

TO:	CHAIR AND MEMBERS CIVIC WORKS COMMITTEE MEETING ON MAY 14, 2019
FROM:	KELLY SCHERR, P.ENG., MBA, FEC MANAGING DIRECTOR ENVIRONMENTAL & ENGINEERING SERVICES AND CITY ENGINEER
SUBJECT:	ADDITIONAL SHORT-TERM CONTRACT AMENDMENT FOR RECYCLING SERVICES

RECOMMENDATION

That on the recommendation of the Managing Director, Environmental & Engineering Services and City Engineer, the following actions **BE TAKEN** with respect to the provision of curbside collection and Material Recovery Facility Operations services provided by Miller Waste Systems Inc.:

- a) The action taken previously (October 2019) by the Managing Director, Environmental & Engineering Services and City Engineer with the support of the Managing Director, Corporate Services & City Treasurer, Chief Financial Officer and in accordance with Procurement of Goods and Services Policy, Section 4.3 d. continue to **BE RECOGNIZED**; it being noted that the action taken continues to be in the best financial interest of the Corporation of the City of London;
- b) the extension of the contracts with Miller Waste Systems Inc. for the collection of recyclables in London and the collection of garbage and yard materials in the southwest portion of the city, including Lambeth, Riverbend and Settlement Trail, and Material Recovery Facility operations, be increased by two (2) months plus two (2), one month extensions at the sole discretion of the City, from May 1, 2020 to August 30, 2020, at the same amount of \$92,250 per month plus HST (with a net cost to the City of London equal to \$50,570 per month plus HST) in accordance with Procurement of Goods and Services Policy, Section 20.3 e)i. **BE APPROVED**; and
- c) Civic Administration **BE AUTHORIZED** to undertake final negotiations on the monthly service fee and all administrative acts that are necessary in connection with this Report and the Agreements referenced herein.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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Relevant reports that can be found at www.london.ca under City Hall (Meetings) include:

- Comments on Environmental Registry of Ontario (ERO): Reducing Litter and Waste in Our Communities: Discussion Paper (April 16, 2019 meeting of the Civic Works Committee (CWC), Item #2.14)
- Comments on Environmental Registry of Ontario (ERO): A Made-In-Ontario Environment Plan (January 8, 2019 meeting of the CWC, Item #2.5)
- Short-term Contract Amendments for Recycling Services (October 30, 2018 meeting of the CWC, Item #2.6)
- Updates: Proposed Amended Blue Box Program Plan; Food and Organic Waste Framework & Policy Statement; and Next Steps (May 28, 2018 meeting of the CWC, Item #2.9)
- Exercise Renewal Options for Curbside Collection and Material Recovery Facility Operations Contracts (January 9, 2018 meeting of the CWC, Item #3)
- Request for Comments on the Draft Amended Blue Box Program Plan (Prepared by Stewardship Ontario) (January 9, 2018 meeting of the CWC Item #9)
- Updates – Proposed Blue Box Program Plan Amendment and Waste Free Ontario Act Ontario (October 24, 2017 meeting of the CWC, Item #12)

STRATEGIC PLAN 2019-2023

Municipal Council has recognized the importance of solid waste management in its 2019-2023 - Strategic Plan for the City of London as follows:

Building a Sustainable City

London has a strong and healthy environment (Increase waste reduction, diversion and resource recovery)

Growing our Economy

London is a leader in Ontario for attracting new jobs and investments (Increase partnerships that promote collaboration, innovation and investment)

Leading in Public Service

Londoners experience exceptional and valued customer service (Increase community and resident satisfaction of their service experience with the City)

BACKGROUND

PURPOSE

The purpose of this report is to request Committee and Council increase the previously approved (November 6 Council meeting) extension of contracts with Miller Waste Systems Inc. (Miller Waste), for the provision of curbside collection, and Material Recovery Facility (MRF) operation services for a period of two months plus two additional, one month options at the sole discretion of the City.

The additional extension of the previously approved contract extensions would cover the period of May 1, 2020 to August 30, 2020. This additional time allows for an overall appropriate timeframe to solicit, review and recommend service proposals from private sector service providers.

