

## **Amendment to Non-Competitive Blanket Contract 47023317 and Non-Competitive Procurement for the provision of warranty and non-warranty service bulletins, safety recalls, services, tools, subscriptions, and training on Cummins engines.**

**Date:** June 17, 2024

**To:** General Government Committee

**From:** General Manager, Fleet Services and Chief Procurement Officer

**Wards:** All

### **SUMMARY**

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The purpose of this report is to request authority from City Council to amend non-competitive Blanket Contract 47023317 with Cummins Canada ULC for the supply and delivery of labour, materials, and equipment necessary to provide warranty and non-warranty Original Equipment Manufacturer (OEM) authorized parts and services for Cummins engines to extend the contract validity date by an additional five (5) year term and increase the budget by \$685,175 net of HST and all applicable charges (\$697,235 net of HST Recoveries and to increase the scope to include the provision of service bulletins, safety recalls, services, tools, subscriptions and training;

The term extension for Blanket Contract 47023317 will revise the maximum duration from five (5) years to ten (10) years, where all optional extension years are exhausted. This blanket contract value increase will revise the overall target value from \$500,000 to \$1,185,175 net of Harmonized Sales Tax (\$1,339,248 including all taxes and charges, \$1,206,034 net of Harmonized Sales Tax Recoveries).

This report also requests that Non-Competitive Blanket Contracts be established with Cummins Canada ULC for Toronto Fire Services for a total potential value of \$1,331,312 net of all applicable taxes (\$1,354,746 net of HST Recoveries) and for Toronto Paramedic Services for a total potential value of \$408,186 net of all applicable taxes (\$415,372 net of HST Recoveries). These non-competitive contracts will be for an initial term of one (1) year from December 1, 2024 to November 30, 2025, with the option to renew the contract for four (4) additional (1) one year periods, at the sole discretion of the City.

The amended contract will be for the provision of warranty and non-warranty service bulletins, safety recalls, services, tools, subscriptions, and training on Cummins engines

for which Cummins Canada ULC is the only authorized service facility. These services, tools, subscriptions, and training cannot be obtained through the competitive procurement process as Cummins Canada ULC is the only authorized services facility in the Greater Toronto Area.

Access to warranty and non-warranty service bulletins, safety recalls, and services pertaining to Cummins engines will allow the City to optimize fleet performance, and equipment health and safety. This information and these services are required to increase fleet availability and reliability to ensure that units are able to deliver critical services across the City of Toronto, specifically to support Toronto Fire Services and Toronto Paramedics Services. A better return on investment is also expected, with well maintained vehicles having a lengthy lifespan, and yielding greater returns at the end of their life cycle.

Access to Cummins authorized technical training, tools, and subscriptions, will ensure that technicians stay up to date with industry leading service knowledge, capabilities, technology and trends. This will support Fleet Services', Toronto Fire Services' and Toronto Paramedic Services' ongoing work to reduce downtime and increase fleet availability by giving technicians the training and tools to complete warranty and non-warranty repairs in house.

City Council approval is required in accordance with Municipal Code Chapter 195-Purchasing, where the current request exceeds the Chief Procurement Officer's authority of the cumulative five (5) 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 Harmonized Sales Tax allowed under staff authority as per the Toronto Municipal Code, Chapter 71-Financial Control, Section 71-11.1.

## **RECOMMENDATIONS**

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The General Manager, Fleet Services, and the Chief Procurement Officer recommend that:

1. City Council authorize the General Manager, Fleet Services Division to:
  - (a) Amend contract 47023317 with Cummins Canada ULC. to extend the target date by one (1) year from December 1, 2024 to November 30, 2025, with the option to renew the contract for four (4) additional (1) one year periods, at the sole discretion of the City, increase the total target value by \$685,175 net of HST and all applicable charges (\$697,235 net of HST Recoveries), revising the current Blanket Contract value from \$500,000 to \$1,185,175 net of all taxes and charges (\$1,339,248 including all taxes and charges, \$1,206,034 net of Harmonized Sales Tax Recoveries); and,
  - (b) Include the provision of warranty and non-warranty service bulletins, safety recalls, services, tools, subscriptions, and training on Cummins engines.

