

## Report to Civic Works Committee

**To:** Chair and Members  
Civic Works Committee

**From:** Kelly Scherr, P.Eng., MBA, FEC  
Deputy City Manager, Environment & Infrastructure

**Subject:** Updates: Blue Box Transition

**Date:** April 24, 2023

## Recommendation

That, on the recommendation of the Deputy City Manager, Environment & Infrastructure, the following actions be taken:

- a) the proposed by-law attached as Appendix “A” being “A by-law to delegate authority to the Deputy City Manager, Environment & Infrastructure, or designate, to negotiate, approve and execute agreements with Circular Materials Ontario, a Producer Responsibility Organization(s) registered with the Resource Productivity and Recovery Authority, for Blue Box collection services, use of the EnviroDepots, and for the provision of promotion and education services;” pursuant to the *Resource Recovery and Circular Economy Act, 2016* or any regulations under this Act **BE INTRODUCED** at the Municipal Council meeting to be held on April 25, 2023;
- b) the proposed by-law attached as Appendix “B” being “A by-law to delegate authority to the Deputy City Manager, Environment & Infrastructure, or designate, to negotiate approve and execute agreements for the sale of material recovery facility equipment to Miller Waste Systems Inc.” in order that Blue Box processing services can be provided by Miller Waste Systems to Circular Materials Ontario as part of Blue Box Transition (July 1, 2023 to December 31, 2025) and beyond as per Miller Waste Systems Inc. agreement with Circular Materials Ontario **BE INTRODUCED** at the Municipal Council meeting to be held on April 25, 2023; and
- c) Civic Administration **BE DIRECTED** to report back at a future Civic Works Committee with the outcome of negotiations for a) and b) above.

## Executive Summary

Blue Box transition from the existing shared responsibility model into a producer-led responsibility model, often referred to as ‘full’ or ‘extended producer responsibility’ (EPR) will begin in London and area starting July 1, 2023 along with several other areas of Ontario. City staff and Municipal Council have been very active over the years with respect to moving Blue Box recycling to EPR. The most recent update to Civic Works Committee occurred on January 10, 2023.

Circular Materials Ontario (CMO) is the Producer Responsibility Organization (PRO) responsible for establishing the common collection system for Ontario (e.g., sets the rules and requirements for implementing the common collection system including the choices of how municipalities may or may not be involved, how recyclable materials will be handled, and where they are to be processed before being sent to end markets).

Recent discussions and correspondence with CMO indicate that agreements need to be executed in the month of May to ensure that final steps can occur well before July 1, 2023, not only for the City of London but also within the region as recyclable materials from other municipalities will be directed to London’s regional material recovery facility (MRF) acting as both a Receiving Facility and a Processing (Preconditioning) Facility. Miller Waste Systems (Miller) has been selected by CMO as the operator of the London and area Receiving Facility and a Processing (Preconditioning) Facility.

The actions by the City of London to complete its requirements include:

- Completing negotiations and executing agreements with CMO for Blue Box collection services, use of the EnviroDepots, and for the provision of promotion and education services;
- Selling the MRF equipment to Miller in order that they can meet requirements of CMO for receiving and processing services for today's recyclable materials and equipment modifications and new equipment for additional recyclable materials in the future;
- Leasing the City-owned MRF to Miller (subject of a future report to Corporate Services Committee); and
- Amending the Blue Box collection contracts with Miller to meet the requirements of CMO agreements and terminating the processing contract with Miller when the CMO receiving and processing agreements start July 1, 2023 (subject of a future report to Civic Works Committee).

The delegation of authority to the Deputy City Manager, Environment & Infrastructure to sign an agreement with CMO for Blue Box collection and related services and the sale of MRF equipment to Miller assists with final negotiations and the meeting deadlines.

The implementation of the Blue Box transition will save London taxpayers money. Preliminary estimates suggest that between \$1.5 million and potentially in excess of \$4 million per year in 2026 could be saved. The actual amount will be determined in the final negotiations with CMO and Miller.

