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| TO: | CHAIR AND MEMBERS CIVIC WORKS COMMITTEE MEETING ON JULY 14, 2020 |
| FROM: | KELLY SCHERR, P.ENG., MBA, FEC MANAGING DIRECTOR ENVIRONMENTAL & ENGINEERING SERVICES AND CITY ENGINEER |
| SUBJECT: | CONTRACT FOR THE OPERATION OF THE CITY'S MATERIALS RECOVERY FACILITY – SINGLE SOURCE |

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| RECOMMENDATION |
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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 Material Recovery Facility (MRF) Operations services:

- a) The attached proposed by-law (Appendix "A") **BE INTRODUCED** at the Municipal Council meeting on July 21, 2020 to approve, substantially in the form of, the single source negotiated agreement (Schedule "A" to the By-law) between the Corporation of the City of London and Miller Waste Systems Inc., 8050 Woodbine Avenue Markham, ON, L3R 2N8, to operate and maintain the City's Materials Recovery Facility and market the recyclable materials which are noted herein;
- b) The single source negotiated price **BE ACCEPTED** to hire Miller Waste Systems Inc., to remove the existing cyclone and plastic container perforator and replace them with a new glass breaker and plastic container perforator at a total estimated price of \$609,679.57 plus HST;
- c) The financing for the project **BE APPROVED** in accordance with the "Source of Financing Report" attached hereto as Appendix "B";
- d) Civic Administration **BE AUTHORIZED** to undertake all the administrative acts that are necessary in connection with this purchase; and
- e) Approval hereby given **BE CONDITIONAL** upon the Corporation entering into a formal contract or having a purchase order, or contract record relating to the subject matter of this approval.

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| 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:

- Operation of the City's Materials Recovery Facility: Next Steps in the Transition to Industry Responsibility for Recycling Services (April 15, 2020 meeting of Civic Works Committee CWC, Item #2.8)
- Additional Short-Term Contract Amendment for Recycling Services (May 14, 2019 meeting of CWC, Item #2.6)
- Short-Term Contract Amendment for Recycling Services (October 30, 2018 meeting of CWC, Item #2.9)
- Exercise Renewal Options Curbside Collection & Material Recovery Facility Operations Contracts – Miller Waste Systems (September 7, 2016 meeting of CWC, Item #2.5)

COUNCIL'S 2019-2023 STRATEGIC PLAN

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 provide Civic Works Committee and Council with the outcome of the single source negotiation with Miller Waste Systems Inc. (Miller), to continue to operate and maintain the City-owned Materials Recovery Facility (MRF) and market the recyclable materials.

CONTEXT

In April 2020, Municipal Council resolved that:

The Civic Administration **BE DIRECTED** to negotiate a single source agreement for the procurement of MRF Operations services as per Section 14.4(d) and (e) of the Procurement of Goods and Services Policy with Miller Waste Systems Inc. for a term of two years and four months (28 months), with two, one-year extension options at the sole discretion of the City, IT BEING NOTED that the final contract will be subject to approval by municipal council and Civic Administration will report back on the outcome of the negotiations;

DISCUSSION

City staff have completed a single source negotiation with Miller for a new contract to operate the City-owned Materials Recovery Facility (MRF) and market the recyclable materials. The negotiation was based on the existing contract, contract amendments, new end market requirements, adjusted labour rates being experienced in the recycling industry, the current understanding and timeline of extended producer responsibility (EPR) in Ontario, and the requirements of the City.

The outcome of the negotiation has resulted in a number of revised terms and conditions. The annual amount to pay for processing based on the estimated tonnage to be managed is included in the amount approved by Council in the 2020-2023 Multi-Year Budget. A summary of the negotiations include:

- A contract term that allows the City to transition as early as possible in the transition period (to EPR) established by the Ministry of the Environment, Conservation and Parks (MECP). The earliest possible transition date is January 1, 2023. This means the new agreement could be in place for as little as two (2) years and four (4) months. Short term agreements like this are not common in the recycling industry.

- The contract term also recognizes that decisions by the province or industry may indicate that London transitions later in the process; therefore contract dates, at the sole discretion of the City, are in place until December 31, 2025. City staff requested an additional year at the City's sole discretion should the City be advised by the province and/or industry that the MRF will not be transitioning until the last possible time which is potentially later in 2025.
- Annual contract price adjustment for the processing fee of will remain at Consumer Price Index. This is an easy to verify and transparent annual increase. It has ranged between 1.3% and 1.9% in the last five years.
- Monthly lump sum payment to Miller has increased by approximately 10% from \$65,606.44 (current lump sum payment index to inflation) to \$72,167.08. This increase is attributed to employee payment and benefit changes. Prior to COVID-19, the recycling industry in Ontario had seen an increase in costs associated with labour. Although the employment situation has changed due to COVID-19, the nature of work being performed in the recycling sector continues to warrant the increased payments.
- Processing fees are based on incoming tonnes versus the previous agreement whereby they were based on tonnes sent to end markets. This change has been put in place due to the additional labour and time required to ensure that the continued tightening of end market specifications can be met.

To achieve the new processing rate, the City will commission Miller to remove the existing cyclone and plastic container perforator and replace them with a new glass breaker and plastic container perforator at a cost of approximately \$609,679.57. This action reduces processing costs by approximately \$3.15 per tonne. The simple payback on this equipment is about 5.5 years. Removal of the old equipment and the installation of the new equipment removes a processing inefficiency (i.e., bottleneck) in the MRF that is due to extended periods of maintenance down time from the clearing of blockages from the cyclone. This new equipment will also be viewed positively by industry and others as they examine opportunities for London's recycling centre under EPR.

The only way to alleviate the processing fee change would be to add in additional automation (equipment) into the MRF at an estimated capital cost of between \$3 and \$5 million. City staff could not justify increased capital expenditures for processing recyclables this close to the start of the transition period due to too many uncertainties with processing needs that must be determined by industry.

- Simplified contract performance incentives to encourage Miller to strive for highest possible end market revenues. The City will receive 90% of the value of recyclable materials. Previously the City received 95% of the revenue. The added percentage to Miller is a stronger incentive to market materials at best possible values coupled with enhancing market relationships in the changing market dynamics that are likely in place for the next one to two years.
- The City-owned MRF and equipment is now 10 years old. Increasing repair cost is inevitable. For Miller to anticipate what might break in the next two to five years would create additional risk that would be built into contract price. To reduce this risk, it is proposed to establish a threshold of up to \$40,000 per incident and indexed to inflation each year that Miller would pay for. Equipment repairs above the threshold would be assigned to the City. This allows the City to determine its capital needs as it plans the future of the MRF under EPR. The City had the MRF equipment reviewed in 2018 by the equipment supplier (Machinex) and overall the condition rated above average.
- Minor changes to MRF performance criteria. After 10 years of MRF operating experience and years of educating the public on how to participate in the recycling program, the need to "sort it right" and not place non-recyclable materials or

materials not recycled in London into the Blue Box, a simplified approach for measuring MRF performance can be accommodated. There are 10 years of data that can be used as baseline information to assist with performance management.

- The agreement and/or arrangements for ancillary services will remain in effect and Miller will provide the City with a variety of in-kind services such as:
 - hosting and participating in MRF tours,
 - hosting and participating in waste composition studies,
 - contributing a minimum of \$5,000 towards community projects and participating in community events,
 - hosting, participating and/or collaborating on pilot projects (e.g., London's Hefty® EnergyBag® Pilot Project,
 - providing technology discussions and reviews for recycling processing, equipment and other processing solutions, and
 - providing quarterly or semi-annual state of equipment repair reviews.

It is also worth noting that Miller Waste Systems recently purchased property and an industrial building at 15 Buchanan Court in London. The site is about 1.7 hectares (4.2 acres) and abuts Highway 401. This multi-million dollar investment will also include office and site improvements.

Review of Other Municipalities

MRF operations and pricing data was discussed and examined with the cities of Hamilton, Kingston and Ottawa, regions of Durham and Niagara, and the Essex-Windsor Solid Waste Authority. These municipalities have two stream collection and processing systems that have similarities to London. Factors such as quantity of material processed, age of equipment, level and sophistication of automation, length of contract were all variables that make comparisons challenging. City staff have concluded that London's MRF pricing and arrangements are consistent with other municipalities noting the differences in place.

Financial Impact

Operating Costs

The processing fee, lump sum and annual increase is consistent with the estimates that were used as part of the budgeting process used for the Multi-Year Budget for 2020–2023. The MRF operations contract is estimated to cost the City of London approximately \$3.3 million (gross cost) per year with a Net Cost to Taxpayers of between \$300,000 to \$637,500 per year, with the midpoint (Likely) being \$468,750 (Table 1).

