

ORDINANCE NO. 02-34 AC CMS

AN ORDINANCE AMENDING ORDINANCE NO. 02-32 AC CMS WHICH ACCEPTED THE BID OF SERVICEMASTER BY HORTON OF OBERLIN, OHIO, FOR JANITORIAL SERVICES FOR THE CITY OF OBERLIN, OHIO, AND DECLARING AN EMERGENCY

BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:

SECTION 1. That Section 1 of Ordinance No. 02-32 AC CMS, which accepted the bid of ServiceMaster by Horton of Oberlin, Ohio, for janitorial services for the City of Oberlin, Ohio, is hereby amended to read as follows:

"Section 1. That the bid of ServiceMaster by Horton of Oberlin, Ohio, for janitorial services for the City of Oberlin, Ohio, for a period of twelve (12) months, beginning May 1, 2002 through April 30, 2003, being the lowest and best bid submitted, is hereby accepted, and the City Manager is hereby authorized and directed to enter into a contract accordingly, said bid being in the amount of \$32,520, for the year, to be paid in semi-monthly installments of \$1,355."

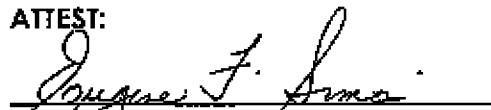
SECTION 2. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the citizens of the City of Oberlin, to wit:

"to correct the dates of contract service as soon as possible in order to allow timely execution of a contract for the services to be provided", and shall take effect immediately upon passage.

PASSED: 1st Reading – March 4, 2002 (E)
2nd Reading –
3rd Reading –

ATTEST:


CLERK OF COUNCIL


CHAIR OF COUNCIL

POSTED: March 5, 2002

EFFECTIVE DATE: March 5, 2002

NOTICE OF AWARD

To: ServiceMaster by Horton
905 Artino Street
MPO Box 0147
Oberlin, Ohio 44074

The City of Oberlin, Ohio, having considered the Bid submitted by you for 2002 Janitorial Services in response to the Advertisement for Bids dated 1/17/02 and in the amount of \$ 327,520 does hereby notify you that your Bid has been accepted by City Ordinance No. _____.

The following variations from the Specifications and Bid Instructions have been allowed:

This contract will run May 1, 2002 - April 30, 2003

You are required to execute the Agreement within ten (10) calendar days from the date of this Notice to you. If you fail to execute said Agreement within ten (10) calendar of the date of this Notice, the City of Oberlin will be entitled to consider all your rights arising out of the City's acceptance of your Bid as abandoned and as a forfeiture of your Bid Bond. The City of Oberlin will also be entitled to such other rights as may be granted by law.

City of Oberlin, Ohio

By: [Signature]

Title: City Manager Date: 3/5/02

Acceptance of Notice of Award

Receipt of the above Notice of Award is hereby acknowledged by

ServiceMaster by Horton, this 11 day of March

By: [Signature]

Title: President

AGREEMENT

4. The City will pay to the Contractor in the manner and at such times as set forth in the Contract Documents, such amounts as required by this Agreement.
5. City's engagement of the Contractor is based upon the Contractor's representations to the City that the Contractor:
 - has reviewed all documents pertinent to its portion or scope of the and has found them in all respects to be complete, accurate, adequate, consistent, coordinated and sufficient;
 - is an organization experienced in and qualified, willing and able to provide equipment of the nature and type necessary to perform its portion or scope of the Work
 - is authorized and licensed to do business in Ohio;
 - has the expertise and ability to meet the City's objectives and requirements.
6. The Contractor shall furnish services and labor which expeditiously and economically and properly complete its particular scope of the Work in the manner most consistent with the City's interests and objectives; in accordance with the Contract Documents, and in accordance with the highest standards currently practiced by persons and entities performing comparable labor and services on projects of similar size and complexity.
7. The Contractor expressly warrants and guarantees to the City that all goods, products, materials, equipment, and systems incorporated in its particular scope of the Work conform to applicable Specifications, descriptions instructions, Drawings, data and samples; be new (unless otherwise specified or permitted and without apparent damage; be of quality equal to or higher than that required by the Bid Documents; be merchantable ; and free from defects
8. The Contractor expressly warrants and guarantees to the City that all labor and services required for its particular scope of Work shall comply with the Bid Documents; be performed in a workmanlike manner; and be free from defects.
9. All warranties and guarantees set forth above shall be in addition to all other warranties, express, implied or statutory, and shall survive payment for, acceptance or inspection of, or failure to inspect the Work.
10. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

