SUBJECT: National Waste Services Inc. - Compensation Adjustment
(PW08010) - (City Wide)

RECOMMENDATION:

(a) That the City of Hamilton (“City”) enter into an amendment of Contract C11-11-05 with National Waste Services Inc. (National), which reflects a fixed weekly compensation amount of $25,400 for the leaf and yard waste collection service for Contract Period 2, with future contract periods being adjusted by the Escalation Factor contained in the contract.

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

EXECUTIVE SUMMARY:

National Waste Services Inc. (National) has been the City's waste collection contractor supplying curbside garbage/organics, bulk and leaf and yard collection service in the ‘B’ zones and front bin garbage collection service City wide since April 3, 2006.

In 2006 the City provided 18 weeks (nine - two week circuits) of leaf and yard waste collection service (includes one - two week circuit for Christmas tree collection). As a result of numerous requests from residents and Councillors' feedback, the 2007 leaf and yard collection program was adjusted. The curbside program was increased from 18 weeks to 28 weeks (fourteen - two week circuits). In addition the weekly green cart collection service was amended allowing residents to top up their green cart and place
out two (2) leaf and yard containers from the 2006 service level of top up the green cart plus one (1) leaf and yard container.

These changes deviate from what was specified in the 2005 Request for Proposal (RFP) C11-11-05. National has expressed concern that these service adjustments have increased their operating costs and substantially reduced their compensation from the City. As a result of the changes National drove all streets in the ‘B’ zones for an additional ten (10) weeks of leaf and yard waste collection, collecting reduced tonnage with no additional compensation for the additional operating costs. The additional leaf and yard waste container with the green cart increases the collection time per stop during garbage/green cart collection service and further reduces the capacity of the organic side of the collection trucks with no additional compensation for any additional operating costs.

Pursuant to the contract with National, service level adjustments may result in corresponding compensation adjustments. In this case, City staff has reviewed the applicable data and are satisfied that an increase in compensation is justifiable. Therefore City staff and National have negotiated a compensation arrangement that will see the City compensate National for curbside leaf and yard collection based on a per week basis rather than on actual tonnage collected.

The change in compensation had no impact on the 2008 operating budget and had a positive impact on the 2007 budget.

The revised compensation method is being recommended to reflect the actual cost of providing the service.

**BACKGROUND:**

The information and recommendations contained within this report have City wide implications.

City Council approved Report PW04114b on June 15, 2005 recommending that National be selected as the preferred Proponent for RFP C11-11-05 for waste collection services in the ‘B’ waste collection zones and City wide multi-unit front bin garbage collection. National began their five (5) year contract on April 3, 2006. Since the start of the contract, National’s performance has met the City’s expectations. Minor operational issues have been addressed by National in a timely manner. National continues to provide assistance to ensure the City’s waste diversion programs are successful by enforcing container limits and ensuring that green carts are not contaminated.

The current method of compensation for the collection of leaf and yard waste is based upon actual tonnage collected multiplied by the contractual compensation tonnage rate for each of the B1, B2 and B3 waste collection zones.

The current method of compensation for the collection of the green cart plus one (1) container of leaf and yard (as per the RFP C11-11-05) is based upon the number of eligible units (e.g. stops) multiplied by the contractual compensation rate for each of the B1, B2 and B3 waste collection zones.

National expressed major concern with the City’s service level adjustments to increase the number of leaf and yard events (compensation currently based on actual tonnage) and to allow the top up of the green cart plus two (2) containers of leaf and yard
(compensation based on stops). National claims that the weekly green cart service allowing for the increase in containers by one (1), removes tonnage that would otherwise be set out during the scheduled leaf and yard events where compensation is based on tonnage. As a result they are now collecting more material per stop for the same compensation as before and are now providing an additional ten (10) weeks of leaf and yard waste collection with reduced tonnage. These service level adjustments have resulted in additional operating costs and reduced compensation.

Pursuant to the contract with National, service level adjustments may result in corresponding compensation adjustments. City staff met with National on several occasions to discuss these adjustments and to review the available data for both the ‘B’ zones and ‘A’ zones. City staff have negotiated what is considered to be a reasonable settlement.

The proposed amendments to the compensation provisions for leaf and yard waste collection will resolve all outstanding compensation issues raised to date by National.

**ANALYSIS/RATIONALE:**

Staff reviewed the negotiated cost claims, shortfalls and compensation methods brought forward by National and concluded that this is fair and equitable to the City. Negotiations were completed and this outlines the outcome of the negotiations to reflect the service adjustments from 2006 to 2007. The City and National have agreed with the following compensation method for leaf and yard waste collection:

- **Contract Period 2 (April 2, 2007 to March 30, 2008)** compensation for leaf and yard waste collection is currently based upon actual tonnage collected multiplied by the contractual compensation tonnage rate for each of the B1, B2 and B3 waste collection zones. The 2007 approved budget for ‘B’ zones is $794,000. The year end projection using the current compensation method on actual leaf and yard waste tonnage collected is $390,000. The 2007 compensation based upon the recommended rate of $25,400 per week for collection of leaf and yard waste is approximately $687,000. The proposed amendments will result in a 2007 budget surplus of approximately $107,000.

