



Report to: General Committee

Meeting Date: May 22, 2018

SUBJECT: Waste Management Collection Contract Extension
PREPARED BY: Claudia Marsales, Senior Manager, Waste and Environmental Management, Environmental Services

RECOMMENDATION:

- 1) THAT the report entitled “Waste Management Collection Contract Extension’ be approved;
- 2) AND THAT the Request for Proposal process be waived in accordance with Purchasing By-Law 2017-8, Part II, Section 11.1 (c), Non Competitive Procurement, when the extension of an existing contract would prove more cost-effective or beneficial;
- 3) AND THAT Council approve a one plus one year contract extension (one year term, with an option to renew for one year at the sole discretion of the City) for residential curbside collection services with Miller Waste Systems effective December 1, 2018 to November 30, 2020:
 - a. Year 1 (December 1, 2018 to November 30, 2019) at an estimated cost of \$8,200,838.40 inclusive of HST, subject to change based on actual growth and fuel escalation; and
 - b. Year 2 (December 1, 2019 to November 30, 2020) (if applicable) will be adjusted based on growth, Consumer Price Index (CPI) Ontario All-Items, excluding energy (September to September) increase and fuel escalation;
- 4) AND THAT Council approve an annual equipment escalation payment to Miller Waste Systems at a fixed amount of \$199,433.32 (no CPI or fuel escalation adjustment) for year 1 and year 2 of the contract extension;
- 5) AND THAT Council approve a one plus one year contract extension (one year term, with an option to renew for one year at the sole discretion of the City) for multi-residential collection services with Miller Waste Systems effective December 1, 2018 to November 30, 2020:
 - a. Year 1 (December 1, 2018 to November 30, 2019) at an estimated cost of \$759,737.82 inclusive of HST, subject to change based on actual growth and CPI increase; and
 - b. Year 2 (December 1, 2019 to November 30, 2020) (if applicable) will be adjusted based on growth and CPI increase;

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- 6) AND THAT the total contract award for year 1 (December 1, 2018 to November 30, 2019) in the amount of \$9,160,009.54 (\$8,200,838.40 + \$759,737.82 + \$199,433.32) be awarded to Miller Waste Systems;
 - 7) AND THAT the award will be funded from the annual waste management operating budget with a 2018 budget of \$8,213,658;
 - 8) AND THAT the budget shortfall in the amount of \$946,351.54 (\$9,160,009.54- \$8,213,658.00) be included as part of the 2019 Operating budget, subject to Council approval of the 2019 Operating budget;
 - 9) AND THAT the Mayor and Clerk be authorized to execute the contract extension agreement to the satisfaction of the Commissioner of Community & Fire Services and the City Solicitor;
 - 10) AND THAT further, that Staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

- The current waste management collection contract for residential curbside and multi-residential collection expires on November 30, 2018.
- The current Council approved contract with Miller Waste Systems provides for a negotiated extension process.
- Staff are recommending a contract extension due to the uncertainty of the timing of the new provincial Blue Box regulation and increased Blue Box funding opportunities.
- New compensation rate for residential curbside collection is based on an agreed to base number of households serviced and not tonnage collected.
- No increase to multi-residential collection rates except for annual CPI adjustment.
- Increase to yard waste collection service. For the fall yard collection period, from November 1 to December 15 in each extension year collection will go from bi-weekly to weekly service.

PURPOSE:

The purpose of this report is to obtain approval to award a one plus one year contract extension (one year term, with an option to renew for one year) to the existing Miller Waste Systems on the residential curbside collection and multi-residential collection contract.

BACKGROUND:

Waste and recycling collection is one of the City's most visible services. Miller Waste Systems has been the City's collection provider for many years, providing residents with excellent and reliable collection services. In 2010, Council approved an 8 year collection

contract which included many service enhancements such as collection of blue boxes at super mail boxes, and the popular front door Assisted Collection Service for residents in need.