Table 1: Estimated MRF Operating Costs Per Year for the City of London (Gross and Net); Table 1 Notes on Next Page

| | Low Estimate Based on High Market Revenues | Likely Estimate Based on Likely Market Revenues | High Estimate Based on Low Market Revenues |
|------------------------------|---|--|---|
| Estimated London Tonnes | 25,000 | 25,000 | 25,000 |
| Processing costs (gross) (a) | \$3,300,000 | \$3,300,000 | \$3,300,000 |
| Material Revenues (b) | \$2,700,000 | \$2,362,500 | \$2,025,000 |
| Net Costs | \$600,000 | \$937,500 | \$1,275,000 |
| Payment from Industry (c) | \$300,000 | \$468,750 | \$637,500 |
| Net Cost to Taxpayers | \$300,000 | \$468,750 | \$637,500 |
| Net Cost per Household (d) | \$1.70 | \$2.70 | \$3.65 |

Notes:

- (a) The processing cost including the monthly lump sum payment is based on a processing fee per incoming tonne (average of \$132 per tonne). The above estimate is based on 25,000 tonnes processed per year from the City. Another 10,000 tonnes come from other municipalities and some business recyclables and is not reflected in the table on the previous page.
- (b) Reflects London’s 90% share of material revenues. High market revenues are based on an average price of \$120 per tonne; low is based on \$90 per tonne and Likely is based on \$105 per tonne. Between 2015 and 2019, prices ranged between \$90 and \$154 per tonne. In 2020, due to COVID-19, the average price paid has been \$77 per tonne.
- (c) Industry (producers) cover approximately 50% of the current recycling program cost after material revenues.
- (d) Based on an estimated 175,000 households.

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To lower the Net Cost to Taxpayers, cleaner recyclables and less non-recyclables would need to be generated by Londoners and/or material revenues would need to go up. For example, a 20% increase in market revenue above \$120 per tonne (about \$145 per tonne) for the year would eliminate the net cost.

Capital Costs

All capital costs to remove the existing cyclone and plastic container perforator and replace it with a new glass breaker and container perforator in accordance with the proposal from Miller can be accommodated from the following three existing accounts:

- SW6047 original MRF design, build operate account
- SW6530 MRF equipment repair and replacement
- SW6025 waste diversion infrastructure repair and replacement

A detailed Source of Financing is attached in Appendix “B”.

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| PREPARED BY: | PREPARED AND SUBMITTED BY: |
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| MICHAEL LOSEE, B.Sc. DIVISION MANAGER, SOLID WASTE MANAGEMENT | JAY STANFORD, M.A., M.P.A. DIRECTOR, ENVIRONMENT, FLEET & SOLID WASTE |
| RECOMMENDED BY: | |
| | |
| KELLY SCHERR, P.ENG., MBA, FEC MANAGING DIRECTOR, ENVIRONMENTAL & ENGINEERING SERVICES AND CITY ENGINEER | |

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Appendix A A By-law to approve an Agreement to operate and maintain the City’s Materials Recovery Facility and market the recyclable materials; and to authorize the Mayor and the City Clerk to execute the Agreement

Appendix B Source of Financing

C Ian Collins, Director, Director, Financial Services
John Freeman, Manager, Purchasing and Supply

APPENDIX A

Bill No.
2020

By-law No.

A By-law to approve an Agreement to operate and maintain the City's Materials Recovery Facility and market the recyclable materials; and to authorize the Mayor and the City Clerk to execute the Agreement.

WHEREAS subsection 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*, 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 subsection 10 of the *Municipal Act, 2001*, as amended, provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public, and may pass by-laws respecting same, and respecting economic, social and environmental well-being of the City, and the health, safety and well-being of persons;

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

1. The Agreement to operate and maintain the City's Materials Recovery Facility and market the recyclable materials between The Corporation of the City of London and Miller Waste Systems Inc., dated August 30, 2020, attached hereto as Schedule 'A', is hereby approved.
2. The Mayor and the City Clerk are hereby 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 on July 21, 2020.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First reading –
Second reading –
Third reading –

THIS AGREEMENT made as of the 30th day of August, 2020

BETWEEN:

THE CORPORATION OF THE CITY OF LONDON
(hereinafter called the "Corporation")
OF THE FIRST PART

-AND-

MILLER WASTE SYSTEMS INC.,
(hereinafter called "Miller Waste")
OF THE SECOND PART

WHEREAS the Corporation issued Request for Proposal 08-03 on February 4, 2008 for Design Construction and Operation of a Materials Recovery Facility;

WHEREAS Miller Waste submitted a proposal in writing dated June 13, 2008 to provide services for Design Construction and Operation of a Materials Recovery Facility, (the "Proposal");

AND WHEREAS the Corporation requested Miller Waste to provide services for Design Construction and Operation of the Materials Recovery Facility;

AND WHEREAS the Corporation and Miller Waste entered into a Design-Build Agreement for the Work related to the Design and Construction of the Materials Recovery Facility on the 24th day of March 2010 ("Build-Agreement");

AND WHEREAS the Build-Agreement between the Corporation and Miller Waste does not in any way limit the Work as contemplated in Request for Proposal 08-03 that relates to the Operation of the Materials Recovery Facility;

AND WHEREAS the Corporation and Miller Waste entered into an agreement for Operation of the Materials Recovery Facility effective July 8th 2011 ("Original Operating Agreement");

AND WHEREAS the Corporation and Miller Waste entered into to an Amending Agreement amending the Original Operating Agreement ("Amended Operating Agreement") on August 1, 2014;

AND WHEREAS the Corporation and Miller Waste agreed to extensions of the Amended Operating Agreement for the period of October 30, 2019 to August 30, 2020;

AND WHEREAS the Corporation and Miller Waste have negotiated in good faith to come to terms for continued Operation of the Materials Recovery Facility through this Agreement, which restates and revises the Original Operating Agreement as amended;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants herein contained, the parties hereto covenant and agree, each with the other, as follows:

DEFINITIONS

Capitalized words used and not otherwise defined in this Agreement shall have the meaning given to them in the Request for Proposal 08-03 and the Addenda thereto.

- (a) "Business Day" means any day other than a Saturday, a Sunday or a statutory holiday in the Province of Ontario or any other day which is observed by the Corporation as a Holiday.
- (b) "Commodity Index Prices" means the prices as listed in the Fast Markets (RISI) Pulp and Paper Week monthly publication for the applicable month for

Recoverable Fibre Materials; and shall mean the prices as obtained/realized by a grouping of at least three but no more than five comparable Municipalities, for the applicable month, for Recoverable Container materials. The Corporation at its sole discretion shall determine which Municipalities are used in the grouping. In the event that the Fast markets (RISI) Pulp and Paper Week cease to be published an alternate Recovered Material commodity index for Recoverable Fibre Materials shall be agreed upon as a substitute by the Corporation and Miller Waste.

- (c) “Contract Documents” means those documents identified in Section 1.0.2 of this Agreement.
- (d) “Cross Contamination” means Recyclable Material(s) that are delivered to the Materials Recovery Facility in the incorrect Recyclable Material Processing stream (i.e. Fibres mixed with Containers and Containers mixed with Fibres)
- (e) “Laws” means the common law and any and all laws, statutes, enactments, bylaws, regulations, rules, orders, directives, policies, permits, licenses, codes and rulings of any government, regulatory or administrative authority, agency, commission, utility or board (federal, provincial, municipal or local, domestic or foreign) having jurisdiction or judicial, administrative or arbitral court, authority, tribunal or commission having jurisdiction.
- (f) “Recoverable” means all Recyclable Material(s) excluding Recyclable Material Not Practical to Recover and Cross Contamination in the Residue as determined in accordance with Schedule B.
- (g) “Recyclable Material Not Practical to Recover” means any of the following items:
 - (i) plastic grocery bags and program bags (e.g. clear plastic bags and translucent plastic bags) used to contain recyclables;
 - (ii) glass less than 64mm (2 1/2”) in length and width at its longest/widest points;
 - (iii) Fibres less than 150mm (6”) in length and width at their longest/widest points;
 - (iv) Containers less than 64mm (2 1/2”) in length and width at their longest/widest points;
 - (v) individual materials compounded together (i.e. separate Recyclable Materials that have become entwined/bound together and as a result causes them to act as one physical object);
 - (vi) waxed boxes (e.g. frozen food boxes) or paper;
 - (vii) foil coated boxes (e.g. dishwasher detergent boxes) or paper;
 - (viii) dark coloured or construction paper;
 - (ix) metallic foil wrapping paper; and
 - (x) Containers containing product (i.e. bottles, tubs and jugs that contain at least 10% (by volume of the container) retained product).
- (h) “Residue” means a combination of the following items:
 - (i) Non-Recyclable Material(s);
 - (ii) Recyclable Material that is not Processed into Recovered Material(s);
 - (iii) Recyclable Material Not Practical to Recover; and
 - (iv) Cross Contamination not transferred into the correct Processing stream in accordance with Section 3.0.6.
- (i) “Term” means the Initial Term and any extension periods as may be exercised in accordance with Section 2.0.2.

