

Bill No. 308
2014

By-law No. A.-_____

A by-law to approve and authorize the execution of a Garbage Collection Agreement between the University of Western Ontario and The Corporation of the City of London.

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS it is deemed appropriate for The Corporation of the City of London (the "City") to enter into an Agreement to provide Garbage Collection (the "Agreement") to the University of Western Ontario ("Western"), whereby the City agrees to collect and dispose of garbage from specified pickup locations at Western;

AND WHEREAS it is appropriate to authorize the Mayor and City Clerk to execute the Agreement on behalf of the City;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Garbage Collection Agreement between The Corporation of the City of London and the University of Western Ontario, attached as Schedule A to this By-law, is hereby approved.
2. The Mayor and City Clerk are authorized to execute the Agreement approved under section 1 of this by-law.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council June 24, 2014

Mayor

Catharine Saunders
City Clerk

First reading – June 24, 2014
Second reading – June 24, 2014
Third reading – June 24, 2014

Garbage Collection Agreement

This Agreement made the 1st day of June, 2014.

BETWEEN:

THE CORPORATION OF THE CITY OF LONDON
hereinafter referred to as the "City"

OF THE FIRST PART

- and -

THE UNIVERSITY OF WESTERN ONTARIO
hereinafter referred to as the "Western"

OF THE SECOND PART

Whereas the City operates a garbage collection and disposal system;

And Whereas the Western wishes to purchase for the benefit of its organization certain garbage collection and disposal services from the City and the City has agreed to provide these services on the terms and conditions set forth herein;

Now Therefore Witnesseth that in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the parties agree as follows:

1. Definitions

As used in this Agreement, the following definitions shall apply unless otherwise indicated:

- 1.1 "Commencement Date" means June 1, 2014.
- 1.2 "Garbage" shall include all drained animal and vegetable waste material from the preparation of food, sweepings, ashes, small household and office items, wearing apparel, ceramics, multi-material products and packages, non-recyclable glass containers, non-recyclable paper, and other materials as designated by the City from time to time. Garbage shall not include construction and demolition waste, appliances, electronics, hazardous waste or bulky items (e.g., furniture larger than 0.8 m³).

2. Provision of Services by the City

- 2.1 The City agrees to provide Garbage Collection and Disposal Services to Western over the course of the Term (Section 6), for the fees and in accordance with the terms and conditions set out in this agreement.
- 2.2 The locations, frequency and type of collection to be provided Western are listed in Schedule A.
- 2.3 All garbage collected will be disposed of at the W12A Landfill (operating under Ministry of the Environment Environmental Compliance Approval #A042102)
- 2.4 The City shall ensure all vehicles under their ownership and / or control and engaged in the transportation of garbage shall possess all necessary licenses, permits and approvals as required by law.
- 2.5 In the event of a strike by City staff, Western will have to make arrangements to have the services covered by this agreement provided by others. The City will reduce the quarterly charge for garbage collection and disposal services by prorating the quarterly fee (e.g., if the City was on strike for 50% of the collection days, the quarterly fee would be reduced by 50%).
- 2.5 In the event of a strike by Western staff and City collection workers choose not to cross the picket line, Western will have to make arrangements to have the services covered by this agreement provided by others. The City will reduce the quarterly charge for garbage collection and disposal services by prorating the quarterly fee (e.g., if the City did not provide service for 50% of the collection days, the quarterly fee would be reduced by 50%).

3. Obligations of Western

- 3.1 Western agrees to use 3 m³ or 4.5 m³ bins compatible with City overhead loading garbage trucks or sheds to store the garbage.
- 3.2 Western agrees to provide unobstructed and safe access, at the sole discretion of the City, to all garbage collection points and to have all garbage sheds unlocked at the time of collection.