Current collection contract provides for negotiated extension

The current 8 year collection contract with Miller Waste Systems expires on November 30, 2018. The collection contract states:

“Upon the mutual agreement of both parties (including, without limitation, Markham Council approval), this Agreement may be extended for a further term upon such terms and conditions to be negotiated between the parties”.

The City’s Purchasing By-Law 2017-8, Part II, Section 11.1, (c), Non Competitive Procurement, allows for an extension of an existing contract when an extension would prove more cost-effective or beneficial.

As a result of the new provincial waste management legislation, Ontario Municipalities are facing uncertainty when renewing their collection and processing contracts

In 2016, the Province of Ontario passed new waste management legislation (*Waste-Free Ontario Act*), introducing the biggest change to municipal Blue Box recycling programs since 1989 with potential impact to all municipal collection and processing contracts.

As a result of the new waste management legislation, and proposed changes to the Blue Box recycling system, all Ontario Municipalities are facing uncertainty when renewing their collection and processing contracts. Proposed new Blue Box regulations, if enacted, will provide the opportunity for municipalities to be fully compensated for costs related to Blue Box collection, material processing, depots, and public space recycling services.

In 2017, the Association of Municipalities of Ontario (AMO) recommended municipalities not to enter into long term contracts for Blue Box collection or processing. They recommended shorter term extensions with annual renewal options and off-boarding clauses for Blue Box service contracts in order to take advantage of increased program funding if and when it becomes available.

The risk is that municipalities that enter into long term contracts may not be able to cost effectively terminate or alter their contracts to take advantage of the new Blue Box funding program and potential cost savings.

OPTIONS/ DISCUSSION:

In order to avoid entering into a long term waste management collection contract, and to ensure the continuity / interoperability of existing services without incurring significant inconvenience and substantial duplication of costs to the City, Staff determined that an

extension of the existing collection agreement with Miller Waste Systems would be in the best interests of the City.

Current Contract was favorable for the City

Over the past 8 year contract term, the City has benefited from the per tonne rate structure as a result of aggressive diversion strategies that resulted in lower than budgeted tonnage collected at the curb due to:

- significant light weighting of Blue Box materials due to decreased newsprint and introduction of the LCBO deposit return system;
- 2013 electronics curbside collection ban;
- 2013 clear bag program for garbage;
- 2017 textile curbside collection ban.

All of these factors resulted in significant cost savings over the contract term for Markham; and less than anticipated revenue over the contract term for Miller Waste.

Evaluation of Contract Extension Options

Discussions with Miller Waste Systems began in April 2017 between Miller Waste Systems staff and an in-house negotiation team comprised of Brenda Librecz, Commissioner of Community & Fire Services, Phoebe Fu, Director of Environmental Services and Claudia Marsales, Senior Manager of Waste and Environmental Management, with analytical support from Joel Lustig, Treasurer, and Mark Visser, Senior Manager of Financial Strategy & Investments.

The City and Miller Waste Systems discussed and analyzed a number of service terms and rate combinations in an attempt to reach an equitable and fair risk balance for both parties; while recognizing the substantial impacts and timing of the new Blue Box provincially approved funding model.

After a considerable amount of analysis, the most favorable term and rate combination is a short term extension to the current contract and a rate of compensation based on a per household (HH) count vs tonnage collected. The advantages and disadvantages of the compensation rates are outlined below:

Compensation based on per tonne rate:

- More expensive than per household option. Miller assumed 1.5% annual decrease in tonnage which in turn increased the per tonne unit rates
- Less potential and opportunity for the City to reduce the waste stream under upcoming provincial legislation as there will be reduced municipal control over allocation of garbage and recycling at the curb
- Markham through its aggressive diversion policy has maximized the most impactful diversion opportunities to reduce the curbside waste steam

Compensation based on per household rate

- Provides more cost certainty for both parties during Blue Box transition
- Unknowns such as second suites could impact future costs
- Stewardship Ontario has indicated preference of using number of households not tonnage to determine collection compensation across Ontario

Going forward, further light weighting of Blue Box materials is not anticipated, and adjustments for reduced tonnage at the curb achieved since 2013 have been realized. No further weight rate benefits or opportunities to reduce curbside tonnage are anticipated in the short term.

