SUBJECT: Follow-up Report on Materials Recycling Facility (MRF) Container Line Acquisition - (PW07092b) - (City Wide)

RECOMMENDATION:

(a) That Canada Fibers Ltd. (CFL), the City’s Materials Recycling Facility (MRF) processing contractor, be compensated on an annual basis retroactive to January 1, 2008 and until March 30, 2013 for the loss of revenue due to the Ontario Deposit Return Program (ODRP).

(b) That the annual compensation to CFL be based on actual reduced glass tonnage with an annual upset limit not to exceed $75,000 with costs to be funded from Operating Budget Account 55961-512520.

(c) That the City of Hamilton agrees to CFL reinvesting funds received from the City in operating infrastructure improvements at the MRF, pending Council approval of this report.

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

Gerry Davis, CMA
Acting General Manager
Public Works Department

EXECUTIVE SUMMARY:

to consider the request from Canada Fibers Ltd. for loss of revenue resulting from less
glass tonnage processed at the City’s Materials Recycling Facility due to the Ontario
Deposit Return Program (ODRP) for Liquor Control Board of Ontario (LCBO)
containers. The ODRP was introduced in February 2007 and has been successful in
reducing the amount of LCBO glass tonnage being collected in municipal curbside
recycling programs. Hamilton has experienced approximately a 30% reduction of glass
tonnage since the beginning of this program.

When the ODRP was introduced, CFL expressed their concern with this initiative stating
that it would result in loss of revenue to them as compensation to CFL under the terms
of the Contract is based on processed commodity tonnage. Staff and CFL agreed to
delay discussing this issue for a couple of years until such time as data could be
provided to substantiate the impact of the ODRP on the quantity of glass being captured
through the recycling program.

Staff has completed the review of CFL’s request for lost glass revenue as a result of the
introduction of the ODRP. It is reasonable to address CFL’s request as no one
anticipated the change to the ODRP at the outset of the contract and the City is
contractually bound with CFL until 2013. The tonnages of glass being processed are
substantially lower than projected in the original Request for Proposals and as a result
CFL’s revenues are lower than expected. While the company has lower operating
costs, the reduction is not directly proportionate to the reduction in glass tonnages due
to fixed costs. In addition, staff has confirmed with neighbouring municipalities that they
have also experienced a decrease in glass tonnage similar to the percentage reduction
experienced in Hamilton since the introduction of ODRP.

Staff and CFL have discussed this issue and have negotiated a change in the Contract
terms and this report requests Committee and Council approval to implement the
proposed change. Staff is recommending that CFL be compensated for the actual
reduction in processing revenue resulting from reduced glass tonnage to an upset limit of
$75,000 per year beginning in 2008. The funding of this expenditure will be
accommodated within the Waste Management Operating Budget. CFL has also agreed
to reinvest these funds back into the MRF by supplying additional infrastructure that will
further streamline operations at no additional cost to the City. Upon Council approval,
the existing Contract C11-74-02 will be amended to reflect the changes outlined in this
report.

**BACKGROUND:**

This report has City wide implications.

In September 2007, Council approved an amendment to Contract C11-74-02
(Operations and Maintenance of a Materials Recycling Facility) with CFL to provide for a
fixed term extension from January 1, 2008 to March 30, 2013. CFL has been the City’s
Recycling processing contractor at the City’s Material Recycling Facility located at 1579
Burlington Street East since March 31, 2003. Under the terms of the Contract, CFL is
compensated based on the tonnage of recyclable material processed each year.

In February 2007, the Province of Ontario implemented a deposit return program for
wine and spirit containers sold by the Liquor Control Board of Ontario. This program
resulted in an approximate 30% reduction of glass tonnage being processed at the
City’s MRF in 2007 and 2008. This trend is expected to continue as long as the program exists since residents are able to return these containers to LCBO outlets for a refund of a deposit fee rather than placing them in the City’s recycling program.

