DATE: December 13, 2017

TO: City Council

THROUGH: Greg Nyhoff
City Manager

FROM: Thien Ng
Interim Public Works Director

SUBJECT: First Amendment to Purchase Order No. 5738 with Toter, Incorporated for Supply and Delivery of Residential Waste and Recycle Containers

CONTACT: Thien Ng, Interim Public Works Director
thien.ng@oxnard.org, 432-3575

RECOMMENDATION:

That the City Council approves and authorizes the Mayor to execute a First Amendment to Purchase Order No. 5738 with Toter Incorporated (Toter) to increase the total amount by $65,000 from an original purchase order value of $229,325 to $294,325, and to extend the term to January 31, 2018, for the supply and delivery of residential waste and recycle containers. Funding is from the Environmental Resources Enterprise fund and grant-related funding.

BACKGROUND

The Environmental Resources Division (ER) is recommending a First Amendment to Purchase Order No. 5738 for up to 950 automated residential waste collection carts and parts such as wheels, axles, and lids. The amended Purchase Order will not exceed the amount of $65,000 for the term ending January 31, 2018. The Purchase Order addresses the container replacement program for the residential collection program that includes an assortment of residential waste, recycling, green waste carts and assorted parts. It also allows the City to purchase carts for recently annexed areas and community developments. The City was awarded a grant from CalRecycle that provides funding to purchase recycling carts for multi-family complexes that are now required to have commercial recycling. Over time and through regular use, residential containers wear out. Containers overtime are reported damaged or lost, and their replacement
depletes the City’s inventory. Adequate inventories of containers and parts on hand will allow the City to continue providing excellent customer service and shorter response times.

Due to customer demand and a depleted container inventory, the timely acquisition of containers is required. ER has obtained pricing of containers from the National Intergovernmental Purchasing Alliance Company (National IPA). The National IPA maintains a collection of pre-negotiated contracts from vendors for government agencies to view and make competitive purchases with the knowledge that all legal procurement obligations have been verified. The City is a member agency of the National IPA. The pre-negotiated contracts enable government agencies to simplify and accelerate their procurement processes. Using the National IPA agreement, the City will acquire the new containers with competitive pricing, and the containers will be delivered as soon as possible.

The National IPA awarded an agreement to the firm Toter, Incorporated to provide residential refuse containers. Toter meets all container specifications compatible with the City’s operation. Toter manufactures containers using advanced rotational molding making their containers more durable with longer lasting life cycles compared to companies that use injection molded containers. Toter containers are delivered fully stacked, nestled and assembled allowing for productive and greater payload deliveries at reduced freight cost. Toter has a manufacturing facility in Fresno, California, which provides a reasonable proximity for quicker response time for maintenance and replacement parts. Toter containers are made with 50% recycled content with fully sealed construction for refuse, recycle and organics collections.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the four strategic plans adopted by City Council on May 17, 2016.

FINANCIAL IMPACT

There is sufficient funding for this contact amendment in Fiscal Year 2017-18. The cost will be funded from budgeted ER Residential Collection Minor Equipment (Account Number 631-6307-843-8134) and CalRecycle Grant Project No. 775554 (Account No. 219-5550-805-8109) to provide for the purchase of containers and parts. Based on current expenditure appropriations of $44.59 Million, the estimated unaudited year-end undesignated FY17-18 Fund Balance for ER Unrestricted Operating Fund 631 based on current appropriation is $17.08 Million.

ATTACHMENTS:
Attachment A: Amended Purchase Order No. 5738
PURCHASE ORDER
CITY OF OXNARD
300 WEST 3RD STREET
OXNARD, CA 93030

DATE: 10/30/2017

VENDOR PHONE: (559)875-7130
VENDOR FAX: (559)875-7135
VENDOR #: 5050
VENDOR ADDRESS: TOTER INCORPORATED
P.O. BOX 5338
STATESVILLE, NC 28687-5338

SHIP TO: ENVIRONMENTAL RESOURCES
DEL NORTE RECYCLING CTR.
111 DEL NORTE BLVD.
OXNARD, CA 93030

Our P.O. # MUST Appear on ALL Invoices, Packages and Correspondence

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7/28/16 - CCRC OK 01/12/16 - JOINT PURCHASE AGREEMENT WITH NIPA. CITY MANAGER APPROVED ON (CC MEETING OF 2/23/16). EXPIRES: 12/31/17.