## Linkage to the Corporate Strategic Plan

Municipal Council continues to recognize the importance of waste management and the need for a more sustainable and resilient city in the development of its 2019-2023 Strategic Plan for the City of London. Specifically, London's efforts in waste management address the three following areas of focus: Building a Sustainable City; Growing our Economy; and Leading in Public Service.

On April 23, 2019, the following was approved by Municipal Council with respect to climate change:

Therefore, a climate emergency be declared by the City of London for the purposes of naming, framing, and deepening our commitment to protecting our economy, our eco systems, and our community from climate change.

On April 12, 2022, Municipal Council approved the Climate Emergency Action Plan which includes Area of Focus 5, Transforming Consumption and Waste as Part of the Circular Economy.

## Analysis

### 1.0 Background Information

#### 1.1 Previous Reports Related to this Matter

Relevant reports that can be found at [www.london.ca](http://www.london.ca) under Council meetings include:

- Updates: Blue Box Transition and Next Steps (January 10, 2023 meeting of Civic Works Committee (CWC), Item #2.2)
- Updates: Blue Box Transition and Next Steps (June 21, 2022 meeting of CWC, Item #2.4)
- Comments on Environmental Registry of Ontario (ERO): Proposed Blue Box

- Regulation (November 17, 2020 meeting of CWC, Item #2.1)
- Contract for the Operation of the City's Materials Recovery Facility – Single Source (July 14, 2020 meeting of CWC, Item #2.3)
- Response to the Association of Municipalities of Ontario (AMO) Regarding Transition of Recycling (May 26, 2020 meeting of CWC, Item #2.4)
- Operation of the City's Materials Recovery Facility: Next Steps in the Transition to Industry Responsibility for Recycling Services (April 15, 2020 meeting of CWC, Item #2.8)

## 1.2 Background

The *Resource Recovery and Circular Economy Act, 2016* and the *Waste Diversion Transition Act, 2016*, authorize the transition of the financial and operational responsibility for managing designated packaging, paper and packaging-like products from municipalities to the producers of such products and packaging. This transition changes the existing shared responsibility model for the Blue Box Program into a producer-led responsibility model, often referred to as 'full' or 'extended producer responsibility'.

On June 3, 2021, the Province of Ontario adopted Ontario Regulation 391/21: Blue Box, which stipulated the transition timeline and schedule, designated materials, eligible and non-eligible sources, management targets, and detailed the transition of the Blue Box Program to producers. Subsequently, this Regulation was amended with Ontario Regulation 349/22: Blue Box on April 14, 2022.

### Transition Phase

As a municipality transitions its Blue Box Program, the majority of financial and operational responsibility for the end-of-life management of their eligible paper, packaging, and packaging-like materials (e.g., aluminum foil, paper bag, beverage cup, etc.) designated materials will transition to producers. Currently, producers pay approximately 50 per cent of the cost of London's recycling system. In the future this amount will be over 90 per cent of the costs of the existing system.

The City of London and neighbouring municipalities transition on July 1, 2023. During the transition phase, approximately 30 per cent of Ontario municipalities will transition in each of the three transition years.

### Producer Responsibility Organization

CMO is the PRO responsible for establishing the common collection system for Ontario (e.g., sets the rules and requirements for implementing the common collection system including the choices of how municipalities may or may not be involved, how recyclable materials will be to be handled, and where they are to be processed before being sent to end markets).

## 1.3 Summary of Current Municipal Council Direction

City staff and Municipal Council have been very active over the years with respect to moving recycling to a model known as "extended producer responsibility". The most recent information report to CWC was on January 10, 2023 and previous direction by Municipal Council was on July 5, 2022 (Appendix C).

## 2.0 Discussion and Considerations

### 2.1 Collection, EnviroDepots, and Education and Promotion Services

CMO has drafted a Master Services Agreement containing three Statements of Work for the City of London:

1. Blue Box collection services for curbside households and multi-residential units and eligible public space locations;
2. Continued use of the EnviroDepots for residents to drop off Blue Box materials; and
3. The provision of Blue Box promotion and education services.

