

**AN ORDINANCE** 2006-01-05-36

**ACCEPTING A BID SUBMITTED BY EXPRESS VIDEO, INC. FOR THE PURCHASE OF 135 GAMBLING DEVICES (EIGHT LINERS) IN THE AMOUNT OF \$41,985.00, SEIZED AS A RESULT OF CRIMINAL INVESTIGATIONS BY THE POLICE DEPARTMENT AND SUBSEQUENTLY FORFEITED BY ORDERS OF THE COURTS; AND AUTHORIZING PAYMENT TO THE BEXAR COUNTY DISTRICT ATTORNEY'S OFFICE.**

\* \* \* \* \*

**WHEREAS**, criminal investigations conducted by the City of San Antonio ("City") Police Department, initiated by citizen concerns, resulted in the seizure and subsequent forfeiture by the courts of 135 gambling devices, commonly referred to as "eight liners"; and

**WHEREAS**, the City, in an effort to recoup a portion of the costs associated with the seizure and storage of the devices during the required period pending forfeiture, conducted an informal bid solicitation for the sale of the devices; and

**WHEREAS**, Express Video, Inc. submitted the highest bid at \$41,985.00 for the entire lot; and

**WHEREAS**, as a condition of the bid award, Express Video, Inc. has agreed to remove the gambling devices from the State of Texas within 30 days of award, and in accordance with Federal and State laws, and to refrain from returning the devices to the State; and

**WHEREAS**, the City and the Bexar County District Attorney's Office ("BCDAO") have entered into an interlocal agreement approved on this day, which requires the entire proceeds from this sale to be awarded to the BCDAO, though future proceeds will be divided differently, in accordance with that interlocal agreement; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The high bid submitted by Express Video, Inc. to purchase 135 gambling devices from the City of San Antonio for the total sum of \$41,985.00 is hereby accepted, subject to and contingent upon the deposit of all required bonds, performance deposits and insurance certificates and timely removal of the gambling devices. All other bids will be considered rejected upon the deposit by the successful bidder of all required bonds, performance deposits and insurance certificates or the expiration of sixty days from the effective date hereof, whichever occurs first. The bid is attached hereto and incorporated herein as Exhibit A.

**SECTION 2.** The portion of the proceeds to Bexar County, \$41,985.00, are to be deposited into Fund 29040000, General Ledger 2160120, Due To - Other Government Agencies and should be paid to Bexar County District Attorney's Office as soon as practical from this account.

**SECTION 3.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

**SECTION 4.** This ordinance shall take effect the 15<sup>th</sup> day of January, 2006.

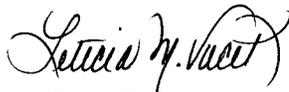
**PASSED AND APPROVED** this 5<sup>th</sup> day of January, 2006.



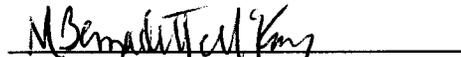
M A Y O R

**PHIL HARDBERGER**

**ATTEST:**

  
**City Clerk**

**APPROVED AS TO FORM:**

  
**City Attorney**

City of San Antonio Bid Tabulation

Exhibit A

Opened October 31, 2005		Express Video, Inc. 240 Koolabrew Drive Calabash NC 28467
For: Sale of Confiscated Illegal Gambling 8-Liner Video Machines		
Bid # 06-012	DS	
<b>Description</b>		
Eight-Liner Video Machines		
Price Per Lot of 135 Machines	1	\$41,985.00
<b>Amount to be Received by the City</b>		\$41,985.00

**PRICE SCHEDULE**

<u>ITEM</u>	<u>QUANTITY</u>	<u>DESCRIPTION</u>	<u>BID AMOUNT</u>
1	1 LOT	Eight-Liner Machines	\$ <u>41,985.00</u> (Entire Lot)

The undersigned, by his/hcr signature, represents that he/she is authorized to bind the bidder to fully comply with the terms and conditions of City's Invitation for Bid # **06-012** (hereafter "Invitation for Bid"), which is fully incorporated herein, and for the amounts shown. By signing below, Bidder certifies that Bidder has read the entire Invitation for Bid, including any and all Specifications, Special Provisions and attachments thereto, and agreed to the terms therein.

