



**STAFF REPORT
ACTION REQUIRED**

Request for Quotation No. 6033-09-3077 for Waste Transportation/Haulage Services from the City of Toronto Transfer Stations to the Green Lane Landfill Site

Date:	September 28, 2009
To:	Public Works and Infrastructure Committee
From:	General Manager, Solid Waste Management Services Director, Purchasing and Materials Management Division
Wards:	All
Reference Number:	p:/2009/swms/Oct./015PW

SUMMARY

This report requests authority to award Request for Quotation No. 6033-09-3077 for Waste Transportation/Haulage Services from the City of Toronto’s Transfer Stations to the Green Lane Landfill Site, for seven (7) years, with three additional one (1) year options to Verspeeten Cartage Ltd., the lowest bidder meeting all specifications and requirements.

This report also summarizes the material objection received from ECL Carriers GP Inc., a bidder that submitted a bid which was declared non-compliant.

RECOMMENDATIONS

The General Manager, Solid Waste Management Services and the Director of Purchasing and Materials Management Division recommends that:

1. City Council authorize the General Manager of Solid Waste Management Services, to enter into a contract for Waste Transportation/Haulage Services (Request for Quotation No. 6033-09-3077) from the City of Toronto’s Transfer Stations to the Green Lane Landfill, for a period of seven (7) years beginning January 1, 2011, with three (3) additional one year options, in accordance with all specifications and terms and conditions set out in the Request for Quotation with

the lowest bidder Verspeeten Cartage Ltd., having submitted the lowest bid meeting specifications, in the total estimated amount of \$132,007,621.79 including an allowance for a Fuel Surcharge, net of G.S.T.

Financial Impact

The total potential contract award identified in this report is \$138,608,002.88 including all applicable taxes and charges and an allowance for a Fuel Surcharge. The total potential cost to the City net of G.S.T. is \$132,007,621.79.

Request for Quotation No. 6033-09-3077, requested bids based on estimated annual tonnage for a seven (7) year contract, with three (3) additional extensions of one year each at the sole options of the City. The value of the work for ten (10) years is:

Year	Annual Tonnage	Annual Loads	Total General Transport Fee ^{1,3} (net of GST)	Allowance for Fuel Surcharge ^{1,2,3} (net of GST)	Total Cost (net of GST)
2011	620,541	16,636	\$11,300,506.18	\$2,260,101.24	\$13,560,607.42
2012	622,604	16,692	\$11,564,855.57	\$2,312,971.11	\$13,877,826.68
2013	623,791	16,724	\$11,818,642.15	\$2,363,728.43	\$14,182,370.58
2014	549,978	14,745	\$10,628,548.72	\$2,125,709.74	\$12,754,258.46
2015	551,164	14,777	\$10,864,498.03	\$2,172,899.61	\$13,037,397.64
2016	512,351	13,736	\$10,301,407.85	\$2,060,281.57	\$12,361,689.42
2017	513,434	13,765	\$10,529,646.47	\$2,105,929.29	\$12,635,575.76
Subtotal Initial 7 YearTerm	3,993,863	107,075	\$77,008,104.97	\$15,401,620.99	\$92,409,725.96
2018	514,434	13,792	\$10,761,157.85	\$2,152,231.57	\$12,913,389.42
2019	515,433	13,819	\$10,997,696.48	\$2,199,539.30	\$13,197,235.78
2020	516,432	13,845	\$11,239,392.19	\$2,247,878.44	\$13,487,270.63
Total	5,540,162	148,531	\$110,006,351.49	\$22,001,270.30	\$132,007,621.79

¹ The above costs reflect a 2% increase in the Consumer Price Index for the years 2012 through 2020.

² The Contract contains a Fuel Adjustment Formula. The Fuel adjustment formula allows an equal start point from which all potential bidders may apply fuel related costs. In this manner all bidders are protected from dramatic fluctuations in the event of future fuel related cost escalation. A Fuel Surcharge Fee will be added to, or subtracted from, the General Transport Price to allow for fluctuations in diesel fuel price through to 2020.

When the Ontario Ministry of Energy and Infrastructure, Southern Ontario average weekly published prices for diesel equals \$0.86/litre the Fuel Adjustment Formula will equal zero (\$0.00).