1.0 SERVICES

- 1.0.1 The Corporation hereby retains Miller Waste to provide Materials Recovery Facility operation and Recovered Materials Marketing services (the “Work”) and Miller Waste agrees to provide the aforementioned services in accordance with the Contract Documents, which are outlined below and shall be deemed to form part of this Agreement.
- 1.0.2 The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. The intention of the Contract Documents is to provide for labour, products, material, equipment and services necessary to perform the Work related to the Operation of a Materials Recovery Facility and the Marketing of Recovered Materials. The following are the Contract Documents, and in case of any inconsistency or conflict between the provisions of the Contract Documents, the provisions of such documents shall take precedence in the following order:
- a) This Agreement
 - b) Amended Operating Agreement (August 2014)
 - c) Original Operating Agreement (2011)
 - d) Addenda to Request for Proposal 08-03 (April 2008)
 - e) Request for Proposal 08-03 (February 2008)
 - f) The Proposal (June 2008)

In the event of ambiguity, reference may be made to the negotiations, and the historical agreements and covenants between the Parties (including the Amended Operating Agreement, and the Original Operating Agreement) to the extent that they may assist to interpret the Party’s respective obligations under the Contract Documents.

2.0 TERM

2.0.1 Initial Term:

The Initial Term of the Contract will be for a period of two (2) years and four (4) months, commencing September 1, 2020 and ending December 31, 2022.

2.0.2 Optional Extensions Renewal:

The City at its absolute sole discretion has the option to extend the Contract for three (3) additional one (1) year periods.

In determining whether to exercise the optional extensions, the City will consider, but not be limited to price, service, quality of work and change of law.

3.0 SCOPE OF SERVICE

3.0.1 Miller Waste agrees to provide Materials Recovery Facility operation and Recovered Fibre and Container Material Marketing services in accordance with the Contract Documents and as outlined below;

3.0.2 Materials to be Processed:

The list of materials to be processed is provided in Schedule A.

The Corporation and Miller Waste agree to negotiate in good faith to address changes (addition or removal of materials) to the list of materials provided in Schedule A as a result of potential changes to the Provincial Blue Box Program Plan.

3.0 SCOPE OF SERVICE...cont'd

3.0.3 Required Recovery Rates:

Required Recovery Rates shall be the following:

- a) 98% of all Recoverable Fibre Materials as determined in accordance with Schedule B on a monthly average basis;
- b) 94% of all Recoverable Container Materials excluding glass materials as determined in accordance with Schedule B on a monthly average basis;
- c) 95% of all Recoverable glass materials as determined in accordance with Schedule B on a monthly average basis.

3.0.4 Recovered Materials Marketing Services:

Miller Waste agrees to provide Recovered Materials Marketing services in accordance with the following:

- a) Miller Waste shall be responsible for performing all the Work associated with Marketing the Recovered Materials which shall include but not be limited to finding and supplying End Markets for the Recovered Materials, arranging for and coordinating of transportation of the Recovered Materials to End Markets;
- b) Notwithstanding clause 3.0.4 a), the Corporation reserves the right at its sole discretion to approve the End Markets for Recovered Materials. In the event the Corporation disapproves of an End Market and/or End Markets for Recovered Materials, the Corporation reserves the right to direct Recovered Materials to End Markets acceptable to the Corporation. Miller Waste shall remain entitled to receive fees for Marketing services in accordance with clause 4.0.2 of this Agreement for all Recovered Materials directed to End Markets by the Corporation provided that if the revenue generated by the sale of the Recovered Materials to the End Markets selected by the Corporation is less than the revenue that would have been generated by the sale of the Recovered Materials to the End Markets identified by Miller Waste, then Miller Waste shall be entitled to fees for Marketing services equivalent to the percentages set out in Section 4.0.2 calculated on the Commodity Index Price of the Recovered Materials and not on generated revenue.

3.0.5 Audit Procedures:

The audit procedures attached as Schedule B to this Agreement shall prevail.

3.0.6 Cross Contamination Received at Materials Recovery Facility:

Cross Contamination received at the Materials Recovery Facility for Processing shall contribute to the establishment of the Non-Recyclable Material level when determining the per-tonne Processing fees in accordance with clause 4.0.1 of this Agreement. This notwithstanding Miller Waste shall make every reasonable effort to transfer the Cross Contamination into the correct Processing stream and once in the correct Processing stream the Cross Contamination shall be subject to the Required Recovery Rates.

3.0.7 Recyclable Material Not Practical to Recover Not Applicable in Determining the Non-Recyclable Material Level or the Required Recovery Rates:

Recyclable Material Not Practical to Recover as determined in accordance with the audit procedures in Schedule B shall not be included in calculating Non-Recyclable Material levels when determining the per-tonne Processing fees payable in accordance with clause 4.0.1 of this Agreement or the determination of whether Miller has met the Required Recovery Rates in accordance with clause 3.0.3 of this Agreement.

3.0 SCOPE OF SERVICE...Cont'd

3.0.8 Odour, Litter and Nuisance

Miller Waste acknowledges that any odour, litter and other nuisance complaints are a matter of serious concern to the Corporation. Miller Waste shall notify the Corporation forthwith in the event of any of the following:

- a) The initiation of any investigation by the Ontario Ministry of Environment, Conservation and Parks (MECP) concerning odours, litter or other nuisance at the Materials Recovery Facility;
- b) Any order or directive received from the MECP with respect to odour, litter or other nuisance at the Materials Recovery Facility;
- c) Any complaint by any third party with respect to the odour, litter or other nuisance from the Materials Recovery Facility.

3.0.9 Occupational Health and Safety

Miller Waste acknowledges that any matter concerning occupational health and safety is of serious concern to the Corporation. Miller Waste shall notify the Corporation forthwith in the event of any of the following:

- a) The initiation of any investigation by the Ontario Ministry of Labour concerning any matter for which it has jurisdiction at the Materials Recovery Facility;
- b) Any order or directive received from the Ontario Ministry of Labour with respect to any matter for which it has jurisdiction at the Materials Recovery Facility;
- c) Any complaint by any third party with respect to occupational health and safety at the Materials Recovery Facility.

3.0.10 Storm Water Management Ponds

Miller Waste shall be responsible for operating and maintaining the storm water management ponds for the Materials Recovery Facility in accordance with all approvals thereof and good operating practice.

3.0.13 Mixed Container Glass Market Specification

In the event, shipped Mixed Container Glass is downgraded or rejected by an End Market solely as a result of contamination by material that is considered in accordance with the audit procedures in Schedule B to be Recyclable Material Not Practical to Recover, Miller Waste shall not be responsible for costs that are directly associated with the downgrade of Mixed Container Glass by an End Market or with the rejection of Mixed Container Glass by an End Market. The aforementioned directly associated costs shall include, reduced revenue from the sale of Mixed Container Glass, and/or haul costs from the original End Market to a new location.

3.0 SCOPE OF SERVICE...Cont'd

3.0.14 Facility Repairs and Maintenance

Miller Waste shall be responsible for all maintenance and repairs required to perform the Work up to a threshold value of \$40,000.00. For clarity, the threshold value is not a deductible; Miller is responsible for the cost of any maintenance or repair occurrence with a total cost less than the threshold value, and the City is responsible for the total cost of each occurrence over the threshold value. The threshold value shall be adjusted annually for inflation on the anniversary of the commencement date of the start of the contract in accordance with the calculation set out in section 5.0.2. Miller Waste acknowledges that maintenance and repair costs that are the responsibility of the Corporation are subject to the Corporation's Procurement of Goods and Services Policy that is subject to change from time to time. Miller Waste shall supply to the Corporation on a quarterly basis state of repair reports for all the equipment, structures and associated appurtenances that are required to perform the Work. The reports shall also include forecasts for when maintenance and repairs will be required to continue to perform the Work.

3.0.15 Promotion and Education Funding

Miller Waste will provide up to \$5,000 per year towards the promotion and education off the Corporation's Blue Box program, which contribution may be monetary or services in kind of equivalent value.

3.0.16 Hefty Energy Bag Pilot Project

Miller Waste shall continue to support the Hefty Energy Bag Pilot Project at no cost until the end of October 2021. In the event the Corporation elects to officially implement a Hefty Energy Bag Program the parties agree to negotiate in good faith to establish a mutually agreeable handling fee.

4.0 PRICING

4.0.1 Materials Recovery Facility Operation Services:

Miller Waste agrees to provide Materials Recovery Facility operation services in accordance with the Contract Documents for the per-tonne Processing fees listed in the pricing sheets attached as Schedule C. Subject to clause 6.0.1 (Changes in Law General) and any other terms of this Agreement, the per-tonne Processing fees listed in the pricing sheets are inclusive of all applicable taxes and charges of any kind, other than the Harmonized Sales Tax.

