

CITY OF HIGH POINT

AGENDA ITEM



Title: Kersey Valley Landfill – Trashmaster Wheel Replacements

From: Terry Houk – Public Services Director
Robby Stone – Asst. Director Public Services

Meeting Date: May 6, 2019

Public Hearing: N/A

Advertising Date: N/A

Advertised By: N/A

Attachments: Proposal for Wheels
Sole Source Form

PURPOSE:

The City budgets for ongoing equipment maintenance and repair for landfill equipment. The trashmaster machine is a key piece of equipment for compacting the solid waste and extending the life of the landfill. Overtime, the wheels and cleats wear, resulting in lower compaction efficiencies. This replacement should last for the duration of the equipment life while achieving optimal compaction. The work includes 1.0” outer wrappers/drums, cleat tips (double hard-faced with chrome carbide), standard hard-facing on inner and outer horizontal wrapper edges, new wear bars, support rings and gussets, hub extensions, and sidewalls replaced as required.

BACKGROUND:

The City purchased a CMI brand trashmaster compactor in 2016. The machine was placed into operation in 1-15-2017. Excessive wear and tear on the wheels and cleats occur from normal use in the harsh environment this machine is exposed to everyday. Regular maintenance and care can extend the machine life up to eight years. The wheels and cleats are brand specific. The proposed provider, CMI Roadbuilding, Inc. has been servicing and assisting in repairs as needed as they are the subject matter experts for this equipment.

BUDGET IMPACT:

Funds for the trashmaster wheel replacements are in the Solid Waste Operating budget.

RECOMMENDATION / ACTION REQUESTED:

The Public Services Department recommends approval of the contract and requests City Council to award contract to CMI Roadbuilding, Inc. in the amount of \$54,937.50.



Old Cleat



Newer Cleat

Financial Services

Purchasing Division



Requisition #

**CITY OF HIGH POINT
SOLE SOURCE JUSTIFICATION
FORM (For Items Costing \$5000.00 or More)
Statutory Reference N.C.G.S. 143-129(e)6**

Vendor:

Item(s):

Justification:

CMI IS THE ONLY DEALERSHIP IN NORTH CAROLINA AVAILABLE TO PROVIDE REPLACEMENT PARTS AND SERVICE FOR THE LANDFILL TRASHMASTER

Estimated expenditure for the above item(s):

CHECK ALL ENTRIES BELOW THAT APPLY TO THE PROPOSED PURCHASE.
ATTACH A MEMO CONTAINING JUSTIFICATION AND SUPPORT DOCUMENTATION.

1. ☐ Performance or price competition for a product are not available.
2. ☒ A needed product is available from only one source of supply.
3. ☐ Standardization or compatibility is the overriding consideration.
4. ☒ The parts/equipment are required from this source to permit standardization.
5. ☐ None of the above applies. A detailed explanation and justification for this sole source request is contained in attached memo and support documentation.

The undersigned requests that competitive procurement be waived and that the vendor identified as the supplier of the material or service described in this sole source justification be authorized as a sole source for the material or service.

Department Head/Authorized Personnel

Digitally signed by Terry Houk
DN: cn=Terry Houk, o=City of High Point, ou=Public Services, email=terry.houk@highpointnc.gov, c=US
Date: 2019.04.23 12:37:30 -0400

Department/Division

Date

Approval Process

Under \$5,000 (Purchasing Manager)

\$5,000-\$30,000 (Financial Services Director)

\$30,000 – Up (City Council)

Digitally signed by Erik Conti
Date: 2019.04.24 07:41:08 -04'00'

Digitally signed by Bobby Fitzjohn
DN: cn=Bobby Fitzjohn, o=City of High Point, ou=Financial Services, email=bobby.fitzjohn@highpointnc.gov, c=US
Date: 2019.04.24 08:52:12 -0400

Digitally signed by Greg Demko
DN: cn=Greg Demko, o=High Point, ou=High Point, email=greg.demko@highpointnc.gov, c=US
Date: 2019.04.24 09:59:30 -0400



April 12th, 2019

HIGH POINT KERSEY VALLEY LANDFILL
3940 Kivett Dr
High Point, NC 27263

Attention: Mr. Mike Spencer

RE: CMI Master Line TM-11 Rebuilt Exchange Wheels

Mike,

TM-11 Certified Rebuilt Exchange Wheels Include: Cleats installed on new 1.0" outer wrappers/drums, cleat tips will be double hard-faced with chrome carbide per the CMI spec for extended wear, standard hard-facing on inner and outer horizontal wrapper edges, new wear bars, support rings and gussets, hub extensions, sidewalls replaced as required. Cleats will be mounted in an Inverted Chevron Pattern for maximum compaction. Wheels will be branded with the CMI name and painted CMI colors. Turn around time approximately 4 weeks.

