



**CITY OF HAMILTON**  
**PUBLIC WORKS DEPARTMENT**  
*Environmental Services Division*

<b>TO:</b>	Chair and Members Public Works Committee
<b>COMMITTEE DATE:</b>	February 22, 2018
<b>SUBJECT/REPORT NO:</b>	Waste Management System Development – Waste Processing Contracts (PW16059c) (City Wide) (Outstanding Business List Item)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Raffaella Morello, (905) 546-2424, Extension 3926
<b>SUBMITTED BY:</b>	Craig Murdoch, B. Sc. Director, Environmental Services Division Public Works Department
<b>SIGNATURE:</b>	

**Discussion of Appendix B in closed session is subject to the following requirements of the City of Hamilton’s Procedural By-law and the *Ontario Municipal Act, 2001*, as amended:**

- ◆ a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- ◆ a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

**RECOMMENDATION**

- (a) That staff continue to negotiate the extension of Contract C11-74-02 between Canada Fibers Ltd. and the City of Hamilton for the operation and maintenance of the City of Hamilton’s Materials Recycling Facility beyond the current expiry date of March 31, 2020, and, if successful, will report back to Council by the end of the first half of 2018 on the outcome of the negotiations including the recommended length of the extension;
- (b) That in the event staff are unable to negotiate an extension for Contract C11-74-02 as outlined in recommendation (a), that staff investigate the procurement

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requirements for the operation and maintenance of the City of Hamilton's Materials Recycling Facility or, alternatively, investigate processing capacity at an external materials recycling facility for the City's recyclable materials for a period of 1 to 2 years;

- (c) That Contract C11-105-03 between Maple Reinders Constructors Ltd. and the City of Hamilton for the operation and maintenance of the City of Hamilton's Central Composting Facility be extended for a one-year term from January 1, 2021 to December 31, 2021, with an optional one-year extension, in accordance with the contract provisions included in Appendix A and Appendix B attached to Report PW16059c;
- (d) That the Mayor and City Clerk be authorized and directed to execute all necessary documents to implement recommendation (c) with content acceptable to the General Manager of Public Works and in a form acceptable to the City Solicitor;
- (e) That Appendix "B" to Report PW16059c, respecting the Waste Management System Development – Waste Processing Contracts, remain confidential; and
- (f) That the Resource Recovery and Circular Economy Act from Public Works Report 17-002, Item (f)(i), be removed from the Public Works Committee's Outstanding Business List.

## **EXECUTIVE SUMMARY**

This report provides information related to the City of Hamilton's Central Composting Facility and Material Recycling Facility operational contracts, and to address the Public Works Committee's request for information on opportunities to delay, defer, or reduce capital investments for waste management projects which may be impacted by provincial legislative changes through the Waste-Free Ontario Act, 2016 (WFOA).

### **Waste Processing Contracts**

On April 26, 2017, Council approved Item 1 of the Public Works Committee Report 17-006 regarding Report PW16059b – Waste Management System Development. Report PW16059b provided direction to staff to enter into negotiations to extend the existing contracts for the operation of the Materials Recycling Facility (MRF) and the Central Composting Facility (CCF) due to uncertainty concerning the WFOA. Staff was directed to report back to Council on the outcome of the negotiations and the recommended length of the extension. The recommended actions include the following:

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- That staff continue the negotiations with Canada Fibers Ltd. concerning the contract terms and length of the extension for the operation of the Materials Recycling Facility Contract C11-74-02.
- That the Central Composting Facility Contract C11-105-03 with Maple Reinders Constructors Ltd., be extended for a fixed term of one year beyond the current expiration date of December 31, 2020 to December 31, 2021, at the agreed upon processing rate. The City may exercise its right to extend the contract for up to one additional year.

Appendix A attached to Report PW16059c includes additional information on the results from the contract negotiations with Maple Reinders Constructors Ltd. The main items that have been addressed through the contract negotiations include the revised operating costs, length of the extension, amendments to the revenue sharing arrangement for the finished compost produced at the CCF, and a revised residue allowance for the inbound compost materials. All other terms and conditions of the existing contract remain the same except general updating of standard contract conditions and removal of any outdated references as a result of the negotiated contract extension.

Staff and Canada Fibers Ltd. have not reached an agreement for the continued operation of the Materials Recycling Facility. Negotiations are currently on hold since the City and Canada Fibers Ltd have not reached a decision on the impact of the Minimum Wage legislation related to the operating costs for the Materials Recycling Facility in 2018 and 2019. Staff and Canada Fibers Ltd. will continue to review the contract terms. In the event the negotiations are successful, staff will report back to Council by the end of the first half of 2018 on the results of the negotiations including the recommended length of the extension. In the event the negotiations are not successful, the City will need to initiate the procurement process in early 2018 for the short-term operation and maintenance of the City's Materials Recycling Facility or to source recycling processing capacity for the City's recyclable materials at an external materials recycling facility.

