



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: January 19, 2011 REPORT NO. 11-012
ATTENTION: Natural Resources and Culture Committee
SUBJECT: One -Year Extension of Contract with Hawthorne Machinery Co. to Lease Bulldozers for Refuse Disposal Operations at Miramar Landfill

REQUESTED ACTION:

1. Authorize the Mayor, or his designee, to execute a second amendment to the agreement with Hawthorne Machinery Company (Hawthorne), for the lease of heavy duty tractor bulldozers with full maintenance, to extend the contract for an additional twelve months from March 15, 2011 to March 14, 2012, with options to renew for two additional one-year periods, in accordance with Request for Bid No. 9469-09-Y and Hawthorne's bid in response to Request for Bid No. 9469-09-Y, with options subject to City Council approval.
2. Authorize the Chief Financial Officer to expend an amount not to exceed \$1,625,000, for the additional twelve month term from Refuse Disposal Fund No. 700039, for the purpose of the above contract, contingent on passage of the Annual Appropriations Ordinance for the applicable fiscal year and contingent on the City Comptroller first furnishing one or more certificates demonstrating that funds are available for the contract.
3. Authorize the Mayor or his designee to exercise one or more options to extend the above contract for up to two additional one-year periods, under the terms and conditions set forth in the contract.

STAFF RECOMMENDATIONS: Approve the requested action.

SUMMARY:

Through a competitive process in December 2008, Hawthorne Machinery Company was selected as the lowest responsive bidder meeting City specifications to provide bulldozers for daily refuse operations at the Miramar Landfill. The agreement provides for heavy duty tractor bulldozers, four D9Ts (trash dozers) and one D9R (dirt dozer with rippers), and includes all maintenance and operating expenses. The bid received was for two years with options to renew for three additional one-year periods and was not to exceed \$1,625,000 per year for those first two years. The current agreement expires on March 14, 2011, with options to renew the agreement for three additional one-year periods. The proposed amendment would exercise the first option to extend

the contract term for an additional twelve (12) months beginning March 15, 2011 through March 14, 2012, with two remaining options to renew for additional one-year periods each.

Heavy Duty tractor bulldozers are required for processing municipal solid waste. This involves pushing and compacting municipal solid waste, applying mulch and cover dirt as well as site maintenance at the Miramar Landfill. The size, durability, reliability and low operating costs have made the Caterpillar D9T/R the industry standard track-type tractor used in landfills. This machinery is essential to the daily operation, maintenance and regulatory compliance of the Miramar Landfill.

The agreement may be terminated for convenience. Specifically, it provides that: "The Purchasing Agent, by written 30 day notice, may terminate this Contract, in whole or in part, when it is in the best interest of the City. Contractor shall be compensated in accordance with auditable costs for services or products provided prior to notification of termination."

FISCAL CONSIDERATIONS:

The estimated annual lease cost is not to exceed \$1,625,000 per year and sufficient budget exists in the Refuse Disposal Enterprise Fund.

ENVIRONMENTAL STATEMENT:

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. 18173, Section 22.2701 through 22.2708) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On November 3, 2003, Council approved Resolution R-298550 awarding a lease contract for bulldozers operating at the Miramar Landfill to Hawthorne Machinery Company beginning November 20, 2003 through November 19, 2004 with options to renew for four additional one-year periods, ending November 19, 2008. In December 2008, after a competitive bid process, Hawthorne was again selected as the lowest responsive bidder meeting required City specifications for the same service.

On April 14, 2010, the Natural Resources and Culture Committee, on a motion by Councilmember Emerald, seconded by Councilmember Lightner, voted to recommend approval of a two year contract with three one-year options to renew with any price escalation after the second contract year not to exceed 5% annually. All the Committee members voted in favor (Council members DeMaio, Emerald, Frye and Lightner voted yea).

On May 25, 2010, the full City Council approved a contract for sixteen (16) months, retroactive to March, 15 2009 through July 14, 2010, pending further discussion.

On June 16, 2010, the Natural Resources and Culture Committee recommended approval of an eight (8) month extension of the agreement through March 15, 2011. All Committee members voted in favor (Council members DeMaio, Frye and Lightner voted yea, Councilmember Emerald was absent).