CONTEXT

Committee and Council previously approved contract extensions of four months plus two, additional one month options (at the sole discretion of the City) for the following three contracts with Miller Waste:

1. Collection of Blue Box recyclables, garbage and yard materials in the south-west portion of the city, including Lambeth, Riverbend and Settlement Trail,
2. Collection of Blue Box recyclables in the remaining portion of London, and
3. Operation of the City-owned material recovery facility (MRF).

The approved contract extensions cover the period of October 31, 2019 to April 30, 2020.

The contract extensions were approved in accordance with the Procurement of Goods and Services Policy (Procurement Policy) in response to a Triggering Event identified by the Managing Director Environmental & Engineering Services and City Engineer, with support from the Managing Director, Corporate Services & City Treasurer, and Chief Financial Officer. Appendix A contains further details on this provision and rationale.

The approved extension of contracts included the following monthly changes/cost increases.

Costs	Rationale for Cost Increase
\$27,800	Collection – additional vehicle costs for newer vehicles to replace some of the end-of-life vehicles plus higher maintenance costs of remaining fleet to keep them safe and operational.

Costs	Rationale for Cost Increase
\$23,050	MRF - additional labour and labour hours to meet market specifications for various paper products. Increased activities to ensure quality control.
\$30,470	MRF - additional labour and labour hours to meet market specifications for containers. Changing mix of materials to be processed (e.g., more plastics and other lightweight materials being processed; with less paper processed).
\$10,930	MRF - substantially increased baling activity and cost of baling wire – all newspaper is now baled (versus loose) to meet global market requirements. Plus baling wire is subject to new tariffs.
\$92,250	

The approved changes/cost increases are expected to increase monthly costs beyond October 2019 by approximately 12% above the current amount of \$750,000. The City will be responsible for covering about 6% (about \$50,570 per month plus HST) of the increase in service costs. The remainder will be covered by industry funding.

In summary, the changes/cost increases requested by Miller Waste were to address the following drivers impacting the cost of service delivery:

- Capital costs for vehicles and other recycling equipment,
- Labour costs,
- Extra human resources and equipment required to meet stringent market conditions caused by global conditions, fewer and more competitive end markets,
- Increased quantity of harder to process container materials due to the changing material mix and end market requirements,
- Decreased quantity of easier to process paper products such as newspaper, magazines and office paper, and
- The exchange rate (volatility) with the United States.

There is no impact to the 2019 budget. As part of budgeting, City staff had prepared for an increase in recycling costs for the new contracts (November and December 2019).

Additional costs for 2020 and beyond will be part of the multi-year budget deliberations.

DISCUSSION

What is the status of recycling, Extended Producer Responsibility (EPR) and the Province of Ontario?

The release of the Request for Proposals (RFPs) to provide these services was further delayed from the originally anticipated release date (Q4 2018) in anticipation that the document recently released (February 2019) for comment by Ministry of the Environment, Conservation & Parks (MECP), *Reducing Litter and Waste in Our Communities: Discussion Paper* would provide additional insight on the timeline and details of a transition of the Blue Box Program to a Producer Responsibility regime.

Unfortunately limited additional details were provided beyond what is already known. Additional details regarding the anticipated timing and procedural mechanics of transition, would have allowed for inclusion of these details within the RFPs documents and therefore provide additional certainty regarding the duration of status quo service provision to prospective bidders. Without this certainty, City staff have included an appropriate balance of mechanisms to manage the potential transition of the Blue Box Program to Producer Responsibility within the RFPs documents. The mechanisms serve to protect the City and are anticipated to provide respondents certainty in respect to management of the process when (if) transition occurs during the term of the contract.

What is the status of the Competitive Request for Proposal (RFP) to Provide these Services?

The RFP for curbside collection services will be released in May 2019 and is expected to be before Committee and Council in August 2019. The RFP for MRF operational services are expected to be released in Q4 2019.

Why is an additional request to increase the extension period required?

The increase in the extension of contracts is required to ensure that the RFPs process is as competitive as possible. The provision of curbside collection services requires the successful proponent to secure capital assets, namely collection vehicles.

Manufacturers of collection vehicles require between 9 and 12 months lead time in order to cost effectively provide orders for the number of vehicles that would be required to provide this service. The increase in the extension of contracts is required to ensure the City receives competitive prices by allowing the successful proponent sufficient time to secure and deliver the required collection vehicles to perform the service.