To complete the negotiations and sign the agreements with CMO in a timely manner, it is recommended that this authority be delegated to the Deputy City Manager, Environment & Infrastructure. A by-law to enact action is provided in Appendix A.

## **2.2 Sale of Material Recovery Facility (MRF) Equipment**

In early 2023, Miller Waste Systems was awarded the Receiving Facility contract as part of London's MRF by CMO. The term of the agreement is for up to 15 years. This means that this City-owned asset will be part of the future recycling system serving London and others in southwestern Ontario rather than becoming a stranded asset within the Blue Box system. CMO is in negotiations with Miller to operate the Processing (Preconditioning) Facility subject to the City signing a lease agreement with Miller.

Selling the MRF equipment to Miller in order that they can meet the requirements of CMO for receiving and processing services for today's recyclable materials and equipment modifications and new equipment for additional recyclable materials in the future is an important step. The equipment is generally described as:

- Conveyor belts, platforms, and related equipment and structures in the tipping floor areas, presort room, container and paper sorting rooms and final materials preparation areas;
- Container processing equipment – magnet, glass breaker, optical sorter, eddy current separator;
- Fibre processing equipment – corrugated cardboard triple deck sorter and newspaper and boxboard screen; and
- 2 weigh scales and 3 balers.

The historical cost of the equipment is \$9.3 million, with the vast majority acquired in 2011. The equipment depreciates each year, has a certain life expectancy, and in some cases, equipment becomes obsolete. The condition of the equipment, based on use, is also part of the consideration of the value of the equipment.

To complete the negotiations and sign the agreement with Miller in a timely manner, it is recommended that this authority be delegated to the Deputy City Manager, Environment & Infrastructure. A by-law to enact action is provided in Appendix B.

## **2.3 Other Actions Prior to July 1, 2023**

Two other major activities are under way and will be subject of other reports:

- Leasing the City-owned MRF to Miller (subject of a future report to Corporate Services Committee); and
- Amending the existing collection contracts with Miller to meet the requirements of CMO agreements and terminating the processing contract with Miller when the CMO agreements start July 1, 2023 (subject of a future report to Civic Works Committee).

## **3.0 Financial Impact/Considerations**

The implementation of the Blue Box transition will save London taxpayers money. Transitioning the costs and operating responsibility of the recycling program away from municipal taxpayers by making the producers of products and packaging responsible for costs will mean savings. Preliminary estimates suggest that between \$1.5 million and potentially in excess of \$4 million per year in 2026 could be saved.

The actual amount saved, both ongoing and one-time, will be determined in the final negotiations with CMO and Miller and how the transition process unfolds (e.g., what happens with existing contracts, how will costs be paid, what conditions will be part of future agreements, how inflations will be handled, what services will be considered ineligible for payment from CMO, how the change to more frequent pickup of Blue Box is paid, etc.).

The July 1, 2023 start date means that additional payments from CMO in 2023 will be about half of a normal year. During the 2023 Annual Budget deliberations, \$1.5 million was added as an additional payment from industry for 2023.

Upon finalization of the agreement, the determination of where the one-time proceeds from the sale of equipment will be identified. Further budgetary impacts (operating and capital) of this transition will be incorporated into the upcoming Multi-Year Budget 2024-2027.

## Conclusion

Based on past reporting to CWC, discussion and direction from Municipal Council, City staff are prepared for the final steps in the Blue Box transition process. The City of London will transition in the first group of municipalities starting July 1, 2023. There are several agreements and one contract amendment required in a short period of time. All actions to be completed are consistent with previous reporting to CWC and Council. The delegation of authority to the Deputy City Manager, Environment & Infrastructure to sign an agreement with CMO for Blue Box collection and related services and the sale of MRF equipment to Miller assists with the meeting deadlines.