In addition to the per-tonne Processing fees listed in the pricing sheets attached as Schedule C, Miller Waste shall be entitled to a monthly lump sum payment of \$72,176.08. Subject to clause 6.0.1 (Changes in Law General) and any other terms of this Agreement, the monthly lump sum payment is inclusive of all applicable taxes and charges of any kind, other than the Harmonized Sales Tax.

The parties acknowledge and agree that the Corporation permits Recovered Materials to be contained in plastic grocery bags and program bags.

4.0 PRICING...Cont'd

4.0.2 Recovered Fibre and Container Marketing Services:

Miller Waste agrees to provide Recovered Fibre and Container Marketing services in accordance with the following:

Miller Waste shall receive a Marketing service fee calculated as 10% of net revenue generated from the sale of Recovered Materials.

Subject to clause 6.0.1 (Changes in Law General) the Marketing service fee noted above is inclusive of all applicable taxes and charges of any kind, other than the Harmonized Sales Tax and is interpreted as applying to all Recovered Materials being marketed as F.O.B. from the Materials Recovery Facility.

4.0.3 Air Cyclone Replacement

Miller Waste will remove the existing Air Cyclone and replace it with the equipment in accordance with the terms of the proposal contained in Schedule D

5.0 TERMS & CONDITIONS

5.0.1 Processing Fee Payment:

Miller Waste shall invoice the Corporation on a monthly basis, for Processing fees and Marketing service fees.

5.0.2 Processing Fee Annual CPI Adjustment:

The Processing fees set out in Schedule C and the monthly lump sum payment noted in clause 4.0.1 shall be adjusted annually during the Term based on the percentage change (increase or decrease) in the Consumer Price Index (CPI) for Ontario All-items as published by Statistics Canada for the previous twelve (12) month period ending August of the contract year. The first such adjustment will occur on September 1, 2021.

5.0.3 Marketed Recovered Material Commodity Index Prices:

Miller Waste shall at all times endeavor to market the Recovered Materials for the best possible price. For comparison and monitoring purposes the prices achieved for the Recovered Materials shall be compared to their respective Commodity Index Prices for Recovered Fibre and Recovered Container Materials on a monthly basis. In the event that Miller Waste does not obtain prices for Recovered Materials that are equivalent to or greater than the respective Commodity Index Prices, Miller Waste shall provide, upon request, a written summary to the Corporation outlining the occurrences that have resulted in achieving prices less than the Respective Commodity Index Prices. The written summary shall also include a summary of the measures Miller Waste intends to implement to increase the prices achieved for Recovered Materials such that the prices achieved will be equivalent to or greater than the respective Commodity Index Prices. The Corporation acting reasonably, reserves the right to require Miller Waste to take additional measures than as outlined in the monthly written summaries in the event that the Corporation does not find them to be sufficient.

5.0.4 Disposal of Residue:

Miller Waste may dispose of Residue at the W12A landfill at no charge.

5.0 TERMS & CONDITIONS...cont'd

5.0.5 Disposal of Hazardous Waste

The Corporation shall be responsible for the appropriate and lawful removal and disposal of all Hazardous Waste contained in the loads of Recyclable Materials received at the Materials Recovery Facility for Processing. Miller Waste shall be responsible for segregating the Hazardous Waste from the Recyclable Materials and storing the segregated Hazardous Waste at the Materials Recovery Facility until such time as the Corporation makes the appropriate arrangements for the lawful removal and disposal.

5.0.6 Disposal of Other Solid or Liquid Waste

Miller Waste is responsible for the cost of lawful and appropriate disposal of any other solid or liquid waste materials that result from performing the Work in accordance with the Contract Documents except as noted in Clauses 5.0.4 and 5.0.5.

5.0.7 Additional Customers:

The Corporation reserves the right to enter into contracts with additional customer(s) for Recyclable Material Processing services, and to extend in the aforementioned contracts the per-tonne Processing fees listed in Schedule C, provided that the character and composition of the combined Recyclable Materials from the additional customer(s) and the Recyclable Materials being Processed immediately prior to the addition of the additional customer(s) when considered in aggregate is similar to the character and composition of the Recyclable Materials being Processed immediately prior to the addition of the additional customer(s) Recyclable Materials. In the event that the character and composition of the combined Recyclable Materials when considered in aggregate are different and result in a change in the labour, equipment, material or other costs ("Additional Costs") required to perform the Work in accordance with the Contract Documents from that immediately prior to the addition of the additional customer(s) Recyclable Materials, the Corporation and Miller Waste acting reasonably, shall determine and agree on the Additional Costs required to perform the Work as a result of the change in character and composition from the addition of the additional customer(s) Recyclable Materials and Miller Waste shall be made whole on the costs of same, in addition to any fees that Miller is entitled to receive for processing the Recyclable Materials in accordance with this Agreement. .

5.0.8 Compaction of Recyclable Material

Miller Waste acknowledges that Recyclable Material may be delivered compacted to the Materials Recovery Facility. The Corporation, shall to the best of its ability, limit the compaction of Container Materials delivered to the Materials Recovery Facility to a 2:1 ratio and Fibre Materials delivered to the Materials Recovery Facility to a 2.5:1 ratio. If Recyclable Material is over-compacted beyond the ratios provided herein, Miller Waste shall be compensated for the increased cost of labour arising from the over-compaction, including but not limited to any overtime for the operating personnel or the salaries of any additional operating personnel necessary as a result of the over-compaction; such compensation having been determined by Miller Waste acting reasonably and accepted by the Corporation.

5.0 TERMS & CONDITIONS...cont'd

5.0.9 Services by Miller Waste During Facility Outages Attributed to Negligence

If the Materials Recovery Facility is temporarily unable at any time to receive, Process and handle Recyclable Material beyond its approved storage capacity for reasons attributed to negligence on behalf of Miller Waste, Miller Waste shall offer reasonable temporary material recovery facility processing options at the per-tonne Processing fees in Schedule C which options shall be satisfactory to the Corporation acting reasonably. Such options shall include Miller's other material recovery facilities and other private and public sector material recovery facilities, subject to MECP approval. If such options are not acceptable to the Corporation, the Corporation may use alternative material recovery facilities during such period and so advise Miller Waste. If the Corporation incurs additional haulage and material recovery facility per-tonne Processing fee costs as a result of using the alternative material recovery facilities offered by Miller Waste, such costs shall be to Miller Waste's account, to the extent that the terms concluded by the Corporation are commercially reasonable. If the Corporation incurs additional haulage and material recovery facility per-tonne Processing fee costs as a result of using the alternative material recovery facilities selected by the Corporation having rejected a commercially reasonable alternative offered by Miller Waste, Miller Waste shall be responsible for the costs up to an amount equal to the additional costs that would have been incurred had Miller Waste's alternative been accepted by the Corporation and the remaining balance of the additional costs resulting from the Corporation's alternative shall be the responsibility of the Corporation. For greater certainty, the Corporation's acceptance of temporary alternative material recovery facility services shall be without prejudice to the Corporation's terminative rights pursuant to clause 5.0.13.

5.0.10 Nature of Relationship

- a) The parties acknowledge and agree as follows:
 - i) The relationship of Miller Waste to the Corporation is that of independent contractor;
 - ii) Miller Waste is not an employee or agent of the Corporation; and
 - iii) The Corporation and Miller Waste are not partners or joint venturers with each other.
 - iv) Nothing herein shall be construed so as:
 - (1) To make the Corporation and Miller Waste partners or joint venturers;
 - (2) To make Miller Waste an employee or agent of the Corporation; or
 - (3) To impose any liability as partner, joint venture, employer or employee or principal or agent on the Corporation or Miller Waste.
- b) Without limiting the generality of the foregoing, neither of the parties shall have the authority to act, or to hold itself out, as agent of the other party or to bind the other party to perform any obligations to any third party. Each of the parties shall so inform all third parties with whom it deals in the performance of its obligations under the Contract Documents.

5.0.11 Designated Representatives and Dispute Resolution

Promptly after its execution of the Agreement, and in any case not more than five Business Days thereafter, the Corporation shall give written notice to Miller Waste designating two (2) Corporation representatives, for the purposes of the Agreement.

5.0 TERMS & CONDITIONS...cont'd

Promptly after its execution of the Agreement, and in any case not more than five Business Days thereafter, Miller Waste shall give written notice to the Corporation designating two (2) Miller Waste representatives, for the purposes of the Agreement.

A party may change its representative(s) by giving written notice to the other party of the new representative(s).

If there is any dispute regarding the interpretation, performance, or any alleged breach, of the Agreement, either party may give written notice of the dispute to the other party and at least one Miller Waste representative and at least one Corporation representative shall meet within three Business Days after the notice of dispute is given and shall attempt in good faith, and using reasonable efforts, to resolve the matter equitably to the satisfaction of both parties. If the parties' representatives cannot resolve the dispute within 14 Business Days after they first meet, it shall be referred for arbitration by a single arbitrator appointed and acting under the Arbitration Act, 1991, and the arbitrator shall issue a final decision regarding the dispute within 30 days after his or her appointment, subject to extension of that time by agreement of the parties.