(4) Certified Rebuilt Exchange Wheels with 7.5" Masterline Cleats:..... \$48,437.50

(Requires Exchange of 4 same model core wheels. Excessive inner wheel body wear, cracking or damage from refuse wrap or other factors may result in additional charges or core rejection. No taxes or installation included in wheel pricing)

Warranty: 4 yr/10,000 hr Cleated Wheel Warranty

Estimated Freight/Handling: (2) One-Way Trips, NC \$ 3,000.00

Wheel Dismount/Mount/Installation: \$ 3,500.00

Total: \$54,937.50

20% Non-refundable down payment due with signed order required to activate order.
(Terms and conditions attached)

Best Regards,

Jason Goodin
General Manager | Eastern Regional Service Center
CMI Roadbuilding, Inc.

TERMS AND CONDITIONS OF SALE

Buyer acknowledges this Agreement is subject to the following Terms and Conditions:

1. Acceptance. This Agreement for purchase of equipment and/or parts ("Products") is not effective unless accepted, in writing, by Seller's authorized officer; provided, however, a parts order of less than \$10,000.00 does not require acceptance by Seller's authorized officer. Upon acceptance of this Agreement by Seller this Agreement is a binding contract between the parties. Without prior written consent of Seller's authorized officer this Agreement may not be countermanded or otherwise changed or, in the case of a parts order of less than \$10,000.00, by Seller's representative. This Agreement supersedes any prior agreements, representations, or other communications between the parties relating to the agreement between the parties. No other terms and conditions apply including the terms of any purchase order submitted to Seller by Buyer, whether or not such terms are inconsistent or conflict with, or are in addition to these Terms and Conditions. Seller's acceptance of Buyer's purchase order is conditional upon Buyer's acceptance of all the Terms and Conditions contained in this Agreement. Any communication construed as an offer by Seller and acceptance thereof is expressly limited to the Terms and Conditions set forth herein.

2. Taxes. Prices quoted do not include taxes of any kind or nature. Buyer agrees it will be responsible for filing all tax returns and paying applicable tax resulting from the purchase evidenced by this Agreement. Without limiting the foregoing, Buyer agrees to file a return with respect to, and to pay the vehicle excise tax. In addition, in the event any similar tax is determined to apply to Buyer's purchase, Buyer agrees to indemnify and hold Seller harmless from any and all such similar taxes. All prices quoted are U.S. Dollars unless otherwise specified. The amount of any present or future taxes applicable to the sale, transfer, lease or use of the equipment shall be paid by Buyer; or in lieu thereof, Buyer shall provide Seller with a tax exemption certificate satisfactory to the applicable taxing authority proving that no such tax is due and payable upon such sale, transfer, lease or use.

3. Titles, Transportation and Delivery. Unless otherwise stated, all prices are F.O.B., Place of Shipment, the Seller's manufacturing facility. Title and all risk of loss shall be borne by Buyer upon Seller's delivery at Place of Shipment. Seller is not be liable for any delay in performance of this Agreement or delivery of equipment or parts, or for any damages suffered by Buyer by reason of delay, when the delay is caused, directly or indirectly, by acts of God, or any other causes beyond Seller's control. In the event delay is caused by Buyer's failure to furnish necessary information with respect to data and details for Buyer's specifications, Seller may extend the date of shipment for a reasonable time. In the event delay in shipment is otherwise caused by Buyer or at Buyer's request, Seller may invoice equipment or parts ready for shipment and payment shall be made in accordance with the terms of said invoice. EXCEPT AS SET FORTH IN THESE TERMS AND CONDITIONS, SELLER EXCLUDES ANY LIABILITY RELATED TO DELAY IN DELIVERY AND SHALL NOT BE LIABLE FOR ANY LOSS OF USE OR FOR OTHER INDIRECT, CONSEQUENTIAL, INCIDENTAL OR OTHER DAMAGES OR LOSSES DUE TO DELAY IN SCHEDULED DELIVERY. Claims for shortages in shipments shall be deemed waived and released by Buyer unless made in writing within five (5) days after Buyer's receipt of shipment. Seller's responsibility for shipment shall cease upon delivery of the equipment and/or parts to Place of Shipment and all claims occurring thereafter shall be made to or against the carrier by Buyer.

4. Cancellation. Prior to delivery to Place of Shipment, this Agreement may be canceled only with Seller's prior written consent and upon terms indemnifying Seller from all resulting losses and damages. Seller shall have the right to cancel and refuse to complete this Agreement if Buyer does not comply with any Term and/or Condition governing this Agreement. In the event of cancellation by Seller, or in the event Seller consents to a request by Buyer to stop work or to cancel the whole or any part of this Agreement, Buyer shall make reimbursement to Seller, as follows: (i) any and all work that can be completed within (30) days from date of notification to stop work on account of cancellation shall be completed, delivered and paid in full; and (ii) for work in progress and any materials and supplies procured, or for which definite commitments have been made by Seller in connection with the Agreement, Buyer shall pay such sums as may be required to fully compensate Seller for actual costs incurred, plus fifteen percent (15%). Buyer may not cancel this Agreement after Seller's delivery to Place of Shipment.