Glass jars and bottles are a unique recyclable commodity as they are the only recyclable commodity that provides no revenue whatsoever. Unlike other materials, the City incurs a cost at the end market to accept the processed material (tipping fee). In the past prior to the Unical Agreement, the City incurred fluctuating high costs to market glass to end markets. In July 2008, the City entered into a Contract with Unical Inc. to accept the City’s mixed glass commodity at a lower processing cost compared to previous end markets. The Contract with Unical Inc. was part of a joint municipal Request for Proposal initiated by Stewardship Ontario. Although there remains a cost associated with marketing mixed glass (approximately $22/tonne), it is still advantageous to recycle this material as it is not only less costly than operating costs associated with landfilling (approximately $43/tonne) but it also saves valuable landfill space estimated at a value of approximately $70/m$^3$.

**ANALYSIS/RATIONALE:**

The reduction in glass tonnage from the ODRP has resulted in a cost savings to the City of approximately $107,000 as a result of less compensation to CFL for processing. CFL’s initial request for compensation was significantly higher than what has been negotiated. Staff has negotiated an upset compensation limit of $75,000 per year starting in 2008 until the end of the CFL contract in March 2013. This agreement would still see the City save approximately $32,000 (net) per year between 2008 and March 2013.

**ALTERNATIVES FOR CONSIDERATION:**

CFL is the City’s current contractor for the operation of the City’s Materials Recycling Facility and will continue to be until March 30, 2013. It is in the best interest of both the City and CFL to be fair and reasonable in negotiating compensation to address this unexpected reduction in revenue to CFL as a result of this new program. The City by approving the recommendations in this report and granting CFL some relief for this loss of revenue and by CFL commitment to reinvesting the funds received as compensation from the City back into the MRF operations, displays the co-operation and good faith that has existed and continues to exist between the parties.

The City of Toronto has approved additional compensation to their existing processing contractors for the loss of glass revenue as a result of the ODRP. Other municipalities are reviewing similar requests from their processors.

Given that no one anticipated the change to the ODRP at the outset of the contract, and that the City is contractually bound with CFL until 2013, the alternative of providing no compensation to CFL in order to address this unexpected decrease in volume and revenue is not being recommended.
FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial
The compensation to CFL for the reduction in glass tonnage will be funded from the Waste Management Operating Budget Account 55961-512520.

Staffing
There is no impact of staffing as a result of recommendations in this report.

Legal Implications
The recommendations contained in this report will be reflected in amendments being made to the City's current contract with CFL.

POLICIES AFFECTING PROPOSAL:

Solid Waste Management Master Plan (SWMMP)
The proposal is affected by the Solid Waste Management Master Plan. It more particularly relates to the amended Recommendation #3 which focuses on the preservation of landfill capacity and which states:

Recommendation #3 - “The City of Hamilton must set an aggressive objective of 65% waste diversion by the end of 2011, based upon 2000 waste generation rates.”

As part of an efficient and effective recycling program, the processing and marketing services used to maximize revenues and reduce expenditures on collected and processed materials set out by residents, contributes to fulfilling this recommendation.

Public Works Strategic Plan

Reviewing costs associated with the processing of glass recycling is fiscally responsible and environmentally sustainable. The Public Works Strategic Plan also strives to make Public Works a leader in the “greening” and stewardship of the City. Maximizing landfill space by diverting recycling material is environmentally and fiscally responsible.

Corporate Strategic Plan

Negotiating a fair compensation to a City contractor providing an essential municipal service aligns with the goal of delivery of municipal services in a cost effective manner as stated in Focus Area 2 Financial Sustainability.

RELEVANT CONSULTATION:

Staff from the Finance and Administration Section and Legal Services Division were consulted for input on the recommendations contained in this report. Further the SWMMP Steering Committee was presented the details of this report at its April 8, 2009 meeting.
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
Public services and programs are delivered in an equitable manner, coordinated, efficient, effective and easily accessible to all citizens.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Waste is reduced and recycled.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Hamilton's high-quality environmental amenities are maintained and enhanced.

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 manners:

- Sustainability: to contribute to a balanced community, economy and environment; to minimize the footprint of our activities and to do no harm.
- 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 in the report does not have an impact on staff structure.