Minutes – Executive Policy Committee – April 19, 2017

Report – Standing Policy Committee on Water and Waste, Riverbank Management and the Environment – April 10, 2017

Item No. 2 Single Source Negotiation – Contract Extension for the Processing and Marketing of Recyclables

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment and submitted the following to Council:

1. That the single source negotiations with Halton Recycling Ltd. dba Emterra Environmental, for the extension of the processing and marketing of recyclables for the period of September 16, 2017 to September 30, 2019 in the estimated amount of $19,167,518.00 (approximately $3,833,504.00 net of estimated recoveries) which includes an annual inflation adjustment, GST and MRST extra as applicable, pursuant to B4.1(i) of the Materials Management Policy where the supply is for interim contractual arrangements following the expiration of a contract, be approved.

2. That subject to the approval of Recommendation 1, that authority be delegated to the Chief Administrative Officer to (i) negotiate and approve the terms and conditions of the contract; and (ii) award the contract, with Halton Recycling Ltd. dba Emterra Environmental for the extension of the processing and marketing of recyclables for the period of September 16, 2017 to September 30, 2019 in the estimated amount of $19,167,518.00 which includes an annual inflation adjustment, GST and MRST extra as applicable, and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor / Director of Legal Services to protect the interests of the City, provided that sufficient monies are available within the Council approved budget or with respect to 2018 and 2019 funding commitments, in accordance with expenditures made before adoption of the 2018 Operating Budget pursuant to By-law No. 8164/2002.

3. That subject to the approval of Recommendation 1, that the City enter into, execute and deliver a contract for the extension of the processing and marketing of recyclables for the period of September 16, 2017 to September 30, 2019 in the estimated amount of $19,167,518.00which includes an annual inflation adjustment, GST and MRST extra as applicable with Halton Recycling Ltd. dba Emterra Environmental, and such other agreements as determined necessary by the City Solicitor / Director of Legal Services to implement the intent of the foregoing (the “Ancillary Agreements”), provided that sufficient monies are available within the Council approved budget or with respect to 2018 and 2019 funding commitments, in accordance with expenditures made before adoption of the 2018 Operating Budget pursuant to By-law No. 8164/2002

Report – Standing Policy Committee on Water and Waste, Riverbank Management and the Environment – April 10, 2017

4. That the Proper Officers of the City of Winnipeg be authorized to do all things necessary to implement intent of the foregoing.

Report – Standing Policy Committee on Water and Waste, Riverbank Management and the Environment – April 10, 2017

DECISION MAKING HISTORY:

Moved by Councillor Mayes,

That the recommendation of the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On April 10, 2017, the Standing Policy Committee on Water and Waste, Riverbank Management and the Environment concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: **APPROVAL OF SINGLE SOURCE NEGOTIATION FOR THE CONTRACT EXTENSION FOR THE PROCESSING AND MARKETING OF RECYCLABLES TENDER NO. 162-2002**

Critical Path: **Standing Policy Committee on Water and Waste, Riverbank Management and the Environment – Executive Policy Committee – Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
D. Doubleday Manager, Solid Waste Services	M. L. Geer, CPA, CA Acting Director Water and Waste Department	M. Ruta	D. McNeil

EXECUTIVE SUMMARY

The Public Service is recommending a single source contract extension for the processing and marketing of recyclables for a two year period. This will allow the necessary time to ensure the future facility meets Provincial and citizens needs as follows:

- Respond to the requirements of the industry steward, Multi-Material Stewardship Manitoba's five year strategic plan which will be approved by the Province in 2017. To secure a long term facility before this plan is approved would pose financial and operational risk to the City.
- Allows further study the most appropriate processing system for the City's future recycling program given the evolving markets and advancements in product packaging.
- Allows further consultation with the key stakeholders, Multi Material Stewardship Manitoba (MMSM) and the Province of Manitoba to ensure a cost effective and efficient facility.

An independent market research survey conducted by an industry consultant indicates that the price to extend the services for the two year period is reasonable given current market conditions.

RECOMMENDATIONS

1. That Council approve single source negotiations with Halton Recycling Ltd. dba Emterra Environmental, for the extension of the processing and marketing of recyclables for the period of September 16, 2017 to September 30, 2019 in the estimated amount of $19,167,518.00 (approximately $3,833,504.00 net of estimated recoveries) which includes an annual inflation adjustment, GST and MRST extra as applicable, pursuant to B4.1(i) of the Materials Management Policy where the supply is for interim contractual arrangements following the expiration of a contract.

