SUBJECT: Follow-up Report on Materials Recycling Facility (MRF) Container Line Acquisition - (PW07092a) - (City Wide) Public Works Committee Outstanding Business List

RECOMMENDATION:

(a) That Canada Fibers Ltd. (CFL) be retained to design, install and operate a new, City owned, minimum seven (7) tonnes per hour container processing line located at the City’s Materials Recycling Facility (MRF) at a cost not to exceed $2.7 million (excluding taxes);

(b) That Contract C11-74-02 for the Operations and Maintenance of a Materials Recycling Facility with Canada Fibers Ltd. be amended in accordance with the provisions set out in Appendix A to Report PW07092a;

(c) That the Mayor and City Clerk be authorized and directed to execute all necessary documents to implement recommendations (a) and (b) with content acceptable to the General Manager of Public Works and in a form acceptable to the City Solicitor;

(d) That the item relating to the Materials Recycling Facility be removed from the Public Works Committee Outstanding Business List.

Scott Stewart, C.E.T.
General Manager
Public Works Department

EXECUTIVE SUMMARY:

On June 27, 2007, Council approved Report PW07092 - “Materials Recycling Facility Container Line Acquisition Options”. This report directed the General Manager of Public Works to negotiate with Canada Fibers Ltd. for:
The design, installation and operation of a new, City owned container processing line located at the City’s Materials Recycling Facility;

An additional two (2) years, three (3) months beyond the current contract terms which provide for up to five (5), one (1) year extensions (total of up to eight [8] years) beyond 2005 to 2013 for the operation of the City’s Materials Recycling Facility.

Staff was to report back to Council by September 12, 2007 on the outcome of negotiations.

Staff have concluded the negotiations with Canada Fibers Ltd., the results of which are attached as Appendix A. Staff are recommending that Council issue a purchase order to Canada Fibers Ltd. for the design, supply and installation of a new, City funded, minimum seven (7) tonne per hour container processing line, authorize the extension of Contract C11-74-02 for a fixed period from January 1, 2008 to March 30, 2013 and amend Contract C11-74-02 to reflect this report. Canada Fibers Ltd. has made substantial investment in improvements at the MRF since they began the contract in March 2003 and the City’s investment in purchasing a new container line not only will have long term cost benefits to the City but will continue to display a strong commitment of partnership between the City and Canada Fibers Ltd. With Council approval of the recommended term extension, Canada Fibers Ltd. have stated that such an arrangement will give them a comfort level whereby they can continue to discuss with staff future improvements to the facility that may arise so as to maximize efficiency and revenues as well as reduce costs.

Earlier this year the consulting firm of GENIVAR Ontario Inc. (formerly MacViro Consulting Inc.) provided report “Recycling Processing Options and Implications” and estimated costs of $2.7 million +/- 25% to replace the existing container processing line. Through negotiations with Canada Fibers Ltd., staff have negotiated a maximum total cost for the new container line of $2.7 million including all contingency, design and installation costs but excluding applicable taxes. With Council approval of the recommendations contained in this report, staff will proceed to have a peer review conducted of Canada Fibers Ltd.’s container line design and associated costs as well as have project management services provided during installation of the equipment by a City selected consultant in accordance with the City’s Purchasing Policy. This peer review and the associated project management services during installation will ensure that Canada Fibers Ltd is supplying and installing state of the art equipment at a fair market price to the City.

One issue that Canada Fibers Ltd. has requested be considered is that in the event that there are substantial glass tonnage reductions as a result of the Provincial LCBO Glass Deposit/Return Program, that adjustments for loss of revenue be considered by the City. Canada Fibers Ltd. and City staff have agreed to delay making any decision on this issue until such time as data can be provided to confirm program impact on glass tonnage. This issue will be reviewed early in 2008 based on 2007 recycling program performance.