5. Inspection and Acceptance. Buyer agrees it shall inspect the Products immediately after receipt and shall notify Seller in writing of any non-conformity or defect within ten (10) days after receipt. Buyer further agrees that failure to give such notice or putting the Products to commercial use shall constitute acceptance. Acceptance shall be final and Buyer waives the right to revoke acceptance for any reason, whether or not known by Buyer at the time of such acceptance. Giving the ten (10) day written notice by Buyer shall automatically cause the provisions of paragraph 6 to apply and govern the rights, obligations and liabilities of the parties with respect to such nonconformity or defect.

6. Limited Warranty. Seller warrants Products covered by this Agreement and manufactured by Seller, against defects in material or manufacture for a period of one (1) year after date of delivery to Place of Shipment and, for equipment, two thousand (2,000) hours of use, whichever comes first. This limited warranty is effective provided Buyer sends Seller written notice of the defect within thirty (30) days of its discovery and establishes: (i) the Products have been maintained and operated within the limits of rated and normal usage; and (ii) the defect did not result in any manner from the intentional or negligent action or inaction of Buyer, its agents or employees including, without limitation, carriers for hire. If requested by Seller, Buyer must return the defective Products to Seller's manufacturing facility for inspection, and if Buyer cannot establish conditions (i) and (ii) above have been met, then this limited warranty shall not cover the alleged defect. Failure to give written notice of defect within such period shall be a waiver of this limited warranty and any assistance rendered thereafter shall not extend or revive it. Seller neither assumes nor authorizes any other person to assume for Seller any other liability in connection with the sale of Seller's Products. This limited warranty shall not apply to any of Seller's Products which have been subject to misuse, alteration, abuse, negligence, accident, acts of God or sabotage. No action by either party shall operate to extend or revive this limited warranty without the prior written consent of Seller.

THIS LIMITED WARRANTY IS EXPRESSLY IN LIEU OF, AND EXCLUDES, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED (INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE) AND ALL OTHER OBLIGATIONS OR LIABILITY ON SELLER'S PART. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE LIMITED WARRANTY CONTAINED IN THIS PARAGRAPH 6. NO SALESMAN, EMPLOYEE OR REPRESENTATIVE IS AUTHORIZED TO MODIFY THIS LIMITED WARRANTY UNLESS SUCH MODIFICATION IS MADE IN WRITING AND SIGNED BY AN AUTHORIZED OFFICER OF SELLER.

Seller's Initials

Seller's Acceptance

Buyer's Initials

No transferability of limited warranty: This limited warranty is limited to the original purchaser or original end-user if sold to a distributor, and is not assignable or otherwise transferable unless made in writing and signed by an authorized officer of Seller.

No Stop and Go warranties: Seller does not recognize “Stop and Go” warranties. This limited warranty shall be null and void if parts (including wear parts) other than Seller’s genuine OEM parts are used in equipment covered by this limited warranty. This limited warranty shall not cover accessories, assemblies, or components which are not manufactured by Seller. Accessories, assemblies, and components included in Seller’s equipment, which are not manufactured by Seller, are subject to the warranty of their respective manufacturers. This limited warranty shall not cover any Products on which serial numbers have been altered, defaced or removed. This limited warranty shall not cover any maintenance or wear parts, which are the sole responsibility of Buyer.

7. Remedies for Breach. IN THE EVENT OF ANY BREACH OF THE LIMITED WARRANTY BY SELLER, THE PARTIES AGREE SELLER’S LIABILITY SHALL BE LIMITED EXCLUSIVELY TO THE REMEDIES OF REPAIR OR REPLACEMENT OF ANY DEFECTIVE PRODUCTS COVERED BY THE LIMITED WARRANTY WHICH IS THE SOLE REMEDY AVAILABLE TO BUYER. In no event shall Seller, or an affiliate thereof, be liable for incidental, consequential or other damages or losses resulting from a breach of the limited warranty including, without limitation, lost profits, labor costs, loss of use of other equipment, third party repairs, personal injury, emotional or mental distress, improper performance of work, penalties of any kind, loss of service of personnel, or failure of equipment to comply with any federal, state or local laws.

8. Limitation of Actions. Any action for breach of this Agreement must be commenced within one (1) year after the cause of action has accrued.

