



## **STAFF REPORT ACTION REQUIRED**

### **Contract Awards for Tender Calls 319-2013 and 70-2014 for the Construction of Works Associated with the City's Basement Flooding Protection Program**

<b>Date:</b>	April 30, 2014
<b>To:</b>	Public Works & Infrastructure Committee
<b>From:</b>	Executive Director, Engineering & Construction Services Acting Director, Purchasing & Materials Management Division
<b>Wards:</b>	Ward 10 – (York Centre), Ward 15 - (Eglinton-Lawrence)
<b>Reference Number:</b>	P:\2014\Cluster B\TEC\PW14027 (AFS # 19295)

#### **SUMMARY**

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The purpose of this report is to advise of the results of Tender Call 319-2013, Contract 13FS-36WP sewer improvements on Sunnycrest Road Easement and Tender Call 70-2014, Contract 14FS-06WP sewer improvements and watermain relocation on Cartwright Avenue, Paul David Street, and Jane Osler Boulevard, and to recommend that City Council bypass the lowest bidder, 614128 Ontario Ltd., operating as Trisan Construction ("Trisan"), and award Contract 13FS-36WP to Comer Group Limited ("Comer") in the amount of \$1,190,195.00 net of HST (\$1,211,142.43 net of HST recoveries); and award Contract 14FS-06WP to Memme Excavation Company Limited ("Memme") in the amount of \$7,059,679.00 net of HST (\$7,183,929.35 net of HST recoveries).

The recommendations are based on demonstrated poor performance by Trisan on recent contracts under the City's Basement Flooding Protection Program, as documented in the companion staff report to the Public Works & Infrastructure Committee titled "Temporary Suspension of Trisan Construction". In keeping with Toronto Municipal Code, Chapter 195, City Council approval is required in order to bypass the lowest, otherwise compliant bid.

## RECOMMENDATIONS

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**The Executive Director of Engineering & Construction Services and the Acting Director of Purchasing & Materials Management recommend that:**

1. City Council award Tender Call 319-2013, Contract 13FS-36WP, to Comer Group Limited in the amount of \$1,190,195.00 net of HST (\$1,211,142.43 net of HST recoveries), being the third lowest compliant bidder and meeting the specifications in conformance with the Tender requirements.
2. City Council award Tender Call 70-2014, Contract 14FS-06WP, to Memme Excavation Company Limited in the amount of \$7,059,679.00 net of HST (\$7,183,929.35 net of HST recoveries), being the second lowest compliant bidder and meeting the specifications in conformance with the Tender requirements.

### Financial Impact

#### Tender Call 319-2013 (Contract 13FS-36WP)

The total amount to award Contract 13FS-36WP, Basement Flooding Protection Program - Sewer Improvements on Sunnycrest Road Easement, identified in this report is \$1,344,920.35 including HST and all applicable charges. The cost to the City, net of HST recoveries, is \$1,211,142.43. The engineering estimate for this project was \$1,090,450.00, including HST and all applicable charges (\$981,984.00 net of HST recoveries).

Funding is available in the 2014 Approved Capital Budget and 2015-2023 Capital Plan for Toronto Water, summarized as follows (net of HST recoveries):

Acct #	Description	2014	2015
CWW421-12	Basement Flooding Relief – Group 2	\$1,090,028.19	\$121,114.24
<b>Total</b>		<b>\$1,211,142.43</b>	

#### Tender Call 70-2014 (Contract 14FS-06WP)

The total amount to award Contract 14FS-06WP, Basement Flooding Protection Program - sewer improvements and watermain relocation on Cartwright Avenue, Paul David Street and Jane Osler Boulevard, identified in this report is \$7,977,437.27 including HST and all applicable charges. The cost to the City net of HST recoveries is \$7,183,929.35. The engineering estimate for this project was \$7,857,851.00 including HST and all applicable taxes (\$7,076, 237.76 net of HST recoveries).

Funding is available in the 2014 Approved Capital Budget and 2015-2023 Capital Plan for Toronto Water, summarized as follows (net of HST recoveries):

Acct #	Description	2014	2015
CWW421-12	Basement Flooding Relief - Group 2	\$ 4,075,372.93	\$1,482,743.80
CPW542-14	District W/M Replacement 2014	\$1,000,000.00	\$354,929.98
CPW544-12	2014 Water Service Replacement - SOGR	\$70,882.64	\$200,000.00
<b>Sub-total</b>		<b>\$5,146,255.57</b>	<b>\$2,037,673.78</b>
<b>Total</b>		<b>\$7,183,929.35</b>	

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

## ISSUE BACKGROUND

The Purchasing & Materials Management Division (PMMD) issued public calls for Tenders 319-2013 and 70-2014, with closing dates of December 18, 2013, and April 3, 2014, respectively. Both tenders are for construction of infrastructure improvements to support the City's Basement Flooding Protection Program.

### Tender Call 319-2013 (Contract 13FS-36WP)

Tender 319-2013 is for construction of sewer improvements within the Sunnycrest Road Easement and was issued by PMMD and advertised on the City's Internet Website on December 2, 2013.