#### Capital Impacts from the Waste-Free Ontario Act, 2016

At the Public Works Committee meeting held on February 13, 2017, staff was directed to provide information on the waste management capital projects which may be delayed, deferred or cancelled due to potential provincial legislative changes associated with the WFOA.

Out of the capital investments, \$200K from the 2019 capital budget (Account 5121994929) for an alternative disposal facility review can be cancelled. In addition, staff will provide Council further information by the end of the first half of 2018 on the

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potential deferral of the MRF lifecycle replacement (Account 5121751700) which is planned for 2021. Until it is known what the impacts of the WFOA are, staff are unable to determine additional capital deferrals or reductions for waste management projects. This report addresses the question concerning the WFOA's capital implications to date; therefore, Item (Q) can be removed from the Public Works Committee's Outstanding Business List.

***Alternatives for Consideration – See Page 10***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: The City's 2017 operating budget for the MRF operations is approximately \$3M. The financial impacts of the MRF operations starting in 2021 will be determined through the upcoming procurement process. From a high-level review of recently awarded municipal waste management contracts, there is a general trend towards escalating prices which may be the result of the uncertain legislative impacts associated with the WFOA.

The City's 2017 operating budget for the CCF operations is approximately \$1.9M. The contract extension for the CCF will result in a 9.2% higher cost which will increase the operating cost by approximately \$170K starting on January 1, 2021. Additional information is provided in Appendix "B" to Report PW16059c.

Staffing: The existing staff complement is being used to manage the coordination of the 2020 waste management system strategy including waste contract procurement process and contract negotiations, as directed.

Legal: Legal Services has been consulted throughout the contract negotiations for the waste management contracts. An amending agreement in a form acceptable to the City Solicitor will be prepared for execution by the Mayor and City Clerk, pending Council's approval of the contract extension for the operation and maintenance of the CCF.

**HISTORICAL BACKGROUND**

**2020 Waste Management System**

The City's contracts for waste processing, transfer, and disposal will expire in and around the year 2020, therefore the City needs to determine the requirements for the future waste management system. Information on the 2020 waste management system development has been provided to Council through several reports including PW16059, PW16059a, and PW16059b. On April 26, 2017, Council approved Report PW16059b,

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which provided direction to staff to negotiate an extension for the existing contracts to operate the City's Materials Recycling Facility and Central Composting Facility as these are the facilities most impacted by the WFOA. Staff was directed to report back to Council by the second half of 2017 on the outcome of the negotiations. Since May 2017, staff has been involved in negotiations with the City's waste processing contractors for the contract extensions.

Report PW16059b also approved the initiation of the competitive procurement process for several contracts including the operation of the City's Transfer Stations, Community Recycling Centres, and the Glanbrook Landfill, and the extension of the contracts for the Household Hazard Waste depot operations, and waste collection services until 2021 which are permitted extensions under the current contracts. Work is underway to prepare and issue the Request for Proposal document for the waste transfer and disposal contracts.

#### Impacts from the Waste-Free Ontario Act, 2016

The Ontario Legislature proclaimed the WFOA on November 30, 2016. The WFOA's objective is to create a 'circular economy' with zero waste where resources are reused/recovered back into the economy. The WFOA will create significant changes on how waste diversion programs are operated within the Province.

The WFOA will have operational implications for the City's waste management system, in particular, the operation of the City's MRF, CCF, and recycling collection services. There will be lesser impact on other contracts including the operation of the Transfer Stations/Community Recycling Centres, Glanbrook Landfill, and waste collection operations for organic waste, yard waste, garbage, and bulk waste. No impact from the WFOA is expected for the City's contracts for weigh-scale house operations, and Reuse Centre operations.

In 2016 and 2017, staff prepared multiple reports, Information Updates, and presentations to keep staff, Council, and the community informed of the WFOA's progress, including potential considerations for Hamilton's waste management system. The Public Works Committee at its meeting held on February 13, 2017 directed staff to provide information on the following:

- Staff to provide an outline of capital investments for waste improvement projects which may need to be delayed or deferred due to provincial legislative changes, considering as well, the impact of provincial decisions on the City's contractual obligations with its service providers (Public Works Committee Outstanding Business List - Item Q).