By acceptance of this purchase order, you agree to the attached terms and conditions of the City of Oxnard

Page 1 of 3
PURCHASE ORDER
CITY OF OXNARD
300 WEST 3RD STREET
OXNARD, CA 93030

DATE: 10/30/2017

VENDOR PHONE: (559) 875-7130
VENDOR FAX: (559) 875-7135
VENDOR #: 5050
VENDOR ADDRESS: TOTER INCORPORATED
P.O. BOX 5338
STATESVILLE, NC 28687-5338

SHIP TO: ENVIRONMENTAL RESOURCES
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TOTAL PURCHASE AMOUNT $294,325.00

In order to receive payment, email all invoices to: invoices@oxnard.org
In the subject line, reference the Purchase Order number above.

By acceptance of this purchase order, you agree to the attached terms and conditions of the City of Oxnard

Page 2 of 3
The City Purchasing Officer and the Vendor agree as follows:

1. Vendor shall furnish to City the labor, materials, equipment, supplies and/or services described in the Purchase Order preceding this page.
2. City shall pay to Vendor the price, or prices, specified in the Purchase Order upon delivery of the labor, materials, equipment, supplies and/or services, and acceptance thereof by the City Purchasing Officer, or upon the completion of the services to be performed and acceptance thereof.
3. If the Purchase Order is continuing in nature, City shall pay to Vendor the amount due Vendor for labor, materials, equipment or supplies furnished, or services completed and accepted.
4. Vendor shall deliver the labor, materials, equipment or supplies, or cause the services to be performed, within the time and in the manner specified in the Purchase Order. Vendor shall be excused in performance for delays resulting from causes beyond the control of Vendor.
5. If services are performed or labor furnished to City under the Purchase Order, Vendor agrees to indemnify, hold harmless and defend City, its City Council, and each member thereof, and every officer, employee, representative or agent of City, from any and all liability claims, demands, actions, damages (whether in contract or tort, including personal injury, death at any time, or property damage), costs and financial loss, including all costs and expenses and fees of litigation or arbitration, that arise directly or indirectly from any acts or omissions related to this Agreement performed by Vendor or its agents, employees, subcontractors, consultants and other persons acting on Vendor’s behalf. This agreement to indemnify, hold harmless and defend shall apply whether such acts or omissions are the product of active negligence, passive negligence, willfulness or acts for which Vendor or its agents, employees, subcontractors, consultants and other persons acting on Vendor’s behalf would be held strictly liable. Vendor’s obligation to defend shall arise when a claim, demand or action is made or filed, whether or not such claim, demand or action results in a determination of liability or damages as to which Vendor is obligated to indemnify and hold harmless.

6. Insurance
   a) Vendor shall obtain and maintain during the performance of any services under this Agreement the following insurance coverage issued by a company satisfactory to the Risk Manager, unless the Risk Manager waives, in writing, the requirement that Vendor obtain and maintain such insurance coverage.
      i. Commercial general liability insurance, including a contractual liability endorsement, in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability coverage (Occurrence Form CG0001ED, November 1998);
      ii. Business automobile liability insurance in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Auto Liability Insurance Services Office coverage (Occurrence Form CA000TED, June 1992) covering Code No. 1, “any auto”;
      iii. Workers’ compensation insurance in compliance with the laws of the State of California, including employer’s liability insurance in an amount not less than $1,000,000 per claimant.
   b) Vendor shall furnish to City the labor, materials, equipment, supplies and/or services described in the Purchase Order preceding this page.
   c) Vendor shall deliver the labor, materials, equipment or supplies, or cause the services to be performed, within the time and in the manner specified in the Purchase Order. Vendor shall be excused in performance for delays resulting from causes beyond the control of Vendor.
   d) If the Purchase Order is continuing in nature, City shall pay to Vendor the amount due Vendor for labor, materials, equipment or supplies furnished, or services completed and accepted.

ADDITIONAL REQUIREMENTS FOR GRANT-FUNDED PROJECTS

17. The following requirements apply to any Purchase Order funded in whole or in part by federal grant funds.
   a) Upon expiration of the time specified on the reverse side, this Purchase Order shall terminate unless City and Vendor have mutually agreed in writing to an extension of time.
   b) If legal action is brought by either party because the other has failed to comply with terms or conditions of this Purchase Order, the prevailing party shall be awarded its attorney’s fees and costs in addition to its damages and/or equitable relief.
   c) Vendor shall comply with all applicable requirements of Executive Order 11246 as amended by Executive Order 11375 and the regulations adopted pursuant thereto (41 CFR Chapter 60), which provide that no person shall be discriminated against on the basis of race, color, religion, sex or national origin.
   d) Vendor shall insure that the grantee (City), the Federal Grantor Agency, the Comptroller General of the United States, or any duly authorized representative, shall have access to any books, records, documents and papers, specifically relating to this Purchase Order, for the purpose of making audit, examination, excerpts and transcriptions for not less than three years after completion of the project and/or until the completion of the final project audit as required by the Federal Grants Agency.