



REPORT FOR ACTION

Non-competitive Contract with Toromont Industries Ltd. for Proprietary OEM Parts and Services

Date: September 17, 2019
To: General Government and Licensing Committee
From: General Manager, Fleet Services; and Chief Purchasing Officer, Purchasing and Materials Management Division
Wards: All

SUMMARY

The purpose of this report is to seek City Council authority for the General Manager, Fleet Services Division to negotiate and enter into a non-competitive contract with Toromont Industries Ltd., operating as Toromont CAT, a division of Toromont Industries (Toromont) for the supply and delivery to the City of Toronto (City), proprietary OEM (original equipment manufacturer) parts and specialized services for Caterpillar equipment repair and maintenance.

The contract will be for a period of one (1) year, commencing on November 1, 2019 to October 31, 2020 with the option to renew the contract for four (4) additional one (1) year periods at the sole discretion of the City, and subject to budget approvals for the total contract amount of \$993,663 net of HST (\$1,011,151 net of HST recoveries), inclusive of all option renewal years.

City Council approval is required in accordance with Municipal Code Chapter 195 - Purchasing, where the current request exceeds the Chief Purchasing Officer's authority of the cumulative five year commitment for each vendor, under Article 7, Section 195-7.3 (D) of the Purchasing By-Law or exceeds the threshold of \$500,000 net of HST allowed under staff authority as per the Toronto Municipal Code, Chapter 71- Financial Control, Section 71-11A.

RECOMMENDATIONS

The General Manager, Fleet Services, and the Chief Purchasing Officer, Purchasing and Materials Management Division recommend that:

1. City Council grant authority to the General Manager, Fleet Services to negotiate and enter into a non-competitive contract with Toromont Industries Ltd. (Toromont) for the supply and delivery to the City of OEM (Original Equipment Manufacturer) parts and specialized services for Caterpillar equipment repair and maintenance on the following terms and conditions:

- a. the initial term of the contract will be for a period of one (1) year, commencing on November 1, 2019 to October 31, 2020 with the option to renew the contract for four (4) additional one (1) year periods, subject to the exercise of each option year being at the sole discretion of the General Manager, Fleet Services Division and subject to the amounts payable under the contract being available under the current Fleet Services Division budget approval(s). The amount of this non-competitive contract is \$993,663 net of HST (\$1,011,151 net of HST recoveries) for the entire duration of the contract, inclusive of all option renewal years;
- b. The contract will be based on the condition that Toromont continues to be the exclusive distributor for the proprietary OEM parts and specialized services for Caterpillar equipment; and
- c. on other terms and conditions satisfactory to the General Manager, Fleet Services and in a form satisfactory to the City Solicitor.

FINANCIAL IMPACT

The total potential cost to the City identified in this report, including all option years is \$993,663 net of HST (\$1,011,151 net of HST recoveries). Included in the decision to accept any option year(s) of the Contract, the City will apply a price adjustment increase of 3% effective annually to unit pricing, applied after the Contract's end date.

Funding in the amount of \$47,614 net of HST recoveries is included in the 2019 Approved Operating Budget for Fleet Services Division. Funding for years 2020 and beyond will be included in Fleet Services Division's 2020 and future year Operating Budget Submissions as appropriate or required.

Should the City choose to exercise the option to renew for an additional four (4) separate one (1) year periods, then appropriate additional funding, will be included in the 2020-2024 annual Operating Budget submissions for Fleet Services Division.

Approved 2019 funding and estimated 2020-2024 funding, net of HST recoveries are provided in Table 1.