2. That subject to the approval of Recommendation 1, that authority be delegated to the Chief Administrative Officer to (i) negotiate and approve the terms and conditions of the contract; and (ii) award the contract, with Halton Recycling Ltd. dba Emterra Environmental for the extension of the processing and marketing of recyclables for the period of September 16, 2017 to September 30, 2019 in the estimated amount of $19,167,518.00 which includes an annual inflation adjustment, GST and MRST extra as applicable, and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor / Director of Legal Services to protect the interests of the City, provided that sufficient monies are available within the Council approved budget or with respect to 2018 and 2019 funding commitments, in accordance with expenditures made before adoption of the 2018 Operating Budget pursuant to By-law No. 8164/2002.

3. That subject to the approval of Recommendation 1, that the City enter into, execute and deliver a contract for the extension of the processing and marketing of recyclables for the period of September 16, 2017 to September 30, 2019 in the estimated amount of $19,167,518.00which includes an annual inflation adjustment, GST and MRST extra as applicable with Halton Recycling Ltd. dba Emterra Environmental, and such other agreements as determined necessary by the City Solicitor / Director of Legal Services to implement the intent of the foregoing (the “Ancillary Agreements”), provided that sufficient monies are available within the Council approved budget or with respect to 2018 and 2019 funding commitments, in accordance with expenditures made before adoption of the 2018 Operating Budget pursuant to By-law No. 8164/2002

4. That the Proper Officers of the City of Winnipeg be authorized to do all things necessary to implement intent of the foregoing.

REASON FOR THE REPORT

Effective March 1, 2014, single source negotiation requests in accordance with B4 of the Materials Management Policy exceeding $1 million require the approval of Council.

As the total conditional amount to be paid by the City pursuant to the contract to Halton Recycling Ltd. dba Emterra Environmental (Emterra Environmental) exceeds the $100,000 limit of the Agreement on Internal Trade (AIT) for a “service” contract and the AIT does not contain a single source provision to permit this procurement, pursuant to B4.4 of the Materials Management Policy approval by Executive Policy Committee is required.

As the total conditional amount to be paid by the City pursuant to the contract to Emterra Environmental is on average $9,583,759.00 per year which includes an annual inflation adjustment, GST and MRST extra as applicable, and the contract is for multiple years affecting yearly budgets not yet approved by Council, Council approval is required. As per Section 288(2) of The City of Winnipeg Charter, Council has the authority to authorize expenditures before the operating or capital budget of a fiscal year is adopted.

Pursuant to The City of Winnipeg Charter, Council has authority to delegate certain administrative powers, duties or functions to an employee. Council delegation to the Chief Administrative Officer is required as the requested delegation is above the limits already provided within the City of Winnipeg’s Materials Management.

IMPLICATIONS OF THE RECOMMENDATIONS

In respect of the current contract, Emterra Environmental has proposed a two year contract extension at an estimated cost of $18,700,000.00 plus an annual inflation adjustment, GST and MRST extra as applicable for a total estimated cost of $19,167,518.00. The proposed cost represents an approximate 9% increase over the existing 2016 contract and is due to:

- An increase in the acceptable contamination rate of incoming material to 15% from 5%. Prior to blue cart recycling, contamination of material collected in the blue box program remained relatively low, approximately 5% by weight. Since the introduction of automated cart recycling in 2012, the contamination rate of incoming material has been steadily increasing. The higher the contamination, the more difficult it is to process the recyclables into their own clean, commodity streams.
- An increase in the amount of lightweight, low-value mixed rigid plastic packaging. With the available markets becoming more stringent on the quality of the finished product that will be accepted, the sorting process to produce a quality material must be enhanced. If not, the only alternative would be to landfill this material.
- An increase in equipment maintenance cost due to aging equipment.

The costs of the proposed work under this contract extension will be eligible for up to 80% funding under the Municipal Funding Agreement between MMSM and The City of Winnipeg. Although the cost recovery from MMSM is delayed from the year the costs are incurred (funding is based on a three year rolling average), the actual net cost to the City should only be 20% of the contract value.