The scope of work under Contract 13FS-36WP Basement Flooding Protection Program - sewer improvements within the Sunnycrest Road Easement includes:

- Storm sewer installation;
- Concrete headwall and outlet replacement/relocation;
- Plugging and abandonment, removal, and reconnection of sewer works;
- Restoration works including roadway, driveways, landscaping, tree replacement and planting; and,
- Associated support of utilities.

At the Public Opening held on December 18, 2013, PMMD opened the following Tenders:

<b>Bidders</b>	<b>Price Complete Including HST</b>
Trisan Construction	\$ 1,097,865.51 <sup>1</sup>
Drainstar Contracting Ltd.	\$ 1,220,493.23 <sup>1, 2</sup>
Comer Group Limited	\$ 1,344,920.35
Notes: 1. Tender prices were corrected for mathematical errors. Purchasing & Materials Management has verified that the mathematical errors were corrected. 2. Drainstar declined extension of their bid bond upon expiry in March 2014, due to other ongoing commitments and inability to commit resources to completion of this contract. For this reason, Drainstar is ineligible to be recommended for award of Contract 13FS-36WP.	

Tender Call 70-2014 (Contract 14FS-06WP)

Tender 70-2014 is for the construction of sewer improvements and watermain relocation on Cartwright Avenue, Paul David Street and Jane Osler Boulevard, and was issued by PMMD and advertised on the City's Internet Website on March 3, 2014.

The scope of work under Contract 14FS-06WP Basement Flooding Protection Program - sewer improvements and watermain relocation on Cartwright Avenue, Paul David Street and Jane Osler Boulevard includes:

- Storm sewer installation to relieve basement flooding in the area;
- Sensitive deep excavation in private property;
- Relocation of watermain;
- Restoration works including roadway, driveways, tree replacement and planting; and,
- Associated support of utilities.

At the Public Opening held on April 3, 2014, PMMD opened the following tenders:

<b>Bidders</b>	<b>Price Complete Including HST</b>
Trisan Construction	\$ 7,893,503.13
Memme Excavation Company Limited	\$ 7,977,437.27
Comer Group Limited	\$ 9,453,583.39 <sup>1</sup>
Notes: 1. Tender prices were corrected for mathematical errors. Purchasing & Materials Management has verified that the mathematical errors were corrected.	

## COMMENTS

The lowest bid for Tender Call 319-2013 and 70-2014 was received from 614128 Ontario Ltd., operating as Trisan Construction ("Trisan"). Trisan is a contractor that has been served with a Notice for Default of Contract due to performance issues on previous construction projects supporting the Basement Flooding Protection Program.

Trisan has exhibited poor performance repeatedly on recent Basement Flooding Protection Program construction contracts. Trisan's performance history is the subject of a separate report, titled "Temporary Suspension of Trisan Construction", to the Public Works and Infrastructure Committee that recommends suspending Trisan for a period of one year from award of City contracts. The poor performance demonstrated by Trisan is summarized as follows:

- Unsafe work practices presenting great risk to the health and safety of their workers as outlined in the Ministry of Labour;
- Failure to comply with contract terms and conditions;
- Lack of responsiveness and little effort to minimize disruptions to the public or City operations; and,
- Damage to residential properties and public utility infrastructure, including flooded basements with damage claims estimated between \$185,174 and \$237,691 by the City's insurer, Granite Claims Solutions.

City staff and the engineering consultant hired by the City for administration of the construction contracts have spent significant additional time and resources, beyond what is reasonably expected for similar construction projects, to manage Trisan on various contract issues related to the above-noted poor performance. The cost of additional time and resources incurred by Engineering & Construction Services and the engineering consultant is estimated to be \$50,000, and \$60,000, respectively.

Based on Trisan's recent history of demonstrated and documented poor performance on Basement Flooding Protection Program construction projects, staff are recommending bypassing Trisan and awarding:

1. Tender 319-2013 to the third lowest bidder, Comer Group Limited; and,
2. Tender 70-2014 to the second lowest bidder, Memme Excavation Company Limited.

The Tender documents submitted for Tender Call 319-2013 (Contract No. 13FS-36WP, sewer improvements within the Sunnycrest Road Easement), by the recommended bidder, Comer, have been reviewed by the Executive Director, Engineering & Construction Services, and found to be in conformance with the Tender requirements. Engineering & Construction Services staff have compared the bids to the estimated cost and found the price of the recommended bidder at \$1,344,920.35 including HST to be within \$255,000 of the pre-tender cost estimate.

The Tender documents submitted for Tender Call 70-2014 (Contract No. 14FS-06WP, sewer improvements and watermain relocation on Cartwright Avenue, Paul David Street and Jane Osler Boulevard), by the recommended bidder, Memme, have been reviewed by

the Executive Director, Engineering & Construction Services, and found to be in conformance with the Tender requirements. Engineering & Construction Services staff have compared the bid price of \$7,977,437.27 including HST to the engineering estimate of \$7,857,851.00 including HST and found the recommended award to be within 2% of the pre-tender estimate.

The Fair Wage Office has reported that the recommended firms have indicated they have reviewed and understand the Fair Wage Policy and Labour Trades requirements and have agreed to comply fully.

## **CONTACT**

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## **SIGNATURE**

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