Fuel Adjustment Formula:

$$\text{(Travel Distance/Fuel Consumption rate x Adjusted Fuel Rate)} - \text{(Travel Distance/Fuel Consumption rate x \$0.80/litre)}$$

= Change to Price/Load

³ The G.S.T. and/or the proposed H.S.T. of 13% is applicable to the above amounts.

The Solid Waste Management Services will budget for the appropriate amounts in the Operating Budget in each corresponding year. This will be charged to Cost Centre SW0902 (Green Lane – Net Disposal Savings), Cost Element 4416 (Transfer Haulage). The 2009 approved Operating Budget for Solid Waste Management Services includes \$31.46 million for total haulage and transportation costs to Green lane and the Michigan landfill. This new contract with the recommended bidder represents an estimated savings for the haulage component in 2011 of \$17.90 million or 56.9%.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

ISSUE BACKGROUND

The City of Toronto currently has a Waste Transport and Disposal Agreement with Republic Services Inc., Republic Services of Canada, Inc., Republic Services of Michigan I, LLC doing business as Carleton Farms, and Republic Transportation Services of Canada Inc. for the haulage and disposal of the City’s residual waste at the Carleton Farms Landfill, in Michigan, U.S.A. This contract will expire on December 31, 2010.

Beginning on January 1, 2011, all of the City of Toronto’s waste received at the Transfer Stations will be transferred to the Green Lane Landfill Site for disposal. A new haulage contract is required to facilitate this.

In order to allow the successful bidder enough lead time to order and receive the necessary tractor trailers required to perform this work, the contract must be awarded approximately one (1) year in advance of the work beginning.

COMMENTS

On May 14, 2009, the City issued Request for Quotation No. 6033-09-3077 for the provision of Waste Transportation/Haulage Services from the City of Toronto's Transfer Stations to the Green Lane Landfill. The Request for Quotation closed on June 19, 2009.

Three (3) bidders responded to the Request for Quotation:

1. ECL Carriers GP Inc.
2. Verspeeten Cartage Ltd.
3. Cam Hiltz Trucking

Bidders were requested to specify the General Transport Fee per load to haul waste by tractor trailer from each City of Toronto Transfer Station to the Green Lane Landfill Site, located in St. Thomas, Ontario. As part of the General Transport Fee, bidders were requested to include all permits, labour expenses, equipment, materials, supplies, insurance, maintenance, fuel and any and all other costs associated with the work.

A Fuel Adjustment Formula will be used to adjust the General Transport Fee paid to the Vendor, either up or down, based on fluctuations in the price of diesel in Southern Ontario, for the duration of the contract.

Summary of Bids Received:

Bidder	Total Price net of GST for 1 Year – 2011	Total Price net of GST for 7 Years – 2011-2017	Total Price net of GST for 10 Years – 2011-2020 (incl. 3 option yrs)	Comments
ECL Cartage	\$ 8,031,863.48	\$70,823,831.80	\$100,877,025.67	Non Compliant
Verspeeten	\$11,300,506.18	\$92,409,725.96	\$132,007,621.79	Lowest Bidder meeting Specification
Cam Hiltz	\$11,735,460.66	\$95,367,160.68	\$136,232,319.44	Not Evaluated

The summary above demonstrates the total potential cost over the 10 year term of the contract, net of GST, consisting of the initial seven (7) year term and the option to renew for 3 additional separate one (1) year periods (the renewal periods are at the sole discretion of the City). The above costs reflect a 2% increase in the Consumer Price Index and the Fuel Adjustment Formula.

In order to determine the total potential cost over the ten (10) year period, the pricing in the summary above was based on the General Transport Price/Load as quoted by the

bidders multiplied by the total estimated number of loads forecasted throughout the entire contract period. The total estimated number of loads over 10 years is based on the Long Range estimated tonnage as forecasted by Solid Waste Management Services, divided by the bidders' specified minimum tonnes/load.

Values paid to the contractor will be based on actual loads hauled multiplied by the rate/load as quoted by the successful bidder.

ECL Carriers GP Inc. submitted the lowest bid; however, their bid has been deemed as non-compliant.

Verspeeten Cartage Ltd. is, therefore, the lowest bidder meeting specifications.

