Manager to enter into a contract with Service Master in the amount of \$105,444 to clean City parks restrooms.

Section 5. Authorizing the City Manager to make minor changes in each agreement, if necessary, to best meet City needs.

APPROVED this 6th day of September, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Steven W. Martin, Mayor

Attest:

Kristen L. Buxkemper, Deputy City Clerk

RESOLUTION NO. 16-XXX (BBB)

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
REJECTING BOTH BIDS FROM ALL WAYS CLEAN, ALLOCATING \$75,052 FROM
GENERAL FUND RESERVES, AND AUTHORIZING THE CITY MANAGER TO ENTER
INTO A CONTRACT WITH BRENDLER JANITORIAL FOR JANITORIAL SERVICES FOR
CITY FACILITIES AND TO ENTER INTO A CONTRACT WITH SERVICE MASTER TO
CLEAN PARK RESTROOMS

WHEREAS, the adopted City budget for Fiscal Year 2016/17 includes \$140,000 for janitorial services at (1) City facilities and (2) park restrooms. Because of dissimilar service requirements, two separate bid document and specification packages were prepared; and

WHEREAS, both maintenance contracts were advertised for bid, and at the bid opening on August 16, 2016, three bids were received for each project:

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WHEREAS, Section 7 of the Instruction to Bidders provides that bid forms shall be completely filled out with strict conformity to the requirements of the bid and contract documents. Based on this language, each bidder was required to complete correctly and submit the bid forms included in the bid specifications in order for their bid to be deemed responsive. As a threshold matter, the City has broad discretion to determine responsiveness and accept a responsive bid even if there are minor irregularities or mistakes, as long as such mistakes are immaterial. (See *Menefee v. County of Fresno* (1985) 163 Cal. App. 3d 1175; *Ghilloti Construction Co. v. City of Richmond* (1996) 45 Cal.App.4th 897.) However, the City has no authority to waive errors that make the bid materially different than intended. (See *Valley Crest Landscape, Inc. v. City of Davis* (1996) 41 Cal.App.4th 1432.) A bid is materially different than intended if the discrepancy affects the amount of the bid. (*Ghilloti Construction Co. v. City of Richmond* (1996) 45 Cal.App.4th 897.); and

WHEREAS, All Ways Clean did not submit correct bids in accordance with bid specifications and should be deemed non-responsive. All Ways Clean failed to submit the correct Bid Addendum with the bid for cleaning park restrooms and failed to complete each bid schedule with a yearly contract cost. Additionally, All Ways Clean made mathematical errors on its bid for janitorial services for City facilities, thus creating an ambiguity as to the actual intended bid amounts. These mathematical discrepancies affect the amount of the bids and are, therefore, material bid errors that renders All Ways Clean's bids nonresponsive; and

WHEREAS, the bids submitted by Brendler Janitorial for City facilities and Service Master for park restrooms are correct and responsive bids.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. An additional \$75,052 from General Fund Reserves is allocated to cover contract costs.

Section 2. Both bids from All Ways Clean are rejected as non-responsive due to material errors.

Section 3. Authorizing the City Manager to enter into a contract with Brendler Janitorial in the amount of \$115,400 to provide janitorial services for City facilities.

Section 4. Authorizing the City Manager to enter into a contract with Service Master in the amount of \$109,932 to clean City parks restrooms.

Section 5. Authorizing the City Manager to make minor changes in each agreement, if necessary, to best meet City needs.

APPROVED this 6th day of September, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Steven W. Martin, Mayor

Attest:

Kristen L. Buxkemper, Deputy City Clerk

Approvals/workflow 1. Dept Head 2. Admin Svcs 3. City Manager 4. City Council	City of Paso Robles			Budget JE #
	BUDGET ADJUSTMENT REQUEST			BAR #
				AGENDA DATE 09/06/2016

DESCRIPTION	ORG #	OBJECT #	PROJECT #	AMOUNT
REVENUE SOURCES				
Library-City Hall	1003257F	52215		\$140,000
General Fund Reserves	100	99999		\$9,724
Custodial Services - see attached		52243		\$10,320
TOTAL REVENUES				\$160,044
EXPENDITURE USES				
Library-City Hall	1003257F	52215		\$31,200
Centennial Park	1003201F	52215		\$23,400
Neighborhood Parks	1003206	52215		\$105,444
TOTAL EXPENDITURES				\$160,044

JUSTIFICATION: (attach letter if required)

REQUESTED BY: _____ **REVIEWED & APPROVED BY:** _____
09/06/2016 _____ 09/23/2016 Jim Throop
Date Dick McKinley, Director Date Administrative Services

APPROVED BY: _____

Date City Manager

PASSED AND ADOPTED by the City Council of the City of Paso Robles, State of California, this 6th day of September 2016 Agenda Item No. 7

ATTEST: _____ Page 99
Agenda Item No. 7 Deputy City Clerk CC Agenda 9-6-16

Approvals/workflow 1. Dept Head 2. Admin Svcs 3. City Manager 4. City Council	City of Paso Robles		Budget JE #
	BUDGET ADJUSTMENT REQUEST		BAR #
			AGENDA DATE 09/06/2016

DESCRIPTION	ORG #	OBJECT #	PROJECT #	AMOUNT
REVENUE SOURCES				
Library-City Hall	1003257F	52215		\$140,000
General Fund Reserves	100	99999		\$75,052
Custodial Services - see attached		52243		\$10,320

TOTAL REVENUES \$225,372

EXPENDITURE USES				
Library-City Hall	1003257F	52215		\$96,528
Centennial Park	1003201F	52215		\$23,400
Neighborhood Parks	1003206	52215		\$105,444

TOTAL EXPENDITURES \$225,372

JUSTIFICATION: (attach letter if required)

REQUESTED BY:

09/06/2016
Date Dick McKinley, Director

REVIEWED & APPROVED BY:

09/06/2016
Date Administrative Services

APPROVED BY:

Date City Manager

PASSED AND ADOPTED by the City Council of the City of Paso Robles, State of

California, this 6th day of September 20___. Agenda Item No. 7

ATTEST:

Agenda Item No. 7 Deputy City Clerk Page 100

CC Agenda 9-6-16