Staff has also been in discussions with representatives from Stewardship Ontario on opportunities that may exist with a regionalized MRF in Hamilton. Replacement of the container line will now provide the ability to seek opportunities to sell off excess processing capacity and bring in additional revenues to the City.
Given that options to change the waste collection system are to be reviewed for potential implementation in April 2013, it was essential that processing capabilities be optimized until that time. With the investments made by both the City and Canada Fibers Ltd. since the beginning of Contract C11-74-02 and now with the pending approval for replacement of the container line, the City can be assured of maintaining a high quality processing operation for the processing of its recyclable materials. The extension of the contract with Canada Fibers Ltd. also aligns the MRF processing contract with the collection contracts enabling the City to consider a full range of options for 2013.

**BACKGROUND:**

The information and recommendations provided in this report have City wide implications.

Canada Fibers Ltd. have been the City’s Recycling processing contractor operating the City’s MRF located at 1579 Burlington Street East since March 31, 2003. The original contract length was to December 31, 2005 with allowance for three (3) one (1) year extensions to December 31, 2008. On August 10, 2005, Council approved an amendment of Contract C11-74-02 (Operations and Maintenance of a Materials Recycling Facility) with Canada Fibers Ltd. for the operation of the MRF for an additional two (2), one (1) year contract extensions for 2009 and 2010.

On April 24, 2007, Council approved maintaining a two (2) steam recycling collection system until 2013 at which time all waste collection contracts will become aligned and it is anticipated that a new contract will begin as a result of a competitive procurement process. As noted in the City staff report to Committee and Council at that time, the continuation with this two (2) stream recycling collection system meant that the existing Materials Recycling Facility would continue to be used with an upgrade to the container line. This upgrade was identified by staff to be necessary for the facility to operate to 2013 as the existing line needs this upgrade to handle the volume of materials being processed and to avoid materials ending up as residual waste and going to landfill.

On June 27, 2007 Council also directed the General Manager of Public Works to negotiate with Canada Fibers Ltd. for the design, installation and operation of a new, City owned container processing line.

**ANALYSIS/RATIONALE:**

On June 27, 2007 as a result of a previous decision by Council to maintain the existing two (2) stream recycling collection system, Council also directed the General Manager of Public Works to negotiate with Canada Fibers Ltd. for an additional two (2) years, three (3) months beyond the current contract terms which provide for up to five (5), one (1) year extensions (total of up to eight [8] years) beyond 2005 to 2013. City staff have negotiated the key terms and conditions set out in Appendix A to this report and are recommending a fixed contract term from January 1, 2008 to March 30, 2013 rather than individual one (1) year extensions. Canada Fibers Ltd. requested this fixed term arrangement as they felt it unreasonable for the City to expect them to design and install a new container processing line using Canada Fibers Ltd. technology, under an arrangement with only one (1) year contract extensions for the operation of the line.
Under the contract with the City, Canada Fibers Ltd.’s compensation is based on outbound tonnage of recyclable material processed. It is to Canada Fibers Ltd.’s benefit to maximize capture of recyclable materials delivered to the MRF as well as to ensure high quality of these delivered commodities so as to maximize their revenues and reduce penalties by end market consumers.

City staff consider Canada Fibers Ltd. a responsible contractor and one who has demonstrated its willingness to work with the City as shown with the supply and installation of a fibre processing line and two (2) balers in 2005 as well as the supply and installation of a McCloskey screen in 2006 at Canada Fibers Ltd.’s sole cost. Having Canada Fibers Ltd. provide the work associated with replacement of the existing container processing line allows them to coordinate these works around their present processing operation. With the amount of recyclable materials that are delivered daily to this facility, it is essential that the materials continue to be processed, baled and transported on a daily basis. Failure to do so would result in substantial disruption to the City’s recycling program. Negotiating an arrangement with Canada Fibers Ltd. for the replacement of the existing container processing line will provide the City with the least amount of disruption during the transition phase between the installation of the new line and the removal of the old line. Pending approval of Council, Canada Fibers Ltd. estimate that it will take approximately six (6) months to design and have equipment manufactured and approximately two (2) months for the equipment to be installed at the MRF. Prior to the equipment being manufactured, the City’s consultant will conduct a peer review of the line design and ensure that the City will be receiving a high quality, state of the art container processing line and that the cost of the line is fair and reasonable. This peer review is expected to take approximately two (2) weeks.