9. Specification Changes. If Seller incurs additional expense because of changes in specifications or drawings previously approved by Buyer, or if Seller is required to modify the ordered Products, perform any work or supply any equipment or material in addition to the items specified on the face hereof, the additional expense shall be added to the purchase price.

10. Security interest. Buyer grants Seller a security interest in the Products purchased and the proceeds thereof. The security interest shall continue until payment in full of the purchase price and performance by Buyer of all of its other obligations hereunder. Seller is entitled to all remedies of a secured party after default under the Oklahoma Uniform Commercial Code in addition to all other rights provided by contract and by operation of law. The Products purchased shall remain personal property and shall not become or be deemed a fixture or a part of any real estate on which they may be located. Buyer agrees to execute any instrument or document considered necessary by Seller to perfect its security interest in the Products including, without limitation, financing statements, chattel mortgages, deeds of trust, deeds to secure debt, mortgages or other security instruments.

11. Insurance covering equipment. Until the purchase price of the Products is paid in full, Buyer shall provide and maintain insurance equal to the total value of the equipment delivered hereunder against customary casualties and risks, including, but not limited to fire and explosion, and shall also insure against liability for accidents and injuries to the public or to employees, in the names of Seller and Buyer as their interest may appear, and in an amount satisfactory to Seller. If Buyer fails to provide such insurance, it then becomes the Buyer’s responsibility to notify Seller so Seller may provide same, and the cost thereof shall be added to the purchase price. All loss resulting from the failure to provide and maintain such insurance shall be assumed by Buyer.

12. Default and Seller’s Remedies. In the event of default by Buyer, all unpaid sums and installments owed to Seller, shall, at Seller’s sole option, become immediately due and payable without notice of any kind to Buyer. In addition to its right of acceleration, Seller may pursue any and all remedies available to it under the Oklahoma Uniform Commercial Code.

13. Indemnification by Buyer. In the event Buyer, its directors, officers, employees, agents (including, without limitation, carriers for hire), representatives, successors or assigns cause or contribute to any act, omission or negligence, (including any act, omission or negligence relating to the manufacture, design, repair, erection, service or installation of or warnings made or lack thereof with respect to any equipment furnished hereunder), Buyer agrees to indemnify, release, defend and hold harmless Seller, its directors, officers, employees, agents, representatives, successors, and assigns, from any claims, suits, actions, losses, damages (including the costs, expenses and reasonable attorneys’ fees incurred in connection with the defense of any such matters), which Seller may incur or suffer arising out of, or in connection with, any such act, omission or negligence of Buyer.

14. Installation of equipment. Buyer shall be solely responsible for the installation and erection of the equipment purchased. Although Seller may in some cases provide a serviceman, data and/or drawings to aid Buyer with installation or start-up, **SELLER ASSUMES NO RESPONSIBILITY FOR PROPER INSTALLATION OR START-UP OF THE EQUIPMENT WHEN INSTALLED AND DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES(INCLUDING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE) WITH RESPECT TO SUCH INSTALLATION AND START-UP.** Notwithstanding whether data and/or drawings are provided or a serviceman aids in the installation, Buyer shall indemnify and hold Seller harmless and, at Seller’s request, defend Seller from all claims, demands or legal proceedings (including the costs, expenses and reasonable attorney’s fees incurred in connection with the defense of any such matter) which may be made or brought against Seller in connection with damage or personal injury arising out of said installation or start-up.

15. Applicable Law. These Terms and Conditions shall in all respects be interpreted, enforced, and governed under the laws of the State of Oklahoma, without regard to the law relating to the conflicts of laws. In the event of any breach of, or default under, this Agreement, Buyer agrees to pay to Seller’s costs, including a reasonable attorney’s fee, and other expenses of Seller incurred in enforcing Seller’s rights.

16. Jurisdiction. The parties agree the proper and exclusive jurisdiction and venue in all legal actions brought to enforce or construe any of the provisions of this Agreement and/or these Terms and Conditions shall be in the United States District Court for the Western District of Oklahoma or, if federal jurisdiction is lacking, in the District Court of Oklahoma County, State of Oklahoma.

17. Severability. This Agreement constitutes the entire agreement between the parties and Seller shall not be bound by any agent’s, employee’s or dealer’s representation, promise or inducement not set forth herein. The invalidity or unenforceability of any provisions of this Agreement shall not affect any other provision and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

18. Miscellaneous. Buyer represents: (i) it is solvent and has the financial ability to pay for the equipment purchased herein; and (ii) it has all requisite right, power and authority to perform its obligations under this Agreement.

19. Defined terms. Buyer and Seller agree capitalized terms used in this Agreement have the same meaning wherever used in this Agreement, except to the extent any different meaning is identified.

Seller’s Initials

Seller’s Acceptance

Buyer’s Initials