What is the price per month for the additional extension?

Miller Waste has agreed to increase the contract period by two (2) months plus two (2), one month extensions at the sole discretion of the City, from May 1, 2020 to August 30, 2020, at the same amount of \$92,250 per month plus HST (with a net cost to the City of London equal to \$50,570 per month plus HST) as the previous extension.

Are there any additional changes in the requested increase to the approved extension of contracts?

Miller Waste has requested the following two additional changes in the increase to the approved extension of contracts (between May 1, 2020 and August 30, 2020):

- Remove the requirement to make up 50% of the revenue obtained for recovered paper products marketed below the contract index; and
- Remove the requirement to provide the City a fuel rebate when diesel prices are below the Consumer Price Index adjusted, diesel price observed at the time of bid.

Miller Waste has requested these additional changes in response to the following issues which were not anticipated when the original contracts were signed and have recently (after the original extension of contracts were approved) escalated significantly, resulting in unexpected cost pressures:

- Extreme volatility of the global recovered material markets for recovered paper materials as a result of the Chinese national sword program (e.g., significant market restrictions, quality control challenges, changing payment structures and amounts, new global but uncertain end markets and slow growth in North American markets).
- Diesel price volatility as a result of both provincial and federal policies with respect to carbon pricing.

These changes will have minimal impact to the budget as they can be planned for and accommodated while developing the next multi-year budget. It is important to note that these kinds of adjustments are being experienced by municipalities across Ontario with their contractors.

ACKNOWLEDGEMENTS

This report was prepared with assistance from Anne Boyd, Manager, Waste Diversion Programs. This report was reviewed by John Freeman, Manager, Purchasing and Supply.

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Appendix A Application of the Procurement of Goods and Services Policy

c John Freeman, Manager, Purchasing and Supply

APPENDIX A

Application of the Procurement of Goods and Services Policy

What is a Triggering Event?

The Procurement of Goods and Services Policy defines as triggering event as follows:

4.0 Responsibilities

4.3d. When the Managing Director is of the opinion that a Triggering Event has occurred, the Managing Director may authorize the purchase of such goods and/or services as is considered necessary to remedy the situation without regard to the requirement for a competitive bid and may approve the necessary contract amendment. The relevant details surrounding the Triggering Event shall be included in a report and submitted to Committee as soon as possible.

3.0 Definitions

'Triggering Event' means an occurrence resulting from an unforeseen action or consequence of an unforeseen event, which must be remedied on a time sensitive basis to avoid a material financial risk to the City or serious or prolonged risk to persons or property.

To complete the activities, the Managing Director, Environmental & Engineering Services and City Engineer, undertakes the negotiations and administrative acts that are necessary to extend the contract connection in accordance with Procurement of Goods and Services Policy:

20.3 Contract Amendments

- e. City Council must authorize contract amendments when:*
 - i. the total amended value of the contract will be greater than the administrative (Managing Director) approval threshold; or*

What initially caused the use of a 'Triggering Event'?

City staff are nearing completion and release of a comprehensive RFP for various recycling services. As reported in October 2018, the completion of the remainder of this work has been difficult due to:

1. All discussions regarding the Amended Blue Box Program Plan between industry and the Resource Productivity and Recovery Authority (RPRA) are on-hold. As a result there are no further details available from the Provincial Government on how stewards will pay for and operate (e.g., program parameters to be used by contract administrators such as the City of London) future recycling programs as per the *Resource Recovery and Circular Economy Act, 2016*. In recent discussions with the Minister of the Environment, Conservation & Parks and other provincial representatives, it is understood that further discussions on this file will begin in late fall 2018 or early winter 2019 (Status: these discussions are now under way as of March/April 2019).
2. Uncertain role of tariffs on steel and aluminum which may unnecessarily impact the cost of collection vehicles and any capital upgrades to the MRF to address market conditions (Status: this uncertainty has not changed since fall 2018).
3. Ongoing trade disputes, tariffs and proposed end-markets restrictions are not resolved in a number of jurisdictions including China, United States, India, etc. which creates a high level of uncertainty for marketing recyclable materials on behalf of the City of London (Status: this uncertainty has not changed since fall 2018).