In addition, Canada Fibers Ltd. also owns the fibre processing line located in the centre area of the facility as well as two (2) balers and the McCloskey screen referred to above. This equipment is critical to the recycling processing operations at the MRF. Were the City to not negotiate an acceptable arrangement with Canada Fibers Ltd. and choose to acquire a new processing contractor, the equipment owned by Canada Fibers Ltd. would need to be removed prior to alternate equipment being installed. This would provide a number of challenges and decisions as removal and replacement of equipment would likely take approximately eight (8) months during which time alternate arrangements would be required to transport Hamilton’s recyclable materials to another processing facility. It is estimated that a cost of $67,000 per month over an eight (8) month period could be expected to load, transport and process Hamilton’s material during this transition period. Typically the City’s processing operation generates revenue of approximately $260,000 per month. This represents a net loss of approximately $327,000 per month were the City to choose to acquire another processing contractor. A decision would further have to be made by the City whether to purchase, lease, lease to own or pay a contractor on a per tonne basis for the acquisition/use of new or second hand processing equipment for both the container and fibre processing lines as well as the two (2) balers until March 30, 2013.

The current cost for processing with Canada Fibers Ltd. continues to be one of the lowest amongst municipalities in Ontario. The recommendations contained in this report will maintain these processing costs, other than the annual escalation adjustments, until 2013. Should the City choose to issue a new procurement process
for the provision of a recycling processing service for the period from late 2008/early 2009 to March 2013, there would be a risk of higher prices being submitted.

In consideration of the direction given to Staff by Council on June 27, 2007, City staff and Canada Fibers Ltd. have negotiated the additional contract provisions set out in Appendix A, subject to Council approval. The contract would otherwise operate under the same terms as the existing arrangement with Canada Fibers Ltd. The changes are summarized below:

- Canada Fibers Ltd. will design, deliver and install and operate a new, City owned, minimum seven (7) tonne per hour container processing line at a cost not to exceed $2.7 million exclusive of applicable taxes.
- The City will be the owner of the container processing line at all times.
- Manual hand sort will be compensated at the “Hand Sort” rate, and equipment sorting which includes optical sorting equipment and/or any other method of sorting other than manual hand sorting, will be compensated at the “Equipment Sort” rate all as set out in Schedule “C” of the Contract.
- With the replacement of the old container processing line and resulting increased capture of recyclable commodities, the residue calculations will be reduced from the allowable contamination rate of 4% over and above the Collected Contamination Rate, to 3%.
- The City will continue to pay utility costs for the operation of the MRF however it is expected that there will be a significant overall decrease in utility costs as a result of the MRF retrofit building improvements presently underway at the facility. Presently the entire building has been heated during winter months as the building has been on a “wet” fire prevention water system and could not be allowed to freeze. The renovations will have a dry fire prevention system whereby freezing will no longer be an issue and only office areas will be heated in addition to localized heating above the sorting lines. Utility reductions in excess of $200,000 annually are expected.
- Amend the present contract from optional one (1) year extensions up to December 31, 2010 to a fixed term extension of January 1, 2008 to March 30, 2013.
- Consideration in 2008 of the request from Canada Fibers Ltd. to negotiate a compensation method in the event that the Provincial LCBO Bottle Deposit/Return Program substantially reduces the glass tonnage in the Hamilton recycling program. This issue will be reviewed early in 2008 based on 2007 recycling program performance.

**ALTERNATIVES FOR CONSIDERATION:**

As identified in Report PW07092 approved by Council on June 27, 2007, in the event that staff were unable to negotiate an agreement with Canada Fibers Ltd. or if Council chooses not to approve the recommendations in this report, there remains several options that could be considered. These options are as follows:

**Option 1:** *Undertake preliminary design, issue and award Request for Proposals (RFP) for detailed design and installation. Operations considered separately through contract negotiations with CFL. City finances and owns the container line.*
With this option the City assumes responsibility for equipment performance. The significant advantage of having Canada Fibers Ltd. design and supply the container line is they become totally responsible for the quality of the commodities processed. It is typical for municipalities to acquire processing equipment under a design, build, operate arrangement similar to what staff are recommending in this report. Were the City to acquire the services for the detailed design of a container processing line by any firm other than Canada Fibers Ltd., it could be expected that Canada Fibers Ltd. would blame any inability for them not being able to achieve the set targets, on the processing line that was provided to them by the City. Further, were this option to be selected there would be delays in the installation of the container equipment resulting in lower revenues.