**Prepared by:** **Jessica Favalaro, B.Sc.**  
**Manager, Waste Diversion Programs, Waste Management**

**Mike Losee, B.Sc.**  
**Division Manager, Waste Management**

**Prepared and Submitted by:** **Jay Stanford, M.A., M.P.A.**  
**Director, Climate Change, Environment & Waste Management**

**Recommended by:** **Kelly Scherr, P. Eng., MBA, FEC**  
**Deputy City Manager, Environment & Infrastructure**

c Anna Lisa Barbon, Deputy City Manager, Finance Supports  
Barry Card, Deputy City Manager, Legal Services

Appendix A A by-law to delegate authority to the Deputy City Manager, Environment & Infrastructure, or designate, to negotiate, approve and execute agreements with Circular Materials Ontario, a Producer Responsibility Organization(s) registered with the Resource Productivity and Recovery Authority, for Blue Box collection services, use of the EnviroDepots, and for the provision of promotion and education services

Appendix B A by-law to delegate authority to the Deputy City Manager, Environment & Infrastructure, or designate, to negotiate approve and execute agreements for the sale of material recovery facility equipment to Miller Waste Systems Inc.

Appendix C Recent Municipal Council Direction with Respect to Transitioning the Blue Box (Blue Cart) Program

## Appendix “A”

Bill No.  
2023

By-law No. A.-

A by-law to delegate authority to the Deputy City Manager, Environment & Infrastructure, or designate, to negotiate, approve and execute agreements with Circular Materials Ontario, a Producer Responsibility Organization(s) registered with the Resource Productivity and Recovery Authority, for Blue Box collection services, use of the EnviroDepots, and for the provision of promotion and education services;

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* 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(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting, among other things: accountability and transparency of the municipality and its operations; economic, social and environmental well-being of the municipality; and financial management of the municipality;

AND WHEREAS sections 9 and 10 and 23.1 through 23.5 of the *Municipal Act, 2001* authorize a municipality to delegate its powers and duties under this or any other Act to a person or body;

AND WHEREAS subsection 23.(1) of the *Municipal Act, 2001* provides that, subject to the limitations found in sections 23.2 and 23.3 of the *Municipal Act, 2001*, S.O. 2001, c. 25, a municipality may delegate its powers and duties to a person or body;

AND WHEREAS the Province of Ontario passed the *Resource Recovery and Circular Economy Act, 2016* and the *Waste Diversion Transition Act, 2016*, authorizing the transition of the financial and operational responsibility for managing designated packaging, paper and packaging-like products from municipalities to the producers of such products and packaging;

AND WHEREAS the Province of Ontario adopted Ontario Regulation 391/21: Blue Box, amended by Ontario Regulation 349/22, stipulating the transition timeline and schedule, designated materials, eligible and non-eligible sources, management targets, and detailed the transition of the Blue Box Program to producers;

AND WHEREAS the Resource Productivity and Recovery Authority is the regulator mandated by the Province of Ontario to enforce the province’s circular economy laws;

AND WHEREAS a producer responsibility organization, (“PRO”), is a business established to contract with producers to provide collection, management and administrative services to help producers meet their regulatory obligations under

the Blue Box Regulation, including; arranging, establishing or operating a collection or management system; arranging, establishing or operating promotion and education system; preparing and submitting reports; and representing a producer for any purpose under the regulation;

AND WHEREAS Circular Materials is a national producer-led not for profit organization that supports producers in meeting their obligations under extended producer responsibility regulations across Canada and is the administrator of the common collection system in Ontario for Blue Box Material, as the term is defined in O.Reg 391/21 (“Blue Box Materials”);

AND WHEREAS Circular Materials Ontario has issued an offer to The Corporation of the City of London in connection with the collection of Blue Box Materials and related services;

AND WHEREAS Council delegates any authority pursuant to this by-law in accordance with Schedule “G” of By-law No. A.-6151-17 “Council Policy By-law,” as amended from time to time;