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Staff reviewed the costs for the City's upcoming waste improvement projects which may be impacted by the provincial legislative changes associated with the WFOA. Table 1 in the "Analysis and Rationale for Recommendation" section identifies the projects which may be cancelled or deferred.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Solid Waste Management Master Plan (SWMMP)

The waste management contract operations play an essential part of the City's SWMMP's guiding principles and recommendations, including:

- The City of Hamilton must lead and encourage the changes necessary to adopt the principle of Waste Reduction; and
- The Glanbrook Landfill is a valuable resource. The City of Hamilton must minimize residual waste and optimize the use of the City's diversion and disposal facilities.

In addition to the above, the City's SWMMP supports the Provincial Government's legislative changes to ensure producers are responsible for their waste products and packaging. SWMMP Recommendation #2 indicates that, "The City of Hamilton will continue to lobby for Extended Producer Responsibility (EPR) to encourage manufacturers and retailers to take responsibility for waste they are generating and minimize waste and impacts on the City's integrated waste management system."

**RELEVANT CONSULTATION**

Throughout the development of the 2020 waste management system planning process, staff consulted with the City's Waste Management Advisory Committee and Public Works Committee members. Additionally, consultation will continue with the Procurement Section, Legal Services Division, and Finance and Administration Section concerning the procurement process and contract negotiations.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The information and recommendations outlined in this report have City wide implications related to the City's waste management service contracts and provincial legislative changes which have an impact on the City's waste management operations.

Waste Processing Contracts Overview

The City has eight contracts for waste related services which will expire in and around the year 2020. Work is in progress to prepare the requirements for the City's future waste management system. Several factors including public opinion, resource needs,

waste diversion opportunities, and regulatory changes are being considered as part of the development of the new waste management system.

#### Materials Recycling Facility Operations

Canada Fibers Ltd. has operated the City's MRF since April 1, 2003. Their initial contract ended on March 31, 2013, and through Public Works Committee Report 11-014, Council approved the current seven-year contract which expires on March 31, 2020. Canada Fibers Ltd.'s contract includes the operation and maintenance of the MRF along with marketing the City's recyclable materials which are processed at the MRF. As part of the City's initial contract, Canada Fibers Ltd. installed and owns the fibres processing equipment, balers, and rolling stock at the MRF.

After the approval of Report PW16059b in April 2017, staff and Canada Fibers Ltd. representatives began negotiation of a potential contract extension. Staff and Canada Fibers Ltd. have not been able to achieve consensus on the requirements for the contract extension. As a result, the negotiations are currently on hold until there is further clarification on the City's position concerning the Minimum Wage legislation and its impacts on the MRF contract. Pending the outcome of this decision, staff will provide further information to Council by the end of the first half of 2018 concerning the potential contract extension.

#### Central Composting Facility Operations

Maple Reinders Constructors Ltd., ("MRCL") and their sub-contractor, AIM Environmental Group ("AIM"), have been involved with the design, construction, and operation of the City's CCF since 2004. The CCF's design and construction contract began in January 2004 and the operations and maintenance agreement contract began on December 21, 2005, and expires on December 31, 2020.

Staff and MRCL/AIM's representatives were able to achieve consensus on the requirements for the CCF contract extension. The contract discussions included the review of length of the contract term, operating requirements, and cost implications. The contract extension has been negotiated to one year, with one optional one-year extension at the City's discretion. The main items negotiated as part of the contract extension include the following:

- AIM will be responsible for the operation, maintenance, and replacement of any equipment under the same terms and conditions within the current contract.
- AIM will continue to be responsible for marketing the compost materials produced at the CCF however they shall receive all revenues from the sale of the finished compost.
- The agreement shall be revised to reflect a new increased allowable residue rate for inbound compost materials.

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- As of January 1, 2021, the total per tonne processing rate paid to MRCL will be increased by 9.2% in comparison to the current contract ending on December 31, 2020. The escalation factor for the annual operating cost will be revised to reflect a new blended rate which includes the following:
  - Consumer Price Index for Canada, which typically accounts for labour adjustment(s);
  - Industrial Price Index for Ontario Material handling equipment, to account for the industrial equipment cost adjustment(s); and
  - Consumer Price Index for Ontario to account for energy cost adjustment(s).