On July 13, 2010, the full City Council approved Resolution R-305979 extending the term of the agreement for eight (8) additional months, beginning July 15, 2010 and ending March, 14 2011 with three, one year options to renew and requested that the Mayor return to the City Council for approval of options to extend the agreement.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None

KEY STAKEHOLDERS & PROJECTED IMPACTS:

City of San Diego, Citizens of the City of San Diego, and Hawthorne Machinery Company



Chris Gonaver
Environmental Services Director
GONAVR/SM



Jay M. Goldstone
Chief Operating Officer



THE CITY OF SAN DIEGO

December 27, 2010

Mr. Dick Williams
Used Equipment Manager
Hawthorne Machinery Company
16945 Camino San Bernardo
San Diego, CA 92127

Dear Mr. Williams:

Subject: Bid No. 9469-09-Y — Lease of Various Heavy Duty Tractor Bulldozer with Full Maintenance

The above contract expires on March 14, 2011; however, you offered the City an option to renew the contract for an additional one (1) year period beginning March 15, 2011 through March 14, 2012 subject to receipt of vendor registration form, as noted below, by the contract start date. Please return this letter to me no later than January 6, 2011. Your response may be faxed to (619) 533-3237.

Effective with this renewal, the contract is subject to the City's Equal Benefits Ordinance (EBO) as set forth in Municipal Code, Chapter 2, Article 2, Division 43. Contractors must certify they will provide and maintain equal benefits as outlined in SDMC 22.4302 for the duration of the contract. EBO requirements are posted on the City's website at www.sandiego.gov/purchasing/ or can be requested from the Equal Benefits Program at (619) 533-3948.

Complete "EBO Certification of Compliance" and return via fax to (619) 533-3237.

Do you agree to renew per the option clause for one (1) year under the current discount pricing terms and conditions? [X] Yes ___ No

If no, do you agree to renew per the option clause with a price increase within the limits specified in your bid? ___ Yes ___ No

If yes, please specify percentage of increase requested for this option year and attach justification for requested increase: ___ %.

Please note that your company must provide detailed supporting documentation which clearly justifies the requested increase, regardless of the amount. The requested increase and supporting documentation will be evaluated, and the City reserves the right to accept or reject.



Purchasing & Contracting Department
Business Office & Support Services

1200 Third Avenue, Suite 200 • San Diego, CA 92101

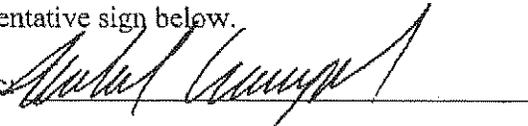
619.533.2000 Fax: 619.533.2001

Page 2
Bid No. 9469-09-Y
Mr. Dick Williams
December 27, 2010

Any option acceptance must be confirmed by the City, in writing, before it becomes valid. Please note that this letter offering your company an opportunity to renew the contract **does not** constitute an award of the option period.

Please have your authorized company representative sign below.

Signature of authorized representative



Print/type signer's name and title: MICHAEL CARCIOPPOLO CORP. RENTAL MGR.

Phone number: 858-688-0042 Fax Number: 619-561-8150

Date: 12/31/10

Insurance Requirements

Our records reflect the following insurance coverages on file and expiration dates.

1. Commercial General Liability (EXPIRES February 1, 2011) must be for a minimum of \$1,000,000.00 Each Occurrence.
2. A Workers' Compensation policy is required (EXPIRES February 1, 2011) and must contain a waiver of subrogation of rights against the City of San Diego.
3. BUSINESS TAX CERTIFICATE (ON FILE): Any firm engaged in doing business in the City of San Diego is required to obtain a Business Tax Certificate. Visit <http://www.sandiego.gov/treasurer/business-tax/index.shtml> for instructions.

City's Insurance Requirements: Please take the attached insurance requirements into consideration when reviewing your option to renew the above referenced contract. If you have questions regarding your current insurance coverage, you may contact the Purchasing & Contracting Department Insurance Coordinator at (619) 236-6254.