Option 2: Direct negotiations with a MRF equipment supplier to undertake design and installation. Operations considered separately through contract negotiations with CFL. City finances and owns the container line.

The same reasoning for not choosing Option 1 above can be applied for Option 2.

Option 3: City negotiates extension of its current operating agreement with CFL that includes CFL assuming responsibility for the design, installation and operation of the new container line. CFL finances and owns the container line.

The primary disadvantage of this option is cost. Due to the short term of the contract (2013), the new container line is a short-term investment with only limited value to Canada Fibers Ltd. The City would be paying Canada Fibers Ltd. for their cost of financing the line and for a profit margin with the full cost of the line recovered by Canada Fibers Ltd. over the five (5) year period with Canada Fibers Ltd. benefiting from any residual value of the equipment when the line is no longer needed in 2013.

An option not presented in Report PW07092 is the City could choose not to replace the existing line. This option is not recommended as if chosen the City should plan on continuous breakdowns, increased capital replacement costs on parts, loss revenues and the likelihood of a stressed relationship with Canada Fibers Ltd. until the end of the contract in 2013. Further the same stressed relationship should be expected between National Waste Services Inc., the new recycling collection contractor, and both Canada Fibers Ltd. and the City, resulting from receiving delays in the event that Canada Fibers Ltd. is unable to process materials due to breakdowns.

Should the present agreement with Canada Fibers Ltd. not be extended, the City would be required to issue a Request for Proposals for the operation of processing equipment from 2011-2013. This will increase costs to the City for both operating and capital as outlined in the Analysis/Rationale section of this report.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

**Financial**

The expenditure of $2.7 million recommended in this report was previously approved by Council on April 24, 2007 and is to be funded from Account #5120594527 (Report PW07057/FCS07052).

There will be no operating price adjustment from the present contract as a result of the re-negotiated terms however as stated in the Executive Summary, Canada Fibers Ltd.
has requested that in 2008, the City consider whether to compensate Canada Fibers Ltd. for any loss of revenues associated with glass tonnage should it be determined that a significant reduction in glass tonnages result from the LCBO Glass Deposit/Return program.

**Staffing**

The recommendations contained in this report will have no impact on City staffing levels.

**Legal**

Legal Services has been consulted during the preparation of this report. Pending approval from Council an amending agreement will be prepared for execution by the Mayor and City Clerk.

**POLICIES AFFECTING PROPOSAL:**

The proposal is affected by the Solid Waste Management Master Plan and more particularly relates to Recommendations 2, 4, 12 and 15.

Recommendation #2 - “The Glanbrook landfill is a valuable resource, and the City of Hamilton must optimize the use of its disposal capacity to ensure that there is a disposal site for Hamilton’s residual materials that cannot be otherwise diverted.”

The recycling program is a key component of reducing waste going to landfill and optimizing the capacity at Glanbrook. It is essential that the City has sorting equipment that maximizes the capture of acceptable materials and reduces residue going to landfill.

Recommendation #4 - “The City of Hamilton must develop a waste management system that contains the following waste diversion components:

- State-of-the-art Materials Recycling Facility (MRF) to divert conventional “dry” recyclable materials
- A centralized composting facility capable of managing household organic and leaf and yard wastes
- Community Recycling and Reuse Centres”

On April 25, 2007, Council approved a recommendation whereby the City’s recycling program would continue to consist of a two (2) stream processing and collection system. The present container processing line is in need of replacement in order to continue to provide efficient and reliable processing service. Also the Public Works Strategic Plan “Processes” vision driver encourages smart processes to match our needs as well as the “Finances” vision driver which encourages sound financial management for the long haul. With the Council decision to maintain a two stream recycling program, the replacement of the existing container line is the proper decision to ensure the continued and efficient processing of the City’s recyclable materials.