The negotiated processing cost starting on January 1, 2021 is approximately 9.2% higher than the current operating rate at the end of December 2020. This increase is attributed to several factors which include the following:

- An amended escalation rate - The escalation factor and Consumer Price Index used for the existing CCF contract is based on the cost for natural gas, which was the standard used in the early 2000s when the facility was initially developed. The revised Consumer Price Index is based on a combination of hydro, water, fuel, and natural gas which is a better reflection of the energy requirements for the current facility operations. Using the revised escalation factor and Consumer Price Indices would provide greater fairness for the City's operator in comparison with the previous standard.
- Revised allowable residue rate – The City has an allowable residue rate of 5% for inbound materials in the current contract. As part of negotiations, it was agreed that the City's allowable residue rate would be revised to 7% considering that compostable bags are now allowed in the City's organics collection program. The City made this change to the program in 2006 after MRCL/AIM bid on the contract in 2004. Allowing the compostable bags has caused higher contamination rates for the inbound materials.
- Processing rate – The current per tonne processing rate was negotiated in 2003 and 2004 as part of the original Operations and Maintenance agreement. At the time, composting facility technologies in Ontario were beginning to develop and there were different compost quality standards. Composting processing requirements have become more stringent since that time, which now requires greater emphasis on meeting revised provincial compost quality guidelines. This has resulted in increased costs to meet the revised compost quality standards. Increasing the per tonne processing rate will compensate the operator for increased equipment maintenance costs due to the advanced age of the CCF's processing equipment which will be 15 years old when the original contract is set to expire.
- Revenue from the sale of finished compost – In the current contract, the net revenues from the sale of finished compost is shared between the Contractor and the City. Through the negotiation process the City has agreed that all revenues will

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be retained by the Contractor. Over the past three years the City has received approximately \$14,000 from the net sale of finished compost annually.

The negotiated processing cost brings the contractor’s increases in line with the City’s annual municipal tax increase over the past 10 years. Although the negotiated processing cost reflects an increase to the current processing rate, it remains significantly lower compared to the processing costs from other similar composting facilities in Ontario. Additional information is provided in Appendix “B” to Report PW16059c.

**Impacts from the Waste-Free Ontario Act, 2016**

The WFOA will significantly change how recyclables, organics, and residential waste are managed in Ontario. Over the next few years, the Ontario Government will be introducing strategies and regulations to transition the Province’s existing waste diversion programs to a new producer responsibility system. In 2017, the Ontario Government has taken several steps towards implementing various components of the WFOA. These activities include preliminary requirements to transition the used tires collection program in the Province, issuing the draft food and organic waste framework, and the draft Blue Box Transition Plan.

Table 1 summarizes the capital projects which are planned for the City’s waste management system. Information on possible projects which may be delayed, deferred or cancelled is outlined in the table.

Table 1 – Waste Management Capital Projects		
Project & Summary	Project ID & Value	Preferred Recommendation
Alternative Disposal Facility: consideration of alternative disposal technologies in accordance with SWMMP Recommendation #6	5121994929  \$200K (2019)	Project funding can be cancelled.
MRF Lifecycle Replacement: funding to update/replace the MRF	5121751700  \$0.15 Million (2020) \$3 Million (2021)	Staff shall report back to Council by the end of the first half of 2018 to provide further information if this project should be deferred. Potential deferral is subject to receiving further information from the Ontario Government concerning the Province’s amended Blue Box Plan.

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Table 1 – Waste Management Capital Projects		
Project & Summary	Project ID & Value	Preferred Recommendation
CCF Lifecycle Replacement: funding for building/equipment repairs/ lifecycle replacement	5122049003 \$1.2 Million (2020)	No changes are proposed since the provincial legislative changes will require increased organics diversion in the future.

Staff will continue to participate in stakeholder sessions and submit comments to the Province on the policies and regulations related to the WFOA. Additional information will be provided to Council once further details are shared by the Ontario Government. It is anticipated that further information will be available on the Blue Box Transition Plan in early 2018. A report will be provided to Council by the end of the first half of 2018 with an update on the WFOA, including impacts on the City's waste management operations.

### **ALTERNATIVES FOR CONSIDERATION**

In the event that the extension for the CCF operations contract is not approved in Report PW16059c, an alternative would be to initiate the procurement process for the short-term operation and maintenance of the CCF. There may be financial implications in the event higher operating costs are received through the procurement process.

In the event that the negotiations are unsuccessful for the MRF operations, there are two processing options available for the City's MRF: (1) the City may obtain a short-term vendor for the operation and maintenance of the City's MRF, or (2) the City may obtain processing capacity at an external materials recycling facility to process the City's recyclable materials. The procurement document could be structured to allow vendors to submit a bid on either processing option. The proposed contract length would be short term, i.e. one-year, with an optional one-year extension, in the event that the City may need to amend its recycling processing requirements in response to provincial legislative changes.

### **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

#### **Clean and Green**

*Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.*

#### **Built Environment and Infrastructure**

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**APPENDICES AND SCHEDULES ATTACHED**

Appendix A - Central Composting Facility Contract Extension Negotiations

Appendix B to Report PW16059c – Confidential – Distributed under separate cover

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