



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Environmental Services Division

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	February 5, 2020
SUBJECT/REPORT NO:	Award of Request for Proposals C11-12-19, Operations and Maintenance of the Material Recycling Facility (PW19086(a)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Catherine McCausland (905) 546-2424 Ext. 4203
SUBMITTED BY:	Craig Murdoch Director, Environmental Services Public Works Department
SIGNATURE:	

Discussion of Private & Confidential Appendices “A” and “B” to Report PW19086 (a) would be pursuant to the City's Procedural By-law 18-270, and Section 239(2), Sub-section (f) (i) of the *Ontario Municipal Act, 2001*, as amended, as the subject matter pertains to advice that is subject to solicitor-client privilege, including communications necessary for that purpose, and commercial and financial information supplied in confidence to the municipality 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.

RECOMMENDATION

- (a) That Project B, Request for Proposals Contract C11-12-19 for the Operation and Maintenance of the City of Hamilton’s Material Recycling Facility and Transfer, Processing and Marketing of Fibre Materials off-site, be selected as the preferred option for the operation and maintenance of the City of Hamilton’s Material Recycling Facility;
- (b) That GFL Environmental Inc. be selected as the successful proponent for Project B, Request for Proposals Contract C11-12-19, for the operation and maintenance of the City of Hamilton’s Material Recycling Facility;

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

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- (c) That the one-time transition cost for Project B of approximately \$431,000 be funded from Waste Management Recycling Program Reserve Account #112270;
- (d) That Appendix “A” to Report PW19086(a) remain confidential as it contains proprietary and sensitive competitive financial information of GFL Environmental Inc., which was provided to the City of Hamilton in confidence, to identify potential cost savings within the framework of Project B as well as legal advice subject to solicitor-client privilege;
- (e) That Appendix “B” to Report PW19086(a) remain confidential as it contains advice that is subject to solicitor client privilege on the alternatives outlined in this appendix.
- (f) That the General Manager of Public Works be authorized and directed to finalize the terms and conditions of the contract between the City of Hamilton and GFL Environmental Inc. for the Operation and Maintenance of the City of Hamilton’s Material Recycling Facility and Transfer, Processing and Marketing of Fibre Materials off-site, in accordance with the provisions of Request for Proposals Contract C11-12-19 for Project B; and,
- (g) That the Mayor and City Clerk be authorized and directed to execute the contract with GFL Environmental Inc. for the Operation and Maintenance of the City of Hamilton’s Material Recycling Facility and Transfer, Processing and Marketing of Fibre Materials off-site, and any ancillary documents for Contract C11-12-19 for Project B, with content acceptable to the General Manager of Public Works and in a form acceptable to the City Solicitor.

EXECUTIVE SUMMARY

Report PW19086 recommended award of Request for Proposals Contract C11-12-19 for the operations and maintenance of the City of Hamilton’s (City) Material Recycling Facility (MRF). The only compliant bid received by the City would result in an annual cost increase of approximately \$2.697M, which is greater than the available budget. Procurement Policy #5.4 – Request for Proposals (RFP), provides staff the authority to negotiate with vendors where the bid being recommended is greater than the budgeted funds provided that it does not alter the general requirements of the RFP. This report outlines potential savings that have been negotiated by staff with the preferred proponent to lower annual costs.

Alternatives for Consideration – See Page 6

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The current annual processing cost for the MRF is approximately \$2.898M. The RFP bid submission for the new multi-year contract starting on March 30, 2020 has an annual cost of approximately \$5.595M, an increase of approximately \$2.697M over the current costs.

Through negotiations, City staff have been successful in lowering annual costs. Approximately \$370,000 has been reduced from the 2020 operating budget as well as reductions in net annual contract costs by approximately \$884,000 from 2021 to 2026 which results in approximately \$5.674 million in savings over the life of the contract. A breakdown of the annual savings can be found in the confidential List of Negotiations Items attached to Report PW19086(a) as confidential “Appendix A”.

Staffing: N/A

Legal: Legal Services staff will be involved in the contract preparation and execution of the agreement with GFL Environmental Inc. (GFL) and have reviewed the recommendations in this report.