Although not yet finalized, impending Blue Box changes could result in increased tonnage in the clear bag or Green Bin as a result of the anticipated Provincial standardized acceptance list.

Negotiation results

- A one plus one year contract extension (one year term, with an option to renew for one year) effective December 1, 2018 to November 30, 2019 and (if applicable) from December 1, 2019 to November 30, 2020. The option to renew will be at the sole discretion of the City.
- Service compensation for curbside collection based on per household (HH) count to be adjusted on June 1, 2019, December 1, 2019 and (if applicable) June 1, 2020 of each extension year based on new water meter installations;
- City will adjust the per HH rate by CPI (Ontario all items excluding energy) for year 2 of the contract extension only (if applicable);
- Fuel escalation for year 1 and (if applicable) year 2 of the contract extension is calculated per formula in existing contract;
- No increase to multi residential, depot, or facility collection services rates beyond annual CPI rate adjustment and growth;
- Inclusion of an equipment escalation payment representing the cost to extend the life of the collection fleet past their normal period;
- Miller Waste will increase leaf and yard collection to provide weekly leaf and yard collection from November 1 – December 15 of each extension year;
- All other terms of the 2010 contract remain unchanged

For this short term contract extension moving to a household rate provides cost certainty but does not preclude changing back to a tonnage rate for future collection contracts, if desired.

Monthly tonnage data will continue to be collected from Miller Waste Systems for the purpose of reporting out the City's diversion achievements.

Comparison with similar municipal programs

Comparing municipal collection contracts is always challenging as each municipality has different service levels, different container types, and mix of accepted materials. Toronto, Peel and Guelph utilize large recycling carts with automated collection, Hamilton has

weekly waste collection, and Halton Region has approved the use of both blue bags and Blue Boxes. Many other similar sized municipalities such as London do not offer Green Bin organic collection.

A recent review of Ontario municipalities indicate that they are either extending current collection contracts (Niagara Region) or have included 'off-boarding' clauses into their long term contracts (Richmond Hill).

Taking into account the City's high service level and unique programs, the City's 2019 proposed collection rates is competitive compared to other municipalities in Ontario, and compare favorably with the recently tendered Vaughan collection contract awarded to Miller Waste Systems in 2017. Vaughan also utilizes a per household rate of compensation for their waste collection contract.

Impact on York Region Processing

York Region and the local municipalities jointly deliver the current waste management system. Lower tier municipalities are responsible for collection, and the Region is responsible for processing and disposal. The Blue Box materials collected by the City are taken to the Miller waste transfer station on Rodick Road then transported by the Region for processing at their recycling facility in East Gwillimbury.

As the York Region processing contract for the York Region Material Recovery Facility does not expire until 2020, the proposed contract extension supports York Region's timelines.

York Region is currently reviewing all options related to their processing contract and obligations to the local municipalities to provide processing services. The City and York Region waste management staff will continue to work collaboratively to coordinate the transition process with a goal of reducing any negative impacts.

CONCLUSION

Contract extension provides flexibility

The *Waste-Free Ontario Act* targets 2023 to complete the transition of the blue box program to Stewardship Ontario.

AMO has been advocating the fast tracking of the 2023 time line so that municipalities can realize cost savings sooner. Unfortunately, as of the writing of this report timelines for transitioning the Blue Box program are unknown.

Staff do not recommend issuing an RFP or entering into a long-term contract for waste management collection services at this time due to the high level of uncertainty in the current waste management marketplace.

Staff is of the opinion that the extension terms achieved through the negotiation process with Miller Waste Systems are fair and equitable and provide the necessary flexibility to address the impending legislative changes.

Staff will continue to update Council regarding progress related to the new Blue Box program and the long-term collection contract process.