Firm Name: Express Video Inc

Telephone Number: 910-287-3044

Address: 240 Keadabarew Dr.

City, State, Zip Code: Gaithersburg NC 28462

Signer's Name: [Signature]  
 Signature of Person Authorized to Sign Bid



**CITY OF SAN ANTONIO  
PURCHASING & GENERAL SERVICES DEPARTMENT**

**Bid No. 06-012**

**Date Issued: October 13, 2005**

**FORMAL INVITATION FOR BIDS  
FOR THE SALE OF CONFISCATED EIGHT-LINER VIDEO MACHINES**

The City of San Antonio is offering One Hundred Thirty Five (135) Eight-liner video machines, (hereafter "Equipment") for sale.

**A. INSTRUCTIONS TO BIDDERS:**

1. Bidders must submit written bids, signed in ink, in a sealed package, clearly marked on the front of the package "Eight Liner Bid". All bids must be received in the Purchasing Department office no later than **10:00 a.m. central time, October 31, 2005** at the address below. Any bid received after this time shall not be considered.
2. Mailing Address:  
Attn: Purchasing & General Services Dept.  
131 W. Nueva Bid # 06-012 Eight Liner Machines  
San Antonio, Texas 78283-3966  
  
Physical Address:  
Attn: Purchasing & General Services Dept.  
131 W. Nueva Bid # 06-012 Eight Liner Machines  
San Antonio, Texas 78204  
  
**Bids sent by facsimile or email will not be accepted.**
3. Bidders shall sign and return the Invitation for Bid in a sealed envelope. Unsigned bids shall not be accepted.
4. The contract will be awarded to the highest responsive bidder whose bid, conforming to the Invitation For Bids, is most advantageous to the City, price and other factors considered.
5. The equipment will be sold as one lot and offers for individual components will not be accepted. The City hereby establishes a minimum bid price of \$300 per Eight Liner machine. Bids below the minimum bid price shall not be accepted.
6. CITY reserves the right to reject any and all bids.
7. The Equipment is located at San Antonio Police Department San Antonio, Texas. The Equipment is available for inspection by appointment. For questions regarding the equipment or to schedule an appointment to view the equipment, contact Sgt. Roland Ortiz, SAPD Vice Squad at 210-207-2370.

8. To be eligible to bid on this Equipment, Bidders must not have been convicted of or served any form of probation or deferred adjudication for any felony, or any criminal offense involving the use or possession of gambling equipment, gambling devices or gambling paraphernalia by any federal, state or local governmental entity. Bids received from ineligible bidders shall not be accepted. This prohibition applies to individuals, individual members of partnerships, Corporate Bidders, and the officers and directors of corporate bidders, or any other party or entity submitting a bid.
9. **BID BOND:** A bid bond in the amount of one thousand dollars (\$1,000) must accompany any bid to show good faith in its submission. A deposit in the form of a cashier's check or certified check made payable to the City of San Antonio may be substituted in lieu of the Bid Bond. Bid Bonds will be returned to unsuccessful bidders within 60 days of the Due Date for bids. The bid bond of the successful bidder(s) will be returned by the City upon completion of the contract in accordance with the conditions hereof. If the successful bidder fails to complete the sale as required herein, the Bid Bond shall be forfeited to the City.
10. If the successful bidder fails to complete the sale as required herein, the City reserves the right to award the bid to the next to the highest responsive bidder. All bids shall remain firm for a period of 90 days from the Due Date for bids.
11. A written award of acceptance (manifested by a City Ordinance) and notice thereof mailed or otherwise furnished to the successful bidder results in a binding contract without further action by either party.