4. Insurance and Indemnification

- 4.1 The City, prior to commencing work, shall obtain and maintain or ensure that its agents, officers, employees or other persons collecting garbage shall obtain and maintain, the insurance coverage described below:

a) Comprehensive general liability insurance on an occurrence basis for an amount not less than five million (\$5,000,000) dollars, excepting that only the City's insurance shall include Western as an additional insured with respect to the City's operations, acts and omissions relating to its obligations under this Agreement, such policy to include non-owned automobile liability, personal injury, broad form property damage, contractual liability, owners' and contractors' protective, products and completed operations, contingent employers liability, cross liability and severability of interest clauses; and

b) Automobile liability insurance for an amount not less than five million (\$5,000,000) dollars on forms meeting statutory requirements covering all vehicles used in any manner in connection with the delivery of material to the Facility; and

c) Environmental impairment liability insurance covering its obligations under this contract and those of its agents, officers, employees or other persons acting on its behalf including loss or claims arising from contamination to third party property or bodily injury during transit. Such policy shall provide coverage for an amount not less than one million (\$1,000,000.) dollars and shall remain in force for twelve (12) months following the final collection of garbage from Western.

4.2 Mutual Indemnification

a) Western shall indemnify and hold the City harmless from and against all liability, loss, claims, demands, costs and expenses, including reasonable legal fees, occasioned wholly or in part by: any negligence or acts or omissions by Western, its officers, agents, employees and persons for whom it is at law responsible; or out of a breach of the Western's storage of garbage and access requirements under this Agreement; and

b) The City shall indemnify and hold Western harmless from and against all liability, loss, claims, demands, costs and expenses, including reasonable legal fees, occasioned wholly or in part by: any negligence or acts or omissions by the City, its officers, agents, employees and persons for whom it is at law responsible; or, out of a breach of the City's collection and disposal of garbage under this Agreement.

5. Service Fee

- 5.1 Western shall pay the City a quarterly fee of \$66,075 for the first year of the contract. This fee assumes that Western generates a minimum of 3,000 tonnes of garbage per year. The fee will be reduced by \$43 for each tonne less than 3,000 tonnes if it is determined that Western generates less than 3,000 tonnes per year. Any reduction in fees, as a result of there being less than 3,000 tonnes of garbage per year, will included in the first quarterly invoice after the anniversary date of the start of the garbage collection.
- 5.2 The City will invoice Western within (30) days after the end of the quarter. The invoice will include the purchase order number from Western. The City will invoice Western for the periods January to March, April to June, July to September and October to December. Any invoice shall be due and payable within thirty (30) days.
- 5.3 The quarterly fee will be adjusted each year on July 1st, for the cost of living as follows:

Step 1: $\text{Applicable percentage change in CPI} = (\text{CPI for May of current year} - \text{CPI for May 2014}) / (\text{CPI for May 2014}) \times 100\%$

Step 2: $\text{Quarterly fee for current year} = \text{Quarterly fee for 2014} \times (1 + (\text{applicable percentage change in CPI} / 100))$.

Where CPI is the Consumer Price Index for Ontario – All Items.

- 5.4 The City reserves the right to charge Western a fee for late payments at the rate established by the City from time to time, currently 1.5% per month on overdue amounts. The City will provide at least one hundred twenty (120) days' notice of its intention to change the rate.
- 5.5 Garbage collection locations may be added or removed from Schedule A at \$200 per year for weekly bin collection and \$820 per year for weekly bagged garbage collection based on the same level of service. The cost of other levels of service will be determined by negotiation.
- 5.6 Western may rent garbage bins from the City of London. Western will be charged for bins according to the City's Various Fees and Charges By-law. These fees will be added to the quarterly invoice.

6. Term of Agreement

- 6.1 This agreement shall continue from the Commencement Date until terminated in accordance with Section 7.

7. Default and Termination

- 7.1 This agreement may be terminated by either party effective midnight on the 30th day of June of any year provided that written notice setting out the intention to so terminate is served on the non-terminating party prior to the 1st day of January of the same year.
- 7.2 Notwithstanding Section 7.1 above, in the event that the City assigns its obligations under this Agreement in accordance with Section 8, either party may terminate this Agreement upon the giving of six (6) month's written notice delivered to the other party at any time within the six (6) months following notice of the assignment of this agreement.
- 7.3 Failure by either party to pay any sum due under this Agreement on the day or dates appointed for the payment thereof, or to perform or observe any other provision of this Agreement to be observed or performed by it, shall entitle the other party to terminate this Agreement in the event that such default has continued for a period of thirty (30) days after the defaulting party has been advised of such default in writing.