The Fair Wage Office has reported that Verspeeten Cartage Ltd. has reviewed and understands the Fair Wage Policy and the Labour Trades Contractual Obligations in the Construction Industry and has agreed to comply fully.

ECL Carriers GP Inc. Non-Compliance

In the Price Schedule in the Request for Quotation, the City provided the bidders with the annual estimated tonnes of waste that will need to be transported to the Green Lane Landfill Site. In order to allow for efficiencies for larger tractor trailers, bidders were required to specify the minimum tonnes/load and maximum tonnes/load that could be loaded onto their trailers. The maximum tonnes/load had to be least two (2) tonnes greater than the minimum tonnes/load to provide a practical working range.

The Price Schedule requires bidders to provide a "Total General Transport Fee" based on:

- the estimated annual tonnes of waste from each transfer station;
- the number of loads that will be needed to transport the estimated tonnes based on the minimum specified tonnes per load; and
- the price to transport each load.

The minimum tonnes/load specified by the bidder is used to determine the number of loads that will be needed to transport the estimated tonnage and identifies how the bidder determines the price to transport each load.

During the evaluation of ECL Carriers GP Inc.'s ("ECL") bid, the City determined, which ECL confirmed, that ECL's specified minimum and maximum tonnes/load, being 40.7 tonnes/load and 42.7 tonnes/load respectively would cause their tractor trailer to exceed the maximum allowable weight on the road as defined by the Ontario Ministry of Transportation (MTO) in the Highway Traffic Act. A requirement of the Request for Quotation was that bidders are required to comply with all federal, provincial and municipal laws.

ECL indicated, during the bid evaluation period, that the minimum tonnage ECL could haul would be closer to 38.5 tonnes/load, with a maximum of 40.5 tonnes/load. Altering the minimum tonnage ECL could haul would mean that ECL is complying with the maximum allowable weight on the roads. However, altering the minimum tonnage would change the annual number of loads taken from each Transfer Station and would therefore increase the overall Total General Transport Fee.

Based on the above, City staff declared ECL's bid non-compliant as it contained information that was incorrect, inaccurate or inappropriate as ECL could not legally transport the minimum tonnes/load that was specified in their bid and formed the basis of their pricing.

On August 27, 2009, the City provided ECL with written notice that their bid has been deemed non-compliant, and will not be considered. The City then proceeded to evaluate the bid provided by Verspeeten Cartage Ltd.

Objection from ECL Carriers GP Inc.

ECL responded in writing with letters through their solicitors, Cassels Brock & Blackwell LLP dated August 28, 2009 and September 4, 2009, objecting to being declared non-compliant. ECL confirmed through their solicitors that the loads specified in their bid document would exceed the allowable limits on the road.

ECL has taken the position that the City simply requested the bidder to specify how many tonnes could be loaded onto a trailer, and not how many tonnes could be legally transported by the trailer. Their objection, states that they are able to load 42.7 tonnes onto their trailer, and therefore, they have met the requirements of the Request for Quotation notwithstanding the fact that they cannot legally transport that load to the Green Lane Landfill Site.

Furthermore, ECL has stated that they will honour the General Transport Price per load submitted in their Price Schedule; however, they would be required to change their Price Schedule by decreasing their minimum tonnes/load specified. This results in an increased annual number of loads, which increases their Total annual General Transport Fee.

City Response to the Objection

On September 9, 2009, the City responded in writing to the ECL objection reaffirming the position that ECL's bid was determined to be non-compliant. The letter indicated that ECL cannot be allowed to amend their bid by changing their specified minimum tonnage/load, and thus increasing the annual number of loads to be transported per year, as this would be tantamount to allowing the bidder to adjust its pricing after the call has closed and the prices were read out publicly. To preserve fairness in the procurement process, the City can not allow bidders to adjust information after the call closing date that has an impact on pricing. It is crucial for a fair and transparent Request for

Quotation process, that there is no uncertainty with respect to the bidders' pricing. If the minimum tonnage per load that bidders were required to specify was not treated as a fixed and binding value, the prices would be uncertain. If the City allowed bidders to amend the value of the minimum tonnage per load after opening of bids, we would be allowing bidders to adjust their pricing with the knowledge of other bidders' prices. This kind of practice is unacceptable in a fair and transparent public procurement process.

CONTACT

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SIGNATURE

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