5.0.12 Report on Contractor Performance

In January of each year, and at the end of the Term of this Agreement (whether extended or not), the Corporation will prepare a Contractor Performance Report covering the Work completed in the previous year (or part thereof). The Corporation reserves the right to make the Contractor Performance Report a public document either through submission to a Committee of Council or directly released upon request. Alternatively, or in addition, ongoing contractor performance reports and discussions will occur should issues arise.

5.0.13 Cancellation of the Agreement

Except in the case of a Force Majeure Event (as defined in Section 8.0), the Corporation reserves the right to cancel the Agreement with fourteen (14) Business Days written notice, without penalty or any liability to Miller Waste or its agents, suppliers or subcontractors, in the event of Miller Waste's default under the Contract Documents as determined by the Corporation which default shall include, but not be limited to matters: of insufficient insurance coverage; failure to provide statements; failure to enforce approved standards of sanitation; quality of service remaining unsatisfactory to the Corporation after issuance within ten (10) Business Days of written notice to correct; or failure to operate the Materials Recovery Facility in compliance with all operating approvals for a period of five (5) consecutive days, provided that Miller Waste has not commenced remedial action of the default that is satisfactory to the Corporation within the fourteen (14) Business Day notice period.

5.0.14 Performance Bond

Miller Waste shall be required to submit to the Corporation and maintain and renew on an annual basis, a renewable and irrevocable Performance Bond in a form that is acceptable to the Corporation. The Performance Bond shall be in the amount of 50% of the first year annual operating fee calculated based on the Schedule C Per-Tonne processing fee that is listed under the Received materials column, (row 2,700 to 2,999 tonnes/month) and the Non-Recyclable Material Level Column >8% up to 9% and assuming 36,000 tonnes on an annual basis.

5.0.15 Insurance and Indemnification

Miller Waste shall at its own expense obtain and maintain until the termination of the Agreement, and provide the Corporation with evidence of:

5.0 TERMS & CONDITIONS...cont'd

- a) Comprehensive general liability insurance on an occurrence basis for an amount not less than Ten Million (\$10,000,000.) dollars and shall include the Corporation as an additional insured with respect to the Miller Waste's operations, acts and omissions relating to its obligations under this Agreement and the Contract Documents, such policy to include non-owned automobile liability, personal injury, broad form property damage, contractual liability, owners' and proponent's protective, products and completed operations, contingent employers liability, cross liability and severability of interest clauses;
- b) Automobile liability insurance for an amount not less than two Million (\$2,000,000.) dollars on forms meeting statutory requirements covering all vehicles used in any manner in connection with the performance of the terms of this Agreement and the Contract Documents.
- c) Environmental impairment liability insurance covering the Work and services described in this Agreement and the Contract Documents including coverage for 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 Two Million (\$2,000,000.) dollars and shall remain in force for twelve (12) months following completion of Work.
- e) The policies shown above will not be cancelled or permitted to lapse unless the insurer notifies the Corporation in writing at least thirty (30) days prior to the effective date of cancellation or expiry. The Corporation reserves the right to request such higher limits of insurance or other types of policies appropriate to the Work as the Corporation may reasonably require.
- f) Miller Waste shall not commence Work until such time as evidence of insurance in a form approved by the Corporation from insurers licensed to operate in Canada has been filed with and approved by Risk Management for the Corporation. Miller Waste shall further ensure that evidence of the continuance of said insurance is filed at each policy renewal date for the duration of the Agreement.
- g) Miller Waste shall indemnify and hold the Corporation harmless from and against any liability, loss, claims, demands, costs and expenses, including reasonable legal fees, occasioned wholly or in part by any acts or omissions either in negligence or in nuisance whether wilful or otherwise by Miller Waste, its agents, officers, employees or other persons for whom Miller Waste is legally responsible.

5.0.16 Insurance Coverage to Be Provided by The Corporation

The Corporation shall be responsible for providing the following insurance coverage until the termination of the Agreement.

- a) All Risk Property (including flood and earthquake) on the Material Recovery Facility, equipment and tools.
- b) Broad form boiler and machinery insurance on a blanket repair and replacement basis with the limits for each accident in an amount off at least the replacement cost of the MRF and equipment.

5.0.17 Workplace Safety and Insurance Board

- a) Miller Waste shall furnish a WSIB Clearance Certificate indicating their WSIB firm number, account number and that their account is in good standing. This form must be furnished prior to commencement of Work. Miller Waste further agrees to maintain their WSIB account in good standing throughout the Agreement period.
- b) The Corporation will require Miller Waste to produce a Clearance Certificate from WSIB from time to time during the Agreement on request and/or prior to final payment.

5.0 TERMS & CONDITIONS...cont'd

5.0.18 Assignment

Miller Waste shall not, without written consent of an authorized representative of the Corporation make any assignment or any subcontract for the execution of any service covered under this Agreement.

6.0 COMPLIANCE WITH LAW

6.0.1 Changes in Law General

The parties acknowledge that performance of the obligations required hereunder may be affected by changes in applicable Laws. In the event of a change in applicable Laws that results in a material impact on the performance of any act required by this Agreement and the Contract Documents, including Miller Waste's costs of performing the Work, the Parties shall renegotiate the provisions of this Agreement in good faith to achieve mutually acceptable terms for the performance of acts or payment of fees for Work required hereunder. If the Parties are unable to agree on the revised terms and conditions either Party may submit the dispute to arbitration in accordance with the provisions of the Arbitration Act S.O. 1991, C. 17.

6.0.2 Changes in Law Specific to the Waste Free Ontario Act, 2016 and the Provincial Blue Box Program Plan

The Corporation and Miller Waste acknowledge that Ontario Municipalities are subject to the *Waste-Free Ontario Act, 2016* and Provincial Blue Box Program Plan (BBPP) that are outside the control of the City. Repeal, replacement and/or amendment to the BBPP may change the Work sufficiently to be classified, as determined by the Corporation acting reasonably, as a "Force Majeure" event. The parties hereby further acknowledge and understand that the *Waste-Free Ontario Act, 2016* (WFOA) received Royal Assent in June, 2016 and enacted the *Resource Recovery and Circular Economy Act, 2016* and the *Waste Diversion Transition Act, 2016* and repealed the *Waste Diversion Act, 2002* all of which along with associated regulations, when implemented may alter and/or change the scope of the Work to the extent that such alteration or change may be classified by the Corporation, acting reasonably, as a "Force Majeure" event. In such event the Corporation reserves the exclusive right to a) continue with the contract as written for the remainder of the Term, b) negotiate with Miller Waste to amend the contract and determine the fees payable to the Miller Waste under an amended contract, or c) terminate the contract entirely on 90 days written notice to Miller.

7.0 NOTICE

Any notice or communication required or permitted to be given under the Agreement shall be in writing and served personally, delivered by courier or sent by registered mail, addressed to the other party:

To the Corporation:

The Corporation of the City of London
Attention: Division Manager,
Solid Waste Management
300 Dufferin Ave PO Box 5035
London, ON N6A 4L9

To Miller Waste:

Miller Waste Systems Inc.
8050 Woodbine Avenue
Markham, ON L3R 2N8

Attn: President
With a copy to: General Counsel

8.0 FORCE MAJEURE

Notwithstanding any other provision contained herein, in the event that either party is delayed or prevented from the performance of any act required hereunder by reason of any event beyond the control of the party, including but not limited to decrees of federal or provincial government, fire, flood, earthquake, element of nature, explosion, acts of God, acts of war, terrorism, riots, pandemic, civil or public disorders or disobedience, strikes, lockouts, labour disputes, acts of vandalism, sabotage or other unlawful acts (a "Force Majeure Event") then performance of such act shall be postponed for a period of time equivalent to the time lost by such delay.

8.0.1 COVID-19

Notwithstanding anything in this Agreement to the contrary, the COVID-19 epidemic, any states of emergency or other measures declared or enacted (whether on or prior to or after the date hereof) by any governmental authority, agency, tribunal or commission of any kind in response thereto or as a result thereof, and any other circumstances beyond a party's reasonable control arising out of the COVID-19 pandemic that affect such party's ability to perform its obligations under this Agreement shall be considered an event of Force Majeure notwithstanding that any such circumstance was reasonably foreseeable as at the date of this Agreement or otherwise.