If you have questions regarding the above, call Beverly Asbill-Gumbs at (619) 236-5923.

Sincerely,



Myra Wenceslao
Contracts Processing Clerk

Enclosures

SECOND AMENDMENT TO AGREEMENT
BETWEEN THE CITY OF SAN DIEGO AND
HAWTHORNE MACHINERY COMPANY
FOR LEASE OF HEAVY DUTY TRACTOR
BULLDOZERS WITH FULL MAINTENANCE
BID NO. 9469-09-Y

This Second Amendment to the Agreement between the City of San Diego and Hawthorne Machinery Company for the Lease of Various Heavy Duty Tractor Bulldozers with Full Maintenance Bid No. 9469-09-Y [Second Amendment] is entered into by and between the City of San Diego, a municipal corporation, [City] and Hawthorne Machinery Company [Hawthorne].

RECITALS

WHEREAS, in December 2008, by Request for Bid No. 9469-09-Y and Addendum A thereto [Bid No. 9469-09-Y], the City advertised for the lease of various heavy duty tractor bulldozers to be used by the Environmental Services Department [ESD] for daily operations at the Miramar Landfill; and

WHEREAS, Hawthorne submitted a Response to Bid No. 9469-09-Y and was selected as the lowest responsive bidder meeting City specifications; and

WHEREAS, on May 25, 2010, the City Council approved the Agreement between the City of San Diego and Hawthorne Machinery Company for the Lease of Various Heavy Duty Tractor Bulldozers with Full Maintenance in accordance with Bid No. 9469-09-Y and Hawthorne's bid in response thereto [Agreement] for a term of 16 months effective retroactive to March 15, 2009 through July 14, 2010; and

WHEREAS, on July 13, 2010, the City Council approved the First Amendment to the Agreement to extend its term by an additional eight (8) months to March 14, 2011, and to provide for options to renew the Agreement for three additional one-year periods consistent with the Bid No. 9469-09-Y; and

WHEREAS, the City desires to exercise the first option to renew the Agreement, and the parties wish to enter into this Second Amendment to the Agreement to extend its term for one additional year through March 14, 2012;

NOW THEREFORE, in consideration of the above recitals, and the terms, conditions, provisions, and obligations herein, the City and Hawthorne do hereby agree to amend the Agreement as follows:

AMENDMENTS

1. Term: The term of the Agreement is hereby extended for a period of twelve (12) months beginning March 15, 2011 through March 14, 2012.
2. Compensation: The total compensation to be paid to Hawthorne for the bulldozers (with full maintenance) furnished in accordance with this Agreement shall not exceed \$1,625,000 for the period March 15, 2011 through March 14, 2012.
3. Equal Benefits: This Agreement is subject to the City of San Diego's Equal Benefits Ordinance [EBO], Chapter 2, Article 2, Division 43 of the SDMC. In accordance with the EBO, Hawthorne shall certify that it will provide and maintain equal benefits as defined in SDMC §22.4302 for the Term of this Agreement. [SDMC §22.4304(f)]. Failure to maintain equal benefits is a material breach of this Agreement [SDMC §22.4304(e)]. Hawthorne shall notify employees of their equal benefits policy at the time of hire and during open enrollment periods and must post a copy of the following statement in an area frequented by employees:

"During the performance of a contract with the City of San Diego, this employer will provide equal benefits to its employees with spouses and its employees with domestic partners."

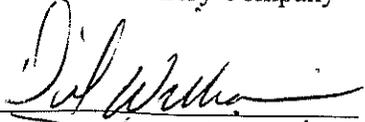
Hawthorne also must give the City access to documents and records sufficient for the City to verify the Company is providing equal benefits and otherwise complying with EBO requirements. The full text of the EBO and the Rules Implementing the Equal Benefits Ordinance are posted on the City's website at www.sandiego.gov/purchasing/ or can be requested from the Equal Benefits Program at (619) 533-3948.

This Second Amendment to the Agreement shall affect only the terms and/or conditions referred to herein. All other terms and conditions shall remain in full force and effect. This Second Amendment to the Agreement shall be effective as of the date signed by the last party to sign it.