- **Contract Period 3 (March 31, 2008 to March 29, 2009)** compensation will be based upon the new compensation method of the Contract Period 2 weekly rate plus contractual escalation and has been reflected in the 2008 budget submission.

- **Contract Period 4 (and beyond)** compensation for leaf and yard waste collection is to be based upon the previous Contract Period rate plus contractual escalation. The proposed amendments will form part of the annual budget process.

Staff is of the opinion that the negotiated agreement is fair and equitable to both the City and National to address service level changes and quantity shortfalls over this period, which deviate from the original RFP. No other aspects of Contract C11-11-05 are affected as a result of the negotiations.
The contract with National as a sole service provider for waste collection services does not readily provide options for other(s) to provide service during the term of the contract (e.g. 2006 to 2013).

The other alternative would be to not consider National’s request for additional compensation due to these City-initiated service adjustments however, this is not a preferred alternative as the proposed compensation amendments contained in this report are considered to be fair and reasonable. If a negotiated resolution of the compensation issues is not approved, the matter would likely be addressed through arbitration or the courts.

The negotiated terms can be accommodated within the 2007 approved and 2008 submitted divisional budgets.

The impact of the change in compensation method for the leaf and yard waste collection program for the ‘B’ waste collection zones are outlined below:

<table>
<thead>
<tr>
<th>Budget Year (Contract Period)</th>
<th>RFP Estimated Compensation (tonnage)</th>
<th>Current Compensation (tonnage)</th>
<th>Negotiated Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006 (Contract Period 1)</td>
<td>$652,000 (5,274 tonne)</td>
<td>$382,000 (3,295 tonne)</td>
<td>n/a</td>
</tr>
<tr>
<td>2007 (Contract Period 2)</td>
<td>$881,000 (7,128 tonne)</td>
<td>$390,000 (3,311 tonne)</td>
<td>$687,000 ($25,400 per week collected)</td>
</tr>
<tr>
<td>2008 (Contract Period 3)</td>
<td>n/a</td>
<td>n/a</td>
<td>$728,000 ($26,000 (^2) per week collected)</td>
</tr>
</tbody>
</table>

Note: \(^1\) nine (9) months of service in 2006, starting April 3, 2006. 
\(^2\)$26,000 equals $25,400 (2007 Contract Period 2) plus estimated contractual escalation, as identified in the contract.

The negotiated compensation for the collection of leaf and yard waste is a price per week when leaf and yard waste is collected in the ‘B’ waste collection zones. The 2007 leaf and yard waste year end projected tonnage collected from the ‘B’ waste collection zones shows a minimal increase over the actual 2006 tonnage collected from the ‘B’ waste collection zones. Contract periods beyond 2008 for the compensation of leaf and yard waste collection is to be based upon the previous Contract Period weekly rate plus escalation, as identified in the contract. The proposed amendments will form part of the annual budget process.

The recommendations in this report are guided by the Solid Waste Management Master Plan (SWMMP) and support the following recommendations of the Plan:
• Contributing to the optimization of the capacity of the Glanbrook landfill by removing leaf and yard waste from the waste stream (Recommendation #2);
• Contributing to the 65% diversion target (Recommendation #3);
• Supporting continuous improvement to the waste management system (Recommendation #13); and
• Entering into Public-Private partnerships with caution, ensuring that the City retains sufficient control and financial protection, to ensure continuous uninterrupted service (Recommendation #15).

Further, as the Public Works Department strives to be recognized as the centre of environmental and innovative excellence in Canada, providing efficient leaf and yard waste collection services promotes several of the vision drivers and actions detailed in the Public Works Strategic Plan.

• **Communities: Services our communities connect with and trust**
  The recommendations contained in this report recommend adjustment of service levels to adapt to the needs expressed by the community.

• **Finances: Providing financial management for the long haul**
  The recommendations contained in this report identify a compensation method that is consistent with costs for provision of an approved service level and that is within the current 2007 and submitted 2008 budget.

**RELEVANT CONSULTATION:**
Legal Services, Purchasing Section and Financial Services staff was 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, 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
  Partnerships are promoted.
  Leaf and yard waste collection services are an essential component of the City's Solid Waste Management Master Plan and achieving the City's 65% waste diversion goal.

- **Environmental Well-Being is enhanced.** ☑ Yes ☐ No
  Waste is reduced and recycled.
  Finalizing a contract for the provision of enhanced leaf and yard waste collection services results in ensuring a reliable, efficient service continues to be provided to residents.

- **Economic Well-Being is enhanced.** ☑ Yes ☐ No
  Hamilton's high-quality environmental amenities are maintained and enhanced.
  As the City continues to enhance its community outreach efforts, leaf and yard tonnages will increase diverting more waste from landfill. Having a long term agreement with a reliable waste collection service provider will result in increased diversion and ultimately cost savings to the City.

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

This report supports the City of Hamilton's strategic plan in the following ways:
• Sustainability - to contribute to a balanced community, economy and environment: to minimize the footprint of our activities and reduce environmental impact.

• A Healthy, Safe and Green City - Reducing Waste going to Landfills. Council will commit to an aggressive waste diversion rate to increase the lifespan of our landfill and ultimately reduce costs, both financial and environmental, for taxpayers.

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☑ Yes ☐ No

The recommendations contained in this report ensures the City retains the necessary resources to provide efficient, reliable leaf and yard waste collection services.