In the event that the Covid-19 impacts either party's ability to perform its obligations under this Agreement, the impacted party will immediately give the other party notice of the impact of Covid-19 on their ability to perform its obligations, and, where appropriate, their proposed solution to mitigate the impacts of same for both parties. Where reasonably possible, the parties shall forthwith enter into negotiations in good faith with a view to agreeing on appropriate adjustments to the Work to mitigate the impacts of Covid-19 on the continuity of the Work ("Covid-19 Changes"), with priority given to protecting the health and safety of employees and the public, as well as consideration for the other business impacts the Covid-19 Changes may have on Miller Waste.

In the event that the parties agree on Covid-19 Changes, the parties shall forthwith enter into negotiations, in good faith, with a view to agreeing on an appropriate adjustment to the Processing Fees payable to Miller to reflect the increase or decrease in costs arising out of the Covid-19 Changes. If the parties have been unable to agree on an appropriate adjustment to the Fees necessitated by the change of Work within 15 days of the commencement of negotiations, either party may refer the matter of the amount of such adjustment, not to exceed the increase or decrease in costs incurred by Miller Waste in relation to Covid-19 Changes, for resolution pursuant to the Dispute Resolution paragraph of the Agreement. As a matter of principle, in the event of Covid-19 Changes or Covid-19 Force Majeure, Miller Waste shall be "made whole" on their fixed costs.

9.0 SEVERABILITY

If any term or provision of this Agreement and the Contract Documents or the application thereof to any person or circumstance shall to any extent or for any reason be invalid or unenforceable, the remainder of this Agreement and the Contract Documents and the application of such term or provision to any person or circumstance other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each remaining term and provision of this Agreement and the Contract Documents shall be valid and enforceable to the fullest extent permitted by law.

10.0 AMENDMENTS

All provisions of this Agreement and the Contract Documents shall remain in effect throughout the term thereof unless the parties agree, in a written document signed by both parties, to amend, add or delete any provision. This Agreement and the Contract Documents contains all agreements of the parties with respect to matters covered herein, superseding any prior agreements and may not be changed other than by an agreement in writing signed by the parties hereto.

11.0 GOVERNING LAW

This Agreement shall be governed by and interpreted in accordance with Ontario law, and shall ensure to and be binding on the parties and their respective successors and assigns.

12.0 ENUREMENT

This Agreement shall enure to the benefit of and be binding upon the parties and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have entered into the Agreement as of the date first signed or the first day of the Term, whichever is sooner.

THE CORPORATION OF THE CITY OF LONDON

By: _____
Ed Holder, Mayor

By: _____
Catharine Saunders, City Clerk

MILLER WASTE SYSTEMS INC.

By: _____
Denis Goulet, (President)
I have the authority to bind the Corporation

SCHEDULE "A"
Materials to be Processed

| Fibre Material | Description |
|-----------------------|---|
| newsprint | includes all newspaper, and inserts, flyers, magazines, catalogues and telephone directories which may be bound with glue or stapled along the spine. |
| mixed household paper | includes envelopes, flyers, printer and writing paper, white and coloured paper, padded paper, letterhead, reports, business forms, copy paper and scratch pads, advertising mail, books, kraft paper, other clean paper packaging and books with hard cover removed. |
| OCC | old corrugated cardboard (OCC) includes any paper board product which consists of a rippled paper insert with paper liners bonded to the outside of the product. |
| boxboard | includes single layer paperboard packaging such as cereal and shoe boxes, including moulded pulp and excluding waxed paperboard, moulded pulped paper (e.g., paper egg cartons), paper cores. |

| Container Material | Description |
|----------------------------------|---|
| aluminium | liquid, food or beverage containers and empty aerosol cans. |
| aluminium foil | includes rigid foil containers (e.g., pie plates). |
| PET (#1) plastic | Polyethylene Terephthalate plastic bottles, jugs and tubs (SPI code 1), liquid, food and beverage containers; rigid clamshell containers, and rigid blister packaging (rigid plastic around toys, hardware products). |
| HDPE (#2) plastic | High Density Polyethylene (SPI code 2) liquid, food and beverage containers; plant pots and trays; up to 10 litres in size. |
| mixed (#3 to #7) plastic | liquid, food and beverage containers; plant pots and trays; up to 10 litres in size, including: P.V.C. SPI code 3 - Plastic Containers / Rigids means clean Polyvinyl chloride food and beverage containers LDPE SPI code 4 - Plastic Containers / Rigids means Low Density Polyethylene plastic food and beverage containers PP SPI code 4 - Plastic Bottles, Jugs & Tubs means clean Polypropylene plastic bottles, jugs and tubs P.S. SPI code 6 Plastic Containers / Rigids means clean polystyrene plastic or foam materials such as those used for cups, plates, food trays and packaging other SPI Code 7 Plastic Containers / Rigids means any layered plastic food or beverage container. |
| oversized (#1 to #7) plastic | Plastic tubs, pails, jugs household containers, including plant pots and trays. |
| mixed glass | Clear and coloured glass bottles & jars including all glass food and beverage bottles and jars. This will include Beer Store and Liquor Control Board of Ontario (L.C.B.O.) glass. |
| polycoated paperboard containers | Containers made primarily of paperboard and coated with low density polyethylene and/or aluminum, and used for food and beverages. Includes Gable Top Containers (e.g., milk and juice containers), Aseptic Containers multi-layered beverage and food box containers, hot and cold beverage cups, ice cream containers and frozen microwave meal containers. |

| Container Material | Description |
|---------------------------|---|
| steel | Liquid, food or beverage containers; empty paint cans; empty aerosol cans; composite (cardboard or spiral wound) cans with a single wrap rigid body involving several layers of materials (including paper, foil and plastics) with at least one steel end (e.g., frozen juice containers). |
| film plastic | Limited to plastic bags used to contain Recyclable Material. |

SCHEDULE “B”
Auditing Protocol for Material Recovery Facility

Overview

1. Miller Waste Systems Limited (“Miller Waste”) will conduct and the City will witness audits on a regular basis to determine the facilities capture rate of recyclables and the overall contamination rate of incoming material.

The City, when conducting a full audit to determine the capture rate of recyclables and contamination rate, will request the audit date giving sufficient notice for Miller Waste to prepare.

The City, when conducting an audit to only determine the capture rate of recyclables, is not required to give any notice to Miller Waste. An audit to determine the capture rate of recyclables only requires an audit of the residue and excludes collecting cross contamination that is normally placed directly into the correct material bunker or processing line (Sections 18 and 19).

2. The audit dates will be chosen during relatively “dry” times so as to not introduce moisture issues.
3. Miller Waste and the City warrant that the Residue samples chosen for the monthly audits shall be accepted as representative, in both nature and composition, of the Residue generated at the Materials Recovery Facility that month.
4. Miller Waste or the City may ask for an additional audit to replace one of the mandatory audits if the percentage of Residue on the audit day(s) or during the collection of the sample is significantly higher or lower than normal. A new audit would likely be required if the difference in the Residue between the audit sample and normal operations is more than 15%. For example, if the Residue rate is typically 8 % and the Residue rate during the audit was 10%, a new audit may be required. Each additional audit will be at the expense of the party that requested the additional audit.
5. The City may conduct additional audits to confirm the composition of the Residue.
6. During normal operations:
 - cross-contamination captured, placed in bins and sent to the tipping floor for reprocessing is weighed (primarily from the pre-sort room)
 - all residue sent for disposal is weighed
 - cross-contamination captured and placed directly into the correct material bunker or processing line is not weighed (primarily from the container and fiber sort rooms)

Residue Audit Objectives

7. Confirm:
 - the Recoverable Fibre Materials Required Recovery Rate of 98% is met;
 - the Recoverable Container Materials Required Recovery Rate of 94% is met;
 - and
 - the Recoverable Glass Materials Required Recovery Rate of 95% is met.
 - See the Agreement for the list of materials making up each of the three (3) material categories identified above.
8. Determine the % Non-Recyclable Material (including Cross-Contamination) and % Recyclable Material Not Practical to Recover level applicable for the month.

Residue Auditing Methodology

Audit Sample Size and Source

9. In the case of Fibres,

- It is assumed 100% of paper fiber products are captured because all paper fibres are negatively sorted into bunkers.
- Non-recyclables will be positively sorted and placed on the residue conveyor
- Cross-contamination (recyclable containers) captured and normally placed directly into the correct material bunker or processing line will be placed into large pails (lined with clear plastic bags). When a pail becomes full, the bag of recyclable containers will be removed from the pail and taken to the audit area for identification and weighing. Spare pails/bags should be available at each positive Residue sort station to minimize disruption to processing.