The Public Service has factored in an annual adjustment inflation rate of 2% plus an increase in anticipated tonnes of recycled material resulting in a total estimated cost over the two year period of $19,167,518.00. Cost recovery from MMSM is estimated at 80% or $15,334,014.00 over the two year period. Net cost to the City is estimated at approximately $3,833,504.00 or $1,916,752.00 per year.

The Agreement on Internal Trade (AIT) is applicable to the procurement of the processing and marketing of recyclables for the proposed extension because of the dollar value of the procurement (greater than $100,000) and there are no applicable provisions in Appendix C or Appendix D in the AIT that would exempt application. With respect to the recommended extension of the contract, section B4.1(i) of the Materials Management Policy provides for negotiations without the solicitation of competitive offers when appropriate or necessary and the contract is for interim contractual arrangements following the expiration of a contract, provided that the contract is only for the period of time reasonably required to meet the immediate need. The Public Service is of the view that the recommended single source negotiations are consistent with the spirit and intent of the AIT as the original contract resulted from a public bid solicitation, and the extension is only for the time reasonably required to bridge the gap between contracts. For these reasons, the Public Service is of the view that the extension to September 30, 2019 is appropriate.

Funds are budgeted in the operating accounts for the Solid Waste Utility account number 445-521037-201907-999. The funds required for this contract are included in the Department's Council approved 2017 operating budget and the 2018 and 2019 proposed operating budgets.

HISTORY/DISCUSSION

On September 26, 2002, following a public tender call, a contract pursuant to Tender No. 162-2002 was awarded by Council to International Paper Industries Ltd., to provide annual collection, processing and marketing of recyclables from the City of Winnipeg Recycling Programs. International Paper Industries Ltd. is now known as Halton Recycling Ltd. dba Emterra Environmental. The duration of the Processing and Marketing portion of the contract was fourteen (14) years and will expire on September 15, 2017. As part of this contract, the Contractor was to construct a new Material Recovery Facility (MRF) that would facilitate the processing of an estimated 30,550 metric tonnes annually, until the end of the contract. The Material Recovery Facility is located at 1029 Henry Avenue and was designed to meet the quantities and material quality outlined in the tender specification.

On October 19, 2011, City Council adopted the Comprehensive Integrated Waste Management Strategy ("Garbage and Recycling Master Plan") for implementation starting in 2012. The Diversion (including Recycling) waste management strategy provisions of the Water and Waste Department's 'Garbage and Recycling Master Plan' gives the Solid Waste Services Division full opportunity to help Winnipeg achieve a waste diversion goal greater than 50%. The Garbage and Recycling Master Plan adopted included the following recommendation:

- That near term and longer term recycling processing capacity be secured to accommodate the growth in recycling.

By 2011, the volume of recycling material entering the Material Recovery Facility (MRF) was 50% above the original tender amount. To add to this, the introduction of recycling cart collection in 2012 produced a single year growth in program volume of over 17%.

In 2013, Emterra Environmental completed an extensive upgrade to enable the MRF to annually process the additional tonnage collected from the new cart collection program. To fund the increase in the cost of the operation of the upgraded facility, Council on October 19, 2015 approved an increase in the per tonne rate paid to process the recyclable material.

In December 2015, the Water and Waste Department engaged Dillon Consulting Limited (Dillon) to conduct a review of applicable recyclable material processing and marketing options and to assist in the selection of the appropriate system that will handle the City's recyclables beyond the current contract. On January 11, 2016, Dillon forwarded correspondence to the Solid Waste Services Division indicating the amount of time to evaluate the processing options, issue a RFP, select a contractor and establish a new facility is a process that would require a two year timeframe. Dillon recommended the City consider negotiating an extension of one year (with an option for additional extensions) with its current recyclables processing service provider, Emterra Environmental. Dillon's final report on the Recyclable Materials Processing Alternatives Review was delivered July 22, 2016. As the future plan for material processing will be developed in the coming months; followed by a procurement process to select a proponent, and eventually the construction of the new facility, a two year extension is more appropriate.

Multi-Material Stewardship Manitoba (MMSM) is an industry led not-for-profit Producer Responsibility Organization (PRO) that operates a province-wide recycling program for packaging and printed paper, in accordance with the Packaging and Printed Paper Stewardship Regulation administered by the Province of Manitoba. MMSM is required to regularly submit a program plan for approval by the Minister of Sustainable Development. The plan sets out the

key components of industry's strategy to support collection and diversion operations, identify diversion opportunities, conduct market research and public education.