HISTORICAL BACKGROUND

Report PW19086 recommended awarding Project B for the operations and maintenance of the MRF which included the following provisions;

- Both recycling streams are delivered to the MRF
- Container materials are processed on site
- Fibre materials are shipped to an alternate processing location
- The City is responsible for marketing the container materials and will keep 100% of the revenue generated
- The Contractor will be responsible for marketing the fibre material and reimburse the City based on a predetermined formula
- The provision for a transition period where container materials will be shipped off site to allow for the installation of new equipment

The recommended proponent submitted a bid which was over the budgeted amount for this Contract. Due to increasing budget pressures, Council directed staff to enter into discussions with GFL to lower the annual operating costs. These discussions have resulted in cost savings being negotiated by the parties. Both the City and GFL agree that the negotiated changes do not alter the general nature of the requirements described in the RFP.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The City's Procurement Policy was adopted by Council By-law 17-064 and establishes the City's policies around procurement to ensure an open and competitive bidding process so that the best value is obtained.

Policy #5.4 provides staff the authority to negotiate with vendors where the bid being recommended is greater than the budgeted funds. This Policy states: "Where the Bid being recommended for award is in excess of the budgeted funds, the General Manager of the Client Department in consultation with the Manager of Procurement may enter into negotiations with the vendor submitting that Bid, provided that it is agreed by both the City and the vendor that the changes required to achieve an acceptable bid will not alter the general nature of the requirement described in the RFP."

Section 7. (1) of Ontario Regulation 101/94 under the Environmental Protection Act states: "A local municipality that has a population of at least 5,000 shall establish, operate and maintain a blue box waste management system if the municipality is served by a waste management system owned by or operated by or for the municipality that collects municipal waste or accepts such waste from the public at a waste disposal site".

The development of the contract for the operation and maintenance of the MRF supports the City's Solid Waste Management Master Plan guiding principles:

- 1) The City of Hamilton must maintain responsibility for the residual wastes generated within its boundaries.
- 2) 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.
- 3) The City of Hamilton must lead and encourage the changes necessary to adopt the principles of waste minimization.

RELEVANT CONSULTATION

The recommendations in Report PW19086(a) were prepared in consultation with staff from the Corporate Services Department including: Financial Services and Taxation Division (Procurement Section) and Legal and Risk Management Services Division (Legal Services Section).

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ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

Due to the results from Request for Proposal C11-12-19 being over the budgeted amount, Council directed staff to enter into discussions with GFL to identify potential savings within the framework of Project B. The discussions began in December 2019. Staff were provided with sensitive, confidential proprietary and competitive financial information from GFL which facilitated the development of cost saving opportunities as outlined in confidential Appendix “A” to Report PW19086(a). The City has confirmed with GFL that the information provided to the City is confidential and proprietary and that a release of same would negatively impact GFL’s ability to be competitive in the industry. The Municipal Freedom of Information and Protection of Privacy Act, R.S.O.1990, c M.56 provides that disclosure shall be refused where commercial, financial or other information is supplied in confidence and where disclosure could reasonably be expected to prejudice significantly the competitive position or interfere significantly with contractual or other negotiations of an organization. Releasing this information would negatively impact GFL and its ability to be competitive and could expose the City to litigation. Through negotiations, staff were able to successfully lower the annual net costs of the MRF recycling program by approximately \$884,000 per year. All costs have been reviewed and verified by a third-party consultant.

Table 1 below outlines changes to the contract that result in reductions in the bid price submitted by GFL or result in increased revenues paid to the City:

Table 1

	Original Position	Negotiated Position	Benefits
1*	Transition period to allow for the installation of new equipment which results in the off-site transfer and processing of 5,000 metric tonnes of containers	Transition period to allow for the installation of new equipment which results in the off-site transfer and processing of 1,933 metric tonnes of containers	Reduction in year 1 capital transition costs
2	GFL was not given the option to process merchant material at the City’s facility	GFL permitted to source and process merchant material at no processing fee and will share revenues generated by this material	Provides a new source of revenue for the City
3	GFL to process and market all paper materials as a 56 Grade (high quality)	GFL to process and market all paper materials as a 54 Grade (lower quality)	Reduces market risk for the contractor and lowers processing costs for the City

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4	The City is responsible for marketing 100% of the container material through a third-party broker and retain the revenue	GFL will market 100% of the container material and share the revenue with the City	Reduces market risk for GFL and lowers processing costs for the City
5	Contract term set at five (5) years with two (2), one (1) year extensions	Contract term set at seven (7) years with agreed to exit clauses	Reduces processing costs for the City by amortizing Contractor Capital investment over a longer period

*This cost to be funded from Capital

ALTERNATIVES FOR CONSIDERATION

Alternatives for consideration can be found in confidential “Appendix B” attached to Report PW19086(a).

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

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

APPENDICES AND SCHEDULES ATTACHED

Confidential Appendix “A” to Report PW19086(a) - List of Negotiated Items
 Confidential Appendix “B” to Report PW19086(a) – Solicitor Client Advice on Alternatives