10. In the case of Mixed Containers,

- Cross-contamination (recyclable fibres) normally captured and placed directly into the correct material bunker or processing line will be placed into large pails (lined with clear plastic bags). When a pail becomes full, the bag of recyclable fibres will be removed from the pail and taken to the audit area for identification and weighing. Spare pails/bags should be available at each positive Residue sort station to minimize disruption to processing.
- Mixed containers are a combination of positive sorted items and negative sorted material.
- It is assumed 100% of glass is captured because glass is negatively sorted into bunkers.
- Residue from the container line, which includes missed recyclables, non-recyclables and cross-contamination that was not captured, is negatively sorted and will accumulate in a dedicated compactor bin.
- The residue compactor bin is to be empty at the start of the audit day. After the audit day is complete, the Residue bin is to be weighed again (the bin is to be tared so that the total Residue sample weight is determined). The contents of the bin are then discharged onto a suitable, clean floor area and, using a loader, a representative sample of the total Residue is isolated for auditing. The size of this representative sample shall be such that the total Residue sample for auditing, including positive sorted items, is approximately 200 kg.

Recyclable Material Not Practical to Recover

11. The following items are considered Recyclable Materials Not Practical to Recover:

- program bags used to contain recyclables (e.g., clear plastic bags, translucent plastic bags and grocery sacs)
- glass less than 64 mm (2 ½") in length and width at its longest/widest points
- fibre products less than 150 mm (6") in length and width at their longest/widest points
- containers less than 64 mm (2 ½") in length and width at their longest/widest points
- individual materials compounded together (i.e., separate recyclable materials that have become entwined/bound together and as a result causes them to act as one physical object)
- waxed boxes (e.g. frozen food boxes) or paper
- foil coated boxes (e.g., dishwasher detergent boxes) or paper
- dark coloured or construction paper
- metallic foil wrapping paper
- Containers containing product (i.e., bottles, tubs and jugs that contain at least 10% (by volume of the container) retained product)

12. Recyclable Material Not Practical to Recover shall not be included in the determination of the % Recyclable or % Non-Recyclable Material each month. The weight of these items is to be included in any throughput calculations.

Determination of Residue Component Weights

13. All weigh scales intended to be used for the audits will be checked prior to the audit to confirm accuracy.
14. Each audit sample will be spread out onto a clean, open floor area at the MRF and separated into the following components:
 - Missed Recyclables (limited to Mixed Containers as any paper fibres are assumed to be cross contamination)
 - Non-Recyclable Material
 - Recyclable Material Not Practical to Recover
 - Cross Contamination (limited to Fibres as any containers are assumed to be missed recyclables)
15. Miller Waste is to provide audit sort staff to sort the Residue into the above components.
16. Each of the above components will be collected in clear plastic bags then weighed (using the 1.5m x 1.5m weigh scale) and recorded directly into an audit details spreadsheet. The clear plastic bags containing materials should be set aside until the audit spreadsheet is confirmed to have correct/accurate entries. The clear plastic bags make for easy identification of materials by those doing spreadsheet weight entries and also easy re-weighing if necessary.
17. With each audit the following information will be recorded into the audit details spreadsheet:
 - the weight of audit sample;
 - the weight of missed Recoverable Containers in the audit sample;
 - the weight of Cross Contamination (Fibers) in the audit sample;
 - the weight of Recyclable Material Not Practical to Recover in the audit sample; and
 - the weight of Non-Recyclable Material in the audit sample.
18. The audit data will be used to determine the weight of missed Recoverable Containers, Cross Contamination (Fibers), RNPR and Non-Recyclable Material in the Residue for the month as follows;
 - Missed Recoverable Containers = (weight of missed Recoverable Containers in the audit sample/ weight of audit sample) X weigh of Residue for the month
 - Cross Contamination (Fibers) = (weight of missed Cross Contamination (Fibers) in the audit sample/ weight of audit sample) X weigh of Residue for the month
 - RMNRP = (weight of RMNRP in the audit sample/ weight of audit sample) X weigh of Residue for the month
 - Non-Recyclable Material = (weight of missed Non-Recyclable Material in the audit sample/ weight of audit sample) X weigh of Residue for the month

Determination of Cross-Contamination Weight Cross-Contamination Captured Placed Directly into the Correct Material Bunker or Processing Line

19. With each audit the following information will be recorded into the audit details spreadsheet:
 - the weight of the container cross-contamination (recyclable containers in the fiber stream) captured and be placed into large pails (lined with clear plastic bags);
 - the weight of the fiber cross-contamination (recyclable fibers in the container stream) captured and be placed into large pails (lined with clear plastic bags);
20. The audit data will be used to determine the weight of cross-contamination captured and placed directly into the correct material bunker or processing line for the month as follows:
 - *Container Cross-contamination Placed Directly into the Correct Material Bunker or Processing Line = (weight of the container cross-contamination during the audit/ weight of material processed during the audit) X Material Processed during the month*

- *Fiber Cross-contamination Placed Directly into the Correct Material Bunker or Processing Line = (weight of the fiber cross-contamination during the audit/ weight of material processed during the audit) X Material Processed during the month*

Determination of Recovery Rates

21. Required Recovery Rates will be assessed based on the recovery rates achieved during the audits only. Each material category's recovery rate achieved will be determined based on the following formula (expressed as a percentage):

- Recovery rate of all fibres = 100%
- Recovery rate of mixed glass = 100%
- Recovery rate of mixed containers (excluding glass) = Quantity of Recovered Material shipped for the month / (Quantity of Recovered Material shipped for the month category + quantity of missed Recoverable Containers for the month)

Determination of % Contamination

22. The % Contamination for the month will be determined based on the following formula (expressed as a percentage):

- (Weight of Non-Recyclable Material in the Residue + Weight of Cross Contamination in the Residue + Weight of Cross-contamination (Fiber and Container) Placed Directly into the Correct Material Bunker or Processing Line + Weight of Cross-contamination Captured and Sent to the Tipping Floor for Reprocessing) / Total Weight of Shipped Material

Reporting

23. Miller Waste is to prepare an Audit Summary Report outlining the audit results with all spreadsheets and other supporting material appended.

**SCHEDULE “C”
Pricing Sheets**

**Pricing Sheet 1: Pre-Cyclone Removal
Eliminating the Request for Proposal Requirement of PET/HDPE Colour Sorting**

| Received Materials | Per Tonne Processing Fees (Excluding HST) | | | | | | | | | | | | |
|----------------------------|---|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|---------------------|----------------------|----------------------|----------------------|----------------------|----------|
| | up to 3% | >3% up to 4% | >4% up to 5% | >5% up to 6% | >6% up to 7% | >7% up to 8% | >8% up to 9% | >9% up to 10% | >10% up to 11% | >11% up to 12% | >12% up to 13% | >13% up to 14% | >14% |
| 2,100 - 2,399 tonnes/month | \$93.60 | \$103.08 | \$106.90 | \$109.48 | \$112.84 | \$116.62 | \$117.88 | \$119.15 | \$120.43 | \$121.73 | \$123.03 | \$124.36 | \$125.69 |
| 2,400 - 2,699 tonnes/month | \$82.31 | \$91.42 | \$94.96 | \$98.60 | \$102.15 | \$107.95 | \$109.12 | \$110.30 | \$111.49 | \$112.70 | \$113.92 | \$115.15 | \$116.39 |
| 2,700 - 2,999 tonnes/month | \$73.76 | \$80.86 | \$84.92 | \$87.81 | \$90.60 | \$94.84 | \$95.88 | \$96.93 | \$97.99 | \$99.07 | \$100.15 | \$101.24 | \$102.34 |
| 3,000 - 3,299 tonnes/month | \$68.41 | \$75.80 | \$79.58 | \$83.20 | \$87.36 | \$91.90 | \$92.91 | \$93.93 | \$94.96 | \$96.00 | \$97.05 | \$98.11 | \$99.19 |
| 3,300 - 3,599 tonnes/month | \$65.26 | \$72.27 | \$76.31 | \$80.23 | \$83.44 | \$88.64 | \$89.62 | \$90.61 | \$91.60 | \$92.61 | \$93.63 | \$94.66 | \$95.70 |
| 3,600 - 3,899 tonnes/month | \$65.14 | \$72.15 | \$75.54 | \$79.90 | \$83.26 | \$88.31 | \$89.28 | \$90.27 | \$91.26 | \$92.27 | \$93.28 | \$94.30 | \$95.34 |
| 3,900 - 4,199 tonnes/month | \$64.19 | \$71.08 | \$74.88 | \$79.90 | \$83.26 | \$88.31 | \$89.28 | \$90.27 | \$91.26 | \$92.27 | \$93.28 | \$94.30 | \$95.34 |
| 4,200 - 4,499 tonnes/month | \$63.24 | \$69.97 | \$74.88 | \$79.90 | \$83.26 | \$88.01 | \$88.98 | \$89.96 | \$90.96 | \$91.96 | \$92.97 | \$93.99 | \$95.02 |
| 4,500 - 4,799 tonnes/month | \$63.24 | \$69.97 | \$74.88 | \$79.90 | \$83.26 | \$88.01 | \$88.98 | \$89.96 | \$90.96 | \$91.96 | \$92.97 | \$93.99 | \$95.02 |
| 4,800 - 5,099 tonnes/month | \$63.03 | \$69.78 | \$74.77 | \$79.46 | \$82.84 | \$87.89 | \$88.86 | \$89.84 | \$90.83 | \$91.83 | \$92.84 | \$93.86 | \$94.89 |
| 5,100 - 5,399 tonnes/month | \$63.03 | \$69.78 | \$74.77 | \$79.46 | \$82.84 | \$87.89 | \$88.86 | \$89.84 | \$90.83 | \$91.83 | \$92.84 | \$93.86 | \$94.89 |
| 5,400 - 5,699 tonnes/month | \$62.99 | \$69.72 | \$74.59 | \$79.22 | \$82.67 | \$87.77 | \$88.74 | \$89.72 | \$90.71 | \$91.71 | \$92.72 | \$93.74 | \$94.77 |
| 5,700 - 5,999 tonnes/month | \$62.73 | \$69.72 | \$74.59 | \$79.22 | \$82.67 | \$87.77 | \$88.74 | \$89.72 | \$90.71 | \$91.71 | \$92.72 | \$93.74 | \$94.77 |
| 6,000 - 6,299 tonnes/month | \$62.55 | \$69.10 | \$74.59 | \$79.04 | \$82.49 | \$85.96 | \$86.91 | \$87.87 | \$88.84 | \$89.82 | \$90.81 | \$91.81 | \$92.82 |