The existing program plan expires this year. MMSM has submitted a new plan to the Province to address diversion for the next five years (2017-2021) and it is anticipated that, subject to meeting regulatory and policy requirements, the new plan will receive provincial approval by June 2017. The future facility will address the requirements of the new program plan.

The contract extension is beneficial to the City for a number of reasons:

- The extended contract period will allow the Water and Waste Department sufficient time to determine the MRF procurement model most appropriate for the City's future recycling program.
- Allows sufficient lead time to design, construct and commission a new facility.
- Both Bid Opportunity 864-2011 (current garbage and recycling collection contract) and Tender No. 162-2002 (the processing and marketing contract) end in September 2017. A September 2019 contract end date for the processing and marketing 162-2002 Contract would remove issues related to commencing two major contracts (collection and processing) at the same time.
- It allows the Public Service more time to further evaluate recent trends in the industry and how the future contract and processing operation will effectively address the issues related to advancements in packaging, changing markets for recyclable materials, sorting equipment, and overall material processing systems.
- It would allow the Public Service the ability to align the new processing system with the newly adopted five –year program plan, which is expected to be adopted by the Province later on this year.

The increased cost for processing services is deemed to be a competitive price increase by the Solid Waste Services Division. In the July 2016 report authored by Dillon Consulting Limited, market research indicated that the annual cost of the future processing and marketing contract could be closer to $10,000,000.00.

Emterra Environmental has, by far, the largest recyclable processing capacity in the province. The current MRF was constructed in 2002 and upgraded in 2013. It is well suited to handle the projected amount of incoming tonnage of recyclables until 2020. The Solid Waste Services Division is satisfied that Emterra Environmental has the necessary experience and resources to perform all of the work in accordance with the requirements of the specifications and has satisfactorily performed the work since the beginning of the contract.

Key stakeholders (Multi Material Stewardship Manitoba (MMSM) and the Province of Manitoba) have been and will continue to be consulted with consideration given to the impact of current/planned provincial stewardship efforts.

If the Recommendations are approved, a supplemental agreement is required to extend the existing contract.

FINANCIAL IMPACT

Financial Impact Statement

Date: January 25, 2017

Project Name:

First Year of Program **2017**

APPROVAL OF SINGLE SOURCE NEGOTIATION FOR THE CONTRACT EXTENSION FOR THE PROCESSING AND MARKETING OF RECYCLABLES- CONTRACT 162-2002

	2017	2018	2019	2020	2021
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ 2,679,991	$ 9,361,562	$ 7,125,965	$ -	$ -
Less: Incremental Revenue/Recovery	2,143,993	7,489,250	5,700,772	-	-
Net Cost/(Benefit)	$ 535,998	$ 1,872,312	$ 1,425,193	$ -	$ -
Less: Existing Budget Amounts	535,998	1,872,312	1,425,193	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Total contract costs have been built into the Department's 2017 adopted and 2018 and 2019 forecasted operating budgets. The contract is based on a per tonne rate which is subject to an annual inflation adjustment. Assumed total annual tonnes of 57,950 in 2017, adjusted for a growth factor annually thereafter. The FIS reflects the funding committment from MMSM to fund up to 80% of the recycling program. MMSM's funding formula is based on a three year rolling average of costs and therefore the actual timing of the grant monies will flow in subsequent years.

"Original signed by L. Szkwarek, CPA, CGA"
Lucy Szkwarek, CPA, CGA
Acting Manager, Finance and Admnistration

CONSULTATION

This Report has been prepared in consultation with:

Legal Services (as to legal issues)
Materials Management, Corporate Finance Department

OURWINNIPEG POLICY ALIGNMENT

The Processing and Marketing Program is consistent with:

1. Section 02-2 Environment – "*Incorporate sustainable practices into internal civic operations and programs and services*"
   By entering into an extension with Emterra Environmental, the City will save on these services.

2. Section 02-2 Environment – "*set long range goals for solid waste diversion*''
   With the time received from this extension, the City will be able to diligently procure the next processing and marketing contract.

SUBMITTED BY

Department: Water and Waste Department
Division: Solid Waste Services
Prepared by: R. Park, Supervisor of Waste Diversion, M. Kinsley, Technologist 3
Date: March 9, 2017
File No: G-220