IN WITNESS WHEREOF, the City and Hawthorne each have caused their duly authorized representatives to execute this Second Amendment to the Agreement.

Date: 1-12-11

Hawthorne Machinery Company

By: 
Name: Dick Williams
Title: used Equipment Manager

Date: _____

City of San Diego,
A Municipal Corporation

By: _____

Name: _____

Title: _____

I HEREBY APPROVE the form and legality of the foregoing Second Amendment to the Agreement this _____ day of _____, 2011.

JAN GOLDSMITH, City Attorney

By: _____

Grace C. Lowenberg
Deputy City Attorney

FIRST AMENDMENT TO AGREEMENT
BETWEEN THE CITY OF SAN DIEGO AND
HAWTHORNE MACHINERY COMPANY
FOR LEASE OF HEAVY DUTY TRACTOR
BULLDOZERS WITH FULL MAINTENANCE
BID NO. 9469-09-Y

This First Amendment to the Agreement between the City of San Diego and Hawthorne Machinery Company for the Lease of Various Heavy Duty Tractor Bulldozers with Full Maintenance Bid No. 9469-09-Y [First Amendment] is entered into by and between the City of San Diego, a municipal corporation, [City] and Hawthorne Machinery Company [Hawthorne].

RECITALS

WHEREAS, in December 2008, by Request for Bid No. 9469-09-Y and Addendum A thereto [Bid No. 9469-09-Y], the City advertised for the lease of various heavy duty tractor bulldozers to be used by the Environmental Services Department [ESD] for operations at the Miramar Landfill; and

WHEREAS, Hawthorne submitted a Response to Bid No. 9469-09-Y and was selected as the lowest responsive bidder meeting City specifications; and

WHEREAS, on May 26, 2010, the City Council approved the Agreement between the City of San Diego and Hawthorne Machinery Company for the Lease of Various Heavy Duty Tractor Bulldozers with Full Maintenance in accordance with Bid No. 9469-09-Y and Hawthorne's bid in response thereto [Agreement] for a term of 16 months effective retroactive to March 15, 2009 through July 14, 2010; and

WHEREAS, the parties wish to enter into this First Amendment to the Agreement to extend its term by an additional eight (8) months and to provide for options to renew the Agreement for three additional one-year periods consistent with the Bid No. 9469-09-Y;

NOW THEREFORE, in consideration of the above recitals, and the terms, conditions, provisions, and obligations herein, the City and Hawthorne do hereby agree to amend the Agreement as follows:

AMENDMENTS

1. The term of the Agreement is hereby extended for a period of eight (8) months beginning July 15, 2010 to March 14, 2011.
2. The City reserves the option to renew the Agreement for three (3) additional one-year

periods under the terms and conditions of the current Agreement, as set forth in more detail in Article II, Specific Provisions, Section E. Option to Renew.

This First Amendment to the Agreement shall affect only the terms and/or conditions referred to herein. All other terms and conditions shall remain in full force and effect. This First Amendment to the Agreement shall be effective as of the date signed by the last party to sign it.

IN WITNESS WHEREOF, the City and Hawthorne each have caused their duly authorized representatives to execute this First Amendment to the Agreement.

Date: 6-16-2010

Hawthorne Machinery Company

By: Dick Williams
Name: Dick Williams
Title: Equipment manager

Date: 6/21/10

City of San Diego,
A Municipal Corporation

By: Hildred Peppers
Name: Hildred Peppers
Title: Director

I HEREBY APPROVE the form and legality of the foregoing First Amendment to the Agreement this _____ day of _____, 2010.