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

1. The Deputy City Manager, Environment & Infrastructure, or designate, is hereby delegated the power to negotiate and approve new service agreements and amend existing service agreements with Circular Materials Ontario, and/or their designate, including any related Statements of Work, in connection with the collection of Blue Box Materials and related services.
2. The Deputy City Manager, Environment & Infrastructure, or designate, is authorized to execute the service agreements approved pursuant to the authority delegated to them under section 1 of this by-law.
3. The authority of the Deputy City Manager, Environment & Infrastructure, or designate, to act under section 1 of this by-law, is subject to the following:
  - i. such actions and agreements are consistent with the current Blue Box collection contract approved by Municipal Council on August 27, 2019 and the current Blue Box processing contract approved by Municipal Council on July 21, 2020;
  - ii. such actions and agreements shall be for the purposes of facilitating an orderly transition of the City’s recycling operations in a manner consistent with O. Reg. 391/21, as amended;
  - iii. such actions and agreements are acceptable to the Deputy City Manager, Finance Supports;
  - iv. such agreements are in a form satisfactory to the Deputy City Manager, Legal Services;
  - v. such actions and agreements do not require additional funding or are provided for in the City’s current budget;
  - vi. such actions or agreements do not contain any financial arrangement, guarantee, indemnity or similar commitment that would increase, directly or indirectly, the indebtedness or contingent liabilities of The Corporation of the City of London; and
  - vii. such actions are consistent with the City’s Procurement of Goods and Services Policy.
4. The powers delegated in section 1 above may be exercised by both the delegate and the municipality.
5. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on April 25, 2023

Josh Morgan  
Mayor

Michael Schulthess  
City Clerk

First Reading – April 25, 2023  
Second Reading – April 25, 2023  
Third Reading – April 25, 2023

## Appendix “B”

Bill No.  
2023

By-law No. A.-

A by-law to delegate authority to the Deputy City Manager, Environment & Infrastructure, or designate, to negotiate approve and execute agreements for the sale of material recovery facility equipment to Miller Waste Systems Inc.

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* 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(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting, among other things: accountability and transparency of the municipality and its operations; economic, social and environmental well-being of the municipality; and financial management of the municipality;

AND WHEREAS the Province of Ontario passed the *Resource Recovery and Circular Economy Act, 2016* and the *Waste Diversion Transition Act, 2016*, authorizing the transition of the financial and operational responsibility for managing designated packaging, paper and packaging-like products from municipalities to the producers of such products and packaging;

AND WHEREAS, in early 2023, Miller Waste Systems Inc. (“Miller”) was awarded the Receiving Facility contract as part of the City of London’s Material Recovery Facility and is negotiating to operate the Processing (Preconditioning) Facility;

AND WHEREAS, Miller has expressed an interest in purchasing the City-owned equipment used to operate the London Material Recovery Facility for the purpose of complying with the Receiving Facility and Processing (Preconditioning) Facility agreements;

AND WHEREAS Council delegates any authority pursuant to this by-law in accordance with Schedule “G” of By-law No. A.-6151-17 “Council Policy By-law,” as amended from time to time;

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

1. The Deputy City Manager, Environment & Infrastructure, or designate, is hereby delegated the power to negotiate and approve agreements for the sale of all or part of the City-owned equipment used to operate the City’s Material Recovery Facility to Miller Waste Systems Inc.;
2. The Deputy City Manager, Environment & Infrastructure, or designate, is authorized to execute any agreements approved pursuant to the authority delegated under section 1 of this by-law;

3. The authority of the Deputy City Manager, Environment & Infrastructure to act under section 1 of this by-law, is subject to the following:
  - i. such actions and agreements are acceptable to the Deputy City Manager, Finance Supports;
  - ii. such agreements are in a form satisfactory to the Deputy City Manager, Legal Services;
  - iii. such actions and agreements do not require additional funding or are provided for in the City's current budget; and
  - iv. such actions or agreements do not contain any financial arrangement, guarantee, indemnity or similar commitment that would increase, directly or indirectly, the indebtedness or contingent liabilities of The Corporation of the City of London.
4. The powers delegated in section 1 above may be exercised by both the delegate and the municipality.
5. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on April 25, 2023

