

AGENDA REPORT

TO: Mayor & City Commission
FROM: Ken Hibl, City Manager
DATE: February 24, 2009
RE: Renewal of Cemetery Maintenance Contract

For the Agenda of March 1, 2010

Background. The City has enjoyed a contractual agreement (*copy att'd*) with AWOL Lawn Services for maintenance of the Cherry Grove Cemetery for the past two years; the contract expired in December 2009. We polled AWOL to determine whether they would be interested to renew the contract and the cost of a renewal if such interest existed. Dorothy Davis' response is attached.

AWOL was most recently awarded our cemetery maintenance contract in April 2008 as a result of our solicitation for bids due to our previous contractor (Elm Creek) informing us the cost for their services would be increased from \$30K annually to \$37K annually. AWOL was awarded the bid for \$28K with a subsequent renewal in April 2009 for a cost of \$30,000.

AWOL has accomplished the terms and conditions of work of this contract superbly; consequently, I ask the City Commission to consider renewing the contractual agreement for these services for another one-year term.

Issues & Questions Specified. Should the Clare City Commission approve a renewal of cemetery maintenance services contract with AWOL Lawn Services?

Alternatives.

1. Approve the renewal of the services contract with AWOL.
2. Direct that bids be solicited for this service.
3. Direct that the City obtain the necessary resources (equipment and manpower) needed to perform this work.
4. Set the matter aside for consideration at a later-scheduled commission meeting.

Financial Impact. As reflected in the attached correspondence, AWOL has requested a \$600 increase over the previous costs of the service agreement.

Recommendation. I recommend that the Clare City Commission approve a renewal of the services contract with AWOL Lawn Services by adoption of Resolution 2010-016 (*copy att'd*).

Attachments.

1. Expired Contractual Agreement.
2. AWOL Correspondence.
3. Resolution 2010-016.

CONTRACTUAL AGREEMENT

**City of Clare
202 W. Fifth Street
Clare, Michigan 48617
Phone: 989.386.7541**

Section 1. Parties. The Agreement is made this date by and between the City of Clare, a municipal corporation, 202 West Fifth Street; Clare, Michigan.48617, herein referred to as the "City" and AWOL Lawn Service, 505 John R. Street, Clare, Michigan, herein referred to as "Contractor".

Section 2: Terms of Agreement. This contract shall be for a period of one (1) year beginning December 2, 2008 and expiring December 1, 2009.

Section 3. Responsibilities of the Contractor.

1. The contractor will be responsible for the maintenance of the cemetery grounds, to include the following:
 - A. Mowing of grass. The grass height shall not exceed 4"; additionally, the grass will be mowed within the four-day period immediately preceding Memorial Day.
 - B. Picking up of all loose debris and trash items (paper, plastics, etc.) before each mowing.
 - C. Weed whipping/trimming around all headstones, trees, fence posts, and other manmade or natural structures or objects in the cemetery each time the grass is cut.
 - D. Collecting and removing of leaves in the spring and fall of the year.
 - E. Collecting, removing, and properly disposing of all twigs, branches, and other natural debris in the spring; after storms, and other times during the year as needed.
 - F. Mowing areas outside existing cemetery fences along Schoolcrest and Cedar Streets to the standards stipulated above.
 - G. Mowing of the vacant area to the east of the cemetery once each month between the period April thru September and once within the four day period immediately prior to Memorial Day.
 - H. Bagging/packaging and proper disposal of all trash and debris collected from the cemetery.

- I. Removal of cemetery seasonal decorations – specifically, removal of all grave blankets and winter wreaths within the first two weeks of April and removal of all summer decorations within the last two weeks of October.
 - J. Trim, shape, and prune ornamental shrubbery as needed twice each year.
2. The Contractor will utilize its own equipment and be responsible for all operations and maintenance costs for its equipment.
 3. The Contractor is responsible for all damage caused by its employees during the course of accomplishing the contracted work. The Contractor will also be required to maintain insurance coverage stipulated in this contract.

Section 4. Responsibilities of the City. The City will be responsible for watering/irrigating the grass in the cemetery, maintenance of the water irrigation system, and all costs associated with watering the cemetery.

Section 5. Relationship of the Parties: The Contractor is at all times during this Agreement an independent contractor and not an employee of the City. As an independent contractor, the Contractor is not entitled to make any claims against the City for any employment benefits, including insurance benefits and Worker's Compensation. The Contractor shall be responsible for providing its own supplies and equipment.

Section 6. Insurance Requirements The Contractor will be required to maintain insurance coverage at all times as indicated below:

- A. Worker's Compensation. The Contractor shall procure and maintain during the life of the contract Worker's Compensation Insurance, including Employer's Liability Coverage, in accordance with all applicable statutes of the State of Michigan
- B. Commercial General Liability Insurance. The Contractor shall procure and maintain during the life of the contract agreement Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than \$1,000,000 per occurrence and/or aggregate combined single limit.
- C. Motor Vehicle Liability. The Contractor shall procure and maintain during the life of the contract Motor Vehicle Liability Insurance, including Michigan No-Fault Coverage. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles of the Contractor.
- D. Additional insured. Commercial General Liability and Motor Vehicle Liability Insurance as described above shall include an endorsement stating the following, "Additional Insureds" shall be the City of Clare, all elected and appointed officials, all employees and volunteers, and all boards and commissions of the City of Clare.

