REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY AND RECORD OF ACTION

May 21, 2024

FROM
MARK MCCULLOUGH, Director, Fleet Management Department

SUBJECT
Contract with Quinn Company for Caterpillar Replacement Parts and Equipment Services

RECOMMENDATION(S)
Approve **Contract No. 24-417** with Quinn Company, dba Quinn Power Systems, including non-standard terms, for Caterpillar replacement parts and equipment services, in the total amount of $5,900,000 for a five-year period of May 21, 2024, through May 21, 2029.
(Presenter: Mark McCullough, Director, 387-7870)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES
Operate in a Fiscally-Responsible and Business-Like Manner.
Provide for the Safety, Health and Social Service Needs of County Residents.

FINANCIAL IMPACT
Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The Fleet Management Department (Fleet) is an internal service fund, and its operational costs are financed through Board of Supervisors (Board) approved rates charged to customers. This contract will have an aggregate not-to-exceed value of $5,900,000 over five years. Sufficient appropriation has been included in Fleet's 2023-24 budget (791 4064) and will be included in future recommended budgets.

BACKGROUND INFORMATION
Fleet maintains Caterpillar equipment used by the Department of Public Works (DPW). In maintaining this equipment, Fleet requires replacement parts to complete repairs and ensure the Caterpillar equipment remains in good working order for the provision of services by DPW. Quinn Company, dba Quinn Power Systems (Quinn) provides authorized Caterpillar equipment replacement parts, supplies, and services, including repairs and warranties, required for maintenance of the DWP equipment.

On November 19, 2019 (Item No. 18), the Board approved Contract No. 19-740 with Quinn for a total of $3,000,000 for the five-year term of November 19, 2019 through November 18, 2024. On September 13, 2022 (Item No. 32), the Board approved Amendment No. 1 to Contract No. 19-740 for an increase of $1,300,000, from $3,000,000 to a total of $4,300,000, with no change to the five-year term of November 19, 2019 through November 18, 2024.

Due to inflation and the increased cost of parts, Fleet anticipates that the contract total will be exceeded prior to November 2024, requiring an increase to the contract. Expenditures for Caterpillar replacement parts and equipment services, which historically have been

approximately $1,000,000 per year, have continually increased in recent years. Total expenditure under Contract No. 19-740 is approximately $3,891,491 from November 2019 through May 2024. As Contract No. 19-740 expires in November 2024, rather than amend the existing contract with an increase for the remaining six months, Fleet recommends approval of a new five-year contract.

The recommended contract includes terms that differ from the standard County contract and omits certain County standard contract terms. Quinn is unwilling to negotiate these terms. The non-standard terms include the following:

1. The contract does not require Quinn to indemnify the County, as required by County Policies 11-05 and 11-07, including for intellectual property infringement claims.
   - The standard County contract indemnity provision requires the contractor to indemnify, defend, and hold the County harmless from third party claims arising out of the acts, errors or omissions of any person.
   - Potential Impact: Quinn is not required to defend, indemnify or hold the County harmless from all claims, including indemnification for claims arising from the County's negligent or intentional acts. If the County is sued for those claims, the County may be solely liable for the costs of defense and damages, which could exceed the total contract amount.

2. Quinn provides parts under a limited warranty.
   - The standard County contract requires vendors and service providers to fully warrant the products and services provided to the County.
   - Potential Impact: The County's use of the services and/or products is at its own risk.

Fleet recommends approval of the contract, including the non-standard terms, to ensure the DPW Caterpillar equipment can be maintained for the continued provision of daily operational services and to meet emergency needs, ensuring public safety.

PROCUREMENT

Fleet recommends approval of the non-competitive contract with Quinn, including the non-standard terms, as Quinn is the sole local authorized distributor of Caterpillar parts in the region, and provider for warranty for replacement parts. Approval of the contract will allow Fleet to continue to provide DPW with service of Caterpillar equipment using Quinn replacement parts.

County Policy 11-04 requires departments to seek Board approval when contracting for competitive and non-competitive purchases of goods and services in excess of $200,000 during a single annual period. The Purchasing Department concurs with non-competitive justification of only authorized distributor for service and parts.

REVIEW BY OTHERS

This item has been reviewed by Fleet (Melanie Eustice, Administrative Supervisor, 387-7849) on March 2, 2024; Purchasing (Lisa Zhu, Lead Buyer III, 387-7849) on March 5, 2024; County Counsel (Adam Ebright, Deputy County Counsel, 387-5455) on April 17, 2024; Risk Management (Victor Tordesillas, Deputy Executive Officer, 386-8623) on March 12, 2024; Finance (Penelope Chang, Administrative Analyst, 387-5423) on March 12, 2024; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on March 25, 2024.

Contract with Quinn Company for Caterpillar Replacement Parts and Equipment Services
May 21, 2024

Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Curt Hagman Seconded: Joe Baca, Jr.
Ayes: Col. Paul Cook (Ret.), Dawn Rowe, Curt Hagman, Joe Baca, Jr.
Absent: Jesse Armendarez

Lynna Monell, CLERK OF THE BOARD

BY Lynna Monell
DATED: May 21, 2024

cc: Fleet - McCullough w/agree
Contractor - c/o Fleet w/agree
File - w/agree

CCM 05/24/2024