## **B. TERMS AND CONDITIONS OF BIDS**

1. The successful bidder shall make payment by cash or cashier's check in the full amount of the bid total within five (5) working days of notification of award. Checks shall be made payable to the City of San Antonio.
2. The title to the equipment remains with the CITY until payment is received and equipment removed.
3. The equipment being sold by City is more particularly described in Exhibit "A", attached hereto and incorporated herein for all purposes.
4. **The successful bidder shall remove the Equipment from City, using bidder's own labor, material and tools, within thirty (30) days after notification of award. CITY personnel will not be available to perform these functions. Removal of equipment must be performed between the hours of 8:00 A.M. and 3:00 P.M., Monday through Friday.**

**BIDDER SPECIFICALLY AGREES TO AND SHALL REMOVE ALL EQUIPMENT FROM THE STATE OF TEXAS WITHIN THIRTY (30) DAYS AFTER NOTIFICATION OF AWARD.**

5. CITY is selling and Bidder agrees to purchase all equipment "as-is", "where is", with no warranties, either implied or express.

- \*Any alternate workers compensation employer's liability insurance plan submitted by the vendor must be approved by the City's Risk Management Dept.

Contractor shall provide the City with 30 days advance notice, in writing, of cancellation or material change in coverage.

\*Where Applicable

With respect to all of the above insurance, the City of San Antonio shall a) be named as an additional insured (Commercial General Liability and Automobile Liability only); b) be provided with 30 days advance notice, in writing, of cancellation or material change; c) be provided with Certificates of Insurance evidencing the above required insurances.

## 7. INDEMNIFICATION

BIDDER covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to BIDDER's activities under this CONTRACT, including any acts or omissions of BIDDER, any agent, officer, director, representative, employee, consultant or subcontractor of BIDDER, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this CONTRACT, all without however, waiving any governmental immunity available to the CITY under Texas Law and without waiving any defenses of the parties under Texas Law. IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF CITY, UNDER THIS CONTRACT. The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. BIDDER shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or BIDDER known to BIDDER related to or arising out of BIDDER's activities under this CONTRACT and shall see to the investigation and defense of such claim or demand at BIDDER's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving BIDDER of any of its obligations under this paragraph.

It is the EXPRESS INTENT of the parties to this CONTRACT, that the INDEMNITY provided for in this section, is an INDEMNITY extended by BIDDER to INDEMNIFY, PROTECT and HOLD HARMLESS, the CITY from the consequences of the CITY'S OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this section SHALL APPLY only when the NEGLIGENT ACT of the City is a CONTRIBUTORY CAUSE of the resultant injury, death, or damage, and shall have no application when the negligent act of the City is the sole cause of the resultant injury, death, or damage. BIDDER further AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, any claim or litigation brought against the CITY and its elected officials, employees, officers, directors, volunteers and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

The provisions of this INDEMNIFICATION are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

8. CITY may cancel this contract at any time after award for cause or convenience upon written notice to Bidder. City shall have no liability for costs incurred by Bidder prior to or due to cancellation, but shall return the bid bond if cancellation is for convenience.
9. Bidder shall not sell, assign, transfer or convey this contract in whole or in part, without the prior written consent of the Purchasing Department. Any such assignment without prior approval shall be void ab initio.
10. **BIDDER SHALL BE SOLELY RESPONSIBLE FOR AND SHALL COMPLY WITH ALL FEDERAL, STATE AND LOCAL LAWS REGARDING THE POSSESSION, USE, LICENSING AND TRANSPORTATION OF THE EQUIPMENT, INCLUDING BUT NOT LIMITED TO 15 U.S.C.CHAPTER 24.**
11. This Contract, together with its exhibits, if any, constitute the final and entire agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind the parties hereto, unless same be in writing, dated subsequent to the date hereto, and duly executed by the parties.

**ATTACHMENT # A****EIGHT LINER GAMBLING VIDEO MACHINES SERIAL NUMBERS**

Bee	1
Cherry Angel	1
Cherry Bonus 3	1
Cherry Delight	1
Cherry Master	3
Cherry Poker	2
Cherry Plus	1
Free Spin	26
Fruit 96 Bonus	2
Fruit Bonus	4
Fruit Bonus 96	14
Gold Touch	3
Jingle Bells	4
Joker Master	1
Magical Odds	8
Mystery J&B '03	1
Poker Master	3
Reel N Quake	1
Skill Cherry 97	2
Stand Up	30
Super Cherry Master	18
Super Cherry Master Plus	3
Talking Skill Cherry	1
The New 1997 Joker Master	1
Treasure Bonus	2
Triple Jack '03	1
<b>TOTAL:</b>	<b>135</b>