2. City Council authorize the Fire Chief and General Manager, Toronto Fire Services to negotiate and execute a non-competitive contract with Cummins Canada ULC. for the amount of \$250,758 net of all applicable taxes (\$255,172 net of HST Recoveries) for an initial term of one (1) year from December 1, 2024 to November 30, 2025, with the option to renew the contract for four (4) additional (1) one year periods, at the sole discretion of the City, for a total potential value of \$1,331,312 net of all applicable taxes \$1,354,746 net of HST Recoveries)
3. City Council authorize the Chief of Toronto Paramedic Services to negotiate and execute a non-competitive contract with Cummins Canada ULC. for the amount of \$76,883 net of all applicable taxes (\$78,237 net of HST Recoveries) for an initial term of one (1) year from December 1, 2024 to November 30, 2025, with the option to renew the contract for four (4) additional (1) one year periods, at the sole discretion of the City, for a total potential value of \$408,186 net of all applicable taxes \$415,372 net of HST Recoveries)
4. City Council direct that the agreements in Parts 1 through 3 above be based on the condition that Cummins Canada ULC continues to be the exclusive distributor for the provision of warranty and non-warranty service bulletins, safety recalls, services, tools, subscriptions, and training on Cummins engines, and on other terms and conditions satisfactory to the General Manager, Fleet Services, and in a form satisfactory to the City Solicitor.

## **FINANCIAL IMPACT**

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The total potential cost to the City identified in this report is \$2,924,668 net of Harmonized Sales Tax (\$2,976,142 net of Harmonized Sales Tax Recoveries).

Funding for the initial year in the amount of \$10,944 net of Harmonized Sales Tax Recoveries is included in the 2024 Operating Budget for Fleet Services Division and additional funding for the balance of the initial contract term will be included in their 2025 Operating Budget Submission. Should the City choose to exercise its option to renew for an additional four (4) separate one (1)-year periods, then appropriate funding, if needed, will be included in the 2025 -2029 annual Operating Budget Submissions for Fleet Services Division.

Funding for the initial year in the amount of \$21,265 net of Harmonized Sales Tax Recoveries is included in the 2024 Operating Budget for Toronto Fire Services and additional funding for the balance of the initial contract term will be included in their 2025 Operating Budget Submission. Should the City choose to exercise its option to renew for an additional four (4) separate one (1)-year periods, then appropriate funding, if needed, will be included in the 2025-2029 annual Operating Budget Submissions for Toronto Fire Services.

Funding for the initial year in the amount of \$6,520 net of Harmonized Sales Tax Recoveries is included in the 2024 Operating Budget for Toronto Paramedic Services and additional funding for the balance of the initial contract term will be included in their 2025 Operating Budget Submission. Should the City choose to exercise its option to

renew for an additional four (4) separate one (1)-year periods, then appropriate funding, if needed, will be included in the 2025-2029 annual Operating Budget Submissions for Toronto Paramedic Services.

Funding details are provided in the tables below.

Table 1: Financial Impact Summary by Contract Year, Net of Harmonized Sales Tax Recoveries for Fleet Services Division

<b>Fleet Services Division Cost Centre: FL100 Cost Element:2181/4404</b>	<b>Total Amendment Value (Net of Harmonized Sales Tax Recoveries)</b>
Term 1 from December 1, 2024 to December 31, 2024	\$10,944
Term 1 from January 1, 2025 to November 30, 2025	\$120,384
Optional Term 1 from December 1, 2025 to December 31, 2025	\$11,272
Optional Term 1 from January 1, 2026 to November 30, 2026	\$123,994
Optional Term 2 from December 1, 2026 to December 31, 2026	\$11,610
Optional Term 2 from January 1, 2027 to November 30, 2027	\$127,715
Optional Term 3 from December 1, 2027 to December 31, 2027	\$11,958
Optional Term 3 from January 1, 2028 to November 30, 2028	\$131,547
Optional Term 4 from December 1, 2028 to December 31, 2028	\$12,317
Optional Term 4 from January 1, 2029 to November 30, 2029	\$135,494
<b>Total Cost from November 1, 2024 to November 30, 2029</b>	<b>\$697,235</b>

Table 2: Financial Impact Summary by Contract Year, Net of Harmonized Sales Tax Recoveries for Toronto Fire Services