Josh Morgan  
Mayor

Michael Schulthess

City Clerk

First Reading – April 25, 2023  
Second Reading – April 25, 2023  
Third Reading – April 25, 2023

## APPENDIX C

### Recent Municipal Council Direction with Respect to Transitioning the Blue Box (Blue Cart) Program

#### Council direction July 5, 2022

- a) the proposed by-law attached as Appendix “A” being “A by-law to authorize the Deputy City Manager, Environment & Infrastructure to respond to requests for proposals, negotiate and enter into any new service agreements or amending existing City of London service agreements with any Producer Responsibility Organization(s) (“PRO”) registered with the Resource Productivity Recovery Authority, and/or their designate”, **BE INTRODUCED** at the Municipal Council meeting to be held on July 5, 2022.
- b) Civic Administration **BE DIRECTED** to report back at a future Civic Works Committee with the outcome of negotiations and any executed contract(s) that occur with registered Producer Responsibility Organizations and/or their designate pursuant to a) above;
- c) the Deputy City Manager, Environment & Infrastructure and/or designate **BE DIRECTED** to enter into discussions with the Producer Responsibility Organization responsible for London and area and/or their designate, on their potential interest in using any of the City of London’s recycling related infrastructure and assets in particular the City-owned Material Recovery Facility during the transition phase (July 1, 2023 to December 31, 2025) and post-transition phase (2026 and beyond) for operational efficiency purposes, economic opportunities, job creation opportunities, and how costs associated with existing capital and new capital investment would be paid, leased and/or shared; and
- d) Civic Administration **BE DIRECTED** to report back at a future Civic Works Committee with the next steps for City of London’s Blue Box related infrastructure and assets in particular the City-owned Material Recovery pursuant to c) above.

#### Council direction June 2, 2022

That on the recommendation of the Managing Director, Environmental & Engineering Services and City Engineer, the following actions **BE TAKEN** with respect to a request by the Association of Municipalities of Ontario (AMO) for details on recycling transition:

- a) The Mayor **BE AUTHORIZED** to advise the Ontario Ministry of the Environment, Conservation and Parks (MECP) and the Association of Municipalities of Ontario (AMO) that the Corporation of the City of London would like to:
  - i. transition the collection of recyclables to full producer responsibility on January 1, 2023, and;
  - ii. examine opportunities of working with producers (industry) during the transition period (e.g., fee for services basis for recycling such as administration, education and awareness, contract management, monitoring and compliance);

It being noted that the Mayor has previously been authorized to advise MECP and AMO that the transition of processing and marketing of recyclables to full producer responsibility could occur on January 1, 2023.

- b) Staff **BE DIRECTED** to undertake the following actions as part of the transition process:
  - i. continue to take an active role in the development of the regulatory environment and implementation plans of the transition process through the Municipal 3Rs Collaborative (M3RCs) which is comprised of the AMO, Regional Public Works Commissioners of Ontario, Municipal Waste Association and the City of Toronto;

- ii. ensure that producers (industry) are aware that an existing competitively awarded contract to collect recyclables is currently in place in London, and that opportunities to use the existing contractor (Miller Waste Systems) with mutually agreeable transition contract terms should be considered from January 1, 2023 to December 21, 2025, it being noted that this would further benefit London taxpayers as early contract termination fees could be reduced;
- iii. ensure that the producers' plan to transition residents, Municipal Elected Officials and City staff to the new system is accountable and transparent and also includes separate contingency plans developed by the City, and;
- iv. ensure that producers are aware that opportunities to increase waste diversion, maximize resource recovery and optimize recycling system operations can be examined through the London Waste to Resources Innovation Centre and its business and academic collaborators for the benefit of all in Ontario and elsewhere.