FINANCIAL CONSIDERATIONS

Total cost of the contract in year 1, starting from December 1, 2018 to November 30, 2019 is \$9,160,009.54. Contract details are as follows:

Item Description	Award amount (inclusive of HST) in Year 1 (A)	2018 budget (B)	Increase to budget (C) = (B) – (A)
1) Curbside Collection (yard, garbage, recycling and organics)	\$8,200,838.40	\$7,468,817.00	\$732,021.40
2) Equipment Escalation	\$199,433.32	\$0.00	\$199,433.32
3) Multi-Residential collection*	\$759,737.82	\$744,841.00	\$14,896.82
Total (1) + (2) + (3)	\$9,160,009.54	\$8,213,658.00	\$946,351.54

*Multi-Residential collection award amount based on 2018 budget adjusted for 2% CPI.

- 1) Curbside collection for yard waste, garbage, recycling and organics will be based on a per household unit rate. At the end of year 1 the rate will be adjusted for Consumer Price Index (CPI) Ontario All-items, excluding energy (September to September). The rate will also be adjusted for fuel escalation for year 1 and (if applicable) year 2 calculated as per existing contract. The household count beginning in year 1 is 87,885 and it will be adjusted on June 1, 2019, December 1, 2019 and (if applicable) June 1, 2020 based on new water meter installations.
- 2) Equipment escalation is fixed for year 1 and year 2 of the contract extension at \$199,433.32 inclusive of HST (established to cover cost of extending the life of the existing fleet).
- 3) The multi residential collection which includes City facilities and depots will continue, as is, based on per lift basis (no change). The estimated cost for Year 1 of the contract is based on the 2018 budget adjusted for 2% inflation. The multi residential lift rate will be adjusted each year based on CPI and growth if applicable.

The recommended contract extension will be funded from the annual Waste Management Operating budget with a 2018 budget of \$8,213,658.00.

The budget shortfall for year 1 in the amount of \$946,351.54 (\$9,160,009.54 - \$8,213,658.00) will be included as part of the 2019 Operating budget, subject to Council approval of the 2019 operating budget.

The contract value for year 2 (December 1, 2019 to November 30, 2020) (if applicable) will be adjusted as required subject to changes in growth, CPI and fuel escalation, where applicable, as listed above, subject to Council approval of the 2020 operating budget.

The corresponding purchase orders for each year of the contract extension will also be adjusted, where applicable, for growth, Consumer Price Index (CPI) Ontario All-items, excluding energy (September to September) and fuel escalation;

There is no incremental life cycle impact.

LEGAL CONSIDERATIONS:

The City is subject to the following new trade agreements, which apply to public sector procurements above a certain dollar threshold: the Canada-European Union Comprehensive Economic and Trade Agreement (CETA), effective September 21, 2017; and the Canadian Free Trade Agreement (CFTA), effective July 1, 2017.

The recommended contract extension complies with the CETA and CFTA trade agreements.

HUMAN RESOURCES CONSIDERATIONS

Not Applicable


ALIGNMENT WITH STRATEGIC PRIORITIES:

Not Applicable

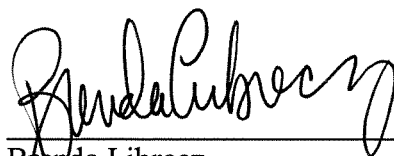
BUSINESS UNITS CONSULTED AND AFFECTED:

Legal staff and Senior staff from Finance, and Purchasing have been actively involved in the negotiations and will be involved in the finalizing of the contract extension.

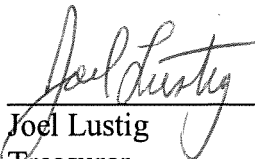
RECOMMENDED BY:



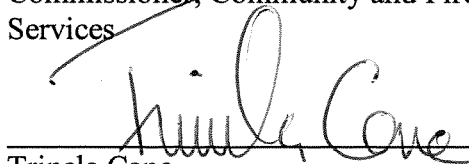
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