<b>Toronto Fire Services Cost Centre: FR0025 Cost Element: 2120/4424</b>	<b>Total Amendment Value (Net of Harmonized Sales Tax Recoveries)</b>
Term 1 from December 1, 2024 to December 31, 2024	\$21,265
Term 1 from January 1, 2025 to November 30, 2025	\$233,907
Optional Term 1 from December 1, 2025 to December 31, 2025	\$21,903
Optional Term 1 from January 1, 2026 to November 30, 2026	\$240,924
Optional Term 2 from December 1, 2026 to December 31, 2026	\$22,560
Optional Term 2 from January 1, 2027 to November 30, 2027	\$248,153
Optional Term 3 from December 1, 2027 to December 31, 2027	\$23,237
Optional Term 3 from January 1, 2028 to November 30, 2028	\$255,597
Optional Term 4 from December 1, 2028 to December 31, 2028	\$23,934
Optional Term 4 from January 1, 2029 to November 30, 2029	\$263,266
Total Cost from November 1, 2024 to November 30, 2029	\$1,354,746

Table 3: Financial Impact Summary by Contract Year, Net of Harmonized Sales Tax Recoveries for Toronto Paramedic Services

<b>Toronto Paramedic Services Cost Centre: B41100 Cost Element: 4404</b>	<b>Total Amendment Value (Net of Harmonized Sales Tax Recoveries)</b>
Term 1 from December 1, 2024 to December 31, 2024	\$6,520
Term 1 from January 1, 2025 to November 30, 2025	\$71,717
Optional Term 1 from December 1, 2025 to December 31, 2025	\$6,715
Optional Term 1 from January 1, 2026 to November 30, 2026	\$73,869
Optional Term 2 from December 1, 2026 to December 31, 2026	\$6,917

<b>Toronto Paramedic Services Cost Centre: B41100 Cost Element: 4404</b>	<b>Total Amendment Value (Net of Harmonized Sales Tax Recoveries)</b>
Optional Term 2 from January 1, 2027 to November 30, 2027	\$76,085
Optional Term 3 from December 1, 2027 to December 31, 2027	\$7,125
Optional Term 3 from January 1, 2028 to November 30, 2028	\$78,367
Optional Term 4 from December 1, 2028 to December 31, 2028	\$7,339
Optional Term 4 from January 1, 2029 to November 30, 2029	\$80,718
Total Cost from November 1, 2024 to November 30, 2029	\$415,372

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

## **DECISION HISTORY**

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Pursuant to the Agreement between the City of Toronto and Cummins Canada ULC, "Non-Competitive Contract with for the supply and delivery of labour, materials, and equipment necessary to provide warranty and non-warranty Original Equipment Manufacturer (OEM) authorized parts and services for Cummins engines" dated December 1, 2020, Cummins Canada ULC was selected in accordance with the provisions of the City of Toronto Municipal Code Chapters 71 and 195 for the supply and delivery of labour, materials, and equipment necessary to provide warranty and non-warranty Original Equipment Manufacturer (OEM) authorized parts and services for Cummins engines for the City's Fleet Services Division.

Extension Agreement dated November 29, 2022 extended the validity date to November 30, 2024.

Amendment No. 2 dated October 23, 2023 increased the target value of the contract by \$250,000.00, from \$250,000.00 to \$500,000.00 net of all taxes and charges, to carry the contract in compliance to November 30, 2024.

## **COMMENTS**

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The services, tools, subscriptions, and training for the equipment manufacturers outlined in this report cannot be obtained through the competitive procurement process.

Non-competitive Blanket Contract number 47023317 meets the criteria of the exception code 2, Exclusive Rights in the Purchasing By-law.

Cummins Canada ULC has provided a letter confirming that they are sole authorized dealer and distributor for the Greater Toronto Area for the services, tools, subscriptions, and training for Cummins engines identified in this report.

## **CONTACT**

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Gui Andrade, Manager, Fleet Contracts, Fleet Services Division, 416-394-8607,  
[Gui.Andrade@toronto.ca](mailto:Gui.Andrade@toronto.ca)

Francesco McGrillis, Acting Manager, Purchasing Client Services, Purchasing and Materials Management Division, 416-392-0205, [Francesco.Mcgrillis@toronto.ca](mailto:Francesco.Mcgrillis@toronto.ca)

## **SIGNATURE**

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Abi Thomas  
General Manager  
Fleet Services

Geneviève Sharkey  
Chief Procurement Officer