- E. Cancellation Notice. Worker's Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance as described above, shall include an endorsement stating that it is understood and agreed that thirty (30) days Advance Written Notice of Cancellation, Non-Renewal, Reduction and/or Material Changes will be provided to the City.
- F. Proof of Insurance. The contractor shall provide Proof of Insurance for the coverage mentioned to the City. Failure to do so shall be cause for termination of the contract by the City.

Section 7. Termination.

- A. Once entered into, either party may terminate the contract by providing 30 day written notice. All relationships between the City and the Contractor will be terminated at the end of the term specified in the contract agreement, raising no obligation or implication that it shall be renewed by either party.
- B. Failure of the Contractor to perform its obligations or satisfactorily meet the standards of the contract shall be cause for termination by the City. Such termination shall occur after seven days notice is given to the Contractor. The judgment of the Clare City Manager as to whether the performance of the Contractor is satisfactory shall be final and binding upon the Contractor.

Section 8. Compensation. The Contractor will be paid in six equal monthly payments of \$4,285 and one payment of \$4,290 (total of \$30,000 for the contract period). The first monthly payment shall be made the first Tuesday of May for work accomplished in April; subsequent monthly payments will be made once monthly thereafter on the first Tuesday of the month for the next six consecutive months. The payment checks shall be made payable to AWOL Lawn Services.

Section 9. Governing Law & Severability. The agreement will be governed by and construed in accordance with the laws of the State of Michigan. All provisions of the agreement will be severable and any provision which may be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remaining provisions.

Section 10. Assignment. The agreement shall bind both parties and their respective heirs, successors, legal representatives, and assigns. The Contractor will not be able to assign the agreement or any interest therein, including rights and duties of performance, without the City's written consent. No assignment made without the City's consent will relieve the Contractor of any obligation of the contract.

Section 11. Notices. Notices permitted or required under the contract will be sufficient when sent by first class mail with the proper postage affixed and mailed to Kay Haven, the City Clerk, 202 West Fifth Street, Clare Michigan 48617 or AWOL Lawn Services, 505 John R Street, Clare, Michigan 48617.

Section 12. Anti-Waiver Modification. Once entered into, all modifications of the contract will only be allowed in writing and signed by both parties. No oral modification or addition or deletion will be binding on the parties. Non-enforcement of any condition, obligation, or requirement under this agreement will not be deemed a waiver of that condition, right, or obligation.

Dated: 12-2-08

THE CITY OF CLARE

By: Pat Humphrey
Pat Humphrey, Mayor

By: Kay Haven
Kay Haven, City Clerk

CONTRACTOR

By: Dorothy Davis
Dorothy Davis, President

A.W.O.L., Inc.
P.O. Box 225
Clare, MI 48617-0225

February 22, 2010

Mr. Ken Hibl, Manager, City of Clare
Clare City Hall
202 W. Fifth St.
Clare, MI 48617

RE: Cherry Grove Cemetery

Dear Mr. Hibl:

A.W.O.L., Inc. wants to be considered for a renewal of the mowing services contract for the Cherry Grove cemetery. In consideration of current and near-future projections for the cost of gasoline (if remaining under \$3.00 per gallon for regular graded gasoline), we are projecting an increase to the current contract price of two percent (2%). This minor increase would raise the contract price for 2010 to \$30,600. We also believe this 2010 price to be mutually beneficial to both my company and to the tax payers of the City of Clare.

Thank you for your consideration in renewing our contract. If you have any questions, please do not hesitate to contact me at the address above or call me on my cell phone, 989-429-5937.

Sincerely,

A handwritten signature in cursive script that reads "Dorothy Davis".

Dorothy Davis
President

RESOLUTION 2010-016

A RESOLUTION OF THE CLARE CITY COMMISSION RENEWING THE CEMETERY MAINTENANCE CONTRACT WITH AWOL LAWN SERVICES.

WHEREAS, the City of Clare's contractual agreement with AWOL Lawn Services for the maintenance of its Cherry Grove Cemetery has expired; and

WHEREAS, the City has been pleased with the performance and contractual compliance of AWOL lawn services; and

WHEREAS, the City has queried AWOL Lawn Services to determine said company's interest and cost to renew said contractual agreement; and

WHEREAS, AWOL Lawn Services has informed the City of its desire to continue providing said services for a minimal increase in cost.

NOW THEREFORE BE IT RESOLVED THAT the Clare City Commission hereby approves the renewal of a one-year contractual agreement with AWOL Lawn Services for maintenance of the Cherry Grove Cemetery, the compensation for said services being \$30,600.

The Resolution was introduced by Commissioner _____ supported by Commissioner _____. The Resolution declared adopted by the following roll call vote:

YEAS:

NAYS:

ABSENT:

Resolution approved for adoption on this 1st day of March 2010.

Diane Schmidt, City Clerk