

**CITY OF EL PASO, TEXAS
REQUEST FOR COUNCIL ACTION (RCA)**

DEPARTMENT: Environmental Services

AGENDA DATE: July 14, 2009

CONTACT PERSON/PHONE: Kurt Fenstermacher, Assistant Director, 621-6892
Terrence Freiburg, Purchasing Manager, 541-4313

DISTRICT (S) AFFECTED: All

SUBJECT:

Request that the Purchasing Manager of the Financial Services Department, Purchasing Division be authorized to purchase Lids Model 79296-EVR II Universal/Nestable for the Toter refuse and recycling containers from Toter Incorporated. The total purchase will be in excess of \$100,000 and approval by City Council is required.

BACKGROUND / DISCUSSION:

Sole source letter and affidavit attached, this request is for the purchase of Toter lids for the Environmental Service Department. The lids are to replace damaged Toter refuse and recycling container lids. Toter is the sole manufacturer and distributor of Toter container lids.

PRIOR COUNCIL ACTION:

None

AMOUNT AND SOURCE OF FUNDING:

The funding source for this purchase will be from
Fund 40403: Environmental Services
DeptID: 34010297
Account #: 503122
Class: 34000

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required)

FINANCE: (if required) _____

DEPARTMENT HEAD:


(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

PURCHASING DEPARTMENT

DATE: June 30, 2009

TO: Municipal Clerk

FROM: Terrence Freiburg, Purchasing Manager Leticia Rivera
Purchasing Manager, ext. 4313 Procurement Analyst, ext. 4234

Please place the following item on the CONSENT Agenda of July 14, 2009.

Item should read as follows:

Request that the Purchasing Manager for Financial Services, Purchasing Division, be authorized to issue Purchase Orders to Toter, Incorporated, the sole source manufacturer and distributor of Toter replacement parts, including replacement lids for the Toter refuse/recycling carts. Total estimated amount is \$138,600.00. The vendor has provided an updated sole source letter and affidavit.

Department: Environmental Services
Total Amount: \$138,600.00
Account No: 503122-40403-34010297
Funding Sources: Container Collections
District(s): All

Edward Hyatt



FINANCIAL SERVICES
PURCHASING DIVISION

SOLE SOURCE AFFIDAVIT

THIS IS AN OFFICIAL PURCHASING DOCUMENT - RETAIN WITH PURCHASE ORDER FILE

Before me, the undersigned official, on this day, personally appeared Kellie K. Clark, a person known to me to be the person whose signature appears below, whom after being duly sworn upon his/her oath deposed and said:

1. My name is Kellie K. Clark. I am over the age of 18, have never been convicted of a crime and am competent to make this affidavit.
2. I am an authorized representative of the following company or firm: Toter Incorporated.
3. The above named company or firm is the sole source for the following item(s), product(s) or service(s):
Toter replacement parts (including replacement lids).
4. Competition in providing the above named item(s) product(s), service(s) is precluded by the existence of a patent, copyright, secret process or monopoly as stated under Section 252.022, Subchapter A of the Local Governmental Code 7A or as provided for under 7B-F of the same section. Also, attached hereto is a sole source letter, which sets forth the reasons why this Vendor is a sole source provider (dated and signed).
5. There is/are no other like item(s) or product(s) available for purchase that would serve the same purpose or function.
6. Note: This Vendor understands that by providing false information on this Sole Source Affidavit, it may be considered a non-responsible Vendor on this and future purchases and may result in discontinuation of any/all business with the City of El Paso.

Kellie K. Clark
Signature

SUBSCRIBED AND SWORN to before me on this 20th day of October, 2008.

Carolyn G. Hall
NOTARY PUBLIC
Carolyn G. Hall
PRINTED NAME
November 30, 2008
MY COMMISSION EXPIRES

COMPANY NAME: Toter Incorporated
ADDRESS, CITY, STATE & ZIP CODE: 841 Meacham Road, Statesville, NC 28677
PHONE: 704-972-8171 or 800-424-0422 FAX NUMBER: 704-878-0734
CONTACT NAME AND TITLE: Kellie K. Clark, Manager, Contract & Bids
WEB ADDRESS: www.toter.com EMAIL: kclark@toter.com
FEDERAL TAX ID NUMBER: _____ TEXAS SALES TAX NUMBER: _____

July 1, 2009

Leticia Rivera
Procurement Analyst
The City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901
Phone: 915 541-4234
Fax: 915 541-4347
E-mail: RiveraAL@elpasotexas.gov

Dear Ms. Rivera,

Toter[®] Incorporated is pleased to be the sole source manufacturer of replacement parts (including replacement lids) to the City of El Paso.

Components are designed solely for Toter carts. Lids for Toter cart bodies must be of a particular dimension and design manufactured with molds owned only by our company. Lids and other components, such as axles and stop bars, are designed specially for Toter carts' dimensions, quality, and other features. Additionally, Toter parts do not fit other manufacturers' carts.

Thank you for your continued business. We look forward to being the City's sole supplier for roll-out cart replacement parts.

Do not hesitate to call us if we can ever be of service.

Sincerely,



Kellie K. Clark
Manager, Bids and Contracts

/kkc



**CUSTOMER SALES
QUOTATION**

QUOTE #: 09-322

June 17, 2009

PREPARED FOR:	SHIP TO:
City of El Paso Attn: Mr. Patrick Ross El Paso, TX	El Paso, TX

DESCRIPTION	QUANTITY	UNIT PRICE
Toter 96 Gallon Lid for Model 79296 - EVR II Universal/Nestable ❖ Color – Grey lid - 3640 Blue lid - 2996 Black lid - 2604	9240	\$15.00

ADDITIONAL INFORMATION:
Freight: No charge if shipped with carts. If not, to be determined.
Payment Terms: Net 30 days after shipment
Delivery: 4-6 weeks after receipt of purchase order.

This proposal is subject to Toter's Standard Terms and Conditions following. Toter prices do not include state and local taxes, if applicable. Delivery is subject to availability at time of order entry. Pricing is based on current resin cost and freight which must be confirmed by Toter in writing before acceptance of order. This quote supersedes any past proposal on the same item.

TOTER INCORPORATED:

ACCEPTED BY:

Linda Lassiter 6/17/2009
Linda Lassiter Date
Sales Service Representative

City of El Paso, TX Date

PO#

cc: Donald Siptak