8. Assignment

- 8.1 Only the City may assign its rights and obligations under the terms of this Agreement.
- 8.2 In the event that the City exercises its right of assignment as set forth above, the City shall provide written notice to the Western of its intention to assign at least thirty (30) days prior to the effective date of assignment.
- 8.3 This agreement may be terminated by Western by providing at least thirty (30) days written notice to the City in the event the City exercises its right of assignment.

9. Dispute Resolution

- 9.1 All disputes, claims, controversies or questions arising out of, under, or in connection with, or in relation to this Agreement or its interpretation, performance or non-performance, or any breach of it, shall be submitted to binding arbitration as follows:
- A. the Western and the City may agree to appoint a single arbitrator whose decision shall be final and binding; or
- B. in the event that the Western and the City cannot agree upon a single arbitrator, then the Western shall select one individual and the City shall select one individual and the resulting two individuals shall select a third individual who shall be the sole arbitrator. If either the Western or the City fails to appoint a nominee within fifteen (15) days after receipt of a written notice from the other of them requiring that such appointment be made, then the individual chosen by either the Western or the City, as the case may be, shall be the sole arbitrator.
- 9.2 In all other respects, the rules and procedures to be used by the arbitrator shall be as set out in the *Arbitrations Act*, R.S.O. 1990, c. A.24 and every statutory provision that may be substituted for it or for any provision in it. The parties agree that the decision of the arbitrator shall be final and binding and that there shall be no appeal from it; that the arbitrator shall have the discretion to award the non-offending party his or its costs and expenses incurred in connection with or as a result of such arbitration and on a solicitor and his client basis; and, further, that the decision and award of the arbitrator may be entered and enforced in the relevant courts having jurisdiction.

10. Governing Law

10.1 This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Ontario.

11. Notices

11.1 Any written notice given pursuant to this agreement must be addressed to:
In the case of the University of Western Ontario, at:

Procurement Services
University of Western Ontario
Suite 6100, Service Support Building
1393 Western Road
London Ontario
N6G 1G9

Attention: Senior Buyer MRO and Building Products

In the case of the City, at:

City of London
300 Dufferin Avenue
P.O. Box 5035
London, Ontario
N6A 4L9

Attention: Director – Fleet, Environment and Solid Waste

11.2 If hand delivered, the notice is effective on the date of delivery; if faxed, the notice is effective on the date and time the fax is sent; if sent by registered mail, the notice is deemed to be effective on the fifth business day following the day of mailing.

12. Entire Agreement

12.1 The parties agree that this Agreement and any Schedules attached hereto constitutes the entire agreement between the parties with respect to the subject-matter hereof, and that this Agreement supersedes all proposals, oral or written, all previous negotiations and all other communications between the parties with respect to the subject-matter hereof.

12.2 No amendment to this agreement shall be effective unless it is made in writing with the mutual consent of both parties.

13. Binding Effect

13.1 This agreement will ensure to the benefit of, and be binding upon, the parties and their respective successors, administrators and assigns.

IN WITNESS WHEREOF the parties have caused this agreement, which shall enure to the benefit of and be binding upon the successors of the respective parties, to be signed and entered as of the date first mentioned above.

SIGNED, SEALED AND DELIVERED

in the presence of:

The Corporation of the City of London
Per:

Joe Fontana, Mayor

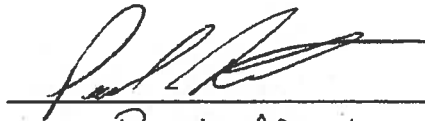
Catharine Saunders, City Clerk

The University of Western Ontario
Per:



Elizabeth Krische
Director Procurement Services

5/16/14



Paul Martin
DIRECTOR, BUSINESS OPERATIONS

5/16/14

Schedule "A"
Locations, Frequency and Type of Garbage Collection

Overhead Loading Garbage Truck

LOCATION	LOADING DOCK ID	COLLECTIONS DAYS*	# OF BINS
Perth Hall	58	Mon/ Thur	4
London Hall	66	Mon/ Thur	3
Essex Hall	56	Mon/ Thur	3
Bayfield Hall	6	Mon/ Thur	3
Lampton Hall	52	Mon/ Thur	3
Elgin Hall	57	Mon/ Thur	4
Ontario Hall	73	Mon/Thur	8