**Pricing Sheet 2: Post-Cyclone Removal
Eliminating the Request for Proposal Requirement of PET/HDPE Colour Sorting**

| Received Materials | Per Tonne Processing Fees (Excluding HST) | | | | | | | | | | | | |
|----------------------------|---|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|---------------------|----------------------|----------------------|----------------------|----------------------|----------|
| | up to 3% | >3% up to 4% | >4% up to 5% | >5% up to 6% | >6% up to 7% | >7% up to 8% | >8% up to 9% | >9% up to 10% | >10% up to 11% | >11% up to 12% | >12% up to 13% | >13% up to 14% | >14% |
| 2,100 - 2,399 tonnes/month | \$90.45 | \$99.93 | \$103.75 | \$106.33 | \$109.69 | \$113.47 | \$114.73 | \$116.00 | \$117.28 | \$118.58 | \$119.88 | \$121.21 | \$122.54 |
| 2,400 - 2,699 tonnes/month | \$79.16 | \$88.27 | \$91.81 | \$95.45 | \$99.00 | \$104.80 | \$105.97 | \$107.15 | \$108.34 | \$109.55 | \$110.77 | \$112.00 | \$113.24 |
| 2,700 - 2,999 tonnes/month | \$70.61 | \$77.71 | \$81.77 | \$84.66 | \$87.45 | \$91.69 | \$92.73 | \$93.78 | \$94.84 | \$95.92 | \$97.00 | \$98.09 | \$99.19 |
| 3,000 - 3,299 tonnes/month | \$65.26 | \$72.65 | \$76.43 | \$80.05 | \$84.21 | \$88.75 | \$89.76 | \$90.78 | \$91.81 | \$92.85 | \$93.90 | \$94.96 | \$96.04 |
| 3,300 - 3,599 tonnes/month | \$62.11 | \$69.12 | \$73.16 | \$77.08 | \$80.29 | \$85.49 | \$86.47 | \$87.46 | \$88.45 | \$89.46 | \$90.48 | \$91.51 | \$92.55 |
| 3,600 - 3,899 tonnes/month | \$61.99 | \$69.00 | \$72.39 | \$76.75 | \$80.11 | \$85.16 | \$86.13 | \$87.12 | \$88.11 | \$89.12 | \$90.13 | \$91.15 | \$92.19 |
| 3,900 - 4,199 tonnes/month | \$61.04 | \$67.93 | \$71.73 | \$76.75 | \$80.11 | \$85.16 | \$86.13 | \$87.12 | \$88.11 | \$89.12 | \$90.13 | \$91.15 | \$92.19 |
| 4,200 - 4,499 tonnes/month | \$60.09 | \$66.82 | \$71.73 | \$76.75 | \$80.11 | \$84.86 | \$85.83 | \$86.81 | \$87.81 | \$88.81 | \$89.82 | \$90.84 | \$91.87 |
| 4,500 - 4,799 tonnes/month | \$60.09 | \$66.82 | \$71.73 | \$76.75 | \$80.11 | \$84.86 | \$85.83 | \$86.81 | \$87.81 | \$88.81 | \$89.82 | \$90.84 | \$91.87 |
| 4,800 - 5,099 tonnes/month | \$59.88 | \$66.63 | \$71.62 | \$76.31 | \$79.69 | \$84.74 | \$85.71 | \$86.69 | \$87.68 | \$88.68 | \$89.69 | \$90.71 | \$91.74 |
| 5,100 - 5,399 tonnes/month | \$59.88 | \$66.63 | \$71.62 | \$76.31 | \$79.69 | \$84.74 | \$85.71 | \$86.69 | \$87.68 | \$88.68 | \$89.69 | \$90.71 | \$91.74 |
| 5,400 - 5,699 tonnes/month | \$59.84 | \$66.57 | \$71.44 | \$76.07 | \$79.52 | \$84.62 | \$85.59 | \$86.57 | \$87.56 | \$88.56 | \$89.57 | \$90.59 | \$91.62 |
| 5,700 - 5,999 tonnes/month | \$59.58 | \$66.57 | \$71.44 | \$76.07 | \$79.52 | \$84.62 | \$85.59 | \$86.57 | \$87.56 | \$88.56 | \$89.57 | \$90.59 | \$91.62 |
| 6,000 - 6,299 tonnes/month | \$59.40 | \$65.95 | \$71.44 | \$75.89 | \$79.34 | \$82.81 | \$83.76 | \$84.72 | \$85.69 | \$86.67 | \$87.66 | \$88.66 | \$89.67 |

SCHEDULE "D"

Miller Waste Proposal Cyclone Retrofit



Please see the attached proposal from Machinex Industries. The Machinex proposal includes a list of equipment to be removed in section 3 (see below as well)

| EQUIPMENT TO BE REMOVED | | | | | | | |
|-------------------------|------------------------------------|-------|----|----|----|------|------|
| ITEM # | DESCRIPTION | MODEL | HP | K | VF | WIDT | LENG |
| S-8 | Fines screen [DS-182L] | | -- | -- | - | -- | -- |
| C-9 | Air sort feeder conveyor [SA-080L] | | -- | -- | - | -- | -- |
| AS-10 | Heavy light separator [SA-080L] | | -- | -- | - | -- | -- |
| PP-11 | Plastic perforator [EP-044L] | | -- | -- | - | -- | -- |
| S-12 | Fines screen [DS-183L] | | -- | -- | - | -- | -- |

The listed equipment will be replaced with the following equipment which is also itemized in section 3 of the Machinex Proposal

| EQUIPMENT LIST - NEW EQUIPMENT | | | | | | | |
|--------------------------------|--|---------------------|----|----|----|------|--------|
| ITEM # | DESCRIPTION | MODEL | HP | K | VF | WIDT | LENG |
| S-9 | Glass breaker screen (New) (DECK #1) | GBS-60 | 5 | -- | X | -- | -- |
| " | Glass breaker screen (New) (DECK #2) | " | 5 | -- | X | -- | -- |
| " | Glass breaker screen (New) (SPEED SHAFT) | " | 5 | -- | X | -- | -- |
| C-10 | Containers transfer conveyor (New) | SLIDER BED | 3 | -- | - | 36" | 13' 4" |
| PP-11 | Plastic perforator (New) (DRUM #1) | MEP-2436-2S | 5 | -- | - | -- | -- |
| " | Plastic perforator (New) (DRUM #2) | " | 5 | -- | - | -- | -- |
| " | Plastic perforator (New) (DRUM #3) | " | 5 | -- | - | -- | -- |
| " | Plastic perforator (New) (DRUM #4) | " | 5 | -- | - | -- | -- |
| S-12 | Fines screen (Motor) | 48" wide X 6 shafts | 5 | -- | X | -- | -- |

Please see the Table of Contents listed on Page 2 of the Machinex Proposal for a complete outline of the Scope of Work

Machinex Proposal = \$579,767.97 plus HST

The proposed upgrades of the City of London's Material Recovery Facility do not take into consideration all costs associated with this retrofit. The additional costs have been itemized below for your consideration. Should you require additional information or justifications regarding this proposal please don't hesitate to contact me at your earliest convenience.

Additional costs

- Sprinkler work = \$3,000.00
- Main electrical = \$3,000.00
- Project management fee @ 10% = \$57,976.80
- Project management fee waived = \$(57,976.80)
- Additional labour and overtime costs pre and post retrofit = \$23,911.60

Total Additional costs = \$29,911.60 plus HST

Total costs associated with this upgrade = \$609,679.57 plus HST

Appendix B Source of Financing