Recommendation #12 - “The City should seek opportunities to share waste diversion (recycling or organics) facilities with neighbouring municipalities.”
In order for the City to consider processing materials from other municipalities, it is essential that processing equipment capable of functioning for longer periods of time each day and maximizing material capture be part of the processing operation.

Recommendation #15 - “The City of Hamilton should enter any Public-Private partnerships with caution. If pursued, the City should ensure it retains sufficient control and financial protection, to allow the City to continue to deliver the service should the private partner be unable of unwilling to fulfil its obligations.”

Any contract with Canada Fibers Ltd. for the design, build and operation of City processing equipment will be structured so as to provide protection to the City against risk associated with non-performance by the contractor.

RELEVANT CONSULTATION:
Legal Services, Financial Services and the Solid Waste Management Master Plan Steering Committee were consulted for input during the preparation of this report and the recommendations contained in this report are acceptable from each of their perspectives.

CITY STRATEGIC COMMITMENT:
By evaluating the “Triple Bottom Line”, (community, environment, and economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced.  ☑ Yes  ☐ No
There would be no impact on the residents however ensuring reliable, efficient processing equipment is acquired and maintained at the City's processing facilities, will provide uninterrupted service of the City's recycling program.

Environmental Well-Being is enhanced.  ☑ Yes  ☐ No
Waste is reduced and recycled. The reduction and diversion of waste contributes to environmental well-being.

Economic Well-Being is enhanced.  ☑ Yes  ☐ No
The acquirement of a replacement recycling container line will provide value for the financial commitment.

Does the option you are recommending create value across all three bottom lines?  ☑ Yes  ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants?  ☐ Yes  ☑ No
Container Line Acquisition and
Materials Recycling Facility Operations

Additional Contract Provisions - Contract C11-74-02

Negotiated provisions as agreed to by Canada Fibers Ltd. (Canada Fibers) and the City of Hamilton (City):

Canada Fibers agrees to:

1) Design, deliver, install and operate a new, City owned, minimum seven (7) tonne per hour container processing line to be located in the easterly area of the MRF at a cost not to exceed $2.7 million inclusive of all design, installation and contingency costs but exclusive of applicable taxes. The City will be the owner of the container processing line at all times. Canada Fibers agrees to a peer review being conducted on its design and costs by a City appointed consultant and agrees to discuss a resolution to any issues resulting from this peer review to the satisfaction of both Canada Fibers and the City. Insurance and utility costs will be borne by the City. Maintenance costs will be as set out in the present Contract. Manual hand sort will be compensated at the “Hand Sort” rate, and equipment sorting which includes optical sorting equipment and/or any other method of sorting other than manual hand sorting, will be compensated at the “Equipment Sort” rate as set out in the existing Schedule “C” of the Contract.

2) A reduction in the allowable contamination rate of 4% over and above the Collected Contamination Rate to 3% as a result of the replacement of the existing container processing line. The provisions would come into effect once the container line is operational.

3) An amendment to Schedule “D” of the existing Contract to clarify that all calculations of fibre payments from Canada Fibers to the City will be made on the basis of metric tonnes.

The City agrees to:

1) Pay to Canada Fibers the cost associated with the design, delivery and installation of a new, minimum seven (7) tonne per hour container processing line at an upset limit of $2.7 million dollars, inclusive of all design, installation and contingency costs but exclusive of applicable taxes.

2) Continue to pay utility costs for the operation of the MRF.

3) Amend the present contract from optional one-year extensions up to December 31, 2010 to a fixed term extension from January 1, 2008 to March 30, 2013.

4) Consider in 2008 the request from Canada Fibers for compensation in the event that the Provincial LCBO Bottle Deposit/Return Program substantially reduces the glass tonnage in the Hamilton Recycling Program.

The above provisions will be reflected in amendments to the Contract that are acceptable to both the City and Canada Fibers. All other terms and conditions of the present Contract would remain unchanged for the extended term to March 30, 2013.