JAN GOLDSMITH, City Attorney

By: _____
Grace C. Lowenberg
Deputy City Attorney



City of San Diego PURCHASING
CONTRACT
Bid No: 9469-09-Y

Ends: 3/14/14

Cont. No. **C008200116**

Printed 6/10

Ship To: Center ID: PNC1 PURCHASING & CONTRACTING PURCHASING & CONTRACTING-DELIVERY MS56P 1200 3RD AVE STE 200 SAN DIEGO CA 92101-4195	Bill To: PURCHASING & CONTRACTING PURCHASING & CONTRACTING-INVOICE MS56P 1200 3RD AVE STE 200 SAN DIEGO CA 92101-4195	Page 1 of 4 Date: 04/29/2010 Last Option End Date: 03/14/2014 Validity End Date: 03/14/2011
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Vendor: Hawthorne Machinery Co 16945 Camino San Bernardo San Diego CA 92127-2405 Vendor ID: 10002737 Phone: 858-974-6800 Fax:	Terms: Within 30 days Due net Delivery Terms: FOB FREE ON BOARD Buyer: PATRICK KELLEHER Phone: Fax: E-Mail: pkelleher@sandiego.gov
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Line #	Item ID/Description	Quantity/UM	Unit Price	Extended Price
This Document is for Contractual Information Only and is NOT a Purchase Order. Purchase Orders Will be Issued as Needed See Purchase Orders for the delivery and billing address...				
1	HEAVY DUTY LANDFILL TRACTOR BULLDOZER CONFIGURED FOR REFUSE OPERATIONS CAT MODEL D9T UP TO 1200 HOURS - LEASE OF 4 EACH	1,200 H	\$ 125.00	\$ 150,000.00
2	HEAVY DUTY LANDFILL TRACTOR HEAVY DUTY LANDFILL TRACTORS BULLDOZERS CONFIGURED FOR OPERATIONS C MODEL D9T OVER 1200 HOURS - LEASE OF 4 EACH	1,400 H	\$ 125.00	\$ 175,000.00
3	HEAVY DUTY LANDFILL TRACTOR BULLDOZER CONFIGURED FOR REFUSE AND DIRT OPERATIONS WITH RIPPER ASSEM CAT MODEL D9T UP TO 1200 HOURS - LEASE OF 1 EACH	1,200 H	\$ 125.00	\$ 150,000.00
4	HEAVY DUTY LANDFILL TRACTOR	1,400 H	\$ 125.00	\$ 175,000.00

Have questions about doing business with the City of San Diego? Visit our Purchasing web site at www.sandiego.gov/purchasing For specific information regarding contract opportunities with the City of San Diego, please visit our Bid & Contract Opportunities web site at www.sandiego.gov/blds-contracts .	SEE LAST PAGE FOR TOTAL
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City of San Diego PURCHASING
CONTRACT
Bid No: 9469-09-Y

Cont. No. **C008200116**

Ship To: Center ID: PNC1 PURCHASING & CONTRACTING PURCHASING & CONTRACTING-DELIVERY MS56P 1200 3RD AVE STE 200 SAN DIEGO CA 92101-4195	Bill To: PURCHASING & CONTRACTING PURCHASING & CONTRACTING-INVOICE MS56P 1200 3RD AVE STE 200 SAN DIEGO CA 92101-4195	Page 2 of 4 Date: 04/29/2010 Last Option End Date: 03/14/2014 Validity End Date: 03/14/2011
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	BULLDOZER CONFIGURED FOR REFUSE AND DIRT OPERATIONS WITH RIPPER ASSEM CAT MODEL D9T OVER 1200 HOURS - LEASE OF 1 EACH HOURLY LEASE RATES ARE SUBJECT TO CA SALES TAX CONTRACTOR AGREES TO FURNISH FUEL AT COST PLUS 10% PER GALLON			

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City of San Diego PURCHASING
CONTRACT
Bid No: 9469-09-Y

Cont. No. **C008200116**

Ship To: Center ID: PNC1 PURCHASING & CONTRACTING PURCHASING & CONTRACTING-DELIVERY MS56P 1200 3RD AVE STE 200 SAN DIEGO CA 92101-4195	Bill To: PURCHASING & CONTRACTING PURCHASING & CONTRACTING-INVOICE MS56P 1200 3RD AVE STE 200 SAN DIEGO CA 92101-4195	Page 4 of 4 Date: 04/29/2010 Last Option End Date: 03/14/2014 Validity End Date: 03/14/2011
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