AGREEMENT

THE CONTRACTOR CONCERNING SUCH DOCUMENTS. The Contractor again hereby acknowledges and represents that it has received, reviewed and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for construction, and that the Contractor has not, does not, and will not rely upon any representations or warranties by the City concerning such documents, as no such representations or warranties have been or are hereby made;

- (H) In the event of any conflict, discrepancy, or inconsistency among any of the documents which make up this Contract, the following shall control:
 - (1) As between figures given on plans and scaled measurements, the figures shall govern;
 - (2) As between this document and the plans or specifications, this document shall govern.

12. The Contractor shall perform all of the work required, implied or reasonably inferable from this Contract including, but not limited to, the following:

- (A) Provision of the specified services;
- (B) The furnishing of any required surety bonds and insurance;
- (C) The provision or furnishing, and prompt payment therefor, of labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, power, fuel, heat, light, cooling, or other utilities, required for construction and all necessary building permits and other permits required for the construction of the Project;

Neither payment to the Contractor, utilization of the Project for any purpose by the City, nor any other act or omission by the City shall be interpreted or construed as an acceptance of any work of the Contractor not strictly in compliance with this Contract;

Prior to being entitled to receive final payment, and as a condition precedent thereto, the Contractor shall furnish the City, in the form and manner required by City, if any, with a copy to the Public Works Director:

- (1) An affidavit that all of the Contractor's obligations to subcontractors, laborers, equipment or material suppliers, or other third parties in connection with the Project, have been paid or otherwise satisfied;
- (2) If required by the City, separate releases of lien or lien waivers from each

AGREEMENT

the work and the Contractor shall stop work when such termination becomes effective. The Contractor shall also terminate outstanding orders and subcontracts. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The City may direct the Contractor to assign the Contractor's right, title and interest under termination orders or subcontracts to the City or its designee. The Contractor shall transfer title and deliver to the City such completed or partially completed work and materials, equipment, parts, fixtures, information and Contract rights as the Contractor has. When terminated for convenience, the Contractor shall be compensated as follows:

- (1) The Contractor shall submit a termination claim to the City and the Public Works Director specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the City or the Public Works Director. If the Contractor fails to file a termination claim within one (1) year from the effective date of termination, the City shall pay the Contractor, an amount derived in accordance with Subparagraph (3) below;
- (2) The City and the Contractor may agree to the compensation, if any, due to the Contractor hereunder;
- (3) Absent agreement to the amount due to the Contractor, the City shall pay the Contractor the following amounts:
 - (a) Contract prices for labor, materials, equipment and other services accepted under this Contract;
 - (b) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the work, and in terminating the Contractor's performance, plus a fair and reasonable allowance for direct job site overhead and profit thereon (such profit shall not include anticipated profit or nonsequential damages); provided however, that if it appears that the Contractor would have not profited or would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;
 - (c) Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Subparagraph (A) of this Paragraph. These costs shall not include amounts paid in accordance with other provisions hereof.

AGREEMENT

Eugene F. Jmr
City Clerk

Contractor:

Service Master by Horton

By:

Charles H. Horton

Title:

President

Address:

305 Harting St

Oberlin Ohio 44074

Phone:

440-774-2117

(Seal)

ATTEST:

(Secretary, if Corporation)

NOTICE TO PROCEED

To: ServiceMaster by Horton
305 Artino Street
MPO Box 0147
Oberlin, Ohio 44074

Date: March 14, 2002

Project: 2002 Janitorial Services

You are hereby to commence WORK in accordance with the Agreement dated
3/5/02 on or before May 1, 2002

Owner: City of Oberlin, Ohio

By:

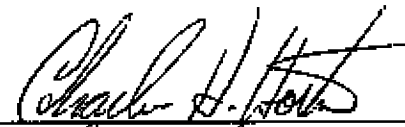

Robert G. DiSpirito, City Manager

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by _____

ServiceMaster by Horton this 18 day of March
2002

By:


Title: President