Rear Loading Garbage Truck

LOCATION	LOADING DOCK ID	COLLECTIONS DAYS*	BAGGED
3M Centre/Somerville House	35	Mon/Thur	YES
Middlesex College	27	Mon/ Tues/ Wed/ Thur/ Fri	YES
Western Science Centre (Paterson Building)	54	Mon/ Tues/ Wed/ Thur/ Fri	YES
Biological & Geological Science	7	Mon/ Tues/ Wed/ Thur/ Fri	YES
Natural Science	29	Mon/ Tues/ Wed/ Thur/ Fri	YES
Medical Science/Bio Lab/Kresge/Health Sciences (HAS) Building/RIX Clinical Skills	shed	Mon/ Tues/ Wed/ Thur/ Fri	YES
Social Science	34	Mon/ Tues/ Wed/ Thur/ Fri	YES
UCC (University Community Centre)	43	Mon/ Tues/ Wed/ Thur/ Fri	YES
Beaver Hall	shed	Mon/ Tues/ Wed/ Thur/ Fri	YES
Spencer Engineering Building	17 (shed)	Mon/ Tues/ Wed/ Thur/ Fri	YES
Law Building	23	Mon/ Tues/ Wed/ Thur/ Fri	YES
Weldon Library	46 (shed)	Mon/ Tues/ Wed/ Thur/ Fri	YES
IVEY (Richard Ivey Building, Western Rd)	72	Mon/ Tues/ Wed/ Thur/ Fri	YES
Stevenson Lawson Hall/McIntosh Gallery	37 (shed)	Mon/ Tues/ Wed/ Thur/ Fri	YES
H.B.A. Building	8	Mon/ Tues/ Wed/ Thur/ Fri	YES
H.S.B Building (Labatt Health Sciences Building)	81	Mon/ Tues/ Wed/ Thur/ Fri	YES
Music Building	28	Mon/ Tues/ Wed/ Thur/ Fri	YES
Chemistry	11	Mon/ Wed/ Fri	YES
Saugeen-Maitland Hall	32	Mon/ Wed/ Fri	YES
Westminster Hall	63	Mon/ Wed/ Fri	YES
Spencer Hall (on Windermere)	70a/70b	Tues/ Fri	YES
Alumni House	51	Tues/ Fri	YES
Medway Hall	26	Tues/ Fri	YES
Sydenham Hall	38	Tues/ Fri	YES
Delaware Hall	14	Tues/ Fri	YES
Staging Building	36	Tues/ Fri	YES
Materials Science (Biotron)	65	Tues/ Fri	YES
John Labatt Visual Arts	45	Tues/ Fri	YES
North Campus Building	60	Tues/ Fri	YES
B&G Greenhouse	shed	Tues/ Fri	YES
Physics & Astronomy	31	Tues/ Fri	YES
Thames Hall	40	Tues/ Fri	YES
Talbot College	39	Tues/ Fri	YES
Support Services	18,19,20	Tues/ Fri	YES
Heating (Power) Plant	21	Tues/ Fri	YES
Althouse College	1	Tues/ Fri	YES
Thompson Recreation & Western Sport and Recreation Centre	41	Tues/ Fri	YES
401 Platts Lane	piles	Tues/ Fri	YES
453 Platts Lane	piles	Tues/ Fri	YES

LOCATION	LOADING DOCK ID	COLLECTIONS DAYS	BAGGED
455 Platts Lane	piles	Tues/ Fri	YES
457 Platts Lane	piles	Tues/ Fri	YES
459 Platts Lane	piles	Tues/ Fri	YES
461 Platts Lane	piles	Tues/ Fri	YES
463 Platts Lane	piles	Tues/ Fri	YES
530 Platts Lane	piles	Tues/ Fri	YES
544 Platts Lane	piles	Tues/ Fri	YES
Graphic Services Building	10	Wed	YES
Western Student Services	71	Wed	YES
Boundary Layer Wind Tunnel	47	Wed	YES
Claudette MacKay-Lassonde Pavilion (CMLP)	piles	Wed	YES
Cronyn Observatory	13	Wed	YES
Alumni Hall	2 (shed)	Wed	YES
Elborne College	16	Wed	YES

Notes: a) Collections scheduled on a Statutory Holiday will normally be collected on the next business day (i.e., collections on a Statutory Holiday falling on a Monday will be collected on Tuesday). Collections on Christmas, Boxing Day and New Year's Day will be coordinated with Western.