Table 1: Approved 2019 funding and projected 2020-2024 funding, net of HST recoveries

Agreement Term	Cost Centre/WBS Element	Cost Element	Net of HST	Total Net of HST Recoveries
Initial one (1) year term from November 1, 2019 to December 31, 2019	FL100 (Fleet Maintenance)	4404 Contr. Services & 2181 Parts - Vehicles & 2130 - Mobile Equip. Parts	\$46,790	\$47,614
Initial one (1) year term from January 1, 2020 to October 31, 2020	FL100 (Fleet Maintenance)	4404 Contr. Services & 2181 Parts - Vehicles & 2130 - Mobile Equip. Parts	\$140,371	\$142,841
Option year one (1) from November 1, 2020 to October 31, 2021	FL100 (Fleet Maintenance)	4404 Contr. Services & 2181 Parts - Vehicles & 2130 - Mobile Equip. Parts	\$192,776	\$196,169
Option year two (2) from November 1, 2021 to October 31, 2022	FL100 (Fleet Maintenance)	4404 Contr. Services & 2181 Parts - Vehicles & 2130 - Mobile Equip. Parts	\$198,559	\$202,054
Option year three (3) from November 1, 2022 to October 31, 2023	FL100 (Fleet Maintenance)	4404 Contr. Services & 2181 Parts - Vehicles & 2130 - Mobile Equip. Parts	\$204,516	\$208,115

Agreement Term	Cost Centre/WBS Element	Cost Element	Net of HST	Total Net of HST Recoveries
Option year four (4) from November 1, 2023 to October 31, 2024	FL100 (Fleet Maintenance)	4404 Contr. Services & 2181 Parts - Vehicles & 2130 - Mobile Equip. Parts	\$210,651	\$214,359
Total			\$993,663	\$1,011,151

Table 1 reflects the expected scheduled maintenance cycle cost as per manufacturer's recommendations.

Fleet Services Division staff will ensure that future annual operating budgets are incorporated in the annual planned spending related to this contract, subject to approval(s).

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

DECISION HISTORY

On May 31, 2018, Fleet Services Division issued a competitive Request for Quotation (RFQ) No. 6026-18-0062 for the provision of OEM parts and specialized services for various equipment makes and models. The RFQ included separate price schedules for each construction equipment manufacturer. Bidders were required to be an authorized dealer for the equipment manufacturer they were bidding on. This was a mandatory requirement to ensure equipment warranties would not be jeopardized. The RFQ closed on July 3, 2018 and the City received no bids for the equipment type identified in this report.

COMMENTS

The parts and specialized services for the equipment manufacturers outlined in this report cannot be obtained through the competitive procurement process and the required non-competitive contract meets the criteria of the exception code 2, Exclusive Rights in the Purchasing By-law.

This non-competitive contract includes the supply of all OEM labour, materials and equipment necessary to provide warranty and non-warranty services including preventative maintenance inspections and repairs on Caterpillar equipment, for the City of Toronto's Fleet Services Division, all in accordance with the provisions and specifications that will be contained in the legal agreement.

Fleet Services Division requires the supply and delivery of proprietary OEM parts and specialized services which can only be provided by the vendor identified in this report.

The original equipment manufacturer has confirmed in writing that the parts and services for the equipment types identified in this report are proprietary to the authorized dealer Toromont Cat. Toromont Cat is the authorized distributor for Caterpillar heavy equipment and engines, and is the only authorized Caterpillar dealer for their respective territory, which includes the Greater Toronto Area.

Pricing submitted by Toromont Industries includes discounts off labour rates and OEM parts. Fleet Services has reviewed the pricing and confirmed it is comparable to historical rates, current market, other municipalities as well as other OEM vendors for repair and maintenance of highly specialized construction equipment.

The Fair Wage Office has reported that Toromont Industries Ltd. has indicated that it has reviewed and understands the Fair Wage Policy and Labour Trades requirements and has agreed to comply fully.

CONTACT

David Tran, Manager, Fleet Contracts, Tel: 416 338-7857,
Email: David.Tran@toronto.ca

Julie Brown, Manager Fleet Contracts, Tel: 416-338-2173
Email: Julie.Brown@toronto.ca

Jacquie Breen, Manager, Corporate Purchasing Policy & Quality Assurance,
Purchasing & Materials Management Division, Tel: 416-392-0387
Email: Jacquie.Breen@toronto.ca

SIGNATURE

Lloyd Brierley
General Manager,
Fleet Services

Michael Pacholok
Chief Purchasing Officer,
Purchasing & Materials Management Division